

**Overview of Vermont Law Governing Composting**  
House Committee on Agriculture

**Act 250: Permit Requirements**

10 V.S.A. § 6081: Construction of a subdivision or development requires an Act 250 permit.

10 V.S.A. § 6001(3)(A): “Development” means:

§6001(3)(A)(i): Construction of improvements on a tract or tracts of land involving more than 10 acres of land within a radius of five miles of any point on any involved land, for commercial or industrial purposes in a municipality that has adopted permanent zoning and subdivision bylaws.

§6001(3)(A)(ii): The construction of improvements for commercial or industrial purposes on more than one acre of land within a municipality that has not adopted permanent zoning and subdivision bylaws.

§6001(3)(A)(iii): The construction of improvements for commercial or industrial purposes on a tract or tracts of land involving more than one acre of land within a municipality that has adopted permanent zoning and subdivision bylaws, if the municipality in which the proposed project is located has elected by ordinance to have this jurisdiction apply.

§6001(3)(A)(vi): The construction of improvements for commercial, industrial or residential use above the elevation of 2,500 feet.

10 V.S.A. § 6001(3)(D)(i): Development does not mean “the construction of improvements for *farming*, logging or forestry purposes below the elevation of 2,500 feet.”

10 V.S.A. § 6001(22): Farming, for purposes of Act 250, means:

- (A) the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or
- (B) the raising, feeding, or management of livestock, poultry, fish, or bees; or
- (C) the operation of greenhouses; or
- (D) the production of maple syrup; or
- (E) the on-site storage, preparation and sale of agricultural products *principally produced* on the farm; or
- (F) the on-site production of fuel or power from agricultural products or wastes produced on the farm; or
- (G) the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding.

Environmental Board/Natural Resources Board: Agricultural products principally produced on the farm are those in which “the majority of the weight or volume of the ingredients in the finished product” come from the farm. 51% of the finished product must come from the farm.

**Solid Waste**  
Categorical Certification

10 V.S.A. § 6605c: ANR may, by rule, list certain solid waste categories as eligible for categorical waste certification.

Solid Waste Management Rule § 6-1104: The composting of solid wastes may qualify for a categorical certification if certain siting, application, reporting, and operational requirements are met. A categorical certification shall not exceed five years.

Solid Waste Management Rule § 6-1102(4): "Composting" means the controlled biological decomposition of organic matter through active management to produce a stable humus-rich material.

Solid Waste Management Rule § 6-1102(4)(b) (Siting): A categorical composting facility may not be sited: (1) within 3 feet above seasonal high groundwater, or within 6 feet above bedrock; (2) within 100 feet of Class B Waters as designated by the Nat. Res. Board; (3) within a class I groundwater area; a class I or class II wetland or their associated buffer zones; a class III wetland, unless authorized by ANR; or in a watershed for class A Waters; (4) within an approved public water supply source protection area for a groundwater source serving a public water system unless authorized by ANR; or (5) within 150 feet of a public highway or the property line of adjacent properties.

Solid Waste Management Rule § 6-1102(4)(c) (Application): In order to qualify for a categorical composting certification, the applicant shall submit an application which provides:

- (1) Site plan detailing: (A) location of barriers to unauthorized entry; (B) access roads; (C) location of active compost piles; (D) location of storage for incoming waste waiting to be processed, non-permitted wastes delivered to or generated by the facility, and finished compost; (E) location of scales, if any; and (F) facility size.
- (2) Management plan detailing: (A) expected volume and type of incoming materials; (B) methods for achieving odor control; (C) methods for achieving noise control; (D) methods for controlling vectors, dusts, and litter; (E) prevention and management methods to control storm water, ponding, and leachate in order to protect groundwater quality; (F) methods to properly screen for potential contaminants in incoming waste; (G) fire prevention and control measures; (H) list of equipment to be used; and (I) hours of operation.
- (3) A certificate of service: demonstrating that the applicant has notified all adjoining residences and landowners, and has notified and sent a copy of the application to the municipality where the facility is to be located and, if the facility is proposed to be located on a boundary, to the adjacent municipality by mail about the planned composting operation at least 14 days prior to the submittal of the application.
- (4) A letter from the municipality or solid waste district serving the town where the facility is located that the facility is acceptable under the solid waste implementation plan, if any.

