

REPORT

# MARYLAND FOOD WASTE POLICY GAP ANALYSIS AND INVENTORY



## **ACKNOWLEDGMENTS**

This report was prepared for NRDC by the Center for EcoTechnology, in collaboration with the Harvard Law School Food Law and Policy Clinic and BioCycle Connect, LLC.

### **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](http://nrdc.org).

*NRDC Chief Communications Officer:* Michelle Egan

*NRDC Managing Directors of Communications:* Lisa Goffredi and Jenny Powers

*NRDC Policy Publications Editor:* Leah Stecher

*Cover:* © Kristyn Oldendorf, City of Baltimore

*Design and Production:* [www.suerossi.com](http://www.suerossi.com)

© Natural Resources Defense Council 2021

## ***Table of Contents***

---

<b>Glossary of Terms .....</b>	<b>4</b>
<b>Introduction .....</b>	<b>5</b>
<b>Policy Gap Analysis Approach and Applications.....</b>	<b>5</b>
<b>Maryland Food Waste Policy Gap Analysis .....</b>	<b>12</b>
<b>Maryland Food Waste Policy Inventory .....</b>	<b>14</b>
<b>Food Waste Reduction Policy Gap Analysis Rubric .....</b>	<b>25</b>

# **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**



# **Introduction**

---

This report comprises a gap analysis and detailed inventory of food waste-related policies in Maryland. 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 nonexistent. 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**

Disposal bans and mandatory recycling laws 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 before 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 bans 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.<sup>1</sup>

## Policies in the Mid-Atlantic Region

Three locales in the Mid-Atlantic region have policies that address food waste through this strategy. New Jersey was the first state to implement an organics waste ban in the region, laying the groundwork for others to follow. Washington, D.C., passed a Zero Waste Omnibus Amendment Act that requires some entities to source-separate back-of-house commercial food waste. As part of the preparation for passing the policy, the District's Department of Public Works (DPW) first hired a consulting firm to assess the feasibility of composting. The firm concluded that rolling out a compost collection program over a five-year period would be sufficient time to develop infrastructure. In Maryland, the most recent state in this region to adopt organics recycling legislation in this category, the legislature passed a policy in April 2021 that became law in May 2021.

## 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

Many states 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. Further, 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 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 12 states or jurisdictions reviewed in the Mid-Atlantic, Southeast, or Great Lakes 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 acknowledgment of anaerobic digestion of SSO, and no exemption tier for small quantities of SSO.

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 Mid-Atlantic Region

With its Class C recycling permit, New Jersey takes a one-size-fits-all approach to organics recycling activities in the state—from microscale composting at a community garden to large-scale anaerobic digestion of food scraps at a stand-alone facility (i.e., not at a treatment plant or farm). Under a Class C recycling permit, food scraps can be composted only in a fully enclosed facility, which typically requires a substantial capital investment, especially when compared to composting in open-air windrows. Due in large part to these requirements, there are no commercial-scale Class C permitted food scrap composting facilities in New Jersey. The only commercial-scale facility, Ag Choice, operates under a research, development, and demonstration (RD&D) permit, which it first received in 2005. Ag Choice processes about 38,000 cubic yards per year of source-separated organics, including pre- and postconsumer food waste. The company’s RD&D status is related to its work to show that composting food scraps in open-air windrows on a compacted gravel pad can be done without negative environmental or public health impacts. Ag Choice remains at a standstill with the New Jersey Department of Environmental Protection on being granted a Class C recycling permit utilizing its current composting facility design.

## **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, statewide 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**

New Jersey is an example of a state that has created mandatory guidelines for food rescue from surplus generated in schools, as noted in the tables below. 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**

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 levels. 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 toward 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 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, Maryland's State Highway Administration has developed a specification for compost and compost-based products and identifies compost use as a best management practice to address soil erosion, sediment control, and stormwater management. 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.

# Maryland Food Waste Policy Gap Analysis

Policy Category	Status	Policy Recommendations and Potential Advocacy Opportunities
Organics Disposal Bans and Recycling Laws	<b>Moderate Policy</b>  Maryland currently requires municipalities and state agencies to recycle a percentage of their waste. <sup>2</sup> H.B. 248, prohibits condominiums and homeowners associations from preventing owners from composting organic materials or contracting with private composting services. <sup>3</sup> In May 2021, the bill officially became law, as did H.B. 264. <sup>4</sup> This mandatory organics recycling law requires that any individual or company generating at least 2 tons of organic waste per week on or by January 2023, and 1 ton per week on or by January 2024, arrange for disposal alternatives such as prevention, donation, animal feed, composting, or anaerobic digestion. It applies only if a processor within 30 miles can accept all of the generator's material. Warnings and fines are issued for infractions. As of 2019, Maryland also prohibits the owner or operator of a refuse disposal system from accepting loads of separately collected organic waste for disposal unless the owner or operator recycles the organic waste. <sup>5</sup>	<ul style="list-style-type: none"> <li>■ The mandatory organics recycling law currently only applies to food waste generators located within 30 miles of an organics recycling facility. To enhance the efficacy of the law, Maryland could, over time, phase out the distance exemption or increase the radius within which generators are covered. Alternatively, an incentive program could be created to the same effect.</li> <li>■ Lower the threshold of total organic waste produced to cover more food scraps generators under the current law.</li> <li>■ 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.</li> <li>■ Cities or counties may be able to establish incentive programs for food donation or waste diversion because they have the power to develop their own solid waste disposal plans. Incentive programs can come in the form of recognition, certification, or regulatory relief.</li> </ul> <p><b>Note:</b> Progress on the recommendations below, particularly in the areas of Liability Protections, Tax Incentives, Organics Processing Infrastructure Permitting, Food Systems Plans, and Solid Waste Management Plans can help make food waste diversion more common, which can lower barriers to implementing policies like a disposal ban.</p>
Date Labeling	<b>Weak Policy</b>  Maryland regulations require date labels on milk and prohibits the "offer" of milk beyond the sell-by date, except that qualifying institutions may serve milk up to 4 days past the sell-by date. <sup>6</sup> No mandatory policy requires standard date label language or clarifies that most labels are for quality.	<ul style="list-style-type: none"> <li>■ Establish guidelines expressly allowing the donation or the freezing of food after the quality-based date and educate businesses about donation.</li> <li>■ Remove prohibition on offering milk past the sell-by date.</li> <li>■ Launch education campaigns and guidance documents that promote consumer awareness and education on the meaning of date labels.</li> <li>■ Align any updates to date labeling policy with federal guidance.</li> </ul>
Food Donation Liability Protections	<b>Weak Policy</b>  Maryland provides liability protection for donors and distributors of food offered for free and includes a presumption of good faith. <sup>7</sup> However, liability protections do not cover donations directly to needy individuals or donations that are supplied to ultimate recipients for a small fee.	<ul style="list-style-type: none"> <li>■ Provide liability protection beyond that offered at the federal level by the Bill Emerson Good Samaritan Food Donation Act: <ul style="list-style-type: none"> <li>□ Provide liability protection for donations sold at a low price by distributing nonprofits.</li> <li>□ Provide liability protection for certain "direct donations" made by food businesses directly to those in need.</li> <li>□ Provide explicit liability protection where donors donate food products past a quality-based date.</li> </ul> </li> </ul>
Tax Incentives for Food Rescue	<b>Moderate Policy</b>  Maryland offers a tax credit for food donation by farms and farm businesses but does not provide any other tax incentives for food donation. <sup>8</sup>	<ul style="list-style-type: none"> <li>■ Offer a tax incentive to encourage food donation by any qualifying donors (not just farms).</li> <li>■ Offer a tax incentive to cover the cost of transporting donated food.</li> </ul>

