

LEGISLATIVE INITIATIVE

GENERAL SUBJECT AREA -- TITLE OF PROPOSAL:

Authorize local jurisdictions to mandate collection of organic waste as a recyclable material.

PROPOSAL:

The state statutes and regulations authorize local jurisdictions to provide recycling services and to manage recycling within their jurisdictions. The statutes authorize localities to provide and operate, or contract with other entities to operate, recycling services for residents' and businesses' "recyclable materials."ⁱ The statutes further authorize a body called the Waste Management Board (the "WMB") to define "recyclable materials" and to set up regulations that dictate more specifically how localities, including Fairfax County, can regulate recycling.ⁱⁱ

This proposed legislation would explicitly direct WMB to include recycling of organic/food waste among the authorized recyclable materials that local jurisdictions can choose to manage. WMB has established certain regulations regarding recycling. Specifically, the WMB regulations authorize the county to prepare recycling management plans and to manage recycling in the county.ⁱⁱⁱ Under the state statutes' and WMB regulations' authorization, Fairfax County regulates recycling in § 109 of its county code.^{iv} Legislation would add to VA Code §§ 15.2-928(c) and 10.1-1411 to explicitly include organic waste and food waste as "recyclable materials" that local jurisdictions can manage as part of their recycling management plan.

SOURCE:

Environmental Quality Advisory Council (EQAC)

BACKGROUND:

Fairfax county Board of Supervisors (BOS) committed to achieving zero waste by 2040 in the Communitywide Energy and Climate Action Plan (CECAP)^v and by 2030 in all County and FCPS operations.^{vi} Organic waste, primarily food waste, makes up 25% to 40% of the municipal solid waste.^{vii} Fairfax County's authority to regulate recycling hinges on the state's definition of "recyclable materials" and "recycling," which the statutes authorize the WMB to establish in its regulations.^{viii} The WMB does not give a specific definition for "recyclable materials," but it does define "recycling" to mean the process of separating a given waste from the waste stream to be processed into a raw material.^{ix} The proposed legislation would clarify that organic waste and food waste meet this definition and that local jurisdictions can manage recycling of these materials. A different section of the WMB regulations specifically deems composted or mulched vegetative and yard wastes to be "recycled."^x The legislation would explicitly state that compostable waste falls within the definition of recyclable material for which local jurisdictions, such as Fairfax County, are authorized to provide recycling services and manage within the county.

STAFF RECOMMENDATION:

ⁱ VA Code § 15.2-928(a).

ⁱⁱ VA Code §§ 15.2-928(c) and 10.1-1411.

ⁱⁱⁱ Fairfax County Code § 109.1-1-1(a).

^{iv} The state statute that gives the WMB this authority is VA Code § 15.2-928(c) and the WMB regulations on recycling are in the Virginia Administrative Code, title 9 section 20-130. VA Code § 15.2-928(c), “C. For the purposes of this section, recyclable materials shall be those materials identified in a plan adopted pursuant to § 10.1-1411 and regulations promulgated thereunder. Nothing in this section shall invalidate the actions of any locality taken prior to enactment of this section. Nothing in this section shall be construed as prohibiting any generator of recyclable materials from selling, conveying or arranging for transportation of such materials to a recycler for reuse or reclamation, nor preventing a recycling company or nonprofit entity from collecting and transporting recyclable materials from a buy-back center, drop box or any generator of recyclable materials.”

^v https://www.fairfaxcounty.gov/environment-energy-coordination/sites/environment-energy-coordination/files/assets/images/cecacp%20report%20release/cecacp%20draft_designed%20report_sept%202021_release_508.pdf

^{vi} <https://www.fairfaxcounty.gov/news/zero-waste-program>

^{vii} Armington, W. R., Babbitt, C. W., & Chen, R. B. (2020). Variability in commercial and institutional food waste generation and implications for sustainable management systems. *Resources, Conservation and Recycling*, 155, 104622. <https://doi.org/10.1016/j.resconrec.2019.104622> Buzby, J. C., & Hyman, J. (2012). Total and per capita value of food loss in the United States. *Food Policy*, 37(5), 561–570. <https://doi.org/10.1016/j.foodpol.2012.06.002>. Office of Resource Conservation and Recovery. (2020). 2018 Wasted Food Report (EPA 530-R-20-004; p. 42). US EPA. https://www.epa.gov/sites/default/files/2020-11/documents/2018_wasted_food_report.pdf. Thyberg, K. L., Tonjes, D. J., & Gurevitch, J. (2015). Quantification of Food Waste Disposal in the United States: A Meta-Analysis. *Environmental Science & Technology*, 49(24), 13946–13953. <https://doi.org/10.1021/acs.est.5b03880>. UN Environment Programme. (n.d.). Definition of food loss and waste. ThinkEatSave. Retrieved June 7, 2022, from <http://www.unep.org/thinkeatsave/about/definition-food-loss-and-waste>. US Census Bureau, U. C. (n.d.). County Business Patterns (CBP). Census.Gov. Retrieved June 8, 2022, from <https://www.census.gov/programs-surveys/cbp.html>. US EPA. (2020). Wasted Food Measurement Methodology Scoping Memo. https://www.epa.gov/sites/default/files/2020-06/documents/food_measurement_methodology_scoping_memo-6-18-20.pdf. US EPA. (2021). From Farm to Kitchen: The Environmental Impacts of U.S. Food Waste (EPA 600-R21 171; p. 113). US EPA. https://www.epa.gov/system/files/documents/2021-11/from-farm-to-kitchen-the-environmental-impacts-of-u.s.-food-waste_508-tagged.pdf.

^{viii} VA Code §§ 15.2-928(c) and 10.1-1411.

^{ix} VAC 20-130-10, “‘Recycling’ means the process of separating a given waste material from the waste stream and processing it so that it may be used as a raw material for a product, which may or may not be similar to the original product. For the purpose of this chapter, recycling shall not include processes that only involve size reduction.”

^x VAC 20-130-125, “Yard wastes and vegetative wastes are deemed to be recycled if they are composted or mulched and the finished mulch or compost is marketed or otherwise used productively.”