

Side by Side of

**S.100 An act relating to administration of the concentrated animal feeding operation water quality permit and
H.146 An act relating to administration and enforcement of agricultural water quality requirements in the State**

	S.100	H.146
<p>Enforcement of CAFO Discharges</p> <p>[EPA Directive: ANR must enforce against farms that are discharging without a permit]</p>	<p>Sec. 2. 10 V.S.A. § 1352</p> <p><u>The Secretary [of Natural Resources] has the authority to implement all of the following... (1) Implement the federal Clean Water Act to administer a Vermont pollutant discharge elimination system (VPDES) CAFO program that is consistent with and equivalent to the federal Clean Water Act and enabling rules.</u></p> <p>Sec. 2. 10 V.S.A. § 1353</p> <p><u>§ 1353. CAFO PERMIT REQUIREMENTS AND EXEMPTIONS</u></p> <p><u>(a) The discharge of manure, litter, or process wastewater to waters of the United States from a CAFO as a result of the application of that manure, litter or process wastewater by the CAFO to land areas under its control is a discharge from that CAFO subject to NPDES permit requirements, except where the manure, litter, or process wastewater has been applied in accordance with a site-specific nutrient management plan approved by the Secretary.</u></p> <p>[Note: By adding the CAFO permit to 10 V.S.A. chapter 47, ANR default enforcement authority in 10 V.S.A. ch. 201 would apply for failure to obtain a permit or failure to comply with a permit.]</p>	<p>Sec. 1, 10 V.S.A. § 1356</p> <p><u>§ 1356. CAFO PERMIT REQUIRED</u></p> <p><u>(a) After January 1, 2029, no person shall operate a large CAFO, a medium CAFO, or a small CAFO without a CAFO permit issued by the Secretary under section 1263 of this chapter.</u></p> <p><u>(b) The Secretary may require the owner or operator of a large CAFO, medium CAFO, or small CAFO to apply for a CAFO permit at any time.</u></p> <p>[Note: By adding the CAFO permit to 10 V.S.A. chapter 47, ANR default enforcement authority in 10 V.S.A. ch. 201 would apply for failure to obtain a permit or failure to comply with a permit.]</p>

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What Agency Regulates Agricultural Water Quality that Does not Require a CAFO Permit?	<p style="text-align: center;">Agency of Agriculture, Food and Markets</p> <p style="text-align: center;">Does not specifically reference in S.100, but Sec. 3 provides that ANR report on:</p> <p style="text-align: center;"><u>(2) how to align the CAFO program most effectively with water quality regulatory programs administered by the Secretary of Agriculture, Food, and Markets;</u></p>	<p style="text-align: center;">Agency of Natural Resources</p> <p style="text-align: center;">Sec. 1, 10 V.S.A. § 1360</p> <p><u>§ 1360. REQUIRED AGRICULTURAL PRACTICES RULE</u></p> <p><u>(a) On July 1, 2027, the Secretary is transferred authority to administer and enforce the Required Agricultural Practices Rule for the Agricultural Nonpoint Source Pollution Control Program of the Agency of Agriculture, Food and Markets, as those rules existed on July 1, 2027.</u></p>
<p style="text-align: center;">What Is the Inspection Authority for Farms?</p> <p>[EPA Directive : ANR personnel must inspect all potentially jurisdictional farms to determine if a CAFO permit is required]</p>	<p style="text-align: center;">Sec. 2, 10 V.S.A. § 1352</p> <p><u>The Secretary [ANR] has the authority to exercise all of the following...(5) Designate any small AFO as a CAFO if after an on-site inspection, the Secretary determines that the small AFO is discharging into water and is a significant contributor of pollutants to waters of the state. The Secretary shall consider the following factors:</u></p>	<p style="text-align: center;">Sec. 1. 10 V.S.A. § 1355</p> <p><u>§ 1355. INSPECTION</u></p> <p><u>(a) The Secretary [ANR] may inspect any farm at any time to carry out the provisions of this subchapter.</u></p>
<p style="text-align: center;">Review of Nutrient Management Plans</p> <p>[EPA Directive: ANR personnel must review nutrient management plans and issue CAFO permits consistent with state and federal requirements]</p>	<p style="text-align: center;">Sec. 2, 10 V.S.A. § 1263</p> <p style="text-align: center;">For CAFO permits</p> <p><u>The Secretary shall require nutrient management plans for all CAFOs and shall include the plans in the permits for public comment in accordance with the process set forth in 10 V.S.A. chapter 170. The Secretary may amend a permit in accordance with 10 V.S.A. chapter 170 or revoke a permit in accordance with 3 V.S.A. § 814.</u></p>	<p style="text-align: center;">Sec. 1 10 V.S.A. § 1364</p> <p><u>§ 1364. NUTRIENT MANAGEMENT PLAN</u></p> <p><u>(a) Nutrient management plans required under this subchapter shall, at a minimum, be consistent with the requirements of Natural Resources Conservation Service of the U.S. Department of Agriculture’s Nutrient Management Practice Code 590 or other equivalent standards approved by the Secretary.</u></p> <p style="text-align: center;">Sec. 1. 10 V.S.A. § 1356</p> <p><u>CAFO permits for large CAFOs, medium CAFOs, and small CAFOs and related application materials shall be public records.</u></p>

