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Date: April 30, 2026

To the Vermont General Assembly:

Please find attached a report summarizing input from the Community Stakeholder Group on Agricultural Water Quality (the “Stakeholder Group”), convened pursuant to Act 67 of 2025 and facilitated by the Consensus Building Institute (CBI).

We want to start by sharing our appreciation to the farmers, agricultural organizations, UVM Extension, and technical service providers who committed significant time and effort to the stakeholder process. Their work reflects a shared understanding that clean water and a robust agricultural economy go hand in hand and that Vermont’s farmers have long been strong stewards of the land.

Over three months, participants met nearly weekly and worked through complex issues related to developing a Concentrated Animal Feeding Operation (CAFO) permit program for Vermont, listened across perspectives, and identified a clear path forward. Their input is important and the Facilitator Summary captures that work. The recommendations provide specific, actionable steps, clear guidance on how stakeholders want their state government to function, and a strong foundation for progress.

While our agencies must operate within statutory authority and available resources, we take this input seriously and are committed to advancing the shared goals and addressing the deficiencies in our work that have been called out.

We are each proud of our staff and their work and yet also acknowledge we can do better. Different understandings of what constitutes a discharge, different approaches to addressing them when identified in inspections or through reports from others, different staffing levels and resources, differing levels of response and/or delays in response, and imperfect communication and coordination in administering our respective responsibilities have all contributed to the need to improve. At times, we at AAFM have not fully balanced between state and federal requirements. Our dedication to Vermont’s water quality and agricultural sustainability remains steadfast, and we are taking steps to improve consistency across the practices we help support. At other times, we at ANR have approached the farming community as a sector to be regulated and have failed to recognize farmers as partners in solving a shared problem and

achieving the common goals of clean water and healthy local food for all Vermonters. We regret that these shortcomings may have eroded trust, increased miscommunication, or hindered progress – both between our agencies and with stakeholders.

We are committed to building on the work that has been led by the Agency of Agriculture, Food and Markets and farms' steady improvements in protecting water quality that is delivering real results on the ground, as well as providing farmers with greater clarity, consistency, and a predictable regulatory approach.

To that end, we commit to:

- Continuing the Stakeholder Group to ensure accountability, coordination, and ongoing stakeholder engagement.
- Aligning inspection protocols, training, and standard operating procedures so farmers experience a consistent and well-coordinated regulatory process. The Agency of Natural Resources will retain sole authority to determine the presence of a discharge.
- Ensuring that Vermont's agricultural water quality framework is clear, effective, and meets both the federal Clean Water Act and Vermont's nonpoint source state law requirements. ANR and AAFM will each administer their respective programs – ANR's CAFO discharge permit and AAFM's state nonpoint source program – in close coordination and with consistent standards. Farmers are welcome to obtain a CAFO permit as preferred, but farmers who comply with state requirements and do not implicate federal law through discharge can continue under the state nonpoint source program.
- Tailoring federal requirements to Vermont conditions, including clear standards that work for both existing farms and new construction.
- Ensuring all farms retain access to technical assistance and funding through the Agency of Agriculture, Food and Markets, regardless of permit type.

This work will require sustained investment and continued partnership – and where recommendations cannot be implemented as written, we will be transparent about why.

We also want to address directly something that has circulated on the margins of this process: the suggestion that ANR's expanded role in agricultural permitting signals a shift toward rigid enforcement by an agency indifferent to the economic realities of

farming. ANR wants workable solutions, to prioritize compliance assistance over fines and enforcement actions, and to build durable relationships with Vermont's agricultural community. This is the approach ANR will bring to developing and administering the CAFO permit program. Our shared goal is to help farms achieve compliance – not to penalize the effort.

In addition, we recognize that commitment without accountability is simply intention. We invite not only the Stakeholder Group, but any stakeholder with concerns – about the pace of implementation, about the quality of interagency coordination and collaboration, or about any aspect of this work that falls short of what the stakeholders envisioned – to come directly to both of us.

The Stakeholder Group demonstrated what is possible when people come together in good faith and deserve the same from their state agencies. We intend to carry that forward.

Please do not hesitate to contact us with questions.

Respectfully submitted,



Julie Moore, Secretary
Agency of Natural Resources



Anson Tebbetts, Secretary
Agency of Agriculture, Food, and Markets

AGENCY OF NATURAL RESOURCES LEGISLATIVE REPORT

Report on Act No. 67; an act relating to miscellaneous agricultural subjects

Year: 2025

Date reported: April 30, 2026

**Committees: House Committee on Agriculture, Food Resiliency, and Forestry;
House Committee on Environment;
Senate Committee on Agriculture; and
Senate Committee on Natural Resources and Energy**

Prime Contact: Kevin Burke, Director, DEC Watershed Management Division

Executive Summary

This report is being submitted in response to Act 67 (2025), which directed the Secretary of Natural Resources (ANR), in coordination with the Secretary of Agriculture, Food and Markets (AAFM), to engage stakeholders in the process of informing the development of a CAFO permitting program consistent with the Clean Water Act. ANR contracted with the Consensus Building Institute to facilitate the process.

As stated in Sec. 9 of Act 67, the legislature called for stakeholder and public input on five main issues:

- Establishment of a Clean Water Act compliant CAFO program
- Alignment between ANR and AAFM
- Long term regulatory clarity, including options to remain split between ANR and AAFM or consolidate to ANR
- Identification of the technical and financial resources needed to support farm compliance
- Consideration of regulatory approaches used in other states

The stakeholder process, summarized in the attached facilitator's report, addresses each of these areas. Participants provided input on permitting structure, interagency coordination and approaches to program design and oversight.

Stakeholders placed strong emphasis on the need for a practical and achievable path to compliance for farms, including ensuring the necessary financial and technical support are available for successful implementation.

Stakeholders added detailed recommendations on program implementation considerations for ANR and AAFM, such as inspection practices and administrative coordination, which they felt were needed to support clarity and consistency.

See attached documents created by the stakeholders and Consensus Building Institute (CBI)

1. Facilitator Summary of the Stakeholder Process including Public Comments Received (**This document includes stakeholder recommendations**)
2. Assessment of Current Regulatory Structures for Water Quality on Vermont Farms
3. Overview of Select Delegated State CAFO NPDES Programs

Consistent with requirements of Sec. 9, subsection (b) and (c) of Act 67, this report includes the following information from ANR:

- Recommended statutory and programmatic changes to support the CAFO program and agricultural water quality regulation more generally;
- Which animal feeding operations should be inspected;
- When inspections should occur, including frequency or threshold triggers; and
- Staffing and resource needs for implementation.

ANR and AAFM recognize and appreciate the significant time, expertise and good faith effort of stakeholders. Their engagement reflects a shared commitment to improving water quality while supporting Vermont's agricultural community. Both ANR and AAFM are committed to ongoing, transparent collaboration.

Farmers deserve genuine recognition for their work to improve Vermont's water quality – efforts that are well-documented in Vermont's annual Clean Water Performance Report. The need for a strong CAFO program and the de-delegation petition is about Vermont's regulatory structure – it is not a criticism of farmers, or the significant conservation work they are doing. Continued progress will depend on the partnership between government and farmers and between agencies to navigate the real but manageable tension between growing food and protecting water. Both matter deeply to Vermont.

ANR and AAFM bring different expertise and perspectives to this work. While that can present challenges, meaningful collaboration around those differences will lead to better policy than either agency could develop alone. ANR and AAFM believe the existing regulatory structure balances these interests, and we will continue to improve our

coordination and implementation. Vermont's nonpoint source program standards, in many cases, exceeds the federal requirements. At the same time, stakeholders have identified the need for more consistent alignment of production area standards between the agencies. There is a genuine commitment to continuing that work and doing better as a compliant CAFO program is put in place.

As the legislature reviews this report and considers next steps, it is important to consider the original intent of Act 67, alongside federal Clean Water Act requirements and the recommendations from the stakeholder work group.

ANR is committed to on-going engagement with stakeholders, both informally as well as through the formal rulemaking process where additional opportunities for public input will be available. In the end, ANR needs to advance a compliant CAFO program that is supported by EPA, resolve the outstanding de-delegation petition, and provide farmers with a stable, clear framework for their continued work to improve water quality.

See below for ANR's portion of the required report:

Recommended statutory amendments or other changes related to implementation of the CAFO program and agricultural water quality regulation

(1) Funding for Production Area Improvements

ANR acknowledges that meeting the minimum production area standards under federal Clean Water Act regulations will require continued and significant capital investment across Vermont farms. The Legislature may wish to review the adequacy of existing funding streams, including both Clean Water and Capital Bill appropriations coupled with anticipated federal funding through USDA's Natural Resource Conservation Service, in meeting the total funding required over multiple years for structural production area improvements necessary to achieve compliance with federal Clean Water Act CAFO standards. Production area improvements will be farm-specific and could include measures needed to prevent unauthorized discharges from manure storage structures, animal confinement areas, material storage areas, and waste storage and transfer systems, in addition to identifying opportunities for clean stormwater runoff diversion, and innovative treatment alternatives. Implementing these measures will also require technical services related to the engineering, design, and construction of necessary upgrades. The availability of both government and contracted capacity for these technical services has been an ongoing challenge under the current regulatory framework and is expected to remain a constraint on the timeline to achieve CAFO standards. ANR also recommends that consideration be given to prioritizing funding to remediate discharges.

Production area compliance represents the largest cost driver for farms, and many existing systems were not designed to meet the current state or federal standards. Stakeholders requested that the Vermont Legislature provide additional funds to aid Vermont's farms' ability to comply with the Clean Water Act (CWA) requirements. Without sufficient financial support, compliance timelines will likely become extended, increasing regulatory and environmental risk.

(2) Permit Fee Reciprocity

Under the current regulatory framework, an MFO or LFO would be subject to a permit fee from AAFM. Similarly, an MFO or LFO that is determined to require a CAFO permit from ANR would require a permit fee. ANR recommends that this fee authority be structured to maintain reciprocity between AAFM's non-discharge permit program and ANR's VPDES CAFO permit program.

(3) "Good Standing" and access to funding

To support compliance, ANR recommends adoption of statutory language, consistent with existing programs administered by AAFM, defining when a farm is in "good standing" for the purpose of eligibility for state and federal funding programs.

For the purposes of determining eligibility for State and federal financial assistance related to water quality requirements under 10 V.S.A. Chapter 47 and the federal Clean Water Act, ANR recommends that a farm be considered in "good standing" if the following apply:

- The farm is in compliance with all water quality requirements applicable to the farm under 10 V.S.A. Chapter 47 and the federal Clean Water Act;
- The farm, where required, is actively pursuing VPDES permit coverage, including timely submission of a complete application;
- The farm is complying with an approved compliance schedule that has not reached a final order with the Secretary.

Farms in good standing should remain eligible for state and federal funding programs. This approach reflects the stakeholder input that loss of funding eligibility during compliance transitions would undermine the farm's ability to achieve compliance.

(4) Updated Enforcement Framework

ANR intends to administer the CAFO Program using a graduated approach to prioritize timely discontinuance of discharges and return to compliance. In support of this approach, ANR is developing procedures to notify farms when corrective action or permit coverage is required, to utilize compliance schedules where appropriate, and to improve program

timelines and internal administrative processes. This is responsive to stakeholder recommendations and reflects a practical balance of effective, prioritized regulation during development and roll-out of the CAFO Program. ANR will prioritize working with farms to achieve compliance, where appropriate.¹

Consistent with this approach, ANR is drafting an interim compliance and enforcement procedure for the CAFO Program that will:

- Describe how ANR communicates requirements and provides compliance assistance to farms;
- Describe the process for identification, documentation, and correction of discharges and other deficiencies;
- Identify the tools ANR may use, including compliance directives and Notices of Alleged Violation, to notify farms of concerns, required actions, and timelines;
- Explain the factors used to guide selection of the appropriate compliance or enforcement response; and
- Clarify when matters may be escalated to formal enforcement.

Additionally, consistent with stakeholder recommendations, ANR will initially limit issuance of VPDES permits to farms with major deficiencies until a final rule and necessary programmatic standards are developed. During the interim period, while rules and program standards are being developed, and where timely correction of identified discharges and other compliance deficiencies is possible, ANR will prioritize clear compliance pathways and completion of rulemaking over permit issuance. During this time, farms may request coverage under a VPDES permit, which may establish compliance schedules consistent with federal requirements and the authority delegated to ANR. During this interim period, ANR and AAFM will coordinate and try to productively address deficiencies. This approach will allow farms sufficient time to access financial and technical resources, as well as allow ANR to provide regulatory clarity during program development.

