

**Florida Department of
Environmental Protection**

Memorandum

TO: District Waste Program Administrators
District Solid Waste Engineers

FROM: Richard Tedder, Administrator
Solid Waste Section

Chris McGuire, Senior Assistant General Counsel
Office of General Counsel

DATE: November 8, 2001

SUBJECT: Agricultural Use of Yard Trash and Horse Manure
Memo # SWM-05.5

Recently several questions have been raised concerning requests for using and/or disposing of yard trash and horse manure from commercial operations. In some cases, permits or registrations are required. In other cases, the normal farming operations exemption may apply. This memorandum is intended to offer guidance to the Department's staff for evaluating these requests.

When Permits or Registrations Are Required

Discarded yard trash and horse manure are included in the definition of solid waste pursuant to Chapter 62-701, Florida Administrative Code (F.A.C.). The disposal of solid waste is regulated under Chapter 62-701, F.A.C., while the composting or processing of these materials is regulated under Chapter 62-709, F.A.C. In other words, if an individual wishes to dispose of or compost this material, he or she must either take it to a permitted solid waste management facility or receive such a permit for their own disposal or composting facility. In addition, facilities which process only yard trash may be eligible for a registration instead of a permit under Rule 62-709.320, F.A.C.

Evaluating Normal Farming Operation Exemptions

There is a permitting exemption in Section 403.707(2)(e), Florida Statutes, for "normal farming operations." This term is defined in Rule 62-701.200(83), F.A.C., as

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 derived solely from agricultural crops.

It is not always easy to distinguish between disposal operations and legitimate agricultural activities. Mixtures of yard trash and manure can be beneficially used on farmlands, but at the same time the illegal dumping of this material in large quantities can pose environmental and public health threats. In order for the Department to determine in advance whether an individual's activities are exempt from permitting, we suggest that he or she submit an agricultural use plan for District review for each site where this material will be taken. The plan should demonstrate that the material will be properly managed to minimize any environmental threats and that it will actually be beneficially used as part of a normal farming operation. There is no particular format to follow, but we recommend the following be included in the plan:

1. A description of the property (address, location, topography, etc.) on which the material will be deposited. A map showing the location of the property is also recommended, if it is available. The Department retains the authority to inspect this operation to assure that the waste is being properly managed, and we will need to be able to locate the operation easily. Also, it is important that this waste material not be placed in water bodies or wetlands (fill projects are not "normal farming operations"), so the property description should include any low areas to be avoided.
2. Documentation that the individual either owns the land where the material will be deposited, or that he or she has legal authorization from the property owner to deposit the material there.
3. An explanation of the proposed project and why the individual believes it qualifies as a normal farming operation. The explanation should include a description of the benefit obtained from the project¹, any specifications or requirements for the incoming material, a description of any processing that will take place on-site before the material is used, and the amount of material required to complete the project. This should include the total amount and a per acre rate if the material is being land applied.
4. An operations plan describing how the material will be received onto the site, how site access will be controlled, what equipment will be used to process or spread it, and how the material will be stored prior to use.
5. A contingency plan explaining the procedures for dealing with any unacceptable material that may be received.

There is no specific requirement that an individual receive Department approval before undertaking a normal farming operation. However, the burden of showing entitlement to a permit exemption is on the person seeking the exemption, and we strongly recommend that anyone intending to reuse waste materials approach the

¹ To reiterate, disposal or fill operations are not considered normal farming operations, and will require one or more permits from the Department.

appropriate Department District office with an agricultural use plan so that the Department can be in agreement with the request before this material is deposited on the ground somewhere. That way the individual making the request can limit the likelihood of any future enforcement actions for illegal disposal of solid waste. Anyone making these requests should also be aware that there may be other government agencies which regulate these activities; even if they demonstrate entitlement to an exemption from a Department permit, that does not mean that they are necessarily exempt from other permit requirements.

Caveat

This guidance memorandum does not constitute a policy or rule of the Department. It is intended solely as internal guidance to District permit review staff, and is not intended to create additional requirements for the regulated community or to affect the rights of substantially affected parties to contest any agency decision. Please do not cite any part of this memorandum as though it were a standard, rule, or requirement.