Support of SB 262 - Environment - On-Farm Composti
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Maryland Farm Bureau, Inc.

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February 9, 2023

To: Senate Education, Energy & the Environment Committee

From: Maryland Farm Bureau, Inc.

Re: **Support of SB 262 - Environment - On-Farm Composting Facilities - Permit Exemption**

On behalf of our Farm Bureau member families in Maryland, I submit this written testimony in support of SB 262, legislation that requires the Maryland Department of the Environment (MDE) to establish an exemption, by regulation, from the permitting requirements under the Code of Maryland Regulations (COMAR) 26.04.11.06 for an on-farm composting facility that (1) uses 40,000 square feet of area or less for active food scrap composting; (2) composts only one or more of a specified list of feedstocks; (3) records the amount and source of feedstock composted, records the date and time the feedstock arrives on the farm, and retains the records for three years; and (4) meets any other conditions specified in regulations. The bill establishes several related definitions.

Current regulations limit a farmer to up to 5,000 square feet for on-farm composting. This bill looks to increase that to 40,000 square feet and allow the incorporation of food scraps to the feedstock used in the compost pile. To meet the new demand for removing food scraps from the landfill, farmers will need to do their part to assist. However, being limited to 5,000 sf before mandating extensive and expensive permitting requirements, prevents most farmers from being able to participate.

MDFB Policy: We support the right for Maryland farmers to make and process mulch and compost from both on and off the farm sources.

MARYLAND FARM BUREAU SUPPORTS SB 262 & REQUESTS A FAVORABLE REPORT

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Maryland
Department of
the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

Permitting Guidance for

Maryland Composting Facilities

January 2019

Contents

I. Introduction

Composting facilities may be subject to several Maryland Department of the Environment (MDE) and Maryland Department of Agriculture (MDA) regulations. This guidance document is intended to assist prospective composters in identifying applicable requirements across MDE and MDA regulations. This document is intended to include the requirements most likely to apply to the operation of a composting facility. It is not intended to include every activity that may be co-located at a composting facility or other approvals that may be required for the construction and operation of a facility (e.g. erosion and sediment control plan approval). Guidance is for informational purposes only. Prospective composters should consult the law and regulations for specific requirements. Additional information and contacts for further assistance can be found on MDE's Composting Website at www.mde.maryland.gov/composting.

The scope of this guidance is limited to facilities that conduct "composting," defined as the controlled aerobic biological decomposition of organic waste material. Shredding or grinding material into mulch without controlled decomposition is not composting, nor is anaerobic digestion.

Table 1 lists the MDE and MDA requirements that may be applicable to composting facilities. The permit or approval name links to the appropriate page of the MDE or MDA website, while the regulation links to the appropriate chapter of the Code of Maryland Regulations (COMAR) online. These requirements are discussed in further detail in the following sections.

Table 1: Potential Requirements Overview

Subject/Activity	Permit/Approval	Regulations
MDE – Solid Waste and Recycling		
Composting Facilities	Composting Facility Permit	COMAR 26.04.11
Solid Waste Acceptance Facilities	Refuse Disposal Permit	COMAR 26.04.07
Sewage Sludge Management	Sewage Sludge Utilization Permit	COMAR 26.04.06
Natural Wood Waste Recycling	Natural Wood Waste Recycling Facility Permit	COMAR 26.04.09
MDE – Water		
Stormwater Discharges	General Permit for Stormwater Discharges Associated with Industrial Activity	COMAR 26.08.04
Groundwater Discharges	State Groundwater Discharge Permit	COMAR 26.08.04
Surface Water Discharges	State/NPDES Surface Water Discharge Permit	COMAR 26.08.04
MDE - Air		
Sources of Air Pollution	Permit to Construct Permit to Operate	COMAR 26.11.02
MDA		
Compost Quality	Compost Registration	COMAR 15.18.04
Composting Operators	Operator Certification	COMAR 15.18.04

II. MDE – Solid Waste and Recycling

A. Does the Composting Facility Permit (CF Permit) Apply?

Solid waste and recycling-related permits are issued by MDE's Land and Materials Administration. Most types of composting fall within the CF Permit and composting facility regulations, discussed further in this guide. However, this section lists three types of composting activities that are addressed under separate regulatory programs.

1) Composting of *Only* Natural Wood Waste (NWW)

A facility that composts only NWW is subject to the NWW regulations and permit. The NWW Recycling Facility Permit is available as either a general or individual permit. The following facilities are exempt from the NWW permit: (1) a facility operated by a nonprofit or government organization; and (2) a single individual or business that provides recycling services solely for its own employees or for its own recyclable materials generated on its own premises. For additional information on NWW, visit MDE's Solid Waste page at https://mde.maryland.gov/programs/LAND/SolidWaste/Pages/index.aspx

NWW vs. Yard Waste

NWW is defined as tree and natural vegetative refuse, including tree stumps, brush and limbs, root mats, logs, leaves, grass clippings, unadulterated wood wastes, and other natural vegetative materials.

Yard waste is organic plant waste derived from gardening, landscaping, and tree trimming activities, including leaves, garden waste, lawn cuttings, weeds, and prunings.

As further discussed in this guide, composting of NWW is regulated differently than composting of yard waste, so it is important to determine which of these terms best describes the material to be composted. While there is some overlap in the definitions, yard waste is primarily made up of leaves, grass, green plant material, and small branches derived from landscaping activities at homes or businesses. NWW is primarily large branches, stumps, tree trunks, roots, and wood chunks, such as from whole tree removal or landclearing. NWW is primarily high carbon, low nitrogen material.

The NWW Recycling Facility Permit is for NWW only. Any separate, NWW-only activities that occur on a composting site, such as grinding or mulching of NWW, are subject to the NWW regulations and NWW Recycling Facility Permit. However, if a facility combines NWW with yard waste for composting, that composting activity is covered under the CF Permit and composting facility regulations and does not additionally require a NWW Recycling Facility Permit.

2) Composting of Sewage Sludge (Biosolids)

Composting of any sewage sludge (biosolids), regardless of whether it is mixed with other materials, falls under the sewage sludge management regulations and Sewage Sludge Utilization Permit requirements. For more information on sewage sludge management, visit MDE's Sewage Sludge Page https://mde.maryland.gov/programs/LAND/RMP/Pages/sewagesludge.aspx

3) Composting of Mixed Municipal Solid Waste (MSW) or Diapers

Mixed MSW means waste containing a mixture of compostable and non-compostable materials. It does not include mixtures of multiple types of compostable materials that were separated for composting at the point of generation, such as mixtures of yard waste and food scraps collected from residences for composting. Mixed MSW composting requires a Refuse Disposal (RD) Permit and is subject to the Solid Waste Management Regulations. Specifically, these composting facilities are considered processing facilities, which are addressed in COMAR 26.04.07.23. For additional information on solid waste requirements, see MDE's Solid Waste Page.

Note About Composting At Existing Solid Waste Facilities

If composting will take place at a facility that is required to have a RD Permit for a reason other than composting (such as composting that takes place at a landfill or transfer station), the operator must choose one of the following options:

- Apply for a modification to the RD Permit to include composting, if not already included. In this case, the facility is *not* required to also obtain a CF Permit. The requirements of the composting facility regulations at COMAR 26.04.11 will be incorporated into the RD Permit.
- Obtain a CF Permit. In this case, the permits operate separately and the CF Permit does not impact the existing RD Permit or its expiration date.

The choice between the two options is generally left up to the operator. Conditions similar to those in the composting regulations will be included in a modified RD Permit that covers composting. A general CF Permit may in some cases be faster to obtain than a modification to the existing RD Permit.

B. Feedstock Types

The composting facility regulations divide feedstocks – the raw materials used for composting—into three "types," grouped roughly by environmental risk, plus natural wood waste (NWW).

