

ACKNOWLEDGMENTS

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NRDC Chief Communications Officer: Michelle Egan

NRDC Managing Directors of Communications: Lisa Goffredi and Jenny Powers

NRDC Policy Publications Editor: Leah Stecher

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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 Tennessee. 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

While there are no states in the Southeast that have organics disposal bans or mandatory recycling laws, elsewhere they 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 ahead of 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 ban materials 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 Law School 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

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 standard 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

Southeast states generally have not established a dual date labeling system for quality and safety. Many states in the region 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 of these 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 states in the Southeast have tax incentives for food rescue, and none of the states or jurisdictions reviewed in the Mid-Atlantic 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 acknowledgement of anaerobic digestion of SSO, and no exemption tier for small quantities of SSO.

A commitment to recycled organics market development is another mechanism to bolster organics processing infrastructure. Examples of market development mechanisms include procurement or bidding mandates that require developers to use compost products or recycled organic materials in their development projects.

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 Southeast Region

Georgia, North Carolina, and Tennessee have either exemptions or a permit-by-rule allowance for small-scale composting of food scraps. The Tennessee Department of Environmental Conservation (TDEC) adopted an exemption for sites composting no more than 100 cubic yards (cy) per year of food scraps or similar material using an in-vessel composting method, or no more than 50 cy per year using other methods (windrows, aerated static piles, etc.) when it promulgated its new rules in 2016. Georgia amended its composting rule in 2018 to establish a permit-by-rule tier for food scrap composting; it applies to community-scale operations that receive food scraps from off-site sources (e.g., nearby households and small businesses). In 2019 North Carolina clarified its criteria for determining small versus large composting facilities and expanded the types of operations that are exempt from permitting, primarily small-scale food waste composting. The new category allows up to 100 cy of material on site at any one time (not including finished compost). In correspondence, Robert Wadley, environmental specialist with TDEC’s Division of Solid Waste Management, Materials Management Program, noted: “I am happy with the size limitations we set. It has covered all community gardens and community composting facilities of which I am aware. It has also allowed small-scale composters to ‘get their feet wet’ before they scale up.”

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; state-wide 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

State-level stakeholders in the Southeast have done little to promulgate awareness of federal policy around share tables or endorse their use in schools. Developing relevant guidance could reduce food waste and feed hungry people. 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

In most of the Southeast states, cities have taken a leadership role in developing food systems plans in the absence of state-level documents. 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 level. 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 towards 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, including Tennessee, 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.

Tennessee Food Waste Policy Gap Analysis

| Policy Category | Status | Policy Recommendations and Potential Advocacy Opportunities |
|------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Organics Disposal Bans and Recycling Laws | No Policy Tennessee currently has no organics disposal ban for food waste, and no financial incentive structure to encourage food donation or food waste diversion. | <ul style="list-style-type: none"> ■ Enact an organic waste ban or mandatory organics recycling law for all commercial generators. ■ Introduce a solid waste disposal tip fee that would help incentivize waste diversion while generating a revenue stream to fund food waste prevention and diversion programs. ■ Cities or counties may be able to enact their own organic waste bans for food waste or establish incentive programs for food donation or waste diversion because they have the power to develop their own solid waste disposal plans. Incentive programs can come in the form of recognition, certification, or regulatory relief. <p>Note: Progress on the recommendations below, particularly in the areas of Liability Protection, Tax Incentives, Organics Processing Permitting, Food Systems Plans, and Solid Waste Management Plans, can help make food waste reduction more common, which can lower barriers to implementing policies like a disposal ban.</p> |
| Date Labeling | Weak Policy Tennessee regulations require date labels on shellfish and ready-to-eat/temperature control for safety (TCS) foods. ² They also restrict the past-date donation of ready-to-eat/TCS foods. Tennessee does not have a standardized dual date labeling system in place and does not distinguish between date labels that are quality based and those that are safety based. | <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. ■ Remove prohibition on offering milk past the sell-by date. ■ Launch education campaigns and guidance documents that promote consumer awareness and education on the meaning of date labels. ■ Align any updates to date labeling policy with federal guidance. |
| Food Donation Liability Protections | Moderate Policy Tennessee provides liability protection for donors and distributors of food offered for free and includes a presumption of good faith. However, liability protections do not cover donations that are eventually supplied for a small fee. | <ul style="list-style-type: none"> ■ Provide liability protection beyond that offered at the federal level by the Bill Emerson Good Samaritan Food Donation Act, including: <ul style="list-style-type: none"> □ Liability protection for donations sold at a low price by distributing nonprofits. |
| Tax Incentives for Food Rescue | No Policy Tennessee offers no tax deductions or credits for the donation of food. However, the legislature passed a resolution in 2016 to encourage donation of excess food. ³ | <ul style="list-style-type: none"> ■ Offer tax incentives to offset the costs of food donation, including the cost of transporting donated food. ■ Offer a tax credit for donation by farmers. Tennessee may be considering such a policy as an economic development opportunity that also combats food insecurity. |
| Organics Processing Infrastructure Permitting | Moderate Policy Tennessee has a regulatory tier for organics processing, including an exemption for small-scale processors of food waste and similar material. It also has exemptions for small-scale and/or community composting operations. ⁴ However, it currently has no regulations for anaerobic digestion of solid waste. | <ul style="list-style-type: none"> ■ Develop a separate permitting pathway for anaerobic digestion of source-separated food waste that includes, where applicable, requirements similar to those imposed on composting source-separated food waste. ■ Ensure that permitting requirements are kept up-to-date with best practices for composting. ■ 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). |
| Food Safety Policies for Share Tables | Weak Policy Although Tennessee encourages the adoption of share tables in schools, the state provides no resources or guidance on food donation safety. ⁵ | <ul style="list-style-type: none"> ■ Develop comprehensive and state-specific food safety guidance for share tables and food rescue. ■ Promote opportunities for schools to increase rescue through share tables and other methods. |

