
General Questions

1. **What are the primary requirements of this Law?**

   Beginning on October 14, 2021, P.L. 2020 c.24 requires “large food waste generators” located within 25 road miles of an authorized food waste recycling facility to source separate and recycle their food waste. Large food waste generators are subject to the requirements of this law (subject large food waste generators) only if they are located within 25 road miles of an authorized food waste recycling facility that has the available capacity and will accept the food waste. In addition to recycling food waste at an authorized food waste recycling facility, subject large food waste generators may otherwise comply with the requirement to source separate and recycle their food waste by: 1) performing on-site composting, or aerobic or anaerobic digestion in accordance with N.J.A.C. 7:26A-1.4, 4.5, or as otherwise authorized by the NJDEP, or 2) by using an alternative authorized food waste recycling method, as defined by the Law.

2. **What is the definition of a large food waste generator?**

   Under N.J.S.A. C.13E-99.122 et seq., a “large food waste generator” is defined as: (1) any commercial food wholesaler, distributor, industrial food processor, supermarket, resort, conference center, banquet hall, restaurant, educational or religious institution, military installation, prison, hospital, medical facility, or casino; (2) that produces at least 52 tons per year of food waste.

   The Law expressly excludes any interstate carrier conducting interstate transportation operations in the post-security area of an international airport.
3. Is a subject large food waste generator required to recycle its food waste at the facility that is located within that boundary of 25 road miles, or can the generator send the food waste to another facility that may be further away?

A large food waste generator that is located within 25 road miles of an authorized food waste recycling facility must source separate and recycle its food waste but may send their food waste to any authorized food waste recycling facility.

4. How does a generator know how much food waste it generates?

The Department has identified several tools which can be utilized to measure or estimate food waste by a subject large food waste generator which can be found at: https://www.nj.gov/dep/dshw/food-waste-recycling-law/measure-food-waste.html. Subject large food waste generators may also develop their own methodologies.

Please note, however, that the Department is undertaking rulemaking and will consider whether it is appropriate to establish specific methodologies or approaches for measuring food waste, which would be effective upon rule adoption.

5. How does a large food waste generator determine whether it is located within 25 road miles of an authorized food waste recycling facility?

A large food waste generator may use online mapping tools to determine if the large food waste generator is located within 25 road miles of an authorized food waste facility. It is the large food waste generator’s responsibility to determine whether they are located within 25 road miles of an authorized food waste recycling facility.

6. If a large food waste generator does not have an authorized food waste recycling facility within 25 road miles, is it subject to the Law?

No, the establishment is not required to comply with the source separation and recycling requirements or any part of the Law. If the generator is not located within 25 road miles...
of an authorized food waste recycling facility, the source separation and recycling requirements of the law do not apply to that generator. Generators should be aware that new food waste recycling facilities are currently in the planning process; consequently, a generator’s status may change, and they may be required to comply with the Law, if the generator is located within 25 road miles of a new food waste recycling facility. The Department encourages any establishment, regardless of the amount of food waste generated or proximity to any authorized food waste recycling facility, to source separate and recycle their food waste and consider how they can reduce food waste. The Department has provided tips for food waste reduction at: https://www.nj.gov/dep/dshw/food-waste/.

7. **Is a subject large food waste generator required by Law to report food waste tonnages?**

   Although not mandated in the Law at this time, large food waste generators that are within 25 road miles of an authorized food waste recycling facility are requested to report food waste tonnages, using the reporting form available online at: https://www.nj.gov/dep/dshw/food-waste-recycling-law/report-food-waste.html.

   The Law requires that the Department adopt rules and regulations necessary to implement the Law including, but not limited to, reporting requirements for large food waste generators. The Department may institute a reporting requirement through rulemaking.

8. **Is a subject large food waste generator required to report how it manages its food waste?**

   Yes, the deadline to initially report was October 14, 2021. To demonstrate initial compliance and annually thereafter, subject large food waste generators shall report the methods by which they manage their food waste using the reporting form available online at: https://www.nj.gov/dep/dshw/food-waste-recycling-law/report-food-waste.html.

