

## **Frequently Asked Questions**

### **Vermont's Confined Animal Feeding Operations General Permit**

**Updated June, 2015**

**ANR** – Agency of Natural Resources

**AAF** – Agency of Agriculture

**MFO** – Medium farm operation (as defined below)

**LFO** – Large farm operation (meets state LFO definition. For dairies, this is over 700 cows)

#### **What is the definition of a CAFO?**

A CAFO is a Concentrated Animal Feeding Operation. A CAFO is an Animal Feeding Operation (AFO) that meets the size of a Large Farm Operation (LFO); or meets the size definition of a Medium Farm Operation (MFO) *and* has a documented discharge.

The size definition for MFOs is:

200 to 699 mature dairy cows, whether milked or dry; 300 to 999 veal calves; 300 to 999 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs; 750 to 2,499 swine each weighing 55 pounds or more; 3,000 to 9,999 swine each weighing less than 55 pounds; 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, if the AFO uses a liquid manure handling system; 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system; 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system; 10,000 to 29,999 ducks if the AFO uses other than a liquid manure handling system; or 1,500 to 4,999 ducks if the AFO uses a liquid manure handling system

#### **What does Vermont's CAFO permit cover?**

The CAFO permit is a general permit for medium farms that discharge.

Individual permits may be required for large or small farms that discharge. A large or small farm that voluntarily chooses to apply for a CAFO permit would receive an individual permit.

#### **What is the definition of an AFO?**

AFO means Animal Feeding Operation. This is a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

- a. 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
- b. Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

#### **How do I know if I need this CAFO permit?**

You are required to obtain a CAFO permit if you are a medium farm that is discharging pollutants to waters of the state of Vermont. If you have any questions about this, contact the ANR CAFO Program Planner.

**The VT Agency of Agriculture already has an MFO permit program. Why do we need this one?**

The CAFO permit is for MFOs that have a discharge. The Agency of Natural Resources is the delegated agency for implementing the federal Clean Water Act. The Clean Water Act requires CAFO permits for MFOs that discharge.

**How is the CAFO general permit different from the current MFO permit?**

The CAFO permit is almost identical to the MFO permit. The differences include:

- a) The permit is administered by the Vermont Agency of Natural Resources instead of the Vermont Agency of Agriculture.
- b) The application form and the farm's nutrient management plan are open to the public, and will be posted on ANR's website for a 30 day public comment period.

**What is the definition of a discharge?**

A discharge exists when

- c) a pollutant enters the waters of the state through a man-made ditch, flushing system or other similar man-made device; or
- d) pollutants are discharged directly into waters of the United States which originate outside of and pass over, across or through the facility or otherwise come in direct contact with the animals confined in the operation.

**What is the definition of a "man-made device"?**

The term man-made device means a conveyance constructed or caused by humans that transports wastes (manure, litter, or process wastewater) to waters of the U.S. Man-made devices include, for example, pipes, ditches, and channels. If human action was involved in creating the conveyance, it is man-made even if natural materials were used to form it. A man-made channel or ditch that was not created specifically to carry animal wastes but nonetheless does so is considered a man-made device. It is not necessary for the man-made device to extend the entire distance to waters of the U.S. It is sufficient that the wastes being discharged flow through the man-made device. For example, a culvert could simply facilitate the flow of wastewater from one side of a road to another (and subsequently into a water of the U.S.) and is a man-made device for the purposes of this provision.

**What is a designated CAFO?**

The Secretary of the Agency of Natural Resources may designate an AFO as a CAFO if it is considered a significant polluter to waters of the state.

No AFO shall be designated as a CAFO unless the Secretary has conducted an on-site inspection and determined that the operation should and could be regulated under the permit program, and has a documented discharge.

**What if I own two farms - would I need two CAFO permits or one?**

Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each

other or if they use a common area or system for the disposal of wastes.

**What are “waters of the state”?**

“Waters” include all rivers, streams, creeks, brooks, reservoirs, ponds, lakes, springs and all bodies of surface waters, artificial or natural, which are contained within, flow through or border upon the State or any portion of it.

**What other types of permits might I need?**

If you are currently an MFO, you have already submitted an NOIC (Notice of Intent to Comply) under the Vermont Agency of Agriculture MFO General Permit. If you are defined as a CAFO and are required to obtain a CAFO permit, your current MFO permit is rendered void. However, if you are an LFO and obtain an individual CAFO permit, you are still required to have the AAFM LFO permit.

**Who do I contact if I’m not sure I need a permit?**

Marli Rupe is the CAFO Program Manager for the VT Agency of Natural Resources. Her phone number is 490-6171, and email is [marli.rupe@state.vt.us](mailto:marli.rupe@state.vt.us).

**I only have a few cows or horses; do I need a permit?**

You would only need a permit if you are discharging a pollutant to waters of the state. If you are unsure, contact the ANR CAFO Program Planner for further information.

**Can I get a permit if I want to or do I have to be directed to get one?**

You may apply for a permit even if you are not defined as a CAFO. Under permit coverage, you are protected from penalty if you have a discharge during a 25 year/24 hour storm event, providing:

1. The production area is properly designed, constructed, operated, and maintained to contain all manure, litter and process wastewater including the runoff and the direct precipitation from a 25-year, 24-hour storm event for the location; and
2. The design storage volume is adequate to contain all manure, litter and process wastewater accumulated during the storage period, considering, at a minimum, the following :
  - (a) The volume of manure, litter, process wastewater, and other wastes accumulated during the storage period;
  - (b) Normal precipitation less evaporation during the storage period;
  - (c) Normal runoff during the storage period;
  - (d) The direct precipitation from the 25-year, 24-hour storm event;
  - (e) The runoff from the 25-year, 24-hour storm event from the production area;
  - (f) Residual solids after liquid has been removed;
  - (g) Sediment load in the runoff from the Production Area;
  - (h) Freeboard must be in compliance with the standards set forth in Vermont NRCS Conservation Practice Standard #313; and
  - (i) A minimum treatment volume, in the case of treatment lagoons; and
3. The permittee is in compliance with all the conditions of the permit.

