

Compost Study Committee
Meeting Minutes
December 1, 2008

Attendees:

Amy Shollenberger, Director, Rural Vermont
Phil Benedict, Director, Agriculture Resource Management and Environmental Stewardship Division, Agency of Agriculture, Food and Markets
Brian Jerose, Partner, WASTE NOT Resource Solutions, Treasurer, Composting Association of Vermont (CAV)
Teri Kuczynski, District Manager, Addison County Solid Waste Management District
Pat O'Neill, Program Director, Composting Association of Vermont
Melanie Kehne, Attorney, Land Use Panel (Act 250)
Cathy Jamieson, Manager, Solid Waste Program, VT Department of Environmental Conservation (DEC)
Jim Leland, Agency of Agriculture, Food and Markets

Missing:

Karen Horn, Vermont League of Cities and Towns
Scott Dillon, Survey Archeologist, Vermont Department of Historic Preservation

Observers/Staff:

Vicky Viens, Compost Specialist, Waste Reduction Section, DEC
Dave DiDomenico, Solid Waste Program, DEC

Facilitator:

Catherine Gjessing, Director of Policy, Research, and Planning, Agency of Natural Resources (ANR)

Minutes

Approval of the minutes for the November 19, 2008 meeting was tabled until next meeting.

Review of List of Issues the Committee Agrees On:

See list at: http://www.anr.state.vt.us/dec/wastediv/solid/Compost_Work_Group.htm

We need to determine the process for measuring liquid waste. Is it based on a weight or volume (gallons)? We should have a conversion so that both units of measure could be used. This will be used for liquid dairy waste as well. ANR will try to have something proposed for next week.

There was some concern with regulating by cubic yard. You can get a lot of material into a cubic yard using compactors. There may be some advantage to regulate on tonnage versus cubic yard. Brian provided some typical conversion factors for grocery store

waste, 1 cu yd = 1500 lbs. This factor can vary seasonally. There was also some concern about small facilities not having a scale.

We need to revise the language for allowable volumes for the span between the Exempt category and the Small composting facility; between 100 cy and 1000 cy.

Manure and bulking agent discussion. For the on-farm classification, principally produced includes the bulking agent. If a farmer has to bring in bulking agent, composting may not be viable. We need to define clean, high carbon bulking agent and how yard waste fits into this category. (Added to topics to be resolved).

Will Act 250 exempt bulking agents for composting on-site generated manure? If a farmer is bringing manure from other farms, then they would need an Act 250 permit.

Acreage range for small composting facility is acceptable. When we go through rule making process, we would have to have a defined number of acres, not a range. People agree with 4 acres.

The proposed 10 acre size for a medium facility was acceptable to the committee. District Managers tend to agree with 10 acre. There was a question of whether there could be a variance procedure if someone needs more land but otherwise fits the smaller category. Typically not for this type of facility.

Question on whether farms would need to use ACP's or AAP's. AAP's might not want to cover all the things the ACP's cover. The current list includes many possible topics, some of which may be eliminated once the ACP's are developed.

CAV proposed to allow pre and post consumer to 1000 tons. Issue is the contamination that comes with postconsumer waste, such as plastic bags, spoons, etc., as well as pathogens issues. Need outside discussion of pathogen issues. Farmers have right to take whatever materials they want, but the type of material will change who regulates their facility.

Areas to be resolved:

Item no 2. Distributing post consumer waste that might contain meat. Agreement from Ag that risk is low for post consumer material.

No. 3 Mortalities. AAFM will consider narrowing the animals of concern in composting to ruminants. There is concern about what is happening and what can happen at slaughterhouses. Not allowing composting of this material could put slaughterhouse out of business. AAFM feels on-farm mortalities should stay on the farm. The concern is, in part, potential BSE transmission from ingestion. Farm to farm spreading mechanism is an issue. Jury is still out what happens to prions once spread on a field. Some countries don't let them go to backyard facilities.

Ruminant mortality can compost on the farm and spread it on the farm.

USDA currently does not allow slaughter of downer animals. As long as not illegally processing downers, CAV feels BSE is low risk. Question about closed herds. Most farms are pulling in other animals.

Concern to keep ruminant compost on farms, on crop land. Currently, know some material is going on crop land, hay land, to public.

Alternatively, people may be informed; disclosure to consumer. Discussions with Mark Hutchinson of Maine Compost School and Jean Bonhotal of Cornell, they are more concerned about biosolids.

5. Act 250; would minor application process be acceptable?

Act 250 has a municipal exemption. If a municipal project disturbs or physically alters less than 10 acres, it does not trigger Act 250 jurisdiction; if a municipal project has more than 10 acres disturbed it is covered by Act 250. The project has to be done by a municipality and for a municipal purpose.

