

DEPARTMENT OF ENVIRONMENTAL CONSERVATION LEGISLATIVE REPORT

CAFO Interim Stakeholder Report

Date reported: February 15, 2026

Authorizing statute: 6 V.S.A. § 4810(d)

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

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Vermont CAFO Water Quality Permitting

The Vermont Legislature passed Act 67 in 2025, which clarified the Agency of Natural Resources' (ANR) role in agricultural water quality regulation as the state responds to an EPA directive to address deficiencies in Vermont's CAFO (Concentrated Animal Feeding Operation) Program and meet the obligations associated with our NPDES authorization under the federal Clean Water Act (CWA). A key element of the legislation was for ANR to hold stakeholder meetings to gather meaningful input on the development and implementation of Vermont's CAFO program and steps the state can take to provide regulatory certainty for producers.

The Stakeholder Group was formed in late 2025 and is comprised of farmers, technical service providers, conservation districts, extension watershed and other agricultural associations, the petitioners (i.e., the Conservation Law Foundation, the Lake Champlain Committee, and Vermont Natural Resource Council), and government agencies including ANR, the Agency for Agriculture, Food, and Markets (AAFM), and the USDA Natural Resources Conservation Service (NRCS).

The Stakeholder Group is working to develop options and recommendations, to the extent possible, consistent with Act 67 (2025) charge. The five charges are listed below.

- 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.
- How to align the CAFO program most effectively with water quality programs administered by the Secretary of Agriculture, Food, and Markets.
- 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.

- The resources, technical assistance, and regulatory structure necessary to create a path to compliance for agricultural producers that maintain CAFOs, AFOs, and other farms.
- Feedback on implementing regulatory structures similar to other states, including the New York State Department of Environmental Protection CAFO Program.

Since December of 2025, the stakeholders have met a total of seven (7) times, and each meeting was attended by 30-40 participants. Participation has been strong and consistent. Those meetings have included farmer and farmer groups only, farmer and farmer groups and agencies, farmers and farmer groups and petitioners, and all three sectors. In addition, ANR held two (2) public hearings in early February which were attended by five (5) members of the public whose questions and comments were captured.

In addition, the Stakeholder Group met with the US Environmental Protection Agency (EPA) Region I leadership once to better understand the agency's role and jurisdiction. The Stakeholder Group heard presentations ANR and AAFM, as well as from the states of New York, Wisconsin, and Maine, regarding their programs, and gathered information from the state of Michigan, and heard from a consultant with national expertise about CAFO discharge permit programs more generally.

The Stakeholder Group has discussed a number of foundational topics, including: definitions of key terms including how a discharge is defined, how that definition is used by inspectors to consider if a farm needs a discharge permit; role of stakeholders moving forward; structural options for agency oversight of both discharge and non-discharge permits; the authorities of the two agencies and where lack of clarity currently exists; how inspections will be performed, discharge permit triggers and exit ramps (i.e., when would a farm be required to obtain CAFO permit coverage and what would be the process for relinquishing coverage); aligning state and federal requirements regarding buffers on streams and ditches; public disclosure of draft applications and nutrient management plans; production area standards; and needed resources for successful implementation, both at ANR and to ensure adequate cost-share on practices.

The meetings have been an opportunity for the participants to: 1) learn more about the limitations of current regulatory programs being administered by AAFM, the way other states have addressed federal Clean Water Act compliance, and the complexities of managing water quality permitting; 2) increase understanding within the farming community about difference experiences, needs, and views; 3) open a constructive dialogue among the petitioners and the farming community, as well as between stakeholders and the agencies; and, 4) advance communication about numerous details of permitting between the two state agencies.

The group is still in process, so no recommendation has been finalized. The Stakeholder Group is also not being asked to achieve consensus. Rather, the group is exploring the elements of standing up a CAFO program at ANR, delineating possible

approaches, weighing the pros and cons of various options, and narrowing the options to the extent possible. Should the Stakeholder Group reach consensus among non-government representatives on one or more issues, such shared agreement will be captured in the final report, along with the options explored and their pros and cons. Areas of difference and why will also be captured in the final report as well.

A few provisional observations are offered just below.

For purposes of distinguishing permit programs, the following two terms are being used by the Stakeholder Group.

- *Non-discharge* permit, issued by AAFM, includes all permits currently issued to farms at this time.
- *Discharge* permit, issued by ANR.

The stakeholders acknowledge the following.

- ANR will create a discharge permit for jurisdiction farms.
- ANR will develop a robust inspection schedule and program to inspect jurisdictional farms for compliance or lack of compliance with the CWA.

The stakeholders are exploring a range of options for the permit programs' structure, and the group is still in deliberation. To date, the stakeholders share differing views on the ultimate authority over the two programs. The two primary and differing views are:

- *Indefinite*: AAFM would continue to maintain their non-discharge permit programs and ANR would build out and maintain their discharge permit program indefinitely.
- *Date Certain*: AAFM would continue to maintain their non-discharge permit programs and ANR would build out and maintain the discharge permit program by a date certain when ANR would be ready to take on both the discharge and non-discharge program. AAFM would continue to provide technical services and administer numerous water quality programs working closely with NRCS.

While the ANR permit program is being fully stood up, the Stakeholder Group believes that AAFM and ANR must work together to ensure that all storage facilities and production areas on at least Vermont medium and large farms are brought into compliance with, and subject to consistent enforcement of, the 25-year/24-hour storm design minimum, given that these structural requirements are not currently being uniformly enforced. The group also recognizes that this will require additional resources from both the agencies and the farmers, and that adequate time will be needed to fully achieve such standards. An estimate as to those needed resources will be forthcoming in the final report.

Lastly, the Stakeholder Group believes that a similar group needs to continue to meet with each other and the agencies to advance the specifics of a CAFO permit, its implementation, and continue to serve in an advisory role as the program develops.

The group learned that New York has a similar stakeholder working group that has proven invaluable to program success.

The Stakeholder Group intends to meet at least twice in February to finalize stakeholder feedback and recommendations. The Stakeholder Group will provide a final report to the Legislature by 30 April 2036, following the conclusion of the stakeholder process.