

Natural Resources Board



**House Committee on Agriculture, Food Resiliency and Forestry
February 9, 2024**

Topics

- Act 250 Permitting Process Overview
- AOFBs and Act 250 Jurisdiction
- AOFBs and Municipal Jurisdiction
- Act 250 Accessory On Farm Businesses Study

Act 250 Process Overview:

- ✓ **Contact** District Coordinator to determine if permit required.
- ✓ **File application** to show project meets each criteria.
- ✓ **Completeness** determination made by Coordinator.
- ✓ **Review** by District Commission reviews application and determines track of review.
 - ✓ Major with Hearing (15%)
 - ✓ Minor (40%)
 - ✓ Administrative Amendment (40%)
- ✓ **Notice:** Majors (hearing) and Minors (draft permit)
- ✓ **Decision:** Majors (8.5 months), Minors (3.5 months), AAs (6 days) from complete application.

Permit Numbers:

- On average 399 out of 400 applications are granted yearly. An average of 1 denial per year because review criteria not met. Pre-planning, Communication with other parties, and conditions address most issues.
- Cost: \$7.43 for each \$1,000 of construction costs.
- Example: \$20,000 structure direct permitting costs = \$148.50.
- Application = 60-page document addressing 32 criteria
 - Includes information about the land and project description.
 - Not all criteria applicable to each application.

Current AOFBs Regulatory Landscape: Act 250

- By statute, farming exempt from Act 250 permitting.
- Development (construction of improvement for commercial purpose) on farm *may* trigger Act 250 permit
- Farming includes: on-site storage, preparation, and sale of agricultural products *principally produced* on the farm
- Principally Produced = more than 50% (either by weight or volume) of the ingredients or materials contributing to a final agricultural product or products which result from farming and which is stored, prepared or sold at the farm, is grown or produced on the farm (definition in NRB rules)
- **Note:** when development on a farm, only those portions of the parcel or the tract that support the development shall be subject to regulation under this chapter.

Farm stand selling:

- ✓ only sweet corn or other products from the farm
- sweet corn from the farm and neighboring farm's veggies.
- corn syrup drink with water or products from other farms added.
- Farm stand selling non-farm products.

Current AOFBs Regulatory Landscape: Municipal

- No bylaw shall have the effect of prohibiting an AOFB.
- To be eligible, the farm must be subject to the Required Agricultural Practices (RAP rules) and operated by the owner, residents of, or lessee of the farm, and meet the Act 250 definition of *farming*.
- “Accessory on-farm business” means activity that is accessory to a farm and comprises one or both of the following:
 - (I) The storage, preparation, processing, and sale of qualifying products, provided that more than 50 percent of the total annual sales are from qualifying products that are produced on the farm at which the business is located.
 - (II) Educational, recreational, or social events that feature agricultural practices or qualifying products, or both. Such events may include tours of the farm, farm stays, tastings and meals featuring qualifying products, and classes or exhibits in the preparation, processing, or harvesting of qualifying products.

Current AOFBs Regulatory Landscape: Municipal

- “Qualifying product” means a product that is wholly:
 - (I) an agricultural, horticultural, viticultural, or dairy commodity, or maple syrup;
 - (II) livestock or cultured fish or a product thereof;
 - (III) a product of poultry, bees, an orchard, or fiber crops;
 - (IV) a commodity otherwise grown or raised on a farm; or
 - (V) a product manufactured on one or more farms from commodities wholly grown or raised on one or more farms.
- Location. An accessory on-farm business may take place inside new or existing structures or on the land.
- Activities of an accessory on-farm business may be subject to site plan review, and municipalities may adopt a bylaw concerning accessory on-farm businesses that is less restrictive
- Training. The Secretary of Agriculture, Food and Markets shall provide periodic written notification and training sessions to farms subject to the RAP rules on the existence and requirements of this subdivision (11) and the potential need for other permits for an accessory on-farm business, including a potable water and wastewater system permit under 10 V.S.A. chapter 64.

Act 250 AOFB Report

January 15, 2023

Clarify definitions of “principally produced,” “qualifying products,” “farming” and “accessory on-farm businesses.”

Options:

- A. Align the different standards in Title 24, the RAPs and Title 10/Act 250 Rules
 - 1. Title 24: look at the “total annual sales” of “qualifying products” to determine whether something is an AOFB. AOFBs must be on a farm that is subject to the RAPs. More than more than 50 percent of the total annual sales must be from qualifying products that are produced on the farm at which the business is located.
 - 2. RAPs: regulate the “on-site storage, preparation, and sale of agricultural products principally produced on the farm from raw agricultural commodities principally produced on the farm”, and define “principally produced” as “more than 50% (either by weight or volume) of raw agricultural products that are stored, prepared, or sold at the farm are also grown or produced on the farm.”
 - 3. Title 10/Act 250 Rules: look at “weight or volume” of agricultural products to determine whether they are “principally produced” such that they are exempt as farming

- A. Allow for AOFBs to sell more qualifying products “obtained from another farm.”

- B. Expand the definition of “qualifying products.”

- C. Increase AAFM educational outreach.

More precisely define what types of businesses qualify as AOFBs

Options:

- A. Distinguish between “educational” and “recreational, or social events.”
- B. Specify whether restaurants and/or wedding venues constitute accessory on-farm businesses, and/or establish appropriate limitations or thresholds.
- C. Define AOFBs on a use basis.

Treatment of AOFBs in Act 250

Options:

- A. Maintain the status quo under Title 10.
- B. Exempt AOFBs under defined circumstances.
e.g. size of the AOFB; if the town has zoning and subdivision bylaws
- C. Exempt all AOFBs from Act 250 jurisdiction.