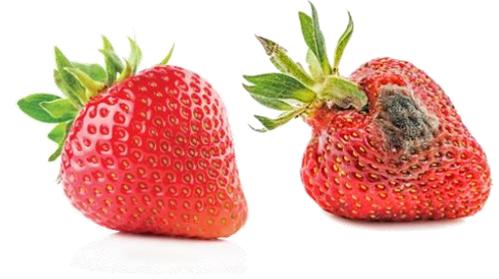




**Department of
Environmental
Conservation**



NYS Food Donation & Food Scraps Recycling Law – Updates September 2020

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Organics Reduction and Recycling Section, Division of Materials Management

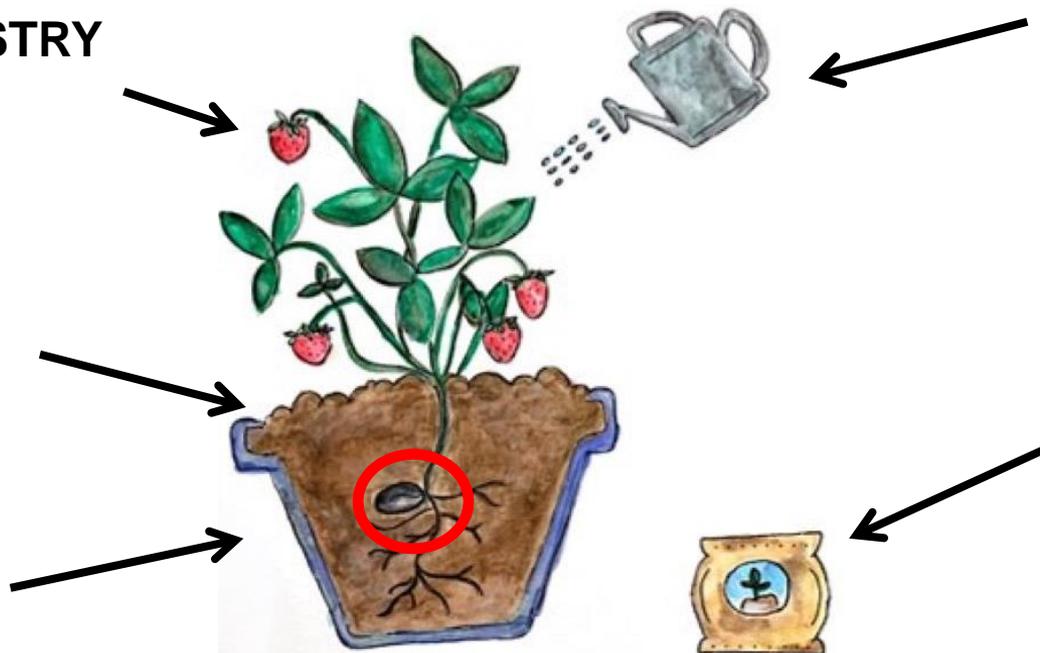
September 16, 2020

Supporting the Organics Industry in NYS

**STRAWBERRIES =
THRIVING INDUSTRY**

**Soil = Outreach
& Education**

**Seed =
Regulations**



**Watering Can =
Food Donation
& Food Scraps
Recycling Law**

**Fertilizer =
Funding**



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Food Donation and Food Scraps Recycling Law

[Title 22 Food Donation and Food Scraps Recycling](#)

NYSDEC Webpage on the Law:

<https://www.dec.ny.gov/chemical/114499.html>

Effective January 1, 2022, large generators of food scraps (defined as generating an **annual average of two tons per week** or more) must **donate excess edible food** and **recycle all remaining food scraps if they are within 25 miles of an organics recycler** (composting facility, anaerobic digester, etc.).



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What is a Designated Food Scraps Generator?

- Generates ≥ 2 tons per week (annual average) at a single location.
- For multiple small entities (mall or college campus) – depends on who contracts for waste management.

