



# Food Donation and Food Scraps Recycling Law Guidance for New York State Businesses



Department of  
Environmental  
Conservation





Amount of food wasted  
each year in New York:  
**7.8 billion pounds\***  
As heavy as **17,333** Statues of Liberty\*\*

**Financial value of food wasted across  
the U.S. each year: \$218 billion**

**Nearly 6.5 billion meals'  
worth of food is wasted in  
the U.S. each year.**



## About This Document

Approximately 40% of the food produced in the United States goes uneaten while an estimated 2.2 million New Yorkers are food insecure. Simultaneously, excess edible food and food scraps end up at a landfill, where their decomposition produces methane, a potent greenhouse gas.

Under New York State's Food Donation and Food Scraps Recycling Law, effective January 1, 2022, businesses and institutions that generate an annual average of two or more tons of food scraps per week must:

- **Donate excess edible food, and**
- **Recycle all remaining food scraps if they are within 25 miles of an organics recycler with excess capacity.\***

\*Capacity is defined as the amount of food scraps that an organics recycler is able to receive based on available space, permitting limitations, and the facility's desire and ability to manage the waste.

**Food insecurity is experienced by  
2.2 million people in New York.**

[\\*Benefit-Cost Analysis of Potential Food Waste Diversion Legislation, NYSERDA Report 17-06, March 2017](#)

[\\*\\*New York City Self-Sufficiency Report: Overlooked & Undercounted 2021, Food Bank for NYC, June 2021](#)



This document outlines best practices and resources for designated food scraps generators (DFSGs) to use when developing their organics management programs and maintaining compliance under the law. This document serves as a starting point, and you can find further information at the additional resources linked in each section, or by emailing [FoodScrapsLaw@dec.ny.gov](mailto:FoodScrapsLaw@dec.ny.gov). Visit DEC's website for [guidance documents](#) for solid waste management facilities and transporters.

The New York State Department of Environmental Conservation's (DEC) Organics Reduction and Recycling Section (ORRS) provides regulatory oversight, education, and outreach for organics reduction and recycling in New York State. The ORRS is focused on substantially reducing the amount of edible food wasted and increasing organics recycling in the state by outreach, education, and implementing scientifically based regulations.



# Table of Contents

## Food Waste Reduction

page 7

While not required under the law, reducing wasted food holds numerous benefits for businesses and the environment. This section helps businesses to understand common sources of food waste and recognize the impacts on their business, and serves as a starting point to quantify and reduce this waste. Implementing a food waste prevention program can save resources, labor, purchasing expenses, and waste-hauling costs.

## Food Donation

page 12

This section discusses the connection between wholesome, edible food that is thrown away and the 2.2 million New Yorkers who are food insecure. Donating uneaten, wholesome food to local food relief organizations can help serve those in need and reduce the amount of waste produced by businesses. There are numerous resources and tools available to businesses wishing to donate. This section outlines these tools and answers common questions about donation, including liability, tax benefits, food safety, and best practices for implementing an effective and safe donation program.

## Food Scraps Recycling

page 17

After a business has donated their edible food to the maximum extent practicable, the material remaining still has valuable organic matter and nutrients, and those materials can be recycled into products that benefit our soils. Additionally, excess food that may not meet the standards for human consumption through donation may be diverted for animal feed. This section outlines steps to implementing a food scraps recycling program, including assessing existing waste practices, separating and storing food waste, and transporting and recycling these materials.

### Important Links for Additional Reading

#### [6 NYCRR Part 350 Regulations](#)

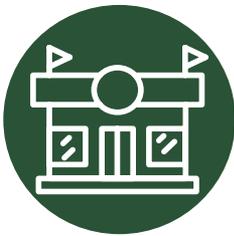
These New York State regulations were developed to implement the requirements outlined in the [Food Donation and Food Scraps Recycling Law](#) enacted in 2019. Designated food scraps generators will need to comply with these rules effective January 1, 2022.

