



# COUNTY OF ULSTER

## DEPARTMENT OF THE ENVIRONMENT

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## ULSTER COUNTY FOOD WASTE PREVENTION AND RECOVERY ACT GUIDELINES

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### 1. Purpose and applicability

These guidelines set forth additional criteria for implementation of the Ulster County Food Waste Prevention and Recovery Act and apply any large food scraps generator regulated by the [Code of the County of Ulster, Chapter 305, Article IV](#).

### 2. Definitions

**Annual report** means the Ulster County Annual Waste & Recycling Report from the Ulster County Resource Recovery Agency. More information is available at the following link: <https://ucrra.org/waste-recycling/annual-recycling-report/>

**Category** means a classification of person, business, entity or institution for which a discrete proxy data source and food waste estimation factor is available and has been identified in these guidelines.

**County** means the County of Ulster

**Department** means the Ulster County Department of the Environment

**Exemption** means that an entity identified by the methodology defined in these guidelines does not meet the definition of a Large Food Scraps Generator per Section § 304-49 the Food Waste Prevention and Recovery Act due to business model, product type, food scraps generation quantity, or other factor. Large food scraps generators that have received approval of a Dispute of Status request from the Department are considered exempt from the law.

**Food scraps** means inedible food, trimmings from the preparation of food, food-soiled paper, and edible food that is not donated. Food scraps shall not include used cooking oil, yellow grease or food from residential sources, or any food identified in regulations promulgated by the department in consultation with the department of agriculture and markets or any food which is subject to a recall or seizure due to the presence of pathogens, including but not limited to: listeria monocytogenes, confirmed clostridium botulinum, e. coli and all salmonella in ready-to-eat foods

**Food Waste Estimator** means NYSP2I's Food Waste Estimator application, available at NYSP2I's website at the following link: <https://www.rit.edu/affiliate/nysp2i/food-waste-estimator>

**Large food scraps generator** means a person, business, entity or institution that generates at a single location an annual average of 1/2 ton per week or more of food scraps based on a methodology developed by Ulster County. Large food scraps generators may include but are not limited to, supermarkets, food service businesses, hotels, correctional facilities, sports or entertainment venues, hospitals, nursing homes, schools and universities, caterers and food preparation and processing businesses. For a location with multiple independent food service businesses, such as a mall or college campus, the entity responsible for contracting for solid waste hauling services is responsible for managing food scraps from the independent businesses

**Law** means the Ulster County Food Waste Prevention and Recovery Act. The full text of the Law is available at the following link: <https://ecode360.com/36623724>

**NYSP2I** means the New York State [Pollution Prevention Institute](#)

**Organics recycler** means a facility, permitted by the New York State Department of Environmental Conservation, that recycles food scraps through use as animal feed or a feed ingredient, rendering, land application, composting, aerobic digestion, anaerobic digestion, fermentation, or ethanol or biogas production. Animal scraps, food soiled paper, and post-consumer food scraps are prohibited for use as animal feed or as a feed ingredient. The proportion of the product created from food scraps by a composting or digestion facility, including a wastewater treatment plant that operates a digestion facility, or other treatment system, must be used in a beneficial manner as a soil amendment and shall not be disposed of or incinerated.

**ORL** means the Organic Resource Locator, a publicly available dataset and web-based mapping tool developed and maintained by NYSP2I. The ORL is available at the following link: <https://www.rit.edu/affiliate/nysp2i/organic-resource-locator>

**Otherwise beneficially repurposed** means managed according to the food waste hierarchy policy described in Section [304-47](#) of the Ulster County Food Waste Prevention and Recovery Act

**Maximum extent practicable** means the degree to which the maximum amount of edible food can be donated for human consumption, without jeopardizing human health and the environment, by implementing best management practices, considering cost effectiveness and feasibility.

**Regulated** means subject to the requirements of the Ulster County Food Waste Prevention and Recovery Act

**Regulation Year** mean the calendar year from January 1<sup>st</sup> through December 31<sup>st</sup> during which the Food Waste Prevention and Recovery Act applies

**UCRRA** means the Ulster County Resource Recovery Agency

### **3. Large food scraps generator identification methodology**

The Department defines the methodology for identifying large food scraps generator that are regulated by the law as described below. The categories, data sources and methodology for identifying large food scraps generators may change at the discretion of the department between regulation years. However, the methodology will not change for a given calendar year after the list for that calendar year has been published. A description of the identification methodology used by the Department will be available upon request.

