

REPORT

WISCONSIN FOOD WASTE POLICY GAP ANALYSIS AND INVENTORY



FOOD SCRAPS RECYCLING GUIDE

Place only appropriate food scraps into your wasted food cart.
When in doubt, place into the trash cart instead.
Put scraps loose in the cart or in a paper grocery bag.

YES



Fruits & Vegetables



Dairy Products



Coffee Grounds



Baked Goods & Pastas

NO

- Meat & bones
- Egg shells
- Seafood shells
- Food wrappers & packaging
- Yard waste & brush
- Pet waste
- Diapers



Questions: streets@cityofmadison.com • (608) 267-2626 • cityofmadison.com/FoodScraps

WASTED FOOD ONLY

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About NRDC

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

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Table of Contents

Glossary of Terms	4
Introduction	5
Policy Gap Analysis Approach and Applications.....	5
Wisconsin Food Waste Policy Gap Analysis	12
Wisconsin Food Waste Policy Inventory	15
Food Waste Reduction Policy Gap Analysis Rubric	23

Glossary of Terms

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

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

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

GAP ANALYSIS COLOR CODING

No Policy
Weak Policy
Moderate Policy
Strong Policy

Introduction

This report comprises a gap analysis and detailed inventory of food waste-related policies in Wisconsin. 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 non-existent. 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 Great Lakes 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 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 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

States in the Great Lakes region have not established dual date labeling systems that clearly distinguish between 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. In addition, 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 Great Lakes have tax incentives for food rescue, and none of the states or jurisdictions reviewed in the Mid-Atlantic or Southeast 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 Great Lakes Region

The organics processing infrastructure permitting policy inventories for the four Great Lakes states covered in this report reveal a regulatory hodgepodge—from essentially no permitting oversight of food scrap composting in Michigan to a well-established, tiered regulatory approach in Ohio.

An official in the Solid Waste Section of the Michigan Department of Environment, Great Lakes, and Energy (MI EGLE) said new composting regulations that use a tiered approach to the permitting of composting facilities will be introduced in the legislature in 2021. The department also proposes to change the existing term for food waste (*garbage*) to *source-separated food waste*. Currently, MI EGLE does not have a permit for sites to accept source-separated food waste. Facilities processing less than 5,000 cubic yards per acre are required only to register with the state; facilities wanting to process more than that must show they have capacity and capability to compost a greater volume of material.

Illinois regulations accommodate food scrap composting, but the allowance (“up to 49 percent additives,” which include food waste) is in a Public Act rather than the solid waste regulation. The Illinois Environmental Protection Agency (IL EPA) is revising its regulations in 2021 to include food scrap composting permitting in its solid waste rule.

Ohio has had tiered regulation since its composting rules were promulgated in 1993. It revises the rules as necessary. For example, in 2012 the Ohio Environmental Protection Agency (OHEPA) added a 300-square-foot area-based (versus quantity-based) exemption for small-scale composting of yard trimmings and food scraps, such as at community gardens. Rule revisions made in 2018 increased that limit to 500 square feet, in large part because the agency observed that these sites were operated without causing public nuisances.

The Wisconsin Department of Natural Resources (WI DNR) exempts facilities from obtaining a compost license if they process less than 50 cubic yards of yard materials or food scraps at one time. All facilities handling matter that meets the state's definition of source-separated compostable materials and that are processing more than 50 cubic yards of it must obtain a composting "license" (permit). Food scraps are categorized as a source-separated material; sites that manage no more than 5,000 cubic yards source-separated compostable material on site at one time may operate under reduced regulatory requirements.

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

Three of the four Great Lakes states analyzed here have established strong policies to provide guidance for share tables in schools. Notably, Wisconsin offers guidance on food rescue in schools as well as food safety requirements. In 2016 the state's Department of Public Instruction issued a letter encouraging efforts to reduce waste at school meals. Actions along these lines can also help to 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

Illinois offers an example of a strong policy in this category, having developed a comprehensive statewide plan for managing both food and agriculture systems that takes food waste reduction into consideration. In the absence of state-level documents, many cities have also taken a leadership role in developing their food systems plans. 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 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 food 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, Illinois's Compost-Amended Soil Construction Act requires state agencies using off-site soil for construction projects to bid for a compost-amended soil if a facility is located within 10 miles of the project. 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.

