

**MEMORANDUM**

July 11, 2013

TO: County Council

FROM: *KL* Keith Levchenko, Senior Legislative Analyst

SUBJECT: Executive Regulation 5-13, Solid Waste Tonnage Reporting – Method 2<sup>1</sup>

On June 18, the County Executive transmitted Executive Regulation 5-13, Solid Waste Tonnage Reporting (see ©2-13). Council Staff has drafted an approval resolution (see ©1). Dan Locke, Chief of the Division of Solid Waste Services in the Department of Environmental Protection (DEP) will be available at the Committee meeting to discuss this regulation and answer any questions.

**Discussion**

As noted in the transmittal memorandum, the County Executive is required (by Section 48-47 of the County Code) to report to the Council twice each year on the progress of the recyclable solid waste program toward meeting the County's recycling goals. In order to meet this requirement, the County must collect tonnage data on solid waste and recycled materials collected from each type of generator (i.e., residential, multi-family, or nonresidential).

Currently, any holders of County licenses to collect solid waste or recyclable solid waste are required to provide semi-annual reports to the County noting the amount and type of solid waste collected, from which type of generator the waste was collected, and the facilities the solid waste was delivered to (for recycling or disposal).

However, many entities that are not solid waste haulers collect and dispose of sizable amounts of solid waste as part of their company's operations. Some of these companies may have

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<sup>1</sup> As a Method 2 regulation, the Council by resolution may approve or disapprove the proposed regulation within 60 days after receiving it. The Council by resolution may extend the deadline. If the Council approves the regulation, the regulation takes effect upon adoption of the resolution approving it or on a later date specified in the regulation. If the Council does not approve or disapprove the proposed regulation within 60 days after receiving it, or by any later deadline set by resolution, the regulation is automatically approved.

been required to obtain solid waste licenses in the past but are no longer required to do so. However, the reporting information is still needed and these former licensees have continued to voluntarily provide these semi-annual reports.

Regulation 5-13 would make this currently voluntary reporting by non-licensees mandatory and would allow the Department of Environmental Protection (DEP) to extend the reporting requirements to other entities that dispose of significant amounts of solid waste and/or recyclable materials now or in the future, without requiring those entities to get licensed as solid waste/recycling haulers.

### **Council Staff Recommendation**

Council Staff believes the regulation is needed to codify current practices and to give DEP the regulatory authority to ensure it can collect the data it needs to meet the requirements of Section 48-47 of the County Code. Given that the regulation would codify current practices, there is no assumed fiscal impact to the County.

The only issue Council Staff has identified is that the regulation broadly defines the entities required to provide reports as all “persons.” The definition of “Person” in Regulation 5-13 (see ©4) can be read to mean that even residents who dispose of their personal household waste or drop off household materials for recycling (either at the Transfer Station or somewhere else) are subject to the reporting requirements.<sup>2</sup>

Based on discussions with DEP staff, Council Staff does not believe the intent of the regulation is to require reporting by County residents who haul their own trash or recycling to the transfer station or elsewhere. However, to clarify this intent, Council Staff believes that either the definition of “Person” needs to be narrowed, or some sort of exclusionary language needs to be added to the regulation to note something like, “persons disposing of their own residential solid waste are not required to report”, or alternatively “residential property owners who dispose of less than some threshold tonnage amount annually are not required to report.”

**Council Staff recommends that the Executive amend Executive Regulation 5-13 to clarify which non-licensees are required to provide semi-annual reports on solid waste and recycling information (or conversely, which non-licensees are not required to report).**

***Note: The 60 day review period for Regulation 5-13 ends on August 17, 2013. The final Council session before the August recess is July 30. Therefore, if the Council does not act on an amended regulation by July 30, then the Council will need to act by July 30 to extend the time for review of Executive Regulation 5-13.***

#### **Attachment**

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<sup>2</sup> Currently, the transfer station accepts up to 499 pounds of trash from County residents at no charge (and with no reporting requirements). Residents are also able to drop off a variety of recyclable waste at the Transfer Station (also with no charge or reporting requirements).