| Policy Category | Status | Policy Recommendations and Potential Advocacy Opportunities |
|----------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Food Systems Plans, Goals, and Targets | No Policy Although some cities have created food systems plans, no regional or statewide food systems plans exist. ⁶ | <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 those targets. ■ Support regional plans, which provide the opportunity to set goals and targets for supporting food systems and promoting wasted food reduction strategies. |
| Plans Targeting Solid Waste | Strong Policy Tennessee has a current solid waste management plan that outlines waste diversion goals and recommendations for achieving these targets, including management of organic materials such as food waste. ⁷ The state has also developed a document compiling recommendations for best practices to address wasted food in Tennessee. | <ul style="list-style-type: none"> ■ Continue to develop and maintain existing plans to outline incremental goals and steps toward furthering organics diversion. ■ Develop a program and infrastructure to measure current diversion efforts across the state. Use data collected to support recommendations for other policy development. ■ Local solid waste management plans can be modified to incorporate a stronger focus on food waste reduction, including by establishing a timeline for achieving diversion goals. |
| Climate Action Goals | No Policy No climate action goals exist. | <ul style="list-style-type: none"> ■ Pass legislation and/or issue executive orders to establish climate action goals. ■ Create specific recommendations for reducing wasted food through climate action planning, and task specific departments with actionable next steps for moving policy forward. ■ In the absence of legislation and/or executive orders, further incorporate food waste reduction into existing sustainability initiatives. ■ Local climate action goals and plans can be passed to draw the connection between emission reductions and reducing food waste and to advance local efforts. |
| Grants and Incentive Programs Related to Food Waste Reduction | Moderate Policy Tennessee provides free technical assistance and grants for food loss and waste prevention or promotion of food rescue. ⁸ However, insufficient funding caused these programs to lapse during the COVID-19 outbreak. | <ul style="list-style-type: none"> ■ Increase funding for existing efforts to mitigate potential impacts on programming during external economic events. ■ Reinstate funding as soon as possible to maintain these programs. |

Tennessee Food Waste Policy Inventory

ORGANICS DISPOSAL BANS AND RECYCLING LAWS

There are no organics disposal bans or recycling laws in Tennessee currently. However, the Department of Environment and Conservation developed a 2015–2025 Solid Waste and Materials Management Plan that includes an objective to increase the diversion of organics. Additional information about this plan is included in the section Plans Targeting Solid Waste. Tennessee has also supported organic waste reduction with Organics Management Grants for counties, municipalities, nonprofits, and for-profit businesses.⁹

