

Agency of Agriculture, Food & Markets  
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[www.Agriculture.Vermont.gov](http://www.Agriculture.Vermont.gov)

Water Quality Division  
Laura DiPietro, Director

**CERTIFIED MAIL 7017 2680 0000 4188 4501**  
**RETURN SERVICE REQUESTED**

April 25, 2019

Mr. Joe Allen  
Allendale Farm  
2357 Jersey Street  
Vergennes, Vermont 05491

**Corrective Action Warning Letter**

**WQ Case Reference Number: WQ-171-2019**  
**Docket: AAFM # 2019-04-03 MF**

Pursuant to 6 V.S.A. § 4992, the Water Quality Division of the Vermont Agency of Agriculture, Food and Markets (the Agency) puts Joe Allen and Allendale Farm (collectively "The Farm"), with the Main Farm located at 2357 Jersey Street, Panton, Vermont, on notice of having violated Vermont's agricultural water quality laws and regulations, including the Farm's General Permit for Medium Farm Operations (MFO) and the Required Agricultural Practices Rule (RAPs). Specifically,

- 1. The Farm does not have a waste management system capable of storing all waste generated and imported to the Farm for a total of 180 consecutive days. This is a violation of MFO General Permit Section 6(a)(1).**
- 2. The Farm spread manure during the Winter Manure Spreading Ban in a manner inconsistent with the verbal approval provide to the Farm by the Agency on March 11, 2019, in violation of RAP Section 6.06(a).**

**I. Factual Description of Violations**

1. Allendale Farm is regulated by the Agency as a MFO.
2. On March 8, 2019, Joe Allen sent an email to Tyler Gingras, engineer with the Agency and the Natural Resources Conservation Service (NRCS), stating that Agency Water Quality Specialist Steven Cash was looking for information on the amount of manure the Farm generates each day. Mr. Gingras provided Mr. Allen with the following email response. "Based on some rough numbers which include precip on your tributary area and 520 milkers, your monthly volume heading to the pit is about 83,000 cf = 620,900 gal. By that number, your pit would have ~ 4-4.5 months storage from empty to strike full." Using the more generous time frame of 4.5 months, that would mean the Farm has approximately 135 days of storage in the Farm's manure pit.



3. On Monday, March 11, 2019, Mr. Joe Allen called Laura DiPietro, Director of the Agency's Water Quality Division, to request an exemption to the Winter Manure Spreading Ban ("the ban"). Because Mr. Allen represented that the manure pit was currently overtopping and because the weather forecast was calling for warm and rainy weather for Thursday (March 14) and Friday (March 15) of that week, Director DiPietro provided Mr. Allen with a verbal approval to begin removing only the equivalent of five days-worth of manure generation from the Farm's Manure Pit. The verbal approval was intended to gain sufficient storage in the Manure Pit until a proper, written, exemption could be issued, and the weather and field conditions would be improved. Director DiPietro suggested that Mr. Allen follow up with the Agency on Friday (March 15) of that week to discuss the need for any additional manure spreading prior to the end of the ban on April 1.

4. On Thursday, March 14, 2019, Mr. Jason Whitney, a Custom Manure Applicator with Whitney's Custom Farm Work, called the Agency to ask whether he could continue to spread manure for the Farm. Mr. Whitney spoke with Director DiPietro and reported that he had spread 90 loads of manure at approximately 6,000 gallons per load for a total approximate volume of 540,000 gallons. Based on Mr. Gingras' calculated estimate that 620,900 gallons are added to the Farm's Manure Pit every month, approximately 20,700 gallons are added to the Farm's Pit daily. Five days-worth of manure would have totaled approximately 105,000 gallons.

5. Mr. Whitney told Director DiPietro that the removal of 540,000 gallons of manure would provide the Farm with seven weeks-worth of storage, or until May 1, 2019. The Agency's verbal spreading approval was for the removal of the equivalent of five days-worth of manure generation. Mr. Whitney informed Director DiPietro that Joe Allen told him he needed to remove 1.2 million gallons from the Manure Pit in five days.

## **II. Required Corrective Action(s)**

1. The Farm must provide the Agency with a plan outlining how the Farm will provide for the required 180 consecutive days of storage for all wastes generated and imported to the Farm within 30 days of receipt of this letter.
2. The Farm must abide by the specific conditions outlined in an exemption to the Winter Manure Spreading Ban, whether provided verbally or in writing, and must contact the Agency and receive authorization prior to spreading manure in excess of the amount approved in an exemption.

### **Written Response and Plan Due within 30 Days**

Within 30 days of the date you receive this letter, you must respond in writing with a plan outlining the specific actions you will take, along with an implementation schedule, in order to cure the violation(s) outlined above. If you have already addressed the problem, you must still respond by documenting what specific actions have been taken to cure the violation(s). The action plan, whether proposed or already implemented, must be acceptable to the Agency or a revised plan and/or timetable for the completion of work will be necessary.

**Attached, please find a list of State and Federal programs available to assist you in correcting the violation(s).**

**PLEASE NOTE:** Failure to promptly submit an acceptable written corrective action plan and cure the violation(s) may lead to further enforcement actions pursuant to 6 V.S.A. §§ 4993, 4994, or 4995.

### **III. Permit Conditions, Statutes, or Rules Violated**

The facts set forth in Section I violate the following:

#### **General Permit for Medium Farm Operations**

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#### **Section 6. Waste Management System Conditions**

##### **(a) Structural Design and Performance Standards**

- (1) A MFO shall have a waste management system capable of storing all waste generated and imported to the farm for a total of 180 consecutive days.

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#### **Required Agricultural Practices Rule**

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##### **6.06 Manure Spreading Exemption**

- (a) Manure and other agricultural wastes shall be land applied consistent with the requirements of this section unless the Secretary grants an emergency exemption because of an emergency situation such as the structural failure of a waste storage facility or has granted a seasonal exemption consistent with Section 6.06(b) – (d). In granting an emergency exemption, the Secretary shall establish requirements so that manure will be applied on fields in a manner with the least likelihood of generating runoff to surface waters.

### **IV. Legal Authority and Jurisdiction**

The Agency has legal authority to bring this action pursuant to 6 V.S.A. §§ 15, 16, 4849-4861, and 4991-4996.

### **V. Further Options**

The Agency, as the state governmental agency regulating agricultural non-point source pollution, has issued this Corrective Action Warning Letter to serve as written warning and provide you with an opportunity to voluntarily achieve regulatory compliance. It is hoped that you will promptly respond in writing as required by law and cure the violation(s) so that no further regulatory actions will be necessary.

If you wish to informally discuss this matter, please contact David Huber, Chief Policy Enforcement Officer, at (802) 461-7160. If you wish to challenge the factual allegations upon which the Corrective Action Warning Letter is based, please send a request within 15 days to:

Anson B. Tebbetts, Secretary  
ATTN: David Huber  
Vermont Agency of Agriculture, Foods, and Markets  
116 State Street  
Montpelier, Vermont 05620-2901



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Anson B. Tebbetts, Secretary (or designee)  
Vermont Agency of Agriculture, Food and Markets

4/25/19  
Date