

EXECUTIVE PRIVILEGED COMMUNICATION

EPA's corrective action plan requires:

- 1) *ANR personnel must inspect all potentially jurisdictional farms to determine if a CAFO permit is required.*
- 2) *ANR personnel must review nutrient management plans and issue CAFO permits consistent with state and federal requirements.*
- 3) *ANR must comprehensively track permitting, monitoring and enforcement actions.*
- 4) *ANR must enforce against farms that are discharging without a permit.*
- 5) *ANR must have sufficient personnel to fully implement the foregoing requirements in a timely manner.*
- 6) *ANR must seek the necessary statutory and regulatory authority to fully implement the CWA requirements.*
- 7) *ANR must include a reasonable but expeditious timeline, including a date certain for completion of the corrective action plan.*

High Level Summary

This Corrective Action Plan (CAP) defines the Agency of Natural Resources (ANR) as the sole agency responsible for administering and enforcing the NPDES CAFO permitting program under the CWA in Vermont. It also outlines the steps ANR will take over the next four years to expand the CAFO permit program. The steps include developing internal administrative processes and the legal framework to support an increase in inspections, nutrient management plan (NMP) reviews, and enforcement tracking, as well as emphasizing the need to efficiently identify and issue CAFO permits to discharging farms.

Currently, the CAFO Program is staffed with one Program Manager (PM) and one Full-Time Equivalent (FTE) employee. Expanding the program will require additional personnel to manage the increased workload effectively and ensure compliance with regulatory standards. The successful implementation of each action item outlined in the CAP depends on hiring and fully training the required staff. The minimum staffing requirements are outlined in the Staff Requirements section below.

The CAP was developed to fulfill the following commitments:

- A) ANR will clearly define the roles, responsibilities, and authority of the two agencies, which will be submitted to EPA for approval and will be subject to public notice and comment.

1. ANR is the sole state agency authorized to administer the NPDES permitting program in Vermont and the only state authority authorized to enforce Clean Water Act (CWA) requirements, including specifically those related to CAFOs.
 2. As the only state entity authorized to administer the NPDES program, ANR shall be the only entity authorized to determine, for Clean Water Act purposes, whether a discharge to a surface water occurred or is occurring, whether a permit is required, and whether a discharge has been fully remedied.
 3. AAFM will not have jurisdiction over discharges or permit determinations under the Clean Water Act.
 4. ANR will determine if the farm needs a NPDES CAFO permit.
 - a. Point source discharge(s) from a Large or Medium Farm Animal Feeding Operation requires a CAFO permit.
 - b. Non-point discharge(s) that do not qualify as exempt stormwater runoff under the CWA requires a CAFO permit.
 - c. A Small Animal Feeding Operation that discharges from a point source and is a significant contributor of pollutants requires a CAFO permit.
 5. ANR will regulate all farms subject to CWA jurisdiction.
 6. ANR will enforce against farms that are discharging without a permit.
 7. AAFM will continue to regulate farms that ANR determines do not need a CAFO permit.
- B) AAFM and ANR will share data management systems and resources to increase and improve information sharing on inspection, permitting, monitoring, and enforcement activities.
- C) As noted in the table below ANR will utilize a comprehensive list of criteria designed to identify farms with discharges and determine which farms need CAFO Permits.
- D) ANR and AAFM will jointly inspect all potentially jurisdictional farms under the CWA. ANR will review all NMPs prior to inspections and determine if the NMPs are in compliance with federal regulations. ANR will provide notice and public review of all NMPs for Large or Medium Farm Animal Feeding Operation with CAFO permits in accordance with 10 VSA Chapter 170. Nothing in this CAP will prevent ANR from conducting inspections without AAFM.
- E) ANR will develop and adopt a Vermont CAFO Rule that will incorporate applicable federal CWA NPDES regulations.

- F) ANR will update the Medium Farm General CAFO Permit and Notice of Intent forms for General Permits and develop and adopt Individual CAFO Permits for large farms.
- G) ANR will work together with EPA to develop comprehensive water sampling and monitoring criteria for identification and inspection of farms that need CAFO permit coverage.
- H) ANR will commit to annual reporting and tracking of Key Performance Indicators.

