

REPORT

NEW JERSEY FOOD WASTE POLICY GAP ANALYSIS AND INVENTORY



ACKNOWLEDGMENTS

This report was prepared for NRDC by the Center for EcoTechnology, in collaboration with the Harvard Law School Food Law and Policy Clinic and BioCycle Connect, LLC.

About NRDC

NRDC is an international nonprofit environmental organization with more than 3 million members and online activists. Since 1970, our lawyers, scientists, and other environmental specialists have worked to protect the world's natural resources, public health, and the environment. NRDC has offices in New York City, Washington, D.C., Los Angeles, San Francisco, Chicago, Montana, and Beijing. Visit us at nrdc.org.

NRDC Chief Communications Officer: Michelle Egan

NRDC Managing Directors of Communications: Lisa Goffredi and Jenny Powers

NRDC Policy Publications Editor: Leah Stecher

Cover: © Jennifer Brown

Design and Production: www.suerossi.com

© Natural Resources Defense Council 2021

Table of Contents

Glossary of Terms	4
Introduction	5
Policy Gap Analysis Approach and Applications.....	5
New Jersey Food Waste Policy Gap Analysis	12
New Jersey Food Waste Policy Inventory	14
Food Waste Reduction Policy Gap Analysis Rubric	23

Glossary of Terms

Food rescue. This term refers to donation or recovery of surplus food for feeding hungry people.

Food waste reduction. This term encompasses all tiers of the food recovery hierarchy: prevention, donation, animal feed, composting, and anaerobic digestion.

Source-separated organics (SSO). This term references organic material separated for processing and may encompass food scraps as well as yard waste.

GAP ANALYSIS COLOR CODING

No Policy
Weak Policy
Moderate Policy
Strong Policy

Introduction

This report comprises a gap analysis and detailed inventory of food waste–related policies in New Jersey. Whereas the inventory provides an overview of existing state policies, the gap analysis identifies policy opportunities for furthering food waste reduction. Categories were chosen to represent areas across the food recovery hierarchy and include: organics disposal bans and recycling laws; date labeling; food donation liability protections; tax incentives for food rescue; organics processing infrastructure permitting; food safety policies for share tables; food systems plans, goals, and targets; plans targeting solid waste; climate action goals; and grants and incentive programs related to food waste reduction. The goal of this report is to equip NRDC Food Matters city partners with a comprehensive overview of their state’s respective policy landscape and how it helps and/or hinders efforts to reduce food waste.

The gap analysis can be read as a summary digest of the more detailed policy inventory. This section serves to highlight particularly strong policies that can be leveraged to further a city’s food waste reduction goals, as well as advocacy opportunities where policies are weak or nonexistent. The inventory provides a more comprehensive overview of any policies, executive orders, goals, targets, or programs that exist across the ten covered categories. Users may choose to read the gap analysis to gain a basic understanding of their state’s policy landscape and then reference the inventory for detailed information.

Policy Gap Analysis Approach and Applications

To provide a consistent and objective analysis, policy categories were assessed using a rubric that defines “No Policy,” “Weak Policy,” “Moderate Policy,” and “Strong Policy” for each category. Below is the rationale and definition for each tier of the rubric for the ten policy categories, as well as examples of policies in practice for select categories. For full rubric, see Food Waste Reduction Policy Gap Analysis Rubric.

ORGANICS DISPOSAL BANS AND RECYCLING LAWS

Organics disposal bans and mandatory recycling laws are an effective means of achieving food waste reduction, including via prevention and other strategies across the hierarchy. By limiting the amount of organic waste that entities can dispose of in landfills or incinerators, organics disposal bans and waste recycling laws compel food waste generators to explore more sustainable practices like waste prevention, donation, composting, and anaerobic digestion (AD). A Strong Policy applies to all commercial generators (and possibly individuals at the household level) and is actively enforced. A Moderate Policy is similarly enforced but imposed only on select commercial generators, and Weak Policies are ones that provide several exemptions from the law’s applicability, such as exemptions based on distance from a processing facility or the cost of processing. It is quite common for states to start with a Weak Policy and gradually strengthen it as the marketplace evolves and impacted stakeholders are educated and gain the resources to comply.

Policy in Action

Disposal bans and mandatory recycling laws have received a lot of attention in recent years as an increasing number of states and localities have adopted this policy approach. In many cases, other actions were taken in the years leading up to the legislation or regulation that enabled it to get political and practical traction. For example, in Massachusetts, one of the first states to ban food waste, the state made incremental changes during the years before the ban’s effective date, including:

- Modernizing the permitting structure for composting and AD facilities;
- Investing in infrastructure through grants and low-interest loan programs;
- Providing regulatory relief from other waste bans if supermarkets diverted food waste through an innovative partnership with the Massachusetts Food Association called the Supermarket Recycling Program Certification; and
- Developing RecyclingWorks in Massachusetts, a no-cost technical assistance program to help businesses comply.

New York State has taken similar steps by providing grants for infrastructure, supporting food donation networks, and establishing business assistance in advance of its legislation. New York is also an example of a state where a major city (New York City) enacted a waste ban ahead of the statewide law.

Bans and Beyond: Designing and Implementing Organic Waste Bans and Mandatory Organics Recycling Laws, a resource produced by the Harvard Food Law and Policy Clinic and the Center for EcoTechnology, provides further detail on these policies, including their development and structure, for cities and states that are considering this policy option.¹

Policies in the Mid-Atlantic Region

Three locales in the Mid-Atlantic region have policies that address food waste through this strategy. New Jersey was the first state to implement an organics waste ban in the region, laying the groundwork for others to follow. Washington, D.C., passed a Zero Waste Omnibus Amendment Act that requires some entities to source-separate back-of-house commercial food waste. As part of the preparation for passing the policy, the District's Department of Public Works (DPW) first hired a consulting firm to assess the feasibility of composting. The firm concluded that rolling out a compost collection program over a five-year period would be sufficient time to develop infrastructure. In Maryland, the most recent state in this region to adopt organics recycling legislation in this category, the legislature passed a policy in April 2021 that became law in May 2021.

DATE LABELING

Date labels affixed to food products are a major driver of food waste and an obstacle to food donation. There is currently no federal system regulating the use of date labels such as “sell by,” “best by,” and “use by” on foods. Instead, each state individually decides whether and how to regulate date labels. Manufacturers often have broad discretion over how the dates on foods are selected. These dates typically reflect quality and taste rather than safety, yet businesses, individuals, and even state regulators frequently misunderstand the dates and interpret them to be indicators of when food is no longer safe to eat.

Standardization of date labeling is a cost-effective solution to food waste. By educating consumers about the meaning of date labels on products sold within the state and eliminating bans on the donation or sale of past-date foods, states can make date labels comprehensible to consumers and avoid the systematized waste of safe and wholesome foods. A Strong Policy requires that manufacturers or retailers who choose to affix date labels to foods use one of two prescribed date labels, a quality label or a safety label. In addition, a Strong Policy expressly permits the donation of food after the quality date. A Moderate Policy requires date labels for certain foods but does not prohibit or limit the sale or donation of food after its label date. A Weak Policy—and potentially a detrimental one—requires date labels for certain foods and prohibits or limits the sale or donation of food after its label date. Federal guidance recommends the use of the phrase “BEST If Used By” to indicate a food's quality. Federal legislative proposals as well as industry efforts have recommended the same, and further recommend the phrase “USE By” to indicate safety concerns. States should align their standards with these efforts.

Policy in Action

Many states have conflicting or unnecessarily restrictive date labeling requirements. With a lack of clear guidelines, food manufacturers and processors have largely created their own labeling schemes. In some cases, decisions on how these dates are determined can be driven by business interests, and the labels often have a wide range of wording that increases confusion. Further, even where state date labeling regulations exist, they often are not based on science-backed food safety concerns. As a result, consumers or businesses often dispose of food when it reaches the label date, even though it may be safe to eat. Thus, date labels are an important part of any policy strategy to prevent food waste, and one that cities can encourage states to pursue. Until federal legislation or regulations standardizing date labels are adopted, states can remove problematic components of their own date labeling policies using guidelines recommended in this analysis, and even help pave the way for federal standardization.

FOOD DONATION LIABILITY PROTECTIONS

Restaurants, retailers, and other food businesses are often hesitant to donate food because they fear being held liable for harm caused by the donated food. While the federal Bill Emerson Good Samaritan Food Donation Act provides robust liability protection for both food donors and food rescue organizations, state liability protections can strengthen this and encourage food donation by further reducing liability risks for those participating in food rescue. A Strong Policy provides liability protection for donations directly to individuals, allowing restaurants and food service organizations to donate

small amounts of food that may be cost-prohibitive to transport or store; it also offers protection for donations supplied to the final consumer for a small fee, thereby extending protection to innovative food rescue models like social supermarkets. A Moderate Policy is broader than federal-level protections and may provide protections for donations directly to individuals or donations made for a small fee. A Weak Policy provides protections that are no broader than federal-level ones, or only protects one party, such as the donor or food rescue organization.

