



January 12, 2026

Secretary Greg Patterson
Delaware Division of Natural Resources and Environmental Control
89 Kings Highway
Dover, DE 19901

Sent via email to: DNRECHearingComments@delaware.gov

RE: Proposed amendments to the Delaware Solid Waste Regulations: *Regulations Governing Solid Waste (7 DE Admin. Code 1301)* (Docket #2025-R-WHS-0016)

The “objectives of revising the Regulations are to increase the protection to human health and the environment by modifying outdated and/or obsolete regulatory language, clarifying existing regulatory language, adding clarifying language...”

Dear Secretary Patterson:

On behalf of Plastic Free Delaware (Zero Waste First State)(PFD), and our Delaware Community Composting Initiative partners, where the focus is on diverting food scraps from Delaware's landfill through community composting, we appreciate the opportunity to provide comments and suggestions on the proposed regulatory changes. We are grateful for the many conversations with DNREC personnel this year about the current challenges and barriers in state code and regs, and DNREC's practices of interpreting those.

PFD has been the leader in this relatively new arena of community composting for the past three years - learning together with DNREC and DSWA as we test the code and how it is applied to small composting sites. Although by no means a new concept, community composting is unfortunately running into outdated codes and regulations that were developed to provide oversight to much larger organics composting facilities. Unfortunately, past experiences in Delaware with organics composting such as Peninsula set Delaware back decades in encouraging the public to think about diverting food scraps from our landfills. But our small community composting sites are never more than 10 cubic yards (to date, planned for far less) of organic material and need to be treated differently if composting is to be fostered in Delaware, mirroring the progress of other states such as Maryland, New Jersey and across the country.

The proposed draft regulatory changes do not go far enough to reduce bureaucratic barriers and costs in the permitting process to encourage the diversion of food residuals from the landfill and

back into rich soil amendments for gardens and farms. Protecting human health and the environment includes not only regulating composting, but also includes reducing landfill matter, encouraging a circular economy, and reducing methane and CO2 emissions, both potent greenhouse gasses and as cited in Delaware's Climate Action Plan. A better balance must be implemented so that progress in community composting is not stymied. Community composting not only diverts actual tonnage of food residuals from the landfill, but serves as an enormously valuable educational program, setting the stage for when Delaware is ready to have a larger scale commercial composting operation again.

Background:

- Organic waste is 23% of landfill matter, where it generates methane and CO2 as recognized in the Delaware Climate Action Plan
- Delaware has no commercial scale composting readily available to residential and business consumers, and none on the foreseeable horizon. Community composting is the only current way to educate the public and get this show on the road
- Delaware is woefully behind surrounding states and much of the country in reducing barriers to divert these organic materials from the landfill
- Like Maryland, the regulations should move small community composting sites of non-meat/dairy into the same category as “backyard composting” which is free and requires no permit, or create an exemption for this type and scale of composting, perhaps requiring only a short, easy registration process.
- Delaware needs a paradigm shift in thinking about food scraps as *waste*. It is rather a valuable organic material which can be recirculated as a rich soil amendment. Food “waste” should be redefined as “organic residuals.”

Highlighting just one absurd example from the current regulations: Because the Claymont Community Center is not zoned residential (currently the only exempt land use category besides farms), it needs a permit to compost food scraps generated ***on site***. If a tomato is overripe in the Center’s garden, it can go directly into the residuals compost bin with no permit required. Yet if the tomato goes inside the food pantry twenty steps away and then begins to rot, a permit costing \$400 and almost twelve months of a 45+page bureaucratic process and security clearance before it can legally be allowed to be placed in the compost bin. This is not logical. It is not creating a safer environment nor better human health, quite the contrary. It is a complete waste of DNREC staff time and resources. Why is a permit for small scale community composting (whether with or without small amounts of materials brought from off site) relevant to a zoning category? Should we not allow or even encourage small composting projects in ***every*** zoning category? The current and proposed regs as drafted are discouraging citizens from doing the right thing and diverting organics from the landfill. It is an outdated regulation.

