

Background, FAQs, & Reasons to Support House Bill 1081

Composting and Anaerobic Digestion Facilities – Yard Waste and Food Residuals February 2014

Goal

This bill will stimulate investment in and expansion of needed capacity to handle recycling of food scraps and yard trimmings in Maryland. It calls for the strengthening of an existing state disposal ban on yard trimmings and for large food waste generators – only those that generate two or more tons per week per location – to divert these materials from disposal if recycling facilities with capacity exist within 30 miles. The bill will divert valuable organic materials to beneficial use and help the state achieve its waste reduction and recycling goals.

Maryland's Climate Action Plan calls for 60% recycling by 2020 and 80% by 2030. The State's draft zero waste plan has endorsed these goals and outlines seven broad objectives; the plan's first objective is to increase diversion of organic materials. Another objective is to address specific target materials and includes consideration of disposal bans for specific materials. Food scraps and yard trimmings are identified as two out of four priority materials. According to the Environmental Protection Agency (EPA), food scraps is the largest type of municipal waste sent to landfills and municipal waste combustors, and only 3 percent is diverted from these disposal facilities. Almost half the garbage set out at the curb is readily biodegradable in composting and anaerobic digestion facilities.

The bill aims to:

- Incentivize establishment of organics recycling facilities in Maryland by guaranteeing materials will be available
- Provide businesses an opportunity to decrease the cost of food waste disposal (due to reduced tipping fees)
- Promote clean energy investment
- Encourage economic development by bringing businesses to Maryland
- Reduce solid waste disposed
- Move up the waste management hierarchy to higher value use
- Capture a currently unused, valuable resource to improve soil quality, support agriculture, conserve water, reduce greenhouse gases, and generate renewable energy
- Support local food systems
- Incentivize creation of green jobs in Maryland

How

There are three main parts to the law.

1. It expands the state's existing disposal ban on source-separated yard waste by requiring all yard waste to be source-separated for recycling if a composting or anaerobic digestion facility exists within 30 miles.
2. It requires large-scale food waste generators (two tons per week or more) to source-separate food residuals if a composting or anaerobic digestion facility exists within 30 miles.
3. It requires the State to establish regulations for anaerobic digestion facilities.

Who Will Benefit

- The composting and anaerobic digestion industries each represent a growing sector that will be positively affected by the proposed regulation.
- Supermarkets and other food waste generators already source separating food residuals that are now transported to Delaware for composting likely will see their costs drop as more competitive facilities are located close-in.
- The private and public sector may see their overall solid waste disposal costs decrease by the opening of new receiving facilities in the State and the reduction of solid waste sent to disposal facilities.
- The Maryland economy will benefit by the manufacture of a local product – compost – for sale by local producers and retailers and by encouraging investment in in-state businesses and jobs.
- Municipalities and counties will benefit by the development of new infrastructure.
- The environment will benefit from reduced greenhouse gas emissions and enhanced soil. Compost is a soil amendment that improves soil health, protecting against water pollution and droughts. Raw digested materials or “digestate” from anaerobic digestion systems can be processed into fertilizer, compost, and other soil amendments. Both compost and processed digested material are increasingly recognized for their climate protection benefits as they help soils store carbon and reduce methane emissions from landfills. (Compost facilities in California can receive carbon credits.)

Other States Are Doing This

More than 20 states have banned yard waste from solid waste disposal facilities. Maryland is one but its law is among the weakest, only targeting yard trimmings that are already source-separated. This law closes that loophole but only if facilities that can process the material exist within 30 miles.

Other states and even cities are now enacting requirements for large-scale food waste generators to source separate and recycle. This part of the proposed Maryland law is based on similar legislation or rules in place in Connecticut, Vermont, Massachusetts, and in New York City. Rhode Island has introduced a similar bill. Massachusetts just issued its newly amended regulations earlier this month (the press release announcing the regulations is available at: <http://www.mass.gov/eea/pr-2014/food-waste-disposal.html>). California and New York State are also considering requiring organics recycling.