Tools to Support Policy

Legal fact sheets or guidance documents can serve as a beneficial tool in communicating legal protections and considerations for potential donors. These documents can relay legal language using easily understood terms that help clarify requirements for protection to apply and alleviate concerns related to donation. The Harvard Law School Food Law and Policy Clinic has created many state-specific food donation fact sheets (including on the topic of liability protection for food donation) and a number of other useful documents; these can be found in the organization's online resource library.

TAX INCENTIVES FOR FOOD RESCUE

Donating food can be expensive, because it requires money to harvest, package, store, and transport food that would otherwise be discarded. Tax credits or deductions can help offset those expenses and offer an economic incentive for food donations. A federal tax incentive exists, but certain businesses struggle to utilize it. State-level tax incentives for food donation can help support the agricultural economy and food producers, strengthen ties between local businesses and consumers, reduce the amount of wasted food, and improve the healthy options available to state residents who use emergency food outlets. A Strong Policy is one in which tax deductions or credits fully offset the costs associated with food donation, including transportation. A Moderate Policy provides a tax incentive for food donation, but the incentive does not fully offset the associated costs.

Policy in Action

States and cities may issue tax incentives that help promote food rescue. None of the 12 states or jurisdictions reviewed in the Mid-Atlantic, Southeast, or Great Lakes regions have a Strong Policy designation in this category. However, Philadelphia provides an example of a policy enacted at the local level that helps to incentivize food donation. The city implemented a sustainable business tax incentive that allows businesses who meet certain sustainability criteria—including participating in food donation—to receive a tax credit of up to \$4,000 on the Business Income & Receipts Tax (BIRT). As another example, Maryland, a state with a Moderate Policy in this category, offers a tax credit only for food donation by qualifying farms and farm businesses. These businesses can claim up to 50 percent of the value of the donation for conventional products, and up to 75 percent of the value of certified organic produce donations to charitable organizations.

ORGANICS PROCESSING INFRASTRUCTURE PERMITTING

Strong processing infrastructure policies actively facilitate the development and permitting of organic waste processing facilities—including both composting and anaerobic digestion facilities and small-scale composting operations—and are in sync with current best practices for organics processing. A Strong Policy includes a regulatory tier for source-separated organics (SSO) and provides opportunities for market development. Further, a Strong Policy minimizes barriers to entry, is aligned with best management practices for composting SSO, and offers a separate permitting process for anaerobic digestion of SSO. A Moderate Policy similarly offers a dedicated regulatory tier for SSO and considerations for market development, but it may have the same composting requirements for SSO as for mixed solid waste, may negatively impact economic viability by limiting the quantity or site acreage, or may include vague language for handling SSO through anaerobic digestion. A Weak Policy still includes a regulatory tier for SSO, but two of the drawbacks noted above (e.g., limitations on site acreage) are present. No Policy refers to locales with no processing tier for SSO, no acknowledgment of anaerobic digestion of SSO, and no exemption tier for small quantities of SSO.

States with strong policies for diversion to animal feed do not regulate feeding food scraps to animals or have minimal restrictions on such activity; they may also offer education and guidance on relevant laws and regulations and/or encourage collaboration with local farms.

An Evolution of Infrastructure Permitting

Permitting for organics processing infrastructure has evolved over the decades in response to the unique characteristics of different feedstocks, including biosolids, leaf and yard waste, and now, increasingly, food waste. In the 1980s, the U.S. Environmental Protection Agency (EPA) promulgated regulations codified at 40 CFR 503 that established pathogen and vector attraction reduction requirements and pollutant limits for biosolids recycling, including composting. Those requirements are included in most state solid waste regulations for composting, such as PFRP, the process to further reduce pathogens (e.g., maintaining temperature of 55 °C for three days in aerated static piles or 15 consecutive days in windrows). Later in the 1980s and into the 1990s, about two dozen states passed bans on landfill disposal of leaves, grass, and/or brush. This was in response to a perceived shortfall in landfill capacity and led to the creation of composting facilities specifically for yard trimmings in many states. To facilitate the development of yard trimmings processing capacity, states created a “permit by rule” approach (essentially a notification) to facility permitting or established an exemption. Permit-by-rule was an early example of a tiered permitting approach to composting regulations.

Interest in composting of source-separated food scraps grew throughout the 1990s. On-site composting of food scraps, for example, was enabled by in-vessel systems on the market. State solid waste agencies, recognizing that on-site food scrap composting poses minimal threats to public health and the environment, began adopting on-site composting exemptions. Some states also created exemptions for composting food scraps on farms during this time. In some instances, farms were not allowed to sell the compost but instead were required to use it all for their own agricultural operations.

Permit-by-rule, on-site exemptions, and on-farm composting exemptions are the foundation of a tiered approach to regulating composting facilities that process source-separated organic waste streams, including food scraps. Site and operational requirements for processing SSO tend to be less restrictive at smaller volumes and then become more restrictive, e.g., more stringent storm water management and pad requirements, as the quantities of feedstock increase. Tiered approaches reduce barriers to entry for SSO composting, which is why this regulatory approach was prioritized in this report’s policy rubric. As reflected in the rubric structure, it is generally acknowledged that a tiered approach to permitting facilitates development of food scrap processing facilities. This is especially the case for existing yard trimmings composting operations that can move from a permit-by-rule status to a registration or permitted status (depending on quantity of food scraps received) without significant financial hardship (in terms of permitting fees, site improvement costs, etc.). What typically changes are the operating procedures, such as requiring that food scraps be incorporated into the composting process soon after their arrival. PFRP temperature requirements must also be met, especially when meat, dairy, and shellfish are included in the food scraps stream.

To date, regulation of anaerobic digestion facilities receiving food scraps (codigestion) varies by state. In Pennsylvania, for example, the state solid waste agency has a permit for codigestion on dairy farms; however, oversight of codigestion at wastewater treatment plants is done by the water/wastewater division (and by the EPA in some cases, in terms of discharge permits). In Ohio, the state solid waste agency defers permitting of digesters taking food scraps to the air and water quality divisions. The organics processing permitting infrastructure inventories illustrate these variations among states.

Policies in the Mid-Atlantic Region

With its Class C recycling permit, New Jersey takes a one-size-fits-all approach to organics recycling activities in the state—from microscale composting at a community garden to large-scale anaerobic digestion of food scraps at a stand-alone facility (i.e., not at a treatment plant or farm). Under a Class C recycling permit, food scraps can be composted only in a fully enclosed facility, which typically requires a substantial capital investment, especially when compared to composting in open-air windrows. Due in large part to these requirements, there are no commercial-scale Class C permitted food scrap composting facilities in New Jersey. The only commercial-scale facility, Ag Choice, operates under a research, development, and demonstration (RD&D) permit, which it first received in 2005. Ag Choice processes about 38,000 cubic yards per year of source-separated organics, including pre- and postconsumer food waste. The company’s RD&D status is related to its work to show that composting food scraps in open-air windrows on a compacted gravel pad can be done without negative environmental or public health impacts. Ag Choice remains at a standstill with the New Jersey Department of Environmental Protection on being granted a Class C recycling permit utilizing its current composting facility design.

FOOD SAFETY POLICIES FOR SHARE TABLES

Share tables in schools can promote food rescue efforts and also teach children about food waste and rescue. While the U.S. Department of Agriculture (USDA) provides guidance on establishing share tables in schools, a Strong Policy at the state level goes above and beyond this guidance by encouraging share tables and developing state-specific guidelines or instructions about food safety as it relates to donation. A Moderate Policy allows share tables but provides only limited guidance. A Weak Policy also allows share tables but provides no guidance or offers more restrictive rules and guidance than the federal government does.

From a broader food policy perspective, food donors and food rescue organizations must also comply with food safety regulations. These regulations often do not directly address food donation specifically and can be difficult to navigate for food donors and health inspectors alike. To facilitate increased food rescue, state and local actors can create better and more consistent food safety regulations, produce guidance on food safety regulations for food donation, and prepare health inspectors to serve as food donation advocates. While many of the states analyzed for this project have produced guidance on implementing share tables in schools, very few have promulgated clear, science-based food safety regulations for food donations or offered food safety guidance for food donation more broadly. Given this gap, an opportunity remains for policymakers and advocates at the state and local levels to push for the following changes: regulations that explicitly state what foods can be donated, statewide uniformity among regulations that apply to donated foods, clarifying guidance on food safety for food donation to support potential food donors, and trainings for local health inspectors on safe food donation.

Policy in Action

New Jersey is an example of a state that has created mandatory guidelines for food rescue from surplus generated in schools, as noted in the tables below. Connecticut offers a cautionary tale of the importance of clear communication and coordinated efforts among stakeholders. In 2017, the Connecticut State Department of Education released a memorandum noting that the state's share table regulations limit their use to foods that are packaged or unpeeled and that do not require temperature control. This caused confusion among schools who thought the regulations could also apply to external donation—and thus felt compelled to dispose of foods like untouched apples and unopened cartons of milk. State agencies subsequently endorsed a guidance document that clarifies the distinction between share tables and donation to food rescue organizations, and the different regulations for each, and it has been made widely available to schools.