Resolution No.: \_\_\_\_\_  
Introduced: \_\_\_\_\_  
Adopted: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: County Council

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**SUBJECT:** Executive Regulation 5-13, Solid Waste Tonnage Reporting

**Background**

1. Section 48-47 of the County Code provides that the County Executive must report to the County Council twice each year on the progress of the recyclable solid waste program toward meeting the quantitative goals and any problems that hinder the achievement of those goals.
2. On June 18, 2013, the Executive transmitted to the County Council Executive Regulation 5-13. Regulation 5-13 clarifies that persons collecting, hauling, or transporting solid waste or recycling must submit annual reports to the Department of Environmental Protection regarding the amount and type of solid waste or recycling collected, the sector from which the material was collected, the name and location of the facilities to which the material was delivered, and other information as noted in Regulation 5-13.

**Action**

The County Council for Montgomery County, Maryland approves the following resolution:

Executive Regulation 5-13, Solid Waste Tonnage Reporting, is approved.

This is a correct copy of Council action.

\_\_\_\_\_  
Linda M. Lauer, Clerk of the Council

EXEC REG



072957

OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive

MEMORANDUM

June 18, 2013

RECEIVED  
MONTGOMERY COUNTY

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TO: Nancy Navarro, President  
Montgomery County Council

FROM: Isiah Leggett  
County Executive

Method 2

SUBJECT: Executive Regulation 5-13  
Solid Waste Tonnage Reporting

The purpose of this memorandum is to submit Executive Regulation 5-13 to the County Council for approval. Executive Regulation 5-13 describes the reporting procedures for persons collecting, hauling, or transporting solid waste or recycling as defined in Chapter 48 to be set by Method 2 regulation.

Montgomery County Code 2004, as amended, Section 48-47, provides that the County Executive must report to the County Council twice each year on the progress of the recyclable solid waste program toward meeting the quantitative goals and any problems that hinder the achievement of those goals. This regulation assists the Department of Environmental Protection's Division of Solid Waste Services in collecting data required to report to the County Council as well as the Maryland Department of the Environment.

This proposed Executive Regulation was advertised in the Montgomery County Register during the month of May 2013. No comments were received. If you have any questions or need additional information, please feel free to contact Dan Locke, Chief of the Division of Solid Waste Services, at 240-777-6402.

RGH:ts

Enclosure

2



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject <b>SOLID WASTE TONNAGE REPORTING</b>	Number 5-13
Originating Department <b>DEPARTMENT OF ENVIRONMENTAL PROTECTION</b>	Effective Date

Montgomery County Regulation on:

## SOLID WASTE TONNAGE REPORTING

Authority: Montgomery County Code, 2004, Chapter 48, Section: 48-47

Supersedes: 58-92AM

Council Review: Method (2) under Code Section 2A-15

Register Vol. 30, Issue 5

Effective Date:

Comment Deadline: May 30, 2013

Sunset Date: None

**Summary:** The proposed regulation describes the reporting procedures for a person collecting, hauling, or transporting solid waste or recycling.

**Address for comments:** Department of Environmental Protection  
Division of Solid Waste Services  
Executive Office Building  
101 Monroe Street, 6<sup>th</sup> Floor  
Rockville, Maryland 20850

**Staff Contact:** Theresa Souders  
Department of Environmental Protection  
240-777-6425



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject SOLID WASTE TONNAGE REPORTING	Number 5-13
Originating Department DEPARTMENT OF ENVIRONMENTAL PROTECTION	Effective Date

**Background Information:** The County requires detailed data on the types and amounts of material collected for recycling and disposal from within the County to effectively track residential and nonresidential recycling rates. This data is critical for sectors in which a person provides collection, hauling, or transporting services. The County also requires data on the total amount of solid waste and recycling collected by a person including the amount of solid waste and recycling disposed outside the County, to better estimate total solid waste generation. This data is essential to meet state mandates and to demonstrate progress toward meeting the County's mandated recycling goals. The data is also used for annual fee development and to effectively plan and implement an integrated comprehensive waste management system, including solid waste disposal and recycling facilities and infrastructure, as well as future policies and programs.

