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# NYS Food Donation & Food Scraps Recycling Law: What NYS Businesses Need to Know

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## NYS Department of Environmental Conservation **Organics Reduction & Recycling Section**

Regulate and promote the diversion of organics (wasted food, yard waste, biosolids, food processing waste, etc.) from disposal to beneficial uses.

- Regulatory Oversight
- Legislation
- Funding Programs
- Outreach & Education

### The Organics Reduction & Recycling Team

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# Food Donation and Food Scraps Recycling Law

Effective January 1, 2022, businesses that generate an annual average of two tons of wasted food per week or more must...

1. donate excess edible food to the maximum extent practicable; and
2. recycle all remaining food scraps if they are within 25 miles of an organics recycler (composting facility, anaerobic digester, etc.).

## Exclusions:

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



# Proposed Part 350 Regulations

- [Part 350](#) accompanies NYS Food Donation & Food Scraps Recycling law
- Food safety still regulated by NYSDOH & NYSDAM
- Public Comment Period Closed April 27, 2021

Note: No changes to Part 361 for the law – Organics Recycling Facilities

# Published June 1<sup>st</sup>

DEC published the following to its [website](#) June 1st, 2021

- Methodology used to determine covered generators
- List of generators required to donate
- List of generators required to donate and recycle
- Waiver Form for generators
- Annual Report Form for generators
- List of food scraps recyclers
- List of food scraps transporters



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# What is a Designated Food Scraps Generator (DFSG)?

- Business or institution that generates  $\geq 2$  tons per week (annual average) at a single location.
- For multiple small entities (mall or college campus) – depends on who contracts for waste management.

[List of Designated Food Scraps Generators](#) – Published June 1, 2021

Email [FoodScrapsLaw@dec.ny.gov](mailto:FoodScrapsLaw@dec.ny.gov) for excel version

DFSG must comply with requirements of law by January 1, 2022.

List denotes if DFSG is required to donate OR donate and recycle.



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# Designated Food Scraps Generator Metrics

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

Note: [Full methodology report for identifying DFSG released June 1, 2021](#)



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# DFSG Database

- Data Source: D&B Hoovers
  - Name of Business & Address
  - Employee Count
- Dataset Quality Assurance & Control
  - Closed businesses
  - Incorrect addresses
  - Email [FoodScrapsLaw@dec.ny.gov](mailto:FoodScrapsLaw@dec.ny.gov) with corrections



# Designated Food Scraps Generator Analysis

| Sector   | Number of Establishments | Required to Donate | Required to Recycle |
|--|--------------------------|--------------------|---------------------|
| College & Universities                         | 86                       | 86                 | 41                  |
| Correction Facilities & Jails                  | 31                       | 31                 | 11                  |
| Hospitality                                    | 78                       | 78                 | 30                  |
| Restaurants (Catering, Limited & Full Service) | 233                      | 233                | 81                  |
| Grocery & Specialty Food                       | 405                      | 405                | 182                 |
| Supercenters                                   | 76                       | 76                 | 32                  |
| Total  | 909                      | 909                | 377                 |

Note: Some of these establishments already have robust donation programs, are recycling their food scraps, employing waste reduction initiatives, etc.



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# Designated Food Scraps Generator Analysis

| Sector                   | Number of Establishments | Required to Donate | Required to Recycle |
|--------------------------|--------------------------|--------------------|---------------------|
| Amusement & Theme Parks  | 10                       | 10                 | ---                 |
| Casino & Racetracks      | 11                       | 11                 | ---                 |
| Malls                    | 42                       | 42                 | ---                 |
| Military Bases           | 1                        | 1                  | ---                 |
| Sporting Venues          | 3                        | 3                  | ---                 |
| Wholesale & Distribution | 358                      | 358                | ---                 |
| Total                    | 425                      | 425                |                     |

Total Required to Donate: 1,334

Total Required to Recycle Food Scraps: 377



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# Food Scraps Recycling Requirement

- DEC is tasked with assessing the capacity of each organic recycler and notifying DFSGs if they are required to recycle their food scraps
- DFSG must recycle their food scraps if...
  - ☐ Within 25 miles of a food scraps recycler (defined as the crow flies)
  - ☐ Organics recycler has capacity for **all** of their food scraps

If both criteria are met, then food scraps must be recycled,  
BUT can use any food scraps recycler of their choice.



