

330 CMR 25.00: AGRICULTURAL COMPOSTING PROGRAM

Section

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25.01: Purpose

330 CMR 25.00 is promulgated to establish an agricultural composting program as authorized by M.G.L. c. 21H, § 7, and establishes the criteria under which the Department of Agricultural Resources may register Agricultural Composting Operations in the Commonwealth. As stated in 310 CMR 16.03(2)(c)1., an Agricultural Composting Operation located on an Agricultural Unit and registered by the Department of Agricultural Resources does not require a site assignment under 310 CMR 16.00: *Site Assignment Regulations for Solid Waste Facilities*, a facility permit pursuant to 310 CMR 19.00: *Solid Waste Management*, a general permit pursuant to 310 CMR 16.04: *General Permit for Recycling, Composting or Aerobic and Anaerobic Digestion Operations*, or a recycling, composting or conversion permit pursuant to 310 CMR 16.05: *Permit for Recycling, Composting or Conversion (RCC) Operations*, provided that the owner and operator incorporate best management practices in a manner that prevents an unpermitted discharge of pollutants to air, water or other natural resources of the Commonwealth, does not create a public nuisance, does not present a threat to public health, safety or the environment, and otherwise satisfies all requirements of 330 CMR 25.00. 330 CMR 25.00 is intended to facilitate Agricultural Composting and to ensure that Agricultural Composting Operations are effectively managed in order to protect the natural resources of the Commonwealth and minimize potential for nuisance conditions. Composting on an Agricultural Unit, using only feedstock generated onsite, does not require registration from MDAR and is not subject to 330 CMR 25.00.

25.02: Definitions

Agricultural Composting. The Composting of Agricultural Materials and other Compostable Materials on an Agricultural Unit resulting in stabilized Compost suitable for agricultural and horticultural uses.

Agricultural Composting Guidelines. The guidelines established by the Department for use by persons engaged in Agricultural Composting and for those holding a Registration.

Agricultural Composting Operation. The Agricultural Composting activity proposed in an application for a Registration and which encompasses all elements of the Composting, including all associated infrastructure and any areas for drop off, mixing, windrows, curing, finished compost storage, and equipment.

Agricultural Materials. Organic materials produced from the raising and processing of plants and animals as part of agronomic, horticultural, aquacultural, or silvicultural operations, including, but not limited to, animal manures, animal products and by-products (including carcasses), bedding materials, and plant materials.

Agricultural Unit. A parcel of land for which the Department determines that:

- (a) the use is predominantly agriculture as defined in M.G.L. c. 128, § 1A; and
- (b) an agricultural product is sold as a normal course of business.

Applicant. The person named in the application as the owner of the Agricultural Unit where the Agricultural Composting Operation is proposed to be located, or as the Operator of the proposed Agricultural Composting Operation where the Owner has entered into an agreement with an Operator at the time the application is filed.

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Biodegradable. Capable of being broken down especially into innocuous products by the actions of microorganisms.

Bulking Agent. A Compostable Material added to Agricultural Materials to increase porosity and facilitate aeration during Composting.

Commercial Production Area. That portion of an Agricultural Unit which is presently and actively used to produce field crops or nursery stock, forested land with a forest management plan, cranberry bogs, or used for the grazing of livestock to be sold as part of a for-profit enterprise.

Compost. The product resulting from the Composting process and a subsequent stabilization process.

Compostable Material(s). Organic Material(s), including Agricultural Material(s), which has the potential to be Composted.

Composting or Composted. The process of accelerated biodegradation of Organic Materials using microorganisms under controlled conditions in the presence of oxygen using turned windrows or piles, aerated static piles, or in-vessel systems. For the purposes of 330 CMR 25.00, Composting is not aerobic digestion or conversion as defined in 310 CMR 16.02: *Definitions*.

Department. The Department of Agricultural Resources.

Feedstock. Compostable Material from which Physical Contaminants have been removed and is subsequently used for Composting.

Group 2 Materials. Those materials defined in 310 CMR 16.04: *Table 1: Examples of Organic Materials*, or other Organic Materials with a carbon to nitrogen ratio of 30:1 or less.

Table 1: Examples of Organic Materials			
Group 1 Organic Materials		Group 2 Organic Materials	
Example Materials	Carbon: Nitrogen Ratio	Example Materials	Carbon: Nitrogen Ratio
Clean Wood	100-1300:1	Vegetables	11-19:1
Cardboard	560:1	Food Material	14-16:1
Paper and paper products	125-850:1	Grass Clippings	17:1
Leaves	40-80:1	Green Plant Material	15-19:1
Straw	60-80:1	Fish Waste	2-5:1
Corn Stalks	60-75:1	Manure	6-14:1
Shrub Trimmings	50:1		

Odor Management Plan. A plan that is appropriate for the size and type of the Agricultural Composting Operation that will minimize the production and migration of odorous compounds. The plan should, at a minimum, address the following:

- (a) evaluation procedures, including odor strength, duration, and frequency;
- (b) diagnosis of odor source; and
- (c) outline remedial actions that may be utilized to address production and migration of any odors, including specific actions such as operational changes that will be taken to address complaints if odors occur beyond the property line of the Agricultural Unit.