Policy Category	Status	Policy Recommendations and Potential Advocacy Opportunities
<b>Organics Processing Infrastructure Permitting</b>	<p><b>Strong Policy</b></p> <p>Maryland has a regulatory tier that includes source-separated food waste and has simplified permitting for the addition of food scraps at existing composting facilities for yard trimmings, and exemption from permitting for small-scale and/or community composting operations.<sup>9</sup> While tier structure facilitates establishment of food scraps composting facilities, compliance requirements for small-tier operations (producing ≤10,000 cubic yards per year of compost) are similar to requirements for large-tier operations (producing &gt;10,000 cubic yards per year of compost). Maryland is considering a separate permitting pathway in its solid waste regulations for anaerobic digestion.</p>	<ul style="list-style-type: none"> <li>■ Facilitate, such as through best practice requirements, fewer restrictions for small-tier facilities.</li> <li>■ Consider not counting access roads and related ancillary areas in the total footprint limit of 5,000-square-feet “in support of composting” under the exemption.</li> <li>■ Ensure permitting requirements are kept up to date with best practices for composting.</li> </ul>
<b>Food Safety Policies for Share Tables</b>	<p><b>Moderate Policy</b></p> <p>Maryland encourages share tables in school cafeterias through its <i>Food Waste Minimization Toolkit</i> for Maryland Schools but has not created state-specific guidance.<sup>10</sup></p>	<ul style="list-style-type: none"> <li>■ Create state-specific guidance for share tables in school cafeterias.</li> </ul>
<b>Food Systems Plans, Goals, and Targets</b>	<p><b>Strong Policy</b></p> <p>Maryland has commissioned foodshed resiliency plans and invested in multiple food recovery summits in order to build a more sustainable food system.<sup>11</sup></p>	<ul style="list-style-type: none"> <li>■ In future versions of resiliency plans, include specific language about how strategies at all levels of the food rescue hierarchy directly support a strong food system. This can help garner resources to support food waste programming that advances the goals of the plan.</li> </ul>
<b>Plans Targeting Solid Waste</b>	<p><b>Strong Policy</b></p> <p>Maryland's Zero Waste Plan is kept current and outlines waste diversion goals through recommendations, including management of food waste.<sup>12</sup> Through this plan, Maryland has established a goal of recycling 90 percent of food scraps by 2040.</p>	<ul style="list-style-type: none"> <li>■ Continue to maintain the plan and encourage local participation in the process.</li> <li>■ Update the state's recycling goal.</li> </ul>
<b>Climate Action Goals</b>	<p><b>Moderate Policy</b></p> <p>Maryland has a clear climate plan with emissions reduction goals, and the Maryland Department of the Environment has proposed a 2030 Greenhouse Gas Emissions Reduction Act that also recognizes the impact that managing organic waste can have on reducing greenhouse gas emissions.<sup>13</sup></p>	<ul style="list-style-type: none"> <li>■ Adopt the 2030 Greenhouse Gas Emissions Reduction Act, which recognizes that management of organic waste streams can reduce methane emissions.</li> <li>■ Incorporate climate action planning that sets forth specific recommendations for reducing food waste.</li> <li>■ Pass local climate action goals and plans to draw the connection between emissions reductions and reduced food waste and further local efforts.</li> </ul>
<b>Grants and Incentive Programs Related to Food Waste Reduction</b>	<p><b>Weak Policy</b></p> <p>Maryland provides a few incentives, but opportunities are limited.</p>	<ul style="list-style-type: none"> <li>■ Develop dedicated grant programs to fund initiatives that explicitly focus on food waste reduction.</li> <li>■ Build on existing incentive programs to support food waste reduction efforts.</li> <li>■ Establish a free technical assistance program to help businesses divert organics from the waste stream. Local technical assistance programs can also support these efforts.</li> <li>■ Implement (as a near-term, incremental option) an incentive program to incentivize 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.</li> </ul>

# Maryland Food Waste Policy Inventory

## ORGANICS DISPOSAL BANS AND RECYCLING LAWS

In May 2021, Maryland passed a law requiring that under certain conditions, food scraps must be diverted for recycling, as well as a law that prohibits condominiums and homeowners associations from *preventing* owners from composting organic materials or contracting with private composting services. Additionally, the Maryland Recycling Act requires jurisdictions to hit a certain target diversion rate for recycling, but it does not specify what needs to be recycled.

Citation	Summary & Key Elements	Source
<b>House Bill 0510 (2019)</b>	<p><b>Title:</b> Organic Waste–Organics Recycling–Collection and Acceptance for Final Disposal</p> <p><b>Summary:</b> This bill prohibits the owner or operator of a refuse disposal system from accepting loads of separately collected organic waste for disposal unless the owner or operator recycles the organic waste.</p>	<a href="http://mgaleg.maryland.gov/mgawebsite/Legislation/Details/hb0510?ys=2019RS&amp;search=True">http://mgaleg.maryland.gov/mgawebsite/Legislation/Details/hb0510?ys=2019RS&amp;search=True</a>
<b>Maryland Recycling Act. Md. Code Ann., Envir. §§ 9-505, 9-1703 and 9-1706.I</b>	<p><b>Title:</b> Maryland Recycling Act</p> <p><b>Summary:</b> This act requires jurisdictions to develop and implement recycling programs.</p> <p><b>Key Elements:</b></p> <ul style="list-style-type: none"><li>■ Each jurisdiction selects which materials to recycle and how these materials will be separated and processed.</li><li>■ Jurisdictions with populations of more than 150,000 are required to recycle 35 percent of their waste.</li><li>■ Jurisdictions with populations of less than 150,000 are required to recycle 20 percent of their waste.</li><li>■ State agencies must implement a recycling plan with a 30 percent recycling rate mandate.</li></ul>	<a href="https://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=gen&amp;section=9-505&amp;enactments=false">https://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=gen&amp;section=9-505&amp;enactments=false</a>

