

COVER SHEET FOR FINAL PROPOSAL

Notice Number 2021-119 Rule Number Env-Sw 408.08, Env-Sw 600, Env-Sw 1503.10 and 1503.18

1. Agency Name & Address: Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	2. RSA Authority: <u>RSA 149-M:7, II, III, V, XIV, XV</u> 3. Federal Authority: <u>n/a</u> 4. Type of Action: <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Repeal <input type="checkbox"/> Readoption <input checked="" type="checkbox"/> Readoption w/amendment
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5. Short Title: Amendments to Compost Facility Requirements

6. Contact person for copies and questions:
Name: Debra Sonderegger Title: Enforcement Program Coordinator
Address: Department of Environmental Services Phone #: (603) 271-0674
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

7. Yes No Agency requests review by Committee legal staff in the Office of Legislative Services and delayed Committee review pursuant to RSA 541-A:12, I-a

8. The rulemaking notice appeared in the Rulemaking Register on **November 10, 2021**.

**SEE THE INSTRUCTIONS--PLEASE SUBMIT 2 COPIES OF THIS COVER SHEET
AND 2 COPIES OF THE FOLLOWING:
(and numbered correspondingly)**

9. The "Final Proposal-Fixed Text", including the cross-reference table required by RSA 541-A:3-a, II as an appendix.
10. Yes N/A Incorporation by Reference Statement(s) because this rule incorporates a document or Internet content by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.
11. Yes N/A The "Final Proposal-Annotated Text" indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(e).
12. Yes N/A The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

Notice Number **2021-119**

Rule Number **Env-Sw 408.08, Env-Sw 600,
Env-Sw 1503.10 & 1503.18**

<p>1. Agency Name & Address:</p> <p>Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p>	<p>2. RSA Authority: RSA 149-M:7, II, III, V, XIV, XV</p> <p>3. Federal Authority: n/a</p> <p>4. Type of Action:</p> <p>Adoption X</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment X</p>
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5. Short Title: **Amendments to Composting Facility Requirements**

6. (a) Summary of what the rule says and of any proposed amendments:

The proposed rules are intended to clarify and simplify existing composting facility requirements consistent with the purpose of RSA 149-M to protect human health and the environment through proper management of solid waste.

The existing rule, Env-Sw 400, establishes requirements for waste collection, storage, and transfer facilities. The proposal adopts a new section, Env-Sw 408.08, to establish a permit-exemption for food waste drop-off facilities.

The existing rule, Env-Sw 600, establishes requirements for siting, design, operation, and closure of solid waste composting facilities. The proposal readopts with amendments the chapter to: (1) establish new facility siting criteria; (2) revise and reorganize facility design and operating requirements; (3) revise requirements for permit-by-notification food waste composting facilities to allow composting of meat and dairy matter; and (4) revise existing permit-exemptions and establish new permit-exemptions for certain types of composting facilities.

The existing rule, Env-Sw 1500, establishes criteria and procedures by which waste-derived products may be certified for distribution and use. The proposal (1) readopts with amendments Env-Sw 1503.10 to revise the criteria in Env-Sw 1503.10 for use and distribution of a compost derived from solid waste; and (2) adopts a new section, Env-Sw 1503.18, to establish criteria for use and distribution of woody tailings resulting from the screening of finished product.

The proposed rules eliminate the existing compost classification system, and in its place, add new compost quality requirements, including annual compost quality testing requirements for all facilities. The proposed rules clarify the existing recordkeeping requirements and add new recordkeeping requirements.

Under the existing rules, composting facilities operating under a permit-by-notification are prohibited from accepting meat/dairy matter. The existing rules require entities seeking to engage in meat/dairy composting to obtain a standard permit, which has higher costs than a permit-by-notification and represents a more complex permit application process. Because the proposed rules will allow entities to engage in meat/dairy composting under a permit-by-notification, there may be a reduction in costs for the regulated community.

The proposed rules also include permit-exemptions for certain types of small-scale composting facilities and food waste drop-off facilities, which are intended to make small-scale organic waste diversion and composting easier and more accessible.

6. (b) Brief description of the groups affected:

Owners and operators of existing regulated compost facilities and new compost facility permit applicants.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule Section(s)	State Statute(s) Implemented
Env-Sw 408.08, Env-Sw 600	RSA 149-M:6, III; RSA 149-M:7, II, III, V, VIII, XIV; RSA 149-M:9
Env-Sw 1503.10 and Env-Sw 1503.18	RSA 149-M:7, II, V and XV; RSA 149-M:9, XIV

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Debra Sonderegger** Title: **Enforcement Coordinator**
Address: **Department of Environmental Services** Phone #: **(603) 271-0674**
29 Hazen Drive Fax#: **(603) 271-2456**
P.O. Box 95 E-mail: **debra.sonderegger@des.nh.gov**
Concord, NH 03302-0095

The rules also can be viewed in PDF in the Public Comment Opportunities section of the NHDES website at <https://www.des.nh.gov/public-comment-opportunities> and selecting "Rulemaking"

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **4:00 p.m. on Tuesday, December 20, 2021**

Fax

E-mail

Other format (specify)

9. Public hearing scheduled for:

Date and Time: **Monday, December 13, 2021 at 1:30 PM**

Room 208-C, DES Offices, 29 Hazen Drive, Concord NH

NOTE: NHDES security procedures require all visitors to sign in and present photo identification (such as a driver's license). If you plan to attend the public hearing, please bring photo identification with you.

The public may also attend the hearing virtually via GoTo Webinar which can be accessed by registering through the following link:

<https://attendee.gotowebinar.com/register/3590055417055876621>

Place:

Meeting number (access code): After registering using this link, interested participants will be provided a confirmation email with information about joining the hearing remotely.

You also may join the meeting by phone:

Call in Number: 1 (415) 655-0060

Access Code: 628-882-304

Contact Julie Ashton at Julie.A.Ashton@des.nh.gov or (603) 271-7837 if you have any questions or technical issues connecting to the hearing.

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant):

FIS #21:121,

dated 11/03/2021

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

There is no difference in cost when comparing the proposed rules to the existing rules. Not applicable to Env-Sw 408.08 which is new.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

There is no cost or benefit attributable to the proposed rules. Any cost or benefit associated with these rules is due to RSA 149-M and not the rules.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rules are intended to clarify and simplify the existing composting facility requirements to protect human health and the environment through proper management of solid waste, to include: establishing a permit-exemption for food waster drop-off facilities; new facility siting criteria, revision and reorganization of facility design and operating requirements; allow for composting of meat and dairy matter; provide new compost recordkeeping systems; and establish criteria and procedures by which waste-derived products may be certified for distribution and use. Accordingly, these proposed rules do not mandate or assign any new, expanded, or modified programs, or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivision, and so do not violate Part I, Article 28-a of the N.H. Constitution.

Unclear. While it is probable that there is no violation of Article 28-a caused by the proposal, the explanation here appears insufficient to determine if there is a violation. The fact that the intent of the proposal is to “clarify and simplify the existing composting facility requirements” does not mean there is no additional cost. The language should have been clear that there is no additional cost if that’s the case. The Committee may have questions for the agency as to whether the proposal violates the Constitution or not and therefore whether it is beyond the agency’s authority and contrary to legislative intent.



