

# Aquatic Nuisance Control Pre-Rulemaking Focus Group

The Vermont Department of Environmental Conservation Lakes and Ponds Program has jurisdiction over the state's statutory Aquatic Nuisance Control (ANC) permitting program, which issues permits pursuant to the requirements of [10 V.S.A. § 1455](#). Under the guidance of the Secretary of the Agency of Natural Resources, the DEC is launching a rulemaking process to support the implementation of the requirements of this statutory program. Rulemaking under this statute is authorized under [10 V.S.A. § 1460](#) and will be carried out according to the [Administrative Procedures Act](#), which governs the process by which administrative rules are to be adopted by state agencies.

The intended outcome of this rulemaking effort is to:

1. Improve the definitions of some of the statutory terms used to guide permitting decisions, such as “acceptable, reasonable, negligible” and thereby better clarify and codify the requirements that must be met before certain types of ANC treatments are used
2. Clarify how DEC determines if a given proposed treatment is in the public good, and the role of lake associations, abutting municipalities, and other actors in that process
3. Better define permit application requirements, particularly for chemical treatments, such as requirements around the necessity for a chemical treatment and/or evidence required to demonstrate that an aquatic nuisance is compromising recreation and/or habitat potential
4. Identify some permit exclusions, such as private ponds specifically constructed for one of the following purposes: snowmaking storage, golf course irrigation, stormwater management, or fire suppression
5. Improve the statutory definition for aquatic nuisance to clearly distinguish between non-indigenous and native nuisance species, perhaps by using the federal

definition for aquatic nuisance while also including biological organisms that interfere with recreation or habitat

To inform this rulemaking effort, DEC has convened a focus group that will hopefully provide input into the identified rulemaking topics during a pre-rulemaking phase. The focus group consists of representatives from environmental organizations, lake associations, angling groups, boating groups, municipalities, members of the legislature, lake management experts, aquatic invasive species experts, and state / federal agency representatives. DEC sincerely wants the input of these organizations and believe that the varied perspectives brought to the table by their representatives will lead to sound procedures to help us administer the ANC permitting program in Vermont.

The focus group will meet once or twice a month between January and June 2023 to provide input into the pre-rulemaking process, as illustrated in the timeline below.

### **ANC Rulemaking Notional Timeline**

- December 2022: Identify Stakeholder Group and Contact Potential Members
- January 2022: Convene Stakeholder Group to :
  - Discuss Rationale and Approach for ANC Rulemaking, including identification of key rulemaking themes
  - Provide a Background Presentation on ANC Permitting Process to Date and Discuss ANC Statute & Definitions
- February and March 2023: Focused Meetings on Theme 1
  - Define the terms “acceptable, reasonable, negligible” in 10 VSA 1455 and thereby better codify the justifications required before chemicals are used
- April 2023: Focused Meetings on Theme 2
  - Public Good Determination

- May 2023: Focused Meetings on Theme 3
  - Permit Application Requirements & Exclusions
- June 2023: Conclude Stakeholder Group with Draft Rule for DEC/ANR Leadership Consideration
- July 2023: Begin Formal Rulemaking Process
- December 2023: Complete Formal Rulemaking Process

The following organizations are represented in the ANC Pre-Rulemaking Focus Group:

- Lake Champlain Committee
- Conservation Law Foundation
- VT Natural Resources Council
- Federation of Vermont Lakes and Ponds
- Lake Champlain Basin Program
- Lake Iroquois Association
- Lake St Catherine Association
- Town of Fairlee (Town Administrator)
- Woodard Marine - Boating
- Thetford Legislator
- Rutland-Bennington Legislator
- Unaffiliated – former Lake Champlain United member
- Rutland Bass Club
- US Fish & Wildlife Service
- Solitude Lake Management
- Botanist, employed at Castleton University
- VT Dept of Health
- VT Fish and Wildlife - Fish Biologist
- Private Sector - Bass oriented Fishing Shop
- VT Fish and Wildlife - Non-game
- Vermont DEC

Document from the ANC Pre-Rulemaking Focus Group Meeting #1 on January 18, 2023

- [Meeting Minutes](#)
- [Presentation with Background Information](#)
- [Recent Herbicide Permit Application](#)
- [Recent Herbicide Permit](#)

Documents from the ANC Pre-Rulemaking Focus Group Meeting #2 on February 23, 2023

- [Meeting Minutes](#)
- [DEC Response to Points Raised by VNRC et al. Feb 2023](#)
- [Theme 1 Straw Proposal](#)