

Vermont Agency of Agriculture, Food & Markets

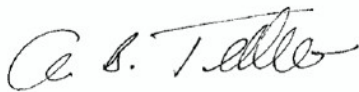
General Permit for Medium Farm Operations

July 23, 2024

Anson B. Tebbetts

Secretary

Vermont Agency of Agriculture, Food & Markets



Authorized Signature

July 23, 2024

Date

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TABLE OF CONTENTS

<b>Section 1. Definitions</b>	<b>Page 1</b>
<b>Section 2. Permit Coverage</b>	<b>Page 5</b>
A. Authority and Purpose	Page 5
B. Permit Coverage	Page 5
C. Application for Coverage and Annual Operating Fee	Page 5
D. Termination of Coverage	Page 6
E. Requirement to Obtain an Individual Permit	Page 6
F. Requirement to Obtain a Large Farm Operation (LFO) Permit	Page 6
G. Appeal of Secretary's Permit Decision	Page 6
<b>Section 3. General Standards and Effluent Limitations and Standards</b>	<b>Page 6</b>
A. General Requirements	Page 6
B. Nutrient Management Plans and Recordkeeping	Page 6
C. Imports	Page 7
D. Exports	Page 7
E. Access to Site and Records	Page 7
<b>Section 4: Annual Reporting Requirements</b>	<b>Page 7</b>
<b>Section 5: Standard Conditions</b>	<b>Page 8</b>
A. Records Retention	Page 8
B. Monitoring and Reporting	Page 8
C. Duty to Mitigate	Page 8
D. Duty to Comply	Page 8
E. Effect of Permit	Page 8

**Medium Farm Operation General Permit Applicable Forms**

The forms referenced in this permit can be found on the Vermont Agency of Agriculture, Food & Markets (the Agency) website at <https://agriculture.vermont.gov/mfo> or by contacting the Agency Water Quality Division. When applying for coverage under this permit, an applicant must use the most current version of the following forms which can be obtained from the Agency website or the Water Quality Division:

- Notice of Intent to Comply (NOIC)
- Notice of Termination (NOT)
- Incident Report
- Annual Compliance Report

## Section 1. Definitions

- 1.1 Animal Feeding Operation (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.
- 1.2 Agency means the Vermont Agency of Agriculture, Food and Markets.
- 1.3 Animal Type means livestock or domestic fowl type.
- 1.4 Barnyard and Feedlot means an area, either earthen or improved, where animals are confined by fences, other structures, or topography, are primarily sustained by supplemental feed and where vegetative cover is sparse.
- 1.5 Certified Nutrient Management Planner means an individual certified through the completion of the United States Department of Agriculture Natural Resources Conservation Service (USDA NRCS) nutrient management certification process who creates, reviews, and modifies Nutrient Management Plans (NMPs).
- 1.6 Compost means a stable humus-like material produced by the controlled biological decomposition of organic matter through active management but shall not mean sewage, septage, or materials derived from sewage or septage.
- 1.7 Conservation Management Unit (CMU) means a field, group of fields, or other land units of the same land use and having similar treatment needs and planned management. A CMU has definitive boundaries such as fencing, drainage, vegetation, topography, or soil lines.
- 1.8 Conservation Practice means a specific treatment used to address specific natural resources needs and can be structural, vegetative, or land management.
- 1.9 Crop and Cropland means (a) plants grown for food, feed, fiber (other than trees grown for silvicultural or timber purposes), Christmas trees, maple sap, horticultural, viticultural, orchard crops, and pasture; and (b) the land upon which they are grown.
- 1.10 Discharge means the placing, depositing, or emission of any wastes, directly or indirectly, into an injection well or into waters of the State.
- 1.11 Domestic Fowl means laying-hens, broilers, ducks, turkeys, or any other number or type of fowl that the Secretary deems domestic fowl.
- 1.12 Facility means the location where farm infrastructure associated with the production area is located, typically a farmstead. Facility may include the livestock, barns, waste and feed storages.
- 1.13 Farm means a parcel or parcels of land owned, leased, or managed by a person regulated by the Required Agricultural Practices Rule, and devoted primarily to farming, provided that the lessee controls the leased lands to the extent they would be considered as part of the lessee's own farm. Indicators of control may include

whether the lessee makes day-to-day decisions concerning the cultivation or other farming-related use of the leased lands and whether the lessee manages the land for farming during the leased period.