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Robert R. Scott, Commissioner

**FP 2021-119, Env-Sw 408.08, Env-Sw 600, and Env-Sw 1503
Amendments to Composting Facility Requirements
Summary of Comments on Initial Proposal with DES Responses
February 25, 2022**

Introduction

The proposed rules, Env-Sw 408.08, Env-Sw 600, and Env-Sw 1503 provide for the following:

1. Env-Sw 400 establishes requirements for siting, design, operation and closure of solid waste collection, storage, and transfer facilities. An amendment is proposed to add a new section, Env-Sw 408.08 to establish a permit-exemption for food waste drop-off facilities.
2. Env-Sw 600 establishes requirements for siting, design, operation, and closure of solid waste composting facilities. This proposal readopts with amendments the chapter to (1) establish new facility siting criteria; (2) revise and reorganize facility design and operating requirements; (3) revise requirements for permit-by-notification food waste composting facilities to allow composting of meat and dairy matter; and (4) revise existing permit-exemptions and establish new permit-exemptions for certain types of composting facilities.
3. Env-Sw 1500 establishes criteria and procedures by which waste-derived products may be certified for distribution and use. Amendments are proposed to (1) revise the criteria in Env-Sw 1503.10 for use and distribution of a compost derived from solid waste, and (2) add Env-Sw 1503.18, which would establish criteria for use and distribution of woody tailings resulting from compost screening activities.

The New Hampshire Department of Environmental Services (NHDES) conducted a hybrid public hearing at the NHDES Offices at 29 Hazen Drive, Concord, NH and via GoTo Webinar on December 13, 2021. Three members of the public attended the hearing in person and eleven members of the public attended remotely. The public comment period remained open through December 20, 2021, to allow the submittal of written comments. By the close of the comment period, 18 commentors submitted written comments. The comments and the Department's responses are summarized below. The written comments received from the Office of Legislative Services, Administrative Rules (OLS) were mostly editorial, with the exception of those addressed on page 7.

Env-Sw 408.08 and Env-Sw 600 generally re: Permit Exemptions

Comment 1:

The volume limits for waste receipt proposed in Env-Sw 408.08 and Env-Sw 608.05 are too restrictive for municipal entities and should be increased.

Comment 2:

Current and future practices at the Lee Transfer Station for food waste collection may violate the storage volume and time limits required by Env-Sw 408.08.

Response to Comments:

The proposed exemptions in Env-Sw 408.08 (for food waste drop-off facilities) and Env-Sw 608.05 (for community composting facilities) are not envisioned specifically for municipal-scale facilities. Instead, the exemptions are intended to establish a threshold for small-scale facilities that NHDES believes would be able to operate without the need for a permit. The permit-exemptions proposed in this rulemaking could be used to establish a distributed network of “satellite” facilities to increase access in rural areas and may make it easier for someone to start a small-scale facility and perhaps expand to a permitted facility as operations grow. In cases where a municipality seeks to establish a facility that does not fit within the limitations of the permit-exemptions, the municipality would be eligible to seek a permit-by-notification, which does not have an application fee; is relatively easy to obtain; and provides much higher thresholds for receipt of waste.

With regard to the Lee Transfer Station, the proposed permit exemption in Env-Sw 408.08 does not apply because the facility is already operating as a permitted collection/storage/transfer facility. Therefore, food waste collection activities at this facility, or similar permitted transfer stations, would be subject to the terms of the facility’s permit and the requirements of the Solid Waste Rules applicable to collection/storage/transfer facilities.

Env-Sw 408.08 and Env-Sw 607.02 and Env-Sw 608.05 re: Units of Measurement

Comment:

The volume limits for waste receipt proposed in Env-Sw 408.08, 607.02 and 608.05 are difficult to compare because they use different units of measurement.

Response:

The different units of measure in the referenced rules were not selected for ease of comparison between the various facility types. Instead, they are intended to provide thresholds that a facility operator might be able to realistically track for compliance purposes. The proposed permit exemptions in Env-Sw 408.08 and Env-Sw 608.05 use volumetric thresholds because very small-scale facilities may not have the means to measure weights, so visual assessment of volumes would likely be more feasible given the smaller quantities being managed at such facilities.

Env-Sw 600 generally re: Standards for per- and poly-fluoroalkyl substances (PFAS)

Comment:

The rules should address presence of PFAS in certain compostable feedstocks received by a composting facility, such as meat and dairy products, as well as PFAS in the finished compost produced by facilities.

Response:

The topic of PFAS in the waste stream is an emerging field of study. NHDES has committed significant resources to investigating the issues around PFAS, which are widespread and varied. NHDES continues to monitor, review, evaluate and respond to evolving information and data regarding PFAS. Although New Hampshire does not presently have standards for PFAS concentrations in soil, this is an area under investigation. When and if such soil standards are adopted, NHDES would evaluate how the standards might be applied to production, distribution, and use of compost.

Env-Sw 603.02 re: Siting Requirements

Comment 1:

The setback distances proposed in Env-Sw 603.02(a)(1)-(2) relative to private wells, surface waters & wetlands should be increased from 75' to 150.'

Comment 2:

Env-Sw 603.02 may need to reference the Shoreland Protection Act (RSA 483-B), which requires a solid waste facility to be located 250 ft from a public water body.

Comment 3:

The siting requirement in Env-Sw 603.02(a)(3)c, which specifies separation from sand/gravel deposits, may present a problem for siting a composting facility at our transfer station.

Comment 4:

Several of the siting criteria proposed in Env-Sw 603.02 do not match the siting requirements for carcass composting specified in the Manual of Best Management Practices for Agriculture in New Hampshire (published by the NH Department of Agriculture, Markets and Food).

Response to Comments:

The Department has decided not to revise the proposed minimum 75-foot setback to private wells, surface waters and wetlands. The distance is consistent with setback requirements contained in other provisions of the of the Solid Waste Rules, as well as minimum setbacks established in other rules administered by NHDES that regulate drinking water and water quality. NHDES may revisit the setbacks in the future as part of a more comprehensive review of setback requirements. It should be noted that in cases where a more stringent setback applies, it would supersede this 75-foot requirement. For example, RSA 483-B (The Shoreland Water Quality Protection Act) applies to all public waters of the State and prohibits the management of solid waste within 250 feet of the reference line of such waters. The setback proposed in this rulemaking is intended to provide a minimum level of protection in situations where a more restrictive requirement does not already exist in statute or rule.

Regarding the suggestion that Env-Sw 603.02 should refer to RSA 483-B, NHDES has determined that doing so would be redundant. The provisions of RSA 483-B apply universally to all solid waste facilities, not just composting facilities. The universal facility siting requirements in Env-Sw 1003 already refer to RSA 483-B (see Env-Sw 1003.06), as well as other statutes that might impact siting of a solid waste facility.

