

State and Local Efforts to Divert Organic Waste Steadily Advance

OVER A dozen states and localities have enacted laws aimed at diverting food waste and other organic materials from landfills. Food waste is typically the largest component of landfill waste, 20 percent on average. The magnitude of the waste — roughly 80 billion pounds per year — isn't surprising given that Americans toss up to 40 percent of their food. And, over 95 percent of food waste ends up in landfills. State and local diversion requirements not only aim to address the deleterious environmental, social justice, and cost impacts of this voluminous waste, but also seek to realize a range of benefits.

States and localities often adopt diversion measures as part of broader waste reduction and climate mitigation goals. For example, key California diversion measures are embedded in a state law on short-lived climate pollutant reductions, including fugitive methane emissions from landfills. In addition, according to New York City's Department of Sanitation, diverting organic waste from landfills "to produce soil enhancing compost, or as an energy source through aerobic and anaerobic digesters, is a key component of the city's goal of sending zero waste to landfills."

Cities and states cite a range of additional benefits, including Austin's goal to "increase the life of local landfills" — which can avoid negative externalities and environmental justice concerns associated with siting new landfills.

States and cities also point to the economic development benefits of organic waste diversion requirements. According to a Massachusetts study, the benefits of its law include new jobs in the organics processing, food recovery, and hauler sectors.

Although recycling of food scraps is environmentally preferable to landfill

disposal, EPA's food recovery hierarchy instead prioritizes waste prevention followed by surplus food rescue. States and localities do not typically identify food waste prevention as an explicit diversion goal — but several do include source reduction as a potential compliance measure, including Maryland. Several laws, however, such as those enacted in California and New York, are specifically intended as a means to reduce food insecurity by recovering edible food. According to the Vermont Department of Environmental Conservation, the results can be significant — in the two years following the state's diversion requirement for large food scrap generators, the Vermont Food Bank reported a 40 percent surge in donations.

Food waste diversion laws take a variety of approaches with respect to substantive requirements, entities covered, and implementation timelines. Some

focus on mandating composting or anaerobic digestion and outline compliance measures that typically include both on-site and off-site options.

These laws frequently provide exceptions for generators that are not located near a processing facility — which is defined by Rhode Island as 15 miles, for example, but by Maryland as 30 miles. Other states and localities are more expansive and mandate or list additional compliance activities that can include reducing food waste, donating surplus food, feeding animals, and providing for industrial uses.

Some states and localities, including Seattle as well as Vermont, impose diversion requirements on all types of businesses. But many laws focus primarily on firms that generate food waste, including food wholesalers, manufacturers, and retailers. Others cast a wider net, including Massachusetts, which covers governmental entities, and Rhode Island, which regulates



Linda K. Breggin is director of ELI's Center for State, Tribal, and Local Environmental Programs. She can be reached at breggin@eli.org.

educational institutions. Several states and localities consider not only the type of business in determining the entities subject to diversion requirements, but also the amount of food scraps generated and, in some cases, the square footage of businesses.

Although households are responsible for roughly 40 percent of wasted food, at the state level most laws do not apply to them — with certain exceptions, such as Vermont and California. As early as 2009, however, San Francisco required "all persons" to separate compostables and participate in composting programs. And, since 2015, Seattle has prohibited food waste in household garbage. Both cities offer curbside pick-up of organics.

Most states and localities phase in their diversion requirements to afford businesses time to prepare and to allow for development of the food scrap recycling infrastructure necessary to recycle the diverted waste. As a result, even an early adopter, such as Vermont, only completed its ban on land-filling food waste in 2020 — six years after its law was enacted. Other states, such as Maryland, which only recently enacted its law, have yet to start implementation.

Although organics diversion requirements take time to implement fully, the uptick in state and local mandates is likely to continue, as such laws provide an effective means of tackling critical waste management and climate mitigation challenges.

Many food measures are part of broader waste reduction and climate goals