Citation	Summary & Key Elements	Source
<b>House Bill 264 (2021)</b>	<p><b>Title:</b> Solid Waste Management—Organics Recycling and Waste Diversion—Food Residuals</p> <p><b>Summary:</b> This bill requires any individual or organization that generates food residuals to separate it from other solid waste and ensure that it is diverted via alternative methods such as prevention, donation, animal feed, composting, or anaerobic digestion.</p> <p><b>Key Elements:</b></p> <ul style="list-style-type: none"> <li>■ “Food residuals” means material derived from the processing or discarding of food, including pre- and postconsumer vegetables, fruits, grains, dairy products, and meats.</li> <li>■ The policy applies to any individual or organization that generates at least 2 tons of food residuals each week on or after January 1, 2023, and any individual or organization that generates at least 1 ton of food residuals each week on or after January 1, 2024.</li> <li>■ The policy applies only to individuals or organizations that generate food residuals at a location within 30 miles of an organics recycling facility that has the capacity and is willing to accept and process all of the person’s food residuals.</li> <li>■ <i>Organics recycling facility</i> refers to a facility where organics recycling takes place. This includes any process, including anaerobic digestion and composting, in which organic materials are collected, separated, or processed and returned to the marketplace in the form of raw materials or products.</li> <li>■ The Department of the Environment may grant a waiver from compliance with this act if an individual demonstrates undue hardship because the cost of diverting food residuals from a refuse disposal system is at least 10 percent more expensive than the cost of not diverting, or because of other reasonable circumstances, as determined by the department.</li> <li>■ The Department of the Environment is responsible for issuing warnings for first infractions and fines for each subsequent infraction ranging from \$250 to \$1,000. Penalties collected for infractions shall be placed in a special fund, to be used only to finance incentives that encourage food waste reduction and composting in the state.</li> <li>■ The Department of the Environment is also responsible for issuing guidelines for implementation and compliance with this act.</li> </ul>	<p><a href="https://mgaleg.maryland.gov/2021RS/bills/hb/hb0264E.pdf">https://mgaleg.maryland.gov/2021RS/bills/hb/hb0264E.pdf</a></p>
<b>House Bill 248 (2021)</b>	<p><b>Title:</b> Condominiums and Homeowners Associations - Rights and Restrictions - Composting</p> <p><b>Summary:</b> This bill prohibits a recorded covenant or restriction, a provision in a declaration, or a provision in the bylaws or rules of a condominium or a homeowners association from prohibiting or unreasonably restricting a unit owner from contracting with a private entity to collect organic waste materials for composting, and from prohibiting or unreasonably restricting a lot owner from composting organic waste materials for the owner’s personal or household use, so long as the owner owns or has the right to exclusive use of the composting area.</p> <p><b>Key Elements:</b></p> <ul style="list-style-type: none"> <li>■ “Composting” means the controlled aerobic biological decomposition of organic waste material.</li> <li>■ The policy will take effect on October 1, 2021.</li> </ul>	<p><a href="http://mgaleg.maryland.gov/2021RS/bills/hb/hb0248T.pdf">http://mgaleg.maryland.gov/2021RS/bills/hb/hb0248T.pdf</a></p>

## DATE LABELING

Maryland regulations require date labels on milk products. Milk products cannot be offered for sale more than 18 days after processing. However, places offering milk that is consumed on site, including hospitals, schools, and institutions, may use milk for up to four days after the sell-by date, and this can help prevent wasted food assuming it is widely understood and practiced. There are no restrictions on donation of food after the date. See details below.

Citation	Summary & Key Elements	Source
<b>Md. Code Regs. 10.15.06.10</b>	<p><b>Title:</b> Dating of Grade A Fluid Milk</p> <p><b>Summary:</b> Date labeling is required of milk (Grade A) products.</p> <p><b>Key Elements:</b></p> <ul style="list-style-type: none"> <li>■ A person may not sell, deliver, or offer Grade A milk or milk products that are cooled to, packaged, and stored at 45 degrees F or less for sale after 18 days from the date of processing.</li> <li>■ Cultured milk products and eggnog are exempt from dating requirements.</li> </ul>	<a href="http://mdrules.elaws.us/comar/10.15.06.10">http://mdrules.elaws.us/comar/10.15.06.10</a>
<b>Md. Code Regs. 10.15.06.11</b>	<p><b>Title:</b> Sale and Handling of Milk by Food Service Facilities</p> <p><b>Summary:</b> Sale after the date labeled on milk products is not permitted.</p> <p><b>Key Elements:</b></p> <ul style="list-style-type: none"> <li>■ Exemptions include food service facilities, hospitals, schools, institutions, and other places where milk is consumed on the premises. These facilities can use/serve Grade A fluid milk up to four days after the sell-by date.</li> </ul>	<a href="http://mdrules.elaws.us/comar/10.15.06.11">http://mdrules.elaws.us/comar/10.15.06.11</a>

## FOOD DONATION LIABILITY PROTECTIONS AND TAX INCENTIVES FOR FOOD RESCUE

As shown in the table below, Maryland law provides protection from liability for food donation. In addition, the state provides tax credits for food donation by farms and farm businesses.

Citation	Summary & Key Elements	Source
<b>Md. Code Ann. Cts. &amp; Jud. Proc. § 5-634</b>	<p><b>Title:</b> The Maryland Code for Donated Food</p> <p><b>Summary:</b> Civil liability protection is offered for donors and distributors as long as the food is not ultimately offered for sale.</p> <p><b>Key Elements:</b></p> <ul style="list-style-type: none"> <li>■ A person is not civilly liable if the donation includes donating, preparing, serving, and dispensing donated food distributed by nonprofit corporations, organizations, or associations with good faith.</li> <li>■ This protection does not cover a person who donates, prepares, or serves donated food at a nonprofit corporation, organization, or association that sells or offers for sale any donated food.</li> <li>■ There is no protection for acts or omissions that amount to gross negligence or willful and wanton misconduct.</li> <li>■ Nonprofit corporations, organizations, or associations are similarly protected.</li> </ul>	Article – Courts and Judicial Proceedings: <a href="https://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcj&amp;section=5-634&amp;enactments=false">https://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gcj&amp;section=5-634&amp;enactments=false</a>  Article – Health – General: <a href="https://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=ghg&amp;section=21-322&amp;enactments=false">https://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=ghg&amp;section=21-322&amp;enactments=false</a>
<b>Md. Code Ann. § 10-745 (2018)</b>	<p><b>Title:</b> Food Donation Program for Qualifying Farms</p> <p><b>Summary:</b> Tax credits are offered to qualifying farms and farm businesses for eligible food donations for tax years 2017 through 2021.</p> <p><b>Key Elements:</b></p> <ul style="list-style-type: none"> <li>■ Tax credit is offered to qualified farms and farm businesses, which can claim up to 50 percent of the value of eligible food donations.</li> <li>■ These qualified farms can also receive up to 75 percent of the value of certified organic produce donations to charitable organizations.</li> <li>■ Aggregate tax credits that can be claimed are limited in each fiscal year.</li> <li>■ Up to \$100,000 in tax credits is available through this program each year.</li> </ul>	<a href="https://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gtg&amp;section=10-745&amp;enactments=false">https://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gtg&amp;section=10-745&amp;enactments=false</a>

## ORGANICS PROCESSING INFRASTRUCTURE PERMITTING

Organics processing infrastructure is permitted by the Maryland Department of the Environment (MDE). Activities related to the sale of compost, as well as compost operator training, are regulated by the Maryland Department of Agriculture. In 2015 MDE updated its composting regulations, utilizing the U.S. Composting Council's Model Compost Rule Template as a guide. The revised regulations created tiers for source-separated organics composting that include food waste. All non-exempt facilities are required to get a composting permit. Individual permits are needed when conditions fall outside of the general conditions of a General permit. The composting permit contains a set of standard design and operational conditions applicable to composting facilities that use more than 5,000 square feet of area in support of composting operations. An MDE web portal consolidates access to composting and anaerobic digestion permits related to source-separated organics. MDE also created a road map to its various permitting requirements by composting facility type.<sup>14</sup>

Maryland has one law that also regulates the diversion of wasted food for feeding swine.