[A Q&A Guide for New York State Businesses, Municipalities, & Communities](#), created by the New York State Pollution Prevention Institute, 2019

[The New York State Pollution Prevention Institute](#) (NYSP2I) works with entities across the state to identify practical, cost-effective solutions for managing food waste through prevention, donation, and recycling. This Q&A document was developed as an easy-to-use resource with answers to the most common questions asked when developing a strategy for managing food waste.



# FOOD WASTE REDUCTION



## RESTAURANTS

Restaurants and food service businesses generate **25.4 billion pounds** of surplus food each year.\*



## GROCERY

Grocery retailers generate **21 billion pounds** of surplus food (produce) each year.\*\*



## INSTITUTIONS

Institutions and other businesses such as hotels, universities, and other establishments with cafeterias, generate an additional **7 to 11 billion pounds** every year.†

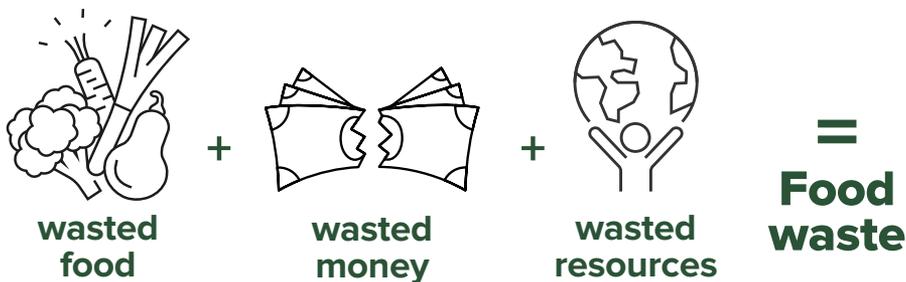
Across the United States, food waste in the food retail and service industries adds up to about \$218 billion, and this financial loss can be felt by businesses throughout the country. For example, when food is placed in your trash bins, your business has already paid for it in a few different ways: when it was purchased, labor costs for preparation, storage costs, and waste hauling costs. Essentially, reducing food loss and waste (also referred to as food waste or wasted food) is good for business.

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\*<https://refed.com/stakeholders/restaurants-and-foodservice>

\*\*<https://refed.com/stakeholders/retailers>

†NRDC report, <https://www.nrdc.org/sites/default/files/wasted-2017-report.pdf>



## The Business Case for Reducing Food Waste

### Benefits:

- **Save money** – Sell more of your purchased food, reduce disposal costs, and make your operations more efficient.
- **Increase brand value** – Attract customers and clients by advertising the steps you've taken to reduce food waste.
- **Reduce climate impacts and environmental footprint** – Reducing food loss and waste conserves the resources and energy used to grow and transport them, and prevents them from being wasted, too. Wasted food and food scraps also generate methane, a potent greenhouse gas, when they are thrown away in landfills.

Although the New York State Food Donation and Food Scraps Recycling law does not require DFSGs to reduce food waste generation, there are many good reasons to start a waste reduction program or improve an existing one. Developing a plan to reduce food waste at your business or institution can save you money, reduce your carbon footprint, and reduce the amount of food scraps that you must recycle or dispose of. This section of the guide is not prescriptive; use it as a starting point to help determine the steps you can take to reduce food waste. You will find resources linked throughout this guide to help you get started.

## DEVELOPING A FOOD WASTE REDUCTION PROGRAM

Professionals in the food service and retail industries are already experts in preventing food waste. The tips below can help you design, implement, and sustain a food waste reduction program that will fit seamlessly into your business operations. Even if you have a program in place, it may be a good time to reassess your program and look for ways to improve.

### Engage your staff

One of the most important first steps in developing a food waste reduction program is engaging staff and seeking their input. Make sure to include kitchen staff, too, as involving the staff members that directly handle the food is key to a successful food waste reduction program.