25.02: continued

On-site. Within the property boundaries of an Agricultural Unit where the Agricultural Composting Operation proposed in an application for Registration is located.

Operator. Any person who has care, custody, or control of a facility, operation, or activity subject to 330 CMR 25.00, including, without limitation, an agent or lessee of the Owner or an independent contractor.

Organic Material. Any of the following Source-separated materials: vegetative material; food material; agricultural material; Biodegradable products; biodegradable paper; clean wood; or yard waste. Organic Material does not include Sanitary Wastewater Treatment Facility Residuals.

Owner. Any person who alone or in conjunction with others has legal ownership, a leasehold interest, or effective control over the real property upon which an Agricultural Composting Operation is located, or the airspace above said real property. Owner does not mean persons holding bare legal title for the purpose of providing security for financing.

Person(s). Any individual, partnership, association, firm, company, corporation, department, agency, group, public body (including a city, town, district, county, authority, state, federal, or other governmental unit), trust or any other entity responsible in any way for any activity, facility, or operation subject to 330 CMR 25.00.

Physical Contaminants. Any non-Biodegradable Product including, but not limited to, plastic, metal, glass, stones, or masonry debris.

Registration. The agricultural composting registration issued by the Department.

Sanitary Wastewater Treatment Residuals. The byproducts such as biosolids, which result from the sanitary wastewater treatment process. Residual means all waste remaining after treatment or processing. Residual remaining after treatment or processing is not pre-sorted material. Air and water discharges managed in accordance with applicable regulations are not residuals.

Source-separated. Separated from solid waste at the point of generation and kept separate from solid waste, as defined in 310 CMR 16.02: *Definitions*.

25.03: Agricultural Composting Registration

Failure to satisfy any of the criteria in 330 CMR 25.03(1) through (13) shall be sufficient grounds for the Department to deny a Registration:

- (1) The Agricultural Composting Operation is located on an Agricultural Unit;
- (2) The Applicant has submitted a completed application on a form provided by the Department;
- (3) The Agricultural Composting Operation does not prevent the Applicant or Owner's ability to maintain the Agricultural Unit as a commercial agricultural entity;
- (4) The application includes practices to ensure the Agricultural Composting Operation does not result in an unpermitted discharge of pollutants to air, water, or other natural resources of the Commonwealth;
- (5) The Agricultural Unit on which the Agricultural Composting Operation is proposed to be located in an application for Registration is capable of handling frequent heavy equipment, appropriately graded, and of adequate size to handle the projected volume of materials to be Composted;
- (6) The area on the Agricultural Unit where the Agricultural Composting Operation is proposed to be located in an application for Registration is not located on excessively drained soils (*e.g.*, sand) or highly impermeable soils (*e.g.*, clay);

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- (7) The Application shall include a Compost Facility Plan including each of the following elements:
- (a) a description of the intended method of Composting;
 - (b) Composting site location information;
 - (c) a site plan map showing the layout of the Agricultural Composting Operation, including areas for unloading, mixing, windrows, and curing;
 - (d) a description of each type of Feedstock to be Composted and a Compost recipe for converting the Feedstock into Compost;
 - (e) the source(s) of the Compostable Material;
 - (f) the frequency with which the Compostable Materials will be collected and received at the Agricultural Composting Operation;
 - (g) Compost end-use information, including estimated volume and percentage of the total quantity of Compost produced over the course of a calendar year to be used on the Agricultural Unit; and
 - (h) an Odor Management Plan.
- (8) The Agricultural Composting Operation shall be:
- (a) located on an area no larger than 10% of the Commercial Production Area of the Agricultural Unit;
 - (b) less than ten acres; and
 - (c) located on an Agricultural Unit where agricultural products are produced for sale in the normal course of business.
- (9) In addition to meeting the requirements in 330 CMR 25.03(8), the Agricultural Composting Operation shall comply with the following:
- (a) Agricultural Materials produced by the owner or lessee of the land where the facility is located must make up at least 25% of the Compostable Materials used in the Composting process; or
 - (b) the Agricultural Unit must use at least 25% of the Compost it produces, or the maximum allowed, in accordance with 330 CMR 31.00: *Plant Nutrient Application Requirements for Agricultural Land and Non-agricultural Turf and Lawns* as part of its On-site activities.
- (10) The Applicant and Owner, if not the Applicant, agree to allow site visit(s) by the Department, at all reasonable times and without prior notice, to assess the initial application and throughout the term of the Registration to determine compliance with the Registration;
- (11) The Applicant successfully completes a Department-approved Compost training program. The Department shall maintain a list of approved Compost training programs. An application submitted prior to March 1, 2020 may be approved subject to the Applicant successfully completing such a training program within one year after such date;
- (12) The Agricultural Unit shall receive no more than 75 tons per week of Group 2 Materials; and
- (13) The granting of the Registration will be in the best interest of Massachusetts agriculture and there is no demonstrated history by the Applicant of non-compliance with environmental laws or regulations of the Commonwealth or poor Composting practices.