¹ While formal enforcement will remain available where warranted, it is worth noting that ANR and AAFM have different statutory enforcement authorities. ANR is required to initiate formal enforcement actions in the Environmental Division of the Vermont Superior Court. In accordance with Title 10 V.S.A. Chapter 201, ANR may request that the Environmental Division impose penalties and compliance directives. Most enforcement actions are initiated with an offer to engage in settlement discussion and result in the execution of a settlement document called an Assurance of Discontinuance, which is subsequently adopted as a court order. ANR can also file an administrative order directly with the Court when a respondent is uncooperative. When ANR files with the Court, the respondent/alleged violator is entitled to a hearing upon request. In contrast, 6 V.S.A. §§ 4992-4993 allow AAFM to require corrective action and impose penalties through issuance of administrative orders directly under its own administrative process.

When setting inspection and enforcement priorities, ANR will also consider the size of the operation. While the CWA is clear that discharging Medium and Large CAFOs²

are point sources, and as such are required to have a VPDES permit, there is the additional requirement to identify a Small AFO as a significant contributor in order to require it to obtain VPDES permit or be designated as a point source.

ANR will propose in rulemaking the standards and criteria regarding designation and regulation of Small AFOs as CAFOs. In the interim, ANR will not prioritize routine inspections of Small AFOs. For Small AFOs for which ANR receives a complaint and identifies a discharge, ANR will apply the interim approach, and coordinate with AAFM to connect the farm with financial assistance or program support.

As discussed during the stakeholder process, some other states focus their CAFO permitting programs above the medium size threshold. ANR's interim approach similarly focuses limited resources on operations with the greatest potential for water quality impacts while reducing the regulatory burden on small farms through flexible compliance options, where appropriate. ANR will continue to work with AAFM to leverage existing water quality programs to address concerns.

(5) Set forth a realistic timeline for CAFO Rule and program development

As discussed in the Stakeholder process, ANR will develop a rule to include site-specific and other Vermont specific standards and requirements informed by stakeholder and public input when developing CAFO rules and permit requirements. Rule development and adoption will require continued engagement with the agricultural community, EPA, other partners, and the public at large, through a thoughtful and meaningful stakeholder process, including a formal public comment process.

Consistent with the recommended schedule included in the stakeholder recommendations, this process is expected to take time and may require three years or more to complete. ANR remains committed to moving forward with the development of the CAFO program's permitting structure and related standards, while allowing for the necessary and critical stakeholder engagement.

(6) Continued Stakeholder Involvement

ANR is committed to working with stakeholders, AAFM, the petitioners, EPA and other states to continue to design a CAFO program that meets the requirements of the CWA and

² Medium CAFO (with 200-699 mature dairy cows, or 300-999 cattle, veal calves, or cow/calf pairs, and other livestock thresholds); Large CAFO (with 700+ mature dairy cows, or 1000 cattle, veal calves or cow/calf pairs, and other livestock thresholds).

Vermont's unique landscape, and the needs of the agricultural community. We heard from the stakeholders that there is work to be done to develop standards that make sense for Vermont's farms and allow flexibility and we also heard from stakeholders that ANR needs to build trust with the farming community.

(7) Continued Work on Interagency Coordination and Inspection Training

ANR and AAFM are committed to improving communications and consistency between ANR and AAFM around a single set of practice standards – including a consistent interpretation of allowable operation and maintenance, design standards, and buffers to ensure alignment with federal requirements. This is integral to reducing confusion for farms and laying the groundwork for a more federally compliant regulatory system.

Throughout the stakeholder process, we heard from multiple other states with established NPDES equivalent regulatory programs. States were chosen based on proximity and similar climate to Vermont or based on EPA's feedback. All the states that presented to the stakeholder group had production area requirements that met or exceeded the federal requirements. Stakeholders made it clear that the agencies must work together to ensure Vermont regulations meet those same requirements.

From the stakeholders, we know that the goal of "permit portability" is also important. Farms should be able to move between a VPDES permit and a state non-discharge permit without encountering conflicting requirements for production area practices. Achieving this will require sustained collaboration among farms, the stakeholder working group, ANR, and AAFM, as well as productive engagement with EPA to ensure both ANR and AAFM are working to meet minimum federal requirements. Specific areas of joint work will include waste storage design standards and any state-specific flexibility or certification pathways; nutrient management plan noticing requirements as they relate to draft permit applications; and minimum buffer widths.

As a response to stakeholder feedback, both agencies also acknowledge that perceived inconsistent inspection protocols, differing assessments of what constitutes a discharge, and imperfect coordination have contributed to farm confusion and eroded trust. Going forward, ANR will continue to be the sole authority to determine the presence of a discharge.

ANR is committed to expanding collaboration and refining the alignment of inspection protocols, training, and standard operating procedures with AAFM. As previously tasked by Vermont Legislature, ANR shall, in consultation with EPA and AAFM, issue a document that sets forth our respective roles and responsibilities in implementing the Federal Clean

Water Act on farms, and outlines AAFM roles and responsibilities in implementing the states complementary nonpoint source program on farms. This will ensure that farms experience a consistent, well-coordinated process regardless of which agency they are working with.

ANR and AAFM recognize and appreciate stakeholder feedback and the intent to strengthen inspection consistency and effectiveness. Both agencies have been conducting farm inspections for more than 15 years using coordinated field inspection practices, and have made significant public investments in staffing and inspector training. ANR and AAFM welcome the opportunity to provide a more detailed summary of current inspection protocols, training requirements, and coordination efforts.

(c) The Secretary of Natural Resources shall, as part of the report required under this section, propose a plan for inspection of animal feeding operations (AFOs) potentially subject to the requirements for a CAFO permit under 10 V.S.A. chapter 47, subchapter 3A. The plan shall include:

(1) a proposal of which AFOs should be subject to inspection, including whether all large farm operations and medium farm operations must be inspected to determine if a CAFO permit is required.

ANR recommends that during an interim period, concurrent with CAFO Program development, it will continue to work closely with EPA and leadership to determine an agreed upon number of inspections, with 10 inspections being the minimum number to be performed during each fiscal year. This number will be revisited and adjusted as needed based on capacity and expectations. The CAFO program does not propose inspecting all large and medium farm operations currently.

ANR distinguishes between routine inspections conducted for compliance verification and investigations initiated in response to a citizen complaint or a reported discharge. Both types of inspections are necessary and are currently part of the CAFO Program's core responsibilities. Each requires unique resources and coordination and may often require ANR to reallocate resources on short notice. Complaint-driven investigations can require extensive follow-up with the farm owner or operator related to correcting a violation and determining what, if any, enforcement action is appropriate.

During the interim period, ANR will need to balance its overall capacity to ensure that adequate staff time is available to address emergent, complaint-driven concerns, conduct scheduled compliance inspections and complete CAFO program development in a timely manner.

(2) a proposed schedule of inspection of those AFOs subject to inspection, including the frequency of inspection or events or thresholds that would require inspection; and

ANR intends to propose an inspection schedule through rulemaking for permitted or potentially jurisdictional facilities.

ANR learned as part of the stakeholder process that several other NPDES state programs had inspection schedules with differing approaches, such as annually for a certain size threshold (LFO equivalent), or inspections required at the time of Permit Application and one other time during the permit timespan, such as upon completion of milestones in compliance schedules. Additional time is needed to engage stakeholders and partners and consider the options.

Currently, unscheduled inspections can be initiated by CAFO staff at any time upon the following:

- Reports of a discharge or determination of a risk for a discharge
- Repeat noncompliance with corrective actions
- Significant operational changes

(3) an estimate of the staffing or other resources that would be required to implement the proposed inspection plan

To accomplish the above, ANR requests one (1) additional FTE to support necessary development and implementation of the CAFO Program, provide supervisory support, and ensure that the proposed milestones are met and balanced with current capacity. Absent an additional staff member, the complete development and implementation of the CAFO Program consistent with the federal CWA would be expected to take at least one additional year.

The position would aim to fill a supervisory role amongst permitting and field staff, creating additional capacity for the Program Manager and senior staff for work related to rules, standards, and general permit development, and continued and focused engagement with stakeholders. This model is not unlike other NPDES permit programs within ANR and creates a more effective program and more staff availability for the regulated community.

As proposed in the Corrective Action Plan previously submitted to EPA, and as also supported by stakeholder recommendations, ANR will assess staff needs annually, and provide recommendations regarding any additional staff or resources needed to fulfill the CAFO-related obligations as they are identified.

**Attachment 1 Below:
Facilitator Summary of the Stakeholder Process including Public Comments
Received (This document includes stakeholder recommendations)**

Facilitator Summary of the Stakeholder Process including public comments received

Discharge and Non-Discharge Permit Programs in Vermont to meet CWA NPDES CAFO regulations and Vermont Required Agricultural Practices

22 April 2026

Executive Summary

This document summarizes the work of the Stakeholder Group and public comments received Act 67 of 2025. This is the Stakeholder Group's non-partisan, independent facilitator's summary of the work of the group and may not reflect the full range or nuance of views held by the Stakeholder Group. This is not a formal agreement or mediative settlement, but rather a summary that seeks to capture shared recommendations, differences among stakeholders where noted, and is silent on additional issues where individual stakeholders may have further views. For specific stakeholder sectoral views, please note appendix C which includes a letter from farmer watershed groups and a link to the Petitioner's original petition. Furthermore, these recommendations are not intended to reflect the views of the two involved agencies, the Vermont Agency of Natural Resources (ANR) and the Vermont Agency of Agricultural, Food, and Markets (AAFM). All errors and omissions are the sole responsibility of the facilitator.¹

The facilitator of the process, the Consensus Building Institute, notes that the farmers in the stakeholder group came together from across the state to find a direction forward that would meet the requirements of the US Clean Water Act EPA CAFO regulations, advance Vermont's water quality, and ensure the viability of farming. The Petitioners came to the table in good faith to explore recommendations that would address their concerns about the structure and administration of agricultural water quality programs in Vermont while also considering farmers needs for flexibility and adaptability to make discharge permitting feasible for Vermont farms. Lastly, ANR and AAFM provided extensive staff support, information and data, facilitation funding, and meeting support to ensure the stakeholder process would be robust and effective.

The summary of recommendations is just below. The recommendations are ordered by category and for clarity but should be seen as a whole. They are intended to inform the next five years of action.

1. The Vermont Legislature should establish a permanent Vermont Agricultural Water Quality Permit Coordination Group.
2. AAFM should continue to maintain their non-discharge permit and ANR should develop and implement a fully staffed, effective Vermont discharge permit (sometimes referred to as VPDES) during the next five years.

¹ The facilitator was Patrick Field, Senior Mediator and Meira Downie, Associate, the Consensus Building Institute (CBI). More about CBI can be found at: www.cbi.org.

3. While operating under a this two-permit approach, there should be a clear, stepped, plan with clear milestones for these recommendations and associated actions, review by the Stakeholder Coordination Group, adjusted as needed, and reported to the legislature biennially (see proposed timeline in the appendices) along with an evaluation in Year 5.
4. ANR should within five (5) years a discharge program for all size farms.
5. ANR should focus and prioritize compliance over enforcement.
6. Farmers with discharge permits should be allowed to operate under a compliance schedule so they have time to achieve full compliance and have the protections of the discharge permit as they move into full compliance.
7. To avoid multiple permits, once a farm has a discharge permit managed by ANR, it would be its sole permit for the duration of those five (5) years, regardless of farm size.
8. Fees for either permit should be reciprocal.
9. The Stakeholder Group should evaluate effectiveness and status of the two permit, two program approach in Year Five.
10. The discharge permit should meet the CWA requirements.
11. As outlined in Act 67, ANR should retain the sole authority to determine if there is a discharge. ANR inspections should be done jointly with AAFM ones to ensure consistency, communication, and clarity. AAFM would retain its jurisdiction to resolve issues under the non-discharge permit.
12. ANR should as soon as possible present a draft of a discharge permit to stakeholders.
13. Inspections done by ANR should be done jointly with AAFM to ensure consistency, communication, and clarity.
14. Inspectors for both programs should be jointly trained.
15. To maximize efficiency, each agency should have only one staff present each and a maximum of one trainee present each in total.
16. Trained inspectors should meet and confer regularly and attend continuing education events or programs together.
17. Inspectors should be empowered to do their jobs.
18. While operating under a two-permit system, ANR should retain outside expertise steeped in CWA CAFO permits from other states to help stand up the program in a consistent, clear, and defensible way.
19. The agencies should develop Standard Operating Procedures (SOPs) for notifying farms of a requirement to resolve issues under the non-discharge permit or requiring the farms to obtain a discharge permit and enter a compliance schedule.
20. ANR should improve program timelines and internal administrative processes.
21. Farms may also voluntarily choose to elect to obtain a discharge permit for the protections it provides.
22. ANR with assistance from AAFM should pursue a vigorous dialogue with EPA and an evidence-basis to defend the current RAP required buffers.