FOOD SYSTEMS PLANS, GOALS, AND TARGETS

Statewide food systems plans, where goals and targets are given the support of state infrastructure, will have a much broader impact than regional or local food systems plans. However, any food systems plan that actively considers food waste reduction and sets clear targets to reduce food loss and waste demonstrates a clear commitment to improving food systems. A Strong Policy designation indicates that there is a comprehensive statewide plan with a set of clear goals and targets that also incorporates food loss and waste reduction. A Moderate Policy features regional food systems plans or a state plan in which one of the following is true: There is limited support to achieve goals, there is a failure to coordinate with other regional plans, or there is little to no consideration of food waste reduction. Weak Policies are designated where there is a regional food systems plan that does not have broader state support and does not address food waste reduction.

Policy in Action

Policies across the country, such as in Massachusetts, Rhode Island, and San Diego, have included very direct language about how reducing food waste is central to the success of the statewide food systems plan. Rhode Island's food strategy, Relish Rhody, supports a robust food system that also protects natural resources, promotes clean energy goals, and connects these goals to reducing food waste. To illustrate, one of the five integrated focus areas in Rhode Island's policy is "to minimize food waste & divert it from the waste stream."

PLANS TARGETING SOLID WASTE

Solid waste management plans set targets and a framework for achieving overall materials management and waste diversion goals. Plans that include food waste diversion demonstrate that a state actively considers the impact of food waste on materials management infrastructure, and the best ones are continuously updating their guidance to stay current. A Strong Policy features a current solid waste management plan, zero waste plan, or organics management plan that addresses food waste reduction and offers a strategy for reducing waste. A Moderate Policy highlights food waste as a diversion opportunity but has limitations or is out of date. States with a Weak Policy have plans that are more than a decade out of date and do not acknowledge the role of food waste reduction in diversion strategies.

Measuring Goals

States use a number of strategies to set goals and measure progress on food waste diversion, including analysis of recycling rates, waste reduction rates, or waste generation rates. Recycling rates compare the quantifiable amount of material generated in a territory with the amount of municipal solid waste disposed, but it can be challenging to accurately capture this data, and this approach does not account for waste reduction efforts. A waste reduction rate encompasses the information included in the recycling rate but adds consideration of waste reduction efforts. However, since it can be difficult to measure what is not created (as when food is not wasted), the calculation process can be complicated and the data provided can be less reliable than a recycling rate. A third strategy is to track the waste generation rate over time, either overall or per capita. In areas where waste handling facilities have finite capacity, this data point also helps state officials monitor infrastructure needs as they evolve.

Massachusetts is an example of a state that has evolved its goal-setting and data collection strategies over time, using each data point in different iterations of its solid waste master plan. Massachusetts arrived at using an overall waste generation rate to reduce staff labor required in monitoring goals and allow a focus on various materials reduction rates. As another example, in its Beyond Waste plan, New York took a per-capita waste generation rate approach, accounting for variations in population across the state.

CLIMATE ACTION GOALS

A climate action plan sets clear targets for addressing climate change and establishes clear pathways to meet those targets. With respect to policy vehicles, legislation ranks higher in this policy rubric because it demonstrates a statewide commitment to climate action, whereas executive orders can be revoked by later administrations. Even in the absence of explicit goals for food waste reduction, carbon reduction targets can be leveraged to justify and drive food waste reduction activities at the city and state levels. Where state-level political support for climate action is lacking, cities can adopt their own plans and policies. These can incorporate the contribution that food waste reduction makes toward decreasing emissions while providing economic benefits.

Since food waste is a significant contributor to greenhouse gas emissions, a Strong Policy will incorporate a plan to reduce food waste and will identify action steps for specific departments to carry out the work outlined in the plan. A Moderate Policy features a plan that outlines climate action goals, along with supporting legislation or specific departments that have been tasked with action steps. A Weak Policy for a climate action goal is set by executive order with no legislative framework or enacted with limited legislative action and no framework to achieve goals.

GRANTS AND INCENTIVE PROGRAMS RELATED TO FOOD WASTE REDUCTION

State or local grant and incentive programs can be important catalysts for expanding food waste reduction activities across the hierarchy, from helping offset the costs of donation, to seeding startup food rescue organizations and supporting targeted infrastructure expansion, to providing technical assistance to marketplace stakeholders. A Strong Policy has a sustainable funding model to create grants and incentive programs that are explicitly aimed at food waste reduction. These programs also offer free technical assistance to support food waste reduction in an effort to lower the barriers to diversion. A Moderate Policy includes grants and funding for food waste reduction, but the funding may not be dedicated to this category or may be unsustainable, or technical assistance may not be offered. In states with a Weak Policy, grants to support food waste reduction are available, but more than one of the following is true: funding is not dedicated to this category, funding opportunities are not advertised or accessible, funding is unsustainable, or technical assistance is not provided.

Policy in Action

In addition to providing financial support, states and local entities are increasingly seeing the value and impact of educational programs and technical assistance for food waste generators. Several states provide technical assistance—tailored one-on-one support to an entity to implement food waste reduction strategies—which can lay the groundwork for a future waste ban or recycling mandate. In the absence of such legislation, a robust technical assistance program can still achieve meaningful results at all levels of the hierarchy. Complementary education and promotional campaigns allow broad outreach to constituents and can be an effective tool for raising awareness and spurring individual action. Every state and city has the opportunity to promote, and support constituents in, reducing waste.

Austin, Texas, has implemented an ordinance that requires certain businesses to rescue surplus food and source-separate food scraps for processing separate from municipal solid waste. Each covered business must submit an annual diversion plan that gives an overview of the types of material that will be recovered and the handling strategy for each of these waste streams. To support enforcement efforts, city staff may inspect hauling and recycling contracts. The city also offers a Reduction or Reuse Credit, whereby businesses can offset performance standards for organics recycling through source reduction efforts. A Zero Waste Business Rebate of up to \$1,800 is also available to support businesses that are beginning or expanding zero waste initiatives, such as composting or recycling programs. Further, Austin Resource Recovery offers direct technical assistance to entities initiating organics diversion programs.

Establishing a framework for the state's highway department or other state agencies to use compost in construction projects is another incentive program that can be pursued to support compost markets. For example, Maryland's State Highway Administration has developed a specification for compost and compost-based products and identifies compost use as a best management practice to address soil erosion, sediment control, and stormwater management. Not only does this provide a broader incentive for use of compost in state projects, but it also helps create an end market for finished compost, acknowledging the importance of compost sales on the sustainability of processing facilities.

New Jersey Food Waste Policy Gap Analysis

Policy Category	Status	Policy Recommendations and Potential Advocacy Opportunities
Organics Disposal Bans and Recycling Laws	<p>Moderate Policy</p> <p>New Jersey’s new organic waste ban is imposed only on certain supply chain actors—here, commercial generators within 25 miles of a food recycling facility.² The law will soon take effect, making New Jersey the only state with such a law.</p>	<ul style="list-style-type: none"> ■ The organics waste ban, currently requiring large food waste generators located within 25 miles of a food recycling facility to separate and recycle food waste, could be enlarged to require more supply chain actors to separate and recycle food waste. Alternatively, an incentive program could be enacted to the same effect. This would need to be coupled with a change in New Jersey’s organics processing infrastructure policies, which currently hinder expansion of organics processing facilities in the state, to accommodate the larger quantity of recyclable food waste. (See Organics Processing Infrastructure Permitting, below). ■ Other states with similar radius models include consideration of out-of-state facilities as a trigger to the ban. This consideration, which recognizes the reality that these materials freely move across city and state lines, could increase the impact of the existing policy.
Date Labeling	<p>Moderate Policy</p> <p>New Jersey imposes date labeling requirements for a few food products—milk and shellfish—and there is no differentiation between quality-based and safety-based dates.³ The state does not prohibit or limit the sale or donation of food past its label date. The state has a goal of reducing food waste generation by 50 percent by 2030, and date labeling laws could be better leveraged to help achieve this goal.⁴</p>	<ul style="list-style-type: none"> ■ Establish guidelines expressly allowing the donation or the freezing of food after the quality-based date, and educate businesses about donation. ■ Launch education campaigns and guidance documents that promote consumer awareness and education on the meaning of date labels. ■ Capitalize on the number of legislative enactments and resolutions related to the prevention of food waste to issue new date labeling regulations, in alignment with federal guidance.
Food Donation Liability Protections	<p>Strong Policy</p> <p>New Jersey provides liability protections beyond those provided by the Bill Emerson Good Samaritan Food Donation Act that include a presumption of good faith, cover donations made directly to individuals, and allow distributors to charge a small fee for donated food.⁵</p>	<p>Note: If a dual date-labeling scheme is implemented, liability protections should be amended to include clear permission to donate after the quality-based date.</p>
Tax Incentives for Food Rescue	<p>No Policy</p> <p>New Jersey provides no tax deductions or credits for the donation of food beyond what is offered by the federal government.</p>	<ul style="list-style-type: none"> ■ Offer tax incentives to offset the costs of food donation, including the cost of transportation. ■ Offer a tax credit for donation by farmers.
Organics Processing Infrastructure Permitting	<p>Weak Policy</p> <p>New Jersey has only one regulatory tier (Class C).⁶ It includes all source-separated organics (SSO) recycling activities, no matter the scale (quantity of food scraps processed), with no specific reference to anaerobic digestion of SSO (i.e., reference is made only to composting).</p>	<ul style="list-style-type: none"> ■ Distinguish, via tiers and exemptions, organics infrastructure permitting requirements to create a pathway for small-scale composting of food scraps and reduce barriers to entry for the composting of source-separated food scraps. ■ NJDEP held a public hearing in November 2020 to consider an exclusion for micro-scale food waste composting as well as solid waste permit exemptions for in-vessel food waste composting; outdoor, small-scale, vegetative-only food waste composting; and indoor, small-scale, food waste composting.⁷ This would be a positive policy development. ■ Update the permitting requirements to include only those restrictions that are in sync with best management practices for composting of source-separated food scraps (e.g., allow open-air windrow composting where incoming food scraps are incorporated into piles by end of day, and distinguish leachate from active composting from stormwater coming from curing and compost storage). ■ Bolster the market for finished compost by enacting procurement requirements for commercial developers and/or government agencies (e.g., mandatory consideration of a bid for use of compost).