**Section 1. Definitions. Terms defined herein are for purposes of this Section only.** The terms used are as defined in Chapter 48 of the Montgomery County Code and as defined in this section:

[(a) "License" means a license issued under Montgomery County Code 1984, as amended, Section 48-19, or any succeeding provision providing for the collection and transportation of solid waste, including recyclable solid waste.]

[(b) "Licensee" means any hauler or collector of solid waste or recyclable solid waste which holds a valid license issued under Section 48-19 or any successor provision of the Montgomery County Code 1984, as amended.]

[(c)](a) "Recycling" means [a] any process by which materials are [of diverting] diverted from the solid waste [from a disposal facility and converting it into new, usable finished product or using it as a] stream and are collected, separated, processed and returned to the economic mainstream in the form of raw [material] materials or products for reuse [in a manufacturing process].

(b) "Person" means the County or any agency or institution thereof, public or private corporation, individual, partnership or other entity, including any officer or governing or managing body of any public or private corporation.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

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Subject SOLID WASTE TONNAGE REPORTING	Number 5-13
Originating Department DEPARTMENT OF ENVIRONMENTAL PROTECTION	Effective Date

**Section 2. [Haulers and collectors reporting requirements] Reporting Requirements of a Person Collecting, Hauling, or Transporting Solid Waste or Recycling:**

- (a) General. [Each licensee] A person collecting, hauling, or transporting solid waste or recycling must submit semi-annual reports to the Department, on forms provided by the Department, describing the amount and type of solid waste [collected and/or] or recycling collected, hauled or transported. [Licensees] A person must maintain documentation supporting all submitted information for five years.
- (b) Reports. Reports must be on forms provided by the Department and must contain the following information [for the previous semi-annual reporting period]:
  - (1) The [license number and the licensee's name] person's name and contact information;
  - (2) The amount and type of solid waste or recycling collected [for recycling and disposal] by the type of solid waste or recycling and type of generator (residential, multi-family, or [and] nonresidential;
  - (3) Permit number of all Montgomery County registered solid waste collection vehicles dedicated to handling solid waste for recycling and disposal during the report period;]
  - [(4)](3)[Geographic]Name and location of the facilities at which the [licensee] person delivered solid waste [for] or recycling [or disposal] during the reporting period and [a statement of] indicate the type and quantity of solid waste or recycling delivered to each facility;
  - [(5)](4) A signed acknowledgment that, to the best of the [licensee's] person's information, knowledge and belief, the information provided in the report is correct.
- (c) Report schedule. [Licensees] A person must submit semi-annual reports to the Department as follows:

Reporting Period	Report Due Date
January 1 – June 30	August 1
July 1 – December 31	February 1

[The first semi-annual report is due August 1, 1993, for the January 1 – June 30, 1993 reporting period.]



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### Section 3. Administration.

#### Responsibilities of the Department.

- [(d)](a) Forms. The Department [must] will provide the [report] forms 30 days prior to the due date.  
[The licensee must contact the Department to obtain the forms.]
- [(e)](b) Verification of information. [(1)] Upon [written] request from the Department, [the licensee] a person must, within 30 days, provide to the Department, or an agent of the County, copies of all documentation supporting the reports required by this regulation or provide access to the Department or its representatives to examine all records supporting the information collected and reported in Section 2 or otherwise required to be maintained by Chapter 48, including the name, address and telephone number of all facilities receiving collected/hailed solid waste for disposal [and/or] or recycling and quantities deposited at each facility.
- (c) Confidentiality. Subject to applicable law, the Department must maintain the confidentiality of any information required to be provided in these regulations that identifies a person providing a report or supporting documentation. The Department must not, unless required by law to do so, disclose any information provided by a person. This requirement does not prohibit the Department from using this information in preparing a summary of analysis of waste reduction and recycling activities in the County.