23. ANR, with assistance from AAFM, should pursue a vigorous dialogue with EPA in identifying legal means to protect the business confidential data in Nutrient Management Plans (NMPs),
24. ANR, with consultation from AAFM, should engage with EPA, as needed, about developing production area and treatment standards.
25. AAFM and ANR must work together to help waste storage facilities and production areas on Vermont medium and large farms begin to meet CWA-compliant standards.
26. NRCS and the state agencies should coordinate more effectively regarding installations to ensure they meet NRCS, non-discharge and discharge requirements.
27. Regardless of the kind of permit, all farms should have access to AAFM technical assistance and program funding as they do currently.
28. Compliance schedules should consider the various sources of funding available, when such funds would become available to aid the farm, and technical assistance, in coming into compliance.
29. The Vermont legislature should provide additional funds to aid Vermont farms' ability to fully comply with production areas requirements of the CWA under all permits.
30. The Vermont legislature should fund the Full Time Equivalent (FTEs) staff resources ANR needs to be successful to create and implement a CWA compliant discharge permit.

Please note that the stakeholders hold differing views on the ultimate authority over the two programs beyond five (5) years.

- Some stakeholders note that they want to evaluate the two-permit, two-agency approach in five years with the assistance of an independent party but make no determination at this time for what should occur after until that five-year evaluation is complete.
- Some stakeholders note that their support is specifically contingent on the two permitting programs moving fully over to ANR at the end of or shortly after the next five years.
- Some stakeholders remain concerned about the two-agency structure even as an interim approach due to duplication of effort, inefficiency, and continued lack of clarity when two entities are involved.

Background

The Consensus Building Institute (CBI), facilitator of the Stakeholder Group required in Act 67 regarding water quality permits for agriculture in the State of Vermont, submits this summary of the Stakeholder Process that ran from December 2025 until March 2026, to the Agency of Natural Resources. This summary seeks to reflect the Stakeholder Group's (see Appendix A for participants) recommendations consistent with Act 67's charge and in some cases providing further recommendations due to the intertwined and linked issues involved in structuring and implementing permit programs. The four primary legislative charges are listed below. The fifth was regarding reviewing other state programs, which was done through presentations from Maine, New York, and Wisconsin to the stakeholder group and will be captured in a separate report to the Agency of Natural Resources. The four charges are:

- The establishment of a CAFO permitting program administered by the Secretary of Natural Resources that ensures compliance with the Clean Water Act's requirement that no farm discharges in violation of the Clean Water Act's CAFO permit requirements. *See recommendations 2-11, 18-21*
- How to align the CAFO program most effectively with water quality programs administered by the Secretary of Agriculture, Food, and Markets. *See recommendations 1, 9-16, 24-25*
- How to best create regulatory clarity for agricultural producers for the long term that is consistent with the Clean Water Act, whether within a two-agency regulatory system or through a full transfer of regulatory authority to the Agency of Natural Resources. *See Recommendation 1-8*
- The resources, technical assistance, and regulatory structure necessary to create a path to compliance for agricultural producers that maintain CAFOs, AFOs, and other farms. *See Recommendations 17, 26-29*

Definition

Please note for the purposes of distinguishing permit programs, the following two terms are used.

- Non-discharge permit, issued by AAFM, which includes medium and large operational permits currently issued to farms at this time. Note, while AAFM also implements the Required Agricultural Practice (RAP) regulations for all farms, the RAPs are not permits, however the RAPs are included as requirements in each non-discharge permit issued by AAFM.
- Discharge permit, issued by ANR.

Since both permits apply to farms (the Vermont and EPA definition of size of farms is the same) and both are intended to meet the federal US Clean Water Act (CWA) and relevant EPA regulations, we refer *just* to the type of permit, both of which apply to CAFOs.

Acknowledgement of Act 67

The stakeholders acknowledge the following.

- ANR will create a discharge permit for jurisdictional farms. The discharge program will require a NMP consistent with the AAFM Required Agricultural Practices (RAPs) and implementing an additional production area plan since the current NMP focuses primarily on fields. ANR should consider pursuing the development of a General Permit which individual farms can then apply under.
- ANR will develop a robust inspection schedule and program to inspect jurisdictional farms for compliance or lack of compliance with the CWA.
- These following recommendations do not attempt to predict the number of farms that will require a discharge permit. That will depend on inspections and actions.
- The discharge permit term for no more than five (5) years as required by CWA NPDES CAFO regulations.

Recommendations

This is the Stakeholder Group's non-partisan, independent facilitator's summary of the work of the group and may not reflect the full range or nuance of views held by the Stakeholder Group. This is not a formal agreement or mediative settlement, but rather a summary that seeks to capture shared recommendations for the next five (5) years, differences among stakeholders where noted, and is silent on additional issues individual stakeholders may have further views on. For specific stakeholder sectoral views, please note appendix C which includes a letter from farmer watershed groups and a link to the Petitioner's original petition. These recommendations may not reflect the views of the two involved agencies, the Vermont Agency of Natural Resources (ANR) and the Vermont Agency of Agricultural, Food, and Markets (AAFM).

The stakeholders recommend the following. They are ordered by category and for clarity but should be seen as a whole. The recommendations are as follows.

Empower Stakeholders

1. The Vermont Legislature should establish a permanent Vermont Agricultural Water Quality Permit Coordination Group. The farmer stakeholders believe that the agencies and the programs will require extensive engagement and coordination for success, something that while improving, has not been achieved to date between the two agencies.
 - Based on the New York model,² this group should be of modest size to be effective but include the following representation: 1) five (5) Vermont farmers, represented by coalitions, alliances, or watershed groups; 2) the Vermont Association of Conservation Districts; 3) three (3) technical service providers (TSP) certified and operating in Vermont, including private providers, Vermont Agricultural Extension and NRCS ; and, 4) three (3) Vermont environmental advocacy organizations focused on water quality, such as the Conservation Law Foundation, the Vermont Natural Resources Council, and the Lake Champlain Committee. ANR and AAFM

² The New York Work Group includes at least two representatives from environmental advocacy groups, NYS Department of Health, NYSAGM, Cornell University, Soil and Water Conservation District (SWCD), AEM Certified Planners, NRCS-NY, Northeast Dairy Producers Association (NEDPA), NY Farm Bureau, NYSDEC regional staff, and farmers.

staff would be liaisons, actively engage with the group and support the group, but not serve as members to provide.

- The Group should be guided by two co-chairs, one from farms or farmer groups and one from the Vermont environmental advocacy organizations.
- The participants should have the time and expertise to participate meaningfully.
- To address the sensitivity of conversations, particularly about any individual farm data that is shared, and the potential of litigation and other risks, the Group should establish clear confidentiality and use of data process rules.
- This body should have direct access to the leadership of ANR and AAFM and the agency leadership is expected to be directly responsive (not through staff), as requested.
- This body is expected to meet regularly, create work groups as needed, and report to the legislature once per year on the progress of these actions. It is intended to be a working group, working regularly and in detail on the issues. It should be explicitly required to report to the legislature annually on the state of the agencies working relationship.
- The members should be fairly compensated for their time as well as their travel. The Group should be provided sufficient administrative support to be successful.
- The Coordination Group's scope would include but not be limited to: 1) supporting effective working relationships among the agencies and stakeholders; 2) supporting implementation of the actions; 3) providing input and dialogue on ANR's regulations as they develop; 4) providing input and advice on funding and timeline to meet the new requirements; 5) regular engagement with the agencies on the details of implementation of these recommendations; and 6) making any recommendations or adjustments needed to further advance implementation.

Maintain the Two Agency, Two Permit Program Structure for the Next Five (5) Years as ANR Builds a Fully Functional Discharge Program

The stakeholders explored a range of options for the permit programs' structure. The stakeholders support the following recommendations for the next five (5) years. Stakeholders held a range of views for what should happen after Year 5.

2. AAFM should continue to maintain their non-discharge permit and ANR should develop and implement a sufficiently staffed, effective Vermont discharge permit (sometimes referred to as VPDES). The stakeholder group will provide feedback through their annual report regarding the performance of AAFM and ANR, and provide suggestions if changes are needed.
3. While operating under this two-permit approach, there should be a clear, stepped, plan with clear milestones for these recommendations and associated actions, review by the Stakeholder Coordination Group, adjustments as needed, and reports to the legislature biennially. See proposed timeline below at Appendix B.
4. ANR within five (5) years should establish a discharge program for all size farms.
5. ANR should focus and prioritize compliance over enforcement.
6. Farmers with discharge permits should be allowed to operate under a compliance schedule so they have time to achieve full compliance and have the protections of the permit as they move into full compliance. That compliance schedule should consider the

various sources of funding available and when such funds would become available to aid the farm in coming into compliance.

7. To avoid multiple permits, the agencies should develop a process where once a farm has a discharge permit issued by ANR, it would be its sole permit for the duration of those five (5) years, regardless of farm size. This would require careful alignment between the current non-discharge permit requirements, the RAPs, and this new discharge permit program's requirements.
8. Fees for either permit should be reciprocal. It is important the programs' fee structures be at parity to avoid any bias in costs between the programs.
9. The Stakeholder Group should evaluate effectiveness and status of the two permit, two program approach in Year Five.

The stakeholders hold differing views on the ultimate authority over the two programs beyond five (5) years.

- Some stakeholders note that they want to evaluate the two-permit, two-agency approach in five years with the assistance of an independent party but make no determinations at this time for what should occur until that five-year evaluation is complete.
- Some stakeholders note that their support is very contingent on the two permitting programs moving fully over to ANR at the end of or shortly after the next five years.
- Some stakeholders remain concerned about the two-agency structure due to duplication of effort, inefficiency, and continued lack of clarity when two entities are involved.

Clarify Agencies' Authorities, Definitions, and the Permit Requirements

The Stakeholders are ready to move forward through the new Coordination Group with detailed assistance on standing up a discharge program, including its new regulations. The following recommendations address those pending regulations.

10. The discharge permit should meet the CWA requirements as detailed in the EPA CAFO regulations and as outlined in Act 67, focusing on discharges into the Waters of Vermont.
31. As outlined in Act 67, ANR will retain the sole authority to determine if there is a CWA discharge. If this authority isn't made clear, there will be continued difficulty in two agencies trying to make a joint determination. However, AAFM inspectors should be trained and aware of how ANR is determining a discharge. AAFM would retain its jurisdiction to resolve issues under the non-discharge permit.
11. ANR should as soon as possible present a draft of a discharge permit to stakeholders. Stakeholders should provide further input on the following critical areas, including but not limited to the following.
 - Working with ANR to define what is considered a discharge, proposed buffer requirements, and definitions of agricultural waste. A bright line definition needs to be written clearly, specifically, and memorialized in state regulation. By clearly defining what discharges trigger CWA jurisdiction, it clarifies why and how ANR will act and will provide greater clarity for farmers and others.
 - Ensure definitions are consistent with the Clean Water Act and do not exceed the petitioners or EPAs intent.

- Clarify the process from the point of reporting a discharge through the time frame to fix and meet standards.
- Develop a reasonable process for appealing any determinations involving this permit and process.
- Specify the situations which trigger: “At the sole discretion of Secretary.”
- Specify the specific production area standards that will need to be met under a discharge permit, while not creating undue cost burden on farms that decreases their financial viability and avoiding requirements that do not provide clear water quality benefits, so that farmers know what they need to do and achieve to be in compliance.
- Define the intent and use of Nutrient Management Plans; consider models from other states. These models recognize the realities of implementing a NMP within the constraints of yearly weather variation. Based on evidence from other states, Vermont’s NMP regulations can constrain our farmers from adequately managing our farms, increasing inefficiency and costs to taxpayers.

Improve Consistency of Inspections

Effective, consistent inspections are essential to the success of these recommendations. Thus, please note the following shared recommendations.