Citation	Summary & Key Elements	Source
<b>Chapter 26.04.II.</b> (last updated January 2021)	<p><b>Title:</b> Composting Facilities</p> <p><b>Summary:</b> Chapter applies to persons engaged in the construction and operation of composting facilities. Composting facilities also may be subject to permit requirements under:</p> <p>(1) COMAR 26.08.01-.04, relating to State and National Pollutant Discharge Elimination System (NPDES) discharge permits; and</p> <p>(2) COMAR 26.II.02, relating to air quality permits.</p> <p><b>Key Elements:</b></p> <ul style="list-style-type: none"><li>■ Regulation creates three tiers of composting facilities:<ul style="list-style-type: none"><li>□ <i>Tier 1:</i> Accepts only yard waste or other materials that pose a low level of risk.</li><li>□ <i>Tier 2:</i> Divided into Tier 2 Small (produces 10,000 cubic yards or less of compost per year) and Tier 2 Large (produces more than 10,000 cubic yards of compost per year). Tier 2 facilities accept Tier 1 materials and:<ul style="list-style-type: none"><li>(a) source-separated organics from residential curbside or drop-off programs and nonresidential sources, including but not limited to pre-consumer and postconsumer food scraps and nonrecyclable paper;</li><li>(b) MDE-approved animal manure and bedding, with department approval based on factors such as moisture content and pathogen risk;</li><li>(c) MDE-approved industrially produced food processing materials, including industrial poultry and seafood residuals;</li><li>(d) Animal mortalities;</li><li>(e) Manufactured organic materials such as waxed-corrugated cardboard, noncoated paper, and compostable products; and</li><li>(f) Other materials that the department determines pose a low level of risk from hazardous substances and a higher level of risk from physical contaminants and human pathogens relative to Tier 1 feedstocks.</li></ul></li><li>□ <i>Tier 3:</i> Accepts sewage sludge, biosolids, diapers, mixed municipal solid waste, and any other feedstocks that are not Tier 1 or Tier 2 feedstocks and that the department determines pose a low level of risk from hazardous substances and a higher level of risk from physical contaminants and human pathogens relative to Tier 1 and Tier 2 feedstocks.</li></ul></li><li>■ Regulation establishes siting and design criteria, e.g., distance to groundwater, and compost pad requirements (the latter become increasingly restrictive from Tier 1 to Tier 3).</li><li>■ Facility operating rules require that a detailed Compost Facility Operating Plan be prepared and executed under the composting permit. Site operators must complete and document training in the basics of composting facility operations in accordance with COMAR I5.18.04.03 (see below).</li><li>■ Details for management of Type 2 feedstocks at Tier 2 facilities upon their arrival are specified in the Facility Operating Requirements section (see link in Source column, right).</li></ul>	<a href="http://mdrules.elaws.us/comar/26.04.II">http://mdrules.elaws.us/comar/26.04.II</a> Facility Siting & Design Criteria Facility Operating Requirements

Citation	Summary & Key Elements	Source
<b>Sec. 26.04.II.II (effective March 28, 2021)</b>	<p><b>Title:</b> General Composting Facility Permit (GCFP)</p> <p><b>Summary:</b> This authorizes the holder to operate a Tier I (green waste only) or Tier 2 (source-separated organics) composting facility in the state of Maryland under the provisions of this general permit. (Individualized permit for site-specific considerations are available.)</p> <p><b>Key Elements:</b></p> <ul style="list-style-type: none"> <li>■ A GCFP is granted to a composting facility in compliance with Chapter 26.04.II requirements for its permitted tier.</li> <li>■ Permit uses Compost Facility Operating Plan as reference document for regulatory compliance and basis for enforcement actions.</li> </ul>	<a href="https://mde.maryland.gov/programs/LAND/RecyclingandOperationsprogram/Documents/2021-General%20CF%20Permit.pdf">https://mde.maryland.gov/programs/LAND/RecyclingandOperationsprogram/Documents/2021-General%20CF%20Permit.pdf</a>
<b>Chapter 26.04.II. Section 9-1725, Environment Article</b>	<p><b>Title:</b> Composting Exemptions</p> <p><b>Summary:</b> These are exemptions from permitting for small-scale composting operations, including small-scale on-farm composting of Type 2 feedstocks.</p> <p><b>Key Elements:</b></p> <ul style="list-style-type: none"> <li>■ A permit is not required for facility that complies with the general restrictions in Regulation .04B of Chapter 26.04.II and is a Tier I or Tier 2 facility that: <ul style="list-style-type: none"> <li>(1) at all times, uses no more than 5,000 square feet of area in support of composting operations; and</li> <li>2) except where a smaller pile size is required by local law: <ul style="list-style-type: none"> <li>(a) maintains any raw feedstock storage piles at a height of 9 feet or less; and</li> <li>(b) maintains any active composting pile, curing, or finished compost piles at a height of 12 feet or less.</li> </ul> </li> </ul> </li> </ul>	<a href="http://mdrules.elaws.us/comar/26.04.II">http://mdrules.elaws.us/comar/26.04.II</a>
<b>Title I5, MD Dept. of Agriculture, Chapter I5.18.04 (updated January 2021)</b>	<p><b>Title:</b> Chapter 04 Compost, Sec. .02—Registration of Compost, and Sec. .03—Operator Certification Requirement</p> <p><b>Summary:</b> The Maryland Department of Agriculture (MDA) has oversight of sale of compost in the state and certification of composting facility operators.</p> <p><b>Key Elements:</b></p> <ul style="list-style-type: none"> <li>■ Sellers of compost in Maryland must register with MDA each brand or classification of compost before the compost is sold or distributed within the state.</li> <li>■ Each composting facility regulated by this chapter—and as required by MDE Chapter 26.04.II—shall operate under the supervision of a certified operator. A person shall apply for certification as a composting facility operator by: <ul style="list-style-type: none"> <li>(1) Applying to MDE on a departmental form; and</li> <li>(2) Demonstrating proof of practical and scientific knowledge of composting by passing a written examination given by the department.</li> </ul> </li> <li>■ A composting facility operator certificate is valid for 3 years from whenever it was obtained, until December 31 of the third year of certification.</li> </ul>	<a href="http://mdrules.elaws.us/comar/I5.18.04">http://mdrules.elaws.us/comar/I5.18.04</a>