- 1.14 Groundwater means water below the land surface in a zone of saturation, but does not include surface waters.
- 1.15 Large Farm Operation (LFO) means an AFO which is required by 6 V.S.A. § 4851 to obtain a LFO permit.
- 1.16 Land Application Area means land under the control of a farm, whether it is owned, leased, or managed, to which wastes are or may be applied.
- 1.17 Livestock means cattle, swine, sheep, goats, and horses, or any number and type of domestic animal that the Secretary deems livestock.
- 1.18 Medium Concentrated Animal Feeding Operation (Medium CAFO) means:
- A. An AFO with the type and number of animals that fall within any of the following ranges and which has been defined or designated as a CAFO:
    - 1. 200 to 699 mature dairy cows, whether milked or dry;
    - 2. 300 to 999 veal calves;
    - 3. 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;
    - 4. 750 to 2,499 swine each weighing 55 pounds or more;
    - 5. 3,000 to 9,999 swine each weighing less than 55 pounds;
    - 6. 150 to 499 horses;
    - 7. 3,000 to 9,999 sheep or lambs;
    - 8. 16,500 to 54,999 turkeys;
    - 9. 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system;
    - 10. 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;
    - 11. 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system;
    - 12. 10,000 to 29,999 ducks (if the AFO uses other than a liquid manure handling system); or
    - 13. 1,500 to 4,999 ducks (if the AFO uses a liquid manure handling system); and
  - B. Either one of the following conditions are met:
    - 1. Pollutants are discharged into waters of the United States through a man-made ditch, flushing system, or similar man-made device; or
    - 2. 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 into direct contact with the animals confined in the operation.
- 1.19 Medium Farm Operation (MFO) means an AFO that houses:
- A. 200 to 699 mature dairy animals;
  - B. 300 to 999 cattle or cow/calf pairs;
  - C. 300 to 999 veal calves;
  - D. 750 to 2,499 swine weighing over 55 pounds;
  - E. 3,000 to 9,999 swine weighing less than 55 pounds;
  - F. 150 to 499 horses;
  - G. 3,000 to 9,999 sheep or lambs;
  - H. 16,500 to 54,999 turkeys;

- I. 9,000 to 29,999 laying hens or broilers with a liquid manure handling system;
- J. 25,000 to 81,999 laying hens without a liquid manure handling system;
- K. 37,500 to 124,999 chickens other than laying hens without a liquid manure handling system;
- L. 1,500 to 4,999 ducks with a liquid manure handling system; or
- M. 10,000 to 29,999 ducks without a liquid manure handling system; or
- N. Any other animal type and number that the Secretary may designate.