Specific markup changes suggested for the proposed draft regulations:

Our specific revisions to the proposed draft regs are highlighted below in BLUE, with new language underlined, and deleted language in strikeouts (ONLY THOSE IN BLUE):

The new language proposed in 2.3.1 and 2.3.2 are now exactly the same/duplicative, and by deleting the original 2.3.2 "Composting, on a private property, the leaves, grass clippings, and other vegetation originating on the property", the proposed 2.3.2 now for all intents and purposes eliminates the ability of people to compost garden residuals on their own properties. 2.3.2 should be left in its original form. Additionally, the new language proposed in 2.3.1 is grammatically incorrect, "disposed of land applied...":

2.0 Scope and Applicability

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2.3 ~~Exemptions~~Exemptions. The following activities are exempted from ~~these regulationsthis regulation unless otherwise required by the Department or law:~~

2.3.1 ~~Disposal or land application on a farm of the agricultural wastes that are generated on the farm or result from the operation of the farm. Agricultural wastes~~ disposed of land applied ~~on the farm where the waste was generated.~~ The disposal or land application must be conducted in a manner that is in compliance with all federal, state, and local regulatory requirements and that does not threaten human health or the environment.

2.3.2 ~~Composting, on a private property, the leaves, grass clippings, and other vegetation originating on the property. Composting of agricultural wastes on the farm where it was generated. Composting must comply with all federal, state, and local regulatory requirements and that does not threaten human health or the environment.~~

REVERT 2.3.2 TO ITS ORIGINAL FORM

Current and proposed wording in 2.3.3 would necessitate a waste permit for small community composting projects even including biodigesters, Aerobins, The Mill, and the like which are on properties other than residential. Do we not want to encourage schools and businesses to use these small approaches to diverting food scraps? Why is DNREC putting greater restrictions on businesses, restaurants, schools, and any other zoning category besides residential for small composting projects? Barriers to small composting projects need to be removed.

2.3.3 Composting Type 1 and Type 2 feedstocks of organic wastes at a ~~residential property on which the organic wastes were generated, provided the resulting compost is used at that residential property or in a non-commercial capacity and not to be sold or distributed off property.~~ No off-site feedstock may be used to qualify for this exemption.

Exempt small community composting sites from enormous regulatory permitting and cost burden: Following Maryland's model based on erosion and sediment control permit threshold, we strongly encourage that a new 2.3.4 section as highlighted in blue below be added, with the embedded guardrails in order to lower perceived risk and boost DNREC's comfort level:

NEW 2.3.4 - ADD: Composting organic waste of Type 1 and NEW [see below] **TYPE 2** feedstock, not including animal waste [SEE NEW DEFINITION PROPOSED BELOW OF "ANIMAL WASTE"] nor dairy products, originating from on or off site and using less than 5,000 square feet in support of the composting operation or less than 10 cubic yards of feedstock at any given time. DNREC may require a Registration Form for this category.

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It would be helpful if the definition of "Agricultural Waste" was clarified to separate meat.carcasses from crop residuals. PFD suggests creating new definition called ANIMAL WASTE not including crop residues or herbivore manure (to more easily allow horse manure to be used in small composting projects) and separate crop residues and herbivore manure into own category "Agricultural waste"

"Agricultural ~~Waste~~waste" means ~~carcasses of poultry or livestock, crop residue, or animal excrement~~of herbivores.

NEW DEFINITION: "Animal waste" means carcasses of poultry or livestock, or non-herbivore animal excrement.

In the definition of "Composting feedstock" there is an enormous jump from Type 1 to Type 2. The DNREC proposed wording lumps animal carcasses from chicken processing plants in with community composting materials, perhaps leading to overregulation of small composting projects which typically do not accept meat or dairy products.

And what "industrial byproducts" are allowed - PLEASE DEFINE

To lower perceived risk in small composting projects, and to boost comfort level by DNREC, PFD proposes a new Type 2 (and renumber 2 to 3, and 3 to 4) and changes as highlighted in blue below:

"Composting feedstock" means the organic material used in the production of compost, further categorized as the following:

- (1) Type 1 feedstocks include yard waste, crop residues, and other materials determined to pose a low risk to human health and the environment, including from physical contaminants and human pathogens.
- (2) Type 2 feedstocks include All Type 1 feedstocks (including yard waste, crop residues, agricultural waste [AS NEWLY DEFINED ABOVE], wood shavings/chips/ash, grass clippings, branches, leaves), and fruit and vegetable scraps, crushed eggshells, coffee grounds and filters, tea bags without staples, shredded cardboard and newspaper. Does NOT include meat/animal or dairy by/products.
- (3) Type 3-2 feedstocks are materials that pose a low level of risk to the environment but have a higher level of risk from physical contaminants and human pathogens compared to Type 1 or 2 feedstocks. Examples of Type 3-2 feedstocks include, but are not limited to, animal waste [NEWLY DEFINED ABOVE] agricultural residuals, source-separated organics; and Department approved food processing residuals and industrial by-products [NEEDS TO BE DEFINED].