# Food Scraps Recycling Capacity Assessment

- **Determination of excess recycling capacity across NYS**
  - Excess Capacity Per Facility = (Anticipated recycling capacity in 2022) – (Quantity processed in 2019)
  - Excess Capacity must be  $\geq 2$  tons of food scraps/wk for inclusion in analysis
- **DFSG Food Scraps Generation Estimate**
  - DFSG Food Scraps Generation Estimate = (Sector Factor) \* (# of Employees)
  - Estimate includes projected wasted food – edible and inedible
- **Adjusted Recycling Estimate**
  - Applied factor of 0.4 to DFSG Food Scraps Generation Estimate to account for:
    - current waste reduction practices
    - current donation practices
    - food that might not be capable of being recycled (packaged, etc.)



# Food Scraps Recycling Capacity Assessment Cont.

- Identifying those Required to Recycle
  - Identified DFSG within 25 miles of food scraps recycler
  - Excluded DFSG whose food scraps generation estimate was greater than excess recycling capacity of facility
  - Took note of DFSG who are already recycling food scraps
  - Compared excess recycling capacity of facility to adjusted recycling estimate of DFSGs

DFSG required to recycle will be assessed annually.

If a new food scraps recycler starts operating, DEC will notify DFSG if their requirements change.



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# Recycling Capacity Assessment Example

|                 | Tons of Food Scraps Generated Per Week | Adjusted Recycling Estimate (tons/wk) | Required to Recycle | Cumulative Total |
|-----------------|--|---------------------------------------|---------------------|------------------|
| Grocery Store 1 | 6.5                                    | 3.9 (already recycling)               | X                   | 0                |
| College 1       | 4.5                                    | 2.7                                   | X                   | 2.7              |
| Grocery Store2  | 3                                      | 1.8                                   | X                   | 4.5              |
| College 2       | 2.5                                    | 1.5                                   | X                   | 6.0              |
| Hotel 1         | 2                                      | 1.3                                   |                     | 7.3              |

**Excess Capacity of Food Scraps Recycler AAA: 6.5 tons/wk**



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# Food Donation Efforts

- NYS Food Donation Working Group
  - Reviewed proposed Part 350 Regulations
  - Reviewed food donation guidance for businesses
  - Planning Fall Webinar: Setting up a Food Donation Program
- Working with NYS Department of Health and NYS Department of Agriculture & Markets on consistent regulatory enforcement



# Partnering with Feeding New York State

## Funding

- \$1.5 million COVID-19 relief funding
- **NEW** - \$500,000 *Donation Technical Assistance for Businesses*
  - Manage a call center for information on donating (518-930-7000)
  - Educate on proper food safety practices when donating food
  - Enhance connection between businesses, food banks, and other emergency food relief programs
  - Webpage: <https://feedingnys.org/food-scraps-recycling-law/>

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- Annual Report Form for generators
- List of food scraps recyclers
- List of food scraps transporters



# DFSG Waiver Process

## Temporary Waiver

- Prove undue hardship
- No longer than 1 year in duration, can be renewed
- Submit to [FoodScrapsLaw@dec.ny.gov](mailto:FoodScrapsLaw@dec.ny.gov) by October 1, 2021 for 2022 reporting year
- [View wavier form](#)



# 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

To petition for a waiver from provisions of the law that are not listed below (food donation, etc), please contact [FoodScrapsLaw@dec.ny.gov](mailto:FoodScrapsLaw@dec.ny.gov).



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# 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

## SECTION 3 - FOOD DONATION PRACTICES FOR 2022

Provide the following information on your food donation practices for the reporting period beginning January 1, 2022 and ending December 31, 2022.

Total Food Donated in 2022:  lbs

List the organizations that received donations of food:

- 
- 
- 
- 
- 

Type of food donated, check all that apply below

- ☐ **Pre-packaged, shelf-stable foods:** e.g., canned, boxed, or packaged foods
- ☐ **Baked goods**
- ☐ **Fresh produce** (whole)
- ☐ **Dairy products**
- ☐ **Prepared foods** (food that has been prepared but was never served): e.g., entrees or other prepared meals, starches, prepared produce (e.g., cut/chopped fruit or vegetable), side dishes, chilled perishable prepackaged food (e.g., chilled fruit juice), etc.
- ☐ **Meat, eggs, poultry, seafood** (fresh or frozen)
- ☐ **Frozen foods** (not including meat, poultry or seafood): e.g., entrees, fruits, fruit juice, vegetables, baked goods, etc.

