

CAFO Corrective Action Plan and S.124

Julie Moore, P.E.

Secretary

Agency of Natural Resources



April 30, 2025

Background/Context

- September 2024: EPA directs ANR to prepare a *Corrective Action Plan* (CAP) to address identified deficiencies with Vermont's Concentrated Animal Feeding Operation (CAFO) Program
- December 2024: ANR submits draft CAP to EPA
- January 2025: EPA provides feedback on draft CAP, largely asking for additional detail
- March 2025: ANR submits updated draft CAP to EPA; S.100 (precursor to S.124) language is provided as attachment
 - on-going/informal dialogue with EPA is reflected in proposed changes shown in the following slides

Key Concerns in EPA's September 2024 Letter

EPA required a Corrective Action Plan (CAP) be submitted within 90 days that meets the following requirements:

- ANR personnel must inspect all potentially jurisdictional farms to determine if a CAFO permit is required;
- ANR personnel must review nutrient management plans and issue CAFO permits consistent with state and federal requirements;
- ANR must comprehensively track permitting, monitoring and enforcement actions;
- ANR must enforce against farms that are discharging without a permit;
- ANR must have sufficient personnel to fully implement the foregoing requirements in a timely manner;
- ANR must seek the necessary statutory and regulatory authority to fully implement the CWA requirements; and
- ANR must include a reasonable but expeditious timeline, including a date certain for the completion of a corrective action plan.

December 2024 CAP Proposal

- ANR prepared draft CAP in consultation with AAFM; focused on aligning the Vermont water quality regulation of farms with the federal Clean Water Act (CWA)
- CAP outlines a 4-year implementation timeline that includes:
 - **Defining Roles** - ANR will clearly define roles, responsibilities, and authority
 - **Inspections** - ANR will lead joint inspections, with AAFM, of medium and large farms
 - ANR will lead at least 10 inspections in 2025; farms selected with input from EPA
 - **Permitting and Regulation** - ANR will determine if a farm needs a CAFO permit and will regulate farms where point source discharges are found, as well as where non-point discharges occur when the farm failed to follow its NMP
 - AAFM will continue to regulate farms that don't need a CAFO permit
 - **Data Management** - AAFM and ANR will share data management systems and resources to increase and improve information sharing on inspection, permitting, monitoring, and enforcement activities

December 2024 CAP Proposal, cont:

- **Nutrient Management Plans (NMPs)** - ANR will review all NMPs prior to inspections for compliance with the CWA and whether they are being followed
 - NMPs will be subject to public notice and review
- **Rules and Permits** - ANR will develop and adopt an updated Vermont CAFO Rule, will update the Medium Farm General CAFO Permit and Notice of Intent forms for General Permits and develop and adopt Individual CAFO Permits
- **Reporting and Performance**- ANR will prepare and submit to EPA an annual progress report that includes and tracks Key Performance Indicators
- **Staffing**
 - ANR will convert an existing position to a CAFO position
 - Governor's Budget Recommend includes funding for 2 additional positions, as well as one-time monies for database and programmatic support
 - In December 2026, ANR will reassess staff and resource needs and make further recommendations, as needed

EPA's January 2025 Response

- EPA directed ANR to submit additional information/commitments, including:
 - Identifying ANR as the authority for regulating CAFOs – ANR cannot rely on AAFM to make determination regarding discharges/CAFO jurisdiction
 - Clarify that ANR will regulate all farms subject to the CWA and that AAFM has no authority to regulate farms under the CWA
 - Clarifying how ANR will identify all farms that are discharging and need a CAFO permit
 - Issuing a general permit that covers all farms
 - Designating farms that need a permit by reviewing records
 - Describing how ANR will ensure sufficient staffing
 - Explaining further how ANR will inspect all potentially jurisdictional farms, determine what farms need a CAFO permit, review NMPs and issue CAFO permits consistent with federal CWA requirements
 - Explaining in detail how (while sharing the database) ANR will comprehensively track, monitor, and implement enforcement
 - Explaining how ANR will regulate all farms, including small farms
 - Clarifying that NMPs must be at least as stringent as federal CAFO regulations
 - Committing to adopt a CAFO rule that complies with the CWA
 - Identifying key interim milestones and deadlines for tracking progress

ANR's March 2025 Redrafted CAP

- Revised CAP contains more detail as directed by EPA, including:
 - Clarifying ANR and AAFM roles
 - Confirming ANR authority to make determinations and regulate CAFOs
 - Specifying inspection priorities and timelines
 - Included then-current draft of S.124 as an appendix
- Importance of S.124:
 - Demonstrates Vermont's commitment to implementing the CAP by making initial conforming changes to Title 10
 - Establishes robust stakeholder process
 - On 4/1/25 EPA issued a letter in support of the legislation

Proposed Next Steps

- Finalize *Corrective Action Plan* with EPA
- Initiate agricultural stakeholder engagement
- Begin drafting revised roles, responsibilities and authority for CAFO program and clarify AAFM roles, etc. Publicly notice draft and finalize. Document will be subject to EPA approval
- Begin revisions necessary to issue a CAFO General Permit that covers all farm sizes (i.e., small, medium and large)
- Conduct 10 farm inspections during 2025 field season