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<p>Review of Enforcement Actions</p> <p>[EPA Directive: ANR must comprehensively track permitting, monitoring and enforcement actions]</p>	<p>[Note: Neither bill specifically addresses this directive. However, both bills enhance ANR’s authority to permit CAFOs under 10 V.S.A. chapter 47. When ANR starts to issue CAFO permits, they would be tracked in the same manner as other discharge permits, i.e. through the environmental permit bulletin and the standard procedures for public participation in 10 V.S.A. ch.170.]</p>	<p>[Note: Neither bill specifically addresses this directive. However, both bills enhance ANR’s authority to permit CAFOs under 10 V.S.A. chapter 47. When ANR starts to issue CAFO permits, they would be tracked in the same manner as other discharge permits, i.e. through the environmental permit bulletin and the standard procedures for public participation in 10 V.S.A. ch.170.]</p>
<p>Staffing Needs</p> <p>[EPA Directive: ANR must have sufficient personnel to fully implement the foregoing requirements in a timely manner]</p>	<p>Does not address.</p> <p>Bill does not address. ANR outlined staffing plan in March 18, 2025 submission of corrective action plan to EPA.</p>	<p>Sec. 24. TRANSITION; IMPLEMENTATION</p> <p><u>(a) On or before January 1, 2026, the Secretary of Natural Resources shall submit to the House and Senate Committees on Appropriations a report recommending sufficient appropriations and staffing for the Agency of Natural Resources to implement and enforce the agricultural water quality requirement of 10 V.S.A. chapter 47, subchapter 3A.</u></p>
<p>[EPA Directive: ANR must include a reasonable but expeditious timeline, including a date certain for completion of a corrective action plan]</p>	<p>Bill does not address. ANR addressed in March 18, 2025 submission of corrective action plan to EPA.</p>	<p>Bill does not address. ANR addressed in March 18, 2025 submission of corrective action plan to EPA.</p>
<p>Definitions; Waters</p>	<p>New definition and default definition referenced”</p> <p>Sec. 1, 10 V.S.A. § 1352 (13) “Waters” includes all rivers, streams, creeks, brooks, reservoirs, ponds, lakes, springs, and all <u>artificial or natural</u> bodies of surface waters, artificial or natural, that are contained within, flow through, or border upon the State or any portion of it.</p> <p>Sec. 2, 10 V.S.A. § 1351(16) <u>“Waters of the United States” shall have the same meaning as “waters” defined by the federal regulations under the Clean Water</u></p>	<p>No specific definition in bill; defaults to definition for chapter, 10 V.S.A. § 1251</p> <p>(13) “Waters” includes all rivers, streams, creeks, brooks, reservoirs, ponds, lakes, springs, and all bodies of surface waters, artificial or natural, that are contained within, flow through, or border upon the State or any portion of it.</p>

