

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Streamline the Regulation of Agricultural Composters**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 7 MRSA c. 749** is enacted to read:

### **CHAPTER 749**

### **AGRICULTURAL COMPOSTING**

#### **§ 4301. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Agricultural composting operation.** "Agricultural composting operation" means composting that takes place on a farm. "Agricultural composting operation" does not include an operation that involves nonorganic municipal solid waste or that composts municipal sludge, septage, industrial solid waste or industrial sludge. "Agricultural composting operation" does not include an operation that composts materials with a moderate or high risk of contamination from heavy metals, volatile and semivolatile organic compounds, polychlorinated biphenyls or dioxin.

**2. Best management practices.** "Best management practices" means those practices that are determined by the commissioner to be based on reasonably available and economically feasible methods and technologies that are environmentally sound. "Best management practices" includes those practices suited to preventing, reducing or correcting problems that may be associated with an agricultural compost operation.

**3. Commercial agricultural composting operation.** "Commercial agricultural composting operation" means an agricultural composting operation that produces compost sold, bartered or otherwise exchanged for compensation and generates a cash or in-kind equivalent annual income of \$2,000 or more.

**4. Composting.** "Composting" means the controlled aerobic decomposition of organic materials to produce a soil-like product beneficial to plant growth and suitable for agronomic use.

**5. Farm.** "Farm" means the land and buildings used in the commercial production of farm products.

**6. Septage.** "Septage" has the same meaning as in Title 38, section 1303-C, subsection 27.

**7. Sludge.** "Sludge" has the same meaning as in Title 38, section 1303-C, subsection 28-A.

#### **§ 4302. Registration**

A person who owns or operates a commercial agricultural composting operation shall register with the department no later than March 1st of each year on a form prescribed by the department. A registration fee of \$25 must be submitted with the form. The commissioner shall deposit registration fees into the Nutrient Management Fund established in section 4208.

### **§ 4303. Duties of the commissioner**

The commissioner shall implement a program to educate composters on agricultural composting methods and ensure adherence to best management practices by commercial agricultural composting operations.

**1. Rulemaking.** The commissioner shall adopt rules to establish basic best management practices for commercial agricultural composting operations, a process for developing specific best management practices for an individual agricultural composting operation and timelines for implementation of best management practices prescribed by the commissioner. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**2. Inspection; assistance.** The commissioner or commissioner's designee may enter the premises of a commercial agricultural composting operation for the purposes of inspecting the operation for compliance with best management practices. When the commissioner determines that best management practices are not in use or that basic best management practices are insufficient to prevent environmental harm or an adverse impact on neighboring residents or landowners, the commissioner shall assist the owner or operator of the commercial agricultural composting operation in developing best management practices specific to that operation.

**3. Violation.** Failure to implement best management practices in accordance with rules adopted under subsection 1 is a civil violation for which a fine of up to \$1,000, together with an additional fine of up to \$250 per day for every day the violation continues, may be adjudged.

**4. Enforcement of environmental laws.** If the commissioner finds that failure to implement best management practices prescribed by the department has resulted in a possible violation of Title 38, chapter 3 or 13, the commissioner shall send a written report describing the alleged violation to the Commissioner of Environmental Protection and a copy of the report to the Attorney General.

### **§ 4304. Repeal**

This chapter is repealed March 31, 2009.

**Sec. 2. 38 MRS §373** is enacted to read:

### **§ 373. Commercial agricultural composting operations**

Commercial agricultural composting operations as defined in Title 7, section 4301 are regulated by the Department of Agriculture, Food and Rural Resources. This chapter does not apply to commercial agricultural composting operations except that, upon receipt of a report submitted by the Commissioner

of Agriculture, Food and Rural Resources in accordance with Title 7, section 4303, subsection 4, the department may investigate an alleged violation of article 1-F or 2 and take enforcement action in accordance with this chapter.

This section is repealed March 31, 2009.

**Sec. 3. 38 MRSA §1304, sub-§20** is enacted to read:

**20. Commercial agricultural composting operations.** Commercial agricultural composting operations as defined in Title 7, section 4301 are regulated by the Department of Agriculture, Food and Rural Resources. This chapter does not apply to commercial agricultural composting operations except that, upon receipt of a report submitted by the Commissioner of Agriculture, Food and Rural Resources in accordance with Title 7, section 4303, subsection 4, the department may investigate an alleged violation of section 1306 and take enforcement action in accordance with this chapter.

This subsection is repealed March 31, 2009.

## SUMMARY

This bill requires commercial agricultural composting operations to register with the Department of Agriculture, Food and Rural Resources. The bill requires the Commissioner of Agriculture, Food and Rural Resources to adopt rules for the regulation of commercial agricultural composting operations. The bill also requires the Commissioner of Agriculture, Food and Rural Resources to submit a written report to the Commissioner of Environmental Protection if a violation of the laws administered by the Department of Environmental Protection is believed to have occurred because of a failure to implement prescribed best management practices.