NHDES agrees that the 2-foot separation distances proposed in Env-Sw 603.02(a)(3) could potentially create a hardship for siting of a composting facility where bedrock or sand and gravel deposits are close to the ground surface. In consideration of this comment, NHDES has revised the proposed rule to specify that the 2-foot vertical separation from bedrock or sand/gravel would only be required in cases when the facility's waste collection, storage and processing areas are not located on an impermeable surface to prevent infiltration of nutrients into the ground. The revised language does not apply in locations where the seasonal high-water table is close to the ground surface because it is unlikely such areas would be able to support a structurally-sound working surface.

With respect to the comment comparing the siting requirements in Env-Sw 603.02 with siting standards for composting of animal carcasses provided in the *Manual of Best Management Practices for Agriculture in New Hampshire*, NHDES presumes that the concern (although not stated explicitly) is that these two sets of siting requirements should match to avoid regulatory conflicts for facilities that compost animal carcasses. As proposed in this rulemaking, Env-Sw 608.04 provides a permit-exemption for agricultural facilities that compost animal carcasses. As stated in the conditions of that permit-exemption, composting of the carcasses must be conducted in compliance with the guidelines established in the *Manual of Best Management Practices for Agriculture in New Hampshire*. Therefore, there is no conflict; any siting requirements specified in the Manual apply to facilities composting carcasses under the permit-exemption.

Env-Sw 605 generally re: Monitoring and Testing

Comment 1:

The Proposed monitoring and management requirements in Env-Sw 605.02(f)&(g) and Env-Sw 605.03 seem to require composting to occur in windrows, piles, or vessels. We would prefer an approach more accepting of other methods, or at least contemplation of requirements for an alternative composting process.

Comment 2:

The proposed monitoring and testing requirements in Env-Sw 605.02(g) through (i) may stress small towns with financial and staffing concerns. Financial support from the State would help.

Comment 3:

The proposed testing requirements for finished compost are onerous and would be burdensome for facility operators.

Response to Comments:

NHDES is not aware of composting systems that would not fit into the noted categories: windrows, piles, or vessels. These categories are derived from terminology used in 40 CFR Part 503, which is the basis for the pathogen reduction requirements specified in Env-Sw 605.03. This terminology is generally accepted across the composting industry and should be inclusive enough to encompass a wide range of potential composting methodologies.

Regarding concerns that the proposed monitoring and testing requirements would be burdensome, it should be noted that these requirements are largely in line with requirements in neighboring states. As noted above, the requirements in Env-Sw 605.03 are modeled after 40 CFR Part 503, which has become a widely accepted industry standard for assuring pathogen reduction in composting a variety of materials, including food waste composting. These requirements are already contained in the existing rules; the amendments proposed in this rulemaking simply relocate them within Env-Sw 600 and clarify some language to more closely follow the provisions of 40 CFR Part 503. In accordance with the Part 503 standards, Env-Sw 605.03 requires the composting process to be maintained at a certain temperature for a specified period of time to assure that the presence of pathogenic organisms has been substantially reduced. The only way to measure compliance with these requirements is to monitor internal temperatures within the composting materials.

With regard to the annual testing requirements proposed in Env-Sw 605.02(i), such testing is intended to assure that a finished compost product is compliant with the quality requirements in Env-Sw 605.04 and maturity requirements in Env-Sw 605.05. Testing is required at least once per year, which is a compromise to keep costs to a minimum, while assuring that compost is produced

to protective standards. Ultimately, these testing requirements are intended to establish a level playing field for all compost produced in the state. Under the existing rules, some facilities have very strict testing and reporting requirements, while others have no such requirements. This rulemaking proposes to establish basic standards that apply fairly to all composting facilities.

Env-Sw 607.02 re: Solid Waste Operator Certification Requirements

Comment:

The proposed provision allowing alternative operator training in Env-Sw 607.02(a) should include a statement that "grandfathers" existing certified solid waste facility operators who let their certification expire so that they do not need to complete alternative training following such expiration.

Response:

The alternative training provision in Env-Sw 607.02(a) was developed in response to stakeholder feedback that the initial training required for NHDES' solid waste operator training and certification program does not provide information that is directly relevant to managing a composting facility. Therefore, the alternative training provision proposed in this rulemaking seeks to address this concern by providing an operator at a permit-by-notification composting facility, the option to select a different training that meets the basic criteria outlined in Env-Sw 607.02(a). The alternative training would only need to be completed once (there are no requirements for annual renewal and completion of continuing education hours, as is the case with NHDES' operator certification program), and there is no filing or reporting requirement. A permit-by-notification facility would only need to retain documentation verifying that an operator has completed such alternative training. The intent in requiring some level of training is to assure that facility operators are equipped with the basic knowledge and skills to be able to safely and effectively operate a solid waste facility.

A certified operator working at a composting facility may be able to satisfy the alternative training requirement by way of 3rd party continuing education received in the course of maintaining their operator certification (whether a single continuing education event or a combination of several events). In such a situation, an operator could potentially let their certification expire without having to complete additional training. However, if this is not the case, and an operator wishes to let their existing certification expire, they may request a waiver of the alternative training requirement by following the procedural requirements in Env-Sw 202. Therefore, NHDES has not revised the rules in response to this comment.

Env-Sw 600 and Env-Sw 1500 generally re: References to External Guidance Documents

Comment:

Consider referencing the Manual of Best Management Practices for Agriculture in New Hampshire (published by the NH Department of Agriculture, Markets and Food) without a specific publication date so that if the BMP document is updated in the future, references to it in Env-Sw 600 and Env-Sw 1500 will not need to be updated.

Response:

Per Section 3.12 page 114 of the *New Hampshire Drafting and Procedure Manual for Administrative Rules*, documents incorporated by referenced must have an edition date.

Other Miscellaneous Comments

Comment 1:

The rules should specify labeling requirements for finished compost to inform consumers that the product is properly produced and meets the proposed quality standards.

Comment 2:

There are no provisions in the rules to allow for creative collaborations between municipalities, school districts and private entities to start up regional composting facilities.

Comment 3:

In conjunction with these rule changes, NHDES should also engage in technical assistance to make sure that entities interested in starting new composting facilities have the knowledge to operate their facility in compliance with the new requirements.

Response to Comments:

NHDES is not pursuing labeling requirements for finished compost at this time. The requirements proposed in this rulemaking, consistent with the larger body of Solid Waste Rules, are primarily intended to regulate the management of solid waste and the facilities dedicated to the management of the same. The Solid Waste Rules are not designed to regulate a marketplace. As such, this rulemaking is targeted at establishing requirements and standards for the facilities producing compost, not the entities marketing the compost. If NHDES were to adopt rules for labeling of finished compost distributed across the state, it would likely entail regulating commercial entities engaged in the sale of compost, which is beyond the scope of this rulemaking.

Regarding how the rules might address creative collaborations, such as public-private partnerships to establish regional composting facilities, there is nothing in the rules that would limit, restrict, or otherwise prevent such collaborations. These kinds of partnerships can be accomplished without necessitating a change to the Solid Waste Rules. Although there are not currently any such public-private composting facilities in New Hampshire, there are examples of other solid waste facilities owned by a public entity and operated by a private firm.