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	Act. [Note: ANR has indicated that they may not see the need for the definition of “waters of the United State.”]	
Definitions; Animal Feeding Operations	<p style="text-align: center;">Sec. 2. 10 V.S.A. § 1351</p> <p><u>(2)(A) “Animal feeding operation” or “AFO” means a lot or facility, other than an aquatic animal production facility, where the following conditions are met:</u></p> <p style="padding-left: 40px;"><u>(i) animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and</u></p> <p style="padding-left: 40px;"><u>(ii) crops, vegetation, or forage growth are not sustained in the normal growing season over any portion of the lot or facility.</u></p> <p><u>(B) Two or more individual farms qualifying as an AFO that are under common ownership and that adjoin each other or use a common area or system for the disposal of waste shall be considered to be a single AFO if the combined number of livestock or domestic fowl on the combined farm qualifies the combined farm as a large CAFO as defined in subdivision (11) of this section or as a medium CAFO as defined in subdivision (14) of this section.</u></p>	<p style="text-align: center;">Sec. 1. 10 V.S.A. § 1352</p> <p><u>(3) “Animal feeding operation” or “AFO” means a lot or facility where livestock or domestic fowl have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period and crops, vegetation, or forage growth are not sustained in the normal growing season over any portion of the lot or facility. Two or more individual farms qualifying as an AFO that are under common ownership and that adjoin each other or use a common area or system for the disposal of waste shall be considered to be a single AFO if the combined number of livestock or domestic fowl on the combined farm qualifies the combined farm as a large CAFO as defined in subdivision (11) of this section or as a medium CAFO as defined in subdivision (14) of this section.</u></p>
Definitions; Large Concentrated Animal Feeding Operation	<p style="text-align: center;">Sec. 2, 10 V.S.A. § 1351</p> <p><u>(5) “Large concentrated animal feeding operation” or “Large CAFO” means an AFO that:</u></p> <p style="padding-left: 40px;"><u>(A) houses 700 or more mature dairy animals, 1,000 or more cattle or cow or calf pairs, 1,000 or more veal calves, 2,500 or more swine weighing over 55 pounds, 10,000 or more swine weighing 55 pounds or less, 500 or more horses, 10,000 or more sheep or lambs, 55,000 or more turkeys, 30,000 or more laying hens or broilers with a liquid manure handling system, 82,000 or</u></p>	<p style="text-align: center;">Sec. 1, 10 V.S.A. § 1352</p> <p><u>(11) “Large concentrated animal feeding operation” or “Large CAFO” means an AFO that houses 700 or more mature dairy animals, 1,000 or more cattle or cow or calf pairs, 1,000 or more veal calves, 2,500 or more swine weighing over 55 pounds, 10,000 or more swine weighing 55 pounds or less, 500 or more horses, 10,000 or more sheep or lambs, 55,000 or more turkeys, 30,000 or more laying hens or broilers with a liquid manure handling system, 82,000 or more laying hens</u></p>