#### **3.1 Primary methodology**

The Department will primarily use data sources and methodology<sup>1</sup> provided by NYSP2I through its Organic Resource Locator. This methodology is available as an appendix to these guidelines.

NYSP2I uses proxy food waste generation factors and public and private datasets that provide information such as number of employees, college students, inmates, etc per location that equate to food scraps generation, to estimate the amount of food scraps generated from a source. These food waste estimation factors, datasets and calculations are available on NYSP2I's ORL website at the following link: <https://www.rit.edu/affiliate/nysp2i/organic-resource-locator>

The primary methodology applies to the following categories of large food scraps generators:

- Adult Care Facilities
- Caterers
- Colleges and Universities
- Corporate Cafeterias
- Correctional Facilities
- Food Processors
- Food Retail
- Food Service
- Food Wholesale and Distribution
- Grocery, Specialty Foods, and Convenience Stores

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<sup>1</sup> Available here: [https://www.rit.edu/affiliate/nysp2i/sites/rit.edu.affiliate.nysp2i/files/2021-11/ORL\\_reference\\_table-nov\\_2021.pdf](https://www.rit.edu/affiliate/nysp2i/sites/rit.edu.affiliate.nysp2i/files/2021-11/ORL_reference_table-nov_2021.pdf)

Hospitality  
Hospitals  
Lodging and Hotels  
Nursing Homes  
NYS Correctional Facilities  
Restaurants  
Supercenters

### 3.2 Secondary methodology

If food waste estimates are not available from NYSP2I or are not appropriate, the Department will use other methods, as defined below, to estimate food scraps generation. If more accurate site- specific data, such as weight receipts are available for a certain designated food scraps generator or type of generator (franchise stores, etc.), that data may be used by the Department to estimate the amount of food scraps generated.

The secondary methodology applies to the following categories of large food scraps generators:

Food and beverage manufacturing  
Schools - elementary  
Schools - middle  
Schools - high  
Venues and events

Table 1: Secondary food scraps generation methodology (example)

Category	Dataset	Methodology	Input Field
Food and beverage manufacturing	NYSP2I	TBD <sup>2</sup>	TBD
Schools	Data request to NYS Education Department Child Nutrition Program	<a href="#">NYSP2I Food Waste Estimator</a>	Total number of meals served for breakfast and lunch during the previous school year, excluding snacks, divided by 52 weeks
Venues and events	To be determined by the department	<a href="#">NYSP2I Food Waste Estimator</a>	Number of Visitors or Number of Seats

### 3.3 Regulation for temporary or seasonal large food scraps generators

<sup>2</sup> Methodology is not currently available for this type of generator from NY State or the Pollution Prevention Institute.

The law applies to any temporary or seasonal large food scraps generator that produces during its annual period of operation more than the annual weekly average amount specified by the law multiplied by 52 weeks.

For example: beginning January 1, 2024, any large food scraps generator that produces more than 26 tons in one calendar year is subject to the requirements of the law (0.5 tons per week x 52 weeks)

#### 4. Published list of regulated large food scraps generators

The Department will generate and maintain a list of all regulated large food scraps generators for each calendar year. The Department will publish the list for each calendar year on its website on or before October 1 of the preceding calendar year.

The list will contain the following information for each large food scraps generator:

- Name
- Mailing address
- City
- Zip Code

Regulation under the law shall apply for large food scraps generators for the calendar year for which they are identified on the Department's published list and for all subsequent regulation years. The current and historical lists will be published in Adobe pdf format at the following link:

<https://ulstercountyny.gov/environment/food-waste-prevention-and-recovery-act/>

Identified large food scraps generators that meet any of the following criteria will be omitted from the published list:

- Is closed or out of business
- Has been granted an exemption in any previous regulation year
- Is determined to be exempt from the law prior to issuance of the published list for the current regulation year at the discretion of the Department

#### 5. Annual Notification

The Department will notify all large food scraps generators on the published list by October 1 of each year if they are regulated by the law for the following calendar year. The notification will contain reference to the calendar year for which the notification applies. A large food scraps generator shall comply with the law for the calendar year following notification.

For example: Notification received on October 1<sup>st</sup>, 2021.

Compliance with the law is required for the period January 1<sup>st</sup>, 2022 – December 31<sup>st</sup>, 2022

Notification will occur by mail using address information obtained via the large food scraps generator identification methodology described in Section 3.