Wisconsin Food Waste Policy Gap Analysis

Policy Category	Status	Policy Recommendations and Potential Advocacy Opportunities
Organics Disposal Bans and Recycling Laws	<p>No Policy</p> <p>Wisconsin has a yard waste disposal ban.² However, it has not enacted a disposal ban for food waste, and there is no financial incentive structure to encourage food donation or waste diversion.</p>	<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. ■ Continue providing educational materials and funding opportunities to expand food waste reduction. ■ Continue progress on the development of a statewide waste characterization study to understand types and quantities of materials landfilled in the state and to inform future policies and plans. <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	<p>Weak Policy</p> <p>Wisconsin requires date labels on eggs (either a quality-based date or a safety-based date) and on shellfish.³ There is no differentiation between quality-based and safety-based dates, and no clear permission to donate after the quality-based date.</p>	<ul style="list-style-type: none"> ■ Establish guidelines expressly allowing the donation or the freezing of food after a quality-based date, and educate businesses about donation. ■ Remove prohibition on offering eggs 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	<p>Weak Policy</p> <p>Wisconsin provides liability protection for donors and distributors of food offered for free but does not explicitly include a presumption of good faith.⁴ Liability protections do not explicitly cover those whose donations are sold to a final consumer for a small fee, nor do they cover donations directly to needy individuals. Also, liability protections are not specifically permitted when donors provide food products past a quality-based date.</p>	<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. □ Liability protection for certain direct donations made by food businesses directly to those in need. □ Explicit liability protection when donors provide food products past a quality-based date.
Tax Incentives for Food Rescue	<p>No Policy</p> <p>Wisconsin provides no additional tax deductions or credits for the donation of food beyond those offered by the federal government.</p>	<ul style="list-style-type: none"> ■ Offer tax incentives to offset the costs of food donation, including the cost of transporting donated food. ■ Offer a tax credit for donation by farmers.

Policy Category	Status	Policy Recommendations and Potential Advocacy Opportunities
Organics Processing Infrastructure Permitting	<p>Moderate Policy</p> <p>Wisconsin has a separate permitting tier for source-separated organics at facilities processing more than 50 cubic yards per year, and stricter regulations according to facility size.⁵ It has exemptions for small operations composting less than 50 cubic yards per year and has simplified permitting for yard waste facilities to accept food scraps. Wisconsin solid waste regulations do not reference anaerobic digestion.</p>	<ul style="list-style-type: none"> ■ Reduce barriers to entry for composting source-separated food waste through simplified permitting for the addition of food scraps at existing yard trimmings composting facilities, and provide an exemption from permitting for small-scale and/or community composting operations. Such a permitting process should be in sync with best management practices for composting source-separated food waste. ■ 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. ■ Bolster the market for finished compost by enacting procurement requirements for commercial developers (e.g., mandatory consideration of a bid for use of compost).
Food Safety Policies for Share Tables	<p>Strong Policy</p> <p>Wisconsin has created guidelines for rescue of surplus food in schools, which include food safety requirements for share tables in school cafeterias.⁶ Wisconsin encourages the use of both share tables and “no thank you tables.”⁷ “No thank you tables” differ from share tables in that other students may not pick up unconsumed items from this table during the meal period. Instead, designated food handlers or trained supervising adults must inspect the items for wholesomeness and document items that are left over.</p>	<ul style="list-style-type: none"> ■ Promote opportunities for schools to increase food rescue through share tables and other methods.
Food Systems Plans, Goals, and Targets	<p>Weak Policy</p> <p>Wisconsin’s Department of Health Services (DHS) released a set of goals for the state’s food system, but it does not consider food loss and waste.⁸</p>	<ul style="list-style-type: none"> ■ Review the existing DHS food system goals and determine if it is appropriate to develop a more comprehensive statewide food systems plan, with clear goals and targets to build a local, sustainable food system and support local farmers. The existing goals or a more comprehensive plan should include considerations for food waste reduction. ■ Regional plans provide the opportunity to set goals and targets for supporting food systems and promoting food waste reduction strategies.
Plans Targeting Solid Waste	<p>Strong Policy</p> <p>Wisconsin identifies waste diversion goals and recommendations for diversion in the Solid Waste Reduction, Recovery and Recycling Plan.⁹ The plan outlines a materials management hierarchy that promotes reduction, reuse, recycling, composting, and energy recovery from solid waste before land disposal and incineration without energy recovery.</p>	<ul style="list-style-type: none"> ■ Continue to maintain the existing plan and encourage local participation in the process. ■ 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.

