



March 30, 2022

The Honorable Kumar P. Barve
House Environment and Transportation Committee
House Office Building, Room 251
Annapolis, Maryland 21401

Re: Senate Bill 229 – Environment – On–Farm Composting Facilities – Permit Exemption

Dear Chairman Barve and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed the third reader iteration of SB 229 entitled *Environment – On–Farm Composting Facilities – Permit Exemption*. We would like to provide information, including several concerns, regarding this bill as amended.

SB 229 as amended would require MDE’s composting facility regulations under COMAR 26.04.11 to exempt an on-farm composting facility from the requirement to obtain a Composting Facility Permit if the operation meets certain exemption conditions. The on-farm composting operation must use 40,000 square feet of area or less for active food scrap composting and compost one or more of the following: organic materials generated on site or at another farm controlled by the same operator; animal manure and bedding generated on site; type 1 feedstock, regardless of the place of generation; off-site type 2 feedstock that is not contaminated or liquid, immediately mixed with carbonaceous type 1 feedstock, and incorporated into active composting within 24 hours after arriving on site; or on site type 2 feedstock. To qualify for a permit exemption, the on-farm composting operation must also record the amount and source of feedstock being composted and the date and time the feedstock arrives on the farm, and retain these records for 3 years. Lastly, the on-farm composting facility must meet any other condition for a Composting Facility Permit exemption specified in COMAR 26.04.11.

MDE regulations currently exempt an on-farming composting facility from the Composting Facility Permit if the facility uses 40,000 square feet of area or less in support of composting; however, the exemption allows for the composting of food scraps only if those materials were generated on site or at another farm controlled by the same operator. The exemption also allows for the composting of Type 1 feedstocks (e.g., yard waste) and animal manure and bedding, regardless of the site of generation (*see* COMAR 26.04.11.06D). Under SB 229, MDE would need to amend the regulations to include a Composting Facility Permit exemption for on-farm composting facilities using 40,000 square feet of area or less in support of food scrap composting, regardless of the site of generation.

House Bill 817 of 2011 required MDE, in consultation with the Maryland Environmental Service (MES) and the Maryland Department of Agriculture (MDA), to study composting in the State, develop recommendations on how to promote composting in the State, and report findings and recommendations to the General Assembly. To conduct the study, MDE convened a Composting Workgroup that included representatives from MDA, MES, the composting industry, local governments, and other stakeholders. The final report from the study recommended that MDE adopt regulations with a tiered system of permits

and permit exemptions for composting facilities. The final report from the study specifically recommended a tiered approach to on-farm composting, with certain on-farm composting activities exempt from the permit requirement and others subject to the same permit and operational conditions required of non-farm facilities. This approach was further refined, with additional stakeholder consultation, during the development of the composting facility regulations.

MDE supports initiatives that promote composting of food scraps and on-farm composting operations. In 2020, an estimated 167,228 tons or 18 percent of food waste generated in Maryland was recycled, an estimated 112,167 tons of which were composted. Composting of surplus food that cannot be diverted for human or animal consumption helps to reduce greenhouse gas emissions related to disposal, conserve existing landfill capacity, and create a valuable soil amendment that improves soil health.

Despite the benefits of composting, poorly managed composting operations can result in issues like leachate or other material discharging to surface and groundwaters of the state, nuisance odors, and insect and rodent infestations. The regulations were developed with the intention of preventing these issues at permitted facilities through design and operational controls and oversight, including provisions to prevent uncontrolled runoff or groundwater contamination from water that has contacted the feedstocks. MDE also sought to balance these environmental safeguards with more flexibility for smaller or lower-risk sites, including smaller facilities and on-farm facilities that managed the types of materials already typically managed on farms. Allowing a commercial-scale composting facility to accept and manage significant quantities of food scraps without a Composting Facility Permit as long as it is located on a farm would be inconsistent with the original rationales for the permit requirements and exemptions. Additionally, due to the bill allowing a commercial-scale food scraps composting facility on a farm to operate without a permit and the accompanying safeguards, while still imposing those requirements on an identical facility located elsewhere, it may put operations on unequal competitive footing without any meaningful environmental distinction.

MDE recognizes the need to expand capacity for recycling organic waste such as food scraps in particular, and is willing to work with bill's proponents and relevant stakeholders on any necessary regulatory adjustments to the composting facility regulations to ensure they are not overly burdensome to on-farm composting facilities, but remain protective of public health and the environment.

Thank you for your consideration. We will continue to monitor SB 229 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or tyler.abbott@maryland.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Tyler Abbott", with a long horizontal line extending to the left.

Tyler Abbott

cc: The Honorable Jason C. Gallion
Kaley Laleker, Director, Land and Materials Administration