9. **Where can subject large food waste generators send food waste?**
Large food waste generators may send food waste for recycling to any authorized food waste recycling facility, defined as a Class C recycling center within the State authorized to accept, store, process, or transfer food waste or compostable material pursuant to the Law. Please see the answer to Question 23 below for more options.

The DEP maintains a list of authorized food waste recycling facilities online at: https://www.nj.gov/dep/dshw/food-waste-recycling-law/food-waste-recycle-facilities.html.

Compliance may also be attained by performing enclosed on-site composting, or anaerobic or aerobic digestion of your source separated food waste in accordance with approvals or standards authorized by the Department including but not limited to N.J.A.C. 7:26A-1.4, 4.5 or 2) by using an alternative authorized food waste recycling method, as defined by the Law and provided in Question 21 below.

10. If an authorized food waste recycling facility within 25 road miles is not willing or does not have capacity to accept food waste from a large food waste generator, can the food waste be disposed as a solid waste?

Yes, if the authorized food waste recycling facility does not have capacity or is unwilling to accept source separated food waste, the large food waste generator may send the food waste for final disposal at a solid waste facility as provided in the approved district solid waste management plan for the solid waste management district in which the generator is located. The district solid waste management plan summary can be found online at: https://www.nj.gov/dep/dshw/recycling/03cplsum.htm.

Specific details regarding confirmation of capacity and acceptance of food waste at food waste recycling facilities may be outlined in rules and regulations. At this time, the Department recommends that the large food waste generator obtains, in writing, evidence that the authorized food waste recycling facility will not accept their food waste...
and maintain these records in the event they are requested by the Department or its
delegated authorities.

Waivers

11. Can a subject large food waste generator obtain a waiver of these requirements?

Yes, under certain conditions found in the Law. As stated in the Law, “the generator may
petition the Department for a waiver from the requirement to source separate and
recycle food waste at an authorized food waste recycling facility if the cost of (1)
transporting the food waste plus the fee charged by an authorized food waste recycling
facility located within 25 road miles of the large food waste generator is at least 10
percent more than (2) the cost of transporting the food waste for disposal as solid waste
plus the disposal fee charged for solid waste disposal in the State for noncontract
commercial waste by a properly licensed transfer station, sanitary landfill facility,
incinerator, or resource recovery facility located within 25 road miles of the large food
waste generator provided that (3) any authorized food waste recycling facility located
within 25 road miles of the large food waste generator seeking the waiver must be given
notice of the petition and an opportunity to participate in the proceeding before the
Department.”

12. How does the subject large food waste generator obtain a waiver of their requirements
under the Law?

The Department is undertaking rulemaking to implement the Law. The waiver process will
be established in the rule. Pending promulgated rules, the Department is not prescribing
a format for waiver requests; however, you may submit a waiver request consistent with
the requirements for a waiver identified in section 2.b.(3) of the Law via email to
reducefoodwaste@dep.nj.gov in addition to a hard copy sent to:

Seth Hackman, Bureau Chief
Division of Sustainable Waste Management
Food Waste vs. Plate Waste

13. What is food waste vs “plate waste”? Is the recycling of plate waste included in the Law?

“Food waste” means food processing vegetative waste, food processing residue generated from processing and packaging operations, overripe produce, trimmings from food, food product over-runs from food processing, soiled and unrecyclable paper generated from food processing, and used cooking fats, oil, and grease, but shall not include food donated by the generator for human consumption, any waste generated by a consumer after the generator issues or sells food to the consumer, or any waste regulated by 7 C.F.R. ss.330.400 through 330.403 and 9 C.F.R. s.94.5.