Exclusions:

- Hospitals
- Nursing Homes
- Adult Care Facilities
- Elementary and secondary school
- New York City ([local law 146](#))
- Generators serviced by a mixed waste recycler (Delaware County)



Designated Food Scraps Generator Metrics

Food Industry Sector	Minimum # of Employees To Generate A Minimum of 2 tons/week of wasted food
Food Wholesale and Food Distribution	9 employees
Food Retail	69 employees
Supercenters/Big Box Stores	208 employees
Postsecondary Schools (Residential / Non-Residential)	1,465 students / 5,474 students
Hospitality	105 employees
Correctional Institutes (County Jails / State)	570 inmates / 877 inmates
Restaurant (Full Service / Limited Service)	69 employees / 94 employees

Note: This is not a complete list or the final metrics



Ulster County Food Waste Prevention & Recovery Act

- This law will remove food waste generated on an annual basis from the waste stream incrementally from generators producing 2 tons per week (starting on January 1, 2021) to 0.5 tons per week by July 1, 2023. [For more information.](#)

Organics Diversion Legislation, Regulation Timeline, and Regulating Entity (TPW = tons per weeks of food waste generated)							
Effective Date	2021		2022		2023		Notes
	January	July	January	July	January	July	
Ulster County Food Waste Prevention and Recovery Act	>2.0 TPW		>2.0 TPW health care only				UC Legislation includes hospital and schools; No exemption for distance from compost facility
		> 1.0 TPW	> 0.75 TPW		> 0.5 TPW		
NYS Food Donation and Food Scraps Recycling Law			> 2.0 TPW				NYS regulates generators within 25 miles of a compost facilities. Does NOT include health care or schools



Other Definitions

Food scraps: inedible food, food contaminated papers, and edible food that is not donated. Excludes residential sources and recalled or seized food.

Organics recycler: rendering, animal feed producers, composting, digestion, fermentation, etc. Resultant material must be beneficially used.

Single location: contiguous property under common ownership.



Designated Food Scraps Generator (DFSG) Responsibilities

Effective Date: January 1, 2022

ALL DFSG must separate excess food for donation.

DFSG within 25 miles of a viable recycler must...

- Separate remaining excess food and food scraps for recycling
- Store properly on-site and train workers
- Obtain an appropriate transporter, self-haul, or recycle on-site
- Submit waiver and/or annual report to DEC
- Note: Do not have to use the recycler within 25 miles

Donation

- Food Donation Workgroup – *coming soon*
 - Advise DEC on methods to assist the Food Retail and Food Service Industry with the anticipated increase in food donation
 - Advise DEC on applicable regulations and review Part 350 regulations
 - Develop food donation guidance
 - Provide insight on food bank and emergency food relief organization needs

DFSG will be required to recycle their food scraps if...