Table 2 shows the materials that fall under each feedstock type. As discussed under § II. A, composting of NWW and Type 3 materials is addressed through other permitting schemes. If the material a facility proposes to compost is not explicitly included within one of these types, the Department will determine the appropriate category in which it fits based on the material's risk of

hazardous substances, human pathogens, and physical contaminants, relative to the other materials in the category. (See COMAR 26.04.11.02 for more details on the feedstock types.)

Table 2: Feedstock Types

NWW	Type 1	Type 2	Type 3
•Tree and other natural vegetative refuse •**(Not covered under the CF Permit or composting facility regulations)**	•Yard waste	•Food scraps •Non-recyclable paper •Department approved animal manure and bedding •Department approved industrial food processing materials •Animal mortalities •Compostable products	•Sewage Sludge or Biosolids •Used diapers •Mixed municipal solid waste (MSW) •**(Not covered under the CF Permit or composting facility regulations)**

C. Facility Tiers

Composting facilities are divided into "tiers," based on the feedstock types. Tier 2 is further divided into Tier 2-Large and Tier 2-Small, based on the amount of finished compost the facility produces per year. Table 3 shows the feedstock types included in each facility tier. **All Tier 1, Tier 2 – Small, and Tier 2 – Large facilities require a CF Permit unless covered under one of the exemptions laid out in the composting facility regulations at COMAR 26.04.11.05 and .06.**

Table 3: Facility Tiers

NWW Recycling Facility	Tier 1	Tier 2 - Small	Tier 2 - Large	Tier 3
• Composts *only* natural wood waste. • **(Not covered under the CF Permit or composting facility regulations)**	• Composts only Type 1 feedstocks.	• Composts only Type 1 and Type 2 feedstocks. • Produces ≤ 10,000 cubic yards of compost per year.	• Composts only Type 1 and Type 2 feedstocks • Produces > 10,000 cubic yards of compost per year.	• Composts Type 3 feedstocks (regardless of whether other feedstock types are also composted) • **(Not covered under the CF Permit or composting facility regulations)**

D. Exemptions from the CF Permit Requirement

This section discusses exemptions from the requirement to obtain a CF Permit, which are found in COMAR 26.04.11.05 and .06. Facilities exempt from the CF Permit **are still** subject to the general performance standards for composting facilities located in COMAR 26.04.11.04. They are not subject to the permit requirement or to the other provisions in the composting facility regulations governing design, construction, operation, recordkeeping, and reporting (COMAR 26.04.11.08 -.15). The regulations list exemptions applicable to on-farm composting and to composting at places other than farms.

1) Exemptions for composting **not** located at a farm

a. Backyard Composting. A CF Permit is not required for composting conducted at a residence, if all the feedstocks are generated on site and all the resulting compost is used on site. Backyard composting may be subject to local regulations or restrictions, so please check with your county or municipality for more information. A list of county recycling contacts can be found on MDE's website.

b. **5,000 sq ft Exemption.** A CF Permit is not required for a Tier 1 or 2 facility that uses no more than 5,000 square feet "in support of composting" and meets maximum pile height restrictions. Feedstock piles may not be higher than 9 feet and all other piles are limited to a height of 12 feet. When determining the area used in support of

composting, include areas used for feedstock receiving and preparation (such as mixing, shredding, water addition), active composting, curing, and storage (including compost, equipment, and waste). The areas do not need to be contiguous and spaces not used for any of the activities listed above may be omitted, including empty fields and roads.

c. **Animal Mortality Composting.** Composting of animal mortalities that is managed by State or local government as part of roadway or other public property maintenance activities is exempt.

2) Exemptions for **on-farm** composting

a. Exemption for On-site Feedstocks and On-site Compost Use. Composting is exempt up to any size if the farm composts only materials generated on the site (or a site controlled by the same operator) and uses all compost on site (or a site controlled by the same operator).
Example: A farmer owns Farm A and leases Farm B, located at a different site. The farmer transports crop residuals generated at Farm A to Farm B. There the crop residuals are mixed with manure generated at Farm B and composted. The resulting compost is transported back to Farm A for use. This activity is exempt, regardless of the size of the composting area.

b. **40,000 sq ft Exemption.** A CF Permit is not required for a facility that uses no more than 40,000 square feet "in support of composting" if it meets certain conditions. The facility may compost only materials generated on site (or at another farm controlled by the same operator), and yard waste, animal manure, and bedding from off site.

The facility must operate in accordance with its approved nutrient management plan, if required. The nutrient management plan requirements can be found at COMAR 15.20.07. The facility must also operate under **either** a soil conservation and water quality plan and or an agricultural waste management system plan. Whichever of these two plans the facility has, it must include information on the composting activity, including the facility components and design, schedule for storage and utilization of the materials, system maintenance, and operational procedures to ensure that the general performance standards in the regulations are met. Both types of plans can be obtained, generally free of cost, from the local Soil Conservation District in the county where the farm is located.

A farm may already have a soil conservation and water quality plan or an agricultural waste management system plan that was obtained for a reason other than compliance with the composting regulations. However, if the plan does not include information on the composting activity, it must be revised to include the information listed above.

c. **5,000 sq ft Exemption**. A CF Permit is not required for a Tier 1 or 2 facility that uses no more than 5,000 square feet "in support of composting" and meets the maximum pile height restrictions. See Section II.D.1.b of this guidance document.

d. **Emergency Exemption for Composting of Animal Mortalities**. A farm that needs to compost animal mortalities on a temporary basis due to a non-routine, catastrophic die-off does not require a CF Permit as long as the activity is approved by MDA in consultation with MDE.

****** What Qualifies as a Farm? ***

A farm is a site operated for the primary purpose of tilling, cropping, keeping, pasturing, or producing an agricultural product *other than compost*. Sites that are primarily operated to produce compost are not farms.

At sites that conduct both composting and farming, the following factors should be considered in determining the site's primary purpose:

- The revenue generated from farming activities versus the revenue generated from composting. Facilities that generate the majority of annual revenue from compost sales or composting feedstock tipping fees generally do not qualify as farms.
- The number of employees or amount of employee time spent on composting versus farming activities. Facilities that devote the majority of labor to conducting composting generally do not qualify as farms.
- The portion of on-site space or activity directly devoted to composting versus farming. Facilities in which most of the physical area and/or daily operations support composting generally do not qualify as farms.

Please contact the Department if you need further assistance in assessing whether a facility qualifies as a farm under the composting facility regulations.

Where Was the Feedstock "Generated"?

Two of the exemptions listed in this guide require the operator to determine where feedstocks were generated. For the purpose of the exemptions, a feedstock is generated at the place where it ceases being used for its original purpose and, unless composted, would become a waste. The following are examples:

- Animal bedding is generated at the place where it is used, regardless of whether it was originally purchased from off-site.
- Household food scraps are generated at the residence where the food was consumed.

The flow charts in Appendices A (for farms) and B (for non-farms) provide a summary of the CF Permit requirements and exemptions.

E. Design Requirements

The facility location and design requirements, which apply to facilities required to have a CF Permit, are located in COMAR 26.04.11.08. The table in Appendix C summarizes the major facility design requirements by Tier.

1) Contact Water vs. Stormwater

In the composting regulations, "contact water" is the term used for water that has contacted **raw feedstocks** or **actively composting** material. Stormwater is runoff from precipitation that has not contacted raw feedstocks or actively composting material. Water that has contacted **curing** or **finished** compost is stormwater, and may be considered Stormwater Associated with Industrial Activity (See Section III.A of this guide).

Tier 1 and Tier 2 – Small facilities should minimize runoff of contact water by following the design and operational requirements of the CF Permit and Composting Facility Operations Plan (CFOP) and implementing best management practices in accordance with the facility's stormwater discharge permit, if required (see §III.A). However, Tier 2 – Large facilities must collect and contain contact water prior to reuse or permitted treatment and discharge. It is therefore especially important for Tier 2 – Large facilities to ensure that material placed in curing areas meets the definition of "curing" in order to avoid contaminating stormwater. Curing material must have passed the pathogen reduction requirements (processing time and temperature). For material to be considered "curing," most of the readily metabolized material must have been decomposed and stabilized.

