

I. Problems with the existing regulatory structure

1. Lack of clarity on the management of compost leachate. Residual (biosolid) management should not apply to compost leachate.
2. Lack of clear standards for the management of a large or medium commercial composting facility.
3. Composting triggers Act 250 jurisdiction when more than 50 percent of the ingredients are not produced on the farm, regardless of the environmental impacts of the operation.
4. Act 250 review may be regulatory overkill for composting facilities with relatively minor impacts; particularly those already subject to ANR solid waste oversight.
5. Farmers who are composting commercially would prefer to be regulated by AAFM.
6. In order for AAFM to manage composting beyond impact to water quality, an expansion of AAFM Secretary authority may be necessary.
7. Some elements of the full solid waste certification do not make sense for composting.
8. Anaerobic digestion, methane to energy, and some other organics management techniques need to be addressed and clarified. This should happen outside this process.

II. Acceptable elements of the existing regulatory structure.

1. The requirements of a categorical certification are sufficiently protective for most composting operations.
2. The requirements of a categorical certification are not overly burdensome for most composting operations.
3. Solid waste rules have a tiered framework that can serve as a starting point for new regulation.

III. Areas that may be issues that are not resolvable because of federal program implications.

1. Making all definitions and “jurisdictional triggers” consistent across state and federally delegated programs.
2. Transfer of a significant number of programs to AAFM because of federal delegation implications.

* * * NEW STRUCTURE * * *

[note: some requirements under these structures may reflect existing regulatory practices,
waste volume limits for the categories must be explored and further defined,
the absence of oversight for some issues which may impact neighbors
such as traffic and aesthetics may be of concern and should be discussed]

- A. Establish de minimus composting not subject to state regulation (e.g. backyard composting). This would include composting less than 100 cubic yards/year of inputs.
- B. On farm composting of materials would be governed by expanded AAPs that would:
 - (1) allow for the unlimited importation of manures and clean high carbon bulking agents;
 - (2) allow for the importation of less than 1000 cubic yards pre-consumer food wastes;
 - (3) establish AAPs that avoid the jurisdiction of federal permits;
 - (4) establish AAPs that manage compost based on the nature of the inputs to the compost;
 - (5) redefine the jurisdiction of Act 250 with respect to composting so that compost principally produced, excluding from the principally produced analysis carbon bulking agent when the compost is solely from manure, or principally used on the farm are considered agricultural and not subject to Act 250.

Note: If ANR or AAFM finds non-compliance with AAPs then the facility is considered either a small or large commercial composter.

Note: On-farm management of animal mortalities could be managed by the AAFM in consultation with ANR. Finished compost containing animal mortalities could not be shipped or used off site.

- C. Municipal or community based composting would be encouraged by:
 - (1) defining the activity through the amount of inputs to the compost (Less than 1,000 to 5,000 cubic yards per year of off-site food waste and yard waste, manure and bulking agent unlimited) and the distance those inputs travel to be composted (the majority of the waste inputs not more than 10 mi.)
(Alternatively: less than 1000 cubic yards per year of off-site food waste and less than 5,000 cubic yards per year of off-site food waste and yard waste combined);

- (2) facilities would be managed through implementation of ACPs and BMPs, facility would need to register with ANR that they meet requirements and report inputs and finished compost;
- (3) facility design and management in accordance with a prescriptive set of standards and/or site requirements would avoid the jurisdiction of federal permits;
- (4) BMPs would manage the compost based on the inputs to the compost; and
- (5) allow for the sale of compost without triggering a full Act 250 review.

Note: If ANR finds non-compliance with ACPs/BMPs then the facility is considered either a small or large commercial composter.

D. Small scale commercial composting

- (1) Activities that do not meet A, B, C, and are less than 5,000 to 40,000 cubic yards off-site food waste and yard waste combined; manure and bulking agent unlimited; may include animal mortalities [animal mortalities could also be managed through an emergency type permit where warranted]
(Alternatively: less than 5,000 cubic yards per year of off-site food waste and less than 40,000 cubic yards off-site food waste and yard waste combined ;; or include animal mortalities [manure and bulking agent unlimited;
- (2) Increased regulatory controls -- facilities managed through a "minor" permitting system administered at ANR;
- (3) Increased flexibility in siting, facility design, and inputs;
- (4) Site managed through a facility management plan and a plan to manage compost leachate approved as part of permit; and
- (5) ANR permitting would be handled through a single permit;
- (6) sites subject to Act 250 review [or limited 250 review?].
- (7) animal mortalities would be handled under a special permit that restricts the use of the compost to the site of the mortality or the location where the composting took place.

E. Large scale commercial composting

- (1) Facilities that are more than 5,000 cubic yards per year of off-site food waste or 40,000 or more cubic yards off-site food waste and yard [unlimited waste combined (amounts greater than those of small scale commercial)]; manure and bulking agents?]
- (2) Increased regulatory controls – subject to all ANR permitting processes;
- (3) subject to Act 250 review.