25.04: Operation of Registered Agricultural Composting Operations

All Registered Agricultural Composting Operations shall comply with the following:

- (1) The Agricultural Unit shall be secure from illegal dumping of waste materials;
- (2) The Applicant shall comply with the Department's Agricultural Composting Guidelines;
- (3) The Agricultural Composting Operation shall be conducted in a manner to minimize odors, noise, drift of materials, vectors, and risk to humans or the environment;

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- (4) The Applicant shall ensure that there is a written Odor Management Plan in place. The Odor Management Plan shall be kept On-site at the Agricultural Composting Operation and available for inspection by the Department upon request;
- (5) Upon the Applicant noticing an odor, or upon receipt of a complaint about an odor beyond the property line of the Agricultural Unit from abutters or the Department, the Applicant shall implement the Odor Management Plan;
- (6) The Applicant shall maintain accurate records of Compost management as described in the Agricultural Composting Guidelines for at least three years to demonstrate compliance with 330 CMR 25.00. The Department reserves the right to request and review such records at any time;
- (7) No more than 25% by volume of the total Composting mixture, except for manure which is exempt from 330 CMR 25.04(7), shall be Group 2 Materials;
- (8) Adequate and appropriate Bulking Agent or other Organic Materials with a carbon to nitrogen ratio of greater than 30:1 shall be situated on the Agricultural Unit and available to mix with incoming Group 2 Materials;
- (9) All materials received for Composting shall be Source Separated;
- (10) All Group 2 Materials shall be thoroughly mixed into the Compost windrows or piles to ensure it is unrecognizable as a separate material upon delivery;
- (11) The maximum volume of materials, including Compostable Materials, in-process materials, and finished Compost stored on the Agricultural Unit shall be no more than 5,000 cubic yards per acre at any one time;
- (12) The maximum volume of materials, including Compostable Materials, in-process materials, and finished Compost stored on the Agricultural Unit shall be no more than 15,000 cubic yards at any one time. This quantity may be increased if the Agricultural Unit can demonstrate need in their Nutrient Management Plan in accordance with 330 CMR 31.00: *Plant Nutrient Application Requirements for Agricultural Land and Non-agricultural Turf and Lawns*;
- (13) Materials, in their as-received, in-process, or processed condition may not be stored for more than two years from the date of receipt at the operation unless the farm has a plan for land application on the Agricultural Unit;
- (14) All materials, buildings, and infrastructure that are part of the Agricultural. Composting Operation shall be located at least 250 feet from a private well, if able to be identified prior to commencement of operations; if unknown or unable to be identified, at least 300 feet from a residence; and, in either case, at least 100 feet from a property line. If an Agricultural Composting Operation duly registered with the Department for the past five out of seven years operates on a composting pad constructed of gravel, concrete, or asphalt, then setbacks applicable at the time of pad construction shall be acceptable;
- (15) Animal carcasses may not be brought onto any Agricultural Unit where livestock and poultry are kept unless approved, in writing, by the Department's Division of Animal Health; and
- (16) The Applicant shall implement practices to ensure the Agricultural Composting Operation does not result in an unpermitted discharge of pollutants to air, water, or other natural resources of the Commonwealth.

25.05: Registrations and Revocations

- (1) Registrations shall be valid from the date of issuance until March 31st of the next calendar year.

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(2) At least 30 days prior to commencement of the Agricultural Composting Operation, the owner or operator of newly-registered Agricultural Composting Operations, which did not hold a registration in the prior registration year, must submit a copy of their Registration to the local Board of Health and provide proof of submittal to the Department.

(3) Applications for renewal of a Registration shall be submitted annually no later than February 15th of each year, on a form provided by the Department.

(4) The Department may revoke a Registration if the Applicant provides false, misleading, or inaccurate information regarding the Agricultural Composting Operation, or if the Registered Agricultural Composting Operation is in violation of the Registration, state or federal law, or the Agricultural Composting Guidelines.

(5) A person who is denied a Registration, a renewal of Registration, or whose Registration is revoked shall have the right to request an adjudicatory hearing regarding the Department's decision within 21 calendar days of the date of receipt of the decision by filing a notice of claim with the Department. The adjudicatory hearing shall follow the informal hearing rules as set forth in 801 CMR 1.02: *Informal/Fair Hearing Rules*.

REGULATORY AUTHORITY

330 CMR 25.00: M.G.L. c. 21H, § 7.