Staffing and Database

Staff Requirements:

Year 1 (+1 additional FTE and 2 contractors for inspection support):

- ANR will begin the process of reassigning a vacant position to the CAFO Program with permitting and regulatory experience.
- With the Governor's support, as part of the FY26 budget, ANR has requested funding for contracting support for at least two regulatory inspectors. ANR will work to execute the contract by September 1, 2025, however, the timing will depend on EPA approval, legislative appropriation of requested funding, and timely contract approval.
- With Governor's support, as part of the FY26 budget, ANR has also requested two new staff positions and funding to support them. Note that if approved at the end of the legislative session in May or June of 2025, it will take some time for the money to be allocated, the positions to be created and staff to be recruited.

Year 2 (+ 2 additional FTE for inspection, NMP and Permitting Support):

- All above-described staff positions will be placed with the CAFO Program.
- In December of 2026, ANR will assess staff needs, make recommendations regarding any additional staff or resources needed to fulfill the CAFO-related obligations identified in this CAP, and submit a report to EPA that details the steps and timelines necessary to secure any recommended staff and resources.

Year 3-4 (TBD):

- Seek approval of the report submitted to EPA and implement recommendations.

Database Requirements:

Year 1: Database access and report template development: Prompt access for mapping and inspection purposes, including training from AAFM.

- With the Governor’s support, as part of the FY26 budget, ANR has requested \$250,000 to support updating and sharing the existing AAFM databases so that ANR has access.

Year 2-4: Continued access to database and development of shared tracking system for enforcement and referrals.

- New server space, development of CAFO related templates for inspections as well as enforcement and permit tracking specific to the CAFO program will need to be developed.

Timeline and Action Steps (Timeline is dependent on EPA approval)

Year 1 (2025)

Action Item	Details
CAFO Program Development	<ul style="list-style-type: none"> • Identify and begin to develop internal processes to support program priorities and expansion.
	<ul style="list-style-type: none"> • ANR to clearly define revised roles, responsibilities, and authority for CAFO program and clarify AAFM roles, etc. Publicly notice draft and finalize – document will be subject to EPA approval and will be submitted within 180 days of EPA CAP approval or December 15, 2025, whichever comes first. <ul style="list-style-type: none"> a. Establish a working group with representatives from both AAFM and ANR to facilitate improved communication based on clearly defined roles and authority.
	<ul style="list-style-type: none"> • Identify administrative processes and financial resources needed to support the CAFO Program.
	<ul style="list-style-type: none"> • Identify new technologies or upgrades needed to support CAFO Program Expansion and facilitate joint data sharing. <ul style="list-style-type: none"> a. Develop CAFO specific templates for use with AAFM WQ Database for inspections and enforcement visits b. Invest in necessary hard and software to conduct inspections c. Gain access to AAFM Inspection Reports as needed
	<ul style="list-style-type: none"> • Provide necessary training, onboarding for new staff on regulatory requirements, and joint training sessions for ANR and AAFM staff on their roles prior to inspections.
	<ul style="list-style-type: none"> • Begin to set up program support services for technology and database support, permitting and compliance administration.