Key features of these states’ laws or proposed bills are:

- Massachusetts’ regulations target food waste generators who generate 1 ton a week or more of food or vegetative material. These materials are banned from disposal effective October 1, 2014.
- In Vermont, the law gradually expands from large-scale food generators (>104 tons per year) in effect July 1, 2014, to every generator, including households, by July 1, 2020. The law has interim targets in 2015 (>52 tons per year), 2016 (>26 tons per year), and in 2017 (>18 tons per year). Only generators within 20 miles of a certified organics management facility with available capacity and willingness to accept food residuals are covered by the law. Vermont’s law also requires trash haulers offering curbside services to provide services for leaf and yard debris by 2016 and for food scraps by 2017. Residences are required to source separate leaf and yard debris by July 1, 2016, and food scraps by July 1, 2020.
- Connecticut’s ban requires certain large entities (commercial food wholesalers/distributors, industrial food manufacturers/processors, supermarkets, and resorts/conference centers generating 104 tons or more per year) to divert food waste by January 1, 2014, to composting if a permitted composting facility exists within 20 miles. By January 1, 2020, the law applies to entities generating 52 tons or more per year.
- Rhode Island’s proposed bill (H7033) targets entities generating more than 52 tons per year by January 1, 2015. The bill gradually covers any amount by January 1, 2021, with interim targets in 2017 and 2019, but food scraps from homes and apartment buildings are excluded.

Six Reasons to Support This Bill

1. The State lacks adequate capacity to recycle food scraps. Most food scraps collected are currently being processed at a composting facility in Wilmington, Delaware. This bill will help create in-state capacity to process these materials into valuable products by composting or anaerobic digestion systems. It will send a clear signal to investors and existing and potential facility operators that if they build or expand, the feedstocks will be there. Compost and anaerobic digestion systems need an adequate and reliable supply of raw materials. This bill will stimulate investment in these growing sectors.
2. By helping to spur the development of new facilities, the solid waste management marketplace will become more competitive, not less, and costs for solid waste management can be expected to drop, not increase.
3. The State's new permitting rules for composting establish a clear regulatory pathway [at least on the composting side]; those rules will be in place well before the requirements of this proposed law go into effect, making this law synergistic with recent permitting developments in Maryland.
4. This bill will benefit Maryland by encouraging the management of its resources within the state. Food processors, institutions and other large-scale generators of food scraps – the law's target – want their food scraps to be rescued or otherwise beneficially used. One obstacle used to be the lack of collection service providers. That is no longer an obstacle as many haulers now offer collection of source-separated food scraps, and indeed, many food waste generators are already well versed in source-separation programs. One main obstacle to food waste recovery is the lack of receiving facilities in Maryland. This law will directly address this deficiency.
5. The bill will spur in-state construction and permanent jobs, project development and businesses.
6. This bill is not prescriptive with regard to enforcement measures. The Department [MDE] can develop enforcement mechanisms in conjunction with industry stakeholders and can ensure that these enforcement mechanisms not be onerous. Maryland can piggyback on Massachusetts' regulatory efforts. Connecticut and Vermont are also developing implementation regulations to achieve the same goals – initially targeting large-scale generators of resources in order to trigger development of in-state facilities.

Recommended Amendments:

1. Don't limit definition of food residuals to the examples listed (add "including but not limited to")
2. Ensure the law spurs anaerobic digestion facilities that compost or beneficially use the digested materials by allowing anaerobic digestion facilities that recycle the solid residual remaining after the digestion process to qualify as recycling.
3. Make the source-separation yard waste requirements only applicable April through November, during the high-season-yard-waste-generation months.
4. Push back implementation date from October 1, 2015 to January 1, 2016.
5. Change the requirement that separated yard waste be transported to a composting or anaerobic digestion facility to a more flexible requirement that separated yard waste be recycled on-site or at a farm, composting facility, natural wood waste processing facility, mulching site or an anaerobic digestion facility.
6. Change the mile radius from 30 to 40 miles.
7. Do not strike the existing requirement in existing law (9-1724) that an owner or operator of a refuse disposal system may not accept truckloads of separately collected yard waste for final disposal unless the owner or operator provides for the composting or mulching of the yard waste. Clarify that anaerobic digestion facilities are acceptable receiving sites.
8. Clarify that the two-ton-per-week threshold for food residuals is per location.
9. Clarify that generators of two tons or more per week of food residuals can divert this material from solid waste through any combination of reducing food residuals, donating servable food, installing an on-site system, or working with a hauler to send separated food residuals to agricultural use, or to a composting or anaerobic digestion facility.

Frequently Asked Questions

Q: Why 2 Tons Per Week?

A: This is the amount a typical supermarket generates.