2) Methods for Minimizing Contact Water Generation

In a typical outdoor composting facility, the quantity of precipitation that falls on or runs onto feedstock storage and active composting areas will impact the quantity of contact water that is generated. As a result, the regulations require a Tier 2 – Large facility to size the containment structure to handle a 25-year, 24-hour storm event. Because large containment structures can be expensive, composters may wish to limit the quantity of contact water generated by separating precipitation and stormwater from feedstocks and actively composting materials.

The regulations allow for this by specifying that "covered" Tier 2 – Large facilities need only size containment structures for the amount of contact water generated. To be considered "covered," the facility must have a low-permeability barrier between precipitation/stormwater and the raw or active materials. This may include a synthetic cover, building, or enclosed vessel. A roof without walls also suffices, as long as there is a means of preventing run-on from entering the area sheltered by the roof, such as berms. The facility must keep the contact water separate from stormwater outside the cover – for a synthetic cover, this is most frequently accomplished by a trench or pipe under the covered piles that collects contact water, but is shielded from precipitation and stormwater runoff. Finally, operators choosing covered facility designs should ensure that raw and active materials are confined to the covered areas and kept out of uncovered pathways.

F. Pathogen Reduction

A pathogen reduction process, consisting of a minimum processing time and temperature combination, is required for Tier 1 and Tier 2 facilities. The process, known as the Process to Further Reduce Pathogens (PFRP), is widely used in the composting industry and is derived from U.S. EPA regulations on sewage sludge. The federal PFRP for composting is incorporated by reference in the regulations and states:

> *Using either the within-vessel composting method or the static aerated pile composting method, the temperature of the [materials being composted] is maintained at 55 degrees Celsius or higher for three days.*
>
> *Using the windrow composting method, the temperature of the [materials being composted] is maintained at 55 degrees or higher for 15 days or longer. During the period when the compost is maintained at 55 degrees or higher, there shall be a minimum of five turnings of the windrow.* (40 CFR. Pt. 503 App. B, §(B)(1))

All composting facilities required to obtain a CF Permit are required to establish a plan for monitoring temperature of each windrow or pile. In most cases, one set of temperature measurements per day during the period used to meet PFRP is sufficient. The plan should specify the procedure for taking measurements, including the frequency and how the operator will select locations for temperature monitoring. The following document includes some useful recommendations on the location and number of temperature measurements and a sample log for recording temperature results: Wisconsin DNR, Temperature Monitoring at Licensed Compost Facilities, http://dnr.wi.gov/files/PDF/pubs/wa/wa1585.pdf

G. Composting Facility Operations Plan

All facilities required to obtain a CF Permit must develop, submit to the Department, and comply with a CFOP addressing the items listed in COMAR 26.04.11.09B(1)(a). A person does not need any specific licensing or certification to write a CFOP – it can be written by the facility operator. The plan must be kept on site and reviewed annually to determine if updates are needed.

The CFOP must include a plan for preventing and responding to complaints of nuisances, such as odors. Some examples of nuisance odor prevention plans can be found on CalRecycle's Odor Impact Minimization Plan website: http://www.calrecycle.ca.gov/swfacilities/compostables/Odor/OIMP/default.htm

In addition to following its operations plan, a facility must follow the operational requirements contained in the regulations at 26.04.11.09, as well as any operational conditions in the CF Permit.

H. Recordkeeping and Reporting

COMAR 26.04.11.12 lists the information that must be recorded and reported to MDE annually by permitted composting facilities. The annual report must include at least:

- Quantities and types of feedstocks accepted and their counties of origin;
- Quantities and types of compost and residues produced; and
- Quantities and types of compost and residues removed from the site.

"Residue" refers to materials that are accepted at the facility but removed at some point during the process for disposal or recycling (e.g. non-compostable plastic bags).

1) Weight and Volume Measurements

All composting facilities must report quantities in weight (tons). Tier 2 facilities must also report volumes (cubic yards). However, any composting facility may choose to measure the quantities in either weight or volume. The facility may then use an acceptable conversion factor to convert the measurement to weight or volume for the purpose of the annual report.

The bulk density of a sample of any material can easily be calculated using a bucket and a small scale. This only needs to be done once for a given material, unless the makeup or mixture of the material changes significantly, but you should include a statement explaining your calculations with each annual report. The bulk density (i.e. tons per cubic yard) can then be used to generate either a weight from a volume or a volume from a weight. For detailed instructions on how to measure bulk density using a 5-gallon bucket, see Washington State University, http://archive.puyallup.wsu.edu/soilmgmt-old/BulkDensity.html

2) Determining the County of Origin for Feedstocks

Owners or operators of composting facilities are responsible for requesting from the hauler the county of origin for each load of organic materials brought to the site. It may be difficult to assess the exact quantity of materials from each county when a truck has made stops in multiple counties. In these cases, the composting facility may accept the hauler's best estimate of the portion of the load that came from each county. For example, if a hauler on a commercial organics route serving similarly sized businesses knows that approximately half of the stops were made in County A and half in County B, the composting facility may record 50% of the weight of the load as originating in County A and 50% in County B. Composting facilities will not be penalized for relying on information provided by haulers, but will be responsible for requesting and obtaining the information.

If a facility has a clearly posted policy of accepting only in-county material, such as a drop-off site for yard waste from county residents, the composting facility may assume all material came from within the county.

I. Obtaining a CF Permit

A composting facility required to obtain a CF Permit may opt for either a general or individual permit. Operators should review the content of the general permit to ensure that the facility is eligible and would be able to comply with its conditions. Assuming the facility is eligible for the general permit, the Table 4 shows some considerations that may factor into an operator's decision to obtain a general or individual permit.

Table 4: Characteristics of the General and Individual CF Permits

Individual Permit	General Permit
•Requires detailed application, including engineering plans and specifications. •Allows applicant to request a variance from a requirement in the regulations, if it can show the proposed practice is equally protective. •Public notice and opportunity for comment on each application, as well as distribution to various State and local agencies for review •May take more time to obtain, due to individualized review and public participation.	•Requires submission of a brief Notice of Intent (NOI) form and a copy of the CFOP. •No variances allowed. •Public notice and comment on the general permit itself, but not for each facility submitting an NOI. •May be faster than individual permit. Coverage begins when the Department acknowledges receipt of complying NOI and CFOP.

III. MDE – Water

A. Stormwater

The federal Clean Water Act requires a facility whose primary industrial activity falls within certain sectors to obtain a permit for stormwater discharges. MDE has issued a General Permit For Stormwater Discharges Associated With Industrial Activity**,** which covers multiple industries. Among the covered industries are SIC codes 2875 and 2499, which include composting.

In general, most commercial composting operations that distribute compost will be required to obtain coverage under the General Permit for Stormwater Discharges Associated with Industrial Activity. If composting takes place at a facility that also has some other activities, such as composting at a farm, the facility must determine whether composting is the primary activity. Factors in this determination may include the value of revenue from each activity, the number of personnel engaged in each activity, or whether the vast majority of on-site activity is composting. Noncommercial composting operations, which either produce compost for use by the operator or give away the compost free of charge (not including bartering), are unlikely to require a permit for stormwater discharges.

Completely indoor composting facilities may file a "No Exposure Certification" in lieu of permit coverage if all industrial materials or activities are protected by a storm-resistant shelter to prevent exposure to rain, snow, snowmelt, and/or runoff.

Additional information and contacts for this permit are located on the Department's website.

B. Wastewater (Contact Water) Discharges

If a Tier 2 – Large facility will discharge the collected contact water to surface water or groundwater, a surface water discharge permit or groundwater discharge permit may be required. These permits are currently available only as individual permits. These permits may not be required if all the contact water is stored in an approved containment structure with sufficient freeboard and reused on raw feedstocks or active piles.

IV. MDE – Air

While the composting activity itself does not require an air permit, certain equipment that could be used at a composting facility may. A Permit to Construct (PTC) is required for certain sources prior to construction or modification and applies to an individual unit or process line. Equipment powered by an internal combustion engine with at least 500 brake horsepower requires a PTC. Aeration systems, sorting systems, grinders, shredders, screeners, or drying and bagging equipment at composting facilities are examples of equipment that may require a PTC.

A Permit to Operate (PTO) is required for specific sources, which are listed in COMAR 26.11.02.13. Operators should review the sources listed in the regulation to determine if any of the listed equipment will be used at the site.

For more information, please see MDE's Permits to Construct and Operate page

Aside from permits, COMAR 26.11.06.08 prohibits operation or maintenance of a facility in a manner that creates a nuisance. COMAR 26.11.06.09 prohibits a person from causing or permitting discharge into the atmosphere of odors beyond the property in such a manner that a nuisance is created.

V. MDA Requirements

Product Registration

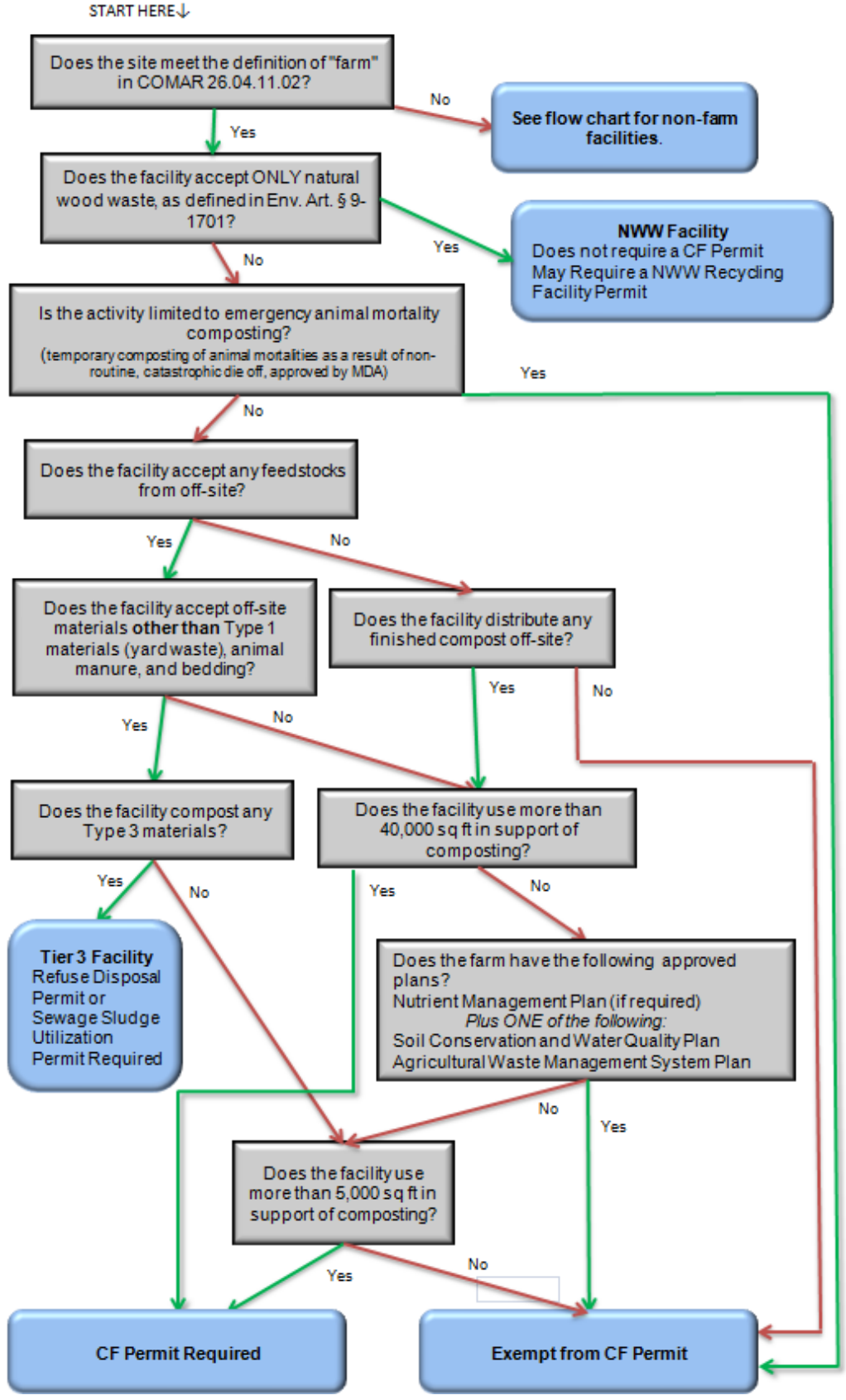
MDA regulations require registration of each brand or classification of compost before that compost can be sold or distributed in the State. Registration must be renewed annually. MDA regulations also include compost testing and classification, labeling, and recordkeeping requirements. A semiannual report on the tons of compost distributed in the State must be submitted with a 25 cent fee for each ton of compost. MDA may inspect and test compost or compostable material to ensure that it meets quality requirements.

Operator Certification

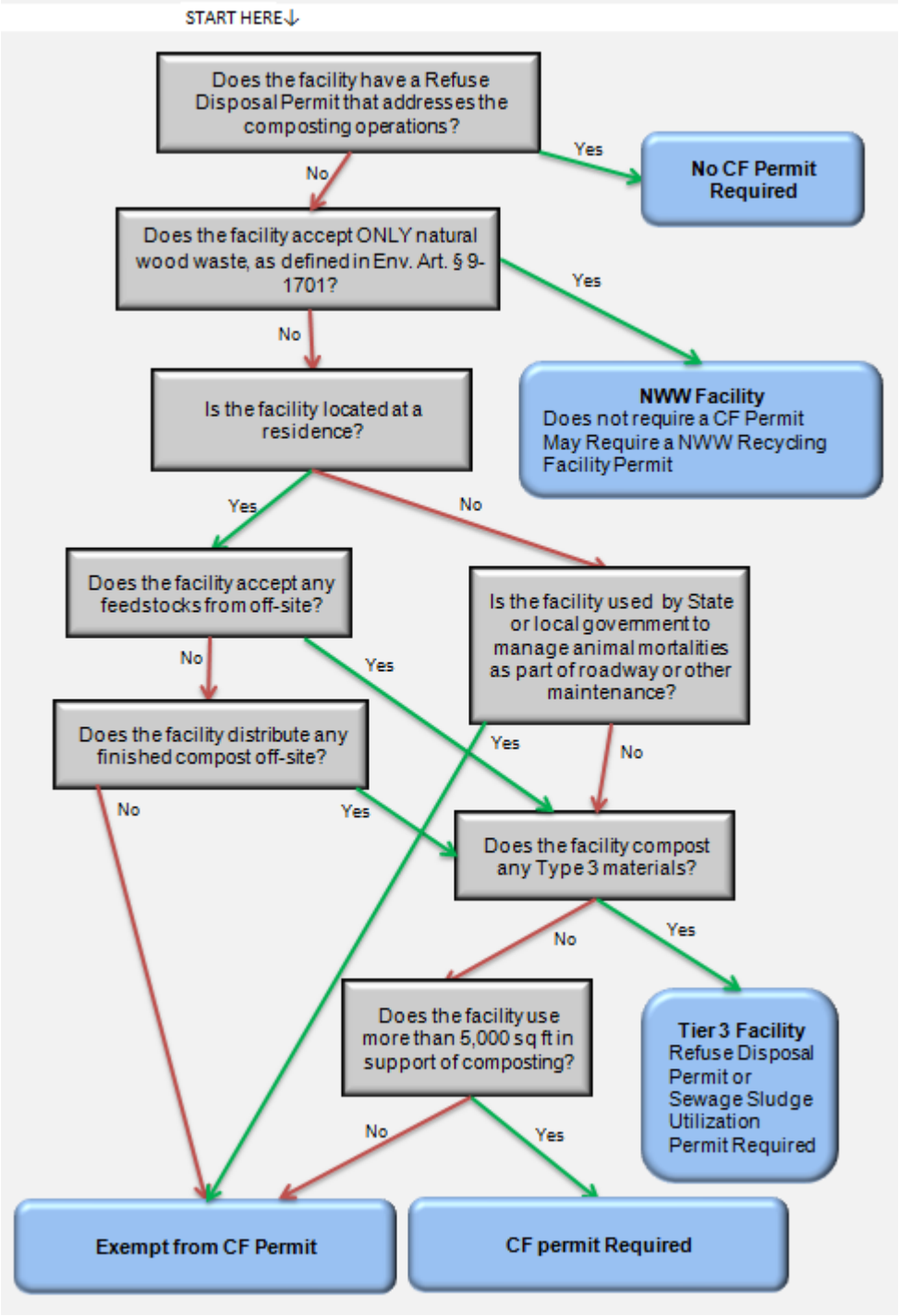
Each composting facility that distributes compost must operate under the supervision of an operator certified by MDA. Certification requires passage of a written test to demonstrate scientific and practical knowledge of composting. Operator certification lasts for 3 years, after which it must be renewed. Renewal may be accomplished either by retaking the written exam or by demonstrating participation in an MDA- approved composting training course.