**Solid Waste**  
Full Certification

If a composting facility does not qualify for categorical certification, the facility must obtain a full solid waste management facility certification.

10 V.S.A. § 6605(a): No person shall construct, substantially alter, or operate any solid waste management facility without first obtaining certification from the secretary for such facility, site or activity.

10 V.S.A. § 6605(b): Certification for a solid waste management facility, where appropriate, shall: (1) Specify the location of the facility, including limits on its development; (2) Require proper operation and development of the facility in accordance with the engineering plans approved under the certificate; (3) Specify the projected amount and types of waste material to be disposed of at the facility; (4) Specify the type and numbers of suitable pieces of equipment that will operate the facility properly; (5) Contain provisions for air, groundwater and surface water monitoring and provisions for erosion control, capping, landscaping, drainage systems, and monitoring systems for leachate and gas control; (6) Contain such additional conditions, requirements, and restrictions as the secretary may deem necessary to preserve and protect the public health and the air, groundwater and surface water quality.

10 V.S.A. § 6605(d): New landfills placed in operation after July, 1987 shall be lined and shall collect and treat leachate. ANR may waive the requirement of a liner if it determines that the waste components will not be the source of leachate harmful to health or the environment.

10 V.S.A. § 6605(f): On or before filing any certification or permit application for a facility, the applicant shall notify the municipality where the facility is proposed to be or is located, and any adjacent Vermont municipality if the land is located on a boundary.

Solid Waste Management Rules: The Vermont Solid Waste Management Rules includes additional requirements for full solid waste management facility certification.. including:

Solid Waste Management Rules Subchapter 3: Application requirements

Solid Waste Management Rules Subchapter 4: Facility siting requirements

Solid Waste Management Rules: Facility design requirements

Solid Waste Management Rules: Operation requirements

Solid Waste Management Rules: Financial responsibility requirements

Solid Waste Management Rules: Closure requirements

## **Water Quality**

### **Direct Discharge**

Federal Clean Water Act 33 U.S.C. § 1342: A person must obtain a national pollutant discharge elimination system permit issued by the U.S. EPA or a delegated state prior to discharging a pollutant from a point source into the navigable waters of the United States.

Federal Clean Water Act, 33 U.S.C. § 1362(14): “Point source” means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel, or other floating craft, from which pollutants are or may be discharged. The term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

10 V.S.A. § 1259(a): No person shall discharge any waste, substance or material into waters of the state, nor shall any person discharge any waste, substance or material into an injection well . . . without first obtaining a permit for that discharge from the secretary.

10 V.S.A. § 1259(c): No person shall cause a direct discharge into Class A waters of any wastes that, prior to treatment, contained organisms pathogenic to human beings. Except within a waste management zone, no person shall cause a direct discharge into Class B waters of any wastes that prior to treatment contained organisms pathogenic to human beings.

10 V.S.A. § 1259(d): No person shall cause a discharge of wastes into Class A waters.

10 V.S.A. § 1259(f): The prohibitions in 10 V.S.A. §§1259(c) and (d) shall not regulate AAPs as defined by the secretary of agriculture; nor shall these provisions regulate discharges from concentrated animal feeding operations that require a permit under 10 V.S.A. § 1263.

AAPs § 4.01(a): Agricultural operations shall not create any direct discharge of wastes into the surface waters of the state from a discrete conveyance such as a pipe, ditch, or conduit without a permit from ANR.

AAPs § 4.01(b): Barnyards, manure storage areas, animal holding areas and production areas shall be managed or controlled to prevent runoff of wastes to adjoining waters, groundwater or across property boundaries.

AAPs § 4.05(a): All agricultural wastes including chemicals, petroleum products, containers, and carcasses shall be properly stored, handled and disposed of, so as to minimize adverse water quality impacts.

