

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 matter 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 food scraps for soil application using a method of accelerated biological decomposition of organic material under controlled or uncontrolled conditions.

3-B. Diversion. "Diversion" means the ~~donation or recycling use or reuse~~ of food ~~waste~~ scraps for a purpose under section 2101-B, subsection 1.

3-C. Digestate. "Digestate" means the ~~solid and/or liquid residual material remaining after organic material has been processed through anaerobic digestion.~~

3-D. Depackager facility. "Depackaging facility" means a solid waste facility that mechanically separate pre-consumer and/or post-consumer food waste from inorganic packaging material such as plastic, glass, and aluminum.

3-E. Depackager Slurry. "Depackager slurry" means the organic material produced by a depackaging facility as a result of the mechanical separation of food scraps from inorganic packaging.

3-F. Designated food waste generator. "Designated food waste generator" means a person, business, or institution, who:

- (1) ~~Beginning on July 1, 2025, generates at a single location, an annual average of two tons per week or more of food waste;~~
- (2) ~~Beginning on July 1, 2027, generates at a single location, an annual average of one ton per week or more of food waste;~~
- (3) ~~Beginning on July 1, 2030, generates at a single location, an annual average of half a ton per week or more of food waste; and~~
- (4) ~~Beginning on July 1, 2035, generates any amount of food waste.~~

3-G. Excess edible food. "Excess edible food" means edible food that is not sold or used by a designated food waste generator and is still safe to be consumed but is being disposed of by the generator, but shall not include unpackaged fresh meat, fish, or poultry, food damaged by pests, mold bacteria, or other contamination, food subject to governmental or producer recall due to food safety, and food returned to a supplier.

3-H. Food rescue. "Food rescue" means the practice of collecting edible food that would otherwise become solid waste and distributing the food to a hunger relief organization, food bank or pantry or other recipient to be used for human consumption.

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3-I. Food Rescue Organization. “Food rescue organization” means an organization that provides food for free to needy individuals, including, but not limited to, a food pantry, food bank, soup kitchen, or community based-organization.

3-J. Food scraps. “Food scraps” means material, including excess edible food that cannot be donated to a food rescued organization, that is derived from processing or discarding food. ~~material produced from human or animal food production, preparation and consumption activities.~~ “Food scraps” does not include ~~biomedical waste, hazardous waste, sludge or septage or nonorganic material.~~ cooking oil, yellow grease from residential sources, any food identified in regulations promulgated by the Department, any food which is subject to recall or seizure due to the presence of pathogens, biomedical waste, hazardous waste, sludge or septage or nonorganic material.

3-K. Food waste. “Food waste” means any excess edible food or food scraps that are not sold or consumed.

3-L. Heavily packaged food scraps. “Heavily packaged food scraps” means food scraps, that, as determined by the Department, is categorized as food that is difficult to separate from the enclosing packaging in an efficient and economic manner at the point of generation but can be separated mechanically.

3-M. Intermediary facility. “Intermediary facility” means a facility that is authorized to manage food scraps, such as a transfer station, prior to subsequence acceptance by an organics recycler

3-N. Large scale designated food waste generator. “Large scale designated food waste generator” means any designated food waste generator that:

- (1) Beginning on July 1, 2025, generates at a single location, an annual average of two tons per week or more of food waste;
- (2) Beginning on July 1, 2027, generates at a single location, an annual average of one tons per week or more of food waste;

3-O. Organics recycler. “Organics recycler” means a food rescue organization, agricultural operation, compost facility, or anerobic digestion facility that diverts or recycles food waste from disposal.

3-P. Point of generation. “Point of generation” means the location where waste is initially produced.

3-Q. Public building. “Public building” means a state, county or municipal building, library, airport terminal, bus station, railroad station, school building or school. **Physical Contamination.** “Physical contamination” means any human-made inert material contained within compost, digestate, or depackager slurry, including, but not limited to, glass, metal, and plastic.

3-G. Public land. “Public land” means all land that is owned or controlled by a state, county or municipal government body.

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.

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

7. Soil amendment. "Soil amendment" means any material added to soil to improve its physical properties, such as water retention, permeability, water infiltration, nutrient levels, drainage, or aeration.

Sec. 2. 38 MRSA §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 from land disposal or incineration in accordance~~ prohibiting the disposal of food waste surplus food and food scraps in landfills or by incineration and ensuring the management of surplus food and food scraps under section 2147 and with the following order of priority:

- A. Reduction of the volume of **food waste** ~~surplus food~~ generated at the source point of generation;
- B. Donation of **excess edible food** ~~surplus food~~ to a **food rescue organization** ~~food banks, soup kitchens, shelters and bank, food pantry, hunger relief organization or other entities~~ recipient that will use surplus food to feed hungry people for human consumption;
- C. Diversion of food scraps for use as animal feed for agricultural use, including consumption by animals;
- D. ~~Utilization of waste oils for rendering and fuel conversion, utilization of food scraps for digestion to recover energy, other waste utilization technologies and creation of nutrient-rich soil amendments through the composting of food scraps; and~~
- E. ~~Land disposal or incineration of food scraps.~~
- F. Composting or anaerobic digestion and subsequent soil application, which may include energy recovery at a composting or anaerobic digestion facility. Food scraps may not be mixed with sludge or septage during composting or anaerobic digestion before soil application; and
- G. Anaerobic digestion not followed by soil application.

Sec. 6 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. 9. 38 MRSA §2147 is enacted to read:

§2147. Food scraps ~~waste~~ management; diversion

1. Priority of management of food scraps. ~~Food scraps collected under this section must be managed pursuant to the food recovery hierarchy under section 2101-B.~~ **Prohibition of food waste disposal.** Effective July 1, 2025, all designated food waste generators are prohibited from sending food waste to a landfill or incinerator, and instead shall:

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- A. To the maximum extent practicable, reduce the volume of food waste generated;
- B. To the maximum extent practicable, separate excess edible food from all other solid waste, and arrange for the donation of excess edible food to food rescued organization or other entity that will provide the excess edible food for free to needy individuals; and
- C. Separate all food scraps from all other inorganic solid waste, at the point of generation, and transfer, or arrange for the transfer of food scraps to a facility that can manage the material in accordance with the following priority uses:
 - (i) Agricultural use, including consumption by animals,
 - (ii) Composting or anerobic digestion and subsequent use as a soil amendment, which may include energy recovery, and
 - (iii) anerobic digestion not followed by land application.

2. Waiver. A designated food waste generator may petition the department for a temporary waiver from some or all the requirements of this section. The petition must include evidence of undue hardship based on:

- A. Information that demonstrates that even through the generates is considered a designated food waste generator, the generator fails to produce the requisite amount of food waste in tons per week based on an annual average;
- B. An inability to identify an intermediary facility or organic recycler with sufficient capacity to accept the generator's food scraps; or
- C. any other factors determined by the department.

3. Management of food scraps by depackaging facilities. A depackager facility that accepts heavily packaged food scraps is responsible for managing the material in a manner that ensures they are eligible for use according to the priorities established in §2147.

- A. Depackaging facilities that accept heavily packaged food scraps are required to report to the department on an annual basis:
 - (i) the amount, in tons, of heavily packaged food scraps received;
 - (ii) the name and address of the designated food waste generator, intermediary facility, or hauler that delivered the heavily packaged food scraps;
 - (iii) the amount in tons, of slurry generated from processing heavily packaged food scraps and the final disposition of the slurry;
 - (iv) the amount, in tons, of packaging material generated from processing heavily packaged food scraps and the final disposition of the packaging material; and
 - (v) any other information required by the department.

4. Food scraps transporter requirements. Any person that collects and hauls food scraps, including heavily packaged food scraps, from a large-scale food waste generator is required to:

- A. send all food scraps to an organic recycler or intermediary facility;
- B. take all reasonable precautions to not deliver food waste to a landfill or incineration facility;
- C. Keep food scraps separate from all other solid waste, including heavily packaged food scraps; and

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D. Report to the department any larger-scale food waste generator that frequently provides loads that contain significant amounts of physical contamination.

6. Food scrap management by intermediary facilities. Any transfer facility or other intermediary facility that accepts food scraps must keep food scraps separate from all other solid waste and arrange for the transfer of all food scraps to an entity that can manage the material in accordance with the priorities established in §2147.

7. Landfill and Incineration Facilities. Landfill and incineration facilities must take all reasonable precautions to not accept food waste from designated food waste generators.

8. Large-scale designated food waste generators, reporting. A large-scale designated food waste generators must submit an annual report to the department on or before March 1 of each year, beginning in 2025, in a format acceptable to the department. The annual report must include, at a minimum, the following information:

A. The amount, in tons, of excess edible food donated to food rescue organizations or other entities that provide food for free to needy individuals.