	<ul style="list-style-type: none"> a. Existing databases for enforcement tracking and compliance directives will need to be integrated with WQ database and new systems will need to be developed to accommodate permitting and enhanced enforcement tracking.
	<ul style="list-style-type: none"> • Ensure proper filing and reporting systems in place. <ul style="list-style-type: none"> a. Partner with AAFM for technical support to utilize a similar SharePoint site, allowing for better coordination and transparency.
<p>Legal Framework</p>	<ul style="list-style-type: none"> • Pursue initial statutory and legal requirements to incorporate CAFO definitions and authorities for ANR in the 2025 legislative session. See Attachment A. • Revise and issue a General Permit that covers all farm sizes, (small, medium, and large). Revise Notice of Intent forms for General Permits; develop procedure for public notice; conduct outreach and notice in accordance with 10 V.S.A. Chapter 170.
<p>Outreach</p>	<ul style="list-style-type: none"> • Develop an effective communications plan to reach out to agricultural stakeholders to inform them on the CAFO Program. • Begin to build relationships with stakeholders and local partners.
<p>Additional Staff Needs</p>	<ul style="list-style-type: none"> • 2 contractors to support additional inspections, plus 1 FTE to support compliance and enforcement activities. Seek to finalize the contract by September 1, 2025.
<p>Inspections and Complaint Investigations</p>	<ul style="list-style-type: none"> • Compile an inspection priority farm list based on recent AAFM referrals, EPA data and feedback, and other information available. Inspections for the purpose of determining whether a farm complies with CAFO requirements or needs a CAFO permit shall be determined based on the priority list, including the following: (1) any existing records, data and other relevant, reliable information that shows previous or ongoing discharges to a ditch, wetland, or other surface water, (2) previous applications for the state’s winter spreading policy when indicative that a farm does not have adequate storage capacity for its process wastewater, and (3) whether a farm is in close proximity to water quality impacted surface waters, and the topography of the farm. • Develop a CAFO inspection checklist and criteria for determining whether a CAFO permit is necessary. • Conduct 3 Large and 7 Medium Farm Inspections, as previously agreed upon with EPA, from the priority list (unless already undergoing DEC or AGO enforcement). • Continue public complaint driven investigations by EEOs • Write up inspection report findings for any items that would fall under CAFO jurisdiction.

	<ul style="list-style-type: none"> • Work with agricultural partners to develop a list of BMPs that inspected farms would need to implement on their farms to achieve compliance with an eventual CAFO permit.
NMP Review	<ul style="list-style-type: none"> • Review and assess existing NMP requirements for compliance with a CAFO Permit including reporting. Identify necessary updates and develop procedures for review.
	<ul style="list-style-type: none"> • Establish Vermont procedures and data systems for making NMPs publicly accessible.
	<ul style="list-style-type: none"> • Expand necessary training and expertise to conduct NMP reviews.
	<ul style="list-style-type: none"> • Develop NMP guidance and checklists for ANR-led inspections.
	<ul style="list-style-type: none"> • Review NMP implementation at inspections, flag risks, and monitor for compliance.
	<ul style="list-style-type: none"> • ANR will have access to any NMPs on file at AAFM, and AAFM will coordinate with ANR for NMP review and technical assistance prior to inspections.
CAFO Permitting	<ul style="list-style-type: none"> • Compile a baseline assessment of farms that may need a CAFO Permit in Vermont, using factors such as: recent AAFM referrals, identification of farms that do not have adequate storage capacity for manure and process wastewater, and any existing records, data and other relevant, reliable information that shows previous or ongoing discharges to a ditch, wetland, or other surface water.
	<ul style="list-style-type: none"> • Develop Individual Permit application and CAFO Permit templates. Provide permit drafts to EPA for review and feedback. Conduct outreach and notice in accordance with 10 V.S.A. Chapter 170.
	<ul style="list-style-type: none"> • Develop the CAFO permit application system.
	<ul style="list-style-type: none"> • Establish CAFO Permit Criteria (eligibility and requirements)
Compliance and Enforcement	<ul style="list-style-type: none"> • Continue to initiate enforcement on a case-by-case basis and advance active enforcement cases.
	<ul style="list-style-type: none"> • Continue use of EEOs to investigate public complaints of unpermitted discharges.
	<ul style="list-style-type: none"> • Increase coordination between ECD and CAFO Program prior to investigations and provide training to EEOs investigating agricultural complaints.
Annual Reporting	<ul style="list-style-type: none"> • Develop an outline for annual reporting and determine specific Key Performance Indicators related to CAFO Inspections, permitting and enforcement. Annual reporting measures will include, but are not limited to the following: <ul style="list-style-type: none"> ○ Percent of farms found complaint during inspections ○ Percent of agricultural discharges addressed by permanent, approved fix

	<ul style="list-style-type: none"> ○ Number of CAFO permits issued ○ Number of farms identified as needing a CAFO permit
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Year 2 (2026)