## 6. Annual Reporting

Large food scraps generators regulated by the Law shall report the amount of food waste they cause to be reused, composted, or otherwise beneficially repurposed on an annual basis.

Large food scraps generators shall utilize the Ulster County Annual Waste & Recycling Report format provided annually by UCRRA to comply with reporting requirements under the Law.

This form will be distributed by mail to all regulated entities by January 1st each year from UCRRA. More information is available on the UCCRA website at: <https://ucrra.org/waste-recycling/annual-recycling-report/>.

If a large food scraps generator is also regulated by the NYS Food Donation and Food Scraps Recycling Law, the NYS DFSG Annual Report may be submitted in lieu of the requirements above. This report shall be submitted directly to the Department at the following email address:

[environment@co.ulster.ny.us](mailto:environment@co.ulster.ny.us)

### 6.1 Report Submission

For entities regulated under the law in a given calendar year, the Annual Report shall be submitted to the UCRRA no later than February 1st of the following year.

The report shall be returned to UCRRA via mail, fax, or e-mail to the following:

P.O. BOX 6219, KINGSTON, NY 12402  
APEO@UCRRA.ORG  
(FAX) 845-336-4129

### 6.2 Report Content Requirements

The following sections shall be fully completed when submitting the annual report:

*Table 2: Required Reporting Fields in Ulster County Annual Waste and Recycling Report*

<b>Section</b>	<b>Item</b>	<b>Description</b>
Section 1	All	Contact Information

Section 3	30	Food Scraps (composting)
Section 3	31	Food Donations
Section 3	41- 44 (as applicable)	Other Wastes Not Listed Above

Food waste that has been otherwise beneficially repurposed should be reported using Section 3, items 41 through 44, as applicable. This applies to food diverted for animal feed.

If additional space is required to describe food scraps diversion activities under the law, the large food scraps generator should submit an attachment with the Annual Report detailing any activities not included within the report.

### 6.3 Verification

To verify the annual report, the County, the Department, or UCRRA may:

- request additional information from the large food scraps generator by phone or email
- contact organics recyclers to confirm the reported amounts of food waste diversion
- conduct site visits to observe organics recycling on site

## 7. Temporary Waivers

### 7.1 General

Ulster County may grant a Waiver of the requirements of the law for one or more of the following circumstances:

- If the County determines that compliance with the law would result in extraordinary financial hardship to the large food scraps generator
- If the County determines that a facility is not reasonably able to separate food scraps without contamination
- If the County determines that other unique circumstances justify a Waiver

Any Waiver granted shall apply for the current regulation year only and shall include a requirement that the large food scraps generator participate in an education program designed to achieve compliance with the law.

### 7.2 Waiver Submission and Review

Instructions: A Waiver application maybe submitted to the County using the Waiver form available on the County's website at: <https://ulstercountyny.gov/environment/food-waste-prevention-and-recovery-act/guidelines> or by request via email at [foodwastelaw@co.ulster.ny.us](mailto:foodwastelaw@co.ulster.ny.us).

Fill in all fields in the Waiver form; attach all supporting documentation and email to [foodwastelaw@co.ulster.ny.us](mailto:foodwastelaw@co.ulster.ny.us) or mail to:

Ulster County  
ATTN: Department of the Environment  
17 Pearl Street  
P.O. Box 1800  
Kingston, NY 12402

Application deadline: Waiver requests must be submitted by email to [foodwaste@co.ulster.ny.us](mailto:foodwaste@co.ulster.ny.us) by the annual application deadline or at least 90 days prior to the expiration date of the current Waiver.

Notification of Waiver status: Waiver applications are subject to County review and approval/denial. Notification of Waiver status to applicants will be issued via email (unless otherwise requested) within two weeks of confirmed receipt of the Waiver application by the County.

### 7.3 Documentation Required for Justification

- For a waiver due to financial hardship, submit the following:
  - Annual income tax filing for the most recent tax year demonstrating a gross income of under \$300,000, AND
  - Waste hauling contracts and/or bills demonstrating current waste management costs, as well as quotations or other supporting documentation demonstrating that total cost of solid waste management, including organics recycling, is at least 10% greater than the total cost of disposal without organics recycling.
- If the facility is not reasonably able to separate food scraps without contamination or other unique circumstances, submit the following:
  - Detailed explanation of circumstances, AND
  - Relevant supporting documentation as applicable.