- 1.20 Non-sewage Waste means any waste other than sewage which may contain organisms pathogenic to human beings but does not mean stormwater runoff.
- 1.21 Nutrient Management means managing the amount, form, placement, and timing of plant nutrient applications to obtain optimum forage and crop yields, and minimize the entry of sediment and nutrients into waters of the State and groundwater.
- 1.22 Nutrient Management Plan (NMP) means the system by which nutrient imports and exports and animal waste generation, storage, and use is handled for the purpose of minimizing the entry of sediment and nutrients into waters of the State and groundwater, while planning nutrient applications and field management practices for optimum forage and crop yields including the related management aspects of fertilizer nutrients, conservation practices, animal mortalities, clean water, chemical handling, waste and soil testing, and record keeping. An NMP must include all production areas and land application areas owned, leased or managed by the farm.
- 1.23 Pasture means perennial vegetation used for grazing, which is not a barnyard or feedlot.
- 1.24 Permittee means a person or business that receives coverage under a MFO General Permit.
- 1.25 Person means:
  - A. An individual, partnership, corporation, association, unincorporated organization, trust or other legal or commercial entity, including a joint venture or affiliated ownership;
  - B. A municipality or state agency; or
  - C. Individuals and entities affiliated with each other for profit, consideration or any other beneficial interest derived from agricultural land management, including lessors and lessees.
- 1.26 Production Area means those areas of a farm where animals, agricultural inputs, or raw agricultural products are confined, housed, stored, or prepared whether within or without structures, including barnyards, raw materials storage areas, heavy use areas, fertilizer and pesticide storage areas, and waste storage and containment areas. Production areas include egg washing or egg processing facilities, milkhouses, raw agricultural commodity preparation or storage, or any area used in the storage, handling, treatment, or disposal of mortalities.
- 1.27 Realistic Yield Goals means crop yield goals established using actual crop yields collected by the MFO and does not include yield goals established by using soil type crop yield potentials. Realistic Yield Goals on fields or conservation management units shall be calculated by averaging a minimum of three years of actual crop yield data. The MFO cannot use actual crop yields older than five years for this calculation. If Realistic Yield Goals have not been established, crop yield goals based on soil type established by USDA must be used in the NMP.
- 1.28 Required Agricultural Practices Rule (RAPs) means the Vermont Required Agricultural Practices Rule adopted pursuant to 6 V.S.A. § 4810.

- 1.29 Secretary means the Secretary of the Agency of Agriculture, Food & Markets.
- 1.30 Solid Waste means any discarded garbage, refuse, septage, sludge from a waste treatment plant, water supply plant, or pollution control facility; and other discarded material including solid, liquid, semi-solid, or contained gaseous materials resulting from industrial, commercial, mining, or agricultural operations and from community activities but does not include animal manure and absorbent bedding used for soil enrichment; high carbon bulking agents used in composting; solid or dissolved materials in industrial discharges which are point sources subject to permits under the Water Pollution Control Act, 10 V.S.A. Chapter 47, or solid waste that is also hazardous waste, as defined by 10 V.S.A. § 1222(6), under the Vermont Hazardous Waste Management Regulations.
- 1.31 Surface Water or Waters means 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.
- 1.32 Useable Volume means the volume in a waste storage facility available for agricultural waste produced or imported by the farm; this includes, but is not limited to, manure, bedding, precipitation runoff and feed leachate. Useable volume excludes the freeboard and solids accumulation.
- 1.33 Waste or Agricultural Waste means material originating or emanating from a farm or imported onto a farm that is determined by the Secretary or the Secretary of Natural Resources to be harmful to the waters of the State, including sediments; minerals, including heavy metals; plant nutrients; pesticides; organic wastes, including livestock waste; animal mortalities; compost; feed, and crop debris; waste oils; pathogenic bacteria and viruses; thermal pollution; silage runoff; untreated milkhouse waste; and any other farm waste as the term “waste” is defined in 10 V.S.A. § 1251(12).
- 1.34 Waste Generation collectively means agricultural wastes generated on-farm, imported wastes, 25 year/24 hour storm reserve and precipitation runoff from impervious surfaces that are collected into each waste storage facility, and direct precipitation for each waste storage facility.
- 1.35 Waste Management System means an on-farm waste management program and conservation practices which include, but are not limited to, a combination of:
1. Adequately sized waste storage facilities, field stacking, composting, leachate and other runoff control systems, bedded pack systems, and milkhouse waste systems;
  2. Contracts which transfer the ownership of wastes generated at a production area to another person for storage in a manner consistent with NRCS or equivalent standard; or
  3. A NMP for all wastes to be applied in compliance with this permit.
- 1.36 Waste Storage Facility means an impoundment made for the purpose of storing agricultural waste by constructing an embankment, excavating a pit or dugout, fabricating an in-ground or above-ground structure, or any combination thereof.
- 1.37 Waters of the United States include for the purposes of this permit includes surface water and groundwater as applied.

