

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

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Legislative Document

No. 564

S.P. 176

February 5, 2007

An Act To Streamline the Regulation of Agricultural Composters

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator NUTTING of Androscoggin.
Cosponsored by Representative MAREAN of Hollis and
Senators: MARTIN of Aroostook, NASS of York, SHERMAN of Aroostook, Representatives:
JACOBSEN of Waterboro, LEWIN of Eliot, NASS of Acton.

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

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

3 **CHAPTER 749**

4 **AGRICULTURAL COMPOSTING**

5 **§4301. Definitions**

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

8 **1. Agricultural composting operation.** "Agricultural composting operation" means
9 composting that takes place on a farm. "Agricultural composting operation" does not
10 include an operation that involves nonorganic municipal solid waste or that composts
11 municipal sludge, septage, industrial solid waste or industrial sludge. "Agricultural
12 composting operation" does not include an operation that composts materials with a
13 moderate or high risk of contamination from heavy metals, volatile and semivolatile
14 organic compounds, polychlorinated biphenyls or dioxin.

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

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

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

27 **5. Farm.** "Farm" means the land and buildings used in the commercial production
28 of farm products.

29 **6. Septage.** "Septage" has the same meaning as in Title 38, section 1303-C,
30 subsection 27.

31 **7. Sludge.** "Sludge" has the same meaning as in Title 38, section 1303-C, subsection
32 28-A.

33 **§4302. Registration**

34 A person who owns or operates a commercial agricultural composting operation shall
35 register with the department no later than March 1st of each year on a form prescribed by

1 the department. A registration fee of \$25 must be submitted with the form. The
2 commissioner shall deposit registration fees into the Nutrient Management Fund
3 established in section 4208.

4 **§4303. Duties of the commissioner**

5 The commissioner shall implement a program to educate composters on agricultural
6 composting methods and ensure adherence to best management practices by commercial
7 agricultural composting operations.

8 **1. Rulemaking.** The commissioner shall adopt rules to establish basic best
9 management practices for commercial agricultural composting operations, a process for
10 developing specific best management practices for an individual agricultural composting
11 operation and timelines for implementation of best management practices prescribed by
12 the commissioner. Rules adopted pursuant to this subsection are routine technical rules
13 as defined in Title 5, chapter 375, subchapter 2-A.

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

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

26 **4. Enforcement of environmental laws.** If the commissioner finds that failure to
27 implement best management practices prescribed by the department has resulted in a
28 possible violation of Title 38, chapter 3 or 13, the commissioner shall send a written
29 report describing the alleged violation to the Commissioner of Environmental Protection
30 and a copy of the report to the Attorney General.

31 **§4304. Repeal**

32 This chapter is repealed March 31, 2009.

33 **Sec. 2. 38 MRSA §373** is enacted to read:

34 **§373. Commercial agricultural composting operations**

35 Commercial agricultural composting operations as defined in Title 7, section 4301
36 are regulated by the Department of Agriculture, Food and Rural Resources. This chapter
37 does not apply to commercial agricultural composting operations except that, upon
38 receipt of a report submitted by the Commissioner of Agriculture, Food and Rural
39 Resources in accordance with Title 7, section 4303, subsection 4, the department may

1 investigate an alleged violation of article 1-F or 2 and take enforcement action in
2 accordance with this chapter.

3 This section is repealed March 31, 2009.

4 **Sec. 3. 38 MRSA §1304, sub-§20** is enacted to read:

5 **20. Commercial agricultural composting operations.** Commercial agricultural
6 composting operations as defined in Title 7, section 4301 are regulated by the Department
7 of Agriculture, Food and Rural Resources. This chapter does not apply to commercial
8 agricultural composting operations except that, upon receipt of a report submitted by the
9 Commissioner of Agriculture, Food and Rural Resources in accordance with Title 7,
10 section 4303, subsection 4, the department may investigate an alleged violation of section
11 1306 and take enforcement action in accordance with this chapter.

12 This subsection is repealed March 31, 2009.

13 **SUMMARY**

14 This bill requires commercial agricultural composting operations to register with the
15 Department of Agriculture, Food and Rural Resources. The bill requires the
16 Commissioner of Agriculture, Food and Rural Resources to adopt rules for the regulation
17 of commercial agricultural composting operations. The bill also requires the
18 Commissioner of Agriculture, Food and Rural Resources to submit a written report to the
19 Commissioner of Environmental Protection if a violation of the laws administered by the
20 Department of Environmental Protection is believed to have occurred because of a failure
21 to implement prescribed best management practices.