Policy Category	Status	Policy Recommendations and Potential Advocacy Opportunities
Climate Action Goals	<p>Weak Policy</p> <p>There is no legislative framework for climate action goals. In 2019, Governor Tony Evers entered Wisconsin into the U.S. Climate Alliance and committed the state to pursuing greenhouse gas emissions reductions.¹⁰ He signed an Executive Order establishing a goal of 100 percent carbon-free electricity by 2050.¹¹ However, neither of these actions specifically address food waste reduction strategies.</p>	<ul style="list-style-type: none"> ■ Pass legislation and/or issue executive orders to establish climate action goals. ■ Task specific departments with actionable next steps for advancing emissions reductions in the context of reducing food waste. ■ Create specific recommendations for reducing food waste through climate action planning, and assign to specific departments actionable next steps for moving policy forward. ■ Local climate action goals and plans can be passed to draw the connection between emissions reductions and reducing food waste and to further local efforts.
Grants and Incentive Programs Related to Food Waste Reduction	<p>Weak Policy</p> <p>Wisconsin funds two grant opportunities for recycling and yard waste handling.¹² However, there are no grants or other funding opportunities or incentive programs that currently support food waste diversion efforts.</p>	<ul style="list-style-type: none"> ■ Establish specific grants, incentives, and funding for food loss and waste prevention and for promotion of food rescue. ■ Build on existing incentive programs to support food waste reduction (including management) activity. ■ Establish a free technical assistance program to help businesses divert organics from the waste stream. Local technical assistance programs can also support these efforts. ■ As a near-term, incremental option, consider implementing an incentive program to encourage businesses to divert food from the waste stream through donation or other measures. This could come in the form of government recognition, certification, or other encouragement.

Wisconsin Wasted Food Policy Inventory

ORGANICS DISPOSAL BANS AND RECYCLING LAWS

Wisconsin has an organics waste ban for yard waste.¹³ It does not have any other legislation regarding organics disposal bans or waste recycling laws that pertain to food waste.

DATE LABELING

The only food items in Wisconsin that require date labeling are eggs and shellfish. Date labeling on eggs may be confusing for consumers since a variety of different terms may be used, as noted in the table below. Moreover, packages of eggs must show two dates: a packing date and a use-by or expiration/sell-by date. Eggs may not be sold after the expiration or sell-by date. Wisconsin has not established regulations for donating food after the label date.

Citation	Summary & Key Elements	Source
Wis. Admin. Code ATCP § 88-34 (2015)	<p>Title: Egg Labeling</p> <p>Summary: A package of eggs must include both the date on which the eggs were packed and either (a) an expiration or sell-by date, labeled with “sell by” or “EXP,” or (b) a use-by date, labeled with “use by,” “best if used by,” or “use before.”</p> <p>Key Elements:</p> <ul style="list-style-type: none">■ Eggs may not be sold past the expiration or sell-by date.■ The period from a packing date to an expiration date may not exceed 30 days, including the packing date.■ The period from a packing date to a “use by” date may not exceed 45 days, including the packing date.	<p>https://docs.legis.wisconsin.gov/code/admin_code/atcp/055/88/v/34</p>
Wis. Admin. Code ATCP § 75, App. § 3-202.17 (2020)	<p>Title: Shucked Shellfish, Packaging and Identification</p> <p>Summary: Raw shucked shellfish in packages of less than one-half gallon must have a sell-by or “best if used by” date; anything larger must show the date shucked.</p> <p>Key Elements:</p> <ul style="list-style-type: none">■ A package of raw shucked shellfish that does not bear a label or does not show all necessary information can be subject to a hold order or to seizure and destruction.	<p>https://docs.legis.wisconsin.gov/code/admin_code/atcp/055/75_</p> <p>PDF version with more details: https://docs.legis.wisconsin.gov/code/admin_code/atcp/055/75_.pdf</p>

FOOD DONATION LIABILITY PROTECTIONS AND TAX INCENTIVES FOR FOOD RESCUE

Wisconsin provides state civil liability protection for donors and distributors of donated foods. It does not offer state tax incentives for food rescue.