## Section 2: Permit Coverage

### A. Authority and Purpose

1. This permit is issued under 6 V.S.A § 4858 and the Medium and Small Farm Operation Rules for Issuance of General and Individual Permits (MFO Rules).
2. This permit is designed to ensure medium farms in Vermont generating agricultural waste comply with Vermont's water quality standards. Unless otherwise given notice by the Agency, all medium farms in Vermont are required to operate under the coverage and conditions of this permit.

### B. Permit Coverage

1. This permit covers Animal Feeding Operations (AFOs) located in Vermont that meet the definition of a Medium Farm Operation (MFO):
  - a. If an AFO meets the definition of a MFO for at least one type of animal, the AFO must meet the requirements of this permit with respect to all animals in confinement at the operation and to all agricultural waste generated by those animals or the production of those animals.
  - 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 seek coverage as a single MFO if the combined number of livestock or domestic fowl resulting qualifies as a MFO as defined in Section 1: Definitions.
2. This permit does not cover:
  - a. A MFO that has been notified by the Agency to apply for an individual MFO permit in accordance with Section 2.E of this permit; or
  - b. A MFO that is permitted by the Agency of Natural Resources pursuant to 10 V.S.A. § 1263 and federal regulations for Medium Concentrated Animal Feeding Operations (CAFO).
  - c. A farm from needing to be in compliance with the RAPs, or any other federal, state, and local laws.

### C. Application for Coverage and Annual Operating Fee

1. A person shall apply for coverage under this permit by submitting a completed Notice of Intent to Comply (NOIC) form to the Agency.
2. The NOIC shall include, at a minimum, the following information about the farm:
  - a. Name(s) and mailing address of the owner(s) or operator(s);
  - b. Name and e911 address or latitude/longitude of each facility;
  - c. Specific information about the number and type of animals;
  - d. For each waste storage facility utilized by the applicant:
    - i. name of each waste storage facility; and
    - ii. useable volume of each waste storage facility.
  - e. Total number of acres (owned and leased) available for mechanical land application of fertilizer, agricultural wastes, and imports;
  - f. Estimated amount of agricultural waste generated and imported annually; and
  - g. Estimated amounts of agricultural waste exported annually.
3. A MFO shall submit an annual operating fee to the Agency in the amount defined by 6 V.S.A. § 4858.

### D. Termination of Coverage

1. A permittee whose animal numbers decline below the MFO numbers (see definition of "MFO" above) may seek to terminate coverage under this permit by submitting a completed Notice of Termination (NOT) form to the Agency. The Agency will review the NOT form and will notify permittee if coverage is terminated.
2. A permittee who has submitted a MFO NOT form and then increases animal numbers to the MFO numbers shall submit a new NOIC form.
3. A permittee who maintains animal numbers below the MFO numbers and has not sought to terminate coverage or has sought to terminate coverage but has not received notification from the Agency that coverage is terminated must comply with this permit.
4. The Secretary can make a determination to terminate coverage under the MFO GP when sufficient evidence exists to demonstrate the farm has ceased operations or no longer meets the MFO thresholds.

### E. Requirement to Obtain an Individual Permit



1. The Agency may require that a permittee obtain an individual permit under the MFO Rule. The Agency will notify the permittee in writing that an application for an individual permit is required. Coverage under this permit is automatically terminated when the Agency issues the individual permit.
  2. The Agency may terminate coverage under this permit if a permittee fails to submit an Individual Permit application as required by the Agency and does not request a hearing in a timely manner, then coverage under this permit is automatically terminated at the end of the day for specified submittal of the Individual Permit application.
- F. Requirement to Obtain a Large Farm Operation (LFO) Permit
1. A permittee must apply for and obtain an LFO permit prior to constructing a new barn or expand an existing barn designed to house the LFO animal numbers set forth in 6 V.S.A. § 4851. A permittee who fails to apply for and obtain a LFO permit prior to construction or expansion is in violation of 6 V.S.A. Chapter 215 and may be subject to administrative and judicial enforcement.
  2. A permittee must apply for and obtain an LFO permit to operate a farm which has the LFO animal numbers set forth in 6 V.S.A. § 4851.
- G. Appeal of Secretary's Permit Decision
1. A person aggrieved by a permit decision of the Secretary may seek de novo review by the Environmental Division within 30 days of the decision of the Secretary. A person aggrieved by a final ruling of the Secretary on an application for coverage under a general permit adopted pursuant to Subchapter 5 of 6 V.S.A. Chapter 215 may appeal to the Environmental Division; provided, however, that the appeal shall be limited in scope to whether the medium farm complies with the terms and conditions of the general permit. "A person aggrieved" means a person who alleges an injury to a particularized interest where the injury is attributable to an act or decision by the Secretary under this subchapter and the injury can be redressed by the Environmental Division or the Supreme Court.