Relative to technical assistance to support entities interested in starting new composting facilities, NHDES agrees that technical assistance plays an important role in fostering compliance. NHDES would certainly like to be able to provide such assistance to the extent that resources allow. Some of the ways that NHDES might be able to help in the near-term would include general regulatory guidance, arranging pre-application meetings with potential permit applicants, and perhaps helping to identify third-party resources that could provide instruction and training related to operating a composting facility. The Department may also be able to develop fact sheets, guidance documents, workshops, and other educational outreach materials in the future.

From OLS:

Rulemaking Notice 2021-119, page 3 re: Statement Relative to Part I, Article 28-a of the NH Constitution

Comment:

“Unclear. While it is probable that there is no violation of Article 28-a caused by the proposal, the explanation here appears insufficient to determine if there is a violation. The fact that the intent of the proposal is to “clarify and simplify the existing composting facility requirements” does not mean there is no additional cost. The language should have been clear that there is no additional cost if that’s the case. The Committee may have questions for the agency as to whether the proposal violates the Constitution or not and therefore whether it is beyond the agency’s authority and contrary to legislative intent.”

Response:

NHDES agrees with the comment and recognizes that it should have made a more definitive statement in the Rulemaking Notice regarding Part I, Article 28-a of the N.H. Constitution. NHDES offers the following response that has been reviewed by OLS staff in advance of filing the Final Proposal.

The proposed rules do not require municipalities to operate a composting facility. The proposed rules thus do not create a new program or responsibility or mandate or assign a program or responsibility to any political subdivision in such a way to necessitate additional local expenditure, and so do not violate Part I, Article 28-A of the NH Constitution.

Env-Sw 603.01(a)(1) re: Applicability of Siting Requirements to Existing Permitted Facilities

Comment:

“Unclear. It is unclear what the intent is. If approved, these rules may not be adopted until 2022.”

Response:

DES has clarified the language in Env-Sw 603.01(a)(1) to state:

- (a) The siting requirements in this part shall apply to all composting facilities, except:
 - (1) Facilities that hold a permit issued under RSA 149-M prior to the **2022** effective date of this chapter;

Note to the JLCAR. See the agency's response to comments regarding its statement in the notice relative to Part I, Article 28-a of the N.H. Constitution in the attached Notice. OLS indicated that the response was not definitive and the Agency agreed and has clarified that the proposal does not violate the NH Constitution.

Adopt Env-Sw 408.08, cited and to read as follows:

PART Env-Sw 408 PERMIT-EXEMPT FACILITIES

Env-Sw 408.08 Food Waste Drop-Off Facilities. Subject to Env-Sw 408.02, no permit shall be required for collection, storage, and transfer of source-separated food waste, provided that:

- (a) The facility stores no more than one cubic yard, or 200 gallons, at any time;
- (b) Food waste is stored in closed containers designed to prevent the dispersal of odors, release of leachate, and attraction of birds, insects, rodents, and other vectors;
- (c) Waste collection and storage areas are inspected at least once daily during the facility's routine operating hours;
- (d) Food waste is stored no longer than 7 days from date of receipt; and
- (e) Food waste is transferred to an authorized facility for processing or disposal.

Readopt with amendment Env-Sw 600, eff. 7-1-14 (Document #10596), to read as follows:

CHAPTER Env-Sw 600 COMPOSTING FACILITY REQUIREMENTS

Statutory Authority: RSA 149-M:7

PART Env-Sw 601 APPLICABILITY

Env-Sw 601.01 Applicability.

- (a) The rules in this chapter shall apply to processing/treatment (P/T) facilities, as defined in Env-Sw 104, that produce compost from solid waste, hereinafter referred to as composting facilities.
- (b) The requirements in this chapter shall apply as the complement of the P/T requirements in Env-Sw 500.

PART Env-Sw 602 PERMITTING REQUIREMENTS

Env-Sw 602.01 Permit Required.

- (a) A permit issued pursuant to the solid waste rules shall be required for construction, operation, and closure of a composting facility, unless exempt pursuant to Env-Sw 302.03 or Env-Sw 608.
- (b) The type of permit required shall be as specified in Env-Sw 302.

Env-Sw 602.02 Permit Application Requirements. The applicant for a composting facility permit shall prepare the application in accordance with:

- (a) Env-Sw 314 for a standard permit;
- (b) Env-Sw 313 for an emergency permit;
- (c) Env-Sw 312 for a research and development permit; or
- (d) Env-Sw 311 for a permit-by-notification.

PART Env-Sw 603 SITING REQUIREMENTS

Env-Sw 603.01 Applicability.

- (a) The siting requirements in this part shall apply to all composting facilities, except:
- (1) Facilities that hold a permit issued under RSA 149-M prior to the 2022 effective date of this chapter;
 - (2) Permit-exempt facilities identified in Env-Sw 302.03 or Env-Sw 608;
 - (3) Permit-by-notification facilities having an active life of 90 days or less;
 - (4) Research and development permit facilities by Env-Sw 312.02(b); and
 - (5) Emergency permit facilities as provided by Env-Sw 313.02(b).

(b) The siting requirements in this part shall apply as the complement of siting requirements in Env-Sw 1003 for all facilities, Env-Sw 1102 for facilities having an active life longer than 90 days, Env-Sw 1203 for permit-by-notification facilities and Env-Sw 503.

Env-Sw 603.02 Siting Requirements.

(a) A composting facility's waste collection, storage, and processing areas including areas used for feedstock mixing and active composting, shall be sited in compliance with the following:

- (1) At least 75 feet from a private drinking water supply well;
- (2) At least 75 feet from surface waters and wetlands; and
- (3) On a surface that is at least 2 feet above the seasonal high water table.

(b) A composting facility's waste collection, storage, and processing areas, including areas used for feedstock mixing and active composting, shall be located at least 2 feet above bedrock or sand and gravel deposits, unless the facility uses an impermeable surface under such collection, storage, and processing areas.

(c) A composting facility shall not be sited within the sanitary protective area of a public water system well, as defined in Env-Dw 301.30, reprinted in Appendix C.

PART Env-Sw 604 DESIGN REQUIREMENTS

Readopt with amendment Env-Sw 604.01(b), eff. 7-1-14 (Document #10596), to read as follows:

Env-Sw 604.01 Applicability.

- (a) The design requirements in this part shall apply to all composting facilities, except:
- (1) Permit-exempt facilities identified in Env-Sw 302.03 or Env-Sw 608;
 - (2) Permit-by-notification facilities having an active life of 90 days or less;
 - (3) Research and development permit facilities as provided by Env-Sw 312.02(b); and
 - (4) Emergency permit facilities as provided by Env-Sw 313.02(b).

(b) The design requirements in this part shall apply as the complement of the design requirements in Env-Sw 1004 for all facilities, Env-Sw 1103 for facilities having an active life longer than 90 days, Env-Sw 1200 for permit-by-notification facilities and Env-Sw 504.

Env-Sw 604.02 General Design Requirements. A composting facility shall be designed to operate in conformance with Env-Sw 605.

Env-Sw 604.03 Waste Collection, Storage, and Processing Area Design Requirements.

- (a) Waste collection, storage, and processing areas shall be designed in conformance with Env-Sw 504.
- (b) Areas used for windrows and aerated static piles shall:
 - (1) Conform to the same design requirements as specified for waste stockpiles in Env-Sw 404.05; and
 - (2) Be designed to allow access by equipment on a year-round basis, including during periods of snowmelt, spring thaw, and high precipitation.