| Citation | Summary & Key Elements | Source |
|-----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Tennessee Department of Environment and Conservation, 2015–2025 Solid Waste and Materials Management Plan | <p>Title: 2015–2025 Solid Waste and Materials Management Plan</p> <p>Summary: The plan updated the 1991 Solid Waste Management Plan to adopt the concept of sustainable materials management. Of its eight objectives, Objective 4 focuses on increasing the diversion of organics to encourage the reuse, composting, and beneficial use of organics and on implementing source reduction efforts.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ The plan identifies strategies to achieve this objective, including: <ul style="list-style-type: none"> □ Encouraging residents and businesses to reduce food waste through increased information sharing; □ Expanding infrastructure for organics collection, processing, and end use; □ Adopting composting and organics recovery strategies at state facilities; □ Supporting commercial and institutional entities with on-site processing through technical and financial assistance as well as regulatory support; □ Updating composting and organics recovery regulations; and □ Considering a future disposal ban for organic materials as infrastructure becomes more robust. <p>Additional detail is provided in the Plans Targeting Solid Waste section below.</p> | <p>https://www.tn.gov/content/dam/tn/environment/solid-waste/documents/solid-waste/sw_2025-plan-final.pdf</p> |

DATE LABELING

Tennessee currently requires date labels for two food items: shellfish and “ready-to-eat, time/temperature control for safety (TCS) foods.” TCS foods may not be sold or donated after the labeled date.

| Citation | Summary & Key Elements | Source |
|------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Tenn. Comp R. & Regs. § 1200-23-01.03, 0080-04-09.03 | <p>Title: Food Service Establishment; Retail Food Store Sanitation</p> <p>Summary: Outlines requirements for date marking and packaging for shellfish.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Raw, shucked shellfish must be obtained in nonreturnable packages bearing a legible label that identifies the sell-by or best-if-used-by date for packages with a capacity of less than 1.89 liters, or the date shucked for packages with a capacity of 1.89 liters or more. Containers with less than 64 ounces of fresh, fresh frozen, or previously frozen shellfish must have clearly legible and conspicuous sell-by date labels. | <p>Food Service Establishment: https://publications.tnsosfiles.com/rules/1200/1200-23/1200-23-01.20180404.pdf</p> <p>Retail Food Store Sanitation: https://publications.tnsosfiles.com/rules/0080/0080-04/0080-04-09.20170628.pdf</p> |

| Citation | Summary & Key Elements | Source |
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| Tenn. Comp R. & Regs. § 1200-23-01.03 | <p>Title: Food Service Establishment</p> <p>Summary: Outlines requirements for date marking for “ready-to-eat” TCS foods.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ With some exceptions, refrigerated, ready-to-eat TCS foods held in an establishment for more than 24 hours must be marked to indicate the date or date by which the food must be consumed on the premises, sold, or discarded, based on certain time and temperature specifications. ■ With some exceptions, refrigerated, ready-to-eat TCS foods prepared and packaged by a food processing plant must be clearly marked, at the time the original container is opened in a food establishment and if the food is held for more than 24 hours, to indicate the date or day by which the food must be consumed on the premises, sold, or discarded based on certain time and temperature specifications. ■ The day or date marked by the food establishment may not exceed a manufacturer’s use-by date if the manufacturer determined the use-by date based on food safety. | <p>Food Service Establishment:</p> <p>https://publications.tnsosfiles.com/rules/1200/1200-23/1200-23-01.20180404.pdf</p> |

FOOD DONATION LIABILITY PROTECTIONS AND TAX INCENTIVES FOR FOOD RESCUE

There are no state-level tax incentives for food donation that go beyond federal incentives. There is extra liability protection, both criminal and civil, for the donation of wholesome food fit for human consumption.

| Citation | Summary & Key Elements | Source |
|-------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Tenn. Code Ann. § 53-13-101-103 | <p>Title: Liability of Free Food Distributors</p> <p>Summary: There is liability protection, both criminal and civil, for donors and distributors of donated food to charities or nonprofit organizations or directly to an individual for personal use.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ “Apparently wholesome food” is defined as food that meets agricultural and health standards but may not be saleable due to factors such as appearance, age, freshness, etc. Foods in damaged cans are excluded from this definition. ■ Any donor or gleaner who donates wholesome food is not subject to criminal penalty or civil damages that may come from the condition of the donated food. ■ Any nonprofit or charitable organization that receives wholesome food and distributes it is not subject to criminal penalty or civil damages that may come from the condition of the food donated. ■ This protection is null for both donors and distributors if there is an injury that resulted from gross negligence, recklessness, or intentional misconduct of the donor or distributor. ■ This protection also covers the donation of deer meat that is fit for human consumption. | <p>Chapter Definitions: Tenn. Code Ann. § 53-13-101</p> <p>Immunity of good-faith donor or gleaner from liability: Tenn. Code Ann. § 53-13-102</p> <p>Immunity of distributing organization from liability: Tenn. Code Ann. § 53-13-103</p> |
| HJR 0514, 109th Gen. Assemb. (2016 Tenn.) | <p>Title: Resolution to Encourage Donation of Excess Food</p> <p>Summary: Encourages state agencies and their contractors to donate excess, wholesome food to nonprofit organizations that help food-insecure people in the state.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Numerous Tennessee families face food insecurity and would be helped by donations of excess food. ■ Donations made in good faith are protected from civil and criminal liability by the federal Bill Emerson Good Samaritan Food Donation Act, and by Tennessee law. | <p>https://www.capitol.tn.gov/Bills/109/Bill/HJR0514.pdf</p> |