Citation	Summary & Key Elements	Source
<p>Wis. Stat. § 895.51 (2021)</p>	<p>Title: Civil Liability Exemption: Food or Emergency Household Products; Emergency Medical Supplies; Donation, Sale, or Distribution</p> <p>Summary: Donors and distributors of food donations are immune from civil liability for the death or injury of a person who consumed the donated food, unless the injury or death was caused by willful or wanton acts or omissions.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Any person engaged in the processing, distribution, or sale of food products, for profit or not for profit, who donates or sells (at a price not to exceed overhead and transportation costs) qualified food to a charitable organization, food distribution service, or governmental unit is immune from civil liability for the death of or injury to an individual caused by the qualified food donated or sold by the person. ■ A <i>charitable food organization</i> is an organization the contributions to which are deductible by corporations in computing net income under section 71.26(2).¹⁴ A food distribution service is a program of a private nonprofit organization that provides food products directly to individuals with low incomes or that collects food products for and distributes food products to persons who provide the food products directly to individuals with low incomes. ■ Any charitable organization or food distribution service that distributes free of charge qualified food to any person is immune from civil liability for the death of or injury to an individual caused by the qualified food distributed by the charitable organization or food distribution service. ■ This protection does not apply if the death or injury was caused by willful or wanton acts or omissions. ■ <i>Qualified</i> food is defined as food products that meet the standards of quality established by state law or rule or federal law or regulations, including food products that are not readily marketable due to appearance, age, freshness, grade, size, surplusage, or other condition. 	<p>https://docs.legis.wisconsin.gov/statutes/statutes/895/ii/51</p>

ORGANICS PROCESSING INFRASTRUCTURE PERMITTING

The Wisconsin Department of Natural Resources (DNR) regulates organics processing infrastructure in the state. Regulations for composting and dry fermentation anaerobic digestion are contained within Wis. Admin. Code. NR § 502 of the state’s solid waste management rule. Wis. Admin. Code. NR § 502-12 regulates composting of source-separated materials, including yard trimmings and food scraps. The DNR exempts facilities from having to obtain a compost license if they process no more than 50 cubic yards (cy) of yard materials or food scraps at one time. All source-separated composting facilities handling materials that meet the definition of source-separated compostable materials (SSCM) and that are processing more than 50 cy of material at one time are regulated under Wis. Admin. Code. NR § 502-12 without any exemptions. Facilities of any size engaged in composting materials that are not regulated by the Wisconsin DNR wastewater division but that do not meet the definition of SSCM or one of the other Wis. Admin. Code. NR § 502-12 exemptions (primarily non-farm animal composting) are regulated under Wis. Admin. Code. NR § 502-08, Solid Waste Processing Facility. Dry anaerobic digesters (i.e., not low-solids wet digesters) are regulated as a solid waste processing facility under Wis. Admin. Code. NR § 502-08. Wisconsin is home to one of the nation’s first dry fermentation digesters, located on the campus of the University of Wisconsin, Oshkosh. Codigestion of source-separated food scraps with wastewater is regulated by the DNR’s wastewater division.

Swine may not be fed garbage except by individuals using garbage from their own household to feed their own swine. States such as Michigan use a narrower definition of *garbage* in reference to feeding swine, which enables broader food waste reduction efforts.