### Section [3]4. Enforcement.

[Noncompliance with this reporting requirement constitutes a violation of Montgomery County Code 1984, as amended, Section 48-19 and may be cause for the County denying or suspending a license. Noncompliance may also result in enforcement actions pursuant to Montgomery County Code 1984, as amended, Sections 1-18 to 1-20.]

These regulations may be enforced in accordance with Section 48-49 of the Montgomery County Code 2004, as amended.



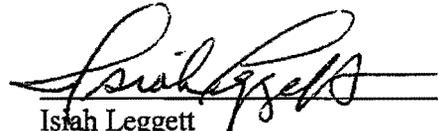
# MONTGOMERY COUNTY EXECUTIVE REGULATION

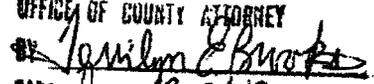
Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

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Originating Department DEPARTMENT OF ENVIRONMENTAL PROTECTION	Effective Date

**Section [4]5. Construction.**

This regulation must be construed liberally to permit the Department to effectuate the purposes of Article V (recycling) of Chapter 48 of the Montgomery County Code (2004), as amended, and the policies of the County's Comprehensive Solid Waste Management Plan. [If a court of competent jurisdiction holds that part of this regulation is invalid, the invalidity does not affect other parts of this regulation.]

  
 Istah Leggett  
 County Executive

APPROVED AS TO FORM AND LEGALITY:  
 OFFICE OF COUNTY ATTORNEY  
 BY   
 DATE June 13, 2013



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject <b>SOLID WASTE TONNAGE REPORTING</b>	Number <b>5-13</b>
Originating Department <b>DEPARTMENT OF ENVIRONMENTAL PROTECTION</b>	Effective Date

Montgomery County Regulation on:

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Supersedes: 58-92AM

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Comment Deadline: May 30, 2013

Sunset Date: None

**Summary:** The proposed regulation describes the reporting procedures for a person collecting, hauling, or transporting solid waste or recycling.

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**Staff Contact:** Theresa Souders  
Department of Environmental Protection  
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**Background Information:** The County requires detailed data on the types and amounts of material collected for recycling and disposal from within the County to effectively track residential and nonresidential recycling rates. This data is critical for sectors in which a person provides collection, hauling, or transporting services. The County also requires data on the total amount of solid waste and recycling collected by a person including the amount of solid waste and recycling disposed outside the County, to better estimate total solid waste generation. This data is essential to meet state mandates and to demonstrate progress toward meeting the County’s mandated recycling goals. The data is also used for annual fee development and to effectively plan and implement an integrated comprehensive waste management system, including solid waste disposal and recycling facilities and infrastructure, as well as future policies and programs.

**Section 1. Definitions. Terms defined herein are for purposes of this Section only.** The terms used are as defined in Chapter 48 of the Montgomery County Code and as defined in this section:

- (a) “Recycling” means any process by which materials are diverted from the solid waste stream and are collected, separated, processed and returned to the economic mainstream in the form of raw materials or products for reuse.
- (b) “Person” means the County or any agency or institution thereof, public or private corporation, individual, partnership or other entity, including any officer or governing or managing body of any public or private corporation.

**Section 2. Reporting Requirements of a Person Collecting, Hauling, or Transporting Solid Waste or Recycling:**

- (a) General. A person collecting, hauling, or transporting solid waste or recycling must submit semi-annual reports to the Department, on forms provided by the Department, describing the amount and type of solid waste or recycling collected, hauled or transported. A person must maintain documentation supporting all submitted information for five years.
- (b) Reports. Reports must be on forms provided by the Department and must contain the following information:
  - (1) The person’s name and contact information;
  - (2) The amount and type of solid waste or recycling collected by the type of solid waste or recycling and type of generator (residential, multi-family, or nonresidential);



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(3) Name and location of the facilities at which the person delivered solid waste or recycling during the reporting period and indicate the type and quantity of solid waste or recycling delivered to each facility;

(4) A signed acknowledgment that, to the best of the person's information, knowledge and belief, the information provided in the report is correct.