12. Inspections should be done jointly between the two agencies to ensure consistency, communication, and clarity.
13. Inspectors for both programs must be jointly trained through new program like New York’s Ag Environmental Management Program, and all TSPs, agency inspectors, regardless of agency, NRCS, conservation district staff, and interested farmers, must be trained in the same way. The Stakeholders recognize that existing inspectors have been trained but the new two-permit approach will require joint, additional, and intensive training and “shadowing.”
14. To maximize efficiency, each agency should have only one staff present each and a maximum of one trainee present each in total.
15. Trained inspectors must meet and confer regularly, attend continuing education events or programs together, and the inspection programs jointly reviewed by the two agencies for effectiveness, consistency, and accuracy every two years with input from the Stakeholder Group described above.
16. Inspectors must be empowered to do their jobs. Inspection reports should be standardized, available to both the farmers and agencies, and be of sufficient detail the farmer can gain an initial sense of “how they did.” A copy of the inspection “tear sheet” should be left with the farm upon completion of the inspection and agency follow up to confirm results provided in writing within a reasonable time frame that increases clarity and decreases uncertainty for farmers. The farmers should also be given reasonable time to respond. For farmer participants, they request that farmers be given notice of inspections, can have their own experts attend, and that there should be an optional pre-inspection option to help farms identify issues that can be remedied expeditiously.
17. While operating under a two-permit system, ANR should retain outside expertise steeped in CWA CAFO permits from other states to help stand up the program in a consistent, clear, and defensible way for at least the first two years of the program. For

instance, the PG Environmental Division of Eastern Research Group (ERG) which has environmental scientists, could support training and coaching for inspectors for both agencies, having the experience and understanding of the industry, and offer expert input on developing standards in keeping with those approved elsewhere by EPA. For farmer participants, they request that an independent party attend these inspections to the greatest extent financially possible.

Ensure Clear Direction for Initiating a Discharge Permit

One of the needs the stakeholders identified is for all to have a clear and timely approach to when a farm is told they need to obtain a discharge permit. While the details of such process need further elaboration, the stakeholders recommend the following.

18. The agencies should develop Standard Operating Procedures (SOPs) for notifying farms of a requirement to resolve issues under the non-discharge permit or requiring the farms to obtain a discharge permit and enter a compliance schedule. Upon an inspection that indicates a discharge, ANR will initiate such a process, that will be spelled out in further detail in regulations, with a Notice of Alleged Violation (NOAV) or similar notification. The farm may choose to dispute that NOAV through ANR's enforcement process, but the farm would be strongly encouraged to begin permit development immediately.
19. ANR should improve program timelines, internal administrative processes, and the supporting legal framework to create a more efficient, effective, and predictable compliance structure within DEC specific to farms, including CAFOs, which may include the use of compliance schedules within VPDES permits to ensure farms have adequate time and resources to make necessary improvements. ANR is encouraged to also explore streamlined compliance procedures that allow trained CAFO inspectors and program management to advance routine compliance actions and complaint response investigations without delay, while reserving the most serious violations for formal enforcement division involvement. The process should provide for a notice of violation in which the farmer can appeal and bring information forward. CAFO inspectors should take on an expanded role in conducting inspections as program capacity grows, supported by appropriate training. They may also coordinate with ANR contractors to ensure that permits and programming requirements are consistent with federal Clean Water Act (CWA) requirements.
20. Farms may also voluntarily choose to elect to obtain a discharge permit for the protections it provides.

Tailor Federal Requirements to Vermont

The stakeholders have identified specific federal requirements that should have a Vermont-specific approach.

21. ANR with assistance from AAFM should pursue a vigorous dialogue with EPA and an evidence-basis to defend the current RAP required buffers as sufficient given the rigor of the RAPs overall. AAFM should continue to inspect and enforce upon farms with non-discharge permits with buffers not in compliance with Vermont buffer standards.³

³ *It is important to review programs protectiveness in their totality.* For instance, New York's non-discharge program requires that manure storage facilities meet a 100 year/24-hour precipitation event (likely requiring

22. ANR, with assistance from AAFM, should pursue a vigorous dialogue with EPA in identifying legal means to protect the business confidential data in Nutrient Management Plans (NMPs), understanding that EPA regulations clearly require public access to NMPs generally as part of the permitting process.
23. ANR, with consultation from AAFM, should engage with EPA, as needed, about developing production area and treatment standards that meet the CWA requirements and meet the unique nature of Vermont farms, landscapes, past efforts at water quality improvement, and are financially achievable.

Advance Compliance with the CWA Standards in the Production Areas

The stakeholders recognize that some to many farms will need to improve their production areas to meet CWA standards. Thus, the stakeholders recommend the following

24. AAFM and ANR must work together to help waste storage facilities and production areas on Vermont medium and large farms begin to meet CWA-compliant standards. This will include: 1) reviewing all available records for MFOs and LFOs to determine needs; 2) creating a production area standard that meets CWA requirements, which should include treatments and voluntary alternative performance standards as options; 3) creating a state staffed or TSP-led program that can certify existing storage facilities as well as recommend the necessary changes to make a storage facility compliant without necessarily having to meet NRCS's full 313 standard; 4) establish the necessary cost-share dollars needed from the federal government, state government and farms to accomplish the above (see resources below); 5) establish the technical assistance needed to do so.
25. NRCS and the state agencies should coordinate more effectively regarding installations to ensure they meet NRCS, non-discharge and discharge requirements. ANR and VAAFM need to align their requirements for waste handling systems that are supported primarily by federal funding sources so that the systems installed meet the standards set by the CWA, RAPs, NRCS programs, and provide certainty to farmers.
26. Regardless of the kind of permit, all farms should have access to AAFM technical assistance and program funding as they do currently.
27. Given that getting all farms into compliance will take many years and resources from the federal, state and private sectors, compliance schedules should consider the various sources of funding available, when such funds would become available to aid the farm, and technical assistance, in coming into compliance.

on average 25% more storage than the NRCS 313 25 year/24-hour precipitation event) and requires: 1) a 100' setback from land application; 2) a 35' permanent vegetated buffer from downgradient surface waters, NYS designated wetlands, and direct conduits (open tile drains); or 3) a 15' setback if the manure is incorporated into the soil within 24 hours. Importantly, unlike Vermont, New York has no winter spreading ban and does not require manure pits maintain a 180-day storage capacity. Vermont also imposes a strict 25' vegetated buffer and a 10' one for ditches. New York winter spreading does have additional requirements including avoiding slopes greater than 3 to 5% with emergency spreading limited to fields with less than 5% slope and increasing the buffer distance from wells and sinkholes from 100' to 300'.

Resource Success

The stakeholders recognize that unless these changes are sufficiently resourced, the efforts will not be successful. The stakeholders expect that it will take tens of millions of dollars of investment over a decade or longer from federal and state governments and the private sector. This investment can serve all Vermonters who benefit from Vermont farms' food production and economic activity as well as their ecological and social functions such as flood mitigation, carbon sequestration, land conservation, and cultural stewardship. Thus, the stakeholders recommend the following.

28. The Vermont legislature should provide additional funds to aid Vermont farms' ability to fully comply with production areas requirements of the CWA under all permits.
 - These additional monies should be consistent and dedicated over the period needed to assist all Vermont farms to be complying, likely a decade or more, while recognizing that the state budget is an annual appropriation.
 - These additional monies should prioritize: 1) farms that are on a compliance schedule under a discharge permits; 2) farms that are deemed to be at risk of needing a discharge permit. This prioritization will ensure faster action, greater compliance, and targeted funding at the farms with the greatest risk to water quality.
 - Recognizing the constraints on state budgets, the state may need to also free up existing program dollars for ensuring compliance and may require a review of and alteration to some existing programs.
 - The legislature should explore additional means to raise revenues for such efforts, in part, by reviewing other states that have used various sources of revenues to stand up and support their discharge permit programs over long periods of time.
 - The legislature should explore ways to incentive engineers to service the state and these programs, given the shortage of engineers in Vermont.
29. The Vermont legislature should fund the Full Time Equivalent (FTEs) staff resources ANR needs to be successful to create and implement a CWA compliant discharge permit.

Appendix A: Stakeholder Group Participants

Stakeholder Group	
Name	Affiliation
Brandon Carpenter	NRCS
Jared Carpenter	Petitioner
Jonathan Chamberlin	Technical Service Provider
Brittany Cole	Technical Service Provider
Ransom Conant	Farmer
Heather Darby	UVM Extension
Paul Doton	Farmer
Tom Eaton	Technical Service Provider
Seth Gardner	Farmer
Walt Gladstone	Farmer
Larry Gervais	Farmer
John Groveman	Vermont Natural Resources Council
Lawrence Howrigan	Farmer
Tim Kayhart	Farmer
Brian Kemp	Farmer
Jonathan Lucas	Farmer
Ramsay Mellish	Farmer
Elena Mihaly	Conservation Law Foundation
Richard Nelson	Farmer
Amber Perry	Farm Bureau
Jennifer Patterson	Lake Champlain Committee
Tucker Purchase	Farmer
John Roberts	Farmer
Jeff Sanders	UVM Extension
Scott Sanderson	Conservation Law Foundation
Keith Sprague	Farmer
Amanda St Pierre	Farmer
Bradley St Pierre	Farmer

Miles Tudhope	Farmer
Lauren Weston	Franklin County NRCD
Loren Wood	Farmer

Agency Representatives	
Name	Affiliation
Misty Sinsigalli	ANR
Kevin Burke	DEC
Abbi Pajak	DEC
Jennifer Schomp	DEC
Marli Rupe	DEC
Laura DiPietro	AAFM
Nathaniel Sands	AAFM
Nina Gage	AAFM
Steve Cash	AAFM

Appendix B: Proposed Five-Year Transition Timeline 2026 to 2031

Year 1 – 2026	<p>New Actions:</p> <ul style="list-style-type: none"> ● The application process for individual CAFO VPDES permits opens no later than July 1, 2026. ● ANR promulgates an interim CAFO rule based on federal CAFO regulations no later than July 1, 2026. ● ANR produces a check list or equivalent instrument to indicate to those inspected what the agency is looking for in terms of discharges and discharge risk during the interim period until the final regulations are promulgated. ● ANR hires a third-party auditor to support developing standards and conducting inspections no later than December 1, 2026. The auditor will be retained for at least two years. The stakeholder group may recommend that the auditor be retained longer, if necessary. ● ANR and AAFM inspectors begin joint trainings no later than December 1, 2026. ● The stakeholder group begins quarterly meetings not later than during the fourth quarter of 2026. ● ANR and AAFM develop a budget recommendation for the CAFO program, to be included in the governor’s FY27 budget adjustment proposal and the governor’s FY28 budget proposal. The recommendation will account for implementation, compliance, and farmer assistance. ● ANR and AFM establish clear timelines for returning inspection reports to farms (for instance 90 days) and any enforcement actions that ensue (for instance, within an additional 90 days) and synchronize reports from both agencies when there are dual inspections. <p>Continuing Actions:</p> <ul style="list-style-type: none"> ● ANR and AAFM carry out additional LFO and MFO inspections building from the work in 2025.
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<p>Year 2 – 2027</p>	<p>Continuing Actions:</p> <ul style="list-style-type: none"> ● ANR and AAFM conduct joint inspections of all large CAFOs, including review of NMPs. ● ANR and AAFM inspectors participate in joint trainings. ● The stakeholder group meets quarterly. ● ANR and AAFM develop a budget recommendation for the CAFO program, to be included in the governor’s FY29 budget proposal.
<p>Year 3 – 2028</p>	<p>New Actions:</p> <ul style="list-style-type: none"> ● ANR issues an updated medium CAFO VPDES general permit no later than September 1, 2028. <p>Continuing Actions:</p> <ul style="list-style-type: none"> ● ANR and AAFM conduct joint inspections of medium CAFOs, including review of NMPs, no later than September 1, 2028, as well as continue to conduct inspections of large CAFOs. ● ANR and AAFM inspectors participate in joint trainings. ● The stakeholder group meets quarterly. ● ANR and AAFM develop a budget recommendation for the CAFO program, to be included in the governor’s FY30 budget proposal.
<p>Year 4 – 2029</p>	<p>New Actions:</p> <ul style="list-style-type: none"> ● ANR promulgates a final permanent CAFO Rule by July 1, 2029, with input from the stakeholder group. ● AAFM amends, if necessary, the LFO Rule and MFO Rule to conform with the CAFO Rule, and with input from the stakeholder group. <p>Continuing Actions:</p> <ul style="list-style-type: none"> ● ANR and AAFM conduct joint inspections of large and medium CAFOs. ● ANR and AAFM inspectors continue to participate in joint trainings. ● The stakeholder group continues to meet quarterly.