| Citation | Summary & Key Elements | Source |
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| Tenn. Code Ann. §§ 44-2-402, 404 | <p>Title: Feeding Garbage to Swine</p> <p>Summary: Garbage can be fed to swine under certain conditions.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> Garbage is defined as animal or plant waste resulting from the handling, preparation, cooking, or consumption of foods, including animal and fowl carcasses. This does not include bakery waste, whey, or other dairy waste. Garbage must be processed in a manner that is approved by the commissioner of agriculture. Individuals may feed garbage from their own households to their own swine. | <p>Definitions: Tenn. Code Ann. § 44-2-402</p> <p>When feeding garbage to swine is allowed: Tenn. Code Ann. § 44-2-404</p> |

ORGANICS PROCESSING INFRASTRUCTURE PERMITTING

The Tennessee Department of Environmental Conservation (TDEC) has not updated its organics processing infrastructure permitting regulations since its new composting rules were adopted in 2016. The 2016 rule grouped organic wastes into three types, and then further broke them down into three tiers depending on the potential risk they pose for human and environmental health. New exemptions were adopted for sites composting 100 cubic yards (cy) or less per year of food scraps or similar material using an in-vessel composting method, or 50 cy/year or less using other methods (windrows, aerated static piles, etc.). Operations outside the exempt practices are required to get a permit. TDEC's Solid Waste Management Division does not have regulations for anaerobic digestion of solid waste but will consider adopting AD-specific rules if the need arises. TDEC reports that the current exemption for food scraps composting (50 cy/year for outdoors; 100 cy/year for in-vessel) has adequately covered all community gardens and community composting facilities and also enables small-scale composters to “get their feet wet” before they scale up.

Food waste can be fed to swine, with some exceptions as to what constitutes food waste.

| Citation | Summary & Key Elements | Source |
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| Chapter 0400-II-01. Sec. II (Adopted July 2016) | <p>Title: Requirements for Compost and Composting Facilities 0400-II-01-.II</p> <p>Summary: Rule establishes procedures, documentation, and other requirements that must be met to operate a composting facility or offer compost for sale in the state.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> Three feedstock categories are identified: <ul style="list-style-type: none"> Type 1: Source-separated yard trimmings, woody material, crop residues, and other materials determined to pose a low level of risk to human health and the environment, including from physical contaminants and human pathogens. Type 2: Agricultural residuals, source-separated organics, and food processing residuals and industrial by-products determined to pose a low level of risk to human health and the environment despite having more physical contaminants and human pathogens than Type 1 feedstocks. Type 3: Mixed solid waste, diapers, sewage sludge, biosolids, and industrial by-products and food processing residuals not covered in Type 2 determined to pose a low level of risk to human health and the environment despite having more physical contaminants and human pathogens than Types 1 and Type 2 feedstocks. Three composting facility tiers are identified: <ul style="list-style-type: none"> Tier 1 may process only Type 1 materials. Tier 2 may process only Type 1 and Type 2 materials. Tier 3 may process Types 1, 2, and 3 materials. There are no maximum limits on the quantity of feedstock that can be processed at Tier 2 and Tier 3 facilities. Uses the U.S. Composting Council Model Compost Rule Template term “contact water” instead of “leachate” (which, in Tennessee, has more stringent management requirements not associated with composting operations, says TDEC).¹⁰ <i>Contact water</i> is defined as water that has come in contact with raw feedstocks in the tipping and mixing area(s) and active composting piles. | <p>http://www.getfoodsmarttn.com/content/page/act-schools/</p> |

| Citation | Summary & Key Elements | Source |
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| <p>Chapter 0400-II-01. Sec. 11 (Adopted July 2016) <i>Continued</i></p> | <ul style="list-style-type: none"> ■ Contact water must be reused in the process or otherwise properly managed as per all applicable laws and rules. ■ Facilities must follow a composting facility operations plan—reviewed and approved as part of the permit application—that describes operational procedures (methods and practices) to comply with the intent of regulations to protect human health and the environment and not create nuisances. This includes measures to control nuisance odors, vectors, fires, contact water, and stormwater; provisions for the annual maintenance of composting pads; and provisions for prompt equipment repair or replacement when needed. ■ A facility operations manager or a person responsible for day-to-day operations must document training in the basics of compost facility operations within the first year of supervising the facility. ■ By the end of each operating day, all incoming feedstocks at Tier 2 and Tier 3 facilities must be processed into the active composting pile, transferred to leakproof containment, or mixed with bulking material and covered in a manner that minimizes nuisance odors and scavenging by vectors. ■ Specifications for pad surfaces for feedstock receiving and active composting are in the rules’ Design & Operating Standards section for each tier. ■ TDEC requires compost sampling at a frequency determined by the quantity of material composted. Facilities must file an annual report that includes total quantity and type of feedstock received that year, total quantity of compost produced during the year covered by the report; total quantity of compost removed for use or disposal, and the market(s) or permitted disposal facility(s). ■ Exemptions from permitting apply to backyard composting; animal and crop production operations that compost yard trimmings, agricultural residuals, mortalities, woody materials, and/or food scraps generated on site on their own or leased property, with compost used on the site only; and any composting facility with a throughput of less than 400 cy of Type 1 feedstock during any calendar year. ■ Also exempt are any composting facility with a throughput of less than 50 cy of Type 2 feedstock from off-site sources during any calendar year, and any composting facility with a throughput of less than 100 cy of Type 2 feedstock from off-site sources in any calendar year using an in-vessel composting method. This is used primarily for small-scale food scrap composting. | <p>https://publications.tnsosfiles.com/rules/0400/0400-II/0400-II-01.20200908.pdf</p> |

FOOD SAFETY POLICIES FOR SHARE TABLES

There are no regulations or guidance on establishing share tables, but Get Food Smart Tennessee, a collaboration between the Tennessee Department of Environment and Conservation and the Tennessee Governor’s Office, encourages schools to establish share tables. Several schools have done so.¹¹

| Citation | Summary & Key Elements | Source |
|-----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| <p>Get Food Smart Tennessee Act: Schools</p> | <p>Title: Get Food Smart Tennessee Act: Schools</p> <p>Summary: To reduce food waste, Get Food Smart Tennessee encourages schools to establish share tables.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Does not provide any guidance on safety but encourages schools to check with the local health department for share table rules. | <p>http://www.getfoodsmarttn.com/content/page/act-schools/</p> |

FOOD SYSTEMS PLANS, GOALS, AND TARGETS

No statewide food systems plans exist for Tennessee. However, a tristate coalition across Arkansas, Mississippi, and Tennessee has developed a plan promoting healthy food access and the regional food economy across 15 counties in the three states. In addition, the town of Humboldt worked with the EPA on a plan to develop the local food community, and Nashville invested in a study to determine how to better support community food while promoting equity in food access.