### **Section 3: General Standards and Effluent Limitations and Standards**

#### **A. General Requirements**

1. Permittee shall:
  - a. Comply with the RAPs and Medium and Small Farm Operation Rules for Issuance of General and Individual Permits (MFO Rules);
  - b. Properly operate and maintain all facilities, waste management systems and systems of treatment and control that it has installed and/or manages to ensure there are no discharges of agricultural wastes to waters of the State;
  - c. Meet design and performance standards through a compliance schedule when required by the Agency to ensure there will be no discharges of agricultural wastes to waters of the State;
  - d. Demonstrate that it has waste management systems, which may be a combination of waste storage facilities, field stacking, composting, and/or export agreements, capable of storing any waste generated, collected, or imported for a total of 180 consecutive days;
  - e. Operate and maintain all waste storage facilities to ensure there is sufficient freeboard according to the United States Department of Agriculture Natural Resources Conservation Service (USDA NRCS) Waste Storage Facility Practice Code 313 standard; and
  - f. Demonstrate adequate land base to accept all nutrients generated and imported through a nutrient management plan that meets the requirements of the USDA NRCS Nutrient Management Practice Code 590 standard (590 Standard) and the RAPs.

#### **B. Nutrient Management Plans and Recordkeeping**

1. Permittee shall develop, maintain, and implement a field-by-field NMP that meets the requirements of the 590 Standard when fertilizer, agricultural waste, or imported wastes are mechanically land applied. Permittee shall:
  - a. Have this NMP developed or approved by a certified nutrient management planner certified through the NRCS, or an alternative standard approved by the Secretary.
  - b. Maintain a copy of this NMP on site and make it available to the Agency upon request.

2. Permittee shall create, maintain, and retain for a minimum of five years the following records:
    - a. Realistic yield data;
    - b. Field-specific land application of any fertilizer, agricultural wastes, or imported wastes;
    - c. Agricultural wastes exported to another person;
    - d. Any wastes imported to a manure pit or on-farm digester;
    - e. Individual field soil tests and sample analyses for each nutrient source; and
    - f. Any information used in the development of the NMP.
- C. Imports
1. Permittee shall manage the importation of agricultural wastes, wastes, and non-sewage wastes so that the importation does not exceed the 180-day waste storage requirement and the NMP capacity.
  2. When importing agricultural wastes, wastes or non-sewage wastes, permittee shall:
    - a. Maintain records on site for a minimum of five years showing:
      - i. volume of imported wastes;
      - ii. from whom wastes were imported;
      - iii. date(s) of waste importations; and
      - iv. type of waste, nutrient content, and composition of each of the imported wastes;
    - b. Use current representative nutrient analysis when directly land applying imported wastes to determine application rates and maintain records indicating fields receiving applications; and
    - c. Ensure management of imported wastes follows the RAPs and the Non-Sewage Waste Management Program under 6 V.S.A. § 4817, as applicable.
  3. Permittee must only import non-sewage waste from generators who have obtained a relevant Agency of Agriculture, Food & Markets Non-Sewage Waste Management Program authorization or Indirect Discharge Program (IDP) permit through the Vermont Agency of Natural Resources (ANR).
  4. When importing solid waste, permittee must contact the ANR Solid Waste Program to determine if permittee needs to obtain a Solid Waste Certification or Registration if processing or treating solid waste.
- D. Exports
1. When exporting agricultural wastes, permittee shall:
    - a. Have the volume and nutrient analysis for each source documented in its NMP; and
    - b. Provide a representative nutrient analysis to the recipient for each source exported.
- E. Access to Site and Records
1. Permittee shall allow Agency staff to:
    - a. Have physical access to its farming operation to perform the duties to implement this permit and Title 6 V.S.A.;
    - b. Copy records determined by Agency staff to be necessary to ensure compliance with this permit and Title 6 V.S.A.;
    - c. Take photographs determined by Agency staff to be necessary to ensure compliance with this permit and Title 6 V.S.A.;
    - d. Inspect or investigate permittee's facilities, equipment, conservation practices, or areas of operation that are covered by this permit and Title 6 V.S.A.; and
    - e. Sample groundwater sources to ensure compliance with this permit, Title 6 V.S.A. and the Vermont Groundwater Enforcement Standards.