For additional information, see MDA's State Chemist page

Appendix A – CF Permit Flow Chart for On-Farm Facilities



Appendix B – CF Permit Flow Chart for Non-Farms



Appendix C – Table of Major Design Requirements for Composting Facilities

Tier	Pad Requirements[1, 3]	Water Collection Requirements[1]
Exempt from CF Permit	None (but must avoid prohibited acts in COMAR 26.04.11.04)	None (but must avoid prohibited acts in COMAR 26.04.11.04)
NWW Composting	Subject to NWW regulations at COMAR 26.04.09 and conditions of the NWW Recycling Facility Permit.	Stormwater: Manage in accordance with the Stormwater Associated with Industrial Activity General Discharge Permit and local stormwater and sediment and erosion control requirements. Subject to NWW regulations at COMAR 26.04.09 and conditions of the NWW Recycling Facility Permit.
Tier 1	All-weather pad Slope 1-6% (except indoor facilities) Distance from water table 2 - 4 ft, depending on location within coastal plain province and other factors.	Stormwater: Manage in accordance with the Stormwater Associated with Industrial Activity General Discharge Permit and local stormwater and sediment and erosion control requirements.
Tier 2 – Small	All-weather pad Slope 1-6% (except indoor facilities) Distance from water table 2 - 4 ft, depending on location within coastal plain province and other factors. 6-inch carbon-rich substrate beneath active piles Active piles must be covered with one of the following: • 6 inches compost • 6 inches high-carbon material such as wood chips • Synthetic cover • Roof	Stormwater: Manage in accordance with the Stormwater Associated with Industrial Activity General Discharge Permit and local stormwater and sediment and erosion control requirements.

Tier 2 – Large (Uncovered)[2]	Curing and compost storage areas: All-weather pad Slope 1 - 6% Feedstock receipt, feedstock storage, and active composting areas: low permeability pad (concrete, cement, compacted clay) Permeability ≤ 10 -5 cm/sec if on the surface Permeability ≤ 10 -6 cm/sec if buried Sloped 1-6% All surfaces: Distance from water table 2 - 4 ft, depending on location within coastal plain province and other factors.	Stormwater: Manage in accordance with the Stormwater Associated with Industrial Activity General Discharge Permit and local stormwater and sediment and erosion control requirements. Contact water: Feedstock receipt, feedstock storage and active composting areas must direct contact water to a collection basin, tank, or other containment system prior to reuse, transport off site to a permitted facility, or discharge on-site pursuant to a discharge permit. Containment system: The containment system used to collect contact water must: • Be sized to handle at least a 24-hour, 25-year storm event; • Have a synthetic or compacted clay liner • Have liner permeability ≤ 10-7 cm/sec; and • Be at least 1 ft thick if made of compacted clay
Tier 2 – Large (Covered) [2]	Curing and compost storage areas: All-weather pad Slope 1 - 6% Feedstock receipt, feedstock storage, and active composting areas: low permeability pad (concrete, cement, compacted clay) Permeability ≤ 10 -5 cm/sec if on the surface Permeability ≤ 10 -6 cm/sec if buried Sloped 1-6% Within active composting areas, the low-permeability pad is required only for areas directly under covered piles; the "aisles" may have an all-weather pad. All surfaces: Distance from water table 2 - 4 ft, depending on location within coastal plain province and other factors.	Stormwater: The following are **not** considered contact water and must be managed in accordance with the Stormwater Associated with Industrial Activity General Discharge Permit and local stormwater and sediment and erosion control requirements. • Runoff that contacts only covered piles and empty aisles • Runoff from covered feedstock receipt or feedstock storage areas that contacts only the roof and/or empty aisles Contact water: The following **are** considered contact water and must be collected and contained prior to reuse, transport off site, or discharge on-site pursuant to a discharge permit: • Liquid that drains from the bottom of covered piles • Runoff from any uncovered feedstock receipt or feedstock storage Containment system: The containment system used to collect contact water must • Be sized to handle all contact water generated at the facility; • Have a synthetic or compacted clay liner (for ponds) • Have liner permeability ≤ 10-7 cm/sec; and • Be at least 1 ft thick if made of compacted clay

Tier 3	Subject to processing facility regulations at COMAR 26.04.07.23 and conditions of the Refuse Disposal Permit **or** Subject to sewage sludge regulations at COMAR 26.04.06 and conditions of the Sewage Sludge Utilization Permit.	Stormwater: Manage in accordance with the Stormwater Associated with Industrial Activity General Discharge Permit and local stormwater and sediment and erosion control requirements. Subject to processing facility regulations at COMAR 26.04.07.23 and conditions of the Refuse Disposal Permit **or** Subject to sewage sludge regulations at COMAR 26.04.06 and conditions of the Sewage Sludge Utilization Permit.

[1] An applicant for an individual Composting Facility Permit may apply for a variance from one or more of these requirements for proposed facility designs that would be equally protective of the environment.
[2] "Covered" means that the feedstock and active piles are covered with a synthetic cover or tarp or the piles are under a roof, as long as the roof has a means of preventing run-on from contacting the materials (such as walls, berms, etc.)
[3] Except where otherwise specified, the pad requirements apply to the feedstock receipt, feedstock storage, active composting, curing, and compost storage areas.

SB262_eranson_cleanwateraction_fav.pdf
Uploaded by: Emily Ranson
Position: FAV

SB262: Environment – On–Farm Composting Facilities – Permit Exemption
Senate Education, Energy, and the Environment Committee
House Environment and Transportation Committee
February 9, 2023

Positon: Favorable

Dear Chairman Feldman and Members of the Committee,

Clean Water Action supports SB262 to expand the footprint of on-farm compost operations that accept food scraps to match the footprint of on-farm compost for manure. SB262 mirrors legislation that the Senate passed unanimously in 2022, with amendments this committee made which we requested to improve the bill. Farmers are allowed to compost manure up to 40,000 square feet on their farms. Passing SB262 will allow them to incorporate food scraps into those piles, enabling them to create higher quality compost and divert food waste from landfills where it creates methane gas.

