

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 351

S.P. 115

In Senate, February 3, 2009

### **An Act Regarding the Regulation of Agricultural Composting Operations**

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

A handwritten signature in cursive script, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator NUTTING of Androscoggin.  
Cosponsored by Representative GIFFORD of Lincoln and  
Senator: SHERMAN of Aroostook, Representatives: CRAY of Palmyra, SMITH of  
Monmouth.

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 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 practices  
13 that are determined by the commissioner to be based on reasonably available and  
14 economically feasible methods and technologies that are environmentally sound. "Best  
15 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. For a farm to qualify as a farm under this chapter, the  
29 person owning or operating the farm must file a federal Internal Revenue Service Tax  
30 Form 1040 under the appropriate schedule for the reporting of profit or loss from a farm.

31 **§4302. 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 accordance with section  
35 4303 must be submitted with the form. The commissioner shall deposit registration fees  
36 into the Nutrient Management Fund established in section 4208.

1        **§4303. Duties of the commissioner**

2            The commissioner shall implement a program to educate persons who own or operate  
3 commercial agricultural composting operations on agricultural composting methods and  
4 to ensure adherence to best management practices by commercial agricultural composting  
5 operations. The commissioner shall advise persons who own or operate commercial  
6 agricultural composting operations of technical assistance, funding and other resources  
7 available to them through the United States Department of Agriculture and the soil and  
8 water conservation districts organized under Title 12, chapter 1.

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

16            **2. Inspection; assistance.** The commissioner or the commissioner's designee may  
17 enter the premises of a commercial agricultural composting operation for the purpose 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 who owns or operates a commercial agricultural  
29 composting operation does not adopt best management practices in accordance with this  
30 section, the 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 violation of Title 38 may have occurred, the Commissioner of  
34 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 meaning set out 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:

