



Maryland
Department of
the Environment

Organics Recycling and Waste Diversion **Food Residuals**

Webinar
Maryland's Regulation on Food Residuals

January 19, 2023

Hosted by the Land & Materials Administration's
Waste Diversion Department



Welcome & Agenda

- Housekeeping
 - Please stay muted, add comments in the chat box
 - If your bandwidth is slow, don't share your video
- Introduction - Waste Diversion Division
- Review the Food Diversion law, the now adopted Regulation and their applicability
- Open discussion as time allows



What is this law and timeline?

- The law referenced throughout this presentation refers to the [House Bill 264/Senate Bill 483](#), passed by the General Assembly in 2021, entitled ***Solid Waste Management – Organics Recycling and Waste Diversion – Food Residuals***
- Requires persons that generate food residuals to divert from final disposal in refuse disposal system such as a landfill or incinerator if:
 1. The person generates:
 - **Beginning January 1, 2023, at least 2 tons** food residuals each week
 - **Beginning January 1, 2024, at least 1 ton** of food residuals each week

and
 2. The person is located within 30 miles of an organics recycling facility with the capacity and willingness to enter into a contract to accept all the person's food residuals for recycling



Regulations – How to Find

The regulations became effective on Dec. 26th, 2022

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Division of State Documents

Welcome to the Office of the Secretary of State, Division of State Documents (DSD), for the State of Maryland. This site allows you to view the online versions of the Code of Maryland Regulations (COMAR), and the Maryland Register.

Code of Maryland Regulations

All Maryland State agency regulations are compiled in the *Code of Maryland Regulations (COMAR)*.

09.12.01.02D(2)(c)(iii)

Agencies and Other Resources

DAT: Business & Corporation

Dept. of Assessments and Taxation for Resident Agents, Certification of

COMAR Codification System

09	12	01	02	D(2)(c)(iii)
Title	Chapter	Section	Paragraph	
Subtitle	Regulation	Subsection	Subparagraph	

<https://dsd.maryland.gov/Pages/default.aspx>

Under the COMAR codification system, every regulation is assigned unique four-part codification number by which it may be identified.

All regulations are arranged by title. Each title is divided into numbered chapters, and each chapter into numbered regulations.

A regulation may be divided into lettered sections, a section divided into numbered subsections, a subsection divided into lettered paragraphs, and a paragraph divided into numbered subparagraphs.



Regulations - Search

You can search for your regulation here

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COMAR Online

COMAR Online is searchable and available at no charge.

Click below to search regulations.

Search COMAR

Specific sections of COMAR are available for purchase in an assembled, easy-to-read format. See [Publications to Order](#) or call our Subscription Office at 410-260-3876 to order by phone.

<https://dsd.maryland.gov/Pages/COMARHome.aspx>



Regulations - Titles

MD Department of the Environment is Title 26 in COMAR

Maryland.gov

State Directory

Title

- 01 - Executive Department
- 02 - Office of the Attorney General
- 03 - Comptroller of the Treasury
- 04 - Department of General Services
- 05 - Department of Housing and Community Development
- 07 - Department of Human Services
- 08 - Department of Natural Resources
- 09 - Maryland Department of Labor
- 10 - Maryland Department of Health
- 11 - Department of Transportation
- 12 - Department of Public Safety and Correctional Services
- 13A - Maryland State Board of Education
- 13A - State Board of Education
- 13B - Maryland Higher Education Commission
- 14 - Independent Agencies
- 15 - Maryland Department of Agriculture
- 16 - Department of Juvenile Services
- 17 - Department of Budget and Management
- 18 - Department of Assessments and Taxation
- 19A - State Ethics Commission
- 20 - Public Service Commission
- 21 - State Procurement Regulations
- 22 - State Retirement and Pension System
- 23 - Board of Public Works
- 24 - Department of Commerce
- 25 - Office of the State Treasurer
- 26 - Department of Environment

Preference for results in English ▾

01.02.01.00

Title 01 EXECUTIVE DEPARTMENT Subtitle 02 SECRETARY OF STATE Chapter 01 Lobbying Expense Report Repealed Administrative History Effective date: February 21, 1975 (2:6 Md. R. 430) Chapter repealed effective October 3, 1988 (15:20 Md. R. 2332)

01.02.02.00

Title 01 EXECUTIVE DEPARTMENT Subtitle 02 SECRETARY OF STATE Chapter 02 Disclosure by Persons Doing Public Business Repealed Administrative History Effective date: August 6, 1975 (2:17 Md. R. 1185) Chapter repealed effective October 3, 1988 (15:20 Md. R. 2332)

01.02.03.00

Title 01 EXECUTIVE DEPARTMENT Subtitle 02 SECRETARY OF STATE Chapter 03 Charitable Organizations: Procedural Regulations Authority: Business Regulation Article, §6-204; State Government Article, §§10-123 and 10-204; Annotated Code of Maryland

01.02.03.01

Scope.

.01 Scope. These regulations apply to controversies and hearings arising under the Maryland Charitable Solicitations Act, Business Regulation Article, Title 6, Annotated Code of Maryland.

01.02.03.02

Definitions.

