

DEPARTMENT OF ENVIRONMENTAL CONSERVATION LEGISLATIVE REPORT

Regarding the MOU between the Agency of Natural Resources and the Agency of Agriculture, Food, and Markets

Year: 2023

Date reported: January 12, 2024

Authorizing statute: 6 V.S.A. § 4810 (d)

Committees: Senate Agriculture; House Agriculture, Food Resiliency and Forestry; Senate Natural Resources and Energy; and House Environment and Energy

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Executive Summary

Pursuant to 6 V.S.A. § 4810(d), the Secretary of Agriculture, Food, and Markets (AAFM) and the Secretary of Natural Resources (ANR) established a memorandum of understanding (MOU) regarding agricultural non-point source pollution reduction, discharges from concentrated animal feeding operations, program administration, grant negotiation and sharing, and watershed planning. The statute requires the agencies submit separate reports annually to the Senate Committee on Agriculture; the House Committee on Agriculture, Food Resiliency, and Forestry; the Senate Committee on Natural Resources and Energy; and the House Committee on Environment and Energy regarding the success of each agency in meeting performance measures for the memorandum of understanding. The performance measure results are shown in the table below and described in the subsequent table. This report focuses on enforcement metrics because they represent the largest volume of interactions between the two agencies. This report is submitted to the Vermont Legislature to highlight measures of success in the implementation of the MOU between ANR and AAFM.

Performance Measure	2016	2017	2018	2019	2020	2021	2022	2023
Agricultural water quality complaints received	40	68	71	132	79	50	63	82
Agricultural water quality complaints closed ¹	49	50	55	126	78	61	56	68
Joint referrals to Attorney General's Office	Not tracked	4	2	4	2	0	0	0
Staff hours dedicated to process and communication improvement	No data	228	20	30	27	23.5	27.5	46

¹Because a complaint is closed when the investigation is resolved, complaints received during one year may be closed in a subsequent year.

Performance Measures Explained

Measure	Value	Limitations
The number of farm-related complaints received each year	Provides a general measure of how many citizen complaints and referrals from AAFM are received by ANR each year. This also includes discharges documented by ANR staff.	Represents only what the public knows to file a complaint on, or what can be seen by a regulator on a given day. Does not include all non-point source complaints investigated by AAFM.
The number of farm-related complaints closed each year	Represents investigations of complaints and responsiveness, and in most cases, resolution of violations; court orders or enforcement actions may have been necessary to achieve compliance.	Does not represent the actions taken by each agency to address violations identified by other measures, such as inspections. Does not reflect if all required corrective actions have been implemented.
The number of joint farm related referrals to the Attorney General's Office	Represents the agreement between the two agencies that a violation required elevated enforcement and increased coordination.	Potential cases are driven by complaints and inspections, not by the agencies themselves; numbers may increase, or decrease based on factors outside of the agencies' control.
The number of staff hours specifically dedicated to process improvement and better communication	Demonstrates the commitment to increased cooperation required for successful implementation of the MOU.	Difficult to quantify the ancillary "relationship building" and knowledge building that occurs as informal coordination increases. Does not include all coordination meetings related to farm-specific actions.

Key Takeaways

- Time dedicated to formal and informal process improvement between ANR and AAFM staff remains high.
- The number of agricultural water quality complaints is relatively consistent across years.
- 2019 remains a peak year for complaints, largely due to increased precipitation and spreading on snow.

Discussion

Pursuant to 10 V.S.A. § 1259(i) the ANR Secretary, to the extent compatible with federal requirements, shall delegate to the AAFM Secretary State agricultural non-point source pollution control program planning, implementation, and regulation. ANR retains authority over point source pollution and is the authorized entity to administer the Clean Water Act in Vermont on behalf of the Environmental Protection Agency. Agricultural water quality complaints often do not include adequate information to determine whether a

potential discharge is a point source or non-point source discharge without onsite follow-up by the agencies. Because of this and since complaints are received by both agencies, the agency that initially receives the complaint may not be the agency that is ultimately responsible. For these reasons, coordination and cooperation between the two agencies is critical. This report identifies several metrics that demonstrate ANR's involvement in agricultural water quality complaint investigations and cooperation between the agencies in seeking joint enforcement actions and conducting training to improve communication between the agencies. In addition to the performance measures above, in 2023 the agencies conducted seven joint farm inspections and five LFO permit consultation meetings.