*Buy-in from staff at all levels of your business is important and will ensure that your program is supported and sustainable.*

## Quantify your food waste

To quantify your waste, try [conducting a waste audit](#) or using a tool such as the NYSP21's [Food Waste Estimator Tool](#). There are many strategies you can take to [measure food loss](#) and waste.

## Evaluate and determine the root causes of your food waste

Once you've determined approximately how much of your waste stream is comprised of wasted food and food scraps, you can start to consider where the waste is coming from and if it's preventable.

### Questions to ask:

1. Where is the waste coming from? Is there a particular point in your operations where more food is being wasted?
2. Are there any menu items that customers aren't receptive to? Are portion sizes for some menu items too large?
3. Are there certain times or days of the week that more food is being wasted?

## Set your goals

Use the information gained from the waste quantification and evaluation process to set your goals for food waste reduction.

## Communicate with staff

- Work with your staff to identify different preparation methods, storage techniques, new recipes, etc., they could use to reduce food waste.
- Develop and conduct any necessary training. Encourage staff at all levels to participate and share their ideas.

## Monitor your program

Keep track of your progress and make adjustments where necessary.

## Tracking Inventory and Food Waste

Consider improving your current methods of tracking inventory. Some management tools available to businesses to help track inventory and measure food waste include Leanpath, Phood, and Winnow.



## Food Waste Reduction Tips

There are many opportunities to reduce food waste in the kitchen, in dining areas, and on the store floor. Some best management practices include:

### RESTAURANTS/FOOD SERVICE:

- Track preparation and best-by dates, and store food using the “first-in, first-out” technique to reduce spoilage.
- Move away from batch preparation if you find that you are wasting significant amounts of batch-prepared food. Consider cook-to-order preparation, if possible.
- Offer varying portion sizes.
- Ask customers if they want sides or complimentary items such as bread and chips before providing them.
- Use innovative techniques that repurpose leftover food or use non-traditional parts of food (e.g., root-to-stem cooking). Advertise these dishes to your customers to increase your brand value with environmentally conscious customers.

Nearly three-quarters of the total surplus comes from plate waste (customers not eating what they've been served).

### GROCERY STORES/FOOD RETAIL

- Reduce overstock by finding new ways to display food. Consider displaying produce in smaller containers so the display can appear fuller without overstocking.
- Offer discounts on imperfect produce or food items that are close to the “sell-by” or “use-by” date. Follow all applicable food safety requirements and add additional signage to educate customers on how to read date labels.



# FOOD DONATION

The Natural Resources Defense Council (NRDC) estimates that up to 40% of food in the United States goes uneaten, and excess edible food ends up being thrown out in landfills by restaurants, grocery stores, and institutional food service providers every day. This represents a lost opportunity for approximately 2.2 million New Yorkers who are food insecure. Donating uneaten, wholesome food to local food relief organizations can help serve those in need and reduce the amount of waste produced by your business.

Under the [New York State Food Donation and Food Scraps Law](#), all designated food scraps generators are required to donate their excess edible food to the *maximum extent practicable*.

***Maximum extent practicable*** means the degree to which the maximum amount of edible food can be donated for human consumption without jeopardizing human health and the environment, by implementing best management practices and taking into account cost-effectiveness and feasibility.



[Feeding New York State](#) is available to connect businesses with donation organizations and answer questions on food donation best practices.

**Donation Information Hotline: 1-518-930-7000**

## Liability Protection

The federal Bill Emerson Good Samaritan Food Donation Act, as well as New York's Good Samaritan Law, provide strong [liability protection](#) for businesses that donate food in good faith and do not act with gross negligence.

## Tax Savings

In addition to helping hungry New Yorkers, businesses can claim general or enhanced federal tax deductions for food donation to a 501(c)(3) not-for-profit. You can find more information on these tax opportunities on our [Tax Incentives Legal Fact Sheet](#). You should also contact your tax professional to determine applicability.