	<ul style="list-style-type: none"> ● ANR and AAFM develop a budget recommendation for the CAFO program, to be included in the governor’s FY31 budget proposal.
<p>Year 5 – 2030</p>	<p>New Actions:</p> <ul style="list-style-type: none"> ● The stakeholder group evaluates the effectiveness and status of the two permit, two program approach. <p>Continuing Actions:</p> <ul style="list-style-type: none"> ● ANR and AAFM conduct joint inspections of large and medium CAFOs. ● ANR and AAFM inspectors continue to participate in joint trainings. ● The stakeholder group continues to meet quarterly. ● ANR and AAFM develop a budget recommendation for the CAFO program, to be included in the governor’s FY32 budget proposal.

Appendix C: Letters Submitted to the Stakeholder Group during the Process

Original Petition:

https://www.clf.org/wp-content/uploads/2023/02/2022_03_11_WithdrawPetition_FINAL84-1.pdf

Farmer Watershed Coalitions

February 16, 2026

To: Patrick Field
Senior Mediator
Consensus Building Institute

From: Champlain Valley Farmers Coalition
Connecticut Rivers Watershed Farmers Alliance
Franklin-Grand Isle Farmers Watershed Alliance
Vermont Dairy Producers Alliance

Please find our letter with our thoughts on this process to be discussed in the group setting.

February 12, 2026

Farmers were invited to participate in a CAFO Stakeholder Group to provide feedback and input on the development of a CAFO/ Discharge Permit. This group was formed in response to petitioners filing a complaint with EPA due to the lack of an outlined CAFO permit and displeasure with the current regulatory structure. Farmers represented in this group have listened to hours of information from other states, TSP planners, Senior Staff from Vermont Agency of Agriculture Food and Markets (VAAF) and Agency of Natural Resources (ANR) and DEC, Petitioners, and the EPA. We have learned valuable information and now are ready to provide clear recommendations to the Vermont Legislature.

We support a discharge permit that falls under the authority of DEC and upholds the federal clean water act. Farmers recommend a permit that is limited to the original intent of EPA along with state Required Agriculture Practices (RAPS). However, farmers would like to request that ANR present immediately present the current draft of what their permit would look like. Farmers need to provide further input on the following critical areas, including but not limited to the following.

- Working with ANR to define what is considered a discharge, what is an intermittent discharge, proposed buffer requirements, and definitions of ag waste.
- Ensure definitions line up with the Clean Water Act and do not exceed the petitioners or EPA's intent.
- Clarify the process from the point of reporting a discharge through the time frame to fix and meet standards.
- Develop a reasonable process for appealing any determinations involving this permit and process.
- Specify the situations which trigger; "At the sole discretion of Secretary"
- Define the intent and use of Nutrient Management Plans; consider models from other states. These models recognize the realities of implementing a NMP within the constraints of yearly weather variation. Based on evidence from other states, Vermont's NMP regulations constrain Vermont farmers from adequately managing their farms, increasing inefficiency and costs to taxpayers.

Farmers also need a clear understanding of how current infrastructure in the production area will be assessed for compliance. Significant investment has been made by farmers and taxpayers and should not be deemed nonfunctional. We need clear evaluation and only in extreme or justified cases should new infrastructure be required. We worry that new infrastructure in most cases is not necessary; and will be a significant burden that is not necessary and will essentially push farmers out of business and reduce food production in our state. Potentially it could also redirect funds away from practices that

have been shown to make clear and positive impacts on water quality simply to check procedural boxes.

During the CAFO Stakeholder Group Meetings, we learned that the EPA and other states run successful CAFO Discharge Permitting Programs that are flexible, and we think that such an approach will be environmentally sound and fiscally responsible here in Vermont.

The farmers recommend the state continue with a non-discharge permit through the VAAFM and the discharge permit under ANR-DEC. The agencies need to be clear on the differences between the two permits, the purpose of why the discharge permit is required and show the consistency of how they will follow the Required Ag Practices within the Discharge Permit.

ANR and VAAFM need to align their requirements for waste handling systems that are supported primarily by federal funding sources so that the systems installed meet the standards set by the CWA, RAPs and provide certainty to farmers.

Clean water is a shared goal. Farmers want our operations to protect water, which means we don't want discharges either. We want the state to help farmers correct discharges instead of permitting discharges is what the farming community desires. We believe the non-discharge permit and process and investments made in that system are working, and we should not disregard these significant efforts. Those efforts have shown considerable reductions towards the TDML goals. Our industry has proven the willingness to step up and do what is needed if it is achievable.

Through the Stakeholder Group meetings, we have learned that current inspectors are not trained to the same standard and what appeared to be no standard at all. The lack of training that inspectors have had is unacceptable. Without standardized training processes and protocol, there is a risk of bias and error. In fact, farmers have experienced bias and lack of clarity during and after inspections. This major shortcoming was further supported by members of the Stakeholder Group that had been VAAFM inspectors. This is completely unacceptable and must be rectified immediately.

Understanding the immediate challenges to consistent regulation and to overcome these challenges and build confidence and respect for the VT regulatory process, we recommend that LFO/MFO inspections be performed by a certified third party. Unbiased and standardized inspection reports should then be returned to the farmers and agencies. These auditors, such as PG Environmental Division of Eastern Research Group, which have environmental scientists, conduct inspections for both agencies. They have the experience and understanding of the industry without bias and discord, and subjectivity that has been discussed in the stakeholder meetings. The criteria and process of selecting this third party would be developed together by Agencies, TSP

planners, and Stakeholders. This contracted third party inspection would be put in place until the Agencies have demonstrated to the stakeholders that the current issues have been resolved to the stakeholder's satisfaction.

They would provide inspection reports to agencies and farmers. The agencies would then work with the farmers on either a non-discharge or discharge permit. Farmers will work with the agencies to develop an implementation plan to overcome any obstacles identified during the audit.

Farmers that are required to move to the discharge permit should be allowed to provide feedback on strategies to overcome obstacles instead of being told what best fixes are for the obstacle. The plan will provide up to five years from the audit to come into complete compliance. Farmers will work with the agencies to obtain funding, if needed, such as covering costs for engineering.

During this process we have witnessed and reluctantly acknowledged the lack of professionalism between the two agencies as well as towards our farmers and technical service providers. There is an overall high level of distrust and lack of respect throughout the regulatory framework. We want and support a clearly defined permitting process that is handled with the professionalism our farmers deserve.

To that end, it is imperative that the Stakeholder Group remains in effect moving forward to work with the agencies and legislature on mitigating unintended consequences upholding the intent of current legislation and EPA mandates. The stakeholder group should be included to assist in the improvement of relationships between the two agencies that currently exist and be included in regulatory development. We would pattern this group's role from the New York DEC/Farmer model which has created trust and buy in to achieve their water quality goals and improvements within their industry.

We come unified in our recommendations for your consideration to help us create operational and economically feasible permitting processes that will serve our future generations of dairy farmers and the State of Vermont while achieving the intent of the Legislative requirement in 2025 and the request of the EPA in developing a Discharge CAFO Permit.

Appendix D: Summary of Public Comments

February 9, 2026

February 11, 2026

Background & Purpose

In accordance with Act 67 of 2025 (S.124), the Secretary of Vermont Agency of Natural Resources (ANR) in coordination with the Secretary of Agriculture, Food and Markets (AAFM), has convened a stakeholder group to offer input on the agency's implementation strategy for Vermont's Concentrated Animal Feeding Operation (CAFO) program and to recommend actions the agency can take to ensure regulatory certainty for agricultural producers. Seven stakeholder group meetings have been convened to date. In addition, ANR in coordination with AAFM convened two public meetings in February 2025 to provide updates on the CAFO program, as well as gather broad public input.

The scope of input solicited from the public specifically includes establishing a CAFO permitting program administered by ANR that ensures compliance with the requirement that no farm discharges in violation of the Clean Water Act's CAFO permit requirements, how to align the CAFO program with water quality programs currently administered by AAFM, how to best create regulatory clarity for the long term that is consistent with the Clean Water Act, the resources, technical assistance, and regulatory structure necessary to create a path to compliance for agricultural producers that maintain CAFOs, AFOs, and other farms, and any feedback on implementing regulatory structures similar to other states.

The meetings were attended by five members of the public in total and some additional AAFM and ANR staff. This meeting summary captures the key information shared, and questions and comments from members of the public during the two public meetings held on February 9th and 11th, 2026. The presentation slide decks and meeting materials are available on the [ANR CAFO program webpage](#).

Meeting Objectives and Presentations

Patrick Field, Consensus Building Institute (CBI), opened the meeting and provided participants with context around Act 67 and the charge given to the stakeholder group, as well as an update on their meetings and progress to date.

Abbi Pajak, ANR, spoke to meeting participants about the timeline of events that led to the formation of the stakeholder group and the ongoing work to adjust and clarify Vermont's CAFO permitting program. This began with the filing of a de-delegation petition in 2022, to the EPA's response and request for a Corrective Action Plan (CAP) from ANR in 2024. The CAP was submitted in March 2025 and ANR is awaiting feedback. EPA's findings highlighted the need for statutory reform in Vermont, which led to the passage of Act 67, which established ANR authority over the CAFO permitting, and created the stakeholder group to provide input and recommendations on implementation.

ANR must submit a report to the legislature by February 15, 2026, summarizing stakeholder engagement, public comments and feedback, and proposing a way forward. The public meetings are intended for stakeholders to ask questions and share concerns, so that their feedback can be included when determining solutions and rules.

Questions and Comments from the Public

Questions and comments from both public meetings are summarized below. Responses from ANR are italicized below questions.

- What kind of nutrient management plan will be required with the CAFO permit?
 - *ANR: This is a work in progress. We will be reviewing NMPs and creating a program to support that. We must meet the federal minimum requirements for NMP planning. Noncompliance with the NMP could trigger the need for a CAFO permit in the event of discharge.*
 - *One difference from the current AAFM requirements is in the public noticing component of the application process. If a significant change, to be determined in drafting regulations, triggers an NMP update, it will have to be publicly noticed.*
 - *One example we are looking at is New York's Comprehensive Nutrient Management Plan (CNMP) which covers both fields and production areas. What we will ultimately roll out in Vermont is still being determined.*
- Will there be a higher requirement of recordkeeping associated with CAFOs on farms?
 - *ANR: Yes, recordkeeping for operations and maintenance will likely be higher.*
- We have had good relationships with AAFM inspectors and hope to build trust and good relationships with ANR as well as this transition occurs. Will there be space for technical providers and farms to connect with the teams at ANR who will be inspecting and regulating farms in our area?
 - *ANR: We are reaching out to different groups and attending meetings in different parts of the state. As we grow our staff and further develop the program, we expect ANR's outreach to ramp up significantly. We currently have limited capacity as the stakeholder group process is ongoing, however if you would like to meet, please reach out and we will be happy to connect.*
- Given the significant effort required to administer CAFO permits, ANR will need more staff and has already started increasing its numbers. Do you have an estimate of how many staff you will hire over the next few years?
 - *ANR: We have increased our team size from 1 to 5 over the past 1.5 years. Future staff numbers will depend on decisions about the transition and boundaries between agencies. For example, if AAFM and ANR plan to conduct inspections together, then ANR will need resources like AAFM.*
 - *We will approach the legislature for funding based on the recommendations we receive from the stakeholder group.*
- What is the timeline for implementation after the report is submitted to the legislature?
 - *ANR: We cannot provide a definite timeline. After completing and submitting the report to the legislature, we will await directives which may occur in this legislative session or the next. The agency may be allowed to act independently*

on some recommendations, and there may be some taken up directly by the legislature.