Policy Category	Status	Policy Recommendations and Potential Advocacy Opportunities
Food Safety Policies for Share Tables	Strong Policy New Jersey has mandatory guidelines for rescue of surplus food in schools, which include food safety requirements for share tables in school cafeterias.	<ul style="list-style-type: none"> Promote opportunities for schools to increase food rescue through share tables and other methods.
Food Systems Plans, Goals, and Targets	Weak Policy The Foodshed Alliance has created the Northern New Jersey Regional Foodshed Resiliency Plan. ⁸ However, no other food systems plans exist or have the support of the state.	<ul style="list-style-type: none"> Develop a comprehensive, statewide food systems plan, with clear goals and targets to build a local, sustainable food system and support local farmers. This plan should include considerations for food waste reduction. Establish a statewide framework and support system to achieve these targets. Support regional plans, which provide the opportunity for an area to set goals and targets for advancing food systems and promoting wasted food reduction strategies.
Plans Targeting Solid Waste	Moderate Policy New Jersey's State Wide Solid Waste Management Plan was last updated in January 2006. ⁹ Although it states that "food waste recycling is an idea that the State wants to promote," the plan lacks specific solutions. A draft Food Waste Reduction Plan has been submitted to the legislature for approval and would provide additional support and funding for food waste reduction. ¹⁰	<ul style="list-style-type: none"> Work toward legislative approval of the draft Food Waste Reduction Plan, which could demonstrate support for initiatives addressing food waste diversion. Update the State Wide Solid Waste Management Plan to complement waste diversion goals and recommendations for management of food waste outlined in the Food Waste Reduction Plan. Revisions to the Solid Waste Management Plan could also update barriers to accomplishing these goals, which were last reviewed in 2006. Modify county solid waste management plans to incorporate a stronger focus on food waste reduction, including establishing a timeline for achieving diversion goals. Develop a program and infrastructure to measure current diversion efforts across the state. Utilize data collected to support recommendations for other policy development.
Climate Action Goals	Moderate Policy New Jersey has a clear climate plan with emissions reduction goals and has passed legislation specifically addressing food waste and organics that aligns with these goals. ¹¹ However, the state should incorporate food waste reduction goals directly into climate action planning.	<ul style="list-style-type: none"> Establish specific departments tasked with actionable next steps for advancing emissions reductions in the context of reducing food waste. The Global Warming Response Act 80x50 Report, an evaluation of New Jersey's progress toward addressing its impact on climate change, provides a variety of recommendations directly relating to reducing wasted food.¹² These recommendations should be directly incorporated into climate action planning that sets forth specific proposals for reducing food waste. Pass local climate action goals and plans that draw the connection between emission reductions and reduced food waste and further local efforts.
Grants and Incentive Programs Related to Food Waste Reduction	Moderate Policy New Jersey provides several grants and funding opportunities for food loss and waste prevention and for promotion of food rescue programs. There are presently no technical assistance incentive programs in place.	<ul style="list-style-type: none"> Establish a free technical assistance program to help businesses comply with the organics waste ban. Local technical assistance programs can also support these efforts.

New Jersey Food Waste Policy Inventory

ORGANICS DISPOSAL BANS AND RECYCLING LAWS

As shown in the table below, organic waste prevention and diversion from disposal have been gaining traction in New Jersey in recent years. As of 2020, there were multiple bills that had been introduced, were under review, or had passed in New Jersey that will serve to reduce the amount of organics being landfilled. This includes a goal to reduce organic waste in landfills by 75 percent by 2027, and a law that requires large food waste generators to recycle this food residual.

Citation	Summary & Key Elements	Source
<p>A4705—218th Legislature</p>	<p>Title: An Act Establishing the New Jersey Food Waste Task Force</p> <p>Summary: Establishes New Jersey Food Waste Task Force to make recommendations concerning food waste in New Jersey.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Established within the Department of Human Services ■ Will be responsible for examining food waste in the state and making recommendations for legislative or executive actions to reduce it, including: <ul style="list-style-type: none"> □ Preventing food waste; □ Increasing food donation; □ Providing consumers with education on food storage; □ Lowering unreasonably high cosmetic standards for fruit and vegetables; □ Ceasing to reject even marginally imperfect-looking food; □ Building statewide systems to distribute surplus edible food to charities; □ Eliminating unnecessary state statutes or regulations that contribute to food waste; and □ Modifying “best by” food labels to inform consumers of the latest possible date food can be safely consumed. 	<p>https://www.njleg.state.nj.us/2018/Bills/A5000/4705_II.PDF</p>
<p>A2371—219th Legislature (enacted April 14, 2020; effective October 14, 2021)</p>	<p>Title: An Act Concerning Food Waste Recycling and Food Waste-to-Energy Production</p> <p>Summary: The law requires large food waste generators (those that generate more than 52 tons of food waste each year) within 25 miles of a food recycling facility to separate and recycle food waste.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Amends definition of “Class I renewable energy” by including methane gas from a biomass facility or methane gas from a composting or anaerobic digestion facility that recovers energy from food waste or other organic waste. ■ Generators covered by this law include commercial food wholesalers, distributors, industrial food processors, supermarkets, resorts, conference centers, banquet halls, restaurants, educational or religious institutions, military installations, prisons, hospitals, medical facilities, and casinos that meet the generation threshold. ■ The definition of “large food waste generator” does not include any interstate carrier conducting interstate transportation operations in the post-security area of an international airport. 	<p>https://www.njleg.state.nj.us/2020/Bills/A2500/2371_R2.PDF</p>

DATE LABELING

As of 2019, there were four pieces of legislation that had been approved to aid in the prevention of food waste in New Jersey, including laws pertaining to date labeling and awareness. In 2017 a goal was set to reduce food waste by 50 percent from 2017 to 2030. New Jersey does not have statewide standardized date labels, except for dairy and shellfish, and dairy is not permitted for sale after the date on the container. There are no restrictions regarding the donation of food items that have passed the date on the container.

Citation	Summary & Key Elements	Source
<p>§§1,2 -C.13:1E-226 to 13:1E-227 P.L.2017, c136 (enacted July 21, 2017)</p>	<p>Title: An Act Concerning the Reduction of Food Waste</p> <p>Summary: Establishes goal to reduce the amount of food waste generated annually by 50 percent by 2030, relative to the amount generated in the year the act took effect (2017).</p> <p>Key Elements:</p> <ul style="list-style-type: none"> Requires the New Jersey Department of Environmental Protection (NJDEP) and Department of Agriculture to develop a food waste reduction plan (Additional detail provided in <i>Plans Targeting Solid Waste</i> table). 	<p>https://www.nj.gov/dep/dshw/food-waste/pl_2017_l36.pdf</p>
<p>A4705 – 218th Legislature</p>	<p>Title: An Act Establishing the New Jersey Food Waste Task Force</p> <p>Summary: Establishes New Jersey Food Waste Task Force to make recommendations concerning food waste in New Jersey.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> Encourages task force to examine and provide recommendations for modifying “best by” food labels to inform consumers of the latest possible date food can be safely consumed. 	<p>https://www.njleg.state.nj.us/2018/Bills/A5000/4705_II.PDF</p>
<p>AJR172 §§1,2 - C.36:2-352 & 36:2-353</p>	<p>Title: A Joint Resolution Designating the Thursday of the Third Week of September of Each Year as “Food Waste Prevention Day” in New Jersey</p> <p>Summary: This joint resolution brings awareness to food waste by designating the Thursday of the third week of September each year to be “Food Waste Prevention Day.”</p>	<p>https://www.njleg.state.nj.us/2018/Bills/JR19/6_HTM</p>
<p>AJR174</p>	<p>Title: A Joint Resolution Urging Large Food Retailers in This State to Reduce Food Waste</p> <p>Summary: This resolution urges large food retailers in New Jersey to take actions to reduce waste through a variety of strategies.</p> <p>Key Elements:</p> <p>Recommended strategies include:</p> <ul style="list-style-type: none"> Enhancing inventory handling and management systems; Collaborating with farmers to limit agricultural food waste; Adjusting current standards that lead to food waste, such as the use of “best by” dates and cosmetic standards; and Providing consumer education. 	<p>https://www.njleg.state.nj.us/2018/Bills/AJR/174_II.HTM</p>
<p>N.J. Stat. Ann. § 24:10-57.23</p>	<p>Title: Container Regulations</p> <p>Summary: Requires date labeling of milk/dairy products</p> <p>Key Elements:</p> <ul style="list-style-type: none"> Sale after this date for this product is not permitted. Donation for redistribution after this date is permitted. 	<p>https://law.justia.com/codes/new-jersey/2016/title-24/section-24-10-57.23/</p>
<p>N.J. Admin. Code § 8:24-3.2</p>	<p>Title: Sources, Specifications, and Original Containers and Records</p> <p>Summary: Requires date labeling of shellfish.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> Shucked shellfish, packaging, and identification requirements include: A “sell by” date for packages with a capacity of less than one-half gallon; and The date shucked for packages with a capacity of one-half gallon or more. 	<p>N.J.A.C. 8:24-3.2</p>

FOOD DONATION LIABILITY PROTECTIONS AND TAX INCENTIVES FOR FOOD RESCUE

As shown in the table below, three pieces of legislation have been approved for food donation in New Jersey. The state offers protection for food donation that goes beyond the Bill Emerson Good Samaritan Food Donation Act. However, it does not offer additional tax incentives beyond federal incentives, according to the national nonprofit ReFED.¹³ While the extra liability protection is an opportunity that New Jersey offers to reduce food waste and divert it from landfills, extra tax incentives in addition to federal-level incentives have the potential to spur further expansion of food rescue opportunities.

Citation	Summary & Key Elements	Source
N.J. Stat. Ann. § 24:4A-1–A5	<p>Title: Food Bank Good Samaritan Act</p> <p>Summary: Donors cannot be liable for damages in any civil action or subject to criminal prosecution resulting from the consumption of donated food, so long as the damages are not caused by gross negligence, recklessness, or intended misconduct.</p>	https://www.nj.gov/dep/dshw/food-waste/donation.html
P.L.2017, c 210 (A3056 2R)	<p>Title: An Act Concerning the Donation of Excess Food by School Districts in K-12 Schools and Institutions of Higher Education</p> <p>Summary: As a result of the act, the NJDEP, Department of Agriculture, Department of Education, Department of Health, and Office of the Secretary of Higher Education produced the following:</p> <ul style="list-style-type: none"> ■ State of New Jersey School Food Waste Guidelines: K-12 Schools Edition (2019)¹⁴ ■ State of New Jersey School Food Waste Guidelines: Higher Education Edition (2019)¹⁵ ■ See more information in the <i>Food Safety Policies for Share Tables</i> table, below. 	https://www.njleg.state.nj.us/2016/Bills/AL17/210_.HTM
S3026—217th Legislature	<p>Title: An Act Concerning Liability for Food Donations and Gleaning Activities, Amending and Supplementing P.L.1982, c.178, and Supplementing Title 4 of the Revised Statutes</p> <p>Summary: Clarifies and expands liability protections for food donations and gleaning activities.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ This provision permits nonprofit organizations to recover the cost of handling donated food and allows for innovative approaches to sell surplus food at deeply reduced prices, such as “social supermarkets.” ■ The bill reinforces liability protections to public and nonpublic schools donating food. ■ The bill also clarifies that donors or gleaners of food will be protected when they donate the food directly to needy individuals, as opposed to just when they donate to a nonprofit organization to distribute. 	https://www.njleg.state.nj.us/2016/Bills/S3500/3026_II.HTM
P.L.2019, JR-5 (AJR60)	<p>Title: Designates November of each year as “Food Pantry Donation Month” in New Jersey</p> <p>Summary: A joint resolution permanently designating November as “Food Pantry Donation Month” in New Jersey.</p> <p>Key Elements:</p> <p>Aims to educate citizens of New Jersey about the importance of food banks and food pantries.</p>	https://legiscan.com/NJ/text/AJR60/id/2032275

ORGANICS PROCESSING INFRASTRUCTURE PERMITTING

Organics processing activities in New Jersey are regulated by NJDEP. “Title 7: Environmental Protection, Chapter 26A: Recycling Rules” is the overarching set of rules for infrastructure permitting. A public hearing was held by NJDEP in November 2020 to consider an exclusion for micro-scale food waste composting as well as solid waste permit exemptions for in-vessel food waste composting; outdoor, small-scale, vegetative-only food waste composting; and indoor, small-scale, food waste composting.¹⁶ Microscale composting would take place at community gardens, multifamily dwellings in urban areas, or locations established by nonprofit groups. Only vegetative food scraps from residents could be accepted. No specific quantity was established as of November 2020.

New Jersey also allows the diversion of certain food waste to be used as animal feed.

Citation	Summary & Key Elements	Source
<p>Title 7. Environmental Protection Chapter 26A. Recycling Rules</p>	<p>Summary: These rules cover four classes of recycling (A–D); Class C recycling facilities include food waste preprocessing and composting.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ <i>Recyclable material</i> means those materials that would otherwise become solid waste, and that may be collected, separated, or processed and returned to the marketplace in the form of raw materials or products. ■ <i>Class C recyclable material</i> means source-separated compostable materials subject to NJDEP approval prior to receipt, storage, processing, or transfer at a recycling center; it includes, but is not limited to, source-separated food waste; source-separated biodegradable plastic; source-separated yard trimmings, including any biodegradable paper bags in which the yard trimmings are collected; source-separated biomass; and lakeweed generated from the cleaning of aquatic flora from freshwater lakes. <ul style="list-style-type: none"> □ <i>Biodegradable plastic</i> is defined as plastic products that are designed to biodegrade and compost and that meet the specifications of the American Society for Testing and Materials document ASTM D 6400-99. ■ Class C rules: <ul style="list-style-type: none"> □ Do not include language for anaerobic digestion of the organic fraction of municipal solid waste (MSW). □ Include a “research, development, and demonstration (RD&D) approval [N.J.A.C. 7:26-1.7(f)]” for a new or innovative technology or innovative operational process modification made to an existing recycling center or operation. □ Have an exemption for on-site composting by generator, processed exclusively at the point of generation, with compost used as a product on site; this would include, for example a university that composts food waste generated from an on-site cafeteria and uses the resulting compost across the campus. ■ NJDEP and stakeholders are in discussion about a new Class C exemption for small-scale food/micro-scale food waste composting; no formal regulations had been drafted as of January 2021. ■ It should be noted that an exempt facility must still comply with local zoning ordinances, while a permitted facility is exempt from those ordinances. ■ A Class C recycling permit is required for facilities (including anaerobic digesters) receiving source-separated food waste for preprocessing. ■ Facilities processing Class C recyclable material other than or in addition to yard trimmings shall: <ul style="list-style-type: none"> □ Have an impermeable operating pad (hydraulic conductivity less than 10⁻⁵ cm/sec) and be sloped to prevent ponding of liquids and to direct leachate to a leachate collection system; and □ Be fully enclosed in a structure, or structures, with complete walls and roof, and the structure must include an air management system permitted by NJDEP pursuant to N.J.A.C. 7:27 that is capable of removing odors and noxious compounds. ■ A certificate of authority is required to operate an RD&D project demonstrating that the specific materials received do not need full enclosure to prevent leachate problems and off-site impacts, such as odors from typical food wastes. Based on the results of the RD&D project, NJDEP may issue a general approval to allow other forms of structures or other adequate measures to prevent on- and off-site impacts. ■ As of February 2021, there were no Class C permitted food waste composting facilities in New Jersey. A Science Advisory Board was tasked to study outdoor food waste composting and its public health and environmental impacts. The final report addresses air and water quality impacts and potential human health effects.¹⁷ 	<p>https://www.state.nj.us/dep/dshw/resource/CURRENT/WEB%20PDFS/26A.pdf</p> <p>https://www.nj.gov/dep/sab/sab_food_composting.pdf</p>

Citation	Summary & Key Elements	Source
Title 7. Environmental Protection Chapter 26. Solid Waste Subchapter 2b.	<p>Summary: Establishes additional engineering design submission requirements for solid waste composting and co-composting facilities.</p> <ul style="list-style-type: none"> While there is no Class C recycling permitted source-separated food waste composting facility in New Jersey, it is anticipated that such a facility would have to comply with these engineering design requirements as food waste is a Class C material. 	https://www.state.nj.us/dep/dshw/resource/CURRENT/WEB%20PDFS/26%20CHAPTER%202B.pdf
Title 7 Chapter 27 Subchapter 8— N.J.A.C. 7:27-8.2(a)	<p>Summary: New Jersey Air Pollution Control Permit Application. Composting is cited as a “significant source operation” as it pertains to:</p> <ul style="list-style-type: none"> Composting equipment that emits air contaminants. Equipment used for the purpose of venting a closed or operating solid waste facility, directly or indirectly, into the outdoor atmosphere, including but not limited to any transfer station, recycling facility, or municipal solid waste composting facility. Because there are no permitted food waste composting facilities in New Jersey, application of these rules to that type of facility is not available. Recommendations for air quality control are included in the Science Advisory Board report for outdoor food waste composting. 	<p>https://www.nj.gov/dep/aqm/currentrules/Sub8.pdf</p> <p>General rule: https://www.nj.gov/dep/aqm/rules27.html</p> <p>https://www.nj.gov/dep/sab/sab_food_composting.pdf</p>
P.L. 2020, c.24 Bill No. S865 (IR) and A3726 (4R)	<p>Summary: This is an act passed in April 2020 that references anaerobic digester facilities as an “alternative authorized food waste recycling method” (see Organics Disposal Bans and Recycling Laws, above).</p>	<p>P.L. 2020, c.24 C.13:IE99.I22</p> <p>https://www.njleg.state.nj.us/2020/Bills/PL20/24_.HTM</p>
N.J.A.C. 7:8-5 and 6; NPDES-N.J.A.C. 7:14A-24 and 25	<p>Summary: These concern leachate and stormwater runoff and drainage control measures, e.g., slope of composting pad, leachate collection, etc. All composting facilities must address water quality impacts. Because there are no permitted food waste composting facilities in New Jersey, there has been no application of these rules to that type of facility. Recommendations for leachate management are included in the Science Advisory Board report for outdoor food waste composting.</p> <p>Note: Any existing facility composting food waste in New Jersey is considered a DSW (direct discharges to surface water) location and is included in the “RF-Individual Permit for Industrial Stormwater Dischargers” category.</p>	<p>https://www.nj.gov/dep/rules/rules/njac7_8.pdf</p> <p>https://www.nj.gov/dep/rules/rules/njac7_14.pdf</p> <p>https://www.nj.gov/dep/sab/sab_food_composting.pdf</p>
S. 232 Environmental Justice law (Law passed in 2020; going into rulemaking)	<p>Summary: Requires NJDEP to evaluate environmental and public health impacts of certain facilities, including solid waste facilities, on overburdened communities when reviewing certain permit applications. Composting facilities are not specifically referenced in this law, but it is anticipated that composting would be considered solid waste. The new environmental justice law is effective immediately, although it awaits the adoption of implementing rules and regulations by NJDEP.</p>	<p>https://www.njleg.state.nj.us/2020/Bills/S0500/232_II.pdf</p>
N.J. Admin. Code § 2:2-4.11	<p>Title: Period for Accomplishing Heat Treatment of Garbage</p> <p>Summary: New Jersey allows (via adoption of the rules and regulations of the federal Swine Health Protection Act) the feeding of animal-derived and vegetable waste to swine, provided that it has been properly heat-treated and fed by a licensed facility.</p>	<p>https://www.nj.gov/agriculture/divisions/ah/pdf/reportablediseaselist.pdf</p>

FOOD SAFETY POLICIES FOR SHARE TABLES

As indicated below and noted previously, NJDEP has created mandatory guidelines for the rescue of surplus food in schools; these include food safety requirements for share tables in school cafeterias.

Citation	Summary & Key Elements	Source
State of NJ School Food Waste Guidelines: K-12 Schools Edition (2019)	<p>Summary: These guidelines include:</p> <ul style="list-style-type: none"> Information on food rescue generally and the benefits of preventing food waste, rescuing surplus food, and recycling food scraps. Guidance on how schools can create share tables in their cafeterias. Information on cost-effective, safe, and sanitary means by which schools may donate excess, unused, and edible food to nonprofit organizations that distribute food to nearby individuals. 	https://www.nj.gov/dep/seeds/sfwg/docs/K-12.pdf
State of NJ School Food Waste Guidelines: Higher Education Edition (2019)	<p>Summary: These guidelines include:</p> <ul style="list-style-type: none"> Information on food waste generally and the benefits of reducing, recovering, and recycling food waste. Guidance on how schools can create share tables in their cafeterias. Information on cost-effective, safe, and sanitary means by which schools may donate excess, unused, and edible food to nonprofit organizations that distribute food to nearby individuals. 	https://www.nj.gov/dep/seeds/sfwg/docs/HighEd.pdf

FOOD SYSTEMS PLANS, GOALS, AND TARGETS

The Foodshed Alliance has created a regional foodshed resiliency plan for northern New Jersey. This plan recommends strategies and activities to help northern New Jersey's regional food system become more sustainable.

Citation	Summary & Key Elements	Source
Northern New Jersey Regional Foodshed Resiliency Plan (2015)	<p>Summary: This plan includes discussion of the vision and principles of a local, sustainable food system; food assets in northern New Jersey; and strengths and weaknesses of northern New Jersey's current regional food system.</p> <p>Key Elements: Recommendations include:</p> <ul style="list-style-type: none"> Increase sustainable, organic, and regenerative farming. Establish a New Jersey-based food hub. Attract new farmers. Work toward establishing a food policy council for the state. Make farmland affordable. 	http://foodshedalliance.org/wp-content/uploads/2016/02/PlanDesignRI.pdf

PLANS TARGETING SOLID WASTE

The New Jersey State Wide Solid Waste Management Plan was last updated in January of 2006. It states, “Overall, food waste recycling is an idea that the State wants to promote.” While this plan lacks specific solutions, it highlights a need to collaborate with stakeholders to determine next steps in furthering food waste diversion.

Citation	Summary & Key Elements	Source
<p>State Wide Solid Waste Management Plan Update (January 2006)</p>	<p>Summary: In this plan, the state acknowledges the potential for furthering recycling rates through food waste reduction, which could help it come closer to a 1993 goal of a 50 percent MWS recycling rate.</p> <p>Key Elements:</p> <p>Recommendations within the document include:</p> <ul style="list-style-type: none"> ■ Building on the existing “Cut It and Leave It” campaign with a home composting campaign that could include yard waste and food scraps. ■ Developing food waste composting programs in conjunction with the state Department of Agriculture. ■ Driving markets for finished compost by encouraging state agencies to purchase it “when the need for this material arises.” ■ Updating technical training materials to incorporate food waste composting, including within a manual on leaf and yard trimmings as well as in an NJDEP-funded professional education course. ■ Promoting on-site composting for larger institutional generators. ■ Highlighting projects supporting methane-derived fuel products from digestion of organic material. <p>References to regulation:</p> <ul style="list-style-type: none"> ■ A rule change in 1996 was aimed at promoting the composting of organic materials other than yard trimmings, classifying source-separated organic material as recyclable and processing facilities as recycling centers. A 2002 update allows for on-site composting with distribution of finished product off-site without the need for approval. ■ Further consideration was underway at the time this document was drafted to provide additional design requirement flexibility, including reducing the 1,000-foot buffer requirement between composting facilities and their neighbors when both parties agree on a lesser distance. <p>Also noted in the report were the following barriers to composting, which may still provide challenges to present-day food waste reduction:</p> <ul style="list-style-type: none"> ■ Limited processing capacity, whose growth is impeded by local stakeholder sentiment about composting and negative perceptions among residential neighbors. ■ Hauling distance between generators and processors. ■ Limits in the available land for siting windrow facilities, which may lead to in-vessel or digestion facilities. ■ A local community aversion to diverting new solid waste types and a limit in available capital for building new facilities. ■ Lack of confidence among the public and end users about the quality of compost. 	<p>https://www.state.nj.us/dep/dshw/recycling/swmp/index.html</p>
<p>Draft Food Waste Reduction Plan (public comment period in September 2019)</p>	<p>Summary: This plan, an outcome of P.L.2017, c136 detailed in the <i>Date Labeling</i> table above, follows the EPA Food Recovery Hierarchy and proposes the following:</p> <ul style="list-style-type: none"> ■ Establish a legislatively authorized New Jersey Food Waste Reduction Council. ■ Modify the existing Recycling Enhancement Act research funds to include grants to institutions of higher education for demonstrations, research, or education, and dedicate 50 percent of funds to support the work of the council. 	<p>https://www.nj.gov/dep/dshw/food-waste/food_waste_plan_draft.pdf</p>

CLIMATE ACTION GOALS

As indicated in the table below, New Jersey set a goal for carbon emissions reductions by passing the New Jersey Global Warming Response Act in 2019. Paired with Executive Order 89, which became effective October 29, 2019, this provides the state with a framework for the development of several plans and initiatives that address greenhouse gas emissions. Where legislation specifically addresses wasted food/organics, it is noted in the table below; however, any initiative to reduce wasted food necessarily aligns with carbon reduction goals. Notably, the *Global Warming Response Act 80x50 Report* provides a variety of recommendations directly related to reducing wasted food.

