
This act summary is provided for the convenience of the public and members of the General Assembly. It is intended to provide a general summary of the act and may not be exhaustive. It has been prepared by the staff of the Office of Legislative Counsel without input from members of the General Assembly. It is not intended to aid in the interpretation of legislation or to serve as a source of legislative intent.

Act No. 67 (S.124). An act relating to miscellaneous agricultural subjects

Subjects: Water resources; agriculture; agricultural water quality

This act amends the statutes regulating agricultural water quality, including the regulation of point source discharges of waste or pollutants from concentrated animal feeding operations (CAFOs). The act strikes the requirement that the Agency of Natural Resources (ANR) and the Agency of Agriculture, Food and Markets (AAF) enter a memorandum of understanding (MOU) describing how the agencies will comply with and implement federal CAFO program requirements. In place of the MOU, ANR in consultation with the U.S. Environmental Protection Agency and AAFM shall issue a document that sets forth ANR's responsibilities in implementing the Clean Water Act (CWA), and AAFM's responsibilities in implementing the State's nonpoint source program on farms.

The act clarifies that ANR is the regulatory entity in the State that is required to determine if there is a point source discharge from a large or medium CAFO that requires a CAFO permit. The act defines what constitutes an animal feeding operation, a Large CAFO, and a Medium CAFO under ANR's authority. The act also clarifies that the discharges that ANR shall regulate are point source discharges of wastes or pollutants from AFOs to waters of the State, including waters of the United States.

The act sets forth the specific authority of the Secretary of Natural Resources to regulate discharges from CAFOs. The Secretary has authority to implement the federal CWA to administer a Vermont pollutant discharge elimination system (VPDES) CAFO program that is at least as stringent as the federal CWA and enabling rules. The Secretary has authority to adopt rules and guidance to administer a VPDES CAFO program. The Secretary may designate an AFO that meets the definition of a CAFO as a CAFO, in Secretary's sole discretion. Similarly, the Secretary may designate any small AFO as a CAFO if after an on-site inspection, the Secretary determines that the small AFO is discharging and is a significant contributor of pollutants to waters of the State.

The act clarifies that a discharge of manure, litter, or process wastewater to waters from a CAFO as a result of the application of manure, litter, or process wastewater to land area is a discharge from that CAFO subject to VPDES permit requirements, except where the manure, litter, or process wastewater has been applied in accordance with a site-specific nutrient management plan approved by the Secretary. A precipitation-related discharge of manure, litter, or process wastewater from land areas under the control of a Large CAFO shall be considered an exempt agricultural stormwater discharge only where the manure, litter, or process wastewater has been land applied in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater. The act requires all medium farms and large farms to maintain documentation of a nutrient

management plan and practices and to make the documentation readily available to the Secretary upon request.

The act also provides that if AAFM determines that a farm may be discharging to waters of the State, AAFM immediately shall refer the potential discharge to ANR for response according to the federal Clean Water Act CAFO rules. If ANR determines no CAFO permit is required, ANR notifies AAFM so that AAFM may regulate the farm. If a farm is required to obtain a CAFO permit, AAFM's vegetated buffer requirements no longer apply, and the farm must comply with the federal buffer requirements.

The act amends the ban on the land application of manure between December 15 and April 1 to allow AAFM to authorize an emergency exemption from the ban. The act also clarifies that AAFM may require any new small farm to certify compliance with the required agricultural practices (RAPs) and AAFM may require any farm to regularly certify ongoing compliance with the RAPs.

The act makes several conforming amendments, including clarifying when a farm required to obtain a CAFO permit will no longer be presumed to be in compliance with water quality requirements if the farm is compliant with the RAPs. The act also establishes a Community Stakeholder Group on Agricultural Water Quality to engage key agricultural stakeholders as part of a pre-rulemaking process to gather input on proposed CAFO rules and how best to implement ANR's CAFO program. The Stakeholder Group shall report its finding to the General Assembly

Effective Date: July 1, 2025