- What kinds of recommendations will be included in the report to the legislature?
 - CBI: *ANR will be establishing a discharge permit compliant with the CWA, so no farm is in violation of CWA requirements. Other recommendations will depend on the outcome of the stakeholder group discussions. Some of the issues they are currently wrestling with include:*
 - *Is the group in agreement about whether to recommend a two-agency approach, where AFM retains the non-discharge permit, and ANR takes over and sets up and manages a discharge permit. Alternatively, is it better that both non-discharge and discharge permits are administered by ANR in the long-term?*
 - *There are several issues around alignment of inspections, and clarity of decision making, and many questions of jurisdiction.*
 - *The group is trying to clarify what could be included in a discharge permit in addition to what already is included in non-discharge permits. They are looking to experiences in other states to inform what their recommendations will be.*
 - ANR: *We do not yet have specifics of the requirements we will set - we are trying to maintain flexibility for farms while meeting the requirements of the CWA. For example, CWA requires production areas to store and treat all waste produced, yet this is not currently required in Vermont. There are ways to provide flexibility to ensure compliance. The federal standard is the floor, but how we will build VPDES (a discharge permit) atop that has yet to be determined.*

Closing Remarks

Kevin Burke, ANR, noted that there will be multiple opportunities for public input as this process moves forward, as any rules or general permits that emerge will be subject to a public comment process. Patrick Field, CBI, shared a link to the [CAFO website](#) for more information, and encouraged members of the public to submit written comments to ANR.WSMDCAFOGeneral@vermont.gov.

**Attachment 2 Below:
Assessment of Current Regulatory Structures for Water Quality on Vermont Farms (CBI)**

An Assessment of Current Regulatory Structures for Water Quality on Vermont Farms

The following section of the report provides an assessment of the current regulatory structure for managing water quality on Vermont farms. This assessment is based on 1) presentations by ANR and AAFM; 2) discussions among the Stakeholder Group; 3) information sharing from other states; and 4) observations made by the facilitation team. This is not a formal program review. Any errors or omissions are the sole responsibility of CBI.

Vermont has made great strides in addressing water quality on the State's farms. Since Act 64 of 2015, AAFM has worked diligently to further the Agency's non-discharge permit program for Large and Medium Farm Operations, with accompanying funding and technical assistance. AAFM has gained efficiencies in inspection time frames, assisted with the implementation of agricultural Best Management Practices (BMPs), improved records management through database development, increased BMP funding from \$2.2 million in 2015 to \$18.4 million in 2025, and almost tripled staff in this effort. The result of this support, in addition to funding contributions from NRCS and DEC, the agricultural sector has thus far achieved the largest phosphorus reductions under the Lake Champlain phosphorus Total Maximum Daily Load (TMDL). This currently far surpasses contributions from other land use sectors. Enforcement has also increased from approximately 28 total actions in 2015 to approximately 117 in 2024. As a result of some of these changes, Vermont farmers have made significant positive improvements in managing waste and wastewater on and from their farms.

And yet, at the same time, the work is not done, as unpermitted discharges of agricultural waste to surface waters has been documented and remain a risk to surface waters. On March 16, 2022, the Conservation Law Foundation, Vermont Natural Resources Council, and Lake Champlain Committee (the Petitioners) filed a joint petition with EPA. Their core concerns in the petition included: 1) ANR is Vermont's sole delegated authority for implementation of the National Pollutant Discharge Elimination System (NPDES) permitting under the federal Clean Water Act (CWA), and AAFM and ANR are both exerting authority that remains with ANR; 2) Concurrent authority between ANR's NPDES delegation and AAFM's non-discharge permit program creates challenges including disputes over point source definitions (e.g. discharge), jurisdiction, and 3) inconsistent referrals, inconsistent communication and unclear expectations for agricultural operators, and AAFM and ANR have not adequately monitored discharges related to NMP non-compliance. The Petitioners concluded that "Vermont has failed to administer the National Pollutant Discharge Elimination System ("NPDES") permit program in accordance with the CWA. Specifically, the state has failed to exercise control over agricultural point source discharges, and it has failed to inspect and monitor agricultural point source discharges that result from the application of nutrients, manure, and other soil amendments to farmland."

The Petitioners requested that EPA require corrective action to transfer regulatory authority from AAFM to ANR or withdraw Vermont's National Pollution Discharge Elimination System (NPDES) delegation. After reviewing the petition, EPA responded on September 9, 2024, stating that ANR's regulation of farms did not meet the requirements of the federal Clean Water Act and required ANR to submit a Corrective Action Plan within 90 days. While engaging in the administrative process with EPA, during 2025, ANR conducted the required 10 inspections as outlined in the state's draft Corrective Action Plan (CAP), hired an additional 3 staff and began to build the capacity of the program to meet EPA's expectations.

The following seeks to identify the challenges of the current non-discharge water quality programs administered by AAFM as compared to what would be a Clean Water Act (CWA) compliant discharge permit program. This is not a comprehensive review of all components of the two agency programs, and its conclusions are primarily drawn from the information, views, and opinions that arose during the stakeholder process. Any errors and omissions are solely the responsibility of the Consensus Building Institute (CBI).

1. Discharges. Discharges as defined by the federal government are: “The placing, depositing, or emission of any wastes or pollutants, directly or indirectly, into an injection well or into the waters of the State.” While the Vermont non-discharge permit requirements are intended to prevent discharges, discharges to surface waters have still been documented originating from some Vermont farms. Non-discharge permits as issued by AAFM under law, must ensure that the farm is managed and maintained in such a way that no discharges occur at any time. The two agencies have taken different views of the practicalities of how to identify and address a discharge. Even within each of the two agencies, there have been different discharge determinations in some cases. AAFM has identified the risk for any discharge they see at the time of a farm inspection. AAFM notifies the farm in an inspection report and seeks corrective action through its administrative authorities on those risks as authorized in state law to prevent discharges. If an alleged discharge is seen at the time of inspection, AAFM notifies ANR of the discharge, and ANR’s Environmental Compliance Division will send an Environmental Enforcement Officer out to investigate. ANR acts only when it sees the discharge occurring or can follow a flow path and collect evidence the discharge reached waters of the state. Discharges can be challenging to document at the time of an inspection, in consideration of distance or conveyance to surface waters and weather conditions, past or present. Vermont inspects their LFOs and MFOs more frequently than is required under the CWA (1- and 3-year cycles respectively in Vermont, whereas many states are every 5 years). However, the probability of seeing a discharge from a farm, even during a precipitation event, can be challenging. Because of this challenge, other states which presented to the Stakeholder Group who have created CWA-compliant programs that are based on farm size, and do not depend on witnessing a discharge (which may be hard to identify and hard to define). Rather, these states utilize a specific set of production area standards and recordkeeping to ensure no discharge occurs for at least 25-year, 24-hour storm, compliant with the Federal requirements, and in some cases for non-discharge permits, the 100-year, 24-hour event (NY), whether during inspection or the remainder of the year.

Stakeholders have requested greater clarity on how and when an inspector would identify a discharge. If it is not an actual, witnessed discharge into a water of the state at the time of the inspection, what is it? Is a discharge a channel that could carry agricultural waste in runoff, but is currently dry; a sloped field with excessive gullies; a potential discharge due to imperfect storage systems in production areas; a conveyance to a grass way but far distant from any state water? Potential or intermittent discharge, which had been discussed generally has been identified by ANR as a discharge that occurs or has the likelihood of occurring outside of the immediate farm inspection timeframe, based on site specific factors, where evidence or site characteristics are conducive to allowing for the transport of waste to surface waters. However, some stakeholders have questioned if such an intermittent discharge, unless seen, is a discharge under the law (thus requiring a federal permit), and even if it is a potential discharge, at what level of risk does a risk become a de facto discharge?

2. Production Area Standards. Vermont's AAFM LFO and MFO permits do have production area standards that seek to meet the 25-year, 24-hour storm event¹, properly manage manure, leachate, and runoff to prevent all discharges to waters of the state and meet construction and maintenance standards. However, those production standards are not necessarily enforced, and as such, production areas in Vermont are not always designed to meet CWA requirements. Production area standards may not be enforced in an action in some cases because immediate waste runoff concerns may be prioritized for enforcement over structure certifications and design verifications to protect water quality. In any case, the AAFM permits cannot authorize discharges that may occur above a 25-year, 24-hour storm event since these permits are by intent non-discharge permits. A compliant program must have, but is not limited to, clearly certified waste storage facilities, gauges in all waste storage facilities to measure and report levels, clear standards for solid manure stockpiles, feed storage areas (grains, silage, hay), and lanes and alleyways. One of Vermont's challenges is that although many wastes storage facilities have been updated, the fact remains that most lack the necessary depth marker/gauge required for record keeping under a discharge permit and/or the storage facilities do not meet the certification standards they were intended to be built to. There is no entity currently requiring those changes to be made.

As an example of a CWA compliant program, Minnesota under its rules includes the following.²

- Section 16 Requirements for Operation and Maintenance of the Facility: Specifies source for 25-year, 24-hour storm event
 - Section 17 Additional Requirements for O&M of the Liquid Manure Storage Area: specifies freeboard requirements (in accordance with an approved plan or as specified in regs); more specific requirements for depth markers
 - Section 18 Additional Requirements for O&M of Permanent Solid Manure Stockpiles: Specifies runoff and all liquids produced from manure stockpiles and compost sites must be captured by a control structure.
 - Section 19 Additional Requirements for Operation and Maintenance of Feed Storage Areas: Specifies all liquids produced from feed storage areas, including leachate and runoff, must be captured by a control structure; provides for management of leachate and runoff using a vegetated infiltration basin (not permitted if 1,000 or more tons of corn silage is stored).
3. Enforcement. It appears that inspection for and enforcement of Vermont's non-discharge permit production area standards has been inconsistent at times. Though lacking in sufficient, rigorous data to make fully credible conclusions, the cause of inconsistency appears to be several-fold as reported by stakeholders. First, there is a lack of practice standards for farmsteads in sufficient detail to guide inspectors consistently. One stakeholder reported: "Some farms are told that they need to address structural practices on their farm with solutions that meet or are tied to a standard, where

¹ 25-year, 24-hour Storm means the maximum 24-hour precipitation event with a probable recurrence of once in 25 years, as defined by the National Weather Service in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments.

² <https://www.pca.state.mn.us/sites/default/files/wq-f3-62.pdf>

others are asked to just come up with a "back of the napkin" design." Second, because inspector turnover is somewhat frequent this can lead to lack of tenure and experience by inspectors. Furthermore, inspectors do get re-assigned and have new territories due to workload needs. While AAFM tries to limit this, it can cause challenges. It is important to note that inspectors do not make final enforcement determinations. The AAFM experienced enforcement committee makes ENF determinations. It is also anticipated that as the jurisdictions and agencies' roles become better defined, the agencies will have a clearer path to improving programs, outcomes, and consistency.

4. Enforcement Processes. An additional problem for the Vermont programs is that the ANR and AAFM enforcement processes differ, including the authorities under both state and federal statute. ANR does not have the same administrative authorities as AAFM and must use its own enforcement process to receive, review, address unpermitted discharges, for which ANR may act upon referrals from AAFM through the Environmental Compliance Division. Absent full CAFO Program implementation, the process for addressing identified discharges, including through voluntary corrective action, is cumbersome for AAFM, ANR and farmers. AAFM has increased its enforcement action and can move relatively quickly to notify the farm, request a remedy, and work with the farm to address the issues. Since 2017, AAFM has made 295 referrals to ANR for suspected point source discharges of waste to surface water, and despite having the authority to issue a discharge permit, ANR has focused, to date on correction of the discharges observed through corrective actions in formal enforcement. By the time the referral moves through the above-referenced ANR process, the discharge may continue, may have been remedied, and/or may no longer be readily apparent. This lack of action is exacerbated by this inefficient enforcement process, substantial lack of resources, lack of well-established CAFO discharge regulations at the state level, and the intermittent success of AAFM's ability to remedy some discharges quickly by working with the farmer (which, of course, is desirable).
5. Recordkeeping. For a program to be compliant, the US EPA requires a CAFO to maintain records, more so than currently required by the AAFM non-discharge permit program. The most known insufficiency is that there are few gauge markers on Vermont waste storage facilities and thus the recording of their levels, and relative freeboard that will minimize or prevent overtopping, is for the most part non-existent across most of Vermont. The following would be necessary recordkeeping meeting CWA requirements.
 - Daily and Weekly monitoring (visual inspection) requirements for the production area
 - Production area structures including clean water stormwater diversions and runoff control practices
 - Depth markers in liquid waste storage facilities
 - Inspection of water lines
 - Documentation of all rain events more than 0.5"
 - Land application material form, source, method, timing, rates and conditions
 - Records of the farmers inspections to be maintained onsite and available for review
6. Setbacks and Buffers. Vermont's AAFM non-discharge permit program requires setbacks or buffers of 100 feet from private wells, 10 feet from ditches, and 25 feet of perennial vegetated buffer where any application of compost or manure is not allowable.