(4) **Type 4-3** feedstocks are materials that pose a higher level of risk to human health and the environment from physical and chemical contaminants and from human pathogens compared to **Type 1** and **Type 2** feedstocks. Examples of **Type 4-3** feedstocks include, but are not limited to, mixed solid waste, diapers, and industrial by-products and food processing residuals not covered in **Type 3-2** or not governed by the Division of Water.

In the 7.0 Transporters section, requiring or exempting expensive and time consuming permit applications and renewals, it is imperative for the revised regulations to recognize and allow (reduce barriers) for small quantities of food scraps to be diverted/composted or other materials that are to be reused/recycled, are exempt from the permit process. They do not pose a threat to air or water quality, quite conversely - if we do not remove the barriers inherent in the current regulations that discourage composting, reuse, and recycling, the stated goal of reducing methane emissions and other health impacts is being ignored.

Again, why are only residential properties being exempted in the current and proposed regulations? We cannot legally pick up coffee grounds from Starbucks or Brew Haha to compost them without a waste haulers permit! Coffee grounds and food scraps as we newly define them above are not hazardous material. They are biodegradable organic materials in small quantities.

7.0 Transporters

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7.2 Provisions Applicable To-to Transporters Required To-to Have A-a Solid Waste Transporter's Permit

7.2.1 Applicability. Section 7.2Subsection 7.2 applies to all transportation activities in Delaware except the following:

7.2.1.1 Transportation of **Type 1** and **[NEWLY DEFINED] Type 2** feedstocks, household or institutional waste generated in a Delaware residence and transported by the generator of the household waste or transported in a non-commercial capacity, in a vehicle having a gross vehicle weight less than or equal to 26,000 (twenty-six thousand) pounds total registered vehicle weight less than or equal to 15,000 pounds.

7.2.1.2 On-site transportation of solid waste (i.e., the point of generation and the point of treatment or disposal are on the same site) and the vehicle transporting the solid waste will not at any time leave the site).

7.2.1.3 Transportation of solid waste generated on a farm in Delaware and transported by the generator of the waste (this exclusion shall not apply to the transportation of **Type 4 [AS NEWLY DEFINED ABOVE]** feedstocks, infectious waste, petroleum-hydrocarbon contaminated soils, or waste containing asbestos).

7.2.1.4 Transportation of non-hazardous solid waste in a business-owned vehicle having a total registered vehicle weight of less than or equal to 15,000 pounds that is clearly marked with the business name and primary business activity. The waste being transported must have been generated by the business while conducting its identified primary business activity. Waste management cannot be the business's primary business activity to fall under this exception. The exclusion does not

apply to the transportation of Type 4 feedstocks [AS NEWLY DEFINED ABOVE], infectious waste, asbestos or asbestos-containing waste, scrap tires, or household waste other than that excluded in subsection 7.2.1.1.

In summary, utilizing the models from Maryland and other states, we ask that DNREC revise the waste regulations to:

- **Exempt** small community composting sites (less than 10 cubic yards of material) ***in all zoning categories*** from fees and require, at most, a simple registration form rather than a lengthy, complicated permitting application and process
- **Exempt** small quantities of food scraps being moved ***from a property of any zoning category (i.e. not just residential)*** to a community composting site from needing a waste hauling permit (examples include: a community member picking up spent coffee grounds from Brew Haha or Starbucks, WasteWell or Mother Nurture - micro businesses picking up food scraps curbside with small quantities (3-4 trash cans max) in the back of an SUV).

In this way DNREC can remove significant barriers which currently discourage small-scale composting, and begin to increase diversion of the large percentage of food scraps unnecessarily ending up in the landfill.

Thank you for your consideration of our suggestions regarding the proposed waste regulations update.

Sincerely,



Dee Durham
Chair, Plastic Free Delaware



Elisa King
Director, Delaware Community Composting Initiative