Citation	Summary & Key Elements	Source
<b>Guidance Document, AD (July 2019)</b>	<p><b>Title:</b> Permitting Guidance for Maryland Anaerobic Digestion Facilities</p> <p><b>Summary:</b> MDE does not have stand-alone anaerobic digestion facility regulations or a permit. MDE's Land and Materials Administration issues a refuse disposal permit that regulates the handling and disposal of solid waste. Under the Environment Article, organic materials processed through anaerobic digestion (AD) are not exempt from the definition of "solid waste." MDE generally has determined that a refuse disposal permit is not required for an AD facility under certain conditions:</p> <ul style="list-style-type: none"> <li>(1) Digestate is returned to the marketplace in the form of a raw material or product;</li> <li>(2) The quantity of non-digestible and nonrecyclable solid waste handled at the facility remains at a de minimis (negligible) level; and</li> <li>(3) The facility does not cause a nuisance, pollution, or other threats to public health, safety, or comfort as required under COMAR 26.04.07.03.</li> </ul> <p><b>Key Elements:</b></p> <ul style="list-style-type: none"> <li>■ Guidance document reviews the potential for AD facilities to be subject to various state environmental requirements including the need to obtain water quality and air quality permits.</li> <li>■ MDE is drafting basic regulations that include AD; they would require notification and reporting but not a specific permit.</li> <li>■ Similar to the sale of compost, MDA regulates the sale of digestate (the digested solids and liquids). Distributors of digestate are required to annually register each brand and grade of commercial fertilizer or each product name of soil conditioner (COMAR I5.18.03.02).</li> </ul>	<a href="https://mde.state.md.us/programs/LAND/RecyclingandOperationsprogram/Documents/permitting%20guidance%20for%20md%20anaerobic%20digestion%20facilities.pdf">https://mde.state.md.us/programs/LAND/RecyclingandOperationsprogram/Documents/permitting%20guidance%20for%20md%20anaerobic%20digestion%20facilities.pdf</a>
<b>Md. Code Ann. Agric. 3-404 (2015)</b>	<p><b>Title:</b> Feeding Garbage to Swine</p> <p><b>Summary:</b> Swine cannot be fed garbage, with some exceptions for particular kinds of waste.</p> <p><b>Key Elements:</b></p> <ul style="list-style-type: none"> <li>■ <i>Garbage</i> is defined as any putrescible animal and fowl waste resulting from the handling, preparation, cooking, and consumption of foods, including any animal and fowl carcass, part of it, and any other substance that has been mixed with or been in contact with any animal or fowl waste or carcass.</li> <li>■ The only animals covered under this law are swine.</li> <li>■ No garbage can be fed to swine, and garbage cannot be deposited or received at a location where swine are kept.</li> <li>■ Swine may be fed animal-derived waste if the waste has been heat-treated and the person desiring to feed such waste obtains a license.</li> </ul> <p>People may feed their own swine with their household garbage, as long as the swine are not sold or removed from the premises.</p>	<a href="https://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gag&amp;section=3-404&amp;enactments=false">https://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gag&amp;section=3-404&amp;enactments=false</a>

## FOOD SAFETY POLICIES FOR SHARE TABLES

As indicated below, MDE has created guidelines for reducing food waste in schools, which include guidance on how schools can create share tables in their cafeterias.

Citation	Summary & Key Elements	Source
<b>MDE Food Waste Minimization and Related Activities: A Toolkit for Maryland Schools</b>	<p><b>Summary:</b> This tool kit includes:</p> <ul style="list-style-type: none"><li>■ Information on food waste generally and the benefits of preventing food waste, rescuing surplus food, and recycling food scraps.</li><li>■ Guidance on how schools can create share tables in their cafeterias.</li><li>■ Links to guidance on federal liability protection for food donation. However, there is no explicit information on cost-effective, safe, and sanitary means by which schools may donate excess, unused, and edible food to nonprofit organizations that distribute food to nearby individuals.</li></ul>	<a href="https://mde.maryland.gov/programs/LAND/AnalyticsReports/Food%20Waste%20Minimization%20and%20Related%20Activities%20--%20A%20Toolkit%20for%20Maryland%20Schools.pdf">https://mde.maryland.gov/programs/LAND/AnalyticsReports/Food%20Waste%20Minimization%20and%20Related%20Activities%20--%20A%20Toolkit%20for%20Maryland%20Schools.pdf</a>

## FOOD SYSTEMS PLANS, GOALS, AND TARGETS

Maryland has commissioned foodshed resiliency plans for the state. These plans offer strategies and activities intended to help Maryland's food system become more sustainable.

Citation	Summary & Key Elements	Source
<b>Models &amp; Guidelines, Vol. 28: Managing Maryland's Growth: Planning for the Food System</b>	<p><b>Summary:</b> This plan includes discussion of the vision and principles of a local, sustainable food system; food access in Maryland; production of food and fiber in Maryland; and several case studies for localities to consider as they develop food plans.</p> <p><b>Key Elements:</b></p> <p>Recommendations include:</p> <ul style="list-style-type: none"><li>■ Incorporate food policy into local, comprehensive plans;</li><li>■ Develop food, health, and sustainability plans;</li><li>■ Implement food planning through food policy councils and food and resource assessments, and create room for agriculture in suburban neighborhoods;</li><li>■ Support community gardens and urban agriculture;</li><li>■ Zone for value-added agriculture;</li><li>■ Develop flexible state financing programs to support food processing in Maryland;</li><li>■ Increase access and food distribution to underserved communities through financial programs and year-round indoor farmers markets;</li><li>■ Support farm-to-school consumption;</li><li>■ Use zoning to limit fast food restaurants; and</li><li>■ Rescue food to feed hungry people.</li></ul>	<a href="https://planning.maryland.gov/Documents/OurProducts/Publications/ModelsGuidelines/mg28.pdf">https://planning.maryland.gov/Documents/OurProducts/Publications/ModelsGuidelines/mg28.pdf</a>

Citation	Summary & Key Elements	Source
<b>Maryland Food Recovery Summit Summary and Action Items</b>	<p><b>Summary:</b> This document summarizes action items from a one-day Maryland Food Recovery Summit hosted by MDE in 2016. It includes discussion of current innovative food rescue and recycling efforts in Maryland, research and data Maryland can use to develop effective strategies, and challenges and potential solutions to improve Maryland's food infrastructure system.</p> <p><b>Key Elements:</b></p> <p>Recommendations include:</p> <ul style="list-style-type: none"> <li>■ Create cross-sector partnerships to reduce food waste;</li> <li>■ Incorporate economic incentives and cost savings into new food recovery programs;</li> <li>■ Use the food recovery hierarchy to guide food recovery strategies;</li> <li>■ Use clear, compelling messaging and increased outreach about food waste reduction to a wide variety of stakeholders;</li> <li>■ Promote source reduction and donation of surplus food to feed hungry people; and</li> <li>■ Increase capacity for composting and anaerobic digestion of food scraps in Maryland.</li> </ul>	<a href="https://mde.maryland.gov/programs/LAND/RecyclingandOperationsprogram/Documents/Maryland%20Food%20Recovery%20Summit%20-%20Summary.pdf">https://mde.maryland.gov/programs/LAND/RecyclingandOperationsprogram/Documents/Maryland%20Food%20Recovery%20Summit%20-%20Summary.pdf</a>
<b>Maryland Food Charter: Creating a Road Map for a Healthy and Sustainable Food System</b>	<p><b>Summary:</b> This charter, created by the Institute for Public Health Innovation at Johns Hopkins Bloomberg School of Public Health, lays out recommendations for a statewide strategic food plan.</p> <p><b>Key Elements:</b></p> <p>Recommendations include:</p> <ul style="list-style-type: none"> <li>■ Facilitate collaboration across state agencies and departments to align policies and programs that impact the food system;</li> <li>■ Promote activities that provide food to marginalized individuals through community gardens and food kitchens;</li> <li>■ Promote and strengthen urban and rural food production, processing, and distribution;</li> <li>■ Integrate food production and healthy food access into comprehensive plans;</li> <li>■ Review and strengthen food safety legislation and regulations;</li> <li>■ Provide support for public markets and promote healthy food at retail;</li> <li>■ Promote food assistance and incentive programs that augment low-income households' food budgets;</li> <li>■ Promote a healthy school food environment;</li> <li>■ Expand Maryland's liability protection laws for food rescue and food donations;</li> <li>■ Expand processing facilities to recover inedible food for composting;</li> <li>■ Expand the Maryland Farm Food Donation Tax Credit;</li> <li>■ Encourage schools to assess food waste and develop guidelines to minimize it; and</li> <li>■ Raise awareness of food loss and waste.</li> </ul>	<a href="https://assets.jhsph.edu/clf/mod_clfResource/doc/MarylandFoodCharter_I0242017_FINAL.pdf">https://assets.jhsph.edu/clf/mod_clfResource/doc/MarylandFoodCharter_I0242017_FINAL.pdf</a>