Citation	Summary & Key Elements	Source
P.L. 2007 c.112; P.L. 2018 c.197 (GWRA)	<p>Title: New Jersey Global Warming Response Act</p> <p>Summary: Directs NJDEP to collaborate with other state agencies to develop plans and recommendations for reducing emissions of climate pollutants to 80 percent below 2006 levels by 2050.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Requires the state to establish a GHG emissions monitoring and reporting program. ■ Does not directly mention food waste reduction strategies. 	https://www.njleg.state.nj.us/2018/Bills/AL19/197_.HTM
Executive Order 89	<p>Summary: Establishes a process to appoint a state chief resilience officer.</p> <p>Key Elements</p> <ul style="list-style-type: none"> ■ Creates an Interagency Council on Climate Resilience. ■ Does not directly mention food waste reduction strategies. 	https://nj.gov/infobank/eo/056murphy/pdf/EO-89.pdf
Energy Master Plan (June 10, 2019)	<p>Summary: This plan outlines goals for sectors and agencies across the state to reduce climate impact while “providing a safe, reliable, resilient, and affordable energy system for the citizens of New Jersey.”</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Goal 2.3 encourages biogas generation and conversion to electricity at wastewater treatment plants and food waste processing facilities. ■ Goal 2.3.6 aims to maximize the use of source-separated organics for energy production and encourages the state to consider requiring source separation of organic waste from MSW and incentivizing anaerobic digestion technology for processing wastewater and food wastes. 	https://nj.gov/emp/pdf/Draft%202019%20EMP%20Final.pdf
New Jerseys’ Global Warming Response Act 80x50 Report (October 15, 2020)	<p>Summary: This plan highlights the opportunity to reduce emissions through reduction of food waste.</p> <p>Key Elements:</p> <p>Recommendations in the plan include:</p> <ul style="list-style-type: none"> ■ Adopt regulations to implement requirements of the Food Waste Recycling and Waste-to-Energy Production Act (P.L.2020, c.24.), including regulations that: <ul style="list-style-type: none"> □ Support the development of facilities and markets for food waste processing. □ Establish best practices for food waste generators by sector. □ Pursue options for energy recovery from wastewater treatment facilities and, where feasible, expand incorporation of food waste into these facilities for generation of digester gas to be utilized on-site for energy and process heat. ■ Finalize a food waste reduction plan. ■ Adopt food waste reduction rules. ■ Develop guidelines for siting food waste recycling facilities. ■ Incentivize the establishment of organic processing operations. ■ Adopt community composting rules. ■ Offer education about wasted food. ■ Distribute emerging management practices to reduce food waste. ■ Provide incentives related to biogas and processing food waste at wastewater treatment facilities. ■ Offer incentives for food donation and commercial waste audits. ■ Increase engagement in the Compost Education class offered through Rutgers University. ■ Support the development of regional composting facilities. 	https://www.nj.gov/dep/climatechange/docs/nj-gwra-80x50-report-2020.pdf

GRANTS AND INCENTIVE PROGRAMS RELATED TO FOOD WASTE REDUCTION

There are a small number of identifiable grant programs in New Jersey dedicated to supporting food waste reduction.

Citation	Summary & Key Elements	Source
<p>Recycling Enhancement Act Higher Education Research Grant Program</p>	<p>Summary: Approximately \$1 million from the State Recycling Fund is available annually for projects that support the Recycling Enhancement Act, including food waste reduction initiatives.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Applicants must be New Jersey institutions of higher education; partnerships with third parties are highly encouraged. ■ The annual grant application outlines eligible themes. 	<p>https://www.nj.gov/dep/grantandloanprograms/swrea-higher-ed.htm</p>
<p>Sustainable Jersey Grants and Technical Assistance Program</p>	<p>Summary: Sustainable Jersey offers financial and technical resources to support action toward a sustainable future.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ The Gardinier Environmental Fund provides varying funding for energy-related projects on an annual basis. ■ PSEG provides annual funding in the range of \$2,000, \$10,000, and \$20,000 for projects that support general green team operations, as well as for a variety of municipal projects that address Sustainable Jersey actions. ■ Sustainable Jersey has also developed a funding database to highlight relevant funding opportunities provided by other entities, such as the government, nonprofits, corporations, and foundations.¹⁸ 	<p>https://www.sustainablejersey.com/grants/</p>
<p>State Food Purchase Program—2020 Gleaning Support</p>	<p>Summary: This program is for gleaning activities that take place on New Jersey farms, with food redistribution to local organizations in the state to feed the hungry.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Approximately \$150,000 is available for nonprofit applicants. ■ Grant funding may be used for transportation costs, staff salaries, and expenses related to transportation and distribution of gleaned food. ■ Applicants must be nonprofits operating in New Jersey that have an implementation plan for the project, and must have operated a gleaning program for at least two of the past three calendar years. Entities that receive funds from the State Food Purchase Program are not eligible to apply. ■ In FY 2021, applications are being accepted on a rolling basis. 	<p>https://www.nj.gov/agriculture/grants/gleaninggrants.html</p>
<p>Draft Food Waste Reduction Plan (public comment period in September 2019)</p>	<p>Summary: Plan recommends adding a funding mechanism for food waste reduction through a modification to Recycling Enhancement Act research funds, so that 50 percent of funds be allocated to support the work of the proposed New Jersey Food Waste Reduction Council.</p> <p>Additional detail is provided in the <i>Plans Targeting Solid Waste</i> table, above.</p>	<p>https://www.nj.gov/dep/dshw/food-waste/food_waste_plan_draft.pdf</p>

Food Waste Reduction Policy Gap Analysis: Policy Assessment Rubric

Organics Disposal Bans and Recycling Laws	Date Labeling	Food Donation Liability Protections	Tax Incentives for Food Rescue	Organics Processing Infrastructure Permitting	Food Safety Policies for Share Tables	Food Systems Plans, Goals, and Targets	Plans Targeting Solid Waste	Climate Action Goals	Grants and Incentive Programs Related to Food Waste Reduction
NO POLICY									
No organics disposal bans or mandatory organics recycling laws for food waste have been enacted, and there is no financial incentive structure to encourage food donation or food waste diversion.	There are no laws pertaining to date labels on food products.	There is no state-based liability protection for donated food.	There are no tax incentives for food donation.	<p>Solid waste regulations have no separate streamlined tier for processing source-separated organics. That is, food waste composting is considered solid waste composting, and this presents a barrier to entry for small composters.</p> <p>There is no acknowledgment of anaerobic digestion of source-separated organics from the municipal solid waste stream.</p> <p>No exemption tier exists for small quantities of source-separated food waste.</p>	N/A	No regional or statewide food systems plans exist. Some local plans may exist.	No solid waste management plan or organics management plan exists at the state level.	No climate action goals exist.	No state plans, programs, or policies allocate funding or incentives to support food waste reduction.

Organics Disposal Bans and Recycling Laws	Date Labeling	Food Donation Liability Protections	Tax Incentives for Food Rescue	Organics Processing Infrastructure Permitting	Food Safety Policies for Share Tables	Food Systems Plans, Goals, and Targets	Plans Targeting Solid Waste	Climate Action Goals	Grants and Incentive Programs Related to Food Waste Reduction
WEAK POLICY									
<p>Organics disposal bans or mandatory organics recycling laws have been enacted but are ineffective due to exemptions, limited scope, and/or lack of guidance.</p>	<p>The state requires date labels for certain foods and prohibits or limits the sale or donation of food after its label date.</p>	<p>State-based liability protections for food donation exist but are no broader than the federal-level protections or cover either food donors or food rescue organizations, but not both.</p>	<p>N/A</p>	<p>There is a regulatory tier that includes source-separated organics, but at least two of the following are true:</p> <ul style="list-style-type: none"> ■ Requirements for composting source-separated organics are the same as those for composting mixed solid waste, creating significant barriers to opening a facility. ■ Quantity or acreage limitations for source-separated organics tier(s) negatively impact economic viability of operation. ■ Regulations include language about anaerobic digestion of source-separated organics but are vague or have no language addressing what is allowed. 	<p>Share tables are allowed, but the state provides no resources or guidance on food donation safety, OR the state's share table rules are more restrictive than federal guidance.</p>	<p>Some regional food systems plans exist, but they do not have the support of the state and do not adequately consider food waste reduction in food systems planning.</p>	<p>Solid waste management plans exist but are out of date (more than 10 years old) and do not highlight food waste as a diversion opportunity (via prevention, rescue, donation, and/or processing through composting or anaerobic digestion).</p>	<p>Climate action goals exist, but one of the following is true:</p> <ul style="list-style-type: none"> ■ Goals are in the form of executive orders, with no legislative framework. ■ There has been limited legislative action but no real framework or actionable next steps to achieve targets. 	<p>Grants, incentives, or funds for food waste reduction are available, but more than one of the following is true:</p> <ul style="list-style-type: none"> ■ Funding is not explicitly allocated for food waste reduction work as opposed to other diversion strategies. ■ Funding opportunities are not made known to or accessible to relevant applicants. ■ Available funding is unsustainable or insufficient to support desired activities (includes the issuance of one-time grants but does not include funding on pause due to COVID-19). ■ No technical assistance is available to food service waste generators to support food waste reduction efforts.