PART Env-Sw 605 OPERATING REQUIREMENTS

Env-Sw 605.01 Applicability.

- (a) The operating requirements in this part shall apply to all composting facilities, except:
 - (1) Permit-exempt facilities identified in Env-Sw 302.03 or Env-Sw 608;
 - (2) Permit-by-notification facilities having an active life of 90 days or less;
 - (3) Research and development permit facilities as provided by Env-Sw 312.02(b);
 - (4) Emergency permit facilities as provided by Env-Sw 313.03(b).
- (b) The operating requirements in this part shall apply as the complement of the operating requirements in Env-Sw 1005 for all facilities, Env-Sw 1105 for facilities with an active life longer than 90 days, Env-Sw 1204 for permit-by-notification facilities and Env-Sw 505.

Readopt with amendment Env-Sw 605.02 eff. 7-1-14 (Document #10596), to read as follows:

Env-Sw 605.02 General Operating Requirements.

- (a) A composting facility shall be operated in a manner that limits the production and off-site dispersal of odors to the greatest extent practicable.
- (b) All wastes received by the facility shall be inspected to identify and remove:
 - (1) Wastes that are not organic in nature;
 - (2) Wastes which are prohibited wastes as specified in (c) below; and
 - (3) Any other wastes having the potential to adversely affect the quality or usability of the finished compost.
- (c) A composting facility authorized pursuant to this chapter shall not receive the following types of waste:
 - (1) Asbestos;
 - (2) Construction and demolition debris;

- (3) Liquid wastes, unless amended with an approved bulking agent prior to composting;
 - (4) Infectious wastes identified in Env-Sw 904.01(a);
 - (5) Contaminated soils or absorbent media;
 - (6) Radioactive materials as defined and regulated by the New Hampshire rules for the control of radiation, He-P 2000 and He-P 4000;
 - (7) Ash from the combustion of municipal solid waste; and
 - (8) Sludge or septage as defined by RSA 485-A:2.
- (d) Putrescible wastes not incorporated into an active composting process or amended with high carbon bulking agents within 2 hours of receipt shall:
- (1) Be stored in a closed container designed to prevent the dispersal of odors, release of leachate and the attraction of birds, insects, rodents, and other vectors; and
 - (2) Not be stored at the facility longer than 7 days before being incorporated into an active composting process.
- (e) Compostable feedstocks shall be combined into a homogenous mixture that will support aerobic composting conditions.
- (f) During the active composting process, windrows, piles, or vessels shall be inspected, monitored, and actively managed to ensure that:
- (1) Aerobic composting conditions are maintained; and
 - (2) The process complies with the general operating requirements in Env-Sw 1005.01.
- (g) Temperature shall be monitored and recorded as follows:
- (1) Temperature readings shall be recorded as specified in Env-Sw 605.03; and
 - (2) For each temperature monitoring event, temperature readings shall be taken and recorded as follows:
 - a. For a windrow or aerated static pile, in at least five evenly-spaced locations along the length of the windrow or pile;
 - b. For a round pile, in at least-2 locations on opposite sides of the pile; and
 - c. For an in-vessel system, in at least 2 evenly-spaced locations per vessel, compartment, bay, or equivalent.
- (h) Prior to distribution and use, finished compost shall meet the quality requirements specified in Env-Sw 605.04, and the maturity requirements specified in Env-Sw 605.05.
- (i) Testing to verify compliance with (h) above shall be conducted:
- (1) At least once annually and when requested by the department pursuant to Env-Sw 2000; and

- (2) On the basis of representative sampling.
- (j) The following operational records, in conformance with Env-Sw 1105.06, shall be maintained and include:
- (1) Source, type, quantity, and date of materials received at the facility;
 - (2) Date of individual windrow or pile construction and breakdown, or vessel filling and emptying;
 - (3) Composition of the windrow, pile, or vessel;
 - (4) Date and time of turning or aeration;
 - (5) Temperature monitoring records, including:
 - a. Temperature readings, including units;
 - b. Date and time of temperature readings;
 - c. Location and depth of temperature readings;
 - (6) Process monitoring observations, including, but not limited to:
 - a. Moisture content; and
 - b. Odor observations;
 - (7) Records of nuisance complaints made by abutters, or other parties, and corresponding response actions taken by the facility operators;
 - (8) Date on which composted material begins and finishes curing;
 - (9) Sampling and testing records, in accordance with Env-Sw 605.04 and Env-Sw 605.05, including:
 - a. Date, time, volume, method, and type of samples taken; and
 - b. Testing results;
 - (10) Quantities of finished compost produced on an annual basis;
 - (11) Quantities of bypass waste, as defined in Env-Sw 102, removed prior to composting; and
 - (12) Quantities of residual waste, as defined in Env-Sw 104, removed after composting.

Env-Sw 605.03 Pathogen Reduction Requirements.

- (a) The composting process shall comply with the process to further reduce pathogens specified in 40 CFR 503, Appendix B, by using one of the following methods:
 - (1) Using the windrow composting method, such that:

- a. The interior temperature of the windrow shall be maintained at 55°C (131°F) or higher for 15 consecutive days or longer;
- b. During the period when the interior of the windrow is maintained at 55°C (131°F) or higher, there shall be a minimum of 5 turnings of the windrow; and
- c. In turning the windrow, the exterior of the windrow shall be turned into the interior to assure that the entire contents of the windrow are exposed to the required temperature conditions;

(2) Using the aerated static pile composting method, the pile shall be insulated and the temperature throughout the contents of the pile shall be maintained at 55°C (131°F) or higher for at least 3 consecutive days; or

(3) Using the in-vessel composting method, the temperature throughout the contents of the vessel shall be maintained at 55°C (131°F) or higher for at least 3 consecutive days.

(b) Once the contents of a windrow, pile, or vessel have met the requirements specified in (a) above, the material shall be managed to prevent recontamination through contact with raw feedstocks, leachate, or compost that have not been subjected to a pathogen reduction process.

Env-Sw 605.04 Minimum Quality Requirements. Finished compost shall meet the following requirements:

- (a) The presence of heavy metals shall not exceed the ceiling concentrations specified in Table 600-1:

Table 600-1: Ceiling Concentrations for Heavy Metals

Constituent	Maximum Total Concentration (mg/kg dry weight)
Arsenic	11
Cadmium	14
Chromium	1,000
Copper	1,500
Lead	300
Mercury	7
Molybdenum	35
Nickel	200
Selenium	28
Zinc	2,500

(b) The presence of salmonella sp. shall not exceed 3 most probable number (MPN) per 4 grams of total solids (dry weight basis);

(c) The presence of fecal coliform shall not exceed 1,000 MPN per gram of total solids (dry weight basis); and

(d) The presence of man-made inert matter greater than 4mm in size shall not exceed 0.25% of total solids (dry weight basis).

Env-Sw 605.05 Maturity Requirements.