| Citation | Summary & Key Elements | Source |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>East Arkansas Planning and Development District and Memphis–Shelby County Office of Sustainability, Delta Roots: The Mid-South Regional Food System Plan (May 30, 2015)</p> | <p>Title: Delta Roots: The Mid-South Regional Food System Plan</p> <p>Summary: This tristate regional food system assessment is aimed at promoting healthy food access and the local food economy.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Identifies regional strategies across Arkansas, Tennessee, and Mississippi to improve investment in food business growth, food access, and sustainability. ■ The region has a very low concentration of small farms, so the plan encourages support for produce and specialty crop farmers while simultaneously supporting low-income consumers. ■ Goals include: <ul style="list-style-type: none"> □ Family-sustaining income from specialty crops, livestock, and local food processing. □ Ensuring that individuals of all income levels have access to, and choose, fresh and healthfully preserved local produce. □ Waste recovery for productive reuse throughout the food system. | <p>http://d2mhm2wtn4batk.cloudfront.net/wp-content/uploads/Mid-South-Food-System-Report-FINAL.pdf</p> |
| <p>U.S. EPA Office of Sustainable Communities, Local Foods, Local Places: Community Action Plan for Humboldt, Tennessee (December 2017)</p> | <p>Title: Local Foods, Local Places: Community Action Plan for Humboldt, Tennessee</p> <p>Summary: Action plan created through the EPA's Local Foods, Local Places program promotes local food systems, in concert with healthy communities.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Strategic plan focuses on four goals: <ul style="list-style-type: none"> □ Launch a farmers market to expand food access. □ Start a community garden to encourage youth and senior involvement. □ Leverage benefits of local food projects to revitalize the downtown area. □ Develop local food and health planning collective to support and educate the community on food systems. | <p>https://www.ams.usda.gov/sites/default/files/media/LFLPHumboldtTN.pdf</p> |
| <p>Crossroads Resource Center, Metro Nashville Food System Assessment (March 2017)</p> | <p>Title: Metro Nashville Food System Assessment</p> <p>Summary: Compiles data and interviews on the food system in Nashville to recommend specific strategies to build a community-based food system.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Goals include: <ul style="list-style-type: none"> □ Building greater coordination among food system entities to help strengthen the existing community, including by hiring a community foods coordinator in the Mayor's Office. □ Raising the visibility of community foods in Nashville and investing in community foods. □ Ensure equity in food access through support and funding. □ Coordinating food purchases across agencies and school districts to reduce food-purchasing costs, and directing investment into local farms and processors. | <p>https://www.crcworks.org/nashville17.pdf</p> |

PLANS TARGETING SOLID WASTE

As noted in the Organic Disposal Bans and Recycling Laws section, Tennessee currently has a 10-year Solid Waste and Materials Management Plan that highlights a variety of opportunities in the state to support materials management efforts, including organic waste reduction. Since the development of that plan, the state has released specific recommendations for addressing food waste upstream of composting. It also convened a multi-sector stakeholder meeting to define the role that TDEC may play in supporting organic waste reduction and to support Objective 4 of the current Solid Waste and Materials Management Plan.¹² Additionally, it is notable that TDEC maintains a Policy and Guidance Manual that is used as a compendium of policies and practices established at the department over the years.¹³

| Citation | Summary & Key Elements | Source |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Tennessee Department of Environment and Conservation, 2015–2025 Solid Waste and Materials Management Plan</p> | <p>Title: 2015–2025 Solid Waste and Materials Management Plan</p> <p>Summary: The plan updated the 1991 Solid Waste Management Plan to adopt the concept of sustainable materials management and establish objectives for solid waste management over the 10-year planning period.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ This plan outlines the Department of Environment and Conservation’s vision, which includes: <ul style="list-style-type: none"> □ Fostering a robust collection and processing infrastructure and strong recycling economy; □ An increased focus on approaching waste with a framework for adopting sustainable materials management strategies; and □ Local government engagement to meet materials management goals. ■ Objective 4 focuses on increasing the diversion of organic materials, highlighting a variety of methods to do so (see details in Organics Disposal Bans and Recycling Laws section, above). ■ Objective 6 highlights an initiative to increase education and outreach for waste reduction, recycling, and composting. ■ Objective 8 targets the development of sustainable sources for funding materials management strategies, such as increasing municipal solid waste (MSW) tipping fee surcharges, alternative funding sources, and exploration of options for local program funding. <p>Additional detail is provided in the Organics Disposal Bans and Recycling Laws table.</p> | <p>https://www.tn.gov/content/dam/tn/environment/solid-waste/documents/solid-waste/sw_2025-plan-final.pdf</p> |
| <p>Tennessee Department of Environment and Conservation, Southeastern State Efforts to Address Wasted Food and Food Waste Upstream of Composting</p> | <p>Title: Southeastern State Efforts to Address Wasted Food and Food Waste Upstream of Composting</p> <p>Summary: The TDEC Offices of Sustainable Practices and Policy and Planning developed this document to outline recommendations to reduce, rescue, and redirect food waste in Tennessee.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Recommendations in the document include: <ul style="list-style-type: none"> □ Showcasing existing tools that support quantification of food waste; □ Creating educational materials and guidance documents around topics of wasted food; □ Drafting sample language to support stakeholders in adopting waste reduction goals and policies; □ Coordinating workshops for stakeholders focused on wasted food prevention and reduction; □ Showcasing success stories of entities that excel at waste reduction; □ Developing a forum to support the exchange of excess food; □ Evaluating opportunities for state-specific food donation laws; □ Consideration of opportunities to coordinate food labeling within the state; and □ Providing grant opportunities to support these efforts. | <p>https://www.tn.gov/content/dam/tn/environment/solid-waste/documents/materials-management/sw-mm-organics-policyguide.pdf</p> |

