

Florida Department of
Environmental Protection

Memorandum

TO: District Waste Program Administrators
District Solid Waste Engineers

FROM: Richard B. Tedder, Program Administrator
Solid Waste Section

Chris McGuire, Senior Assistant General Counsel
Office of General Counsel

DATE: September 15, 2003

SUBJECT: Normal Farming Operations – Yard Trash/Manure Composting Operations
Memo # SWM-01.8

Several questions have arisen recently concerning the permit exemption for normal farming operations, specifically as it regards the composting of yard trash and manure. This memorandum is intended to clarify existing statutory and rule provisions on these matters.

Background

Section 403.707(2)(e), Florida Statutes (F.S.), exempts the disposal of solid waste resulting from "normal farming operations," but requires the Department to define that term by rule. Rule 62-701.200, Florida Administrative Code (F.A.C.), defines the term as follows:

(83) "Normal farming operations" means the customary and generally accepted activities, practices, and procedures that farmers adopt, use, or engage in during the production and preparation for market of poultry, livestock, and associated farm products; and in the production, harvesting, or packaging of agricultural crops which include agronomic, horticultural, and silvicultural crops. Included are the management, collection, storage, composting, transportation, and utilization of organic agricultural waste, manure, and materials solely derived from agricultural crops.

In addition, Rule 62-709.300(10)(b), F.A.C., somewhat expands that definition to specifically exempt from the need for a compost permit the "composting of only yard trash or manure by persons on their own property for their own use on that property as part of agronomic, horticultural or silvicultural operations." This rule provides, however, that any compost which is sold for use by persons other than the generator must meet the testing, classification, reporting and use requirements in Chapter 62-709, F.A.C.

Compost Permit Exemption

In order to meet the normal farming operation compost permit exemption in Rule 62-709.300(10)(b), F.A.C., a farmer may do one or more of the following:

1. Compost yard trash or manure generated on the farm, as part of agronomic, horticultural or silvicultural operations, for use on the farm, as part of agronomic, horticultural or silvicultural operations.
2. Compost yard trash or manure generated on the farm, as part of agronomic, horticultural or silvicultural operations, for sale or use off the farm; although no permit is required, the generator must meet the testing, classification, reporting and use requirements in Chapter 62-709, F.A.C.
3. Compost yard trash or manure generated from off the farm, for use on the farm, as part of agronomic, horticultural or silvicultural operations.
4. Compost yard trash or manure generated from off the farm, for sale or use off the farm; although no permit is required, the generator must meet the testing, classification, reporting and use requirements in Chapter 62-709, F.A.C. However, for this exemption to apply, the yard trash or manure brought to the farm must be necessary to optimize composting of the yard trash or manure generated on the farm, as part of agronomic, horticultural or silvicultural operations. An example of this would be bringing in yard trash (source of carbon and pile structure) to optimize composting of manure generated on the farm. This may require a technical analysis of the compost process. Tallahassee solid waste staff will help with this analysis. Yard trash or manure which is brought to the farm as a source of income, or simply to increase the amount of compost produced, is not considered to be part of the agronomic, horticultural or silvicultural operations at the farm and is not covered by this exemption.

Other Considerations

It should be noted that all of the permit exemptions created by Section 403.707, F.S., are contingent upon the activity not creating a public nuisance or any condition adversely affecting the environment or public health, and not violating any other state or local law, ordinance, rule, regulation, or order. Nothing in Department rules or in this memorandum should be read to limit these statutory conditions or to be viewed as authorizing the illegal disposal of solid waste¹.

While they may be exempt from having to obtain a solid waste management permit, farms may have to comply with other rules or requirements. For instance:

¹ For more distinctions between disposal operations and legitimate agricultural activities, see Memo # SWM-05.5. This can be obtained at the following web address:
http://www.dep.state.fl.us/waste/categories/solid_waste/pages/policymemos.htm

1. For the Lake Okeechobee watershed, as defined in Section 373.4595(2)(i), F.S., entities which land-apply animal manure must limit application based on phosphorus loading and follow best management practices adopted by rule by the Florida Department of Agriculture and Consumer Services for these applications (Section 373.4595(3)(c)8, F.S.).

2. Farms may be subject to Chapters 62-620, 62-660 and 62-670, F.A.C., regarding animal feeding operations, including implementation of nutrient management plans. Such operations are overseen by the Department's Industrial Wastewater Program.