### 8. Dispute of Status / Exemption



A regulated large food scraps generator may request an exemption at any time indicating that the amount of food scraps that it generates is not sufficient to subject it to the requirements of the law.

The Department may grant or approve an exemption from the law at its discretion for other justifications that make the large food scraps generator exempt from the law.

The County reserves the right to revoke approval of an exemption if the information contained in the Dispute of Status request is found to be inaccurate or incomplete.

## 8.1 Dispute of Status Submission and Review

Instructions: A Dispute of Status application may be submitted to the County using the Dispute of Status form available on the County's website at: <https://ulstercountyny.gov/environment/food-waste-prevention-and-recovery-act/guidelines> or by request via email at [foodwastelaw@co.ulster.ny.us](mailto:foodwastelaw@co.ulster.ny.us).

Fill in all fields in the Dispute of Status form; attach all supporting documentation and email to [foodwastelaw@co.ulster.ny.us](mailto:foodwastelaw@co.ulster.ny.us) or mail to:

Ulster County  
ATTN: Department of the Environment  
17 Pearl Street  
P.O. Box 1800  
Kingston, NY 12402

Notification of Dispute of Status: Dispute of Status applications are subject to County review and approval/denial. Notification of approval to applicants will be issued via email (unless otherwise requested) within thirty (30) days of confirmed receipt of the Dispute of Status application by the County.

## 8.2 Documentation Required for Justification

The Dispute of Status request shall be accompanied by additional documentation/information as outlined for each of the cases below:

A) For generators disputing their status based on the actual amount of food waste generated, a waste audit is required. The waste audit must measure, by weight, all source-separated food scraps generated during a consecutive seven-day week in which the generator was operating under its regular schedule. A Waste Audit may be submitted in one of the following formats:

- Completed EPA food waste audit spreadsheet<sup>3</sup> and/or third-party waste audit (This is a required step unless otherwise directed by the County, and/or Department personnel); or

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<sup>3</sup> Available here: <https://www.epa.gov/sites/default/files/2015-08/documents/food-waste-log.pdf>

- Documentation (email, bills, etc.) from the waste hauler/transporter or other verified source that indicates the amount of total waste removed from the generator for the previous year is less than an average of 0.5 tons per week, by weight. For calculating the weight of waste based on volume, the volume-to-weight conversion factor of 138 lbs per cu. yd. (as provided by the US EPA<sup>4</sup>) may be used; or
- Other relevant information to justify the amount of food scraps generated, if determined acceptable by the County

B) For a dispute of food waste calculation assumptions: Submit an attestation that the assumptions used in the food waste calculations are incorrect (e.g. fewer employees than indicated). Backup documentation shall be provided to support the claim, including:

- A narrative describing the current conditions that apply to the input fields for the generator's category, and supporting documentation.
- Calculations using methodology provided by the NYS Pollution Prevention Institute Food Waste Estimator<sup>5</sup>, to include correct Category, Input Fields and Food Waste Generation Factor

C) For a dispute based on the definition of large food scraps generator, provide:

- A narrative describing how the business model, product/service, or supply chain arrangement of the entity ensures that no food scraps are generated during operations.
- Other information to justify the claim as needed.

For each case above, additional documentation may be required by the Department upon review of the submitted Dispute of Status application.

### 8.3 EPA Waste Audit Spreadsheet Guidance

This simple tool provides a framework for food scrap generators and other food venues to measure and categorize their wasted food and related packaging generation across three main sections: food waste, packaging waste, and plate waste. Please be as detailed as possible when completing.

The EPA provides detailed guidance on completing the self-audit at the following link:

[https://www.epa.gov/sites/default/files/2015-08/documents/r5\\_fd\\_wste\\_guidebk\\_020615.pdf](https://www.epa.gov/sites/default/files/2015-08/documents/r5_fd_wste_guidebk_020615.pdf)

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<sup>4</sup> Available here: <https://www.epa.gov/smm/volume-weight-conversion-factors-solid-waste>

<sup>5</sup> Available here: <https://www.rit.edu/affiliate/nysp2i/food-waste-estimator>

## 9. Inspection

The County, Department and/or UCRRA personnel may enter any large food scraps generator's property or inspect records, at all reasonable times and locations, whether announced or unannounced, for the purpose of determining compliance with the law.