| Citation | Summary & Key Elements | Source |
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| <p>Tenn. Code Ann. § 68-211-801 et. seq.</p> | <p>Title: Solid Waste Management Act of 1991</p> <p>Summary: This act establishes a policy for the state to maintain a solid waste management program and to promote waste reduction.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Requires that planning regions achieve a 25 percent reduction in MSW by July 1, 1994. ■ Engages local governments in solid waste management planning, requiring a minimum 10-year capacity for disposal, active work toward the 25 percent waste reduction goal, and existence of collection infrastructure. ■ Encourages establishment of technical assistance programs to support local government and private organizations in waste reduction. ■ Creates a Solid Waste Management Fund to support waste reduction, recycling, composting, and household hazardous waste programs. Revenue is generated through a MSW disposal surcharge and a fee on tire disposal. Further, the act empowers the state to designate a portion of available funds to grants for the University of Tennessee to provide technical assistance for municipalities. ■ Section 68-211-806 empowers Tennessee State University and Middle Tennessee State University to research and develop methods for using materials in solid waste as raw materials to create jobs, business, and compost. | <p>https://law.justia.com/codes/tennessee/2014/title-68/environmental/chapter-211/part-8</p> |
| <p>Tenn. Code Ann. § 68-211-901 et. seq.</p> | <p>Title: Solid Waste Authority Act of 1991</p> <p>Summary: Authorizes the creation of regional solid waste program authorities.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Authorities established under Part 9 (Solid Waste Authority Act) possess autonomy to consolidate, expedite, or streamline services as an additional tool to implement requirements of the Solid Waste Management Act. ■ Unlike planning boards, Part 9 authorities can: <ul style="list-style-type: none"> □ Sue or be sued; □ Acquire property and exercise eminent domain; □ Enter into contracts; □ Incur debt; □ Hire employees or agents; and □ Establish tipping fees and surcharges. | <p>https://law.justia.com/codes/tennessee/2010/title-68/chapter-211/part-9/</p> |

CLIMATE ACTION GOALS

The Tennessee Department of Health acknowledges that climate change has an impact on public health.¹⁴ However, the state’s leadership has focused on individual environmental policies and strategies as opposed to cohesive climate action goals. Therefore, there are currently no carbon emissions reduction goals that can be specifically leveraged to support food waste prevention activities.

The Department of Environment and Conservation maintains a Sustainable Practices webpage that highlights a few of the initiatives it is undertaking to support sustainable community and economic development goals, including the Clean Tennessee Energy Grant Program.¹⁵ TDEC’s voluntary Tennessee Green Star Partnership program showcases manufacturers that are committed to sustainability; those practicing waste reduction would be excellent candidates.¹⁶ Additionally, TDEC’s Tennessee Sustainable Hospitality initiative promotes a sustainability road map for hospitality businesses that includes energy and water conservation, recycling and waste reduction, food waste reduction, communication and education, and greening the supply chain.¹⁷ Their resources for addressing wasted food include this reduction guide.¹⁸

GRANTS AND INCENTIVE PROGRAMS RELATED TO FOOD WASTE REDUCTION

Tennessee typically offers a variety of funding opportunities and technical assistance to support food waste reduction in the state. Due to the global pandemic, many of these funding initiatives have been paused for FY 2021.