(a) Except as provided in (b) below, compost shall be deemed mature when the final carbon-to-nitrogen (C:N) ratio is less than 25:1 and the compost meets or exceeds a maturity threshold for at least one test from group A and one test from group B as specified in Table 600-2 below, with test methods conducted in

accordance with the “Test Method for Examination of Composting and Compost (TMECC),” April 2002, published by the US Composting Council, accessed as noted in Appendix B.

(b) Compost distributed in bulk and used for agricultural crop production need not be mature as specified in (a) above, provided that the final carbon to nitrogen (C:N) ratio of the compost is less than 25:1 and the compost is otherwise suitable for the intended crop.

Table 600-2: Compost Maturity Standards

	Test	Units	Maturity Threshold	Method
Group A	Specific Oxygen Uptake	mg O ₂ per g organic matter per hour	≤ 1.5	TMECC 05.08-A
	CO ₂ Evolution	mg CO ₂ per g organic matter per day	≤ 8	TMECC 05.08-B
	Solvita® CO ₂	Index Value	≥ 5	Manufacturer's SOP
	Dewar Self Heating Test	Temp. rise (°C) over ambient	≤ 20	TMECC 05.08-D
Group B	Ammonium to Nitrate Ratio (NH ₄ -N:NO ₃ -N)	n/a	≤ 3	TMECC 05.02-C
	Total Ammonia (NH ₃ -N)	ppm, dry basis	≤ 500	TMECC 04.02-C
	Solvita® NH ₃	Index Value	≥ 4	Manufacturer's SOP
	Plant Trials	% of control	≥ 80	TMECC 05.05

Env-Sw 605.06 Off-Specification Compost.

(a) Except as provided in (b) below, compost which does not meet the quality requirements in Env-Sw 605.04 or the maturity requirements in Env-Sw 605.05 shall be:

(1) Deemed off-specification compost not certified for distribution and use pursuant to Env-Sw 1500, and

(2) Managed by one of the following methods:

a. Reprocessed to meet the requirements of Env-Sw 605.04 and Env-Sw 605.05; or

b. Managed as residual waste in accordance with the facility’s residual waste management plan pursuant to Env-Sw 1105.11.

(b) An off-specification compost shall be certified for distribution and use as landfill cover material pursuant to Env-Sw 1500, provided that such off-specification compost meets the performance objectives specified in Env-Sw 806.03.

PART Env-Sw 606 CLOSURE REQUIREMENTS

Env-Sw 606.01 Applicability.

(a) The closure requirements in this part shall apply to all composting facilities, except:

(1) Permit-exempt facilities identified in Env-Sw 302.03 and Env-Sw 608;

- (2) Permit-by-notification facilities having an active life of 90 days or less;
- (3) Research and development permit facilities as provided by Env-Sw 312.02(b); and
- (4) Emergency permit facilities as provided by Env-Sw 313.02(b).

(b) The closure requirements in this part shall apply as the complement of the closure requirements in Env-Sw 1006 for all facilities, Env-Sw 1106 for facilities having an active life longer than 90 days, Env-Sw 1205 for permit-by-notification facilities, and Env-Sw 506.

Env-Sw 606.02 Closure Requirements.

(a) To comply with Env-Sw 1006.02(e), all finished compost which is certified for distribution and use shall be removed to places where it shall be used accordingly or removed to an authorized facility.

(b) To comply with Env-Sw 1006.02(b), all unfinished compost shall be removed to an authorized facility to be finished or disposed.

(c) To comply with Env-Sw 1006.02(e), no waste or compost shall remain at the site following closure under a claim of permit exemption pursuant to Env-Sw 302.03 or Env-Sw 608.

PART Env-Sw 607 PERMIT-BY-NOTIFICATION FACILITIES

Env-Sw 607.01 Purpose. The purpose of the rules in this part is to identify composting facilities eligible for a permit-by-notification pursuant to Env-Sw 311.

Env-Sw 607.02 Small Food Waste Composting Facilities. A facility which composts food waste shall be eligible for a permit-by-notification pursuant to Env-Sw 311, provided that the facility meets the requirements of this chapter and the following:

(a) The facility shall comply with the requirements of Env-Sw 1200 except that alternative operator training may be substituted for the operator certification requirements specified in Env-Sw 1202.05(d), provided that:

- (1) Documentation verifying that each facility operator has completed alternative training is maintained in the facility's records, and
- (2) The alternative training:
 - a. Meets the purposes stated in Env-Sw 1601.01;
 - b. Provides information about the basic principles of composting and how to facilitate an aerobic composting process; and
 - c. Provides information about monitoring and troubleshooting the compost process to minimize nuisance conditions and adverse impacts to public health, safety and the environment;

(b) The facility receives no more than 10 tons of solid waste per day, averaged monthly;

(c) The facility composts only source-separated food waste, including meat and dairy matter, in combination with any of the following;

- (1) Yard waste;
- (2) Farming crop residuals;

- (3) Animal manures;
 - (4) Compostable paper, packaging, containers, bags, and serveware; and
 - (5) Approved bulking agents as defined in Env-Sw 102
- (d) To facilitate aerobic composting conditions, the facility shall combine compostable feedstocks to produce a homogenous mixture that exhibits the following initial characteristics:
- (1) A carbon-to-nitrogen (C:N) ratio of at least 25:1;
 - (2) A moisture level between 50 and 60 percent; and
 - (3) A bulk density not more than 1,100 pounds per cubic yard
- (e) To limit the production and off-site dispersal of nuisance odors, the facility shall:
- (1) Incorporate incoming putrescible wastes into a sorbent, high carbon bulking agent within 2 hours of receipt, or otherwise store the waste as required by Env-Sw 605.02(d);
 - (2) Maintain aerobic conditions throughout windrows or piles;
 - (3) Cover odorous piles with a layer of finished compost, or a high carbon amendment as necessary;
 - (4) Contain and treat emissions from active aeration systems; and
 - (5) Alter the compost recipe or turning procedures as needed to alleviate odor issues;
- (f) Following the cessation of facility operations or any other trigger event for closure as provided in Env-Sw 1006, the permittee shall close the facility in accordance with Env-Sw 606, Env-Sw 1006, and Env-Sw 1205.

PART Env-Sw 608 PERMIT-EXEMPT FACILITIES

Env-Sw 608.01 Purpose. The purpose of the rules in this part is to identify composting facilities which are permit-exempt, pursuant to Env-Sw 302.03(b)(2).

Env-Sw 608.02 General Conditions for Exemption.

- (a) The composting facilities described in this part shall be exempt from obtaining a permit, subject to the following conditions:
- (1) The facility shall comply with the universal facility requirements in Env-Sw 1000; and
 - (2) All waste managed at the facility shall be actively managed.
- (b) A permit exemption shall not affect a person's obligation to obtain all requisite federal, state or local permits, licenses or approvals, or to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to the permit-exempt activities.

Env-Sw 608.03 Generator Composting Facilities.

- (a) Subject to Env-Sw 608.02, no permit shall be required to compost any combination of the following wastes and materials at the waste generation site:
- (1) Yard waste or farming crop residuals;
 - (2) Source-separated food waste including meat and dairy matter;

- (3) Compostable paper, packaging, containers, bags, and serviceware;
 - (4) Animal manure; or
 - (5) An approved bulking agent as defined in Env-Sw 102
- (b) The facilities described in (a) above shall include:
- (1) Composting operations at a private home for food waste generated at the home;
 - (2) Composting operations at schools and other institutions, for food waste generated at the institution; and
 - (3) Farm based composting operations for food waste generated by the farm and farming crop residuals.

