



Agency of Agriculture, Food & Markets
116 State Street
Montpelier, VT 05620-2901

Agency of Natural Resources
1 National Life Drive
Montpelier, VT 05620-3901

May 21, 2025

Dear Chair Sheldon and Members of the House Committee on Environment:

Thank you so much for your thoughtful and deliberative review of S.124. We are anxious for the General Assembly's support as we continue working constructively with the EPA to ensure that Vermont fulfills its responsibilities under the federal Clean Water Act (CWA).

We write to express our position on Draft 2.1, which was shared and discussed this afternoon. We are generally supportive of the Committee's "Fourth" proposal that would require ANR to submit a potential farm inspection plan next year as part of the stakeholder report. We also support the initiative in the "Eighth" proposal that would retain the federal CWA and CAFO regulations as they exist today, to help ensure that our overall water quality standards are not diminished by any potential change in federal law.

We respectfully oppose the other suggested changes that would make ANR's CAFO program "at least as stringent" as the federal CWA and enabling rules, instead of "consistent with and equivalent to" federal law as passed by the Senate.

Farm water quality regulation is not intuitive, and defining farm "discharges," "CAFO" requirements, and exempt "stormwater runoff" is key. Federal law—and most specifically the extensive federal CAFO regulations—defines those terms, and federal law determines when a farm "discharges" and when it requires a "CAFO permit." The State expanded upon federal CWA coverage by enacting State nonpoint source water quality requirements that cover all farms and prevent farms from discharging regardless of whether they are a federal "CAFO." As a result, no farm is allowed to discharge in Vermont (unless they have a CAFO permit, are meeting requirements, and experience a 25-year/24-hour flood) and all farms must take preventative measures to avoid discharge.

From our vantage, S.124 is intended to address implementation of the federal CWA. The Committees that have considered S.124 prior to House Environment taking possession of the bill have focused on ensuring that the State's CAFO program meets the requirements of the federal CWA and its underlying CAFO regulations.

The advocates who now ask this Committee to enable ANR to increase State law requirements under the federally required CAFO permitting umbrella have not articulated how they want to increase regulations or why ANR should consider exceeding federal requirements by State Rule. And, the many farmers and farm organizations that support the version of S.124 that the Senate unanimously passed, have not been engaged in any discussion about expanding State requirements to exceed the federal CAFO regulations. In addition, S.124 does not offer any guidance or parameters to explain how or whether State regulations should potentially exceed federal CAFO requirements. In an area as regulated and complex as the federal CAFO regulations and the State's existing complementary nonpoint source program, we believe the General Assembly should carefully consider whether any additional regulation is prudent before the State potentially expands its scope or requires farms to do more. The vast majority of Vermont farms are doing the work, and their contributions should be acknowledged and evaluated before their obligations and related expenses potentially increase.

Our Agencies respectfully request that the House Committee on Environment not approve the following suggestions in Draft 2.1: First, Second, Third, Fifth, Sixth, and Seventh. S.124 creates a stakeholder group that will continue this conversation. If this Committee is interested in explicitly considering these changes, we recommend that a question be added to the charge being given to the stakeholder group for their discussion and feedback.

Our Agencies look forward to working with this Committee, the General Assembly, the EPA, and with farmers and other stakeholders to ensure that Vermont is effectively implementing the federal CWA and the State's nonpoint source requirements.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Moore".

Julie Moore
Secretary
Agency of Natural Resources

A handwritten signature in black ink, appearing to read "Anson Tebbetts".

Anson Tebbetts
Secretary
Agency of Agriculture, Food, and Markets