.02 Definitions. A. "Act" means the Maryland Solicitations Act, Business Regulation Article, Title 6, Annotated Code of Maryland. B. "Day" means calendar day. C. "Party" means any person requesting a hearing and any person or agency having an interest in the outcome of a hearing. D. "Petitioner" means any person requesting a regulation

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Regulations - Subtitles

The food regulations are under Subtitle 4 of MDE's regulations

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State Directory

Title

26 - Department of Environment
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Subtitle

- 01 - GENERAL PROVISIONS
- 02 - OCCUPATIONAL, INDUSTRIAL, AND RESIDENTIAL HAZARDS
- 03 - WATER SUPPLY, SEWERAGE, SOLID WASTE, AND POLLUTION CONTROL PLANNING AND FUNDING
- 04 - REGULATION OF WATER SUPPLY, SEWAGE DISPOSAL, AND SOLID WASTE**
- 05 - BOARD OF WELL DRILLERS
- 06 - WATERWORKS AND WASTE SYSTEMS OPERATORS
- 07 - BOARD OF ENVIRONMENTAL SANITARIANS
- 08 - WATER POLLUTION
- 10 - OIL POLLUTION CONTROL AND STORAGE TANK MANAGEMENT
- 11 - AIR QUALITY
- 12 - RADIATION MANAGEMENT

26.01.01.00

Title 26 DEPARTMENT OF THE ENVIRONMENT Subtitle 01 GENERAL PROVISIONS Chapter 01 Procedures for Hearings of Regulations Authority: State Government Article, §10-204, Annotated Code of Maryland

26.01.01.01

Definition.

.01 Definition. "Hearing officer" means the Secretary of the Environment, or his designee, and may include that employee of the Department of the Environment appointed by the Secretary to conduct hearings.

26.01.01.02

Notice of Hearing.

.02 Notice of Hearing. Published or circulated notice of the hearing shall contain: A. The time of the hearing, if required; B. The place of the hearing, giving the street address, floor, and designated room; C. The purpose of the hearing, in clear, intelligible language; D. If necessary, reference to the particular statute which gives authority for the hearing and the proposed regulation.

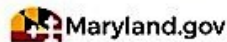
26.01.01.03

[Link to MDE regulation subtitles](#)



Regulations - Chapters

The food diversion regulations are Chapter 13 of Subtitle 4



State Directory State Agency

Chapter

- 01 - Quality of Drinking Water in Maryland
- 02 - Sewage Disposal and Certain Water Systems for Homes and Other Establishments in the Counties of Maryland Where a Public Sewage Systems is Not Available
- 03 - Water Supply and Sewerage Systems in the Subdivision of Land in MD
- 04 - Well Construction
- 05 - Shared Facilities
- 06 - Sewage Sludge Management
- 07 - Solid Waste Management
- 08 - Storage, Collection, Transferring, Hauling, Recycling, and Processing of Scrap Tires
- 09 - Natural Wood Waste Recycling Facilities
- 10 - Management of Coal Combustion Byproducts
- 11 - Composting Facilities
- 12 - On-Site Wastewater Property Transfer Inspection License
- 13 - Food Residuals — Organics Recycling and Waste Diversion

26.04.01.01-1

Incorporation by Reference.

.01-1 Incorporation by Reference. A. In this chapter, the following documents are incorporated by reference. B. Documents Incorporated. Code of Federal Regulations (CFR) 40 CFR §§141 and 142 (July 1, 2014): (1) Surface Water Treatment Rule (40 CFR §§141.70-141.76, Subpart H) June 8, 2001, January 14, 2002, October 23, 2002, October 29, 2002, and February 13, 2013 revisions. (2) Interim Enhanced Surface Water Treatment Rule (40 CFR §141, Subpart

26.04.01.01

Definitions.

.01 Definitions. A. In this chapter, the following terms have the meanings indicated. B. Terms Defined. (1) "Action level" means the concentration of a contaminant which, if exceeded, triggers treatment or other requirements which a water system must follow. (2) "Approving Authority" means the Secretary of the Environment or his designee. (3) "Best available technology (BAT)" means the best technology, treatment techniques, or oth.....

26.04.01.02

Coverage.

.02 Coverage. This regulation applies to each public water system in the State except that it does not apply to a public water system which satisfies all of the following: A. Consists only of distribution and storage facilities, and does not have any collection and treatment facilities; B. Obtains all of its water from, but is not owned or operated by, a supplier of water to which this regulation applies; C. Does not sell water to any person; and D. Is not a carrie...

26.04.01.03-1

Variances and Exemptions for Synthetic Organic Chemicals.

.03-1 Variances and Exemptions for Synthetic Organic Chemicals. A. In addition to the procedures prescribed in Regulations .03 and .04 of this chapter, variances and exemptions from the maximum

[Link to MDE regulation chapters](#)



Regulations – Individual Regulations

The food diversion law has 5 separate regulations

Maryland.gov

State D

Chapter

13 - Food Residuals — Organics Recycling and Waste Diversion

Remove Filter

26.04.13.01

Purpose.

.01 Purpose. The purpose of this chapter is to establish certain requirements pertaining to the diversion of food residuals from final disposal in a refuse disposal system pursuant to Environment Article, §9-1724.1, Annotated Code of Maryland, including: A. Clarifying the types of entities and individuals that meet the definition of "person", for the purpose of complying with the food residuals diversion requirements; ...

26.04.13.02

Definitions.

.02 Definitions. A. In this chapter, the following terms have the meanings indicated. B. Terms Defined. (1) "Anaerobic digestion" means the controlled anaerobic biological decomposition of organic waste material to produce biogas and digestate. (2) "Animal mortality" means an animal carcass that is generated: (a) At a farm during the normal course o...

26.04.13.03

Food Residuals Diversion Requirement.