Plate waste is typically defined as food waste that has been generated by the consumer after the generator issues or sells food to the consumer. In other words, any food product that has been prepared by the generator and offered or sold to a consumer that has not been consumed or donated, even if that food is left to be disposed/recycled by the generator, is considered plate waste and not subject to the Law. In the instance where a buffet or salad bar has remaining food that has not been placed on the consumers plate, the remaining food that would otherwise be collected by the generator or their employees shall be recycled and count toward the generator's food waste estimate.
Food Waste, under certain conditions, is required by the Law to be source separated and recycled. Plate waste, however, is not required to be source separated and recycled nor is it counted towards an establishment’s amount of food waste generated. While not expressly subject to the Law, the Department encourages generators to source separate and recycle plate waste with otherwise subject food waste.

The Department intends to fully delineate this issue through rulemaking.

14. Under the definition of food waste, the Law indicates that any waste regulated by 7 C.F.R. ss.330.400 through 330.403 and 9 C.F.R. s.94.5 is not considered food waste. What type of wastes do these laws reference?

These laws address, but are not limited to, waste transportation to/from Hawaii; waste generated on cruise ships; and waste generated on airplanes.

15. Are ingredients or portions of ingredients (i.e. meat trimmings) used to make prepared meals that are not used in the final product considered plate waste?

The ingredients used while preparing the meal that were not ultimately used in the final product issued or sold to the consumer are not considered plate waste; this is counted towards food waste generated and must be source separated and recycled as appropriate pursuant to this Law.

16. Are coffee grinds and loose tea or tea bags considered food waste?

Yes, ingredients that have been or can be used to make coffee and tea are considered food waste. These ingredients fit the definition of food waste, which includes “food processing residue generated from processing and packaging operations.”

17. How will packaged food waste be treated under the Law?

Packaging is not considered food waste and should not be included in estimating food waste generation. The subject large food waste generator is required to separate food
waste from its packaging if the recycling facility at which the food waste will be recycled will not accept packaged food waste materials. Check with your authorized food waste recycling facility to find out if it will accept packaged food waste.

Authorized Food Waste Recycling Facilities

18. What is an authorized food waste recycling facility?

Under N.J.S.A. 13E-99.122 et seq., an “authorized food waste recycling facility” is defined as: a Class C recycling center within the State authorized to accept, store, process, or transfer food waste or compostable material, pursuant to subsection b. of section 41 of P.L.1987, c.102 (C.13:1E-99.34).

19. Where are the current authorized food waste recycling facilities located?

The Department lists all authorized food waste recycling facilities on its website at: https://www.nj.gov/dep/dshw/food-waste-recycling-law/food-waste-recycle-facilities.html. It is the large food waste generator’s responsibility to determine if an authorized food waste recycling facility is located within 25 road miles of the establishment.

20. How can a facility become an authorized food waste recycling facility, as defined in the Law?

For permitting information, please contact recyclingfacilities@dep.nj.gov.

Alternative Recycling Methods

21. The Law provides for large food waste generators to be deemed in compliance with the provisions of the Law by utilizing an alternative authorized food waste recycling method. What is an alternative authorized food waste recycling method?
An alternative authorized food waste recycling method means (1) recycling food waste at the site at which it is generated as authorized by the Department of Environmental Protection; (2) treating food waste at the site at which it is generated pursuant to a permit issued by the department; (3) sending food waste for offsite use for agricultural purposes, including as animal feed; (4) sending food waste offsite for treatment with sewage sludge in an anaerobic digester for renewable natural gas or biogas recovery as authorized by the department; or (5) any other method of recycling or reuse of food waste, as authorized by the department.

22. What is the process for the Department to authorize an “alternative authorized food waste recycling method” (see definition in Question 21 above)?

The Department is undertaking rulemaking to implement the Law. The process to authorize alternative methods of recycling will be established in the rule.

23. Are there any alternative authorized food waste recycling methods that have already been permitted or approved by the Department?

Yes. Sending food waste for off-site use for agricultural purposes (including animal feed) does not require specific Department authorization (but must be conducted in compliance with all New Jersey Department of Agriculture requirements) and is an acceptable alternative method of recycling food waste.