Citation	Summary & Key Elements	Source
<p>Wis. Admin. Code NR § 502-12 (2020)</p>	<p>Title: Yard, Farm, Food Residuals and Source-Separated Compostable Material Composting Facilities</p> <p>Summary: Wisconsin's DNR requires a compost license for facilities that process source-separated yard materials or food scraps if more than 50 cy of material is on site at any time, with some exceptions for on-farm composting. Facilities composting yard materials may process up to 20,000 cy with reduced regulatory requirements. Food scraps are categorized as a source-separated material; sites that manage 5,000 cy or less of source-separated compostable material on site at one time may operate under reduced regulatory requirements.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ <i>Source-separated compostable materials</i> are defined as food scraps; yard, garden, and greenhouse trimmings; farm and non-farm crop residues; aquatic plants; fruit, vegetable, and grain processing residues (e.g., from canning or brewing); fish harvesting and processing leftovers; farm and other manure from plant-eating animals; clean chipped wood; clean sawdust; nonrecyclable compostable paper; and other, similar materials approved in writing by the DNR. ■ <i>Food residuals</i> are unconsumed raw or cooked compostable material that results from handling, preparation, cooking, sale, or consumption of food. They include whole, ground, and pulped food scraps, as well as compostable food packaging, utensils, tableware, kitchenware, and food containers that meet either the ASTM D6400 or D6868 standard. Food residuals include vegetable and non-vegetable food residuals but do not include rendering or slaughterhouse wastes or animal carcasses. ■ Reduced regulatory requirements for food scraps composting at sites with more than 50 cy to 5,000 cy at one time include exemptions from certain closure, environmental review, and monitoring requirements. These sites must have an initial site inspection and a written plan of operation approval from the DNR. ■ Raw materials accepted for composting must be source separated at the point of generation so that they have not been mixed or otherwise contaminated with non-approved waste types, particularly materials that are not readily compostable. Prior to incorporation into the composting process, the raw materials must be sorted as needed to ensure that items not readily compostable are removed (unless alternate methods are used in conjunction with equipment to produce a compost product virtually free of physical and chemical contaminants). ■ Compost product that contains physical or chemical contaminants such as plastic, glass, metal scraps, or regulated concentrations of heavy metals or organic compounds may require controlled disposal under an approved land-spreading plan or at a landfill. ■ Grass clippings and food residuals from canned, frozen, or preserved fruit or vegetable processing operations must be incorporated into windrows or another composting process within 72 hours of receipt at the facility, unless odor becomes a problem at the facility, in which case these materials must be incorporated within 24 hours. 	<p>https://docs.legis.wisconsin.gov/code/admin_code/nr/500/502/12</p> <p>Guide to Regulations: https://dnr.wisconsin.gov/topic/Recycling/regs.html</p>

Citation	Summary & Key Elements	Source
<p>Wis. Admin. Code NR § 502-12 (2020) <i>Continued</i></p>	<ul style="list-style-type: none"> ■ Fish harvesting and processing residuals, manure, and food residuals that are not from canned, frozen, or preserved fruit or vegetable processing operations must be incorporated into windrows or another composting process on the same operating day as received at the facility. Upon initial incorporation of these residuals, composting windrows or piles must be covered with a minimum 6-inch layer of compost, high-carbon material such as wood chips, or other suitable material to control odor and vectors. ■ Minimum design standards require that composting take place on an area “sloped sufficiently” to prevent ponding; measures including berms or ditches can be used to prevent stormwater run-on. ■ Composting sites processing more than 5,000 cy of food scraps and more than 20,000 cy of yard waste have strict stormwater requirements. Food waste compost sites processing no more than 50 cy must have a stormwater pollution prevention plan, but that is handled through the solid waste approval process and a separate stormwater permit is not needed. Sites that have specific concerns, are part of industrial operations that are required to have a stormwater permit, or are in a municipality that requires a permit do need to incorporate their composting operation into that permit through the DNR’s stormwater program.¹⁵ ■ All runoff that contacts materials being composted or raw materials staged for composting must be managed as leachate and be directed to either a collection basin or a tank. Leachate may be used in the composting operation for moisture addition. All other leachate must be treated at an on-site or off-site wastewater treatment facility permitted to accept it. Leachate collection capacity must be designed for a 25-year, 24-hour storm event. ■ Finished compost may be designated and distributed as Class A compost if it meets all of the following requirements:¹⁶ <ul style="list-style-type: none"> □ It is composed entirely of materials meeting the definition of source-separated compostable materials. □ It is produced by approved processes to reduce pathogens, with temperature and retention time monitored and recorded each day until the temperature and retention time criteria are met. □ It has been tested in accordance with requirements of this section. □ It does not exceed any of the limits specified in this section. 	<p>https://docs.legis.wisconsin.gov/code/admin_code/nr/500/502/12</p> <p>Guide to Regulations: https://dnr.wisconsin.gov/topic/Recycling/regs.html</p>
<p>Wis. Admin. Code NR § 502-08 (2020)</p>	<p>Title: Solid Waste Processing Facilities</p> <p>Summary: A facility composting materials other than yard materials and source-separated compostable materials is regulated as a processing facility under Wis. Admin. Code NR § 502-08 (2020). It must have a plan of operation approval and an operating license from the WI DNR Solid Waste Management department. Dry anaerobic digestion facilities also are regulated under this section.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ <i>Processing facility</i> is a facility at which solid waste is baled, shredded, pulverized, composted, classified, separated, combusted, or otherwise treated or altered by some means to facilitate further transfer, processing, utilization, or disposal. ■ What falls within this category is determined by feedstocks, not by facility size or quantity of feedstock. If an anaerobic digestion facility is exempt from needing a wastewater permit (e.g., a dry digester), then it is permitted under Wis. Admin. Code. NR § 502-08. ■ A facility composting a mixture including any industrial solid waste, such as paper mill sludge, along with yard materials or food scraps is regulated either as a solid waste processing facility under the DNR’s Waste and Materials Management Program or under a wastewater discharge permit issued by the agency’s Watershed Program. ■ Each facility must get DNR approval of a plan describing how the facility will be designed, constructed, operated, and monitored. The facility also needs a solid waste processing license. 	<p>https://docs.legis.wisconsin.gov/code/admin_code/nr/500/502/08</p>