Env-Sw 608.04 Animal Carcass Composting Facilities Incidental to Livestock Operations.

(a) Subject to Env-Sw 608.02, no permit shall be required for a farm that raises livestock to compost animal carcasses provided that.

(1) The carcasses are generated on the farm and incidental to the farm's routine livestock operations; and

(2) The composting process and use of the finished compost shall be conducted in compliance with the livestock mortality composting best management practices established in the "Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire," revised July 2019 published by New Hampshire Department of Agriculture, Markets, and Food, accessed as noted in Appendix B.

(b) A farm that operates a permit-exempt animal carcass composting facility as described in (a) above may annually receive and compost up to 10 cubic yards of animal carcasses generated at another farm, provided that the carcasses being received are not classified as infectious waste under Env-Sw 904.01(a)(5) or otherwise known to be carrying an infectious disease.

Adopt Env-Sw 608.05 to read as follows:

Env-Sw 608.05 Community Composting Facilities

(a) Subject to Env-Sw 608.02, no permit shall be required for a composting facility that receives solid waste from off-site generators, provided that:

(1) The aggregate area of the facility's waste collection, storage, and processing areas, including areas used for feedstock mixing and active composting, does not exceed 600 square feet;

(2) The facility receives for composting no more than 5 cubic yards of solid waste during any 30 day period; and

(3) The composting process is conducted in a manner consistent with "Community Composting Done Right: A Guide to Best Management Practices," March 2019, published by the Institute for Local Self-Reliance, accessed as noted in Appendix B.

(b) Facilities described in (a) above may compost any combination of the following:

(1) Yard waste or farming crop residuals;

(2) Source-separated food waste, including meat, and dairy matter;

- (3) Compostable paper, packaging, containers, bags, and serviceware;
- (4) Animal manure; or
- (5) Approved bulking agents as defined in Env-Sw 102.

Readopt with amendment Env-Sw 1503.10, eff. 7-1-14 (Document #10599), cited and to read as follows:

PART Env-Sw 1503 WASTE-DERIVED PRODUCTS CERTIFIED BY RULE

Env-Sw 1503.10 Compost.

(a) Except as provided in (b) and (c) below, compost derived from solid waste shall be deemed certified by rule for distribution and use as compost, provided it meets the quality requirements specified in Env-Sw 605.04, and the maturity requirements specified in Env-Sw 605.05.

(b) Compost derived from animal carcasses shall be used in conformance with the livestock mortality composting best management practices provided in the “Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire”, revised July 2019, published by New Hampshire Department of Agriculture, Markets, and Food, accessed as noted in Appendix B.

(c) Off-specification compost, as defined by Env-Sw 605.06, shall be managed in accordance with the provisions of that section.

Adopt Env-Sw 1503.18 to read as follows:

Env-Sw 1503.18 Woody Tailings from Compost Screening Activities. Clean woody particles resulting from screening of finished compost shall be certified for distribution and use as:

- (a) A mulch product;
- (b) A bulking agent for composting; and
- (c) An odor filtration media for use with composting systems.

APPENDIX A: STATE STATUTES IMPLEMENTED

Rule Sections	Statute(s) Being Implemented
Env-Sw 408.08, Env-Sw 600	RSA 149-M:6, III; RSA 149-M:7, II, III, V, VIII, XIV, XV; RSA 149-M:9
Env-Sw 1503.10 and Env-Sw 1503.18	RSA 149-M:7, II, V, and XV; RSA 149-M:9, XIV

APPENDIX B: INCORPORATED REFERENCE

Rule (Env-Sw)	Reference (Date/Edition)	Obtain From (Cost)
Env-Sw 605.05(a)	Test method for Examination of Composting and Compost (TMECC)(2002)	United States Composting Council https://www.compostingcouncil.org/store/ViewProduct.aspx?id=13656204 (\$450.00)

Rule (Env-Sw)	Reference (Date/Edition)	Obtain From (Cost)
Env-Sw 608.04(a)(2)	Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire: Nutrient Best Management Practices for Agriculture Nonpoint Source Pollution (2019)	New Hampshire Department of Agriculture, Markets & Food. https://www.agriculture.nh.gov/publications-forms/documents/best-management-practices-bmp-manual.pdf
Env-Sw 608.05(a)(3)	Community Composting Done Right: A Guide to Best Management Practices (2019)	Institute for Local Self-Reliance https://ilsr.org/composting-bmp-guide/
Env-Sw 1503.10(b)	Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire: Nutrient Best Management Practices for Agriculture Nonpoint Source Pollution (2019)	New Hampshire Department of Agriculture, Markets & Food. https://www.agriculture.nh.gov/publications-forms/documents/best-management-practices-bmp-manual.pdf

APPENDIX C: DEFINITION OF SANITARY PROTECTIVE AREA

Env-Dw 301.30 “Sanitary protective area” means an area in the immediate vicinity of a source within which activities are controlled to minimize the risk of groundwater contamination.

INCORPORATION BY REFERENCE STATEMENT

****PLEASE LIST THE FOLLOWING:**

1. Name of Agency. **Department of Environmental Services**

2. Person who has reviewed the material to be incorporated into the agency's rules:

Name:	Michael Nork	Title:	Supervisor – Materials Management, Education & Planning
Address:	Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-2906

3. Specific rule number where the material is incorporated: **Env-Sw 605.05(a)**

****PLEASE ATTACH THE FOLLOWING**, numbered to correspond to the number on this sheet (a separate sheet is not required for every item):

4. The complete title of the material which is to be incorporated including the date on which the material became effective (or a document identification number) or, if the material is undated Internet content, the date the material was accessed and printed, and the title of the entity that created or promulgated the material.

5. How the agency modified the text of the material incorporated, clearly identifying where amendments have been made to the text.

6. How the material incorporated can be obtained by the public (include cost and the address of the party which published the material, and the Internet source URL if it appears in the rule, for example if the material is Internet content only available online).

7. Why the agency did not choose to reproduce the incorporated material in full in its rules. The discussion shall include more than the obvious reason that it is less expensive to incorporate by reference.

****PLEASE SIGN THE FOLLOWING:**

I, the adopting authority,* certify that the text of the material which the agency is incorporating by reference in these rules has been reviewed by this agency. To the best of my knowledge and belief, this agency has complied with the requirements of RSA 541-A:12, IV and Section 3.12 of Chapter 4 of the Drafting and Procedure Manual for Administrative Rules. I further certify that the agency has the capability and the intent to enforce the material incorporated into the rules, as identified above.

Date: February 25, 2022

Signature:



Name: Robert R. Scott

Title: Commissioner

INCORPORATION BY REFERENCE STATEMENT - Page 2

* “Adopting authority” is the official empowered by statute to adopt the rule, or a member of the group of individuals empowered by statute to adopt the rule.