B. the amount, in tons, of food scraps transferred to an organics recycler;

C. the amount, in tons, of heavily packaged food scraps transferred to an intermediary facility or depackager facility for mechanical separation;

9. Food waste management facility list. Beginning on July 1, 2024, the department will publish, maintain, and regularly update a publicly available list that describes:

A. all intermediary facilities, depackager facilities, and organic recycling facilities authorized to manage food waste;

B. all transporters and haulers that handle food waste; and

C. all food rescue organizations within the state.

10. Education and outreach. The department shall develop and make available educational materials that will assist designated food scrap generators with their compliance with the requirements of this section. This will include, but is not limited to materials that address food waste minimization, food waste diversion techniques, at home composting, source separation, proper food waste storage and management, and food waste donation requirements and policies.

11. Rules. The department shall adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The rule adopted by the department shall include, at a minimum:

A. The methodology the department will use to determine who is a designated food waste generator; and

B. requirements for the waiver process established in subsection 2;

2. Food scraps separation. A person under subsection 3 who produces food scraps shall:

A. Separate the food scraps from other solid waste at the point of generation. If the person conducts a program to separate food scraps and the program includes a component for the education of program participants regarding the need to separate food scraps, a de minimis amount of food scraps may be disposed of as solid waste;

B. Transfer the food scraps or cause the food scraps to be transferred to a location that manages food scraps in a manner consistent with section 2101-B, subsection 1; or

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~~C. Manage the food scraps through composting or anaerobic digestion on site.~~

2. Management of heavily packaged food scraps. ~~Notwithstanding the requirements of subsection 1, if a designated food waste generator produces a large volume of heavily packaged food scraps, then the generator may transfer, or arrange for the transfer, of heavily packaged food scraps to be sent to a depackager facility or other entity for mechanical separation.~~

3. Schedule for food scraps and separation. ~~A person is subject to the provisions of subsection 2 if:~~

~~A. Beginning January 1, 2025, the person's activities or processes produce more than 52 tons per year or more than one ton per week of food scraps;~~

~~B. Beginning January 1, 2026, the person's activities or processes produce more than 26 tons per year or more than 1/2 ton per week of food scraps;~~

~~C. Beginning January 1, 2027, the person's activities or processes produce more than 18 tons per year or more than 1/3 ton per week of food scraps; and~~

~~D. Beginning January 1, 2028, the person generates any amount of food scraps.~~

4. Collection of food scraps. ~~A commercial entity engaged in the transport of municipal solid waste::shall:~~

~~A. Beginning January 1, 2027, offer to commercial customers the collection of food scraps and deliver any food scraps collected to a location that manages food scraps in a manner consistent with section 2101-B, subsection 1;~~

~~B. Beginning January 1, 2029, offer to residential customers the collection of scraps and deliver any food scraps collected to a location that manages food scraps in a manner consistent with section 2101-B, subsection 1, except for a customer who has available another commercial food scraps disposal service that meets the requirements of this subsection; and~~

~~C. If the commercial entity offers a drop-off service at a fixed location to collect municipal solid waste, offer at the fixed location the collection of food scraps.~~

5. Municipal solid waste management. ~~A commercial entity engaged in the transport of solid waste is exempt from the provisions of subsection 4, paragraph B in a municipality that has adopted a solid waste management ordinance that covers the collection of food scraps in a manner consistent with section 2101-B, subsection 1 and the ordinance:~~

~~A. Is applicable to all residents of the municipality; and~~

~~B. Prohibits a resident from opting out of municipally provided solid waste management services.~~

SUMMARY

This bill sets goals for the reduction of the disposal of food scraps and for food rescue, which is collecting edible food that would otherwise become solid waste and distributing the food to a hunger relief organization, food bank or pantry or other recipient to be used for human consumption. The bill sets priorities for the management of food scraps, with reduction at the point of generation being the first priority, then diversion for food consumption by humans, then diversion for agricultural use, including for consumption by animals, then subjecting the food scraps to composting or anaerobic digestion with subsequent soil application and finally subjecting the food scraps to anaerobic digestion not followed by soil application. Requirements are placed on producers of food scraps to separate the food scraps from other solid waste at the point of generation, and transfer or arrange for the transfer of food scraps to organic recyclers for management according to a hierarchy of priority uses. These requirements phased in over a ~~12~~5-year period, beginning

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with the larger producers of food scraps. ~~Commercial entities engaged in the transportation of municipal solid waste are required to collect food scraps from customers except for customers in municipalities with solid waste management ordinances that cover the collection of food scraps and that are consistent with the State's food recovery policy. The bill requires clearly marked food scraps containers to be placed next to any solid waste containers provided in public buildings and on public land.~~