## PLANS TARGETING SOLID WASTE

Maryland has had a Zero Waste Plan in place since 2014 and also requires that local counties develop and maintain solid waste management plans. Through an executive order, the state established a Sustainable Materials Management Policy and has issued recommendations for goals and metrics related to this policy. Details relevant to wasted food are shown in the table below.

Citation	Summary & Key Elements	Source
<b>Zero Waste Maryland (December 2014)</b>	<p><b>Summary:</b> Establishes a goal of 85 percent waste diversion by 2030 and 90 percent recycling of food scraps by 2040.</p> <p><b>Key Elements:</b></p> <p>Targets strategies for increased diversion of organics between 2015 and 2020, including:</p> <ul style="list-style-type: none"> <li>■ Establishing new composting regulations;</li> <li>■ Providing guidance for compost facilities;</li> <li>■ Supporting food rescue efforts;</li> <li>■ Providing education and outreach for organics management;</li> <li>■ Supporting development of compost end markets;</li> <li>■ Implementing an organics disposal ban for commercial and institutional generators;</li> <li>■ Supporting anaerobic digestion;</li> <li>■ Reducing use of plastic bags with organics collection;</li> <li>■ Implementing universal organics diversion (2026–2030);</li> <li>■ Demonstrating composting and AD projects using organics generated at state operated facilities.</li> </ul>	<a href="https://mde.state.md.us/programs/Marylander/Documents/Zero_Waste_Plan_Draft_I2.I5.14.pdf">https://mde.state.md.us/programs/Marylander/Documents/Zero_Waste_Plan_Draft_I2.I5.14.pdf</a>
<b>Yard Waste, Food Residuals, and Other Organic Material Diversion and Infrastructure Study Group – Final Report (July 2019)</b>	<p><b>Summary:</b> In 2017 the governor signed House Bill I7I, which required the Maryland Department of the Environment, in collaboration with other stakeholders, to study and make recommendations regarding how to bolster diversion of organic materials.</p> <p><b>Key Elements:</b></p> <ul style="list-style-type: none"> <li>■ This document reviews existing practices related to diversion of food waste and other organic materials in the state and evaluates other laws and regulations in the country to provide recommendations for Maryland to further diversion. It also evaluates existing infrastructure in the state and proposes strategies to expand it.</li> </ul>	<a href="https://mde.maryland.gov/programs/LAND/RMP/Documents/HB%20I7I%20final%20report.pdf">https://mde.maryland.gov/programs/LAND/RMP/Documents/HB%20I7I%20final%20report.pdf</a>
<b>Executive Order 01.01.2017.I3 (June 27, 2017)</b>	<p><b>Title:</b> Waste Reduction and Resource Recovery Plan for Maryland</p> <p><b>Summary:</b> Establishes a sustainable materials management plan for the state and sets forth a process for developing and measuring related goals.</p> <p><b>Key Elements:</b></p> <ul style="list-style-type: none"> <li>■ Acknowledges recent state efforts to clarify the permitting process for composting facilities.</li> <li>■ Establishes a sustainable materials management policy for the state.</li> <li>■ Outlines a goal to work with stakeholders and partners to develop diversion goals and further sustainable materials management.</li> <li>■ Identifies plans to work with the Maryland Energy Administration to explore opportunities for anaerobic digestion as a method to recover energy from waste.</li> </ul>	<a href="https://mde.maryland.gov/programs/LAND/RecyclingandOperationsprogram/Documents/EO-01.01.2017.I3.pdf">https://mde.maryland.gov/programs/LAND/RecyclingandOperationsprogram/Documents/EO-01.01.2017.I3.pdf</a>

Citation	Summary & Key Elements	Source
<b>Waste Reduction and Resource Recovery Plan Goals and Metrics Recommendations (April 2019)</b>	<p><b>Summary:</b> This document, produced by the Maryland Department of the Environment, is an outcome of the governor's 2017 executive order "Waste Reduction and Resource Recovery Plan for Maryland," which called for improved methods for tracking statewide waste reduction and development of voluntary statewide diversion goals.</p> <p><b>Key Elements:</b></p> <ul style="list-style-type: none"> <li>■ Recommends following voluntary statewide goals to be achieved by 2035: <ul style="list-style-type: none"> <li>□ Reduce per capita waste generation by 10 percent;</li> <li>□ Reduce greenhouse gas emissions from materials management annually;</li> <li>□ Reduce energy use through materials management;</li> <li>□ Increase county recycling rates for food scraps to 60 percent;</li> <li>□ Achieve 60 percent waste diversion statewide.</li> </ul> </li> <li>■ Suggests streamlining the process for business reporting of annual recycling data.</li> <li>■ Encourages prioritization of reducing wasted food in the source-reduction credit system.</li> </ul>	<a href="https://mde.maryland.gov/programs/LAND/RecyclingandOperationsprogram/Documents/E0%20recommendations.pdf">https://mde.maryland.gov/programs/LAND/RecyclingandOperationsprogram/Documents/E0%20recommendations.pdf</a>
<b>COMAR 26.03.03</b>	<p><b>Title:</b> Development of County Comprehensive Solid Waste Management Plans</p> <p><b>Summary:</b> Establishes that local planning agencies must develop and implement a solid waste management plan.</p> <p><b>Key Elements:</b></p> <ul style="list-style-type: none"> <li>■ Counties are required to consider composting in their solid waste management plans, and compost can be included in the municipality's waste diversion rate when reporting to the state.</li> </ul>	<a href="http://mdrules.elaws.us/comar/26.03.03">http://mdrules.elaws.us/comar/26.03.03</a>

## CLIMATE ACTION GOALS

As outlined in the following table, Maryland has several climate action initiatives. The Greenhouse Gas Emissions Reduction Act (GGRA) establishes a goal to reduce greenhouse gas emission levels statewide. A draft plan to update the GGRA also recognizes the impact that managing organic waste can have on reducing greenhouse gas emissions.

