



Guidance on Waiver of Act 250 Permitting Requirements in Response to Severe Storm 2023

Adopted: July 17, 2023; Effective upon adoption

Revised: October 12, 2023; December 19, 2023; January 14, 2024

This guidance provides information on the applicability and process for implementing [Addenda 1, 6, 9 and 10 of Executive Order 03-23](#) (the Addenda). The Addenda waive Act 250 permitting requirements for emergency earth extraction, concrete, and asphalt operations for the rebuild of critical State or municipal infrastructure impacted by Severe Storm 2023.

Applicability

1. To operate under the waiver provision of the Addenda, your operation must meet the following:
 - ✓ involve earth extraction, concrete, or asphalt operations;
 - ✓ provide material for Vermont state and municipal infrastructure;
 - ✓ relate to the Severe Storm 2023 recovery (e.g., rebuild of roads);
 - ✓ return to pre-emergency operations by February 15, 2024;
 - ✓ stabilize the site during winter (February 15, 2024 through May 15, 2024); and
 - ✓ return to pre-emergency site conditions (reclamation) by May 15, 2024.

2. The Addenda allow your operation to:
 - ✓ Avoid compliance with existing Act 250 Land Use Permit conditions on the property including operating hours, noise and blasting, crushing, area, rate, depth, or volume of extraction, and related trucking limitations; and
 - ✓ Operate on permitted and unpermitted lands without a permit or permit amendment. This includes operations on existing permitted properties, dormant pits, abandoned pits, previously reclaimed sites, or pre-existing pits operating beyond historic limits.

Process

3. To document your use of the waiver provided by the Addenda, upon commencement of operations or as soon as practicable thereafter, submit [Documentation Form: Severe Storm 2023 Recovery](#), to the NRB (email to nrb.general@vermont.gov).

***Note**, only fill out the form if:

A. You are not already authorized by existing law (e.g., you will not be operating consistent with a current permit, not operating at pre-existing levels, or operating on a property that would trigger the need for a permit);

B. You operated under a previous addendum and filed a notice of completion with the NRB, but will now continue operations under the extension; or

C. You did not previously operate under the addenda and now intend to operate under the addenda.

4. Follow these best practices to ensure your operation will be able to return to pre-emergency operation requirements by February 15, 2024, and pre-emergency conditions by May 15, 2024:
 - Observe limits of disturbance and buffers as to avoid sensitive areas such as wetlands, ponds, property boundaries, streams, and the seasonal high groundwater table;
 - For instance, extraction into additional phases may be necessary, but clearing of areas beyond existing limits of disturbances may result in difficulty returning to pre-emergency conditions.
 - Be a good neighbor. Practice sensible dust and erosion prevention and sediment control measures; and
 - Comply with existing Land Use Permit Conditions to the fullest extent possible to facilitate your transition to pre-emergency conditions.

Post-Emergency Standards/ Deadline:

5. ***Operations. No later than February 15, 2024***, all permitted gravel pits, rock quarries, asphalt plant and concrete plant operations must come into full compliance with operational Act 250 permitting requirements. All operations, permitted and unpermitted, shall return to pre-emergency operations.
6. ***Stabilization. No later than February 15, 2024 and until May 15, 2024 (unless reclaimed in accordance with the standards below in item 7. prior to that date)***, all areas of disturbed earth shall conform with the “Requirements for Winter Construction” standards and specifications of the Vermont Department of Environmental Conservation’s [*Low Risk Site Handbook for Erosion Prevention and Sediment Control \(February 2020\)*](#).
7. ***Reclamation. No later than May 15, 2024***, all permitted and unpermitted operations shall meet the following standards for disturbed areas unless otherwise authorized by a permit:
 - **sand or gravel extraction** sites must reclaim in accordance with the reclamation standards in USDA Natural Resources Conservation Service (NRCS) [*Vegetating Vermont Sand and Gravel Pits*](#);
 - **rock extraction** sites must reclaim in accordance with the Reclamation Plan standards in the Vermont Geological Survey’s (VGS) [*Practice for Review of Rock Extraction Activities Under Act 250 Criteria 9D and 9E*](#);
 - **asphalt or concrete** plants must be restored to their pre-emergency condition, with all soils stabilized and all associated material stockpiles, equipment, and infrastructure removed from the site, unless otherwise allowed under an existing permit.
8. **No later than June 15, 2024**, submit documentation (photos and brief summary) of complete reclamation or site restoration to the NRB (email to nrb.general@vermont.gov) to demonstrate compliance with the above standards (items 6-7). If operations did not exceed permitted areas of disturbance, photos are not necessary.

Failure to comply in accordance with the applicable standards by May 15, 2024, may result in enforcement action.