# What's Coming June 1<sup>st</sup>?

**DEC will publish the following to its [website](#) June 1st, 2021**

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



# Food Scraps Recyclers List

As a resource for businesses, DEC published a [list of food scrap recyclers, sorted by county located in](#)

*Note: DFSG are not required to use food scrap recycler published on Food Scraps Recyclers list*

Mapping Tools: Organics Recycling Facilities Across the State

- [NYS Organics Resource Locator](#)
- [NYS Open Data Composting - Solid Waste Management Facilities Map](#)



Town of Bethlehem Composting Facility



# Food Scraps Recycling Opportunities

- Composting
- Anaerobic Digestion
- Animal Feed
  - [Beneficial Use Determination](#)
  - Exempt: Bread, bakery products, and spent brewery grains

And more!



# Increasing Food Scraps Recycling Capacity

- Contact [organicrecycling@dec.ny.gov](mailto: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





# Food Scraps Transporters List

- As a resource for businesses, DEC published a list of available food scraps transporters, sorted by county serviced
- [Add your transporter business to the list](#)
- [Guidance for Food Scraps Transporters \(PDF\)](#)



# Outreach

- Letters mailed to designated food scraps generators June 1st
- Developing outreach plan for exempt entities
- DEC available to speak to associations, corporations and businesses on the requirements of the law – please contact [FoodScrapsLaw@dec.ny.gov](mailto:FoodScrapsLaw@dec.ny.gov)
- Upcoming Webinars
  - August 2021: Building Food Scraps Recycling Capacity
  - September 28, 2021: How to Set Up a Food Scraps Recycling Program
  - October 2021: How to Set Up a Food Donation Program



# Guidance Documents

- Food retail & food service industry: Best management practices for wasted food reduction, food donation, and food scraps recycling to demonstrate compliance with the law – *coming soon*
- [Food Scraps Transporters \(PDF\)](#)
- [Transfer Facilities \(PDF\)](#)
- [Landfills \(PDF\)](#)
- [Combustion Facilities \(PDF\)](#)

## NYS Food Donation and Food Scraps Recycling Law

### Guidance for Food Scraps Transporters

#### OVERVIEW OF NYS FOOD DONATION & FOOD SCRAPS RECYCLING LAW

Beginning January 1, 2022 the [New York State Food Donation and Food Scraps Recycling Law](#) requires designated food scraps generators to donate edible food and recycle food scraps if a organics recycler exists within 25 miles. A designated food scraps generator (DFSG) produces at least 2 tons of food scraps per week. The Law also contains requirements for food scraps transporters, transfer facilities and other intermediaries, combustion facilities, and landfills.

#### EXAMPLES OF DESIGNATED FOOD SCRAPS GENERATORS (DFSG)

DFSG include, but are not limited to:

- Grocery Stores
- Restaurants
- Colleges
- Hotels
- Sport Arenas
- Venue Centers
- Etc.

**This law does not include** businesses within New York City ([local law 146](#) already in place), hospitals, nursing homes, adult care facilities and K-12 schools.

#### HOW TO IDENTIFY A DFSG IN YOUR SERVICE AREA

DEC will publish a list of DFSGs by June 1, 2021 and will be [available on the DEC website](#).

#### TRANSPORTER RESPONSIBILITIES UNDER THE LAW

If you are a transporter that collects food scraps from a DFSG (that does not have a waiver), you must deliver the food scraps to an organics recycler (composting facility, anaerobic digester, etc.) or to a transfer facility or other intermediary that will transfer the food scraps to a recycler. The food scraps must not be delivered to a landfill or to a combustion facility. The designated food scraps generator is responsible for properly separating their organics.

#### WHERE TO TRANSPORT FOOD SCRAPS

DEC will publish a list of organics recyclers across the state that are interested in accepting food scraps from designated food scraps generators. [This list will be published on the DEC website](#).

If there is an organics recycler within 25 miles of a designated food scraps generator, the law requires that the food scraps must be recycled, but not that they have to be recycled at an organics recycling facility within 25 miles.

For More Information:

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

Submit questions to:

[FoodScrapsLaw@dec.ny.gov](mailto:FoodScrapsLaw@dec.ny.gov)



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# Preparing for 2022: Timeline

- [August 2021](#): Building Food Scraps Recycling Capacity – *registration opening soon*
- [September 28, 2021](#):
- Two Part Webinar Series for Designated Food Scraps Generators
  - September 28, 2021: How to Set up a Food Scraps Recycling Program
  - T.B.D. – October 2021: How to Set up a Food Donation Program
- [October 1, 2021](#): Waiver Due Date for 2022
- [January 1, 2022](#): Effective Date of Law



# Stay Updated

- [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](mailto:FoodScrapsLaw@dec.ny.gov)

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

[organicrecycling@dec.ny.gov](mailto:organicrecycling@dec.ny.gov)

Learn more about Organics Management in NYS:

<https://www.dec.ny.gov/chemical/8798.html>



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