

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 229

(Senator Gallion, *et al.*)

Education, Health, and Environmental Affairs

Environment and Transportation

Environment – On-Farm Composting Facilities – Permit Exemption

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 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.

Fiscal Summary

State Effect: MDE can promulgate the regulatory changes and generally implement the bill with existing budgeted resources. State revenues are not affected.

Local Effect: The bill is not expected to materially affect local governments.

Small Business Effect: Minimal, as discussed below.

Analysis

Bill Summary: Among the other requirements necessary for exemption, an on-farm composting facility must compost only one or more of the following: (1) organic materials generated on site or at another farm controlled by the same operator; (2) animal manure and bedding, generated on site; (3) Type 1 feedstock, regardless of the place of generation; (4) off-site Type 2 feedstock that is not contaminated or liquidated, is immediately mixed

with carbonaceous Type 1 feedstock, and is incorporated into active composting within 24 hours after arriving on site; or (5) on-site Type 2 feedstock.

The bill establishes definitions for “contaminated feedstock,” “farm,” “liquid feedstock,” “off-site Type 2 feedstock,” “on-site Type 2 feedstock,” “Type 1 feedstock,” and “Type 2 feedstock.” “Farm” means the site of a business or activity operated for the primary purpose of tilling, cropping, keeping, pasturing, or producing an agricultural product other than compost, including livestock, poultry, plants, trees, sod, food, feed, or fiber, by in-ground, out-of-ground, container, or other culture.

Current Law: Chapter 686 of 2013 required MDE to adopt regulations governing the permitting and operation of composting facilities. MDE promulgated the required regulations in 2014 by establishing Chapter 11 under COMAR 26.04, which specifies requirements related to the construction and operation of composting facilities in the State.

Under the regulations, facilities are distinguished as Tier 1, 2, or 3 depending on the feedstock materials that are accepted for processing at the facility. Feedstocks are defined as Type 1, 2, or 3. Type 1 feedstocks are considered the least risky in terms of hazardous substances, human pathogens, and physical contaminants, and include yard waste and other organic materials that MDE determines pose a low level of risk. Type 2 feedstocks are generally materials that MDE determines pose a low level of risk from hazardous substances and a higher level of risk from physical contaminants and human pathogens, compared to Type 1 feedstocks, and include MDE-approved animal manure and bedding, animal mortalities (on a temporary emergency basis), and manufactured organic materials such as waxed-corrugated cardboard, noncoated paper, and compostable products. Type 3 feedstocks are generally materials that MDE determines pose a low level of risk from hazardous substances and a higher level of risk from physical contaminants and human pathogens, compared to Type 1 and 2 feedstocks. Type 3 feedstocks include sewage sludge, biosolids, and used diapers.

Regulation .06 of Chapter 11 generally prohibits a person from operating an on-farm composting facility without a permit issued by MDE, subject to several exemptions. There is no permit fee. Among other specified exemptions, a facility is exempt from the permitting requirement if it (1) composts only organic materials generated on site or at another farm controlled by the same operator and complies with other specified restrictions; (2) uses only up to 40,000 ft² of area in support of composting operations and complies with other specified agricultural, soil conservation, and other requirements; or (3) uses only up to 5,000 ft² of area in support of composting operations and qualifies as a Tier 1 or 2 facility that complies with feedstock, pile size, and other specified regulatory requirements.

Small Business Effect: Many farms in the State are small businesses. Under the bill, any on-farm composting facility that is able to engage in composting without having to first obtain a permit from MDE benefits from a reduced regulatory burden. Additionally, any farm that engages in on-farm composting as a result of the bill may benefit from a reduction in solid waste costs. Overall, however, the impact on small businesses is not anticipated to be significant.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 184 (Delegate Shetty) - Environment and Transportation.

Information Source(s): Maryland Department of Agriculture; Maryland Department of the Environment; Department of Legislative Services

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