

Chapter 521

(House Bill 253)

AN ACT concerning

Environment – On–Farm Composting Facilities – Permit Exemption

FOR the purpose of requiring the Department of the Environment to adopt regulations to exempt an on–farm composting facility from a certain requirement to obtain a permit if the on–farm composting facility meets certain conditions; requiring the Department to require the operator of a farm to provide certain notice under certain circumstances; and generally relating to on–farm composting facilities.

BY repealing and reenacting, without amendments,
 Article – Environment
 Section 9–1701(a) and (v)
 Annotated Code of Maryland
 (2014 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,
 Article – Environment
 Section 9–1725
 Annotated Code of Maryland
 (2014 Replacement Volume and 2022 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 That the Laws of Maryland read as follows:

Article – Environment

9–1701.

(a) In this subtitle the following words have the meanings indicated.

(v) (1) “Yard waste” means organic plant waste derived from gardening, landscaping, and tree trimming activities.

(2) “Yard waste” includes leaves, garden waste, lawn cuttings, weeds, and prunings.

9–1725.

(a) **(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) (I) “ACTIVE FOOD SCRAP COMPOSTING” MEANS ~~MATERIAL TO BE COMPOSTED UNDER SUBSECTION (C)(3)(II) OF THIS SECTION AND SOURCE-SEPARATED ORGANIC MATERIAL BROUGHT ONTO THE FARM AND COMMINGLED MATERIAL IN THE PROCESS OF BEING COMPOSTED.~~

(II) “ACTIVE FOOD SCRAP COMPOSTING” DOES NOT INCLUDE ANY FINAL SOIL AMENDMENT PRODUCED.

(2) (3) “CONTAMINATED FEEDSTOCK” MEANS FEEDSTOCK THAT CONTAINS MORE THAN 2% BY DRY WEIGHT OF:

(I) MAN-MADE INERT MATERIAL; OR

(II) FILM PLASTIC.

(3) (4) (I) “FARM” MEANS THE SITE OF A BUSINESS OR ACTIVITY OPERATED FOR THE PRIMARY PURPOSE OF TILLING, CROPPING, KEEPING, PASTURING, OR PRODUCING AN AGRICULTURAL PRODUCT OTHER THAN COMPOST, INCLUDING LIVESTOCK, POULTRY, PLANTS, TREES, SOD, FOOD, FEED, OR FIBER, BY IN-GROUND, OUT-OF-GROUND, CONTAINER, OR OTHER CULTURE.

(II) “FARM” DOES NOT INCLUDE THE SITE OF A BUSINESS OR ACTIVITY OPERATED FOR THE PRIMARY PURPOSE OF PRODUCING COMPOST.

(4) (5) (I) “LIQUID FEEDSTOCK” MEANS GREASE, OIL, OR SOME OTHER LIQUID.

(II) “LIQUID FEEDSTOCK” DOES NOT INCLUDE FOOD SCRAPS THAT CONTAIN SOME LIQUID.

(5) (6) (I) “OFF-SITE TYPE 2 FEEDSTOCK” MEANS TYPE 2 FEEDSTOCK THAT IS GENERATED OFF-SITE.

(II) “OFF-SITE TYPE 2 FEEDSTOCK” DOES NOT INCLUDE:
~~ANIMAL~~

1. ANIMAL MORTALITIES; OR

2. INDUSTRIAL ANIMAL PROCESSING RESIDUALS.

(6) (7) (I) “ON-SITE TYPE 2 FEEDSTOCK” MEANS TYPE 2 FEEDSTOCK THAT IS GENERATED ON-SITE.

(II) **“ON-SITE TYPE 2 FEEDSTOCK” INCLUDES ANIMAL MORTALITIES.**

~~(7)~~ **(8) “TYPE 1 FEEDSTOCK” MEANS:**

(I) **YARD WASTE, AS DEFINED IN § 9-1701 OF THIS SUBTITLE;**
AND

(II) **OTHER MATERIALS DETERMINED BY THE DEPARTMENT TO POSE A LOW LEVEL OF RISK FROM HAZARDOUS SUBSTANCES, HUMAN PATHOGENS, AND PHYSICAL CONTAMINANTS.**

~~(8)~~ **(9) “TYPE 2 FEEDSTOCK” MEANS:**

(I) **SOURCE-SEPARATED ORGANICS FROM RESIDENTIAL CURBSIDE OR DROP-OFF PROGRAMS AND NONRESIDENTIAL SOURCES, INCLUDING PRECONSUMER AND POSTCONSUMER FOOD SCRAPS AND NONRECYCLABLE PAPER;**
AND

(II) **DEPARTMENT-APPROVED ANIMAL MANURE AND BEDDING, WITH DEPARTMENT APPROVAL BASED ON FACTORS SUCH AS MOISTURE CONTENT AND PATHOGEN RISK.**

(B) A person may operate a composting facility in the State only in accordance with this part and any regulation, order, or permit adopted or issued under this part.

~~(b)~~ (C) (1) The Department shall adopt regulations to implement the provisions of this part.

(2) ~~[Regulations]~~ **THE REGULATIONS** adopted under paragraph (1) of this subsection may:

(i) Establish conditions under which a person may construct and operate a composting facility in the State;

(ii) Establish a tiered system of permits or approvals for composting facilities based on the type of feedstock, size of the facility, and other factors determined by the Department to be appropriate;

(iii) Establish design and operational conditions for composting facilities to protect public health and the environment and to minimize nuisances;

(iv) Establish exceptions to any requirement to obtain a composting facility permit or approval;

(v) Exempt certain organic materials that are composted from being designated as solid wastes; ~~and~~

(VI) REQUIRE THAT A NEW COMPOSTING FACILITY BE CONSTRUCTED AND OPERATED IN ACCORDANCE WITH:

1. ANY REGULATIONS ADOPTED BY THE DEPARTMENT;

2. A NUTRIENT MANAGEMENT PLAN, IF REQUIRED UNDER COMAR 15.20.07; AND

3. A. A SOIL CONSERVATION AND WATER QUALITY PLAN IN ACCORDANCE WITH COMAR 26.04.11.06 THAT DESCRIBES THE COMPOSTING FACILITY COMPONENTS AND DESIGN, SCHEDULE FOR STORAGE AND UTILIZATION OF THE MATERIALS, SYSTEM MAINTENANCE, AND OPERATIONAL PROCEDURES; OR

B. AN AGRICULTURAL WASTE MANAGEMENT SYSTEM PLAN IN ACCORDANCE WITH COMAR 26.04.11.06 THAT DESCRIBES THE COMPOSTING FACILITY COMPONENTS AND DESIGN, SCHEDULE FOR STORAGE AND UTILIZATION OF THE MATERIALS, SYSTEM MAINTENANCE, AND OPERATIONAL PROCEDURES; AND

~~(vi)~~ **(VII)** Establish any other provisions the Department deems necessary to implement the provisions of this subtitle related to composting.

(3) THE REGULATIONS ADOPTED UNDER THIS SUBSECTION SHALL EXEMPT AN OPERATOR OF AN ON-FARM COMPOSTING FACILITY FROM THE REQUIREMENT TO OBTAIN A PERMIT UNDER COMAR 26.04.11.06 IF THE ON-FARM COMPOSTING FACILITY:

(i) USES ~~40,000~~ 10,000 SQUARE FEET OF AREA OR LESS FOR ACTIVE FOOD SCRAP COMPOSTING;

(ii) COMPOSTS ONLY ONE OR MORE OF THE FOLLOWING:

1. ORGANIC MATERIALS GENERATED ON-SITE OR AT ANOTHER FARM CONTROLLED BY THE SAME ~~OPERATOR~~ OWNER OR LESSEE OF THE FARM;

2. ANIMAL MANURE AND BEDDING, GENERATED ON-SITE;

3. TYPE 1 FEEDSTOCK, REGARDLESS OF THE PLACE OF GENERATION;

4. OFF-SITE TYPE 2 FEEDSTOCK THAT IS:

A. NOT CONTAMINATED OR LIQUID;

B. IMMEDIATELY MIXED WITH CARBONACEOUS TYPE 1 FEEDSTOCK; AND

C. INCORPORATED INTO ACTIVE COMPOSTING WITHIN 24 HOURS AFTER ARRIVING ON-SITE; OR

5. ON-SITE TYPE 2 FEEDSTOCK;

(III) 1. RECORDS THE:

A. AMOUNT AND SOURCE OF OFF-SITE TYPE 2 FEEDSTOCK SOURCE-SEPARATED ORGANICS BEING COMPOSTED; AND

B. DATE AND TIME THE OFF-SITE TYPE 2 FEEDSTOCK SOURCE-SEPARATED ORGANICS ARRIVES ON THE FARM; ~~AND~~

2. RETAINS THE RECORDS FOR ~~3~~ 5 YEARS; AND

3. PROVIDES THE RECORDS TO THE DEPARTMENT ON REQUEST FOR THE PURPOSE OF INSPECTION; AND

(IV) MEETS ANY OTHER CONDITION FOR A PERMIT EXEMPTION SPECIFIED IN REGULATIONS.

(4) ON OR BEFORE DECEMBER 1, 2028, THE DEPARTMENT SHALL SUBMIT A REPORT, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY THAT ANALYZES THE IMPACT OF ON-FARM COMPOSTING FACILITIES IN MARYLAND, INCLUDING:

(I) THE AMOUNT OF FOOD WASTE DIVERTED FROM LANDFILLS;

(II) AN ESTIMATE OF THE AMOUNT OF FINISHED SOIL AMENDMENT PRODUCED BY ON-FARM COMPOSTING FACILITIES OPERATING UNDER THIS SECTION;

(III) OPERATIONAL CHALLENGES EXPERIENCED BY ON-FARM COMPOSTING FACILITIES;

(IV) VIOLATIONS AND ENFORCEMENT ACTIONS THAT HAVE ARISEN AS A RESULT OF THE EXPANSION OF FACILITIES UNDER THIS SECTION; AND

(V) RECOMMENDATIONS ON THE FEASIBILITY OF EXPANDING FACILITIES TO ALLOW FOR UP TO 40,000 SQUARE FEET TO BE USED FOR FOOD SCRAP COMPOSTING ACTIVITIES.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) This Act is not intended to alter the rules or requirements for farms or composting facilities operating without a composting permit in accordance with regulations in effect on January 1, 2023.

(b) The Department of the Environment shall require the operator of a farm to provide written notice to the Department before conducting on-farm composting without a permit in accordance with this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.

Approved by the Governor, May 8, 2023.