Q: What businesses will this bill affect?

A: Food waste processors, commercial food wholesalers/distributors, large resorts, universities, supermarkets, conference centers, and sports stadiums will largely be affected.

Q: Will restaurants be affected by this bill?

A: Only those generating 2 tons per week or more of food waste. Very few restaurants, if any, generate that volume of material. The intent of this bill is to affect food waste processors, supermarkets, and other large-scale food waste generators, not individuals or most restaurants.

Q: Why not wait until Maryland's new compost permitting regulations are in place?

A: The State's new permitting rules for composting establish a clear regulatory pathway; those rules will be in place well before the requirements of this proposed law go into effect, making this law synergistic with recent permitting developments.

Q: Won't this bill increase local government costs to manage yard trimmings?

A: Not necessarily. The bill does not require local government to build more yard trimming composting capacity. It only requires the material to be source separated if that capacity already exists within 30 miles. If capacity comes online, local government could potentially save money on avoided or reduced disposal costs by taking advantage of close-in facilities. Collection service providers may need to invest in new collection equipment but additional collection costs could be offset by reduced disposal fees and source reduction from expanded backyard composting and grasscycling programs.

Q: Why not wait until the infrastructure exists?

A: This bill is designed precisely to create needed new infrastructure.

Q: Won't this bill squash competition by requiring food generators to source-separate?

A: By helping to spur the development of new facilities, the solid waste management marketplace will become more competitive, not less, and costs for solid waste management can be expected to drop, not increase.

Q: Aren't supermarkets and large-scale food generators opposed to this bill?

A: Not necessarily. The Supermarket Trade Association supported the Connecticut law. In New York City, dozens of waste generators voluntarily agreed to support similar requirements before the new law takes effect. Food processors, institutions and other large-scale generators of food scraps – the bill's target – want their food scraps to be rescued or otherwise beneficially used. The main obstacle to food waste recovery in Maryland is the lack of in-state receiving facilities. This law will directly address this deficiency.

Q: How will businesses know they are affected by the bill if enacted?

A: MDE is responsible for implementing provisions of the bill. In Massachusetts, MassDEP has provided a guide for institutions and businesses, including haulers, that will be affected. "Commercial Organic Materials Waste Ban Guidance for Businesses, Institutions, & Haulers" defines in detail the size and type of business affected, as well as a discussion of materials included in the ban (<http://www.mass.gov/eea/docs/dep/recycle/laws/orgguid.pdf>). MassDEP has also set clear thresholds for businesses and entities: "If you are a business or institution at or above this size, you should take steps to divert food waste from disposal to ensure that you are in compliance with the proposed ban.

- College or University (Residential – 730 students; Non-residential – 2,750 students)
- Secondary School – 1,600 students
- Hospital – 80 beds
- Nursing Home – 160 beds
- Restaurant – 70 or more full time employees
- Resort/conference Property – 475 seats

- Supermarket – 35 or more full time employees”

MDE could do something similar.

Q: My business is part of a chain with multiple locations. How would the proposed two tons per week food residuals threshold apply to me?

A: Application of the two tons per week threshold would be based on the amount generated per location, rather than the entire chain.

Q: My facility is a campus with multiple buildings with common ownership (e.g., a college or corporate campus) – would the proposed two tons per week food residuals threshold apply to my facility?

A: Assuming that the campus is under common ownership, application of the two ton per week threshold would be based on the amount of food material disposed of by non-residential sources, such as cafeterias and catering, for the entire campus combined. If the campus as a whole disposes of more than two tons per week of food material, the source-separation recycling requirements would apply, even if no one building within the campus disposes of more than two tons per week.

Q: Is an individual homeowner subject to the source-separation requirements for yard waste?

A: In most cases, no. The intent of the law is directed at businesses, institutions, and local government jurisdictions, not at the individual homeowner. The proposed law only requires yard waste to be source-separated for recycling if a facility exists within 30 miles that is willing to accept the material. A municipality, for instance, would not be allowed to collect yard waste with solid waste if a composting facility that can process the yard waste is located within 30 miles of the municipality’s border. That municipality could instead encourage its residents to backyard compost, grassrecycle, or deliver materials to a drop-off site, and/or the municipality can offer curbside collection service for source-separated yard waste.

Prepared by the Institute for Local Self-Reliance, MD-DC Compost Council, and the American Biogas Council