| Citation | Summary & Key Elements | Source |
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| <p>Tennessee Department of Environment and Conservation, Office of Policy and Sustainable Practices–Technical Assistance</p> | <p>Title: Get Food Smart</p> <p>Summary: Provides free technical assistance to organizations in the state to support food waste reduction.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Support includes: <ul style="list-style-type: none"> □ Coordinating and hosting workshops; □ Engaging stakeholders to plan for reducing food waste; □ Planning food waste audits; □ Developing strategies to reduce food waste; □ Creation of standard operating procedures; and □ Training for on-site composting programs. | <p>http://getfoodsmarttn.com/content/page/technical-assistance</p> |
| <p>Tennessee Department of Agriculture, Agricultural Enterprise Fund</p> | <p>Title: Agricultural Enterprise Fund</p> <p>Summary: This program is designed to support the governor’s priorities for economic development and job creation in Tennessee by facilitating agricultural development.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Funding categories include projects that result in: <ul style="list-style-type: none"> □ Increased farm income; □ Increased access to markets; □ Increased capacity; and/or □ Agricultural innovation. ■ Projects must be based in Tennessee and run by an entity within the state, including farmers, businesses, local governments, or nonprofits. ■ Available funding provides up to 25 percent of the project budget, and there is no cap on awards per applicant. | <p>https://www.tn.gov/agriculture/businesses/aef.html</p> |
| <p>Tennessee Department of Environment and Conservation, Organics Management Grants</p> | <p>Title: Organics Management Grants</p> <p>Summary: Provides funding for local government, nonprofit recycling organizations, and private businesses to acquire equipment for reduction, recovery, donation, and processing of organic material. Priority is given to counties, municipalities, public institutions, and nonprofit organizations.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ In 2019, priority was given to projects with a public–private partnership; public entities offering new or expanded services; and initiatives that offer education or divert food through recovery, donation, animal feed, industrial uses, anaerobic digestion, or composting. ■ Funding of up to \$749,000 per project was available, with a 10–50 percent match requirement. Total funding budgeted in 2019 was \$3 million. ■ Funding was not available for FY 2021 due to the COVID-19 pandemic. | <p>https://www.tn.gov/environment/program-areas/solid-waste/materials-management-program/grants-administration.html</p> |

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| <p>Tennessee Department of Environment and Conservation, Education and Outreach Grant</p> | <p>Title: Education and Outreach Grant</p> <p>Summary: Provides funding for county and city governments, solid waste authorities, school districts, universities, and nonprofit organizations to offer education about recycling and waste diversion.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ A total of \$1 million was available in FY 2018–2019, with recipients allowed up to \$50,000 per site. ■ Proposed programs should align with Objective 6 of the 2015–2025 Solid Waste and Materials Management Plan (increasing education and outreach for waste reduction, recycling, and composting). ■ Requires a match of 10–50 percent. ■ Prioritizes public–private or public–public partnerships that target an adult audience. ■ Funding was not available for FY 2021 due to the COVID-19 pandemic. | <p>https://www.tn.gov/environment/program-areas/solid-waste/materials-management-program/grants-administration.html</p> |
| <p>Tennessee Department of Environment and Conservation, Waste Reduction Grants</p> | <p>Title: Waste Reduction Grants</p> <p>Summary: Offer funding to nonprofit recycling organizations, county and city governments, and solid waste authorities to establish or improve collection or processing operations or to prepare materials for transport and marketing.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Equipment that can be purchased with funds includes chippers, grinders, waste-to-energy devices, forklifts, recycled content roll carts with RFID tags, and more. ■ In FY 2018–2019, the state budgeted \$3 million in funding for these projects. A 10–50 percent match requirement was required, and award maximums were based on community population. ■ Funding was not available for FY 2021 due to the COVID-19 pandemic. | <p>https://www.tn.gov/environment/program-areas/solid-waste/materials-management-program/grants-administration.html</p> |
| <p>Tennessee Department of Environment and Conservation, Measurement Grant</p> | <p>Title: Measurement Grant</p> <p>Summary: Provides funding to county and city governments, solid waste authorities, private entities, and nonprofit recycling organizations to support purchase of measurement equipment for state reporting requirements.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Preference is given to applicants in a variety of categories, including recovered materials processing facilities, landfills, and transfer stations that are unable to comply with reporting requirements, as well as solid waste regions not meeting the 25 percent waste reduction goal. ■ Funding can be used for measurement equipment, software, computers, and monitoring devices. ■ Up to \$500,000 was budgeted for this grant in 2018; up to \$25,000 was awarded per grant, with a 10–50 percent match required. ■ Does not fund equipment covered by the Recycling Equipment Grant. ■ Funding was not available for FY 2021 due to the COVID-19 pandemic. | <p>https://www.tn.gov/environment/program-areas/solid-waste/materials-management-program/grants-administration.html</p> |

Food Waste Reduction Policy Gap Analysis 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 |
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| WEAK POLICY | | | | | | | | | |
| Organics disposal bans or mandatory organics recycling laws have been enacted but are ineffective due to exemptions, limited scope, and/or lack of guidance. | The state requires date labels for certain foods and prohibits or limits the sale or donation of food after its label date. | 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. | N/A | <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. | 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. | 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. | 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>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 |
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| 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 |
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| 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

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