

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-FIVE

—  
S.P. 438 - L.D. 1065

**An Act Regarding the Reduction and Recycling of Food Waste**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 38 MRSA §2101-A**, as amended by PL 2019, c. 291, Pt. B, §2, is further amended to read:

**§2101-A. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1-A. Anaerobic digestion.** "Anaerobic digestion" means the breakdown of organic material by microorganisms in the absence of oxygen to produce biogas.

**3. Bureau.** "Bureau" means the Bureau of General Services within the Department of Administrative and Financial Services as authorized pursuant to Title 5, section 1742.

**3-A. Composting.** "Composting" means the processing of organic material, including, but not limited to, food waste, for soil application using a method of accelerated biological decomposition of the organic material under controlled or uncontrolled conditions.

**3-B. Excess edible food.** "Excess edible food" means edible food that is not sold or otherwise used by a food waste generator and that is safe for human consumption. "Excess edible food" does not include unpackaged raw meat, fish or poultry; food damaged by pests, mold, bacteria or other contamination; food subject to a governmental or producer recall for food safety reasons; or food returned to a supplier by the food waste generator.

**3-C. Food rescue organization.** "Food rescue organization" means an organization that collects excess edible food that would otherwise be managed as waste and distributes the food for free for human consumption. "Food rescue organization" includes, but is not limited to, a food pantry, food bank, soup kitchen or community-based organization providing similar services.

**3-D. Food waste.** "Food waste" means material derived from processing or discarding food that is not sold or consumed. "Food waste" includes excess edible food that cannot be donated to a food rescue organization but does not include:

A. Organic material produced or generated by a producer that is not consumable by humans or animals, such as plant stems, stalks or roots, or that is culled, off-grade or outside of specification. As used in this paragraph, "producer" has the same meaning as in Title 7, section 320-A, subsection 1, paragraph C;

B. Cooking oil or yellow grease from residential sources;

C. Biomedical waste, hazardous waste, sludge or septage;

D. Nonorganic material;

E. Any food subject to a governmental or producer recall for food safety reasons; or

F. Any other material identified by the department by routine technical rule pursuant to Title 5, chapter 375, subchapter 2-A.

**3-E. Food waste generator.** "Food waste generator" means a person that generates food waste.

**3-F. Point of generation.** "Point of generation" means the location where waste is initially produced.

**4. Recycling establishment.** "Recycling establishment" means an establishment engaged in the marketing, brokering or purchasing of reportable recyclable materials generated in the State. "Recycling establishment" does not include an establishment that directs all reportable recyclable materials it markets, brokers or purchases to brokers and purchasers that are located in the State.

**5. Reportable recyclable materials.** "Reportable recyclable materials" means any of the following categories of recyclable materials that are separated from household, commercial or institutional waste and that are delivered to a recycling establishment for recycling: glass; cardboard, paper and paper products; plastic and plastic products; cartons, laminated materials and other packaging; nonferrous and ferrous metals, including white goods; textiles; and mixed streams of recyclable materials that include any combination of the materials listed in this subsection.

**6. Soil application.** "Soil application" means the addition of material to soil to improve its nutrient levels or physical properties, such as water retention, permeability, water infiltration, drainage or aeration.

**Sec. 2. 38 MRS §2101-B, sub-§1**, as enacted by PL 2015, c. 461, §1, is amended to read:

**1. Priorities.** It is the policy of the State to support the solid waste management hierarchy in section 2101 by preventing and diverting ~~surplus food and food scraps waste~~ from land disposal or incineration and by ensuring the management of food waste in accordance with section 2147 and the following order of priority:

A. Reduction of the volume of ~~surplus food waste~~ generated at the ~~source~~ point of generation;

B. Donation of ~~surplus excess edible food to food banks, soup kitchens, shelters and other entities~~ rescue organizations or similar entities that will use surplus the food to feed hungry people for human consumption;

C. Diversion of ~~food scraps waste~~ for agricultural use as animal feed, including consumption by animals;

~~D. Utilization of waste oils for rendering and fuel conversion, utilization of food seraps for digestion to recover energy, other waste utilization technologies and creation of nutrient rich soil amendments through the composting of food seraps; and~~

D-1. Composting or anaerobic digestion of food waste, which may include energy recovery, and subsequent soil application as long as the food waste is not mixed with sludge or septage during composting or anaerobic digestion and before soil application;

D-2. Anaerobic digestion of food waste not followed by soil application; and

E. Land disposal or incineration of food seraps waste.

**Sec. 3. 38 MRSA §2132, sub-§1-B**, as enacted by PL 2015, c. 461, §4, is amended to read:

**1-B. State waste disposal reduction goal.** It is the goal of the State to reduce the statewide per capita disposal rate of municipal solid waste tonnage to 0.55 tons disposed per capita by January 1, 2019 and to further reduce the statewide per capita disposal rate by an additional 5% every 5 years thereafter. The baseline for calculating this reduction is the 2014 solid waste generation and disposal capacity data gathered by the department. Methods to achieve the goal under this subsection include efforts to consume or encourage the consumption of fewer resources, to reduce or encourage the reduction of the waste or inefficient use of resources and to increase the reuse or repurposing of solid waste.