Citation	Summary & Key Elements	Source
Wis. Stat. § 95.10 (2021)	<p>Title: Feeding Garbage to Swine</p> <p>Summary: Feeding garbage to swine is not permitted except by individuals feeding their own swine garbage from their own household.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ It is unlawful for any person to feed public or commercial garbage to swine or place garbage on any premises where swine are kept. ■ No swine that have eaten such garbage can be sold or removed from the premises. ■ Public or commercial garbage includes putrescible animal or vegetable waste resulting from the handling, preparation, processing, cooking, or consumption of food. 	https://docs.legis.wisconsin.gov/statutes/statutes/95/10

FOOD SAFETY POLICIES FOR SHARE TABLES

Wisconsin's Department of Public Instruction encourages the use of share tables and “no thank you tables” and provides substantial guidance on how to establish such programs in schools. Templates for establishing standard operating procedures for share tables, no thank you tables, and food donation are available on the School Nutrition Team's food safety web page.¹⁷

Citation	Summary & Key Elements	Source
Sharing and No Thank You Table Toolkit, November 2019	<p>Title: Sharing and No Thank You Table Toolkit</p> <p>Summary: Wisconsin's Department of Public Instruction's School Nutrition Team developed a toolkit to assist schools participating in the School Nutrition Programs in safely establishing share tables and no thank you tables and reducing food waste.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Encourages many methods of food waste reduction, including share and no thank you tables. ■ Allows only unopened, pre-packaged items and whole fruits or vegetables. Refrigerated foods or foods requiring time/temperature control for safety (TCS) must be collected into temperature control during meal service and can be taken by students during the meal period but may not be re-served, regardless of its temperature at the end of the meal service. ■ Describes how food items can be redistributed, composted, or donated. ■ Leaves food safety decisions to the discretion of the sanitarian and/or local regulatory authority. For those schools that allow share or no thank you tables, the food safety plan for the school must include a corresponding standard operating procedure. 	https://dpi.wi.gov/sites/default/files/imce/school-nutrition/sharing-no-thank-you-toolkit.docx
Guidance for Donating Food to Eligible Local Food Banks or Charitable Organizations, May 2019	<p>Title: Guidance for Donating Food to Eligible Local Food Banks or Charitable Organizations</p> <p>Summary: The Department of Public Instruction's School Nutrition Team developed a checklist for school food authorities participating in the National School Lunch, School Breakfast, and/or Afterschool Snack Programs to follow when donating excess food.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Encourages the reduction of food waste through increased education and collection of data on student food choices. ■ Upon request, offers written guidance to entities that may be interested in receiving donations. ■ Requires a written plan to describe storage and/or transport of donated foods to maximize food quality and ensure its safety. ■ Requires that the sanitarian and/or local regulatory authority ensure that donation procedures are compliant with the Wisconsin Food Code. 	https://dpi.wi.gov/sites/default/files/imce/school-nutrition/guidance-for-donating-food.docx

