

CROSSING STATE LINES: GETTING THE MOST OUT OF RADIUS PROVISIONS IN FOOD WASTE DISPOSAL LAWS

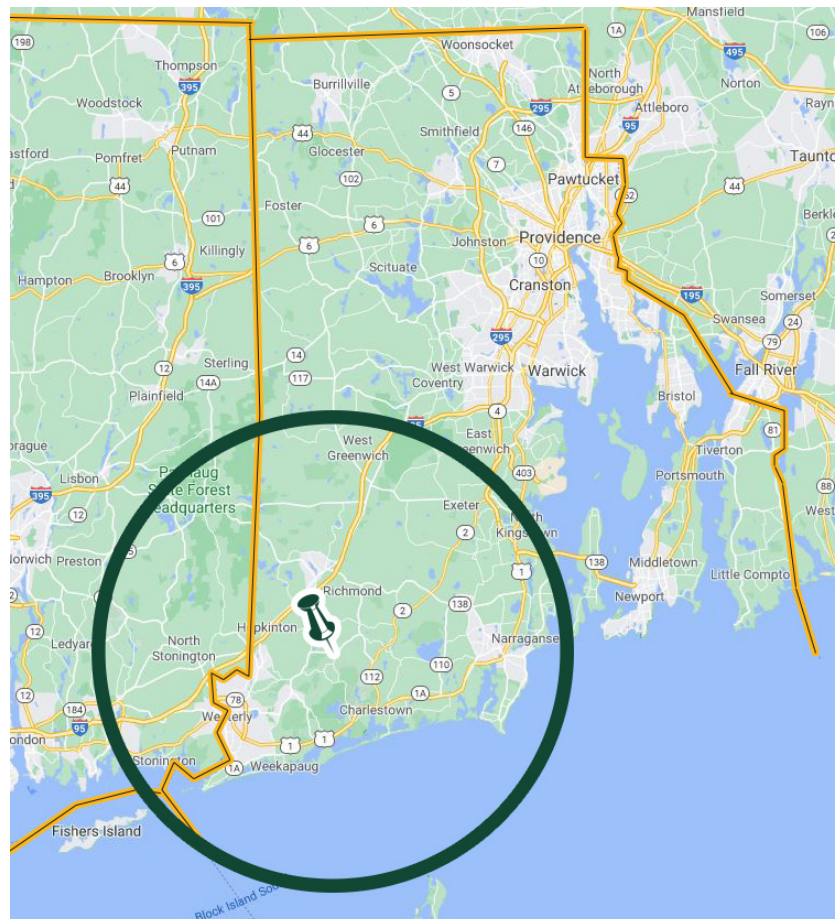


State Food Waste Disposal Bans and Radius Provisions

Among the nine U.S. states that have passed commercial food waste disposal legislation, five include radius provisions. Businesses that generate wasted food are subject only if there is a food waste processing facility within a designated distance—say, 15 or 20 miles.

Naturally, the default interpretation of these radius clauses is that covered entities be within the designated mileage of an authorized facility in their state. But nothing in these laws excludes out-of-state facilities. In fact, while working with Connecticut and Rhode Island, the Center for EcoTechnology (CET) realized that proactively including the catchments of facilities in border states can give food waste policies a boost as in-state infrastructure catches up with the demand.

For example, when Rhode Island's ban went into effect in 2016, the state had one authorized composting facility: Earth Care Farm in Charlestown. For a state that is just 37 miles wide and 48 miles long, this left a remarkable portion in "exempt" territory.



Circle (with 15-mile radius) represents the area of Rhode Island covered by the state's food waste ban when, in 2016, the state's sole compost facility was considered the only authorized facility.

Engagement with Connecticut Department of Energy and Environmental Protection (CT DEEP) and the Rhode Island Department of Environmental Management (RI DEM)

CET began working in Connecticut in 2015 following passage of their Commercial Organics Recycling Law in 2014. Our initial task comprised a baseline assessment of the food waste diversion marketplace, identifying strengths and weaknesses and strategies for accelerating prevention and diversion activities. We followed this with technical assistance to commercial entities; our high-touch approach to working with businesses honed through our experience administering the RecyclingWorks in Massachusetts program. CET's long-term commitment to the region led to a strong partnership with CT DEEP, and our collaboration with RI DEM and other Rhode Island agencies followed a similar trajectory. We commenced work in Rhode Island in 2017 after the state passed the Food Waste Law in 2016. With support from the USDA and U.S. EPA, CET conducted a landscape analysis of the food waste marketplace and provided technical assistance to commercial entities throughout the state. We quickly became a trusted ally of stakeholders across the wasted food marketplace.