Compliance with the CAFO permit provides protection against action by the state and federal governments as well as protection against citizen suits under the Clean Water

Act only if a discharge should occur that meets these criteria. Other discharges will be not be covered under this exemption.

**Does this permit give me any additional protection? Am I allowed to discharge?**

The only discharges allowed under a CAFO permit are those associated with a 25 year/24 hour storm event, or greater, as described above, and the Clean Water Act agricultural stormwater exemption. Ag stormwater runoff is not considered a discharge if the farm has an approved nutrient management plan, is in compliance with this plan and has the records to demonstrate compliance. *A farm under a CAFO permit is not allowed to have any discharges to waters of the state beyond the provisions listed above.*

**Are farms under a CAFO permit still required to meet all current state and federal regulations?**

Yes. A farm under a CAFO permit has to meet all water quality regulations and may in some cases be asked to meet additional requirements if the farm discharges to an impaired water.

**What do I have to do to get a permit if I want one, or if I am told I have to get one?**

Application for coverage under this general permit shall be made by filing a Notice of Intent (NOI) with all necessary attachments on forms provided by the Secretary. The application shall include the information required in the permit, as well as a copy of a proposed Nutrient Management Plan (NMP) that meets the requirements of the permit.

**Who can tell me I have to get a permit?**

The Secretary of the Agency of Natural Resources can require a farm to obtain a CAFO permit if it is determined to have a discharge.

**What will be different about my farm management if I am under a permit?**

The only changes in your farm management will be those necessary to eliminate any discharges from your facility. Your nutrient management plan will also be open to public review.

**Who has the right to inspect my farm if I am under a permit?**

The VT Agency of Natural Resources will have the right to inspect your farm, upon presentation of proper credentials and at appropriate times, if you are under a CAFO permit, and will inspect your farm regularly. Currently, only VT Agency of Agriculture and Environmental Protection Agency personnel have the right of access to your farm.

**What types of reporting will I have to do?**

The permittee must submit an annual report to the Secretary by April 30<sup>th</sup> of each year, which shall include information for the previous 12 months. The details of the annual report are similar to the annual report currently required in the VT Agency of Agriculture MFO general permit and are indicated in the general permit under Part IV.

**I don't have a discharge and I don't need to get a permit. What are the consequences of not having a permit?**

If you are not covered by a CAFO permit and have a discharge, state and federal enforcement action including penalties may be incurred.

**How long will it take to get a CAFO permit?**

The permit process will take a minimum of 90 days for approval after the complete NOI application is submitted. Additional time may be necessary if a public hearing becomes necessary or there are other unforeseen issues.

**Is there a fee for a CAFO permit?**

At this time, there is no application or operating fee for a CAFO permit. An administrative processing fee of \$240 would be charged. It is likely that application and operating fees will be attached to the CAFO permit in the future. Application fees would be assessed at permit renewal. Operational fees would be applied to farms already covered under a current CAFO permit.

**What has to be in a nutrient management plan for a CAFO permit?**

The site specific NMP at a minimum must include practices and procedures necessary to implement the applicable effluent limitations and standards. A full description of the required elements of a nutrient management are detailed in the general permit under Part IV, Section A (1).

If a farm discharges to an impaired water, additional practices may be required in the nutrient management plan as needed to meet water quality standards.

**The NMP has to cover the “acres under my control”. What does this mean?**

Acres under your control include any land that you own, rent or lease to which wastes from the production area are or may be applied.

**What are the recordkeeping requirements under a CAFO permit?**

Recordkeeping requirements under the CAFO permit are similar to those for the state MFO general permit. Full details are in the CAFO permit Part IV, Section A(2).

**How long does a CAFO permit last?**

The CAFO permit is in effect for five years. An individual farm authorization under the permit is also in effect for five years.

A permittee may request that coverage under this permit be terminated. Coverage may only be terminated if a permittee demonstrates to the Secretary's satisfaction that at least one of the following three conditions is met:

1. The facility has ceased all operations and all waste retention structures have been properly closed in accordance with the closure provisions contained in Part V.A. of this permit and with the March 2011 Vermont Natural Resources Conservation Service (NRCS) Conservation Practice Standard #360 and all other remaining stockpiles of manure, litter, or process wastewater not contained in a wastewater or manure storage structure are properly disposed; or
2. The facility is no longer a CAFO that discharges manure, litter, or process waste water to waters of the State, based on a demonstration that the circumstances that led to the discharges at the CAFO have been changed or corrected and fully and permanently remedied; or
3. The entire discharge is permanently terminated by elimination of the flow or by connection to a publicly owned treatment works.

The permittee must submit a complete and signed Request for Termination of Coverage form to the Secretary documenting that at least one of the three conditions above has been met. Upon receipt of the required request form, the Secretary shall have the discretion to require from the permittee any additional information the Secretary deems necessary to support the request for termination.

Coverage under this permit shall be terminated upon receipt of a written determination by the Secretary that the Request for Termination of Coverage filing is complete and at least one of the conditions specified above has been satisfied.