.03 Food Residuals Diversion Requirement. A. General Provisions. (1) The Department may inspect a site or business owned or operated by a person suspected or known to be subject to this regulation and Regulation .04 of this chapter in accordance with Environment Article, §1-404(k), Annotated Code of Maryland. (2) A person subject to the food residuals diversion requirements under §B of this regula...

26.04.13.04

Waiver from the Food Residuals Diversion Requirement.

.04 Waiver from the Food Residuals Diversion Requirement. A. The Department may grant a waiver from the requirement to divert food residuals from final disposal in a refuse disposal system under Regulation .03 of this chapter if: (1) A person demonstrates, in accordance with §D(2) of this regulation, undue hardship for the following reasons: (a) The cost of diverting food residuals from a refuse ...

26.04.13.05

Reporting.

.05 Reporting. On or before March 1, 2024, and each March 1 thereafter, a person subject to the food residuals diversion requirements under Regulation .03 of this chapter shall submit a report: A. On the person's solid waste and recyclable materials management activities during the preceding calendar year to each county where the solid waste and recyclable materials were generated; B. In a format r...

[Link to food diversion law regulations](#)



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MARYLAND Department of the Environment

County Coordinator Resources

Education and Outreach

Frequently Asked Questions

Recycling at Work and School

Recycling in Maryland

Source Reduction

State Agency Recycling

Solid Waste Management - Organics Recycling and Waste Diversion - Food Residuals

Food is a valuable resource. Wasting edible and inedible food also wastes the water, energy, labor, pesticides, fertilizers, and land used to make and transport the food. Below are resources to learn more about food waste reduction in Maryland. In 2021, the Maryland General Assembly passed [House Bill 264/Senate Bill 483](#) entitled Solid Waste Management – Organics Recycling and Waste Diversion – Food Residuals, which requires certain entities that generate food residuals to separate the food residuals from other solid waste and ensure that the food residuals are diverted from final disposal in refuse disposal systems. The law follows the traditional food recovery hierarchy - prevent waste before it occurs, feed people, feed animals, and recycle non-edible food residuals. The focus is to reduce the amount of greenhouse gasses emitted from landfills; provide edible food to people at a free or lower cost; and

State Directory

You can access a [downloadable PDF](#) copy of the regulations from MDE's [Organic Recycling and Waste Diversion](#) webpage

New Food Residuals Diversion Regulations (COMAR 26.04.13)

On December 06, 2022, the Secretary of the Environment adopted new regulations under Code of Maryland Regulations (COMAR) 26.04.13 Food Residuals - Organics Recycling and Waste Diversion, The regulations implement House Bill 264/Senate Bill 483 of 2021, and establish certain regulatory conditions for persons required to divert food residuals from final disposal in a refuse disposal system. **The new regulations become effective on December 26, 2022.**

The following are helpful documents regarding the new regulations:

- The Notice of Final Action published in the December 16, 2022 issue of the *Maryland Register* announcing the Secretary's decision to adopt the new regulations and their effective date (a copy is also available at [Maryland Register Online](#)).
- A courtesy copy of the adopted regulations, the official text of the regulations will be available starting **December 26, 2022** on COMAR Online.
- A Compliance Guide on how affected schools, institutions, and businesses can comply with the new regulations.
- MDE's Response to Public Comments received on the proposed regulations published on September 23, 2022.



Regulation 26.04.13.01 - Purpose

26.04.13.01

.01 Purpose.

The purpose of this chapter is to establish certain requirements pertaining to the diversion of food residuals from final disposal in a refuse disposal system pursuant to Environment Article, §9-1724.1, Annotated Code of Maryland, including:

- A. Clarifying the types of entities and individuals that meet the definition of "person", for the purpose of complying with the food residuals diversion requirements;
- B. Clarifying the types of materials that meet the definition of "food residuals";
- C. For a person required to divert food residuals from final disposal in a refuse disposal system, establishing:
 - (1) The methods for determining the weight of food residuals generated by the person;
 - (2) A schedule for complying with the food residuals diversion requirements;
 - (3) The documentation to be maintained by a person required to divert food residuals from final disposal in a refuse disposal system; and
 - (4) A requirement to submit a certain report annually to counties; and
- D. Establishing application and approval procedures for waivers issued to persons otherwise required to divert food residuals from final disposal in a refuse disposal system.

[LINK to regulation](#)



Regulation 26.04.13.02 - Definitions

26.04.13.02

[LINK to regulation](#)

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

- Thirteen (13) terms used in the regulations are defined.
- Please refer to this section when unclear about how MDE defines certain terms.*
- Example – While the term “person” is a common term, MDE has a specific definition of who is and isn’t considered a “person” under the law. This is defined in this section.
- * Terms are also further defined in the [Compliance Guide](#) published with these regulations, and found on the [MDE website](#).



What are “food residuals”?

The law defines food residuals as materials derived from the processing or discarding of food, including pre- and post-consumer vegetables, fruits, grains, dairy products, and meats



Image: [Pixabay](#) Ben_Kerckx COMPOST



Regulation 26.04.13.03 – Food Residual Diversion Requirement

26.04.13.03

[LINK to regulation](#)

.03 Food Residuals Diversion Requirement.