Action Item	Details
CAFO Program Development	<ul style="list-style-type: none"> ● Continue to develop and implement policies to support program priorities and expansion.
	<ul style="list-style-type: none"> ● Continue to execute the finalized document related to ANR and AAFM, implementing roles, responsibilities and processes outlined. <ul style="list-style-type: none"> a. The AAFM and ANR working group meet at least biannually
	<ul style="list-style-type: none"> ● Provide necessary training and onboarding for new staff. <ul style="list-style-type: none"> a. Collaborate with AAFM to conduct training for staff on inspection protocols and database entry. b. Utilize EPA to provide training for inspectors and staff on CWA. c. Develop internal training materials for CAFO as well as pursue training opportunities for CAFO Program staff.
	<ul style="list-style-type: none"> ● Continue the development of databases for inspections and enforcement tracking. <ul style="list-style-type: none"> a. Implement a pilot data-sharing system that allows both agencies to access farm inspection and permit data b. Develop processes for ongoing data sharing on compliance, monitoring and enforcement actions.
	<ul style="list-style-type: none"> ● Continue to expand administrative processes and financial resources needed to support the CAFO Program.
	<ul style="list-style-type: none"> ● Complete a draft CAFO Rule and share the draft with EPA, Petitioners and AAFM for feedback.
Legal Framework	<ul style="list-style-type: none"> ● Conduct outreach on CAFO Rule with farmers and other stakeholders, to include at least 3 public informational meetings.
	<ul style="list-style-type: none"> ● Commence rulemaking for CAFO Rule by filing with ICAR.
	<ul style="list-style-type: none"> ● Assess whether additional statutory changes are necessary for proposal in Jan of 2027.
	<ul style="list-style-type: none"> ● Employ communications plan to reach out to agricultural stakeholders to inform them of the CAFO Program and provide support for permit compliance.
Staffing	<ul style="list-style-type: none"> ● Review and assess staffing needs at ANR and draft a proposal for additional staff/ create new budget positions if deemed necessary.

Inspections and Complaint Investigations	<ul style="list-style-type: none"> Develop a procedure to determine which farms are priority based on factors such as: water quality history, citizen complaints, EPA recommendations and mapping tools which indicate risks of discharging such as proximity to waters and slope.
	<ul style="list-style-type: none"> Expand joint inspections with ANR and AAFM: <ul style="list-style-type: none"> Inspect LFOs and any scheduled MFOs from the priority list as staffing allows.
	<ul style="list-style-type: none"> Continue complaint driven investigations by EEOs
	<ul style="list-style-type: none"> Write up inspection report findings for any items that would fall under CAFO jurisdiction.
	<ul style="list-style-type: none"> Work with agricultural partners to develop a list of BMPs that inspected farms would need to implement on their farms to achieve compliance with an eventual CAFO permit.
NMP Review	<ul style="list-style-type: none"> Review NMPs alongside CAFO Permit applications and in cases of complaints or referrals ensure they are sufficient and being followed.
	<ul style="list-style-type: none"> Contingent on the readiness of internal systems, make NMPs for permitted CAFOs available to the public.
CAFO Permitting	<ul style="list-style-type: none"> Initiate process to require CAFO Permit applications for discharging Large Farms and provide farms with application materials.
	<ul style="list-style-type: none"> Hire two FTEs to support additional inspections, NMP review, permitting and enforcement activities.
	<ul style="list-style-type: none"> Issue Individual CAFO Permits on priority farms with compliance schedules. Timing depends on internal systems being ready for applications and staff resources.
Compliance and Enforcement	<ul style="list-style-type: none"> Continue to initiate enforcement on a case-by-case basis and advance active enforcement cases.
	<ul style="list-style-type: none"> Develop a clear, documented enforcement process for farms discharging without a CAFO permit.
	<ul style="list-style-type: none"> Draft a compliance and enforcement strategy to identify and find solutions for repeat offenders or permit non-compliance.
Annual Reporting	<ul style="list-style-type: none"> Begin to input and track data for annual reporting and Key Performance Indicators related to CAFO Inspections, permitting and enforcement

Year 3 (2027)

Action Item	Details
CAFO Program Development	<ul style="list-style-type: none"> Continue to develop internal policies to support program priorities and expansion.

