

MAINE STATE LEGISLATURE

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Legislative Document

No. 2284

S.P. 909

March 28, 2008

An Act Regarding the Regulation of Agricultural Composting Operations

Reported by Senator SHERMAN of Aroostook for the Joint Standing Committee on Agriculture, Conservation and Forestry pursuant to Resolve 2007, chapter 139, section 4.

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed under Joint Rule 218.

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

JOY J. O'BRIEN
Secretary of the Senate

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 **§12051. 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 and uses only animal manure, animal carcasses and
10 offal, fish waste, leaves, wood chips, animal bedding and other vegetative waste, produce
11 and other vegetable and food waste.

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

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

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

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

31 **§12052. Registration**

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

1 **§12053. Duties of the commissioner**

2 The commissioner shall implement a program to educate composters on agricultural
3 composting methods and ensure adherence to best management practices by commercial
4 agricultural composting operations. The commissioner shall advise persons operating
5 commercial agricultural composting operations of technical assistance, funding and other
6 resources available to them through the United States Department of Agriculture and the
7 Soil and Water Conservations Districts organized under Title 12, chapter 1.

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. The commissioner shall also establish registration fees in rule. Fees
13 must be appropriate to the size of the operation. Notwithstanding Title 5, section 8071,
14 subsection 3, paragraph B, rules adopted pursuant to this subsection are routine technical
15 rules as defined in Title 5, chapter 375, subchapter 2-A.

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

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

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

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

36 **1-D. Agricultural composting operation.** "Agricultural composting operation" has
37 the same meaning as defined in Title 7, section 4301, subsection 1.

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