A. General Provisions.

- This is the “meat” of the regulations
- Five sections with numerous subsections, paragraphs and subparagraphs

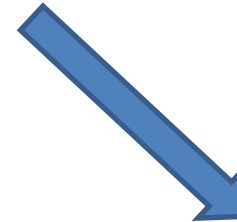


Regulation 26.04.13.03 – Section A

General Provisions



Subsection 1:
Gives MDE the right to inspect any facility that is known or suspected to be subject to these regulations

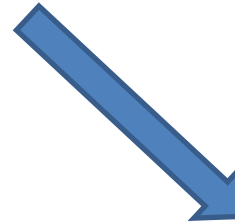


Subsection 2:
Details the manner of diverting food residuals such that the residuals are not an environmental nuisance



Regulation 26.04.13.03 – Section B

Food Residual Diversion Mandate



Subsection 1:
Identifies the qualifications
that define a “person”
under the regulations.

Subsection 2:
Requires a person to start
food diversion within 90
days of meeting the criteria
of subsection 1



What is a “Person” Under the Law?

- As of Jan 1st, 2023, at least **2 tons/week** of food residuals, and
 - As of Jan 1st, 2024, at least **1 ton/week** of food residuals
- AND
- Is located within a **30-mile radius** of an organics recycling facility (e.g. a composter or anaerobic digester) that:
 - Has the capacity to accept and process **all** of the person’s food residuals,
 - Is willing to accept **all** of the person’s food residuals for recycling, and
 - Is willing to enter a contract to accept and process the food residuals



What's a person per the law and regulation?

- A person is a facility that generates food residuals such as a school, supermarket, business cafeteria, etc.
- A person **does not** include:
 - Aggregate of all school buildings/facilities in a local school system
 - Restaurant that
 - Accommodates the public, and
 - Is equipped with a dining room with facilities for preparing and serving regular meals

See [Determination of Applicability for Food Residual Diversion Requirement](#)



[The EPA Excess Food Opportunities Map](#)

Click the “layers” icon in the upper right corner to open the list of layers, then click a layer to view.



Timeline – Weight Thresholds



January 1, 2023 – for persons generating 2 tons of food residuals each week

January 1, 2024 – for persons generating 1 ton of food residuals each week



Location Assessment

Within 30-miles of an organics recycling facility

mdewin64.mde.state.md.us/LMA/FoodGen/

Managed bookmarks Resource Managem... Recycling Market D... Updating Maryland'... mdenet ArcGIS Online for... #worldwidewaste -... XEROXScanner Other bookmarks

Organic Waste Recyclers Organics Diversion and Composting

Layers

- Organic Waste Recyclers
- General Composting Facilities Tier 2 (MD)
- Commercial Anaerobic Digester (MD)
- Out of State Facilities
- 30 mile buffer (Maryland)
- 30 Mile Buffer (Out of State)
- Maryland Physical Boundaries
- County Boundaries - Detailed

1800 Washington Blvd

MD Statewide Composite Locator

- 1800 WASHINGTON BLVD, BALTIMORE, MD, 21230
- 1800 WASHINGTON BLVD, ELKRIDGE, MD, 21075
- 1800 WASHINGTON BLVD, GLEN BURNIE, MD, 21061
- 1800 WASHINGTON BLVD, HALETHORPE, MD, 21227
- 1800 WASHINGTON BLVD, JESSUP MD, 20794

Type Address Here

Check Location

powered by MDE

<https://mdewin64.mde.state.md.us/LMA/FoodGen/>



Location Assessment (cont.)

Facilities within 30 miles

The screenshot shows a web browser window with the URL `mdewin64.mde.state.md.us/LMA/FoodGen/`. The application is titled "Organic Waste Recyclers" and "Organics Diversion and Composting". The "Layers" panel on the left includes:

- Organic Waste Recyclers
- General Composting Facilities Tier 2 (MD)
- Commercial Anaerobic Digester (MD)
- Out of State Facilities
- 30 mile buffer (Maryland)
- 30 Mile Buffer (Out of State)
- Maryland Physical Boundaries
- County Boundaries - Detailed

The popup window displays the following information:

(1 of 3)	
30 mile buffer (Maryland)	
Facility Name	Bioenergy DEVCO - Maryland Organics Recycling Facility
Facility Contact	Vinnie Bevivino
Facility Phone	(202) 360-1805
Facility Email	Vbevivino@bioenergydevco.com
Facility Contact 2	Mike Manna
Facility Contact 2 Phone	(609) 744-2819
Facility Contact 2 Email	mmanna@bioenergydevco.com
Zoom to	

Are they willing AND able to take all food residuals?

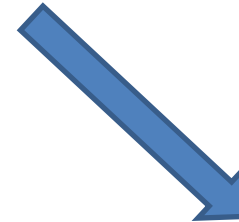


Regulation 26.04.13.03 – Section C

Determining the Weight of Food Residuals Generated



Subsection 1:
Outlines the MDE-approved methods for calculating the weight of food residuals generated



Subsection 2:
Requires a facility with several buildings that generate food waste on the same campus, and handled by the same waste management, to use a combined food residual weight of all facilities in the weekly weight assessment



Food Residual Weight Assessments

- On the [Organics Recycling and Waste Diversion – Food Residuals](#) page of the MDE website, there are links to processes to determine the weight of food residuals

📄 State Directory 🏢 State Agencies 🌐 Translate

Who is affected by the food residuals diversion law?

