

## **DRAFT REGULATORY IMPACT ANALYSIS FOR READOPTION AND AMENDMENTS TO 15A NCAC 13B SECTION .1400 SOLID WASTE COMPOST FACILITIES**

**March 13, 2019**

### **General Information**

Agency/Commission: Environmental Management Commission  
 Department: Department of Environmental Quality, Division of Waste Management, Solid Waste Section  
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Title of Rule Set: Solid Waste Compost Facilities  
 Citation: 15A NCAC 13B .1401 - .1410  
 Authority: G.S. 130A-294; 130A-309.03; 130A 309.11; 130A-309.29; G.S. 150B-21.3A  
 Impact Summary: State government: No  
 Local government: No  
 Private Sector: No  
 Substantial Impact: No  
 Federal Requirement or Impact: No

#### Proposed Rule-Making Schedule:

<i>Date</i>	<i>Action</i>
3/13/2019	GWWMC Meeting: Approval of proposed text to go to EMC.
5/9/2019	EMC Meeting: Approval of rule text and impact analysis for public comment.
6/17/2019	Rules published in NC Register and Agency website Comment Period Begins.
7/2/2019	Earliest date for public hearing.
8/16/2019	Comment Period Ends.
9/12/2019	EMC Meeting: Approval of Hearing Officer's Report and Adoption of Rules.
10/17/2019	RRC meeting: Approval of rule text
11/1/2019	Earliest effective date for rules.

### **Necessity and Purpose of Rule Change**

It is the responsibility of the Division of Waste Management (Division) Solid Waste Section (Section) to regulate how solid waste is managed within the state under the statutory authority of the Solid Waste Management Act, Article 9 of Chapter 130A of the General Statutes. State rules governing solid waste management are found in Title 15A, Subchapter 13B of the North Carolina Administrative Code. Rules adopted under the authority of 130A-309.11 which govern compost standards and applications are found in Subchapter 13B, Rules .1401 - .1409 *Solid Waste Compost Facilities*. These rules are proposed for readoption in accordance with G.S. 150B-21.3A, and are required to be readopted by the deadline established by the Rules Review Commission of April 30, 2021.

Proposed amendments to the rules include technical corrections, updates to information such as Department names, addresses, websites, and references, clarification of vague or unclear language, removal of redundant or unnecessary language, addition of exempt categories in .1402, new procedures and requirements for odor corrective action and training in .1406, updates to testing requirements in .1407, addition of vermicomposting and anaerobic digestion requirements in .1409, and addition of Rule .1410 for closure requirements.. and are discussed in more detail below.

### **Fiscal Analysis**

#### **Private Sector Impact**

*Types of Businesses or Facilities Potentially Affected by Rule Changes:*

Rule changes would potentially affect compost and wood waste management facilities permitted or regulated by the current rules and include the types of facilities and operations listed below:

- 5 Composting Pilot / Demonstration Projects
- 231 Yard Waste Notification Sites/Small Type 1 facilities
- 15 Small Type 2, 3, and 4 Facilities
- 24 Large Type 1 Facilities
- 19 Large Type 2, 3 and 4 Facilities

#### ***Benefits***

Proposed amendments provide a range of benefits to the compost and wood waste management industry both in cost savings and in lessened regulatory burden. Specific benefits are described in further detail below.

Proposed amendment .1401 states that permits will be issued for a 10-year period. Currently compost permits must be renewed every 5 years. This change was made in response to requests by the industry during stakeholder meetings held in 2017. Currently there are 57 active permits with 5-year permit limits. Upon submittal of the next permit renewal application, each will be converted to 10-year permits when issued. This will not only provide cost savings by reducing by half the projected permit renewal applications in the future, but also provide an extended period of certainty for facilities with respect to

their approval to operate. Amendment .1401 also proposes the option to re-issue a 10-year permit for facilities requiring major modification. Currently a permit modification approval does not change the permit period. The proposed amendment would reset the 10-year permit period eliminating the need for both a permit modification application and a permit renewal application within the 10-year period.

Proposed amendments .1402(e) (6) provides potential benefits to Small facilities by changing the volume limitation from 'no more than 6000 (or 1000 for Types 2,3, or 4) cubic yards per quarter' to 'no more than 6000 (or 1000 for Types 2, 3, or 4) cubic yards onsite at any one time'. This change eliminates the processing/production maximum of 24,000 (or 4000) cubic yards per year for small facilities. The intent of the current rule language is to ensure these smaller facilities do not overburden their capacity to safely manage their process streams. The proposed amendments maintain the intent of the current rule but provide the more efficient operations the potential to produce greater volume of product.