AAPs § 3.2: Agricultural practices that are governed by these regulations include . . . (i) The on-site storage, preparation and sale of agricultural products principally produced on the farm.

**Water Quality**  
Stormwater Multi-Sector General Permit

Federal Clean Water Act, 33 U.S.C. § 1342(p)(2)(C): A permit shall be required for discharges of stormwater associated with industrial activity.

- Coverage under this permit, known as the multi-sector general permit (MSGP), is required by private and municipal industries identified on the MSGP Standard Industrial Classification (SIC) code list.
- The permit requires facilities to examine potential sources of pollution, implement measures to reduce the risk of stormwater contamination, and test stormwater discharges for sources of pollution.
- Composting facilities are required to seek coverage under the MSGP, unless the facility is primarily an agricultural facility. Neither the federal Clean Water Act nor state law define when a facility is “primarily an agricultural facility.”

**Water Quality**  
Indirect Discharges

10 V.S.A. § 1259(e): No person shall cause any new or increased indirect discharge of wastes into Class B waters without a permit under section 1263.

10 V.S.A. § 1251(3): (3) "Discharge" means the placing, depositing or emission of any wastes, directly or indirectly, into an injection well or into the waters of the state.

10 V.S.A. § 1251(15): "Indirect discharge" means any discharge to groundwater, whether subsurface, land-based or otherwise.

- Composting facilities with leachate lagoons or other potential discharges to groundwater may be required to obtain an indirect discharge permit.

**Water Quality**  
Groundwater

AAPs § 4.05(c): Animal mortalities composted on farm property shall be sited so as to be: (i) at least 100 feet from property lines, wells and surface waters; (ii) not on land subject to annual overflow from adjoining surface waters; and (iii) at least 300 feet from neighboring domiciles.

AAPs § 4.08: (a) Farm operations shall be conducted so that the concentration of wastes in groundwater caused by agricultural operations do not reach or exceed the primary or secondary groundwater quality enforcement standards. . . (b) Farm operations shall be conducted with the goal to reduce the concentration of wastes in groundwater to the preventive action levels (PALs) of the primary or secondary groundwater quality standards identified by Appendix One of the Groundwater Protection Rule and Strategy when monitoring indicates the presence of these wastes in groundwater that exceed the enforcement standard.

## **Water Quality**

### Underground Injection Control

- The federal Safe Drinking Water Act requires states to develop an underground injection control (UIC) program to control the impact of underground injections on drinking water
- Vermont adopted an underground injection control program by rule in 1982.

10 V.S.A. § 1259(a): No person shall discharge any waste, substance or material into waters of the state, nor shall any person discharge any waste, substance or material into an injection well ... without first obtaining a permit for that discharge from the secretary.

UIC Rules § 13.UIC.5: All underground injections are prohibited unless permitted by ANR.

UIC Rules § 13.UIC.3: Underground injection means the subsurface implacement of waste or fluids through an injection well.

UIC Rules § 13.UIC.3: Waste means effluent, sewage, or any substance or material, liquid, gaseous, solid or radioactive, including heated liquids, whether or not harmful or deleterious to groundwater.

UIC Rules § 13.UIC.3: Injection well means any opening i the ground used as a means of discharging waste. Injection well does not mean a surface impoundment, land treatment facility, leachfield, sanitary landfill, or subsurface facility which has a horizontal dimension greater than its vertical dimension, provided that the discharge is permitted by ANR under other authority and does not cause a violation of the drinking water standards.

## **Water Quality**

### ANR and AAFM Memorandum on Understanding

10 V.S.A. § 1259: Requires ANR and the Agency of Agriculture, Food and Markets (AAFM) to develop a memorandum of understanding (MOU) regarding implementation and enforcement of the state agricultural non-point source pollution control program. This memorandum provides that the AAFM is responsible for the implementation and enforcement of agricultural components of the state's non-point source pollution reduction program.

6 V.S.A. § 4810 and 10 V.S.A. § 1259: Require ANR and the AAFM to develop a MOU regarding the implementation and enforcement of the requirements of the federal concentrated animal feeding operation program and the state agricultural water quality program for large, medium, and small farms.