Citation	Summary & Key Elements	Source
Letter: Reducing Food Waste in the National School Lunch and School Breakfast Programs, October 11, 2016	<p>Title: Reducing Food Waste in the National School Lunch and School Breakfast Programs</p> <p>Summary: This letter, from the director of the Wisconsin Department of Public Instruction's School Nutrition Team to the authorized representatives and food service directors of school food authorities participating in the USDA Child Nutrition Programs, describes steps schools can take to reduce food waste.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Encourages marketing and the use of social media to raise awareness of and excitement around food reduction programs. ■ Encourages schools to adapt "Smarter Lunchrooms" to guide students to make healthier decisions and waste less food. ■ Recommends that schools undertake a plate waste study. ■ Encourages schools to implement sharing tables. 	https://dpi.wi.gov/sites/default/files/imce/school-nutrition/pdf/snt-mail-101116.pdf

FOOD SYSTEMS PLANS, GOALS, AND TARGETS

The cities of Madison and Milwaukee have committed to a regional food systems planning process.¹⁸ Statewide, the Wisconsin Department of Health Services created a food system plan as part of its Nutrition, Physical Activity, and Obesity Program. Winnebago County has also studied its regional food system.¹⁹

Citation	Summary & Key Elements	Source
Wisconsin Department of Health Services, Wisconsin Nutrition, Physical Activity, and Obesity State Plan: 2013–2020	<p>Title: Goal 6: Food System</p> <p>Summary: Wisconsin's Department of Health Services created a set of goals for the state's food system to support healthy eating. It does not consider food waste.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Develops four strategies to support the state's food system and the department's goal of improving public health by increasing access to healthy food: <ul style="list-style-type: none"> □ Increase access to and affordability of fruits and vegetables; □ Increase access to and promotion of healthy foods in restaurants, food stores, and vending machines; □ Promote access to and consumption of healthy beverages; and □ Increase access to education and programs that support breastfeeding initiation and duration. 	https://www.dhs.wisconsin.gov/publications/p0/p00507-6food.pdf

PLANS TARGETING SOLID WASTE

Wisconsin’s DNR maintains a document that provides an overview of the Wisconsin Waste Reduction and Recycling Law.²⁰ While this law defines the term *solid waste management plan*, there is no reference therein requiring the development of state or local plans.

Citation	Summary & Key Elements	Source
Wis. Stat. § 287 (2021)	<p>Title: Solid Waste Reduction, Recovery and Recycling</p> <p>Summary: This promotes development of a framework for the state to follow for materials management, encouraging reduction, reuse, and recycling.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Establishes policies for “reduction of the amount of solid waste generated, the reuse, recycling, and composting of solid waste and resource recovery from solid waste.” ■ Outlines a materials management hierarchy that promotes reduction, reuse, recycling, composting, and energy recovery from solid waste before land disposal and incineration without energy recovery. ■ Encourages the DNR to provide technical and financial assistance as well as education and outreach to support residents in following the hierarchy. ■ Creates an infrastructure by which “responsible units” (RUs) are tasked with implementing municipal recycling programs. RUs may be a municipality, county, tribe, solid waste management system, or other unit of local government. ■ Requires RUs to provide an annual recycling report to the DNR. ■ Outlines a mechanism by which RUs that maintain an “effective recycling program” can be eligible for grant funding. 	<p>https://docs.legis.wisconsin.gov/statutes/statutes/287/_23?up=1</p>

CLIMATE ACTION GOALS

In February 2019, Wisconsin’s Governor Evers announced plans for the state to join the U.S. Climate Alliance, committing the state to reduce greenhouse gas emissions by 26–28 percent below 2005 levels by 2025.²¹ Since this announcement, the governor has issued two executive orders establishing green energy goals, an Office of Energy and Sustainability, and a Governor’s Task Force on Climate Change. In 2020 the task force issued a report outlining policy recommendations to address climate change in the state, including suggestions for food waste diversion.