- How do you know if this law applies to your facility?
 - MDE has prepared a document called "Determination of Applicability of the Food Residuals Diversion Requirement" [ENG / ESP] that describes the entities that may be required to divert their food residuals under the law.
- How to estimate food residuals quantities (sector estimates)?
 - MDE has prepared a document called "Maryland Food Residual Generation Factor Estimates by Industry Sector" [ENG / ESP] that explains how various industry types can estimate the amount of food residuals they generate.
- What documentation should be maintained at your facility?
 - To maintain compliance with this law, the Department is developing a list of documents required to be maintained on-site for any facility where food residuals are generated.
- Waivers application information
 - If identified as a person under this law, and it is in your belief that compliance would cause an undue hardship, you may request a waiver from the requirements of the law.
 - To apply for a waiver, provide a written explanation, submitted electronically to the Department, demonstrating an undue hardship on the basis of: the cost of diverting food residuals from a refuse disposal system is more than 10% more expensive than the cost of disposing the food residuals at a refuse disposal system; or other reasonable circumstances.
 - Application for Requesting a Waiver from the Food Residuals Diversion Requirements

Use [this](#) to review the MDE-approved weight determination methodologies

Use [this](#) to calculate the MDE-approved weight estimate by industry type



Waste Assessment Method: Scale Weight



An actual weight measurement of the food residuals after separation from other materials that would be disposed.





Waste Assessment Method: Container Size



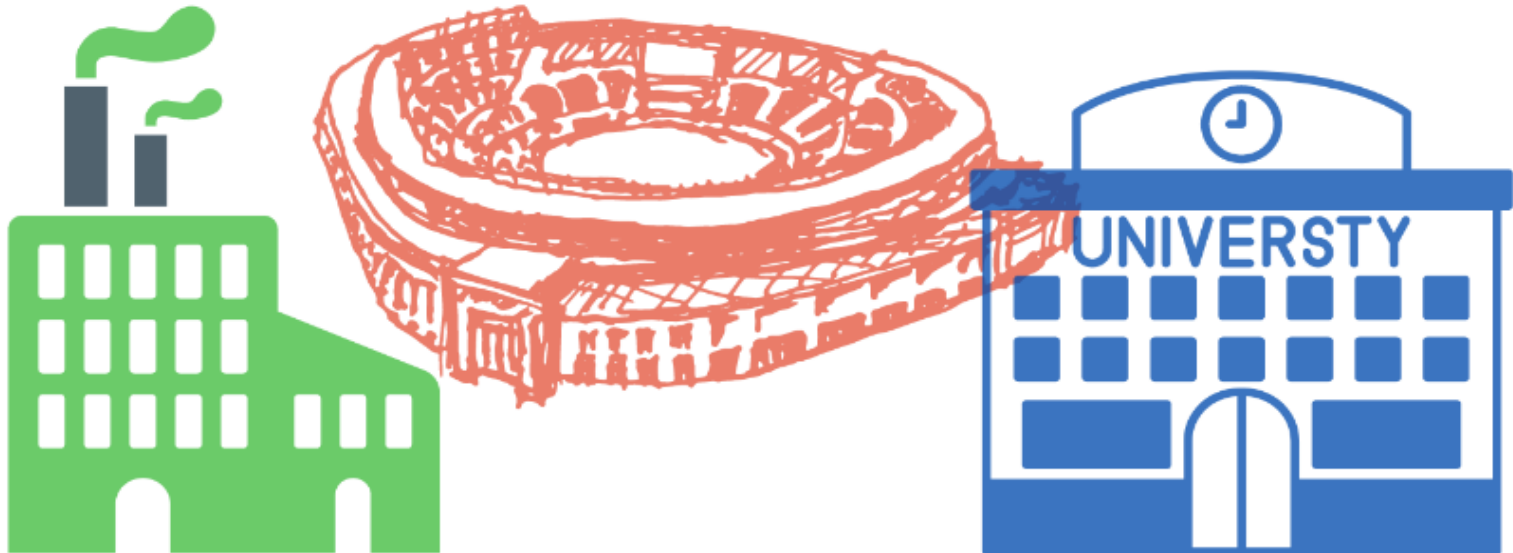
A weight estimate determined by the volume of food residuals generated, as measured by the container size filled.



Waste Assessment Method: Industry Sector

Generation factors have been approved by the Department for use to estimate weekly tonnage of food residuals by industry type. This information can be found in this document:

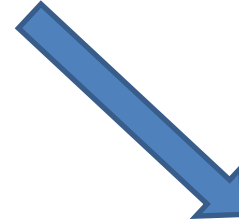
[“Maryland Food Residual Generation Factor Estimates by Industry Sector, Sept 2020”](#).





Regulation 26.04.13.03 – Section D

Methods of Diversion



Subsection 1:

Requires a person under the regulations to separate food residuals from all other waste and non-compostables, including any films or containers

Subsection 2:

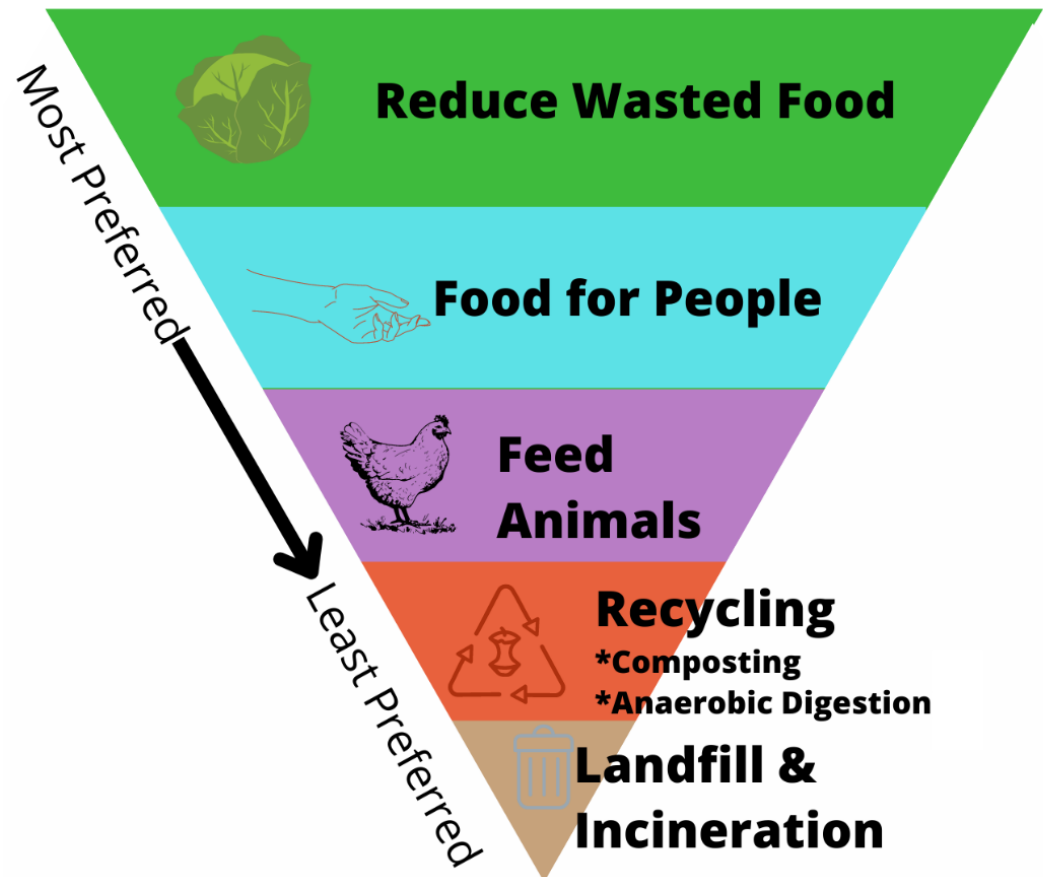
Identifies the methods a person could use to divert food residuals
(Food Recovery Hierarchy)



Diversion Options

- Prevention
 - Reduce wasted food
- Rescue
 - Food for people
 - Feed for animals
- Recovery
 - Compost
 - Anaerobic Digestion

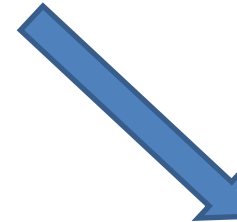
Maryland's Food Recovery Hierarchy





Regulation 26.04.13.03 – Section E

Documentation



Subsection 1:
Describes the types of documentation a person **shall** maintain at their facility

Subsection 2:
Requires a person to submit the requested documentation not later than 30 days after MDE requests it, unless an alternate deadline is provided by MDE



Documentation

At a minimum, the facility **shall** maintain, onsite, the following information for each set of waste assessments:

- How weight was calculated
- Breakdown of waste streams, by type, weight and date(s) assessed.
- Facility Name and Address
- Person(s) performing waste assessment
- Summary of food residual totals – tons each week

[Image source](#)





Regulation 26.04.13.04 - Waiver

26.04.13.04

[LINK to regulation](#)

.04 Waiver from the Food Residuals Diversion Requirement.

Allows for a person required to divert food waste to apply for a waiver from these requirements for a certain period-of-time and for certain reasons



Regulation 26.04.13.04 – Section A

MDE may grant a waiver for the food residual diversion requirements upon demonstration of undue hardship due to:

The cost (hauling and tipping) of diverting food waste is 10% more than the cost of sending the waste to a refuse disposal system

OR

For food residuals identified by federal or state agencies as having biosafety concerns

OR

For other reasonable circumstances as determined by MDE



Regulation 26.04.13.04 – Section B

Waiver Period

Waivers **may** be granted for the shorter of the following:

A period established by MDE not to exceed **12 months**

OR

If due to undue hardship, until an alternate organic recycling facility becomes available that is within **30 miles** and willing and able to accept all of a person's food residuals for processing

OR

A period that ends upon the date of a previously approved waiver being revoked.

**There is no limit to the number of times MDE may grant a person a waiver*



Regulation 26.04.13.04 – Section C

The application requirements established under [26.04.13.04 – Section D](#) of this regulation do not apply to a waiver requested by, or granted to, a person that generates food residuals identified by a federal or State agency as having a biosecurity or food safety concern.



Regulation 26.04.13.04 – Section D

Application Procedures

A person must submit a written waiver request electronically to MDE, in an approved format, that includes:

A description of the basis for the waiver request.