Proposed amendment .1402(g)(2) provides exemptions to permitting requirements for certain small facilities processing a defined list of feedstocks, volume limits, and size restrictions. The proposed exemption amendment expands on exemptions in the current rule .1409(d) which is limited to primary & secondary schools. Limiting exemptions based relatively low risk feedstocks, small volumes (< 100 cy), and size (< 1 acre) minimizes risks to public health & the environment while reducing the regulatory burden. Exemptions would still be subject to certain compliance requirements. It is projected that most of the demonstration (pilot projects) approvals currently regulated in rule .1409 would be exempt with the proposed amendment. These pilot projects are temporary 1-2 year approvals specifically for the purpose of evaluating feasibility of a project. The proposed exemption amendment provides for such a feasibility project without notification and approval by the Division. There are currently five (5) active demonstration projects with a projected 3 demo requests/year going forward. Additionally, some of the smaller permitted Small Type 2 and 3 facilities could also potentially meet the exemptions requirements proposed.

Proposed amendment .1405 provides benefits to the industry by streamlining the permit application and permit issuance, particularly for Large Type 2, 3, and 4 facilities. For these facilities, current rule requires the submittal of separate Permit to Construct and Permit to Operate applications. Subsequently the Division would issue approval for the PTC application, and then once the facility is constructed, issue approval of the PTO application. The proposed amendment would combine these into a single application and permit issuance. Permit to Operate renewal application would not be affected by this change if the facility operations and size do not change or expand.

The removal of a few testing requirements in proposed amendments in .1407 provide some minor benefits to Type 2, 3, and 4 facilities. The removed testing requirements are either no longer applicable to these facilities or have been updated to be consistent with reference testing regulations. The proposed amendments remove foreign matter testing for all facilities and remove chromium and total nitrogen testing for Type 4 facilities. Currently there are 32 active permitted Type 2, 3, and 4 facilities. Only two are Type 4.

## Costs

Estimated costs to the compost and wood waste management industry as a result of the proposed amendments include one-time expenditures to come into compliance with rule changes as well as incurring costs.

Proposed amendment .1405(10) requires operators of Large Type 2, Large Type 3, and all Type 4 facilities to prepare an odor control plan to ensure odors are minimized at the site property boundary. Current rule requires facilities submitting a permit application to include in the operations plan a description of how facility odors will be controlled and minimized. The proposed amendment provides clarity on the specific types of information required in the application for odor control and requires this information to be consolidated in a stand-alone odor control plan for the facility. The requirements for addressing odor control and minimization in the operations plan are in existing rule, the proposed amendment clearly states what is required and that the information will be presented in a plan format. This requirement would add a one-time cost to prepare the plan impacting 19 existing permitted facilities and a projected estimate of 1-2 new facilities/5-yr going forward. Existing facilities would have to meet this requirement at the time of permit renewal.

Proposed amendment .1406 (19) requires training requirements for Large Type 1, Type 2, all Type 3, and all Type 4 facilities to have regular training in compost operations from courses approved by the Division. Training updates would be required every five years. Additionally, facilities would be required to provide to facility staff annual training, including a review of operations plans and permit documents. The proposed amendments provide conditions for meeting the training requirement, as well as provisions for documenting training. The proposed amendments give facilities a period of time after rule adoption and/or permit issuance to meet this requirement. It is estimated that some of the larger commercial compost facilities already meet this requirement as part of their professional certification requirements. Even so, the proposed amendment would add recurring costs (on annual and 5-year basis) to 57 existing permitted facilities and to a projected estimate of 1-2 new facilities/year going forward.

Another cost to some Type 3 facilities would be the added testing requirements for those Type 3 facilities that compost animal manure. Proposed amendment .1407(b)(2) would require testing compost for selenium and arsenic in addition to the constituent testing required in current rule. The proposed amendment would add recurring costs to 13 existing Type 3 facilities and to a projected estimate of 1 new facility/5-yr period going forward.

No added costs will be incurred for exemptions in proposed amendment .1402(g) and for vermicomposting and anaerobic digestion in proposed amendment .1409. Current facilities that would meet the proposed amendment .1402(g) requirements are now permitted as small Type 3 facilities in current rule. Under the proposed amendment, these would be exempt from specific permitting rules. Of the current 30 active small type 3 facilities, it is estimated up to 3 of the facilities could meet the proposed exemption.

Vermicomposting and anaerobic digestion are currently permitted as Small or Large Types 2, 3, or 4 compost facilities. Separate proposed amendments in .1409 were added for these vermicomposting and anaerobic digestion since there are fundamental process and monitoring differences in these two methods compared to standard composting. The Division has approved ten pilot demonstration projects for vermicomposting over a ten-year period, but there are no active vermicomposting permits or demos approvals. Of the ten pilot vermicomposting projects previously approved, it is estimated up to eight of these would have met the exemptions criteria in the proposed amendment. The other two would likely have been permitted as Small Type 3 facilities if they had continued operations. Currently there is one active permitted anaerobic digestion facility, which is permitted as a Large Type 4 facility.

#### State Government Impact

The proposed amendments to the rules will not require the distribution of state funds, and will have a net benefit to state government as a result of reduced staff time due to streamlining new and renewal permit applications, removal of demonstration pilot projects, adding clarity to compliance requirements, potential reduction in compliance actions due to clearly defined permit and regulatory requirements, defined procedures for odor corrective action, and the expansion of exemptions, which is projected to slightly reduce the total number of potential permitted facilities.