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An Act Regarding the Regulation of Agricultural Composting Operations

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

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

CHAPTER 749

AGRICULTURAL COMPOSTING

§ 4301. Definitions

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

1. Agricultural composting operation. "Agricultural composting operation" means composting that takes place on a farm and uses only animal manure, animal carcasses and offal, fish waste, leaves, wood chips, animal bedding and other vegetative waste, produce and other vegetable and food waste.

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

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

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

5. Farm. "Farm" means land on which the commercial production of crops and animals useful to humans occurs, including, but not limited to, the production of seed, forages, sod, grains, feed, berries, flowers, vegetables, milk and milk products, poultry and poultry products, livestock and livestock products and other plants grown or animals raised for food, feed or fiber. For a farm to qualify as a farm under this chapter, the person owning or operating the farm must file a federal Internal Revenue Service Tax Form 1040 under the appropriate schedule for the reporting of profit or loss from a farm.

§ 4302. Registration

A person who owns or operates a commercial agricultural composting operation shall register with the department no later than September 1st of each year on a form prescribed by the department. A registration fee established in accordance with section 4303 must be submitted with the form. The commissioner shall deposit registration fees into the Nutrient Management Fund established in section 4208.

§ 4303. Duties of the commissioner

The commissioner shall implement a program to educate composters on agricultural composting methods and ensure adherence to best management practices by commercial agricultural composting operations. The commissioner shall advise persons operating commercial agricultural composting operations of technical assistance, funding and other resources available to them through the United States Department of Agriculture and the soil and water conservation districts organized under Title 12, chapter 1.

1. Rulemaking. The commissioner shall adopt rules to establish basic best management practices for commercial agricultural composting operations, a process for developing specific best management practices for an individual agricultural composting operation and timelines for implementation of best management practices prescribed by the commissioner. The commissioner shall also establish registration fees in rule. Fees must be appropriate to the size of the operation. Notwithstanding Title 5, section 8071, subsection 3, paragraph B, rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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

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

4. Other actions. If the person responsible for a commercial agricultural composting operation does not adopt best management practices in accordance with this section, the commissioner shall send a written report to the Attorney General and to the Commissioner of Environmental Protection advising them of the situation. The Attorney General may institute an action to enforce the provisions of this section or any other applicable state law. If a potential violation of Title 38 has occurred, the Commissioner of Environmental Protection shall respond as appropriate.

Sec. 2. 38 MRSA §1303-C, sub-§1-D is enacted to read:

1-D. Agricultural composting operation. "Agricultural composting operation" has the meaning set out in Title 7, section 4301, subsection 1.

Sec. 3. 38 MRSA §1303-C, sub-§40, as enacted by PL 1989, c. 585, Pt. E, §4 and amended by c. 869, Pt. A, §5 and affected by §21, is further amended to read:

40. Waste facility. "Waste facility" means any land area, structure, location, equipment or combination of them, including dumps, used for handling hazardous, biomedical or solid waste, waste oil, sludge or septage. An agricultural composting operation is not a waste facility. A land area or structure does not become a waste facility solely because:

- A. It is used by its owner for disposing of septage from the owner's residence;
- B. It is used to store for 90 days or less hazardous wastes generated on the same premises;
- C. It is used by individual homeowners or lessees to open burn leaves, brush, deadwood and tree cuttings accrued from normal maintenance of their residential property, when such burning is permitted under section 599, subsection 3; or
- D. It is used by its residential owner to burn highly combustible domestic, household trash such as paper, cardboard cartons or wood boxes, when such burning is permitted under section 599, subsection 3.

Sec. 4. 38 MRSA §1304, sub-§20 is enacted to read:

20. Commercial agricultural composting operations. The provisions of this chapter do not apply to agricultural composting operations regulated by the Department of Agriculture, Food and Rural Resources under Title 7, chapter 749. The board may not adopt rules regulating agricultural composting operations as waste facilities.

SUMMARY

This bill requires commercial agricultural composting operations to register with the Department of Agriculture, Food and Rural Resources and directs the Commissioner of Agriculture, Food and Rural Resources to adopt rules concerning best management practices for commercial agricultural composting operations. It authorizes the commissioner or the commissioner's designee to enter the premises of a commercial agricultural composting operation to inspect for compliance with best management practices.

It removes commercial agricultural composting operations from regulation by the Department of Environmental Protection as waste facilities but does not exempt commercial agricultural composting operations from state or federal environmental laws.