As amended in 2022, this bill:

- Requires that new food waste brought onto the farm must be immediately incorporated with carbonaceous (woody) material - this ensures that farms can only accept food scraps for which they are prepared
- Requires incorporation into active composting within 24-hours
- Requires recordkeeping of food scraps brought onto the farm including both date and time
- Clarifies feedstock definitions, which line up with existing regulations and makes it clear that liquid, fats, and grease are not considered food scraps

Under the current permit structure, farmers are allowed to compost their own animal mortalities and bring in off-site manure and can use up to 40,000 square feet of land under a permit exemption, without needing to seek out additional permits. SB262 codifies these practices and expands the permit exemption to allow farmers to also incorporate food scraps to that same 40,000 square feet footprint. Under current law, if a farmer decides to accept food scraps they are limited to 5,000 square feet of composting capacity, severely limiting the ability for farmers to compost food scraps. I have attached the existing regulations to this testimony.

To reiterate, **under current law farmers may compost off-site manure and on-site animal mortalities up to 40,000 square feet and if farmers accept off-site food scraps they are limited to 5,000 square feet. SB262 would add food scraps to the 40,000 square feet limit allowable materials list, putting it on even footing with what is already permissible for**

manure and animal mortalities. This change will expand the environmental benefits that farmers may offer to their communities.

A critical piece missing in Maryland's effort to divert food waste from landfills and incinerators is the capacity to compost food scraps. Meanwhile, Maryland farms use compost in their operations, and the ability to have a routine source of compost while earning income for accepting food scraps is a positive. Many farms across the state are using the current small compost permit exemption, even within the constraining 5,000 square foot limit, to take food scraps from nearby producers and incorporate it into their compost, creating better mixes of compost. The ability to add food scraps to on-farm generated materials allows farmers and composters to create a higher quality product.

High quality compost needs a mix of materials, the "green" and the "brown." Greens are moist things like coffee grounds, vegetable scraps, and animal manure, while browns are dry materials like leaves, corn stalks, and paper. Greens tend to be rich in nitrogen and protein and help heat up the pile, while browns are carbon rich and provide the bulk in the pile to allow air to filter through. A proper balance of these materials helps produce high quality compost, but relying on on-farm generation of materials does not often produce the right mix.

Compost is also a valuable mechanism for waste diversion. According to the US EPA and USDA, food scraps are 54.1% of compostable material, and they represent 21.6% of the total waste generated. In Maryland, around 927,000 tons of food waste are generated each year, but only 15.5% is recycled through composting or other means. By comparison, paper and yard trimmings, which are also organic waste, are recycled at 39% and 94% respectively.

Expanding access to composting also benefits the environment. Decomposition in landfills produces significant levels of methane. Composting food waste is preferable to disposing of it in landfills, because it does not produce methane and carbon dioxide at these levels. This is because of the difference between anaerobic decomposition and aerobic decomposition. Landfills establish anaerobic decomposition, in which no oxygen is present during the decomposition of municipal waste. This process produces very high levels of methane. The EPA cites these municipal landfills as the third-largest source of human-related methane emissions in the US.

By contrast, compost uses aerobic decomposition. In this process, oxygen is present during decomposition. When oxygen is present, the microbes that produce methane are not active. As a result, aerobic decomposition, and thereby composting, does not produce methane at the rate that anaerobic decomposition does.

In fact, composting actively reduces greenhouse gas in the atmosphere. This is because composting promotes carbon sequestration in the soil. Microbes only present when there is

oxygen take up carbon dioxide while converting organic matter into compost, removing it from the atmosphere and storing it in the soil. Composting as a waste diversion tactic therefore not only prevents methane emissions caused by landfills, but also promotes the reduction of greenhouse gases.

Composting on farms has been a haven supporting new and growing compost companies within the state of Maryland. Expanding the ability of farmers to compost on their land and create an important soil supplement is a great opportunity to address the issues of food waste, soil health, and carbon sequestration.

For these reasons, we urge a favorable report.

Thank you,

Emily Ranson
Maryland Director
Clean Water Action
eranson@cleanwater.org

Nitya Aggarwal
Compost Intern
Clean Water Action

SB262_PGCFB_Favor.pdf.pdf
Uploaded by: Harrison Palmer
Position: FAV

PRINCE GEORGE'S COUNTY FARM BUREAU, INC.

13501 Molly Berry Road Brandywine, MD 20613

PGCFB.org – 301.579.6552 – PGCFB@yahoo.com

To: Senate Energy, Education and Environment Committee
From: Prince George's County Farm Bureau, Inc.
Re: Senate Bill 262 - On-Farm Composting Facilities - Permit Exemption
Date: February 8, 2023

On behalf of the Prince George's County Farm Bureau, I would like to express our support of Senate Bill 262, exempting on-farm composting facilities that meet certain criteria from Maryland Department of the Environment (MDE) permitting.

Composting has long since been a practice of farmers, whether the input is animal manure, crop residue, food scraps, or a combination of these and other organic materials. However, many farmers who seek to expand composting in their operation are limited by the 5,000 square foot threshold that triggers a solid waste processing facility permit. Inclusion and expansion of materials and size for composting on a more economic scale provides opportunity for farmers to generate organic, locally sourced soil amendments, and participate in a resiliency plan to handle local food waste.

Technical service providers such as the University of Maryland Extension, and the local Soil Conservation Districts across the state offer guidance and standards for on-farm compost, and work closely with farmers to develop best management practices surrounding their on-farm composting operations. As Prince George's County and the State of Maryland continue to work towards setting standards for greener and more environmentally conscious practices, exempting on-farm compost up to 40,000 square feet offers new opportunities for partnership between farmers and local food waste operations. It also opens the door to beneficial uses implemented at a local level of food scraps that would otherwise be dumped into landfills.

Prince George's County Farm Bureau is in strong support of Senate Bill 262, and urges a favorable report. We look forward to working with our farmers to integrate this new opportunity into their farm operations and generate a greener food system in Maryland.

Sincerely,

Harrison B. Palmer
Vice President
Prince George's County Farm Bureau

SB 262, FAV, OCE Testimony, JF, LS23.pdf
Uploaded by: Jessica Fitzwater
Position: FAV

Jessica Fitzwater
County Executive

FREDERICK COUNTY GOVERNMENT

OFFICE OF THE COUNTY EXECUTIVE

SB 262 - Environment - On-Farm Composting Facilities - Permit Exemption

DATE:	February 9, 2023
COMMITTEE:	Senate Education, Energy, and the Environment
POSITION:	Favorable
FROM:	The Office of Frederick County Executive Jessica Fitzwater

As the County Executive of Frederick County, I urge the committee to give **SB 262 - Environment - On-Farm Composting Facilities - Permit Exemption** a favorable report.

This bill expands the footprint of on-farm compost facilities with an MDE-issued permit from the current 5,000 square feet or less to 40,000 square feet or less if the facility meets other conditions for a permit exemption.

Current regulations allow on-farm compost facilities to operate without an MDE-issued permit within specific limits, including a footprint of 40,000 square feet or less for most feedstocks, but within a footprint of only 5,000 square feet for food residuals. This limitation hamstrings farmers who would otherwise be able to incorporate food scraps into existing composting operations and assist in state-wide efforts to divert food waste from landfills.

Frederick County's permitting and land use policies allow for limited food waste composting as an agricultural activity up to 5 acres without a site plan approval or up to 10 acres for commercial activity with a site plan approval. Our Food Waste Composting zoning ordinance was updated in 2018 to help streamline the process and make food waste composting more accessible for our local farmers. The changes proposed in SB262 would support this effort to reduce barriers for food waste composting.

SB262 would benefit the farming community and the environment by diverting food waste and expanding composting opportunities.

Thank you for your consideration of SB 262 and I urge a favorable report.

Jessica Fitzwater, County Executive
Frederick County, MD

BaltimoreCounty_FAV_SB0262.pdf
Uploaded by: Joshua Greenberg
Position: FAV

JOHN A. OLSZEWSKI, JR.
County Executive

JENNIFER AIOSA
Director of Government Affairs

AMANDA KONTZ CARR
Legislative Officer

JOSHUA M. GREENBERG
Associate Director of Government Affairs

BILL NO.: **SB 262**

TITLE: Environment - On-Farm Composting Facilities - Permit Exemption

SPONSOR: Senator Gallion

COMMITTEE: Education, Energy, and the Environment

POSITION: **SUPPORT**

DATE: February 9, 2023

Baltimore County **SUPPORTS** Senate Bill 262 – Environment - On-Farm Composting Facilities - Permit Exemption. This legislation would require the department of the environment to adopt regulations to exempt an on-farm composting facility from the requirement to obtain a permit under certain circumstances.