	<ul style="list-style-type: none"> Adjust from program development to continuous Improvement and maintenance.
	<ul style="list-style-type: none"> Complete compliance and enforcement tracking database.
Legal Framework	<ul style="list-style-type: none"> ANR staff will adopt a Vermont CAFO Rule on or before December 31, 2027.
Outreach	<ul style="list-style-type: none"> Begin to develop outreach materials and/or develop training for CAFO operators on best practices and regulatory compliance.
Staffing	<ul style="list-style-type: none"> Submit staffing report to EPA and implement recommendations to develop a long-term, sustainable plan for staffing if/as needed.
Inspections and Complaint Investigations	<ul style="list-style-type: none"> Continue Joint inspections with ANR and AAFM: <ul style="list-style-type: none"> ANR will determine and commit to a regular inspection schedule as staffing allows to inspect all potentially jurisdictional farms.
	<ul style="list-style-type: none"> Continued complaint driven investigations by EEOs for Small Farms.
	<ul style="list-style-type: none"> Write inspection report findings for any items that would fall under CAFO jurisdiction.
	<ul style="list-style-type: none"> Work with agricultural partners to develop a list of BMPs that inspected farms would need to implement on their farms to achieve compliance with an eventual CAFO permit.
NMP Review	<ul style="list-style-type: none"> Review NMPs alongside CAFO Permit applications and in cases of complaints or referrals from AAFM to ensure that they are sufficient and being followed.
	<ul style="list-style-type: none"> Make NMPs for permitted CAFOs available to the public as required.
CAFO Permitting	<ul style="list-style-type: none"> Expand CAFO Permit applications to discharging Medium and Large Farms and provide farms with application materials.
	<ul style="list-style-type: none"> Expand issuance of Individual CAFO Permits with compliance schedules.
Compliance and Enforcement	<ul style="list-style-type: none"> Route non-compliant or non-corrected enforcement cases toward a CAFO permit if applicable.
Annual Reporting	<ul style="list-style-type: none"> Continue to input and track data for annual reporting and Key Performance Indicators related to CAFO Inspections, permitting and enforcement. <ul style="list-style-type: none"> Focus on public facing reporting being readily available for program transparency

Year 4 (2028)

Action Item	Details
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CAFO Program Development	<ul style="list-style-type: none"> • Review and update CAFO Program procedures. Analyze data and feedback available from inspections and permits to identify areas for improvement <ul style="list-style-type: none"> a. Review the effectiveness of the new CAFO Rule, Permits and inspection and enforcement processes b. Assess efficacy of shared jurisdiction and assess if further expansion of CAFO Program is needed. c. Adjust strategies and practices as necessary based on feedback • Assess and amend the compliance and enforcement tracking database as necessary.
Legal Framework	<ul style="list-style-type: none"> • Review effectiveness of legal framework, gather input and make plans to adjust or expand as necessary.
Outreach	<ul style="list-style-type: none"> • Evaluate and expand outreach to CAFO operators.
Staffing	<ul style="list-style-type: none"> • Continue to implement recommendations and make adjustments for long-term, sustainability of program.
Inspections and Complaint Investigations	<ul style="list-style-type: none"> • Continue joint inspections with ANR and AAFM: <ul style="list-style-type: none"> a. ANR will determine and commit to a regular inspection schedule as staffing allows. b. ANR will review inspection frequency for permitted CAFOs and prioritization to evaluate any changes that need to be made. c. Continued complaint driven investigations by EEOs or by CAFO program staff as resources allow.
NMP Review	<ul style="list-style-type: none"> • Review NMP and public notice process and identify areas to improve efficiency and regulatory compliance.
CAFO Permitting	<ul style="list-style-type: none"> • ANR will review the success of the permit program for CAFOs in terms of compliance to evaluate any changes that need to be made.
Compliance and Enforcement	<ul style="list-style-type: none"> • Reevaluate enforcement strategy to determine if enforcement is sufficient for non-compliant farms.
Annual Reporting	<ul style="list-style-type: none"> • Evaluate and adjust where needed, continue to input and track data for annual reporting and Key Performance Indicators related to CAFO inspections, permitting and enforcement.