AAFM's non-discharge permit program for MFOs and LFOs is not the same as US EPA CWA requirements for CAFOs which are: 1) 100' setback to surface water (can still grow crops, no application of nutrients); or 2) 35' vegetated buffer (no crops, no manure, litter or process wastewater applied); or 3) an alternative that must provide pollutant reductions that would be achieved by 100' setback (for instance, New York State has a 15 foot buffer if manure is reinjected within 24 hours of application). However, Vermont has other requirements such as the winter spreading ban and the 180-day storage requirements that are not required by the CWA -- requirements implemented by AAFM under the non-discharge permit program, which are above and beyond the federal standard. There is reasonable evidence that Vermont's setbacks, when considered in total, do or at least come close to meeting the intent or outcome of EPA's federal standards. Furthermore, given that the current Vermont requirements have become "baked in" to farming over the last decade or more, an increase in buffers without commensurate water quality benefits at the expense of loss of farmland would be an economical challenge to most Vermont farms. The stakeholder group did test informally with US EPA if there is flexibility on this matter, and EPA stated that they would be willing to review the evidence and consider options if ANR submitted such evidence and proposed alternatives.

7. Public Noticing. Vermont does not publicly notice nutrient management plans (NMPs) under the MFO and LFO non-discharge permits. LFOs do submit their nutrient management plans to AAFM whereas MFO NMPs plans are also required, but copies are only maintained at the farm. All the NMPs maintained by AAFM (i.e. for LFOs) are subject to state Freedom of Information Act (FOIA) records requests. Nonetheless, to be CWA compliant, specifically in instances where a farm requires a CAFO discharge permit, the NMP is a component of the permit application, and therefore would be included in ANR's notice of the application for public comment through the agency's Environmental Notice Bulletin (ENB). The stakeholder group tested informally with US EPA if there was flexibility on this matter, and it appears the current federal regulations are quite explicit about requiring such disclosure. In addition, state statute sets forth public notice requirements for the various types of environmental permits, including those federally delegated by EPA to the state, such as CAFO discharge permits.
8. Interagency Coordination and Communication. While not explicitly subject to CWA requirements, both the Petitioners and the US EPA have pointed out coordination and communication issues among the agencies. In addition, many farmers from the stakeholder group report high frustration and irritation with conflicting messages, miscommunication, and sometimes animosity among the two agencies. While the agencies have tried through a MOU, on-going meetings, and other means, it is apparent to many that the frayed relationship is contributing to lack of better and more consistent CWA compliance. A lack of clarity and authority between the two agencies may also be contributing to the perceived frayed relationships. It is our observation that, at times, AAFM has been defensive about its work and its limitations. While AAFM has worked hard to advance surface water quality protections on farms, and the staff care deeply about the sustainability of farming in Vermont, defensiveness does not contribute to doing better. At other times, ANR has approached the farming community as a sector to be regulated upon, in conflict with its mission to protect the environment, and not as a partner to solve a shared problem and to achieve a shared goal for Vermont's surface waters. These behaviors by both agencies have eroded trust, increased miscommunication, and hindered progress. In short, it is our observation that farmers recognize that AAFM is not advancing farming interests when it becomes defensive and territorial. At the same time, the farming community does not trust that ANR will

understand their perspective or take a reasonable approach to regulating farms for achieving surface water quality protection, and furthermore, the lack of success in doing so to-date has not increased their confidence.

Please do note that during the stakeholder process, both ANR and AAFM sought to answer the many questions posed by stakeholders, to the extent that it was possible at this time prior to promulgation of draft regulations and prior to any clear and final response from US EPA. It should also be noted that the stakeholder process provided extensive time for the stakeholders and agencies to ask questions of one another, learn from one another, and explore ideas and approaches for moving forward. In short, the stakeholder process substantively increased understanding of the various parties' interests, needs, constraints, and desires.

Options Explored

The following were options explored by the Stakeholder Group with brief and limited commentary as to the pros and cons of each approach.

Option 1: AAFM will continue to maintain their non-discharge permit program and ANR will develop and roll out their discharge permit program for LFOs and MFOs subject to CAFO. The program would also include the permitting of a small farm operation (SFO), however only in an instance where they are identified by ANR as a significant contributor to surface water quality impacts. ANR and AARM will do joint inspections.

PROs	CONS
<ul style="list-style-type: none"> • Lends the expertise of both agencies • Maintains the expertise built out by AAFM over the last fifteen years • Provides time for ANR to build up the CAFO Program, leaning upon their stormwater and discharge permitting experience under the CWA and their own in-house agricultural expertise specific to surface water quality protection • Provides a means for many farms to avoid the need to meet CWA requirements to ensure no discharge and avoid the extra requirements of a discharge permit • Provides farmers the means of obtaining a legally defensible CWA permit shield under CAFO, when operating in full compliance with their discharge permit, which may include a compliance schedule, covering discharges that exceed a 25-year, 24-hour precipitation event, however maintaining the 25-year production area standard 	<ul style="list-style-type: none"> • Risks repeating current situation • Risks continuing lack of clarity among the agencies (though numerous recommendations from the stakeholders are intended to address this) • Risks confusion for farmers and stakeholders • Maintains the status quo “distrust” that AAFM has not improved upon their oversight and implementation of non-discharge permits and ANR has not issued any discharge permits to date or completed CAFO Program implementation

Option 2: AAFM will maintain their non-discharge permit program for fields and ANR will develop and roll out their discharge permit program for production areas

PROs	CONs
<ul style="list-style-type: none"> Provides physical clarity as to the roles and authorities between the two agencies 	<p>Is not technically nor legally feasible for a set of reasons.</p> <ul style="list-style-type: none"> CAFO discharge permits have field requirements Non-discharge permits have production area requirements Discharge permits have NMP requirements The management of water on a farm is integrated and holistic. Production area water is treated/managed in fields. One is needed for the other.

Option 3: AAFM continues to maintain their non-discharge permit program while ANR builds up its discharge permit. Within 5 to 6 years, both permits move fully under ANR's jurisdiction. AAFM would continue to manage all technical assistance and TA programs.

PROs	CONs
<ul style="list-style-type: none"> Maintains the expertise built out by AAFM over the last fifteen years and provides time for tech transfer Provides time for ANR to build up the CAFO Program, leaning upon their stormwater and discharge permitting experience under the CWA and their own in-house agricultural expertise specific to surface water quality protection Provides certainty and clarity when all permits are under one authority Ultimately, avoids the two-agency approach that can create conflict, confusion, miscommunication, and dual authority (i.e., the who is on first problem). 	<ul style="list-style-type: none"> Could weaken the expertise and resources of AAFM and its staff with 15 years' experience building out their program At this time, it may try to resolve the uncertainty "too soon" and make assumptions that ANR has the resources to manage both programs. There is not track record to date and five to six years may be insufficient to determine what capacity and resources will be available to ANR. Trust has not been built through shared experience yet, so to confirm this option now may be premature.

Option 4: Immediately, both MFO and LFO water quality non-discharge permitting authority and the CWA CAFO discharge permitting authority moves to one agency, ANR. AAFM would continue to manage all technical assistance and TA programs.

PROs	CONs
<ul style="list-style-type: none"> Provides certainty and clarity when all permits are under one authority Ultimately, avoids the two-agency approach that can create conflict, confusion, miscommunication, and dual authority (i.e., the who is on first problem). 	<ul style="list-style-type: none"> Requires ANR to immediately build out two permit programs with lack of history and resources to be able to do so Without clear resource commitments for both agencies, could lend itself to weaker TA programs and poorer permit programs.

	<ul style="list-style-type: none"> • Could weaken the expertise and resources of AAFM and its staff with 15 years' experience building out a program • Trust has not been built through shared experience yet, so to confirm this option now may be premature.
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Option 5: ANR assumes, as soon as practical, all ag water quality programs, including permitting, inspection, enforcement, funding programs, and technical assistance.

PROs	CONs
<ul style="list-style-type: none"> • Provides certainty and clarity when all permits are under one authority • Ultimately, avoids the two-agency approach that can create conflict, confusion, miscommunication, and dual authority (i.e., the who is on first problem) • Places all activities under "one roof" with one leader. 	<ul style="list-style-type: none"> • Such a major restructuring would likely have major disruptions to current agency staff, program maintenance and management • Such restructuring would take extensive management time and expertise otherwise directed at many other issues • Numerous adaptations would be needed to hone and refine such a major change.

**Attachment 3 Below:
Overview of Select Delegated State CAFO NPDES Programs (CBI)**

Overview of Select Delegated State CAFO NPDES Programs

Executive Summary

During the Stakeholder process, the Stakeholder Group received presentations from three state programs: New York, Wisconsin, and Maine. Separately, Vermont DEC and AAFM conducted independent research on additional programs, including Michigan. ANR developed the following summary of key program features, drawing from both the presentations and additional research the following analysis. The Consensus Building Institute (CBI), as process facilitator, finalized the document

Key Findings

1. Peer states meet federal CAFO requirements or are actively taking corrective action to
2. States operate under singular or joint jurisdictional regulatory structures
3. States are operating with a range of permit jurisdictions/triggers
4. States operate either discharge only or both discharge and nondischarge permit types
5. Peer states include state-specific rules and production area standards in permits and regulations
6. States successful in reducing discharges over time exercise flexibility inherent within the Clean Water Act, and have designated substantial resources to CAFO discharge elimination

Analysis

The federal CWA CAFO Rule has minimum requirements for the following parameters, which were met for all states studied:

- Waste storage capacity: Storage for all process wastewater plus runoff from 25 year/24 hour storm
- Buffers/setbacks: 35' vegetated buffer, 100' setback from surface waters, or an alternative that must provide pollutant reductions that would be achieved by 100' setback
- Inspection frequency: Inspections at least once every 5 years

There are also commonly applied norms, which are not stated in CAFO rules, but are generally similarly applied to accomplish the same permit considerations:

- Requiring 180 days-worth of liquid waste storage capacity to allow for suitable spreading conditions, which all studied states have enacted in state law
- Specifying localized winter date ranges for the above to prevent emergency waste spreading
- Incorporating minimum standards for handling animal mortalities, diverting clean water and managing manure
- Encouraging CAFO specific conservation practices to accomplish erosion and sediment control, such as conservation tillage, cover cropping, excluding animals from berms, waterways and other sensitive areas, and taking care to minimize impacts of waste storage, utilization, and nutrient management

1. Peer states meet federal CAFO requirements or are actively taking corrective action to

Over the course of the state study, Vermont learned that the following states were actively correcting aspects of their programs to bring them into compliance with CWA:

Maine

- Updating to add public notice system for NMPs as required as part of a NPDES discharge draft permit application process (all other studied states comply with this requirement)
- Restricting waste application rates to prevent additional discharges
- Standardizing inspection frequency statewide to address limited regional staff capacity's effect upon permit consistency

Michigan has been tackling ongoing legal challenges to 2020 and 2025 general permit revisions to include:

- Tightening of timeframe for manure application
- Mandating buffer zones
- Increasing phosphorus limits

Illinois

- Resolving EPA de-delegation petition via corrective action plan (similarly to Vermont)

Some states were model working CAFO permitting programs in terms of water quality, farm success, and compliance with CWA:

Wisconsin

- Meets federal CAFO requirements and has additional state-specific measures in place for protection of surface and groundwater
- Offers state-sponsored SnapPlus nutrient management software

New York operates a nondischarge permit for all CAFOs with more rigorous requirements than other states' permitting programs:

- Requires nondischarge permits for all CAFOs, with enhanced operation and maintenance
- Extended weather forecast monitoring, SOPs to prevent discharges
- Storage designed to contain the precipitation from a more intensive 100 yr / 24 hr storm
- Allows 15' buffer if manure is incorporated within 24 hours, as statewide alternative
- Otherwise, 35' vegetated buffer or 100' setback (alternatives only if equivalent protection)
- Not required to publicly notice NMPs (due to operating a nondischarge type permit)

Vermont, in contrast, allows:

- Reduced storage capacity where discharge evidence or risk is not identified
- Reduced buffers:
 - 25' to surface waters; 10' to ditches (MFO/LFO permits)
 - 25' dense perennial buffer (Medium CAFO general permit)
- Statewide equivalency analysis rather than farm- and field-specific analysis

2. States operate under singular or joint jurisdictional regulatory structures

Maine is most similar to VT's MOU between DEC and VAAF and with focus on outreach/education

- Delegated CAFO authority/responsibility with DEP, most permitting work by DACF (Ag)
- DACF (Dept. Agriculture, Conservation & Forestry) responsibilities:

- Inspect Livestock Operation Permits (LOPs), overseeing NMP program
- Addressing appeals, conducting initial complaint investigation
- Conducting joint inspections with DEP, referring discharging farms to DEP
- Limited DEP capacity leads to prioritization of enforcement and MPDES determinations

Michigan and Wisconsin

- EGLE (Michigan) and DNR (Wisconsin) are sole delegated CAFO permitting authorities
- Wisconsin's Agricultural Runoff Program covers point and non-point source programs
- No shared CAFO role with Agricultural Departments

New York

- DEC is the delegated authority for permitting
- DEC's work is supported by AGM (Dept. Agriculture & Markets), Cornell, SUNY, and NRCS
- Collaborative development of permit requirements and technical guidance
- Stakeholder engagement through CAFO Working Group and Cornell Advisory Committee

3. States are operating with a range of permit jurisdictions/triggers

Many states require CAFO permits for all Large CAFOs, which are defined as point sources under CWA.