As residents and local governments throughout Maryland continue to find alternatives to filling landfills with solid waste, many have turned to composting as a responsible option for the disposal of organic waste. Composting allows farmers and individuals to return nutrients from organic waste to crops in a manner that reduces the environmental impact of letting the crops degrade on their own.

Last year, the County passed legislation which brought local composting regulations in line with the state and opened local regulations to allow for the use of storage containers for larger on and off-site composting efforts. This legislation would further County solid waste policy by reducing regulatory burdens on small businesses seeking to implement small-scale composting.

Accordingly, Baltimore County requests a **FAVORABLE** report on SB 262. For more information, please contact Jenn Aiosa, Director of Government Affairs at jaiosa@baltimorecountymd.gov.

SB0262 On Farm Composting_Educ Energy Environ-CJW-

Uploaded by: Laurie McGilvray

Position: FAV

Committee: **Education, Health, and the Environment**
Testimony on: **SB0262 - Environment - On-Farm Composting Facilities - Permit Exemption**
Organization: **Maryland Legislative Coalition Climate Justice Wing**
Submitting: **Laurie McGilvray, Co-Chair**
Position: **Favorable**
Hearing Date: **February 9, 2022**

Dear Chair and Committee Members:

Thank you for allowing our testimony today in support of SB262. The Maryland Legislative Coalition (MLC) Climate Justice Wing, a statewide coalition of over 50 grassroots and professional organizations, urges you to vote favorably on SB262.

SB262 will expand the area for on-farm composting of food scraps from the current 5,000 square feet or less to 40,000 square feet or less without a Maryland Department of the Environment (MDE)-issued permit. Currently, on-farm composting is allowed without a MDE permit for an area of 40,000 square feet or less, but only for most feedstocks. SB262 would allow this same 40,000 square foot area for food scrap composting.

The bill will provide a number of benefits, including: increasing the available locations for food scrap composting; increasing the use of compost as a soil amendment for local farmers; diverting food scraps from landfills and incinerators; reducing landfill methane emissions from organic material; and contributing to Maryland's Zero Waste food scrap goals of 60% diversion by 2025, 70% by 2030, and 90% by 2040.

Diverting food waste to on-farm compost sites will conserve landfill space; reduce greenhouse gas emissions; create green businesses and jobs; and benefit agricultural soil health. SB262 represents an important step on the path to zero waste and we recommend a **FAVORABLE** report in committee.

SB262_MDSierraClub_fav 9Feb2023.pdf
Uploaded by: Martha Ainsworth
Position: FAV

Maryland Chapter
P.O. Box 278
Riverdale, MD 20738

Committee: **Education, Energy, and the Environment**

Testimony on: **SB 262 "Environment – On–Farm Composting Facilities – Permit Exemption"**

Position: **Support**

Hearing Date: **February 9, 2023**

The Maryland Chapter of the Sierra Club supports SB 262. Current regulations allow on-farm compost facilities to operate without an MDE-issued permit within specific limits, including a footprint of 40,000 square feet or less for most feedstocks, but within a footprint of only 5,000 square feet for food residuals. This bill will expand the footprint for on-farm composing of food residuals without an MDE-issued permit from the current 5,000 square feet or less to 40,000 square feet or less.

SB 262 will increase the availability of food residual composting operations and bring them closer to where food residuals are generated, with the following benefits:

- **Conserving resources and increasing the use of compost**, a valuable soil amendment for local farmers. It is an opportunity for farmers to reduce reliance on chemical fertilizers that pollute air and water and are a petroleum product requiring energy to produce.

- **Diverting organic waste from landfills and incinerators**. Food waste is nearly 18% of municipal solid waste (MSW) by weight in municipal landfills, and about 30% of MSW is compostable.[1] Landfill space in Maryland is already in critically short supply, with existing capacity to last 31 years.[2] Diversion of food waste will reduce costs to taxpayers for waste disposal and conserve landfill space for waste that cannot be diverted.

- **Contributing to reaching Maryland's Zero Waste food scrap goals of 60% diversion by 2025, 70% by 2030, and 90% by 2040**.[3] To achieve these targets, the state's Zero Waste Plan calls for increasing food donation, promoting compost use, and phasing in a food scrap disposal ban in commercial and institutional organizations – all of which are promoted by this bill.

- **Reducing future landfill methane emissions**. The anaerobic decomposition of organic matter such as food residuals in a tightly compacted landfill releases methane, a greenhouse gas many times more potent than carbon dioxide.

In addition to these benefits, diverting food waste from the waste stream would create green businesses and jobs and benefit the agricultural sector. It is an important step on the path to zero waste. For these reasons, the Maryland Chapter of the Sierra Club urges a favorable report on HB 262.

Ben Fischler
Chapter Zero Waste Team
brf57@yahoo.com

Josh Tulkin
Chapter Director
Josh.Tulkin@MDSierra.org

[1] MSW Consultants. 2017. "2016 Maryland Statewide Waste Characterization Study: Final Report." MDE, July. Figure ES-3.
[2]Department of Legislative Services, Office of Policy Analysis. 2017. "Solid Waste Management and Recycling in Maryland." Annapolis, Maryland. p. vii. (http://dls.maryland.gov/pubs/prod/NatRes/January-2017-Waste-Management-in-Maryland.pdf)
[3]Maryland Department of the Environment (MDE). 2014. "Zero Waste Maryland: Maryland's Plan to Reduce, Reuse, and Recycle Nearly All Waste Generated in Maryland by 2040." December.

SB 262_CBF_FAV.pdf
Uploaded by: Matt Stegman
Position: FAV

CHESAPEAKE BAY FOUNDATION

Environmental Protection and Restoration
Environmental Education

Senate Bill 262

Environment – On-Farm Composting Facilities – Permit Exemption

Date:	February 9, 2023	Position:	Support
To:	Education, Energy, and the Environment Committee	From:	Matt Stegman
		Title:	Maryland Staff Attorney

Chesapeake Bay Foundation (CBF) **SUPPORTS** SB 262 which requires the Department of the Environment to adopt regulations to exempt an on-farm composting facility from the requirement to obtain a permit if the facility meets certain condition for a permit exemption specified in regulations.

Soil health is key to the future of agriculture

Well-managed composting of waste adds biologically rich material to soils, feeding essential micro-organisms and fungi that improve soil health and enhance production of healthy, nutritious food. Healthier soils increase water holding capacity, facilitate nutrient cycling, and reduce soil loss, helping farmers maintain their land and minimizing risks to water quality and the Chesapeake Bay.

Food waste affects climate change

The diversion of food waste from incinerators and landfills through composting helps minimize the amount of carbon dioxide and methane released into the atmosphere by these traditional methods of waste management. Lower greenhouse gas emissions improve air quality, reduce impacts to human health, and increase resilience to the effects of climate change.

SB 262 promotes on-farm composting

SB 262 would allow an on-farm composting facility exemptions from permit requirements if the facility uses 40,000 square feet of area or less for active food scrap composting, composts only certain materials, records the amount and source of feedstock composted and the date and time the feedstock arrived on the farm, retains the records for three years, and meets any other condition specified in regulations.

This legislation will improve soil health, help fight the effects of climate change, and transition Maryland to a more effective, equitable, and environmentally sound waste management system.

CBF urges the Committee's FAVORABLE report on SB 262.

For more information, please contact Matt Stegman, Maryland Staff Attorney, at mstegman@cbf.org.

