

Regulation of Composting in New Hampshire

Notes prepared by NHDES Solid Waste Management Bureau

This document provides a brief overview of how composting facilities are regulated in New Hampshire, including information on current permitting options and recent efforts by NHDES' Solid Waste Management Bureau (the Bureau) to update regulatory requirements and provide additional pathways for development of food waste composting infrastructure.

The requirements for siting, designing and operating composting facilities are located in Chapter 600 of the Solid Waste Rules (Env-Sw 600), available electronically here:

<https://www.des.nh.gov/organization/commissioner/legal/rules/documents/env-sw600.pdf>

For reference, the entire body of Solid Waste Rules (Env-Sw 100 et seq.) are available here:

<https://www.des.nh.gov/organization/commissioner/legal/rules/index.htm#solid>

Permit Options for Composting Facilities¹

There are 3 primary permit categories for composting in New Hampshire: (1) permit-exempt, (2) permit-by-notification, and (3) standard permit. As required by statute, solid waste facility permits issued by the Bureau are continuous in duration (i.e. they do not expire and there is no need for renewal).

1. Permit-Exempt Composting Facilities - Env-Sw 608

This category applies to composting operations that do not require a solid waste permit from NHDES, such as:

- Generator composting facilities such as schools, farms, institutions, businesses or residences where wastes are composted at the site of generation (such operations may compost food waste, but the provisions of Env-Sw 608.03 prohibit the composting of meat & dairy);
- Livestock operations that compost incidental animal mortalities generated on site; and
- Farms or facilities that compost manure that is generated on site, or received from off site (as provided in Env-Sw 302.03).

2. Permit-by-Notification (PbN) Composting Facilities - Env-Sw 607

This category is intended for small scale composting operations that file a notification with NHDES. Such facilities may not receive more than 30 tons of solid waste per day. There is no application fee for a PbN, and no requirement for a public hearing or abutter notifications. In applying for a PbN, the applicant certifies compliance with all applicable Solid Waste Rules.

¹ This permitting structure applies only to facilities that compost "solid waste" (e.g. food waste, organic wastes from industrial processes, animal carcasses, etc.). NHDES' Solid Waste Management Bureau has regulatory authority over such facilities. However, there are materials that can be composted but do not fall under the definition of solid waste, such as sludge/biosolids (i.e. residuals from wastewater treatment processes) and yard waste (e.g. leaves, grass clippings, brush). A facility that composts biosolids is permitted and regulated by the Residuals Management Section in NHDES' Wastewater Engineering Bureau. Meanwhile, facilities that compost yard waste require no permit from NHDES (in 1989, yard waste was removed from the statutory definition of solid waste, thereby removing NHDES' ability to regulate it).

Because of the simplified application process and limited review by NHDES, only specific types of facilities are eligible for a PbN. Currently, the rules provide for two types of PbN composting facilities – one is a PbN for standalone small scale food waste composting facilities (Env-Sw 607.02 – “Small Food Waste Composting Facilities”), the other is a provision that allows a public transfer station with an existing PbN to start composting food waste via simple notification to NHDES (Env-Sw 407.02(e)). Both of these options are subject to the following conditions:

- The facility may compost source separated food waste in combination with yard waste, animal manure, farming crop residuals, or approved bulking agents (e.g. wood shavings, etc.);
- The facility may not compost meat or dairy products;
- The food waste portion of the compost recipe may not exceed 20% of the entire mixture by volume; and
- The facility may only receive food waste generated by retail food establishments, commercial kitchens, and food processing operations.

3. Standard Permit Composting Facilities (Env-Sw 314)

A standard permit for processing/treatment would be applicable to composting facilities that deviate from the boundaries set by the PbN, or that intend to receive more than 30 tons of solid waste per day. A standard permit is the most flexible permit option, as it is customizable and does not prohibit composting of food waste containing meat and dairy. However, the application process for a standard permit is more complex than a PbN, there is an application fee, and it involves more detailed review by NHDES. A standard permit may also be modified over time, whereas a PbN cannot be modified or transferred.

Recent efforts by the Bureau to Advance Composting in NH

The state’s hierarchy of preferred solid waste management methods (RSA 149-M:3), recognizes composting as a preferential method for managing wastes. Furthermore, the Bureau acknowledges that composting is an effective method for recovering resources and diverting organic materials from disposal. In recent years there has been significant interest in food waste composting, and the Bureau has received public feedback indicating that the Solid Waste Rules need adjustment to facilitate development of food waste composting infrastructure in NH, particularly with regard to small-scale operations. As NHDES understands from public feedback, small scale startups may find the PbN option the most attractive, but find the conditions listed above to be too limiting. Whether or not the permitting structure and rules for composting facilities are an impediment to developing composting capacity in the state, the Bureau does not seek to create barriers, and further agrees that the rules will benefit from updating and clarification. With this in mind, and in response to a 2015 amendment to RSA 149-M that directs NHDES to adopt “requirements and best practices for facilities that compost [...] meat, meat byproducts, dairy products, or dairy product derivatives” (RSA 149-M:7, XV), the Bureau convened a stakeholder workgroup to help identify potential rule revisions. The stakeholder workgroup met 9 times between 2017 and 2018 and discussed numerous aspects of the current rules.² In October 2018, the stakeholder workgroup decided it would be best to suspend regular meetings until the Bureau had the chance to produce draft revisions for public review. To date, the Bureau has not succeeded in completing this task due to a number of factors, including resource deficiencies.

² Notes from the stakeholder proceedings are available upon request.

Given the situation with regard to intended rule revisions, the Bureau has sought to find interim solutions to enable and encourage food waste composting in NH. For example, the Bureau has worked to find regulatory work-arounds that enable Universities or other entities to compost of onsite-generated meat and dairy food scraps. The Bureau has also discussed alternative pathways to allow PbN facilities to compost meat and dairy food waste, such as using a waiver mechanism that would relieve a facility from the specific provisions in Env-Sw 607 that limit composting of meat/dairy, etc. While the Bureau has offered the waiver option to interested parties that have contacted NHDES in recent years, it has not resulted in submittal of any actual proposals to date.

At the current time, there are 10 composting facilities in NH holding solid waste permits. Based on annual reporting, 6 of these facilities are currently operating. The table below lists these facilities. All of these facilities are operating under a PbN, and only one facility has obtained a waiver for meat and dairy composting (Star Island, issued in 2003 due to logistical considerations).

PERMITTED COMPOSTING FACILITIES IN NH:

COMPOST FACILITY NAME	STATUS	LOCATION
ALWAYS SOMETHING FARM	NOT OPERATING	CROYDON
GBN FARMS	OPERATING	CHESTER
GRANITE STATE COMPOST	OPERATING	FARMINGTON
KEENE SMALL FOOD WASTE COMPOSTING FACILITY	NOT OPERATING	KEENE
LEWIS FARM & GREENHOUSES	OPERATING	CONCORD
ORGANIC MATTERS LLC	NOT OPERATING	TAMWORTH
PETERBOROUGH SMALL FOOD WASTE COMPOSTING FACILITY	OPERATING	PETERBOROUGH
PLAISTOW COMPOSTING FACILITY	?	PLAISTOW
SEACOAST FARMS COMPOST PRODUCTS INC	OPERATING	FREMONT
STAR ISLAND CORPORATION	OPERATING	RYE

DISCLAIMER: this summary is intended to provide a brief overview and may not be comprehensive. Please refer to the Solid Waste Rules ([Env-Sw 100 et seq.](#)) and the New Hampshire Solid Waste Management Act ([RSA 149-M](#)) for specific regulatory requirements.