Under Class C Recycling exemptions, the Department allows in-vessel composting and outdoor composting at farms (N.J.A.C. 7:26A-1.4). Under Research Demonstration and Development (RD&D) approval, the Department allows outdoor composting using a biofilter as cover, or Bokashi with in-vessel composting (N.J.A.C. 7:26-1.7(f)). "Research, development and demonstration (RD&D) approval" means a certificate of authority to operate issued pursuant to N.J.A.C. 7:26-1.7(f) for a new or innovative technology or innovative operational process modification made to an existing recycling center or operation.
24. Do biodigesters or other approved methods of recycling/reuse approved by the Department qualify as alternative methods of recycling under this Law?

Yes, a biodigester that is authorized (through a DEP Class C recycling center approval or exemption) in accordance with the recycling rules at N.J.A.C. 7:26A-3.1 or 7:26A-1.4 or other approved methods of recycling/reuse approved by the Department qualify as alternative methods of recycling. Please contact the DEP’s Bureau of Recycling and Hazardous Waste Management at 609-984-3834 with any questions on the use of biodigesters.

25. How does a large food waste generator apply for an approval to recycle food waste at the site at which it was generated?

For permitting information, please contact the Department at reducefoodwaste@dep.nj.gov.

Large Food Waste Generators

26. Can subject large food waste generators use out-of-state food waste recycling facilities or methods as an alternative food waste recycling method?

Yes, if the out-of-state facility is authorized by all required governmental entities of that state to recycle food waste and if the generator has documentation of such authorization, then a large food waste generator may send its source separated food waste to such a facility and will be deemed to be in compliance with the Law.

27. Do out-of-state facilities count as being within the 25 road mile requirement that causes large food waste generators to be subject to the Law?

No, the 25 road mile requirement that triggers application of the Law to large food waste generators stems from authorized food waste recycling facilities located in New Jersey only – out of State recycling facilities within 25 road miles of a large generator do not affect the large generator’s status under the Law one way or another.
28. Is a business that is part of a chain with multiple locations in New Jersey, subject to this Law?

The 52 ton per year threshold is not based on the combined food waste generated at all locations. The food waste generated at each individual location should be measured or estimated separately by location to determine applicability of the Law. Additionally, the individual establishment that generates a projected average of 52 tons or more per year of food waste is only subject to the Law if that establishment is also located within 25 road miles of an authorized food waste recycling facility.

29. Is an establishment that generates less than 52 tons of food waste per year located within a larger facility that generates greater than 52 tons of food waste subject to this law?

“Large food waste generator” means any commercial food wholesaler, distributor, industrial food processor, supermarket, resort, conference center, banquet hall, restaurant, educational or religious institution, military installation, prison, hospital, medical facility, or casino that produces at least 52 tons per year of food waste. An individual establishment that generates less than 52 tons of food waste is not subject to the provisions of the Law. Since the Law applies to the individual large food waste generator, each establishment must determine if they individually meet the 52 ton per year threshold of food waste generation. Only those establishments that meet this threshold are subject to the requirements of the Law.

Enforcement

30. Are there penalties for not complying with the Law?

Yes, penalties are prescribed in the Law as follows: “Any person who violates P.L. 2020, c.24 (C.13:1E-99.122 et al.), or any rule or regulation adopted pursuant thereto, shall be subject to a civil penalty of $250 for the first offense, $500 for the second offense, and $1,000 for the third and each subsequent offense.”
31. Who is authorized to enforce the Law?

The NJ Department of Environmental Protection and/or delegated authorities, such as county agencies certified pursuant to the “County Environmental Health Act” P.L.1977, c.443 (C.26:3a2-21 et seq.).

32. What if I have questions on the Law that are not found here?

Email: reducefoodwaste@dep.nj.gov or call (609) 984-4250. The Department’s Food Waste Recycling Website can be found at: https://www.nj.gov/dep/dshw/food-waste-recycling-law/.

33. When will rules and regulations be implemented?

The Department is undertaking rulemaking to implement the Law and anticipates rules and regulations to be adopted by Spring 2024. If any large food waste generators, or other interested parties, would like to be included as stakeholders during this process, or to submit questions, please contact the DEP’s Division of Sustainable Waste Management at (609) 984-4250 or reducefoodwaste@dep.nj.gov.