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	<p><u>more laying hens without a liquid manure handling system, 125,000 or more chickens other than laying hens without a liquid manure handling system, 5,000 or more ducks with a liquid manure handling system, or 30,000 or more ducks without a liquid manure handling system; and</u></p> <p style="padding-left: 40px;"><u>(B) any of the following conditions are met;</u></p> <p style="padding-left: 80px;"><u>(i) wastes are discharged into waters of the United States via a point source;</u></p> <p style="padding-left: 80px;"><u>(ii) wastes are discharged directly into waters that originate outside of or pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation; or</u></p> <p style="padding-left: 80px;"><u>(iii) a precipitation-related discharge of manure, litter, or process wastewater from land areas under the control of a LFO has occurred that was not in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater, as determined by the Secretary.</u></p>	<p><u>without a liquid manure handling system, 125,000 or more chickens other than laying hens without a liquid manure handling system, 5,000 or more ducks with a liquid manure handling system, 30,000 or more ducks without a liquid manure handling system, or other livestock types, combinations, or numbers as designated by the Secretary by rule.</u></p>
Definitions; Medium Concentrated Animal Feeding Operation	<p style="text-align: center;">Sec. 2, 10 V.S.A. § 1351</p> <p><u>(8) “Medium concentrated animal feeding operation” or “Medium CAFO” means an AFO that:</u></p> <p style="padding-left: 40px;"><u>(A) houses 200 to 699 mature dairy animals, 300 to 999 cattle or cow or calf pairs, 300 to 999 veal calves, 750 to 2,499 swine weighing over 55 pounds, 3,000 to 9,999 swine weighing 55 pounds or less, 150 to 499 horses, 3,000 to 9,999 sheep or lambs, 16,500 to 54,999 turkeys, 9,000 to 29,999 laying hens or broilers with a liquid manure handling system, 25,000 to 81,999 laying hens without a liquid manure handling system, 37,500 to 124,999 chickens other than laying hens without a liquid manure handling system, 1,500 to 4,999</u></p>	<p style="text-align: center;">Sec. 1, 10 V.S.A. § 1352</p> <p><u>(14) “Medium concentrated animal feeding operation” or “medium CAFO” means an AFO that houses 200 to 699 mature dairy animals, 300 to 999 cattle or cow or calf pairs, 300 to 999 veal calves, 750 to 2,499 swine weighing over 55 pounds, 3,000 to 9,999 swine weighing 55 pounds or less, 150 to 499 horses, 3,000 to 9,999 sheep or lambs, 16,500 to 54,999 turkeys, 9,000 to 29,999 laying hens or broilers with a liquid manure handling system, 25,000 to 81,999 laying hens without a liquid manure handling system, 37,500 to 124,999 chickens other than laying hens without a liquid manure handling system, 1,500 to 4,999 ducks with a</u></p>

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	<p><u>ducks with a liquid manure handling system, or 10,000 to 29,999 ducks without a liquid manure handling system; and</u></p> <p style="padding-left: 40px;">(B) either of the following conditions are met:</p> <p style="padding-left: 80px;">(i) <u>wastes are discharged into waters of the United States via a point source; or</u></p> <p style="padding-left: 80px;">(ii) <u>wastes are discharged directly into waters that originate outside of or pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.</u></p>	<p><u>liquid manure handling system, 10,000 to 29,999 ducks without a liquid manure handling system, or other livestock types, combinations, or numbers as designated by the Secretary by rule.</u></p>
Definitions; Small Concentrated Animal Feeding Operation	<p style="text-align: center;">Sec. 2, 10 V.S.A. § 1351</p> <p>(15) <u>“Small concentrated animal feeding operation” or “small CAFO” means a small AFO designated as a small CAFO by the Secretary upon determining that the AFO is a significant contributor of pollutants to waters of the State, and either of the following conditions are met:</u></p> <p style="padding-left: 40px;">(A) <u>wastes are discharged into waters via a point source; or</u></p> <p style="padding-left: 40px;">(B) <u>wastes are discharged directly into waters that originate outside of or pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.</u></p>	<p style="text-align: center;">Sec. 1, 10 V.S.A. § 1352</p> <p>(24) <u>“Small concentrated animal feeding operation” or “small CAFO” means a small AFO designated as a small CAFO by the Secretary pursuant to section 1357 of this subchapter.</u></p> <p>Under § 1357, ANR <u>shall not find that a small AFO is a significant contributor of pollutants to waters of the State unless:</u></p> <p style="padding-left: 40px;">(1) <u>the Secretary has conducted an on-site inspection of the small AFO; and</u></p> <p style="padding-left: 40px;">(2)(A) <u>the small AFO discharges into waters of the State through a manmade ditch, drainage system, flushing system, or other manmade device; or</u></p> <p style="padding-left: 40px;">(B) <u>pollutants are discharged directly into waters of the State that originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined by the operation.</u></p>
Effective Date	July 1, 2025	July 1, 2025; transfer of enforcement over agricultural water quality occurs July 1, 2027. Sec. 1, § 1358.