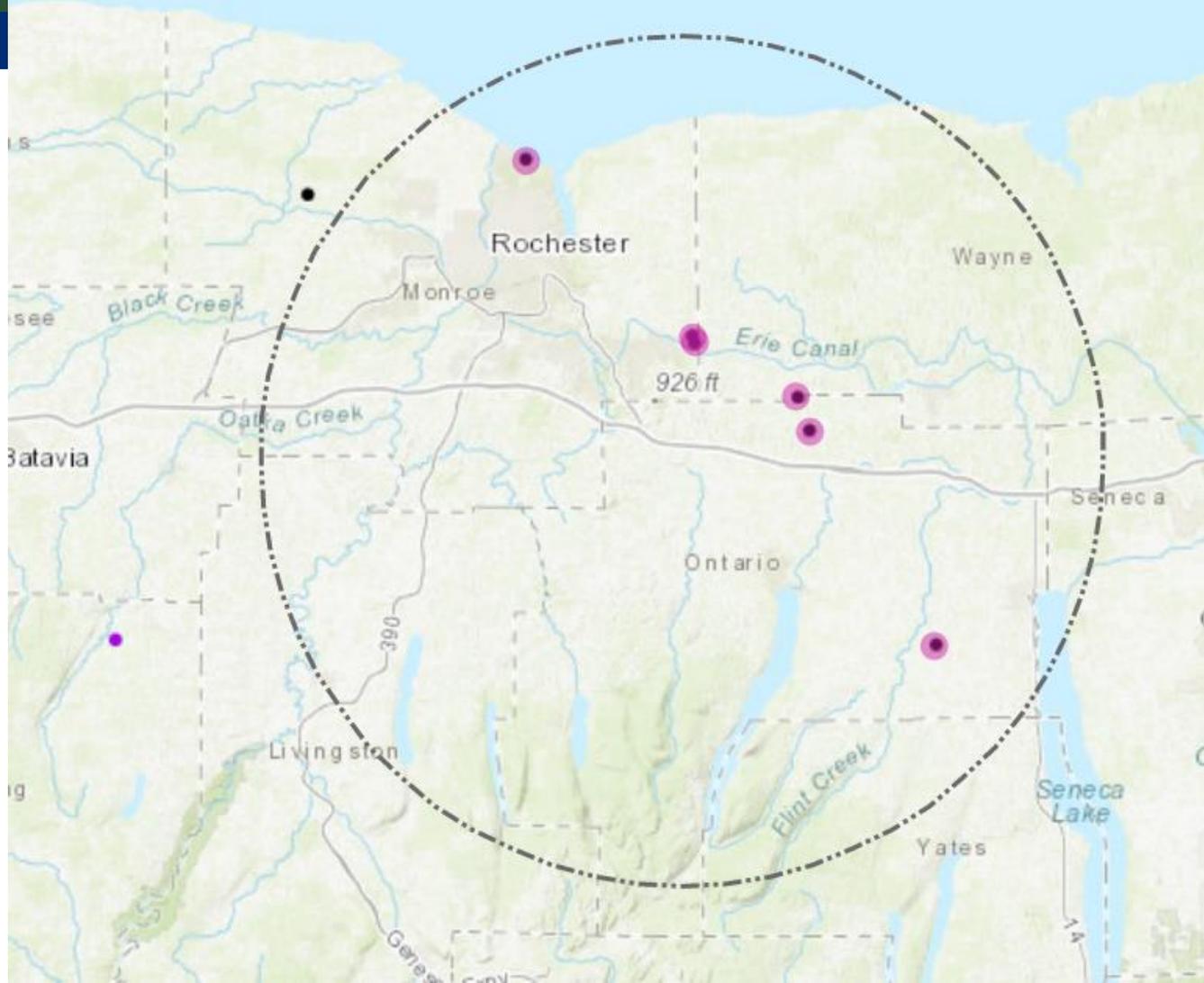
- ❑ DFSG within 25 miles of an organics recycler
 - ❑ Defined "as the crow flies", not driving miles
- ❑ Organics recycler has capacity for all of DFSG food scraps

If both criteria are met, then DFSG must recycle food scraps, BUT can use any organics recycler of their choice.

DEC will publish a list of DFSG and their responsibilities June 1st



Food Scraps
Recycling
Facilities within
25 miles of a
point southeast
of Rochester



DFSG Annual Reporting

- Required to submit annual report to DEC – amount donated and recycled, transporter and recycler used, etc.
- Due March 1, 2023 and annually thereafter
- Form posted to DEC website June 1, 2021



DFSG Waiver Process

Temporary Waiver

- Prove undue hardship
- No longer than 1 year in duration, can be renewed
- Submit June – September 2021: initial waiver submission period
- Form posted to DEC website June 1, 2021



DFSG Waiver Process - Justifications

- Generator does not produce more than 2 tons of food scraps per week (annual average)
- The total cost of organics recycling is at least 10% greater than the total cost of landfilling or combustion
- There are no organics recycler(s) within 25 miles with sufficient capacity
- A food scraps transporter is not available to service the generator
- Unique circumstances that apply to the generator



Regulations – Part 350 & Part 361

Part 350 – To implement the Food Donation and Food Scraps Recycling Law

- Under internal review
- Public Comment Spring/Summer 2021

Key issues needing clarification

- On-site systems
- Waiver details

Part 361 – Organics Recycling Facilities

- 361-2: Land Applications
- 361-3: Organics Recycling Facilities (Composting, AD, etc.)



Increasing Food Scraps Recycling Capacity

- Contact organicrecycling@dec.ny.gov if you are interested in starting or expanding your food scraps recycling facility (composting, AD, etc.)
- [Summary of Organics Recycling Regulations](#)
 - Food scraps recycling facilities are regulated by the quantity of material being processed and technology used



Outreach and Education

- [Organics Management for Businesses](#) – DEC Webpage
- Guidance document for the food retail & food service industry outlining best management practices for wasted food reduction, food donation, and food scraps recycling to demonstrate compliance with the law
- P2I Food Waste Networking Group – *coming soon*
- DEC looking for opportunities to speak to associations, corporations and businesses on the requirements of the law – please contact FoodScrapsLaw@dec.ny.gov
- Guidance provided to solid waste management facilities on their responsibilities under the law



2019/2020

Stakeholder Meeting Series: Takeaways

- Increase capacity for hauling and recycling food scraps
- Funding for organics recycling businesses (private & public)
- Outreach materials – ability to co-brand and distribute
- Food Donation
 - Collaboration between food banks and local food relief organizations is key
 - Logistics of moving prepared foods & smaller amounts of food
 - Addressing liability & food safety concerns
 - Food donation workgroup



Previous Funding Opportunities

	Amount
27 Municipalities	\$3.3 million
84 Emergency Food Relief Orgs	\$1.1 million
10 Regional Food Banks, through Feeding NYS	\$800,000
MWRR Organics Recycling	\$1.2 million
Food Bank of Central New York	\$75,000



[Full list of EFRO Awards](#)

[Full list of Muni Awards](#)



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Preparing for 2022: DEC Funding

2021 DEC Funding

- \$500,000 Municipal Wasted Food & Food Scraps Grant Program
- \$1.5 million Feeding New York State

Other DEC Funding Opportunities:

- [DEC Municipal Waste Reduction & Recycling Grant Program](#)
 - [Grants for recycling capital projects \(equipment & facilities\)](#) – waiting list
 - [Grants for recycling coordination & education projects](#) – annual
- [Climate Smart Communities Grant Program](#) - annual



Preparing for 2022: Other Funding

Current Available Funding:

- [NYSP2I Food Waste Reduction & Diversion Reimbursement Program](#) – *recently expanded to include food scraps haulers and recyclers.*

Other Opportunities

- [NYSP2I Community Grants Program](#) – *annual*
- USDA
- USEPA



Preparing for 2022: Timeline

- Spring/Summer 2021: Webinar providing updates on law
- Spring/Summer 2021: Regulations anticipated for public comment
- June 2021: DEC publishes list of DFSG & other resources
- June – September 2021: DFSG can submit waiver
- July 2021: Webinar: You're a DFSG, now what?
- January 1, 2022: Effective Date of Law



Preparing for 2022: June 1, 2021

DEC will publish the following materials to their website June 1st

- Methodology used to determine DFSG
- List of DFSG required to donate
- List of DFSG required to donate and recycle
- Best management practices for DFSG to comply with law
- Waiver Form for DFSG
- Annual Report Form for DFSG
- List of food scraps recyclers
- List of food scraps haulers



Preparing for 2022: What role can municipalities play?

- General education of wasted food and home composting
 - DEC developing education materials on wasted food minimization
 - DEC revising home composting guide
- Development of food scraps recycling programs (e.g. compost facility, food scraps drop-off program)
 - Expansion of yard waste composting facilities to accept food scraps
- Build resource hub highlighting food scraps recycling opportunities in community, available workshops, food scraps haulers, etc.
- DEC Webpage: [Organics Management for Municipalities](#)



Stay Connected

- [NYS Food Donation & Food Scraps Recycling law webpage](#) updated regularly
- [Sign up to receive announcements on the NYS Food Donation & Food Scraps Recycling law](#)
- DECDelivers: [Solid Waste and Recycling Newsletter](#)





Contact Us!

For questions on the Food Donation & Food Scraps Recycling law email:

FoodScrapsLaw@dec.ny.gov

For other questions about organics management in NYS, please email:

organicrecycling@dec.ny.gov

Learn more about Organics Management in NYS:
<https://www.dec.ny.gov/chemical/8798.html>



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