If based on undue hardship due to diversion costs, include:

1. A list of **all off-site organic recyclers** within 30 miles detailing their costs to accept and process all of the person's the food residuals, and the waste hauler's costs, if from a separate entity, to transport

AND

2. A quote or supporting documentation from one or more **refuse disposal systems** detailing their costs to accept and process all of the person's the food residuals, and the waste hauler's costs, if from a separate entity, to transport



Waiver Application on MDE webpage

Announcements

Sign up to attend MDE's webinar on the new regulations, COMAR 26.04.13 Food Residuals-Organics Recycling and Waste Diversion **(new)**

Presentation from October 4, 2022 Webinar "Does Maryland's Food Residuals Diversion Law Apply to Me?" **(new)**

- Determination of Applicability of the Food Residuals Diversion Requirement **(new)**
- Determinación de la aplicabilidad del requisito de desviación de residuos alimenticios **(new)**
- Maryland Food Residual Generation Factor Estimates by Industry Sector **(new)**
- Estimaciones del factor de generación residual de alimentos de Maryland por sector industrial **(new)**
- Interactive map of Organics Recyclers **(new)**
- ~~Sign up to receive email notifications about the food residuals diversion law here!~~ **(new)**
- Application for Requesting a Waiver from the Food Residuals Diversion Requirement **(new)** ←

[MDE Organics Recycling and Waste Diversion webpage](#)



Waiver Application on MDE webpage

MARYLAND DEPARTMENT OF THE ENVIRONMENT
Land and Materials Administration | Resource Management Program
1800 Washington Boulevard | Suite 610 | Baltimore, Maryland 21230-1719
410-537-3314 | 800-633-6101 x3314 | www.mde.maryland.gov

Waiver Application Form - Food Residuals Diversion Law

Beginning January 1, 2023, Maryland law requires certain persons generating food residuals to divert those food residuals from final disposal in a refuse disposal system (i.e., landfill or incinerator). Maryland law also authorizes the Maryland Department of the Environment (the Department) to grant a person a waiver from the food residuals diversion requirement. To apply for a waiver, complete this form and attach supporting documentation as indicated. Learn more about the food residuals diversion law and its requirements by visiting the Department's [website](#).

Waiver Reasons

A person may apply for a waiver for one of the following reasons.

- 1) A person experiences an undue hardship because of the following:
 - a. The cost of diverting food residuals from a refuse disposal system is more than 10 percent more expensive than the cost of disposing the food residuals at a refuse disposal system; or
 - b. For other reasonable circumstances.
- 2) A person generates food residuals identified by a federal or State agency as having a biosecurity or food safety concern.

Application Instructions

Before completing this application, review the legal requirements for submitting a waiver request adopted under Code of Maryland Regulations (COMAR) 26.04.13.04.

Section 1 – Requestor Information. Identify the organization requesting the waiver. The point of contact shall be an individual familiar with the waiver request, and may be contacted by the Department concerning this application and, if approved, an approved waiver. The authorized representative shall be the owner or operator of the facility where food residuals are generated.

Section 2 – Waste Assessment Methods. Provide documentation regarding the waste assessment method used to determine the weight of food residuals generated each week that includes, at a minimum:

- 1) A description of waste assessment and/or weight measurement methods utilized;
- 2) Copy of calculations, measurements, or statistics utilized in calculating food residuals tonnages;
- 3) The name and title of the individual(s) performing waste assessment and/or weight measurements;
- 4) A summary of food residuals tonnages generated each week; and
- 5) The dates the waste assessment and/or weight measurements occurred.

Section 3 – Reason for Requesting a Waiver. Provide a written explanation that describes the reason for the waiver request and attached any supporting documentation, including:

- 1) If the waiver request is based on the cost of diverting food residuals being more than 10 percent more expensive than the cost of disposing the food residuals, submit the following information:
 - a. A list of all off-site organics recycling facilities located within a 30-mile radius of the property; and
 - b. Quotes or other supporting documentation detailing the cost to accept, haul, and process your organization's food residuals provided each off-site organics recycling facilities, one or more refuse disposal systems, and one or more food waste haulers.
- 2) If the waiver is based on a biosecurity or food safety concern, attach the notification from the federal or State agency.
- 3) If the waiver is based on other reasonable circumstances, attached any relevant supporting documentation such as written correspondences, business records, financial statements, etc.

Section 4 – Certification and Signature. Certify by signing the form that the information provided on this form is true and correct to the knowledge of the individual signing the form. The form shall be signed by the authorized representative identified under section 1.

Submit this form and supporting documentation to the Department by email at LMA.WDD@maryland.gov

December 2022
TTY Users: 800-735-2258

For agency use only	For agency use only
MARYLAND DEPARTMENT OF THE ENVIRONMENT Waiver Application Form - Food Residuals Diversion Law <small>Authority: Environment Article, §§9-1701 and 9-1721.L, Annotated Code of Maryland and Code of Maryland Regulations (COMAR) 26.04.13</small>	
Section 1 – Requestor Information	
Facility Information	
Name of the Facility	
Facility/Industry Type	<Select>
Physical Address	
Mailing Address (if different)	
County where Facility is Located	<Select>
Point of Contact Name & Title	
Email	Phone
Authorized Representative Information (if different than point of contact)	
Individual's Name & Title	
Email	Phone
Section 2 – Waste Assessment Method	
Provide documentation regarding waste assessment methods used to determine the weight of food residuals generated each week.	
Document Attached?	<input type="checkbox"/>
Section 3 – Description of Waiver Request	
Part 1 – Attach a written explanation that describes the basis of the waiver request.	
Document Attached?	<input type="checkbox"/>
Part 2 – Attach any documentation that supports the reason provided in the written description.	
Document Attached?	<input type="checkbox"/>
Section 4 – Certification and Signature	
By signing this form, I the applicant or duly authorized representative, do solemnly affirm under the penalties of perjury that the contents of this application are true to the best of my knowledge, information and belief. I hereby authorize the representatives of the Department to have access to and inspect the facility associated with this application and to records relating to this application at any reasonable time.	
Authorized Representative's Signature	Date Signed
<small>This Notice is provided pursuant to State Government Article, §19-624, Annotated Code of Maryland. The personal information requested on this form is intended to be used in processing your application. Failure to provide the information requested may result in your application not being processed. You have the right to inspect, amend, or correct this form. The Department is a public agency and subject to the Maryland Public Information Act (PIA) (see General Provisions Article, §§4-101, et seq., Annotated Code of Maryland). This form may be made available on the Internet via the Department's website and is subject to inspection or copying, in whole or in part, by the public and other governmental agencies, if not protected by federal or State law.</small>	
Submit this form and supporting documentation to the Department by email at LMA.WDD@maryland.gov Completion of this form does not constitute the approval of a waiver request by the Department, or the issuance of a waiver approval. For questions regarding this application, please contact the Department at 410.537.3314.	
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[Link to Document](#)