Maine

- Permits all Large and Medium CAFOs under MEPDES (with or without discharge)
- Permits Small farms, where significant contributors to pollution

Michigan

- Permits all Large CAFOs (with or without discharge)
- Permits Medium farms with unresolved discharge and Small farms if significant polluters
- Option to apply for No Potential to Discharge determination (NPTDD), must seek a NPDES permit if not approved under NPTDD

Wisconsin

- Permits all Large CAFOs (with or without discharge)
- Permits Medium or Small CAFOs with discharge

New York

- Permits all CAFOs under a nondischarge ECL permit
- Farms with unresolved discharge from production area must enter individual NPDES permit

Vermont

- Permits Large, Medium, and certified Small farms without discharge under VAAFMs' nondischarge permits, AAFM has authority to enforce on risk of discharge per RAPs
- Medium CAFO general permit coverage, under DEC oversight

4. States operate either discharge only or both discharge and nondischarge permit types

Maine and Wisconsin each operate only discharge permits.

Michigan and New York have both effective discharge permits and nondischarge permits with clear discharge prohibitions and terms.

Michigan NPTDD Criteria

- Operations with no waste storage exposed to precipitation
- No stormwater outlets to surface water, and no land waste application
- Record of at least five years without discharge
- Establishes no potential to discharge under any circumstance or climatic condition
- Applies essentially to poultry operations sending waste to brokers

New York ECL (Environmental Conservation Law) Nondischarge Permit Criteria

- Waste storage standard prevents discharge from more intense storm (100 yr/24 hr)
- Enhanced operations and maintenance, BMPs and monitoring
- Wet Weather Standard Operating Procedures (WWSOPs)

New York's Permit System Transition

- From 2009 to 2022, NYS operated a dual permitting system
- During that time, all farms transitioned to ECL nondischarge permits
- DEC administers individual discharge permit if non-compliance not immediately resolved

Vermont

- VT operates both discharge and nondischarge permit types.
- Charged with developing an additional NPDES discharge permit for farms ineligible for the Medium CAFO GP or the MFO/LFO/cSFO nondischarge permits in place

5. Peer states include state-specific rules and production area standards in permits and regulations

Some states include unique considerations and production area standards in permits:

Maine defines wetlands as inclusive of groundwater to include protection under CAFO permits

Wisconsin

- Requires groundwater monitoring in production areas and for some land application sites
- Adopted slurry bedrock performance standards for karst topography evident in state, eliminated groundwater contamination events since this change

Additional State Insights

- Minnesota specifically outlines alternative setback scenarios and any acceptable deviations from complete collection and containment of waste and runoff from manure piles, compost and feed storage areas
- Idaho and Oregon specify effluent limitations to address specific elements thus further defining a permitted discharge
- Maryland, as is common with other states, encodes a requirement of compliance with NRCS 313 waste storage standards to establish baseline 25 yr /24 hr storm design standard expectations
- New York encodes a list of ten NRCS codes as requirements for management of NMPs, waste storage, digesters, manure transfer, vegetated treatment areas, heavy use area protection, waste facility closure, karst sinkhole treatment, animal mortality and composting, or certification to provide equivalent protection

c. States successful in reducing discharges over time exercise flexibility inherent within the Clean Water Act, and have designated substantial resources to CAFO discharge elimination

Vermont's Challenges

- Outdated, uncertified or failing infrastructure needing repair or expansion
- Historically reactive point source discharge oversight based upon complaints, referrals, and investigations

Permit Flexibility Approaches

- Interim operational amendments to NMPs can be made to address structural deficiencies needing additional time and funds to remedy
- Permit compliance schedules can be used to stage farm improvements toward comprehensive compliance
- Focusing on preventive management measures during conditions of greatest water quality gains- New York's wet weather standard operating procedures focus greater time and effort around extended forecasting alongside additional preventive protocols before storms

CWA Flexibility Approaches

- Some states allow for compliance with past NRCS code versions available at time of construction, where appropriate
- Minnesota ensures the state can flexibly identify which source rainfall data (NOAA TP40 vs Atlas 14) will be used for determining waste storage requirements
- Addressing state specific concerns with limited resources – via assessment of recurring risks, focus on most effective means - NY assessed recurring violations and discovered greater recurrence of discharge from manure transfer, thus developed targeted BMPs

Program Summary Table

	VT MFO Non Discharge General Permit	VT LFO Non Discharge Individual Permit	VT CAFO NPDES Medium CAFO General Permit	Maine MEPDES General Permit	Michigan NPDES GP; IP; and 'NPTDD' no potential to discharge	Wisconsin WPDES CAFO General Permit (GP)	New York ECL Non Discharge GP; IP if Discharge
# CAFO Permits	98	36	0	6	290 NPDES; 14 NPTDD	340	500 ECL; 0 NPDES IPs
Delegated Authority Staff	13	13	5	11	3.5	43:13core, 30 add'l regional w/add'l NPS nonpoint source duties	12:2admin @ 50%; manager @10% ;15 regional staff w/ add'l duties
Regulatory structure	VAAFM oversees	VAAFM oversees	DEC delegated authority in collab. with VAAFM (MOU)	DACF (Ag) inspects/re viewsLOPs, NMPs C complaints, refers to DEP (deleg. authority) for MPDES determin. DEP enf.	EGL E sole authority Water Resources Div; No Ag dept role	WDNR sole lead; Agricultural Runoff Program (CAFO and NPS); No Ag dept role	DEC leads; collabora- tive CAFO Working Group with multiple agencies, LGU (Cornell) C SHs
Permit Triggers	Medium CAFO without a discharge	Large CAFO without a discharge	Medium CAFO with a discharge	Large C Medium CAFOs regardless of discharge; Small where significant pollutant contributor	Large regardless ofdischarge Medium w/ discharge if not corrected; Small significant contrib.; NPTDD	Large regardless of discharge, and any Medium or Small operation w/a discharge	All CAFOs under ECL (discharge prohibited from productio n area); discharge triggers IP
Permit length	5 years	Until amended/ terminated/ revoked	5 years	5 years	5 years	5 years	ECL GP 10- yr; IP 5-yr
Authorized Discharge	No discharge to waters of the state through a pipe, ditch or conduit	No discharge to waters of the state through a pipe, ditch or conduit	Above 25 year/24 hour storm event where NMP followed	Above 25 year/24 hour storm event where NMP followed	Above 25 yr/24 hr storm event where NMP followed; No auth. discharge under NPTDD	No discharge to waters of the state (more rigorous definition than WOTUS)	No discharge from production area; above 100 yr/24 hr storm upset if following cNMP

	VT MFO Non Discharge General Permit	VT LFO Non Discharge Individual Permit	VT CAFO NPDES Medium CAFO General Permit	Maine MEPDES General Permit	Michigan NPDES GP; IP; and 'NPTDD' no potential to discharge	Wisconsin WPDES CAFO General Permit (GP)	New York ECL Non Discharge GP; IP if Discharge
Inspection Frequency	Every 3 years	Annually	At least every 5 years	Every 1-2 yrs; @appli- cation and expansion	Every 5 years; C w/ complaint/ issues	2-3x per permit: years 1,2,4; @expansion	Large farms every 3 yrs; medium every 5; @ complaints
Program Funding	Permit fees, general Clean Water Funds, WQ grants/fed	Permit fees, general and Clean Water Funds, WQ grants/fed	Permit fees in line with MFO/LFO And state/fed	Permit fees and federal funds	Permit fees and federal funds	Permit fees and fed. funds, primarily state general	NY Env. Protection Funds (EPF) /Bond Acts
Waste Storage Contain- ment/ Design	25 yr/24 hr storm plus 180 days storage	25 yr/24 hr storm and 180 days storage	25 yr/24 hr storm C all process wasteH2O; 180 day storage 11/1-4/30	25 yr/24 hr storm and 180 days storage	25-yr/24-hr storm; 180 days storage volume Nov 1–Dec 31	25 yr/24 hr storm; 180 days storage	100-yr/24- hr storm
Key Buffers/ Setback Reqmts	25' buffer land applic. surface water, 10' buffer to ditch; site- specific exempts. avail.	25' buffer land applic. surface water, 10' buffer to ditch; site- specific exempts. avail.	25' dense perennial buffer to downslope surface H2O ditches C and conduits to surface H2O	100' from down- gradient surface H2Os, open tile intakes, sinkholes/a g wells; 35' veg. buffer/ alternative practice with same protection	10' from surface water; 35' vegetated buffer or alternative practice with same protections	100' from surface H2O, private well; 1,000' from community well; 35' veg. buffer or alt. w/same protection; <i>add'l karst top. reqmts</i>	15' buffer if injected w/in 24hrs; 35' veg. buffer/100' from wells, surface H2O, mapped ditches, Cif flow path to downgrad. H2O/ wetland/ tile inlet
Spreading Restriction	Ban Dec 15-April 1; on freq. flooded soils Oct 16-Apr 14, w/in 100' private H2O supply, 200' public H2O supply, 100' surface H2O tilled field >10% slope	Ban Dec 15-April 1; on freq. flooded soils Oct 16-Apr 14, w/in 100' private H2O supply, 200' public H2O supply, 100' surface H2O tilled field >10% slope	Ban Dec 15-April 1; on freq. flooded soils Oct 16-Apr 14, w/in 100' private H2O supply, 200' public H2O supply, 100' surface H2O tilled field >10% slope	Ban Dec 1-Mar 15	Ban Jan 1- Mar 31; Winter spreading otherwise allowed under a technical standard	Ban Feb- Mar: Liquid waste cannot be spread on frozen/sno w-covered ground (unless immed. Incorporate d); Solid waste stacked/sto red	Ban liq. waste @ >20k g (>27k g wastewater) /ac; to frozen 4"+ soil/w/ice/ snow/1"rain or if almost saturated or must immed. incorp/addl setback
Auth. State Regulation	IP reqmts per 6 V.S.A. Ch 215	GP per 6 V.S.A. Chapter 215	10 V.S.A. § 1263	Maine 06- 096 CMR Ch 521	Act 451 Part 31	NR 243 Wis Adm Code	Art. 17, Tit. 6-8, NYCRR 50-1.2(a)(23)

Conclusions

Further VPDES CAFO permit development will align Vermont's water quality oversight with federal CWA standards, develop compliance pathways for farms, and continue to work toward elimination of discharges on the landscape.

Vermont will require the resources of time, funds, expertise, and flexibility for permit development to meet the goals of protecting environmental and human health:

- Agencies, technical service providers and farms need resources and time to comply
- DEC will need to use compliance schedules for stepwise operational improvements until structural changes are feasible due to current engineering and funding limitations
- Consider investment of EQIP funds to local CAFO funding mechanisms to create pathways for necessary farm upgrades
- Clear, feasible, defensible CAFO rulemaking and permit development next steps will also require technical expertise, collaboration and time

New York's Model and Vermont's Goals

Stakeholders expressed interest in modeling aspects of Vermont's CAFO program on New York's:

- New York reduced pollution in its watersheds and helped to support a viable dairy economy over 15 years of devoted work and investment into CAFOs and CAFO permitting
- NY accomplished this by emphasizing and transitioning to nondischarge permits and ensuring farm-available funds for improvements to support compliance
- Vermont stakeholders stated a desire for proactive strategic farm planning incorporating sustainable resource management as seen in New York
- Vermont seeks to facilitate a CAFO working group to collaboratively develop permit considerations as per New York's model