

Guidelines for Review of Local Laws Affecting On-Farm Composting Facilities

- The composting of materials such as animal waste, recognizable and non-recognizable food waste, sludge, and septage is a beneficial biological process that produces valuable soil amendments for crop production. On-farm composting of these materials should be allowed in all areas within a county-adopted State certified agricultural district provided that the activities are in compliance with Department of Environmental Conservation (DEC) regulations and absent a showing that the public health or safety is threatened or other special local circumstances warrant the additional regulation.
- The DEC regulations pertaining to composting are set forth in 6 NYCRR Subpart 360-5. Section 360-5.1(b) exempts facilities that compost less than 3,000 cubic yards of yard waste per year, as well as facilities that process only food processing waste and/or animal manure as long as certain conditions are met. Composting facilities that are subject to DEC permitting requirements are subject to a technical analysis of the proposed activities; a review of environmental impacts through the SEQRA process; notice and public comment for major projects; and possibly a public hearing.
- The Department considers the standards and permitting requirements set forth in the DEC's regulations when evaluating whether local laws affecting on-farm composting facilities are reasonable. In many instances the Department has found that local laws that exceed State standards are unreasonably restrictive. However, if a local government believes that local conditions warrant standards that differ from the DEC's the Department will consider those conditions in evaluating whether the standards are unreasonably restrictive.
- Generally, the Department considers it reasonable for a local government to require composting facilities that are regulated by the DEC to provide copies of permit applications or other documentation submitted to the DEC. Those facilities could also be inspected by local officials, under reasonable criteria, to ensure that the permit requirements are being followed.
- Some local laws try to limit on-farm composting only to the production of compost for use on the farm. Such restrictions are generally considered by the Department to be unreasonable. Many factors, such as weather conditions, crop rotation and nutrient analysis of the compost can influence how much can actually be used during the year. Thus, farm operations need flexibility to sell excess compost to remove these relatively small amounts of compost not needed for agricultural production. The Department generally considers the sale of 25% or less of any surplus compost as incidental to a farm operation.