Regulation 26.04.13.04 – Section D (cont)

Reapplication for a Waiver

A person granted a waiver **shall** reapply for a waiver

At least **60** days before the expiration of a previous waiver or whenever an alternate organics recycling facility becomes available, whichever occurs first

If the waiver request is based on undue hardship due to diversion costs, a person **shall** include all required documentation to support a hardship request. Documentation **shall** have been obtained within 30 days of the reapplication



Regulation 26.04.13.04 – Section E

Conditions for Approval, Denial, or Revocation of a Waiver

- MDE **shall** notify the person in writing of a decision to approve or deny a waiver, as well as when a previously approved waiver is revoked
- MDE **will** notify the person of the term of the waiver period for all approved waiver applications

MDE may deny a request or revoke a waiver for:

1. Violating the provisions of these regulations

OR

2. False or inaccurate information submitted with a waiver request

OR

3. Any other good cause for denying or revoking a waiver



Regulation 26.04.13.05 - Reporting

- On or before March 1, 2024, and each March 1 thereafter, a person **shall** submit a report:
 - On the person’s solid waste and recyclable materials management activities during the preceding calendar year to each county where the solid waste and recyclable materials were generated; and
 - In a format required by the Department; and
 - That includes all of the following information:
 1. The total amount and types, by weight, of recyclable materials generated;
 2. The total amount, by weight, of solid waste disposed;
 3. The name and location of each refuse disposal system that accepted the solid waste for disposal;
 4. The total amount and types, by weight, of recyclable materials diverted from disposal;
 5. The name and location of each recycling facility that accepted the recyclable materials for recycling; and
 6. Any other information required by the Department.

[LINK to regulation](#)



Questions From Public Comment Period

Previous questions asked and answered

MARYLAND DEPARTMENT OF THE ENVIRONMENT
LAND AND MATERIALS ADMINISTRATION

Response to Comments
on the Proposed Action to Adopt New Regulations .01—.05
under COMAR 26.04.13 Food Residuals—Organics Recycling and Waste Diversion

Introduction: On September 23, 2022, the Maryland Department of the Environment (“MDE” or “the Department”) proposed to adopt new regulations in order to implement Chapters 439 and 440 of 2021, entitled *Organics Recycling and Waste Diversion — Food Residuals*.¹ This law requires certain persons who generate, beginning January 1, 2023, certain quantities of food residuals to separate their food residuals from other solid waste, and divert those food residuals from final disposal in a refuse disposal. The public comment period on the proposed action ended on October 24, 2022. Responses to written comments received are provided in this document. On December 06, 2022, after reviewing the public comments, the Secretary of the Environment adopted the regulations as proposed with nonsubstantive changes. The Notice of Final Action was published in the December 16, 2022 issue of the *Maryland Register* and the regulations become effective on December 26, 2022.

Comments: MDE received written comments on the proposed action from a total of 15 entities and individuals. The topics of the comments received and the name and affiliation of the commenter, as well as MDE’s responses, are given below, with comments regarding related topics addressed with a single response. The whole text of each comment is included in Appendix A of this document. A copy of the published Notice of Proposed Action is included in Appendix B and an accompanying compliance guide for the proposed regulations is included in Appendix C.²

1. **Comment Topic:** Definitions - “Anaerobic Digestion”

Commenter(s) Name and Affiliation: Alan Pultyniewicz, Montgomery County Department of Environmental Protection (DEP)

MDE Response: Montgomery County DEP commented “[the] term ‘anaerobic’ should be further defined, rather than simply stating the word ‘anaerobic’ again within the definition of ‘anaerobic digestion’” and that “[the] term ‘anaerobic’ should be defined/explained in guidance, outreach and education provided by MDE”.³ The proposed definition of “anaerobic digestion” found in COMAR 26.04.13.02B(1) is established in statute under §9-1701(b) of the Environment Article.⁴ This section of the Maryland law defines terms that are applicable to the food residuals diversion requirements in §9-1724.1 of the Environment Article. Because the definition of

Response to [Public Comments](#) received on the proposed regulations published on Sept 23, 2022

Document can be found on [Organics Recycling and Waste Diversion](#) webpage



Questions and Discussion

- MDE points of contact in the Land and Materials Administration - Waste Diversion Division
 - Tim Kerr Timothy.Kerr2@maryland.gov
 - Shannon McDonald Shannon.McDonald@maryland.gov
 - Phone: 410-537-3314

- Website

<https://mde.maryland.gov/programs/land/RecyclingandOperationsprogram/Pages/Solid-Waste-Management---Organics-Recycling-and-Waste-Diversion---Food-Residuals.aspx>

- Stay in the know!

https://docs.google.com/forms/d/e/1FAIpQLSfJ9F8GPIvYtq3TkaypD-7ccXmg66GFRK-UUICyw512O37p-g/viewform?usp=sf_link