The breakthrough in expanding the interpretation of Connecticut and Rhode Island's food waste bans, like many, was accidental but made possible by CET's unique depth of knowledge of the regional wasted food marketplaces. Upon creating maps of regional infrastructure, the opportunity became clear: if New York and Massachusetts facilities were counted among Connecticut and Rhode Island's "authorized facilities", each state would see a sizable bump in the number of commercial entities and institutions covered by their respective food waste laws.

CET brought this insight to both CT DEEP and RI DEM in quick succession. They had their legal counsels review the policies through this lens, and determined that including out-of-state facilities in the radius provision was a legitimate interpretation of their laws.

Outcomes and Significance of Re-Interpreting the Radius Provisions

When Connecticut and Rhode Island officially included out-of-state infrastructure among the authorized facilities under their food waste laws, it yielded dozens of additional covered entities and thousands of tons of organics per year—including one Rhode Island seafood manufacturer generating 400 tons annually. CET teamed up with CT DEEP and RI DEM to issue letters to businesses and institutions thought to be generating organic waste at or above the legal thresholds and within reach of authorized facilities. Letters informed recipients of the law and of free technical assistance available from CET. CT DEEP even added links to Massachusetts and New York facilities on their FAQ page in answer to the question, "Where are the permitted food scrap recycling facilities located?"

The lessons from expanding the interpretation of Connecticut and Rhode Island's radius clauses are widely transferrable. Material movement across state lines is business as usual in the waste industry. Haulers transport trash, recyclables, and now organics across borders all the time. It's up to legislatures and enforcement agencies to utilize this standard practice to ensure maximum recovery of wasted food.

This is also the story of states leveraging their neighbor's wasted food marketplaces in order to build out their own. Now that the early adopters of organics legislation have increasingly robust marketplaces and infrastructure, those that are now adopting food waste legislation should take advantage of infrastructure outside their borders. As more entities divert organics, the demand for services will help attract local investment in infrastructure. Such piggy-backing is a win for the organics processing industry and a catalyst for the organic diversion movement overall.

Resources

[Bans and Beyond: Designing and Implementing Organic Waste Bans and Mandatory Organics Recycling Laws](#). Policy review co-published by the Harvard Food Law and Policy Clinic and CET. Analyzes existing food waste disposal legislation across the U.S. and the pros and cons of different policy approaches.

[Massachusetts Food Waste Ban Economic Impact Analysis](#). Commissioned by the Massachusetts Department of Environmental Protection and conducted by ICF in 2016, the report shows substantial positive impacts of the commercial organics ban on the Massachusetts economy, including job creation and increases in gross state product and state tax revenue.

[Benefit-Cost Analysis of Potential Food Waste Diversion Legislation](#). In anticipation of a food waste ban in New York, the New York State Energy Research and Development Authority commissioned an analysis of potential economic impacts in 2017. Prepared by Industrial Economics, Incorporated, the report concludes that the ban would result in significant economic benefits and emissions reductions.

[U.S. EPA Excess Food Waste Opportunities Map](#). This nationwide map provides information about potential generators and recipients of excess food in the industrial, commercial and institutional sectors, including estimates of wasted food generation rates for each entity. While data is not always accurate or comprehensive, the map and corresponding dataset are excellent resources for developing a snapshot of wasted food generation at different volumetric thresholds or by different sectors.

[Wasted Food Solutions for Government Agencies](#). An overview of the wasted food related services that CET provides to support government agencies with policy development, roll-out and enforcement, infrastructure planning, and programming.

The Center for EcoTechnology acts as a catalyst to accelerate the growth of organics marketplaces. We advise governments on the design and implementation of organics disposal policies and on investment in infrastructure, and work directly with commercial and institutional generators to implement wasted food strategies across the food recovery hierarchy.

For more information, visit our Wasted Food Solutions website or contact us today.