## HOW TO DONATE FOOD SAFELY

When setting up a food donation program, you must discuss what can be donated and the logistics of the process with the food relief organization, and establish procedures that protect the safety of donated foods. In general, businesses can donate packaged, shelf-stable, perishable, non-perishable, and prepared foods *that have not been served*. This includes raw



or properly cooked, processed, and prepared edible foods as long as they have not been served. Foods may not be donated if they are not suitable for use in your establishment because they have been improperly prepared. In New York State, food safety requirements for food service establishments can be found in [10 NYCRR Part 14](#).

### Donating Prepared Foods

Donating prepared or other similar highly perishable foods can be done safely. (Examples of foods in this category include milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, cooked potato, and cooked rice.) Review the food safety regulations pertaining to your establishment, but in general, the following time and temperature requirements must be met:



Best practice: Keep hot food hot (above 140°F) until the decision is made to donate, and then cooled according to the [time and temperature rules](#) as outlined above. This way, the donor has complete control of the process until the food is delivered to the recipient.

If food is unable to meet these time and temperature requirements, or is contaminated at any time, it must be recycled as food scraps (see: *Food Scraps Recycling* section of this document) or disposed of in the trash.

## Best Practices for Donating Prepared Foods

Communicating with your partner food relief organization is key to safely and efficiently donate prepared foods. Some tips:

- Some organizations, such as food pantries that only offer shelf-stable food items or food banks that move food at greater quantities, may not accept prepared foods. Look for an organization like a shelter, soup kitchen, or other service agency that serves hot meals in your area and ask if they accept prepared foods.
- It may be helpful to indicate the approximate number of servings in containers of prepared foods like pasta, soup, etc., that aren't stored in individual serving size containers.

However, please note that many organizations prefer prepared foods to be donated in individually sealed packaging. Communicate with your partner organization to determine how to proceed.

- Some organizations may only accept a minimum number of servings per food item. Identify which partner organizations in your area are best suited to receiving large, medium, and small amounts of prepared food to make the donation process more efficient.

## Served Food

Food that has been served (offered without protection from the consumer, such as on a plate or display where the consumer has uncontrolled access to the food) may NOT be donated. (**Note:** Foods on protected buffet lines (i.e., sneezeguards installed, proper utensils available, temperature-controlled, etc.) are not considered served and can be donated.) Be sure to adhere to all time and temperature requirements.





## LABELING, STORING, AND TRANSPORTING FOOD FOR DONATION

Food for donation must be stored following existing federal and New York food safety regulations.

### Best Practices

- Store food for donation separately;
- Label each container of food for donation clearly with description of the item, date and time it was saved, and name of receiving entity
  - List any allergens;
  - For prepared and potentially hazardous foods, keep a log to show that proper time and temperature have been maintained;
  - If transporting food to more than one receiving entity, keep the donations separate for ease of handling and delivery;
- Use insulated containers as appropriate to transport cold or frozen foods and maintain proper temperatures
  - Keep hot foods hot and cold foods cold, and keep them separated while transporting;
- Use tightly sealed containers to prevent leakage and cross-contamination; and
- Develop concise Standard Operating Procedures (SOP) and train staff on your donation program
  - Display signage and create step-by-step instructions.

## FINDING FOOD RELIEF ORGANIZATION PARTNERS

Feeding New York State and its [member food banks](#) work to end hunger through partnerships with food relief organizations across the state. It is important to get familiar and develop relationships with your local food bank or food relief organizations early in your program development. There are many groups across the state that accept and distribute food to those in need. Contact your local food bank which can assist you in finding a local partner or talk to other businesses in your area that already have established programs.

There are also resources online for locating food relief organizations. [Different web platforms and apps](#) can provide innovative solutions, connecting donors with the organizations that need food donations the most. These digital tools are available to build connections and move food through existing channels in a cost-effective manner.

But if you are looking to benefit from liability protections and tax deduction capabilities, you need to work with a 501(c)3 not-for-profit organization.