The Panel wants to keep small and medium facilities under Act 250 jurisdiction. Comment that if there was a regulatory process by the solid waste districts that covered some of the criteria, there might be some way to reduce Act 250 involvement. The District's are inconsistent as to whether they require permits and how they permit.

Are solid waste districts legally considered a municipality? Melanie believes they are, but will check to be sure. Is it acceptable for a municipality to sell compost to fund the project? Would this be exempt from Act 250? Numerous municipally owned and operated transfer stations are required to have Act 250 permits. If multiple municipal sites add up to more than 10 acres, an Act 250 permit is required. Need definition of what would qualify under Act 250 for a municipal site.

Land Use Panel still prefers Act 250 jurisdiction over small and medium facilities. Question of whether we could get list of what their concerns are in writing. What do they think would not be covered that Act 250 covers. Aesthetics, habitat, traffic, historical preservation, etc. are areas that are not covered under other permits. Act 250 has sole jurisdiction in these areas. Also, neighbors are involved under the Act 250 process.

There was a request for a list of Act 250 Criteria. Melanie will send this via email.

Act 250, panel thinks minor permit process would serve the need and not be too difficult. Perception is that it is harder than it is. Question of how long it would take a properly sited facility to go through the Act 250 process and how much it would cost to apply for an Act 250 minor permit. Melanie will check on this.

Two unresolved issues: 1. the role of waste management districts in developing composting facilities (look at Act 250 jurisdiction over municipal projects); and, 2.

whether the LUP would agree to a new exemption for composting with unlimited imports of bulking agents if composting on farm manure only. Melanie will check on both.

Review of Draft List of Concepts for Acceptable Composting Practices (ACP):

The ACP's would be under ANR. They would be prescriptive rather than a standard. Once developed, the ACP's would go through some rule-making process.

Additions to the list:

Operator training/ability

Replace bird management with vector management

Litter control

Run-off management for tipping and storage areas

The phrase "No impact to groundwater" should be revised. Possibly insert "unreasonable" or "objectionable". Are there standard definitions for unreasonable and objectionable? ANR does use these terms for such things as odors and noise. Nuisance is a common law definition.

ANR should set a standard for odor, noise, vectors, etc. A facility is not a nuisance if it meets these standards. No unreasonable discharge to groundwater can be obtained through the proper procedure and meeting standards.

An acceptable feedstock depends on the type of facility you are operating. Would the ACP's apply to medium or large facilities? We would anticipate developing categories within the ACP's. There would be some categories that would cover all size facilities.

ACP's should address whether facilities are allowed to have live animals on site – either as part of or separate from the composting facility. If it is acceptable to allow animals such as chickens on compost piles, then we need to address this in rules.

Question regarding the term office building. Is an office required for such facilities? RV does not want to require an office building for composting facilities. We should be clear about whether the ACP's are requiring a building or simply counting buildings that are part of the facility.

Report:

There will most likely be a few areas that the Committee does not have consensus on. Some members would like to list the various opinions and concerns rather than having a section with dissenting opinions. Legitimate concerns should be named.

Discussion of what is expected in a legislative report. Report should be short and to the point; as brief as one can make it benefits anything. We need to resolve the issues the

legislature has tasked us to do. These sections should be prominent. To the extent that we can, we should present concrete proposals on what the legislature needs to do to fix the problem. Attach appendices with more specific details for those who want to read more. A five page report plus draft legislation would be optimal. If this committee can list what everyone agrees on, Matt can put together draft legislation.

Suggestion to include the chart that ANR developed showing how composting is currently being permitted. Follow that with the five tiered approach the this Committee has developed. It was suggested that a diagram format may work better than a narrative.

Regarding the contact information requirement, some feel it is better to give the legislature a name and number rather than a program.

Discussion on presenting a timeline of events, and particularly how any delay will affect the moratorium on Act 250 requirements. When the moratorium goes away, facilities will go back to the old structure. If the Committee is effective and recommended legislation passes, it is possible that rule making could start as early as May, 2009. Act 250 exemptions would take effect as soon as the Legislature makes them effective. Rule adoption on ACPs or revised AAPs could take a year or longer. A timeline included in the report might be a heads up if an extension is needed for the moratorium.

To Do:

Start writing the report – education section for next week. Update ACP concept list and Areas of Agreement list. Answer questions related to Act 250 jurisdiction.

Next Meeting:

Have the education section of the report drafted for the committee to review.

List contact people for composting for committee to review.

Have information on Act 250 questions raised at this meeting.
Draft a time line of legislation, rule making and moratorium.