Citation	Summary & Key Elements	Source
<b>Executive Orders 01.01.2007.07 (2007) &amp; 01.01.2014.14 (November 19, 2014)</b>	<p><b>Title:</b> Strengthening Climate Action in Maryland</p> <p><b>Summary:</b> Establishes a goal of reducing GHG emissions by 80 percent relative to 2006 levels by 2050.</p> <p><b>Key Elements:</b></p> <ul style="list-style-type: none"> <li>■ Executive Order 01.01.2007.07 established the Maryland Commission on Climate Change.</li> <li>■ Executive Order 01.01.2014.14 expanded the scope and membership of the Maryland Commission on Climate Change to include nonstate government participants. This commission is charged with a developing a work plan and convening working groups to further GHG reduction goals.</li> </ul>	<a href="https://mde.maryland.gov/programs/Air/ClimateChange/MCCC/Publications/E02014.pdf">https://mde.maryland.gov/programs/Air/ClimateChange/MCCC/Publications/E02014.pdf</a>
<b>Senate Bill 258 (2015)</b>	<p><b>Title:</b> An Act Concerning Maryland Commission on Climate Change</p> <p><b>Summary:</b> This act codified the Maryland Commission on Climate Change into law. This commission is responsible for advising the governor and General Assembly on opportunities to mitigate the causes of climate change and prepare for its impacts.</p>	<a href="http://mgaleg.maryland.gov/2015RS/bills/sb/sb0258f.pdf">http://mgaleg.maryland.gov/2015RS/bills/sb/sb0258f.pdf</a>
<b>Senate Bill 323 (2016)</b>	<p><b>Title:</b> Greenhouse Gas Emissions Reduction Act—Reauthorization</p> <p><b>Summary:</b> Established a statewide goal of a 40 percent reduction in GHG emissions from 2006 levels by 2030, and required the development of a GHG reduction plan by the end of 2019. The initial act was adopted in 2009 (SB 278) and amended through SB 323.</p>	<a href="https://mde.maryland.gov/programs/Air/ClimateChange/MCCC/Publications/GGRAREauth2016.pdf">https://mde.maryland.gov/programs/Air/ClimateChange/MCCC/Publications/GGRAREauth2016.pdf</a>

Citation	Summary & Key Elements	Source
<b>2030 Greenhouse Gas Emissions Reduction Act Plan (February 2021)</b>	<p><b>Summary:</b> The plan sets forth a goal of reducing GHG emissions by 40 percent by 2030.</p> <p><b>Key Elements:</b></p> <ul style="list-style-type: none"> <li>■ Indicates that opportunities should be pursued to capture and recover gas from renewable sources, such as wastewater treatment plants and food waste facilities.</li> <li>■ Acknowledges that management of organic waste streams can reduce methane emissions, which is addressed in the state's waste management plan.</li> </ul>	<a href="https://mde.maryland.gov/programs/Air/ClimateChange/Documents/2030%20GGRA%20Plan/2030%20MD%20Greenhouse%20Gas%20Reduction%20Act%20Plan.pdf">https://mde.maryland.gov/programs/Air/ClimateChange/Documents/2030%20GGRA%20Plan/2030%20MD%20Greenhouse%20Gas%20Reduction%20Act%20Plan.pdf</a>

## GRANTS AND INCENTIVE PROGRAMS RELATED TO FOOD WASTE REDUCTION

Maryland has developed credits, financing programs, and incentives for developing compost end markets to further its zero waste goals.

Citation	Summary & Key Elements	Source
<b>Chapter 430, House Bill 878, Acts of 2014</b>	<p><b>Title:</b> State Highways Administration—Compost and Compost-Based Products—Specification</p> <p><b>Summary:</b> Identified compost use in highway projects as a best management practice for erosion, sediment control, and post-construction stormwater management.</p> <p><b>Key Elements:</b></p> <ul style="list-style-type: none"> <li>■ Requires State Highway Administration to create specifications for compost uses by the end of 2014.</li> </ul>	<a href="http://mgaleg.maryland.gov/2014RS/chapters_noln/Ch_430_sb0878T.pdf">http://mgaleg.maryland.gov/2014RS/chapters_noln/Ch_430_sb0878T.pdf</a>
<b>Md. Code Ann. § 10-745 (2018)</b>	<p><b>Title:</b> Food Donation Program for Qualifying Farms</p> <p><b>Summary:</b> Farmers in Maryland who donate food to participating charities may be eligible for a tax credit of up to \$5,000 annually.</p> <p>Additional detail is provided in the <i>Food Donation Liability Protections and Tax Incentives for Food Rescue and Diversion to Animal Feed</i> table, above.</p>	<a href="https://mgaleg.maryland.gov/mgawebiste/Laws/StatuteText?article=gtg&amp;section=10-745&amp;enactments=false">https://mgaleg.maryland.gov/mgawebiste/Laws/StatuteText?article=gtg&amp;section=10-745&amp;enactments=false</a>
<b>Local Government Infrastructure Financing Program</b>	<p><b>Summary:</b> Supports municipalities in financing projects that serve their community, through the issuance of bonds.</p> <p><b>Key Elements:</b></p> <ul style="list-style-type: none"> <li>■ Program is coordinated through the Department of Housing and Community Development.</li> <li>■ There is no explicit indication that composting or other food waste reduction infrastructure will be covered, but it is for capital projects.</li> </ul>	<a href="https://dhcd.maryland.gov/Communities/Pages/Igif/HowItWorks.aspx">https://dhcd.maryland.gov/Communities/Pages/Igif/HowItWorks.aspx</a>
<b>Source Reduction Credit</b>	<p><b>Summary:</b> This is a mechanism by which local jurisdictions can incorporate reducing waste at its source into their local waste diversion rate.</p> <p><b>Key Elements:</b></p> <p>Up to a 3 percent credit is available for general waste reduction programs, including:</p> <ul style="list-style-type: none"> <li>■ Distributing home composting bins.</li> <li>■ Offering composting workshops.</li> <li>■ Establishing a composting demo site.</li> </ul>	<a href="https://mde.maryland.gov/programs/landrecyclingandoperationsprogram/pages/source_reduction.aspx#:~:text=To%20help%20the%20State%20meet,rate%20by%20up%20to%205%25.">https://mde.maryland.gov/programs/landrecyclingandoperationsprogram/pages/source_reduction.aspx#:~:text=To%20help%20the%20State%20meet,rate%20by%20up%20to%205%25.</a>
<b>Keep Maryland Beautiful Grants</b>	<p><b>Summary:</b> Environmental Education, Community Initiatives, and Cleanup Grants of up to \$5,000 are offered to nonprofits, schools, and municipalities to fund environmental education and stewardship efforts or neighborhood greening activities.</p>	<a href="https://dnr.maryland.gov/met/Pages/grant_programs.aspx">https://dnr.maryland.gov/met/Pages/grant_programs.aspx</a>

# ***Food Waste Reduction Policy Gap Analysis: Policy Assessment 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
<b>NO POLICY</b>									
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.	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.  There is no acknowledgment of anaerobic digestion of source-separated organics from the municipal solid waste stream.  No exemption tier exists for small quantities of source-separated food waste.	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
<b>WEAK POLICY</b>									
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"> <li>■ Requirements for composting source-separated organics are the same as those for composting mixed solid waste, creating significant barriers to opening a facility.</li> <li>■ Quantity or acreage limitations for source-separated organics tier(s) negatively impact economic viability of operation.</li> <li>■ Regulations include language about anaerobic digestion of source-separated organics but are vague or have no language addressing what is allowed.</li> </ul>	<p>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.</p>	<p>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.</p>	<p>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>	<p>Climate action goals exist, but one of the following is true:</p> <ul style="list-style-type: none"> <li>■ Goals are in the form of executive orders, with no legislative framework.</li> <li>■ There has been limited legislative action but no real framework or actionable next steps to achieve targets.</li> </ul>	<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"> <li>■ Funding is not explicitly allocated for food waste reduction work as opposed to other diversion strategies.</li> <li>■ Funding opportunities are not made known to or accessible to relevant applicants.</li> <li>■ 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).</li> <li>■ No technical assistance is available to food service waste generators to support food waste reduction efforts.</li> </ul>