### Communication Is Key

Remember to share your donation program standard operating procedures with your food relief partners so everyone agrees. Open communication establishes trust, saves time, and eliminates confusion. Consider having a written agreement with partners that clearly establishes handling, storage, transportation, and acceptance procedures.

## Which Food Relief Organization Type Is Right for Me?

Food banks, pantries, and soup kitchens do not all operate the same way. Some organizations do not accept prepared foods but may assist with finding another organization within their region or network to partner with. Different organizations may also serve different types of clients and have varying capabilities to pick up donated food or provide other logistical services. You may need to partner with more than one organization to donate your surplus, wholesome food effectively (e.g., one that can receive shelf-stable packaged food weekly and another that can accept and pick up your prepared meals twice a week).

# FOOD SCRAPS RECYCLING

Food scraps are readily biodegradable and contain organic matter and nutrients, which make them a valuable resource rather than a waste product. Recycling these materials (through composting, anaerobic digestion, etc.) creates useful products that benefit our soils.

[Under the New York State Food Donation and Food Scraps Recycling Law](#), designated food scraps generators located within 25 miles of an organics recycler with excess capacity are required to:

- Separate food scraps from other solid wastes;
- Properly store food scraps;
- Educate staff on their food scraps diversion program; and
- Divert their food scraps from disposal (obtain a transporter, self-haul food scraps to an organics recycler, or recycle on-site).

## PLANNING A FOOD SCRAPS RECYCLING PROGRAM

There are three main items to consider while planning your own food scraps recycling program:

- Assessing existing practices;
- Separating and storing; and
- Transporting and recycling.





## Assessing Existing Practices

Consider your existing solid waste and recycling management program. Collect as much information as you can, including transportation costs, existing contract agreements, and total quantities of waste generated. Look at the types and quantities of organic materials that your establishment generates. Which of these materials can be easily diverted? NYSP21 has developed self-assessment tools and guides to understand both the quantity and causes of food waste generation for the following industries:

- [Grocery](#)
- [Food Service](#)
- [Healthcare](#)



## Separating and Storing

### Pre-consumer Scraps

Typically, the easiest food scraps to divert from disposal are pre-consumer kitchen scraps.

Back-of-the-house prep wastes are usually clean (little to no contamination from plastics, consumer products, packaging, etc.) and consistent in type and quantity. Therefore, these wastes have the potential to be more predictable and easier to manage when designing a recycling program. This is where most designated food scrap generators will get the biggest “bang for their buck,” and more recyclers easily accept this material stream.

Pre-consumer food scraps should be separated from other solid wastes into dedicated collection containers in the kitchen or food prep area (many existing programs use 5-gallon lidded buckets) before being transferred to a larger dumpster or totes (depending on your transporter or method of recycling).

### Post-consumer Scraps

Post-consumer and front-of-the-house wastes include plate scrapings, public-facing collection containers, [food collected at events](#), and food that has already been consumed in part by the customer. This is often where higher contamination rates occur. Non-organic materials such as straws, stirrers, cutlery, creamer packets, film plastics, drink containers, and packaging can easily get mixed into the organics collection container. It is best to communicate with your transporter and/or organics recycler about accepting post-consumer scraps, as facilities have different thresholds for the amount of contamination they can manage.

## Eliminating Contamination with Biodegradable Service Ware

Different options exist for compostable or biodegradable cutlery, dishes, cups, straws, containers, etc. Talk to your transporter or organics recycling facility first to ensure they can accept these materials. (Some facilities may look for BPI-certified compostable materials, for example.)

## Public Signage

Education and signage for public-facing collection containers are critical to a successful diversion program. Clear, accessible, and easy to understand outreach to the consumers will decrease contamination. Utilize free web resources to generate customizable signs for your business (e.g., [StopWaste.org](http://StopWaste.org)).