4. The complete title of the material which is to be incorporated including the date on which the material became effective (or a document identification number) or, if the material is undated Internet content, the date the material was accessed and printed, and the title of the entity that created or promulgated the material.

Title: Test Method for Examination of Composting and Compost (TMECC).
Effective Date: 2002.
Entity which created the material: United States Composting Council.

5. How the agency modified the text of the material incorporated, clearly identifying where amendments have been made to the text.

No modifications have been made.

6. How the material incorporated can be obtained by the public (include cost and the address of the party which published the material, and the Internet source URL if it appears in the rule, for example if the material is Internet content only available online).

United States Composting Council
P.O. Box 19246, Raleigh, NC 27619
Cost: \$450
<https://www.compostingcouncil.org/store/ViewProduct.aspx?id=13656204>

7. Why the agency did not choose to reproduce the incorporated material in full in its rules. The discussion shall include more than the obvious reason that it is less expensive to incorporate by reference.

The document is lengthy (437 pages) and technical. Compost management standards are developed by technical committees comprising experts in the area(s) addressed by the standard, and are nationally recognized and accepted. Rewriting the document to conform to the rule drafting requirements in the *Drafting and Procedure Manual for Administrative Rules* would likely result in inadvertent changes in meaning and would not add value, since the document is available at a reasonable cost.

INCORPORATION BY REFERENCE STATEMENT

****PLEASE LIST THE FOLLOWING:**

1. Name of Agency. **Department of Environmental Services**

2. Person who has reviewed the material to be incorporated into the agency's rules:

Name:	Michael Nork	Title:	Supervisor – Materials Management, Education & Planning
Address:	Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-2906

3. Specific rule number where the material is incorporated: **Env-Sw 605.05(a) and Env-Sw
1503.10(b)**

****PLEASE ATTACH THE FOLLOWING**, numbered to correspond to the number on this sheet (a separate sheet is not required for every item):

4. The complete title of the material which is to be incorporated including the date on which the material became effective (or a document identification number) or, if the material is undated Internet content, the date the material was accessed and printed, and the title of the entity that created or promulgated the material.

5. How the agency modified the text of the material incorporated, clearly identifying where amendments have been made to the text.

6. How the material incorporated can be obtained by the public (include cost and the address of the party which published the material, and the Internet source URL if it appears in the rule, for example if the material is Internet content only available online).

7. Why the agency did not choose to reproduce the incorporated material in full in its rules. The discussion shall include more than the obvious reason that it is less expensive to incorporate by reference.

****PLEASE SIGN THE FOLLOWING:**

I, the adopting authority,* certify that the text of the material which the agency is incorporating by reference in these rules has been reviewed by this agency. To the best of my knowledge and belief, this agency has complied with the requirements of RSA 541-A:12, IV and Section 3.12 of Chapter 4 of the Drafting and Procedure Manual for Administrative Rules. I further certify that the agency has the capability and the intent to enforce the material incorporated into the rules, as identified above.

Date: February 25, 2022

Signature:



Name: Robert R. Scott

Title: Commissioner

INCORPORATION BY REFERENCE STATEMENT - Page 2

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4. The complete title of the material which is to be incorporated including the date on which the material became effective (or a document identification number) or, if the material is undated Internet content, the date the material was accessed and printed, and the title of the entity that created or promulgated the material.

Title: Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire: Nutrient Best Management Practices for Agriculture Nonpoint Source Pollution.

Effective Date: July 2019.

Entity which created the material: New Hampshire Department of Agriculture, Markets & Food.

5. How the agency modified the text of the material incorporated, clearly identifying where amendments have been made to the text.

No modifications have been made.

6. How the material incorporated can be obtained by the public (include cost and the address of the party which published the material, and the Internet source URL if it appears in the rule, for example if the material is Internet content only available online).

<https://www.agriculture.nh.gov/publications-forms/documents/best-management-practices-bmp-manual.pdf>.

7. Why the agency did not choose to reproduce the incorporated material in full in its rules. The discussion shall include more than the obvious reason that it is less expensive to incorporate by reference.

The document is lengthy (61 pages). Rewriting the document to conform to rule drafting requirements under the *Drafting and Procedure Manual for Administrative Rules* likely could result in inadvertent changes in meaning and would not add value, since the document is lengthy and available in its original form at no cost.

INCORPORATION BY REFERENCE STATEMENT

****PLEASE LIST THE FOLLOWING:**

1. Name of Agency. **Department of Environmental Services**

2. Person who has reviewed the material to be incorporated into the agency's rules:

Name:	Michael Nork	Title:	Supervisor – Materials Management, Education & Planning
Address:	Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-2906

3. Specific rule number where the material is incorporated: **Env-Sw 608.05(a)(3)**

****PLEASE ATTACH THE FOLLOWING**, numbered to correspond to the number on this sheet (a separate sheet is not required for every item):

4. The complete title of the material which is to be incorporated including the date on which the material became effective (or a document identification number) or, if the material is undated Internet content, the date the material was accessed and printed, and the title of the entity that created or promulgated the material.

5. How the agency modified the text of the material incorporated, clearly identifying where amendments have been made to the text.

6. How the material incorporated can be obtained by the public (include cost and the address of the party which published the material, and the Internet source URL if it appears in the rule, for example if the material is Internet content only available online).

7. Why the agency did not choose to reproduce the incorporated material in full in its rules. The discussion shall include more than the obvious reason that it is less expensive to incorporate by reference.

****PLEASE SIGN THE FOLLOWING:**

I, the adopting authority,* certify that the text of the material which the agency is incorporating by reference in these rules has been reviewed by this agency. To the best of my knowledge and belief, this agency has complied with the requirements of RSA 541-A:12, IV and Section 3.12 of Chapter 4 of the Drafting and Procedure Manual for Administrative Rules. I further certify that the agency has the capability and the intent to enforce the material incorporated into the rules, as identified above.

Date: February 25, 2022

Signature:



Name: Robert R. Scott

Title: Commissioner

INCORPORATION BY REFERENCE STATEMENT - Page 2

* “Adopting authority” is the official empowered by statute to adopt the rule, or a member of the group of individuals empowered by statute to adopt the rule.

4. The complete title of the material which is to be incorporated including the date on which the material became effective (or a document identification number) or, if the material is undated Internet content, the date the material was accessed and printed, and the title of the entity that created or promulgated the material.

Title: Community Composting Done Right: A Guide to Best Management Practices

Effective Date: March 2019.

Entity which created the material: Institute for Local Self-Reliance.

5. How the agency modified the text of the material incorporated, clearly identifying where amendments have been made to the text.

No modifications have been made.

6. How the material incorporated can be obtained by the public (include cost and the address of the party which published the material, and the Internet source URL if it appears in the rule, for example if the material is Internet content only available online).

<https://ilsr.org/composting-bmp-guide/>

7. Why the agency did not choose to reproduce the incorporated material in full in its rules. The discussion shall include more than the obvious reason that it is less expensive to incorporate by reference.

The document is lengthy (71 pages) and contains helpful illustrations and photos. Rewriting the document to conform to rule drafting requirements under the *Drafting and Procedure Manual for Administrative Rules* likely would result in inadvertent changes in meaning and would not add value, since the document is available in its original form at no cost.