

Vermont House of Representatives House Committee on Agriculture
115 State St
Montpelier VT 05633
April 30, 2025

We, the Vermont Coalition Against Factory Farms (VCAFF), submit this comment opposing S.45. Our mission is to combat the proliferation of industrial farms in Vermont, and use an intersectional lens to engage in various forms of communal and legislative advocacy while serving as a watchdog group for industry-backed policies and programs that hinder our pursuit of an equitable food system.

First, we would like to express our sincere appreciation for the significant changes already made to this bill. After watching many hours of testimony, it's clear that the members of both house committees are deeply invested in protecting the interests of Vermonters— best exemplified by their incorporation of feedback from a wide variety of perspectives.

However, as Graham Unangst-Rufenacht, Policy Director of Rural Vermont, eloquently stated in his recent testimony before this committee, **“if we want to understand how to best support farmers on issues like this, perhaps gathering information from a breadth of stakeholders through a deliberate and comprehensive process may help to balance the declared purposes of the bill.”** We could not agree more.

For this reason, and those discussed below, VCAFF strongly opposes S.45. Given that the legislative session will be ending shortly, we feel that there is not enough time to adequately discuss the bill with the nuance, breadth, and patience that is needed to legislate responsibly. Too many questions remain unanswered, and too many valuable voices have yet to be brought to the table. We are very concerned that S.45's current language will give industrial operations a free license to pollute some of our most vulnerable neighbors while evading civil litigation. These concerns must be remedied before we can have an honest and productive conversation about how our laws can serve as a vehicle for responsible stewardship. Additionally, the bill's ties to *Big Ag* are of particular concern, and we feel that industry talking-points have drowned out the concerns of local communities. Discussion about one's “right to farm” in Vermont should be part of a much larger conversation that should serve as the cornerstone of *all* future agricultural laws. While we are appreciative of the great work done thus far, to insinuate that this matter can be sufficiently resolved within the next few weeks would result in policy choices that are sloppy, rushed, and performative.

Enforcement Issues

In sum, S.45 prohibits citizens from filing a nuisance suit against a farm when operations are “conducted in accordance with generally accepted agricultural practices.” Consequently, no farm activity can be deemed a nuisance so long as it (1) complies with state law, and (2) follows

industry standards. However, this makes the assumption that agricultural practices that are both *common* and *legal* cannot still be harmful. As several other public comments have indicated— this could not be farther from the truth. Both state and federal law provide several **significant** exemptions for agricultural pollution in Vermont and contribute to ongoing health and safety issues. Moreover, Vermont agencies have continuously failed to adequately regulate our largest industrial farms. Last year, the EPA determined that *none* of Vermont’s CAFOs were abiding by the Clean Water Act’s permitting and discharge requirements. In our current regulatory climate, it is inappropriate to remove a plaintiff’s right to sue a farm when the relevant agencies are unable to adequately enforce the law to begin with. While we understand that the state is working hard to remedy these challenges, we believe that introducing a piece of legislation that weakens a citizen’s only civil safeguard is particularly inappropriate given this timing.

Confusing Critical Language

We’d also like to highlight that the “substantial adverse effect” requirement has been added back into the bill, and we are incredibly grateful that this common-sense provision was not excluded as traditionally proposed. However, we also believe that this standard needs refinement. For example, what exactly is a “substantial adverse effect” and how does this differ from harm in a general sense? Does it have to do with duration? Severity? Nitrate pollution is a growing issue in Vermont’s waterways. It’s long been established that nitrates in drinking water are a leading cause of blue baby syndrome— a life threatening health condition for infants. It seems obvious that a condition such as this would be a “substantial adverse effect,” but other impacts are not as clear. What about asthma or lung irritation? Rashes or sores? If the legislature doesn’t answer these questions, then the courts— who lack expertise in agricultural and scientific matters— will have to decide for us. Additionally, it doesn’t feel appropriate to have the merits of someone’s case hinge upon a judge’s subjective interpretation of whether someone is “sick enough” to deserve legal help. Lastly, the standard doesn’t adequately define *who* is entitled to such a remedy. Does “public” denote a harm that is done to a community *at large*, or would a harm impacting just one family— or even one *individual*— be enough? Why or why not? Again, the language remains unclear. For this reason, the legislature should take the time to define these terms.