Citation	Summary & Key Elements	Source
Governor’s Task Force on Climate Change Report (December 2020)	<p>Title: Governor’s Task Force on Climate Change Report</p> <p>Summary: This report outlines policy solutions that the state can pursue to lead in addressing climate change.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Policy recommendations include: <ul style="list-style-type: none"> □ Leading by example in reducing greenhouse gas emissions reductions within the state’s asset portfolio by pursuing activities like responsible waste management. □ Creating local control for waste management and eliminating policies that remove the authority of local agencies to ban plastic bags and regulate single-use products. □ Developing a food waste program. This strategy encourages the implementation of a pilot program that focuses on prevention, recovery, and composting. ■ Identifies the opportunity to build synergies between agricultural practices and materials management, such as composting systems that both mitigate emissions and improve soil health. 	<p>https://climatechange.wi.gov/Documents/Final%20Report/USCA-WisconsinTaskForceonClimateChange_20201207-HighRes.pdf</p>

Citation	Summary & Key Elements	Source
Executive Order #38 (August 16, 2019)	<p>Title: Relating to Clean Energy in Wisconsin</p> <p>Summary: This order created the Office of Sustainability and Clean Energy, tasked with achieving the goal of 100 percent carbon-free electricity by 2050, decreasing emissions as outlined in the Paris Agreement, creating a clean energy plan, promoting clean energy workforce training, supporting clean energy innovation, and developing efficiency standards for state buildings.</p> <p>Key Elements: While the executive order is technology agnostic, it provides an opening for promoting anaerobic digestion of organic waste as a renewable energy solution.</p>	https://evers.wi.gov/Documents/EO%20038%20Clean%20Energy.pdf
Executive Order #52 (October 17, 2009)	<p>Title: Relating to the Creation of the Governor’s Task Force on Climate Change</p> <p>Summary: This order created the Governor’s Task Force on Climate Change, tasked with creating policy recommendations to address and mitigate the impacts of climate change.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Encouraged the incorporation of climate adaptation strategies into existing planning. ■ Resulted in the task force’s release of the Climate Change Report, listed above, in December 2020. 	https://climatechange.wi.gov/Documents/2019-52.pdf

GRANTS AND INCENTIVE PROGRAMS RELATED TO ADVANCING FOOD WASTE REDUCTION

The Wisconsin DNR maintains a list of available grant opportunities and currently provides two grants to RUs focused on recycling and yard waste handling.²² The Department of Agriculture, Trade and Consumer Protection developed a page outlining grants and funding opportunities; however, none currently support food waste diversion efforts.²³

Citation	Summary & Key Elements	Source
Basic Recycling Grant, Wisconsin Department of Natural Resources	<p>Title: Basic Recycling Grant to Responsible Units</p> <p>Summary: This grant program supports RUs with funds covering reasonable and necessary costs for planning and operating an effective recycling program.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Lists grant-eligible recyclables including grass clippings, debris and brush under 6 inches in diameter, and leaves. The list does not expressly include food waste. ■ Provides funding for education and outreach, collection and transportation of materials, staff salary, contractual services, utility services, and rents or leases. ■ Typically receives applications from July through October, with a decline in funding awarded based on the date submitted. 	https://dnr.wisconsin.gov/aid/Recycling.html
Recycling Consolidation Grant, Wisconsin Department of Natural Resources	<p>Title: Recycling Consolidation Grant to Responsible Units</p> <p>Summary: This grant provides supplemental assistance to eligible RUs to promote collaboration between units.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Typically receives applications from July through October, with a decline in funding awarded based on the date submitted. ■ Provides funding for residential and two- to four-unit household recycling and yard waste program costs, including education and outreach, collection and transportation of materials, staff salary, contractual services, utility services, and rents or leases. 	https://dnr.wisconsin.gov/aid/Consolidation.html

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
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
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.	<p>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:</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, and the state provides share table guidance, though that guidance is limited.	<p>Robust regional food systems plans or state food systems plans exist, but one of the following is true:</p> <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.	<p>Climate action goals exist, and one of the following is 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 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. ■ Available funding is unsustainable or insufficient to support desired activities. ■ No technical assistance is available to food service waste generators to support food waste reduction efforts.

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

ENDNOTES

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- 14 Wis. Stat. § 71.26(2) (1987).
- 15 Wis. ADMIN. CODE NR § 216.002(33) (2004).
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