



REGION 1 ADMINISTRATOR

BOSTON, MA 02109

April 1, 2025

Julie Moore
Secretary
Vermont Agency of Natural Resources
1 National Life Drive, Davis 2
Montpelier, VT 05620-3901

RE: Joint petition from the Conservation Law Foundation, the Vermont Natural Resources Council, and the Lake Champlain Committee; Vermont Senate Bill 100

Dear Secretary Moore,

On March 16, 2022, EPA Region 1 received a petition from the Conservation Law Foundation ("CLF"), the Vermont Natural Resources Council ("VNRC"), and the Lake Champlain Committee ("LCC") (collectively "Petitioners") pursuant to 40 C.F.R. §§ 123.63 and .64. The Petitioners raised issues with Vermont's administration of the State's National Pollutant Discharge Elimination System ("NPDES") program as it relates to the regulation of the State's Concentrated Animal Feeding Operations ("CAFOs"). They requested that EPA require corrective action or withdraw authorization of Vermont's NPDES program, which is administered by ANR's Department of Environmental Conservation. Following constructive discussions among EPA, Vermont and Petitioners, ANR agreed to develop and submit to EPA a draft Corrective Action Plan ("Plan") that would address a range of programmatic and legal deficiencies, some of which would require legislative action to cure. Vermont submitted draft statutory language in February 2025 followed by a draft Plan in March and requested EPA review and feedback.

EPA is actively reviewing the Plan and has transmitted comments through counsel on draft Bill S. 100 now pending before the Vermont Senate that, "proposes to clarify the authority of the Secretary of Natural Resources to regulate, permit, and enforce discharges of pollutants from concentrated animal feeding operations in the State." EPA limited its comments to those it deemed necessary to maintain program authorization and understands that ANR is working with legislative counterparts to incorporate that feedback. EPA also acknowledged that some programmatic deficiencies could be addressed at an agency level through regulation and encouraged ANR and DEC to seek clear legislative authorization to promulgate implementing rules to further clarify lines of agency authority and to

otherwise gap fill to ensure full implementation of Vermont's CAFO program. Against this backdrop, and assuming such authorization in fact occurs, EPA views the draft legislation as an overall positive step forward toward resolving longstanding issues with Vermont's regulation of CAFOs, including but not limited to the lack of any permitting of these entities by ANR, an outcome that would leave pollutant discharges unabated or only partially remediated and thus susceptible to recur. Because of this, EPA has repeatedly underscored the need to act with urgency and is, accordingly, supportive of seeing legislative action this session. At the same time, EPA understands that even when this statutory platform is in place, significant work remains to build an effective and functional CAFO program, which may entail further statutory adjustments and which will certainly require significant implementing regulatory actions by ANR in the coming years. For this reason, EPA reaffirms its ongoing commitment to work closely and collaboratively with ANR, Petitioners and other interested parties to work through and finally resolve this complex matter.

If you have any questions, please contact Samir Bukhari of the Office of Regional Counsel at (617) 918-1095 or bukhari.samir@epa.gov.

Sincerely,

Ken Moraff
Director, Water Division
EPA Region 1, Boston, MA

cc: Elena Mihaly, Vice President and Director, CLF
Lauren Heirl, Executive Director, VNRC
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Anson Tebbetts, Secretary, AAFM
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