Maryland Office ▪ Philip Merrill Environmental Center ▪ 6 Herndon Avenue ▪ Annapolis ▪ Maryland ▪ 21403

SB 262 Favorable.pdf
Uploaded by: Senator Gallion
Position: FAV

JASON C. GALLION
Legislative District 35
Harford and Cecil Counties

Education, Health, and
Environmental Affairs Committee

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Port Deposit, Maryland 21904

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

February 8th, 2023

The Honorable Brian Feldman, Chair

Senate Education, Energy and the Environment Committee

Re: SB 262 – Environment – On-Farm Composting Facilities – Permit Exemption

Position: Favorable

Chairman Feldman and EEE Committee Members:

SB 262 is enabling legislation that will expand the current 5,000 sq ft exemption up to 40,000 square feet for on farm composting facilities. Allowing these on farm composting to expand is a win-win for the farming and environmental community as it allows farms to benefit from reduced solid waste costs and helps the environment by reducing the amount of waste going to landfills.

I respectfully ask for a favorable report on SB 261.

Sincerely,

Senator Jason Gallion – District 35

testimony - on-farm composting permit exemption.pa
Uploaded by: Jane Seigler
Position: FWA

MARYLAND
HORSE
COUNCIL

P.O. Box 606 | Lisbon, Maryland 21797
www.mdhorsecouncil.org

One Common Bond: The Horse
One Common Voice: The Horse Council

In the Senate Education, Energy & Environment Committee, February 9, 2023

Testimony of the Maryland Horse Council on SB 262

Environment - On-Farm Composting Facilities - Permit Exemption -
FAVORABLE WITH AMENDMENT

The Maryland Horse Council (MHC) is a membership-based trade association that represents the state-wide horse industry in Maryland. Our members include horse farms; horse related businesses; equestrian competitors; trainers; individual enthusiasts; equine-assisted therapy programs; and breed, interest, and discipline associations. We stand for 30,000 Marylanders who make their living with horses, or who just own and love them.

MHC supports exempting an on-farm composting facility from the requirement to obtain a permit under COMAR 26.04.11.06 if the facility meets the requirements in Section 9-1725(c)(3)(I) and (II) (page 3, line 32, and 4, lines 1 - 18).

However, we believe that the record keeping provisions of Section 9-1725(c)(3)(III) (page 4, lines 19 - 24) are ambiguous and could be construed to mean that the record keeping requirement would apply even to farms that compost just their own animal manure and bedding produced on-site. Such a requirement would be unduly burdensome and highly impractical for small farms that compost only their own manure and bedding.

Therefore, we request that SB 262 be amended to clarify that the record keeping requirement does not apply to farms that compost only their own manure and animal bedding.

Respectfully submitted,

THE MARYLAND HORSE COUNCIL
(844) MDHORSE (844-634-6773)
info@mdhorsecouncil.org

SB 262 - MoCo_Shofar_SWA (GA 23).pdf
Uploaded by: Steven Shofar
Position: FWA

Montgomery County
Office of Intergovernmental Relations

ROCKVILLE: 240-777-6550 **ANNAPOLIS: 240-777-8270**

SB 262 **DATE: February 9, 2023**

SPONSOR: Senator Gallion, *et al.*

ASSIGNED TO: Education, Energy, and the Environment

CONTACT PERSON: Steven Shofar (steven.shofar@montgomerycountymd.gov)

POSITION: Support with Amendments (Department of Environmental Protection)

Environment – On-Farm Composting Facilities – Permit Exemption

The Montgomery County Department of Environmental Protection supports this bill with some clarifying amendments. The bill will allow farmers to perform on-site composting on 40,000 square feet of area or less. There are presently no significant food scrap composting sites in Montgomery County. Most food scraps are burned as part of the municipal trash waste stream. The County is currently piloting food scrap collection. All the food scraps collected as part of the pilot are taken outside the County for composting. This bill will allow farmers to compost food scraps and other compostable material within the County.

We offer the following suggestions/amendments:

Amend §9-1725 (a) to include a definition for “active composting area”.

Amend §9-1725 (C)(3) to include a statement that an operator cannot place more material on the process pad then can be processed properly.

BDC - 2023 - SB 262 - onfarm composting.pdf
Uploaded by: Aaron Greenfield
Position: UNF

To:	**Environment and Transportation Committee**
From:	**Bioenergy Devco**
Subject:	**Senate Bill 262, Environment - On-Farm Composting Facilities - Permit Exemption**
Position:	**Unfavorable**
Date:	**February 9, 2023**

Bioenergy Devco opposes Senate Bill 262, Environment - On-Farm Composting Facilities - Permit Exemption.

This testimony is offered on behalf of Bioenergy Development Company (BDC), the foremost providers of anaerobic digester solutions and is a pioneer in this sector. The core expertise of our company lies in planning, producing and constructing the plants. For over 20 years and more than 250 biogas plants, our qualified team of engineers, biologists, chemists, agronomists, designers and marketing experts has significant experience in the design, construction and operation of anaerobic digestor power plants and thus offers expertise in service, consultation and biological support.

This bill requires the Maryland Department of the Environment (MDE) to establish an exemption, by regulation, from the permitting requirements under the Code of Maryland Regulations (COMAR) 26.04.11.06 for an on-farm composting facility that (1) uses 40,000 square feet (ft2) of area or less in support of food scrap composting and (2) meets any other conditions specified in regulations.

BDC recognizes the need for added capacity for organics/food scrap recycling in the state; however, we also are very familiar with the impacts on air, water and soil if operations are not held to standards laid out in COMAR 26.04.11.06. By removing and/or reducing permitting/regulatory requirements for on farm composting this disrupts the flow of food scraps to other more thoroughly regulated organics recycling facilities and in absence of regulation may have a host of issues related to odor, vectors (rodents, insects etc.) leaching and emissions. Further, if a system fails, it would tarnish the reputation of local agriculture as well as organic recycling facilities.

The use of composting and anaerobic digestion processes can play a significant role in achieving goals for reducing greenhouse gas emissions and reducing the volume of material deposited in landfills; however, these practices should be expanded with consistent regulation to prevent negative impacts on surrounding communities and ensure the quality of resulting soil products.

For these reasons, Bioenergy Devco respectfully requests an unfavorable report on Senate Bill 262.

For additional information, please contact Aaron J. Greenfield at 410.446.1992

MDE_LOI_SB0262.pdf
Uploaded by: Tyler Abbott
Position: INFO

February 09, 2023

The Honorable Brian J. Feldman, Chair
Education, Health, and Environmental Affairs Committee
Miller Senate Office Building, Suite 2W
Annapolis, Maryland 21401

Re: Senate Bill 262 – Environment – On–Farm Composting Facilities – Permit Exemption

Dear Chair Feldman and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed Senate Bill 262 and we would like to provide information and a proposed amendment regarding this bill.

Senate Bill 262 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 Senate Bill 262, 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 2021, an estimated 240,168 tons or 22.7 percent of food waste generated in Maryland was recycled, an estimated 104,808 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, as 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.

Another consideration that needs to be explored with this bill is that new sources or expanding sources not identified for that watershed's current Total Maximum Daily Load need to identify offsets due to lack of wasteload allocations. In addition to this, this bill would not eliminate the requirement for a National Pollutant Discharge Elimination System discharge permit, currently provided under the stormwater permit. However, the coverage under the general permit depends on the protections in the compost permit. The unintended consequence of this would be that smaller operators are forced into more expensive and time-consuming individual permits.

Amendment: MDE recognizes the need to expand capacity for composting 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. MDE would be willing to entertain expansion of the current 5,000 square foot exemption to 10,000 square feet, double the current exemption, to help address concerns of small on-farm operations.

Thank you for your consideration. We will continue to monitor Senate Bill 262 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6304 or by e-mail at gabrielle.leach@maryland.gov.

Sincerely,

Gabrielle Leach

Gabrielle Leach, Deputy Director, Legislative and Intergovernmental Relations

cc: The Honorable Jason C. Gallion
Tyler Abbott, Director, Land and Materials Administration