



February 2, 2022

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

**Re: House Bill 184 – Environment – On-Farm Composting Facilities – Permit Exemption**

Dear Chair Barve and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed HB 184 entitled *Environment – On-Farm Composting Facilities – Permit Exemption* and we would like to provide information regarding this bill.

Under §9-1725 of the Environment Article, MDE has broad authority to adopt regulations to establish conditions under which a person may construct and operate a composting facility in the state, including establishing exceptions to any requirement to obtain a Composting Facility Permit or approval from the Department. HB 184 would amend §9-1725 of the Environment Article to require MDE's regulations to exempt an on-farm composting facility from the requirement to obtain a Composting Facility Permit if the on-farm composting facility uses 40,000 square feet of area or less in support of food scrap composting and meets any other condition for a permit exemption specified in regulation.

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 HB 184, 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.

HB 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 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% 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. Presently, there are 22 permitted composting facilities in Maryland, some of which may be located on a farm. A list of all permitted facilities is available at the following link:

[mde.maryland.gov/programs/LAND/RecyclingandOperationsprogram/Documents/Composting%20Facilities%20with%20Capacities%202021%20.pdf](https://mde.maryland.gov/programs/LAND/RecyclingandOperationsprogram/Documents/Composting%20Facilities%20with%20Capacities%202021%20.pdf).

Despite the benefits of composting, poorly managed composting operations can result in issues like nuisance odors and insect and rodent infestations. In particular, the composting of food scraps has the potential to generate leachate and other materials containing pollutants, such as nutrients and biochemicals, which can impair surface and groundwaters of the state. Maryland is currently implementing the Chesapeake Bay Watershed Implementation Plan (WIP), which requires millions of pounds of nutrient load reduction in order to achieve the Bay's Total Maximum Daily Loads pollution targets by 2025. Any new sources of nutrient pollution in the Bay watershed area, even small ones, can significantly impact Maryland's ability to meet its Bay WIP commitments.

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, because the bill would allow 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 composting food scraps in particular, and is willing to work with proponents and stakeholders on any necessary regulatory adjustments to the composting facility regulations to ensure they are not overly burdensome to on-farm composting facilities, but any changes should maintain protections for public health and the environment.

Thank you for your consideration. We will continue to monitor HB 184 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](mailto:tyler.abbott@maryland.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Tyler Abbott", written over a horizontal line.

Tyler Abbott

cc: Kaley Laleker, Director, Land and Materials Administration