**Sec. 4. 38 MRSA §2147** is enacted to read:

**§2147. Food waste management; diversion**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Designated food waste generator" means a person that:

(1) Beginning July 1, 2030 and until June 30, 2032, generates at a single location an annual average of 2 or more tons per week of food waste and is located within 20 miles of an organics recycler with available capacity to accept the food waste generated by the person at the location;

(2) Beginning July 1, 2032, generates at a single location an annual average of one or more tons per week of food waste and is located within 25 miles of an organics recycler with available capacity to accept the food waste generated by the person at the location; and

(3) Not earlier than July 1, 2035 and subject to the adoption of rules by the department pursuant to subsection 5, paragraph B, generates at a single location the annual average per week of food waste specified by the department by rule pursuant to subsection 5, paragraph B and is located within the distance specified by the department by rule pursuant to subsection 5, paragraph B from an organics recycler with available capacity to accept the food waste generated by the person at the location.

B. "Organics recycler" means an agricultural operation, composting facility, anaerobic digestion facility or any other facility that diverts food waste from incineration or land disposal.

C. "Single location" means contiguous property under common ownership, which may include one or more buildings.

**2. Designated food waste generators; prohibition.** Beginning July 1, 2030, a designated food waste generator may not dispose of or facilitate the disposal of its generated food waste at an incineration facility or solid waste landfill and shall:

A. To the maximum extent practicable, reduce the volume of the food waste it generates;

B. To the maximum extent practicable, separate excess edible food from other food waste and arrange for the donation of the excess edible food to a food rescue organization; and

C. Except as otherwise specified in this paragraph, separate food waste from other types of waste at the point of generation and transfer or facilitate the transfer of the food waste to an organics recycler for management in accordance with the following order of priorities:

(1) Agricultural use, including consumption by animals;

(2) Composting or anaerobic digestion, which may include energy recovery, and subsequent soil application; and

(3) Anaerobic digestion not followed by soil application.

A designated food waste generator may manage the food waste it generates at the point of generation or at a different location through agricultural use, composting or anaerobic digestion as long as the management of the food waste is consistent with the priorities in section 2101-B, subsection 1. A designated food waste generator may commingle food waste with other types of waste at the point of generation if the commingled waste is to be managed by an organics recycler that can process such commingled waste.

**3. Temporary hardship waiver.** A designated food waste generator may petition the department for and the department may approve a temporary waiver from some or all of the requirements of this section if the designated food waste generator demonstrates to the department's satisfaction that compliance with the requirements of this section by the designated food waste generator would cause or is causing undue hardship based on specific factors determined by the department by rule. A temporary waiver issued by the department pursuant to this subsection may be effective for a period not to exceed 3 years.

**4. Designated food waste generators; reporting.** Except as otherwise provided pursuant to subsection 5, paragraph B, beginning March 1, 2031, and annually thereafter, a designated food waste generator shall submit to the department a report, in a format specified by the department, that includes the following information:

A. The amount, in tons, of excess edible food donated by the designated food waste generator to food rescue organizations during the prior calendar year;

B. The amount, in tons, of food waste transferred by the designated food waste generator to organics recyclers during the prior calendar year; and

C. Any other information required by the department.

**5. Administration; rules; publication of information.** The department shall administer the requirements of this section and shall adopt rules as necessary for the implementation, administration and enforcement of this section.

A. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A and must include, at a minimum:

(1) Provisions setting forth the methodology by which the department will determine the persons that qualify as designated food waste generators under this section; and

(2) Requirements for the temporary hardship waiver process under subsection 3.

B. Not earlier than July 1, 2035, the department may adopt rules providing that a designated food waste generator under subsection 1, paragraph A, subparagraph (3) includes a person that generates at a single location an annual average of less than one ton but greater than 100 pounds per week of food waste or that is located farther than 25 miles from an organics recycler with available capacity to accept the food waste generated by the person at the location.

If the department adopts rules pursuant to this paragraph, the department may by rule exempt from otherwise applicable reporting requirements of subsection 4 any designated food waste generator that generates at a single location an annual average of less than one ton but greater than 100 pounds per week of food waste.

C. By July 1, 2029, the department shall publish on its publicly accessible website and maintain and regularly update a list of all organics recyclers in the State known by the department to be authorized to accept food waste and all food rescue organizations in the State known by the department to accept excess edible food.