#### **Section 4: Annual Reporting Requirements**

- A. Permittee shall submit an annual report for the previous crop year to the Agency by April 30 of each year including:
1. Maximum number of each type of animal that was housed for 45 days or more in any 12-month period;
  2. Estimated total of agricultural waste generated and imported;
  3. Estimated total of agricultural waste exported to another person;
  4. Total number of acres (owned and leased) for mechanical land application of fertilizer, agricultural waste, and imports;

5. Statement indicating the certified NMP planner or operator who developed the NMP, or documentation that the plan was approved by a certified NMP planner; and
  6. Summary of all manure, litter, and process wastewater discharges from the production area that have occurred in the previous 12 months, including date, time, and approximate volume.
- B. In addition to the annual report, the permittee may be required to submit the following information from the current crop year NMP:
1. The planned Vermont P Index; or
  2. GIS shapefiles of all leased and owned land in the current NMP.
- C. Upon request by the Agency, the permittee shall submit any additional documentation related to the NMP or conservation practices for determining permit compliance.

## **Section 5: Standard Conditions**

- A. Records Retention
1. For a period of five years from the date of creation, permittee shall keep and provide as requested to the Agency:
    - a. Records of all monitoring information,
    - b. Copies of all reports required by this permit,
    - c. A copy of permittee's authorization under this permit, and
    - d. All data and information used to complete permittee's NOIC.
- B. Monitoring and Reporting
1. Permittee shall:
    - a. Routinely monitor the production area(s) to ensure agricultural waste does not discharge to surface waters.
    - b. Report to the Agency any accidental or unexpected discharge of agricultural wastes to surface waters. The Permittee must:
      - i. notify the Agency within 24 hours from the time permittee became aware of the discharge; and
      - ii. submit to the Agency a completed Incident Report form within 5 calendar days of the date permittee becomes aware of the discharge.
    - c. Report to the Agency any planned changes to its farming operation that may result in non-compliance with this permit.
- C. Duty to Mitigate
1. Permittee shall take all reasonable steps to minimize or prevent any adverse impacts to surface waters or groundwaters resulting from noncompliance with this permit.
- D. Duty to Comply
1. Permittee shall comply with the terms and conditions of this permit, the MFO Rules, the RAPs, and 6 V.S.A. Chapter 215.
  2. If permittee fails to comply, the Secretary may, after due notice and hearing, revoke or condition coverage under this permit and may take administrative or judicial enforcement action against permittee.
  3. A permittee may not operate in a manner that causes a discharge of agricultural waste to surface waters or violates the Vermont Groundwater Protection Rule and Strategy, which includes the State groundwater enforcement standards. If a MFO causes a discharge of agricultural wastes to surface waters or violates State groundwater enforcement standards, the MFO may be subject to investigation and enforcement by the Agency of Natural Resources pursuant to 10 V.S.A. Chapter 47 or other applicable statutes.
- E. Effect of Permit
1. Unless terminated, this permit continues in effect for a period of five years from the date of issuance or until the Agency issues a new MFO general permit.