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
<b>MODERATE POLICY</b>									
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"> <li>■ Requirements for composting source-separated organics are the same as those for composting mixed solid waste, creating significant barriers to opening a facility.</li> <li>■ Quantity or acreage limitations for source-separated organics tier(s) negatively impact economic viability of operation.</li> <li>■ Regulations include language about anaerobic digestion of source-separated organics but are vague or have no language addressing what is allowed.</li> </ul>	<p>Share tables are allowed, and the state provides share table guidance, though that guidance is limited.</p>	<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"> <li>■ Framework or support to achieve targets is limited.</li> <li>■ There is no coordination with other regional food systems plans (if no state plan exists).</li> <li>■ Plans' consideration of food waste reduction is inadequate.</li> </ul>	<p>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>	<p>Climate action goals exist, and one of the following is true:</p> <ul style="list-style-type: none"> <li>■ Legislated climate action planning sets forth recommendations for reducing food waste.</li> <li>■ Specific departments have been tasked with actionable next steps for moving policy forward.</li> </ul>	<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"> <li>■ Funding is not explicitly allocated for food waste reduction work as opposed to other diversion strategies.</li> <li>■ Available funding is unsustainable or insufficient to support desired activities.</li> <li>■ No technical assistance is available to food service waste generators to support food waste reduction efforts.</li> </ul>

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
<b>STRONG POLICY</b>									
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).	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.	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.	The state offers tax deductions or tax credits for donating food that offset the costs associated with donation, including transportation.	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: <ul style="list-style-type: none"> <li>■ 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.</li> <li>■ Restrictions imposed on facility design and operation are in sync with best management practices for composting of source-separated organics.</li> <li>■ 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.</li> </ul>	Share tables are allowed and encouraged, and the state provides state-specific guidelines or instructions about food safety as it relates to donation.	The state has developed comprehensive, statewide food systems plans, and both of the following are true: <ul style="list-style-type: none"> <li>■ There is a robust framework or support to achieve clear goals and targets.</li> <li>■ Reduction of food loss and waste is a major component of food systems plans.</li> </ul>	Solid waste management plan, zero waste plan, or organics management plan is kept current, and it outlines waste diversion goals and recommendations for reducing food waste.	Climate action goals exist, and both of the following are true: <ul style="list-style-type: none"> <li>■ Legislated climate action planning sets forth recommendations for reducing food waste.</li> <li>■ Specific departments have been tasked with actionable next steps for moving policy forward.</li> </ul>	Grants, incentives, or funds for food waste reduction are available, and all of the following are true: <ul style="list-style-type: none"> <li>■ Funding is explicitly allocated for food waste reduction work as opposed to other diversion strategies.</li> <li>■ Available funding is sustainable and sufficient to support desired activities.</li> <li>■ Free technical assistance is available to food service waste generators to support food waste reduction efforts.</li> </ul>

## ENDNOTES

- 1 Katie Sandson and Emily Broad Leib, *Bans and Beyond: Designing and Implementing Organic Waste Bans and Mandatory Organics Recycling Laws*, Harvard Food Law and Policy Clinic and the Center for EcoTechnology, July 2019, <https://wastedfood.cetonline.org/wp-content/uploads/2019/07/Harvard-Law-School-FLPC-Center-for-EcoTechnology-CET-Organic-Waste-Bans-Toolkit.pdf>.
- 2 Maryland Recycling Act. Md. Code Ann., Envir. §§ 9-505, 9-1703 and 9-1706.1.
- 3 H.B. 0248, 2021 Leg., 442<sup>nd</sup> Sess. (Md. 2021).
- 4 H.B. 0264, 2021 Leg., 442<sup>nd</sup> Sess. (Md. 2021).
- 5 H.B. 0150, 2021 Leg., 440<sup>nd</sup> Sess. (Md. 2019).
- 6 Md. Code Regs. 10.15.06.10-11.
- 7 Md. Code Ann. Cts. & Jud. Proc. § 5-634 (2021); Md. Code Ann. Health—Gen. § 21-322 (2021).
- 8 Md. Code Ann. § 10-745 (2018).
- 9 Md. Code Ann. § 26.04.11 (2021).
- 10 Maryland Department of the Environment (hereinafter MDE), *Food Waste Minimization and Related Activities: A Toolkit for Maryland Schools*, <https://mde.maryland.gov/programs/LAND/AnalyticsReports/Food%20Waste%20Minimization%20and%20Related%20Activities%20--%20A%20Toolkit%20for%20Maryland%20Schools.pdf> (accessed Feb. 16, 2021).
- 11 Maryland Department of Planning, *Models & Guidelines: Managing Maryland's Growth—Planning for the Food System*, volume 28, September 2012, <https://planning.maryland.gov/Documents/OurProducts/Publications/ModelsGuidelines/mg28.pdf>. MDE, *Maryland Food Recovery Summit: Summary and Action Items*, February 2017, <https://mde.maryland.gov/programs/LAND/RecyclingandOperationsprogram/Documents/Maryland%20Food%20Recovery%20Summit%20-%20Summary.pdf>.
- 12 MDE, *Zero Waste Maryland: Maryland's Plan to Reduce, Reuse and Recycle Nearly All Waste Generated in Maryland by 2040*, December 2014, [https://mde.state.md.us/programs/Marylander/Documents/Zero\\_Waste\\_Plan\\_Draft\\_12.15.14.pdf](https://mde.state.md.us/programs/Marylander/Documents/Zero_Waste_Plan_Draft_12.15.14.pdf).
- 13 Maryland Executive Department, “Strengthening Climate Action in Maryland,” Executive Order 01.01.2014.14, November 2014, <https://mde.maryland.gov/programs/Air/ClimateChange/MCCC/Publications/EO2014.pdf>. Maryland S.B. 323, “Greenhouse Gas Emissions Reduction Act—Reauthorization,” January 2016, <https://mde.maryland.gov/programs/Air/ClimateChange/MCCC/Publications/GGRAREauth2016.pdf>. MDE, *The Maryland Greenhouse Gas Emissions Reduction Act: 2030 GGRA Plan*, February 2021, <https://mde.maryland.gov/programs/Air/ClimateChange/Documents/2030%20GGRA%20Plan/2030%20MD%20Greenhouse%20Gas%20Reduction%20Act%20Plan.pdf>.
- 14 “Organics Diversion and Composting,” MDE, accessed July 9, 2021, <https://mde.maryland.gov/programs/Land/RecyclingandOperationsprogram/Pages/composting.aspx>; MDE, “Composting Regulatory Tables 11-1,” March 2016, <https://mde.maryland.gov/programs/LAND/RecyclingandOperationsprogram/Documents/Composting%20Regulatory%20Comparison%20Tables%2011-1.pdf>.