Organics Disposal Bans and Recycling Laws	Date Labeling	Food Donation Liability Protections	Tax Incentives for Food Rescue	Organics Processing Infrastructure Permitting	Food Safety Policies for Share Tables	Food Systems Plans, Goals, and Targets	Plans Targeting Solid Waste	Climate Action Goals	Grants and Incentive Programs Related to Food Waste Reduction
MODERATE POLICY									
Organics disposal bans or mandatory recycling laws are imposed on select commercial generators, with few exemptions.	The state requires date labels for certain foods but does not prohibit or limit the sale or donation of food after its label date.	State-based liability protections cover donations directly to individuals or donations that are supplied for a small fee, or are otherwise slightly more expansive than the federal-level protections.	The state offers a tax incentive for donating food, but the incentive does not fully offset the costs associated with donation, including transportation.	There is a regulatory tier that includes source-separated organics, and the state may have committed to market development for recycled organic materials, but one of the following is true: <ul style="list-style-type: none"> ■ Requirements for composting source-separated organics are the same as those for composting mixed solid waste, creating significant barriers to opening a facility. ■ Quantity or acreage limitations for source-separated organics tier(s) negatively impact economic viability of operation. ■ Regulations include language about anaerobic digestion of source-separated organics but are vague or have no language addressing what is allowed. 	Share tables are allowed, and the state provides share table guidance, though that guidance is limited.	Robust regional food systems plans or state food systems plans exist, but one of the following is true: <ul style="list-style-type: none"> ■ Framework or support to achieve targets is limited. ■ There is no coordination with other regional food systems plans (if no state plan exists). ■ Plans' consideration of food waste reduction is inadequate. 	Solid waste management plans and/or organics management plans exist and highlight food waste as a diversion opportunity (via prevention, rescue, donation, and/or processing through composting or anaerobic digestion) but are out of date (more than 10 years old) or have limitations.	Climate action goals exist, and one of the following is true: <ul style="list-style-type: none"> ■ Legislated climate action planning sets forth recommendations for reducing food waste. ■ Specific departments have been tasked with actionable next steps for moving policy forward. 	Grants, incentives, or funds for food waste reduction are available, and one of the following is true: <ul style="list-style-type: none"> ■ Funding is not explicitly allocated for food waste reduction work as opposed to other diversion strategies. ■ Available funding is unsustainable or insufficient to support desired activities. ■ No technical assistance is available to food service waste generators to support food waste reduction efforts.

Organics Disposal Bans and Recycling Laws	Date Labeling	Food Donation Liability Protections	Tax Incentives for Food Rescue	Organics Processing Infrastructure Permitting	Food Safety Policies for Share Tables	Food Systems Plans, Goals, and Targets	Plans Targeting Solid Waste	Climate Action Goals	Grants and Incentive Programs Related to Food Waste Reduction
STRONG POLICY									
<p>Organics disposal bans or mandatory recycling laws for food waste have been enacted and are enforced for all commercial generators (and potentially for individuals at the household level).</p>	<p>The state maintains a standardized, mandatory date labeling policy that clearly differentiates between quality-based and safety-based labels; the state does not prohibit or limit the sale or donation of food after its label date; and the state has issued clear permission to donate after the quality-based date.</p>	<p>State-based liability protections are more expansive than the Bill Emerson Good Samaritan Food Donation Act and apply to donations directly to individuals as well as donations that are supplied to the final consumer for a small fee.</p>	<p>The state offers tax deductions or tax credits for donating food that offset the costs associated with donation, including transportation.</p>	<p>The state has a regulatory tier that includes source-separated organics and has committed to market development for recycled organic materials, and all of the following are true:</p> <ul style="list-style-type: none"> ■ Policy reduces barriers to entry for composting source-separated organics, such as through simplified permitting for the addition of food scraps at existing yard trimmings composting facilities or via exemption from permitting for small-scale and/or community composting operations. ■ Restrictions imposed on facility design and operation are in sync with best management practices for composting of source-separated organics. ■ There is a separate permitting pathway in solid waste regulations for anaerobic digestion of source-separated food waste that includes, where applicable, requirements similar to those imposed on composting source separated food waste—for example, contaminant limits on digestate that are similar to limits imposed on compost. 	<p>Share tables are allowed and encouraged, and the state provides state-specific guidelines or instructions about food safety as it relates to donation.</p>	<p>The state has developed comprehensive, statewide food systems plans, and both of the following are true:</p> <ul style="list-style-type: none"> ■ There is a robust framework or support to achieve clear goals and targets. ■ Reduction of food loss and waste is a major component of food systems plans. 	<p>Solid waste management plan, zero waste plan, or organics management plan is kept current, and it outlines waste diversion goals and recommendations for diversion, including reduction of food waste (via prevention, rescue, donation, and/or processing through composting or anaerobic digestion).</p>	<p>Climate action goals exist, and both of the following are true:</p> <ul style="list-style-type: none"> ■ Legislated climate action planning sets forth recommendations for reducing food waste. ■ Specific departments have been tasked with actionable next steps for moving policy forward. 	<p>Grants, incentives, or funds for food waste reduction are available, and all of the following are true:</p> <ul style="list-style-type: none"> ■ Funding is explicitly allocated for food waste reduction work as opposed to other diversion strategies. ■ Available funding is sustainable and sufficient to support desired activities. ■ Free technical assistance is available to food service waste generators to support food waste reduction efforts.

ENDNOTES

- 1 Katie Sandson and Emily Broad Leib, *Bans and Beyond: Designing and Implementing Organic Waste Bans and Mandatory Organics Recycling Laws*, Harvard Food Law and Policy Clinic and the Center for EcoTechnology, July 2019, <https://wastedfood.cetonline.org/wp-content/uploads/2019/07/Harvard-Law-School-FLPC-Center-for-EcoTechnology-CET-Organic-Waste-Bans-Toolkit.pdf>.
- 2 A2371, 2019th Leg., Reg. Sess. (N.J. 2020).
- 3 N.J. Stat. Ann. § 24:10-57.23; N.J. Admin. Code § 8:24-3.2.
- 4 N.J. REV. STAT. §§ 13:1E-226-227 (2019).
- 5 N.J. REV. STAT. §§ 24:4A-1—A-5. (2019).
- 6 N.J. ADMIN. CODE § 7:26A (2017).
- 7 New Jersey Department of Environmental Protection (hereinafter NJDEP), “NJDEP Stakeholders Meeting for Amendments to N.J.A.C. 7:26A-1.1 and 1.4,” November 10, 2020, <https://www.nj.gov/dep/workgroups/docs/recycling-rules-20201110-pres.pdf>.
- 8 Foodshed Alliance, *Northern New Jersey Regional Foodshed Resiliency Plan*, June 2015, <http://foodshedalliance.org/wp-content/uploads/2016/02/PlanDesignRI.pdf>.
- 9 NJDEP, Division of Solid and Hazardous Waste, *State Wide Solid Waste Management Plan 2006*, updated December 28, 2005, <https://www.state.nj.us/dep/dshw/recycling/swmp/index.html>.
- 10 NJDEP, *Draft Food Waste Reduction Plan*, https://www.nj.gov/dep/dshw/food-waste/food_waste_plan_draft.pdf (accessed Feb. 16, 2021).
- 11 N.J. P.L. 2007 c.112 (2007); N.J. P.L. 2018 c.197 (2018).
- 12 Helaine Barr et al., *New Jersey’s Global Warming Response Act 80x50 Report*, NJDEP, October 2020, <https://www.nj.gov/dep/climatechange/docs/nj-gwra-80x50-report-2020.pdf>.
- 13 ReFED, “U.S. Food Waste Policy Finder: New Jersey Food Waste Policy,” last updated March 5, 2021, <https://policyfinder.refed.com/new-jersey>.
- 14 NJDEP et al., *State of New Jersey School Food Waste Guidelines: K-12 Schools Edition*, November 2019, <https://www.nj.gov/dep/seeds/sfwg/docs/K-12.pdf>.
- 15 NJDEP et al., *State of New Jersey School Food Waste Guidelines: Higher Education Edition*, November 2019, <https://www.nj.gov/dep/seeds/sfwg/docs/HighEd.pdf>.
- 16 NJDEP, “NJDEP Stakeholders Meeting for Amendments to N.J.A.C. 7:26A-1.1 and 1.4.”
- 17 NJDEP Science Advisory Board, *Final Report: Outdoor Food Waste Composting*, April 22, 2020, https://www.nj.gov/dep/sab/sab_food_composting.pdf.
- 18 Sustainable Jersey, “Funding Database,” <https://www.sustainablejersey.com/resources/funding-database/> (accessed Feb. 16, 2021).