## Health and Safety

Communicate with your [local health department](#) to ensure your separation and storage plans meet food safety requirements. Food scraps should be managed and removed as often as necessary to keep the kitchen area sanitary and prevent odors and pests. Outdoor dumpsters and storage containers should also be designed and maintained to meet local health regulations.

## Avoid the Yuck Factor

Talk to your transporter about using compostable liners in your collection containers to help keep them clean.

Some transporters also provide a service to rinse or replace the containers after transferring the organics into their vehicle.

## Storage Tip

If available, store food scraps containers in large refrigeration units to reduce potential odors.

## Transporting

### Communication Is Key

Your existing solid waste transporter may offer additional services for food scraps pickup or may be able to work with you on reducing waste-hauling fees by reducing pickup frequency or container size. Design your storage plan with your transporter in mind; they may require you to use special containers or to place the material in a particular location for pickup.

DEC maintains a list of available [food scraps transporters](#) by county.

Note: To maintain compliance under the law, food scraps must be transported to an organics [recycling facility](#) (to locate organics recycling facilities, visit the [Organics Resource Locator map](#)) or to a destination for beneficial use (e.g., [animal feed](#)), and NOT sent for disposal.

### Pickup Frequency

Food scraps should be collected at a frequency that minimizes odors and vector (pest) attraction. This can vary depending on the types and quantity of materials collected as well as the season (warmer months may require more frequent pickups).

### Self-Hauling

You may choose to self-haul your food scraps to an organics recycling facility (visit the Organics Resource Locator map) instead of obtaining a transporter. Be sure to communicate with the receiving facility to ensure they can accept the types and quantity of organics that you anticipate bringing there.



## Recycling Methods

Designated food scraps generators are not limited to any specific facility or method of recycling under the Law. However, the recycling method chosen should be appropriate for the type, quantity, and contamination level of the waste generated.

Visit DEC's website to learn about the [different recycling technologies](#) that exist in New York State for food scraps. Acceptable options include, but are not limited to:

- [Composting](#);
- [Anaerobic digestion](#);
- Animal feed in accordance with applicable Dept. of Agriculture and Markets rules ([AGM Article 5 Section 72-a](#)); and
- [Land application](#).

### On-Site Recycling

Businesses may choose to recycle their food scraps on-site through composting or another method. Composting material at the site of generation is exempt under DEC's solid waste regulations ([6 NYCRR Part 361](#)). Businesses looking to recycle food scraps on-site must still meet all local health regulations. For more information and technical assistance with recycling on-site, please contact DEC's Organics Reduction and Recycling Section: [organicrecycling@dec.ny.gov](mailto:organicrecycling@dec.ny.gov).

NYSP2I developed an in-depth [Q&A Guide for New York State Businesses, Municipalities, and Communities](#), which details different on-site treatment systems and methodologies, along with their pros and cons.



## Staff Training

The staff are an important piece of the food scraps diversion plan. To see success, you must maintain cooperation and understanding. Clear communication and signage (translated into other languages as appropriate) should be built into your staff training program.

Staff should be offered periodic refresher trainings to reinforce what was learned and to compensate for any turnover.

Let your employees know the benefits of the work they are doing. Whether those impacts are environmental, financial, or just to maintain compliance, your staff will be a big part of your program's sustained success.

## Reassess and Adjust

Monitor and assess your food scraps diversion program. Regularly inspect and document instances of contamination in the organics and waste collection containers and relay your findings to staff. Consider necessary adjustments to collection container sizes, transportation pick-up frequency, public or staff-facing signage, etc. Continue to communicate with your transporter, recycler, and staff to keep your program running smoothly.

With the information and resources provided in this guidance document, you are now ready to design a safe and successful organics management program for your business.

For additional questions on managing food scraps under the law, please reach out to DEC at [FoodScrapsLaw@dec.ny.gov](mailto:FoodScrapsLaw@dec.ny.gov).

## Communication Is Key

The best feedback will come from your employees who manage these materials day-in and day-out, so schedule some time to hear from them.



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