



Maryland

Department of the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

January 27, 2021

The Honorable Kumar P. Barve
House Environment and Transportation Committee
House Office Building, Room 251
Annapolis, Maryland 21401

Re: House Bill 264 – Solid Waste Management - Organics Recycling and Waste Diversion - Food Residuals

Dear Chair Barve and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed House Bill 264 entitled *Solid Waste Management - Organics Recycling and Waste Diversion - Food Residuals* and would like to provide additional information regarding this bill.

House Bill 264 would require a person who generates a certain quantity of food residuals to separate those residuals from other solid waste and divert them from final disposal in a refuse disposal system. The requirement would apply only to a person who generates food residuals within 30 miles of an organics recycling facility with the capacity and willingness to accept the material. Additionally, the requirement would apply only to a person who generates, beginning January 1, 2023, at least 2 tons per week and, beginning January 1, 2024, at least 1 ton per week. Diversion from final disposal may be accomplished through any combination of reducing the amount of food residuals generated; donating servable food; managing food residuals in an organics recycling system on-site; providing for collection and transportation of the food residuals for agricultural use, including as animal feed; and providing for the collection and transportation of food residuals to an organics recycling facility.

Persons otherwise subject to the food residuals diversion requirements would be authorized to apply to MDE for a waiver if the person demonstrates, to the satisfaction of MDE, undue hardship because of the cost of diverting food residuals as compared to disposing of them in a refuse disposal system or for other reasonable circumstances. The bill would authorize MDE to impose civil penalties and require penalty revenue to be deposited into a special fund to be used only to finance incentives that encourage food waste reduction and composting in Maryland. By July 1, 2022, MDE would be required to report to the General Assembly on the Department's plan to implement the proposed law, and beginning January 1, 2023 and annually thereafter, report to the General Assembly on the implementation of the law. Further, by October 1, 2022, MDE in conjunction with the Departments of General Services and Natural Resources would be required to report to the General Assembly on State properties that are suitable for use as organic recycling facilities in accordance with the findings of the 2019 *Yard Waste, Food Residuals, and Other Organic Materials Diversion and Infrastructure Study Group Report* (the Report).

MDE supports the diversion of surplus food from disposal, including through a combination of waste prevention, food donation, composting, and anaerobic digestion. Preventing, donating, and recycling surplus food can reduce greenhouse gas emissions from landfills, conserve existing disposal capacity,

feed those in need, and create a valuable soil amendment that improves soil health. In the Report, MDE developed a rough estimate of the number of entities that generate at least one ton of food per week. MDE included in this estimate supermarkets, food and beverage manufacturers and slaughter facilities, food warehouses or distributors, fast food restaurants, colleges and universities, hospitals, and senior centers. Using data from the Johns Hopkins Center for a Livable Future, MDE estimated that there were approximately 4,000 of these businesses in Maryland. As the generation threshold for inclusion in the diversion requirement decreases from 2 tons to 1 tons, it is likely that significantly more businesses will be subject to this bill in 2024. For example, according to the National Restaurant Association, there are approximately 11,357 restaurants located in Maryland (based on Bureau of Labor Statistics & U.S. Census Bureau 2018 data), some of which may fall under the scope of this bill.

Currently, only a small portion of the generators meeting the generation threshold is likely to be located within 30 miles of an organics recycling facility with capacity and willingness to accept the materials. Seven facilities possess a composting facility permit and are authorized to accept food scraps. MDE is aware of less than five Maryland-based anaerobic digestion facilities designed to accept food scraps that are either operational or planned. However, additional facilities will likely be established over time as demand for food residuals recycling increases. In particular, capacity would need to expand around the areas where the majority of generators are located, including areas near Baltimore and Washington, DC. In 2018, approximately 161,000 tons of food scraps were composted out of an estimated 921,000 tons of food generated in Maryland.

There are no existing State mandated requirements for businesses that generate food residuals in Maryland to report to MDE. Therefore, the bill would increase MDE's expenditures to hire three (3) Environmental Compliance Specialists to research information on generators subject to bill's requirements and conduct outreach, as well as enforce the proposed legislation. MDE would also need to create a program in which it would distribute funds earned from the collection of penalties to finance incentives that encourage food waste reduction and composting in Maryland; however, this can be handled by existing staff. It should be noted, the bill does not establish a special fund or identify an existing special fund to collect the penalties. While the statute states that the State Recycling Trust Fund shall consist of all fines and penalties collected under Title 9, Subtitle 17 of the Environment Article, it does not specifically authorize the State Recycling Trust Fund to be used for financing incentives that encourage food waste reduction and composting in Maryland.

Thank you for your consideration. We will continue to monitor House Bill 264 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or by e-mail at tyler.abbott@maryland.gov.

Sincerely,



Tyler Abbott

cc: The Honorable Lorig Charkoudian
Ms. Kaley Laleker, Director, Land and Materials Administration