Misleading Narratives and Corporate Influence

It’s also imperative to note that the amendments proposed in S.45 are not at the suggestion of our own farmers. No farmer-led organizations in Vermont have come forth with any data indicating that our farmers are asking for these legislative changes. Similarly, no agricultural interest group in *all* of New England has been able to point to any concrete facts or studies to support the idea that Vermont’s current ‘Right to Farm’ law is a significant barrier to our farmers. It’s true that our farms are facing **major** challenges— rising production costs, insurance and subsidy losses, unfair federal pricing, inconsistent regulation across the state, limited access to markets, rising land

prices, industry consolidation... just to name a few. Yet, this law does nothing to address those issues. Instead, it tackles challenges of a near mythical nature.

For example, under both the current and proposed versions of the bill, it would not be legally possible for a neighboring property owner to sue a farm just because they did not like the way it smelled. However, proponents of the bill frequently claim that the threat of a “smell suit” is a significant problem— despite the fact that there has *never* been such a case in Vermont. Moreover, since Vermont’s ‘Right to Farm’ law was enacted almost 40 years ago, there have only been *two* cases in which a Vermont court ruled that an agricultural activity could legally be considered a private nuisance— both of which were extreme outliers that created no legal precedents that would pose dangers to small farmers operating in good faith. This raises an important question: ***Who exactly is this bill written for?***

VCAFF strongly holds that S.45 is written by and for Big Ag via the American Legislative Exchange Council (ALEC). ALEC is a group of private sector representatives who draft and share model legislation for distribution among state governments. Their primary supporters include Big Ag, Big Oil, and the Koch Brothers. They also sat on the advisory board, and thus, are the unofficial co-authors of Project 2025. Interestingly, S.45 is nearly *identical* to other pieces of legislation created by ALEC that have passed in multiple different states— areas that are now dominated by factory farms and rife with cancer. In fact, some sections of S.45 are quite literally ‘copied and pasted’ from ALEC’s model ‘Right to Farm’ bill. ALEC and its allies are also responsible for creating legislation that has contributed to some of the most dire problems within our agricultural sector. We are left hopelessly wondering why the legislature would entertain a bill written by the same interest groups that are responsible for shutting down countless family farms across the country and **creating the culture of consolidation that wiped out so many Vermont dairy farms.** For more information on this topic in particular, we recommend that the committee read [*The Economic Cost of Food Monopolies: Dirty Dairy Racket*](#) by Food & Water Watch (FWW). This report will explain how industry groups (within and allied with ALEC) created the U.S. farm policies designed to demolish small dairies and boost corporate monopolies.

Moreover, considering this bill sought to completely gut the current law’s public health and safety requirements, we find it very difficult to believe that this bill is written with good intentions. Instead, it operates as a vehicle for industrial CAFOs to evade civil litigation for their most despicable forms of pollution— no matter the cost to their neighbors (of which some Vermont farms have *hundreds*). If we allow the industry to regulate itself, we are creating a perfect storm for corporate agribusiness to exploit our communities— just as they have done in countless other parts of the country.

In short, our problems will not be solved by the very people who *profit from their creation.*

In order to highlight the importance of our concerns, we reached out to a number of national and state-based organizations and asked them to review the language of this bill.

Our allied organizations standing in strong opposition to S.45, as currently written, include:

- Farm Aid
- The Socially Responsible Agriculture Project
- Champlain Waterkeepers Alliance
- Vermont League of Conservation Voters
- Vermont Public Interest Research Group
- Vermont's Peace & Justice Center
- Standing Trees
- Vermont Interfaith Power & Light
- The Environmental Justice Law Society
- 350 Vermont

Thank you for your time and consideration.

Sincerely,

The Vermont Coalition Against Factory Farms (VCAFF)