(c) Report schedule. A person must submit semi-annual reports to the Department as follows:

Reporting Period	Report Due Date
January 1 – June 30	August 1
July 1 – December 31	February 1

### Section 3. Administration.

#### Responsibilities of the Department.

- (a) Forms. The Department will provide the forms 30 days prior to the due date.
- (b) Verification of information. Upon request from the Department, a person must, within 30 days, provide to the Department, or an agent of the County, copies of all documentation supporting the reports required by this regulation or provide access to the Department or its representatives to examine all records supporting the information collected and reported in Section 2 or otherwise required to be maintained by Chapter 48, including the name, address and telephone number of all facilities receiving collected/hailed solid waste for disposal or recycling and quantities deposited at each facility.
- (c) Confidentiality. Subject to applicable law, the Department must maintain the confidentiality of any information required to be provided in these regulations that identifies a person providing a report or supporting documentation. The Department must not, unless required by law to do so, disclose any information provided by a person. This requirement does not prohibit the Department from using this information in preparing a summary of analysis of waste reduction and recycling activities in the County.



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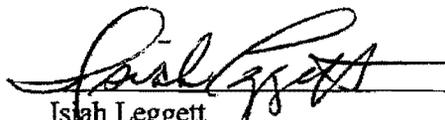
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#### Section 4. Enforcement.

These regulations may be enforced in accordance with Section 48-49 of the Montgomery County Code 2004, as amended.

#### Section 5. Construction.

This regulation must be construed liberally to permit the Department to effectuate the purposes of Article V (recycling) of Chapter 48 of the Montgomery County Code (2004), as amended, and the policies of the County's Comprehensive Solid Waste Management Plan.

  
Isiah Leggett  
County Executive

APPROVED AS TO FORM AND LEGALITY.  
OFFICE OF COUNTY ATTORNEY  
BY Jemlyn E. Brooks  
DATE June 3, 2013

**Fiscal Impact Statement**  
**Executive Regulation 05-13, Solid Waste Tonnage Reporting**

**1. Executive Regulation Summary.**

Executive Regulation 05-13 describes the reporting procedures for persons collecting, hauling or transporting solid waste and/or recycling as defined in Chapter 48.

**2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.**

There is no estimated change in County revenue and expenditures.

**3. Revenue and expenditure estimates covering at least the next 6 fiscal years.**

Fiscal Impacts of Executive Regulation 05-13 is \$0 over the next six years.

**4. An actuarial analysis through the entire amortization period for each regulation that would affect retiree pension or group insurance costs.**

Not applicable.

**5. Later actions that may affect future revenue and expenditures if the regulation authorizes future spending.**

Not Applicable.

**6. An estimate of the staff time needed to implement the regulation.**

Not Applicable.

**7. An explanation of how the addition of new staff responsibilities would affect other duties.**

Not Applicable.

**8. An estimate of costs when an additional appropriation is needed.**

Not Applicable.

**9. A description of any variable that could affect revenue and cost estimates.**

Not Applicable.

**10. Ranges of revenue or expenditures that are uncertain or difficult to project.**

Not Applicable.

**11. If a regulation is likely to have no fiscal impact, why that is the case.**

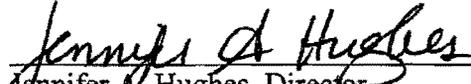
Not Applicable.

**12. Other fiscal impacts or comments.**

This is a change to Executive Regulation 05-13 related to solid waste tonnage reporting requirements. The change expands the reporting requirement from only licensees currently required to report data to any person collecting, hauling, or transporting solid waste. The change also adds recycled material to the tonnage reporting requirement under the same parameters. There is no fiscal impact as a result of this change.

**13. The following contributed to and concurred with this analysis:**

- Bob Hoyt, Department of Environmental Protection
- Dan Locke, Department of Environmental Protection
- Anthony Skinner, Department of Environmental Protection
- Alex Espinosa, Office of Management and Budget
- Matt Schaeffer, Office of Management and Budget

  
\_\_\_\_\_  
Jennifer A. Hughes, Director  
Office of Management and Budget

4/22/13  
Date