

LEGISLATIVE INITIATIVE INFORMATION SHEET

PROPOSED NEW OR REVISED STATUTORY LANGUAGE:

Amend Virginia Code § 15.2-928.C to explicitly include in the definition of recyclable materials, organic and food waste. The new section C. will read, in part: “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. **Organic and food waste are recyclable materials that may be included in local jurisdictions recycling plans.**”

ADDITIONAL BACKGROUND INFORMATION:

Approximately 40 percent of the food produced in the United States today goes uneaten.ⁱ Much of this organic waste is disposed of in solid waste landfills, where its decomposition accounts for over 15 percent of our nation's emissions of methane, a potent greenhouse gas. Fairfax county incinerates municipal solid waste. ReWorld (formerly Covanta Fairfax) emits roughly one ton of greenhouse gases for every ton of MSW. According to greenhouse gas emissions reported to the EPA in 2023, ReWorld emitted 1,178,963 tons of CO₂, 796 tons of NO_X and 993 tons of SO₂.ⁱⁱ It incinerates about 1,120,000 tons of municipal solid waste annually.ⁱⁱⁱ ReWorld GHG emissions account for roughly 12% of the approximately 10 million tons of GHGs emitted from all sources in the county.^{iv} all Fairfax GHG emissions. Food waste not recycled not only wastes precious natural resources but also contributes to climate change.

As the county works to achieve the zero waste goals of the Communitywide Energy and Climate Action Plan and the Joint Environmental Taskforce^v, it is critical that food and organic waste be diverted from the incinerator – and from landfills. The county lacks the authority to regulate organic and food waste with its existing delegated authorities to manage recycling.^{vi} The proposed legislative initiative would explicitly provide Fairfax and other jurisdictions with the authority to regulate food and organic waste under its recycling authorities. Diverting organic waste from Fairfax’s waste stream will help achieve the BOS commitments to zero waste.

RELATED FEDERAL OR STATE STATUTES OR REGULATIONS, OR ANY PERTINENT COURT DECISIONS OR LEGAL OPINIONS:

VA Code § 15.2-928(a).¹ VA Code §§ 15.2-928(c) and 10.1-1411.

ALIGNMENT TO ONE FAIRFAX GOALS:

The impact of this action on One Fairfax is uncertain and will depend on specific implementation activities. It is important to consider the location of landfills or waste-to-energy facilities and their proximity to disadvantaged communities.

ANY APPROPRIATE ANALYSES, FINANCIAL ESTIMATES, STATISTICS:

Effective policy at the state level is a critical lever for reducing food loss and waste.^{vii} Since January 2022, states have introduced or actively carried more than 70 bills on food loss and waste, 14 of which passed. (A roundup of all 2021 bills is available [here](#)).

Early in 2022, Washington passed [HB1799](#), a major food waste bill that sets forth a path for

organics recycling for the next five years. Beginning in 2024, businesses that produce at least eight cubic yards of organic waste per week must arrange for on-site composting or organics collection. In 2025, the waste threshold decreases to include any business that produces over four cubic yards of organic waste per week. Businesses are encouraged to donate edible food, and the law sets a goal that at least 20% of edible food is recovered and donated by 2025. By 2023, municipalities with more than 25,000 residents must adopt a compost procurement ordinance, which is a law that requires a local jurisdiction to purchase compost products for relevant projects like landscaping, and by 2027 these municipalities must provide biweekly curbside composting. The law also updates Washington's liability protection for food donation to include protection for direct donation and food past the quality date and includes provisions to facilitate the siting of composting and anaerobic digestion facilities. With the inclusion of food donation this is a strong organic waste ban, and we will follow it closely as implementation ramps up.

Though still pending, Rhode Island, New York, and New Jersey legislators also proposed modifications to their organic waste bans. [RI H7542](#) would further expand the state's ban by adding any business located within 30 miles from a recycling facility (previously only 15 miles) and reducing the waste threshold from 104 tons per year to 52 tons per year in 2023 and to 26 tons per year in 2024. In New York, [A09624](#) would reverse proposed residential composting rollbacks in New York City by mandating residential composting programs for any city with more than one million residents. Though New Jersey's waste ban only took effect late last year, [NJ S421](#) would modify the ban to include ambitious diversion and donation goals modeled after those recently implemented in California, including requirements to meet the goal that at least 20% of excess edible food that is currently sent to landfill be recovered for human consumption by 2030.

Connecticut also passed a bill beginning the process to create a required edible food donation program. [CT HB5146](#) establishes a task force to examine the opportunities to create a supermarket donation program or requirement for edible food, like those in effect in California and New York. The task force will report its findings by January 1, 2023. The bill also modifies the state's donation liability laws to include clearer protections for supermarkets and relief organizations.

Despite federal liability protections that protect food donors and food recovery organizations across the nation through the Bill Emerson Good Samaritan Food Donation Act, many food manufacturers, retailers, and wholesalers cite fear of liability as a primary deterrent to donating food. These fears could be alleviated by states strengthening protections beyond the federal baseline and educating food businesses. Four states – [Virginia](#), [Connecticut](#), [Washington](#), and [Utah](#) – successfully strengthened liability protections in 2022 (including an advocacy push by high school students in Virginia Beach to update Virginia's law). Several additional states have pending bills ([Delaware](#), [Massachusetts](#), [Pennsylvania](#), [Ohio](#)).

PROS/CONS OF THE ISSUE:

There are few downsides to giving local jurisdictions the authority to regulate food and organic waste as a recyclable product. Some commercial establishments, e.g., restaurants, cafeterias, grocery stores, may balk initially at required recycling of foodstuffs. Experiences of states and localities show minimal pushbacks when they have gradually increased requirements to recycle organics by businesses that generate large amounts of organics waste. Creating incentives for

residential composting and organics recycling by multi-family residences can help cut community resistance.

POSSIBLE SUPPORT OR OPPOSITION BY ORGANIZATIONS:

Trash haulers may be reluctant to add trucks to routes to pick up organics, although the presently pick up yard waste. Businesses that produce large amounts of organic waste may resist additional costs for organic pickups. Environmental and citizens/homeowners' associations will likely support if programs are accompanied by education, outreach, incentives, and gradual implementation.

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- ⁱ 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
- ⁱⁱ <https://www.epa.gov/eGRID/detailed-data>
- ⁱⁱⁱ <https://www.reworldwaste.com/where-we-are/facilities/fairfax>
- ^{iv} <https://www.mwcog.org/file.aspx?&A=yHSPBYwLw4aTLILM14byI1OYNT34TuP8kVpL94oQk40%3D>
- ^v https://www.fairfaxcounty.gov/environment-energy-coordination/sites/environment-energy-coordination/files/assets/images/ccap%20report%20release/ccap%20draft_designed%20report_sept%202021_release_508.pdf <https://www.fairfaxcounty.gov/news/zero-waste-program>
- ^{vi} VA Code § 15.2-928(a). VA Code §§ 15.2-928(c) and 10.1-1411. Fairfax County Code § 109.1-1-1(a).
- ^{vii} <https://refed.org/articles/the-state-of-food-waste-legislation/#:~:text=Beginning%20in%202024%2C%20businesses%20that,composting%20and%20anaerobic%20di gestion%20facilities.>