



## Legal Fact Sheet for Rhode Island Food Donation: Feeding Food Scraps to Livestock

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The use of food waste as animal feed has been commonplace for centuries.<sup>1</sup> This practice declined in the 1980s, when state and federal laws tried to limit the feeding of food waste to animals following several disease outbreaks linked to animal products in livestock feed. Recently, there has been renewed interest in the practice of feeding safe, properly treated food waste to animals.

Using food scraps as animal feed in a safe, resource-efficient way can be an environmentally friendly and energy-efficient alternative with multiple benefits for regional farmers and food waste generators, such as retailers, restaurants, and educational institutions. These entities can partner to enhance the sustainability of their operations and reduce feed and disposal costs. This practice can also reduce the demand for commercial feeds and the land, water, and other resources needed to produce them. Federal and Rhode Island laws regulate the use of food scraps in animal feed. This legal fact sheet will briefly examine both types of law.

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### Federal Laws on Feeding Food Scraps to Livestock

The federal government regulates the use of food scraps in animal feed by setting requirements which largely concern the type of animals that may be fed food scraps and the kind of food scraps that may be fed to animals. The federal regulations function as a floor that allows state regulations to go beyond them. Relevant federal laws include:

- **The Federal Swine Health Protection Act (SHPA)** mandates that, before being fed to swine, food scraps containing meat and animal byproducts must be heat-treated (212 degrees Fahrenheit/100 degrees Celsius at sea level) for at least 30 minutes by a licensed facility.<sup>2</sup> Food waste containing only certain processed items—including industrially processed and rendered animal products, bakery waste, candy, eggs, domestic dairy products, and certain types of fish—need not be heat-treated.<sup>3</sup> SHPA requires feeders to keep swine away from untreated food scraps, and to keep treated food separate from untreated food.<sup>4</sup> SHPA does not prohibit a family farm from directly supplementing the diet of its pigs with kitchen scraps, including those that contain untreated meat.<sup>5</sup>
- **Transmissible Spongiform Encephalopathy (TSE)/Ruminant Feed Ban Rule**<sup>6</sup> prohibits the feeding of any protein-containing portion of mammalian animals to ruminants in order to prevent TSE.<sup>7</sup> Ruminants are animals that have a stomach with four chambers, such as cattle, sheep, and goats.<sup>8</sup>
- **The Preventive Controls Rule for Animal Food in the Food Safety Modernization Act (FSMA)**<sup>9</sup> regulates animal feed that consist of human food byproducts,<sup>10</sup> which are defined as foods fit for animal but not human consumption, such as culls, peels, trimmings, and pulp from vegetable manufacturing or processing.<sup>11</sup> In general, facilities processing food that will be fed to animals must (1) establish current good manufacturing practices (CGMPs), (2) develop and implement Hazard Analysis and Risk-based Preventive Controls (HARPC), and, if the facility receives food from a supply chain, (3) coordinate with other entities in the chain to control identified hazards.<sup>12</sup> But not all facilities must comply with all three requirements. Some facilities are completely exempt from the rule, including certain farms and other facilities that are not required to register with the Food and Drug Administration (FDA).<sup>13</sup> Other facilities, such as those in compliance with the Preventive Controls rule for human food, are subject to modified requirements.<sup>14</sup>
- **The Food, Drug, & Cosmetic Act (FDCA)** asserts that animal feed, like human food, cannot be filthy or decomposed, packaged or held under unsanitary conditions, or contain any poisonous or deleterious substance.<sup>15</sup> Moreover, food labeling cannot be false or misleading in any way, and it must include all required information.<sup>16</sup> In general, an animal feed label should include the common or usual name(s) of the animal feed,<sup>17</sup> and the name and place of the feed manufacturer, packer, or distributor.<sup>18</sup>

**Example Scenario:** *I own a small microbrewery. What practices should I follow when distributing byproducts from my business as animal feed?*

A: Breweries produce spent grain, brewery mash, fruit or vegetable peels, and liquid whey as byproducts of alcoholic-beverage brewing and distilling, and commonly distribute this waste as animal feed.<sup>19</sup> Because these byproducts are not derived from meat or animal products, they do not fall under the other SHPA or the Ruminant Feed Ban Rule. Under the Preventive Controls rule, brewers must (1) be in compliance with the human food processing CGMPs, (2) not further process the brewing byproducts, and (3) follow those specified CGMPs for preventing physical and chemical contamination when holding and distributing brewing byproducts.<sup>20</sup>

## Rhode Island Law on Feeding Food Waste to Animals

Rhode Island only regulates the feeding of food scraps to swine. Rhode Island allows any business, state, municipality or individual to feed animal-derived and vegetable food scraps to swine.<sup>21</sup> However if you feed food scraps to more than four swine you must obtain a garbage feeding permit issued by the Department of Environmental Management.<sup>22</sup>

In order to be granted a garbage feeding permit, an applicant's swine feeding area must<sup>23</sup>:

1. Be equipped with a cement base and be constructed for daily cleaning so that all refuse may be disposed of;
2. Meet existing sanitary and humane standards regarding drainage, ventilation, and warmth;
3. Be on premises upon which swine held are kept clean and sanitary.<sup>24</sup>

Once a permit has been issued food scraps must be heated to 212 degrees Fahrenheit for 30 minutes or longer before legally being fed to swine.<sup>25</sup> Individuals feeding household waste to their own swine are exempt from these requirements.<sup>26</sup> Farmers and animal feed producers must still follow all applicable federal laws even when there is no state law that applies to their practices.

## Conclusion

When done responsibly and in conformity with state and federal law, feeding food scraps to animals has many economic and environmental benefits. Individuals or businesses interested in the practice can learn more by consulting the Rhode Island Department of Environmental Management.

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<sup>1</sup> See TRISTRAM STUART, *WASTE: UNCOVERING THE GLOBAL FOOD SCANDAL* 243–44 (First Am. Ed. 2009).

<sup>2</sup> 9 C.F.R. §§ 166.2, 166.7 (2016).

<sup>3</sup> 9 C.F.R. §§ 166.1, 166.2.

<sup>4</sup> See e.g., 9 C.F.R. §§ 166.17, 166.3(a), 166.4(a).

<sup>5</sup> 9 C.F.R. § 166.1.

<sup>6</sup> 21 C.F.R. § 589.2000 (2016).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> 21 C.F.R. § 507 (2016).

<sup>10</sup> *Id.* § 507.12(a).

<sup>11</sup> *Id.* § 507.12.

<sup>12</sup> *Id.* § 507.

<sup>13</sup> See 21 C.F.R. §§ 117.3, 117.5, 507.3, 507.5(d).

<sup>14</sup> 21 C.F.R. §§ 507.12(a), 507.12(b).

<sup>15</sup> 21 U.S.C. § 342 (2012).

<sup>16</sup> 2 U.S.C. § 343.

<sup>17</sup> 21 C.F.R. § 501.100(a).

<sup>18</sup> *Id.* § 501.5.

<sup>19</sup> *Questions and Answers for Brewers/Distillers on the Original FSMA Proposed Rule for Preventive Controls for Animal Food*, FDA, Apr. 2014, <http://www.fda.gov/Food/GuidanceRegulation/FSMA/ucm394991.htm>.

<sup>20</sup> 21 C.F.R. §§ 507.12(a), 507.12(b).

<sup>21</sup> 4 R.I. GEN. LAWS ANN. § 4-3-1.

<sup>22</sup> *Id.* § 4-3-3.

<sup>23</sup> *Id.* § 4-3-5.

<sup>24</sup> The property on which swine are held is subject to inspection by a representative of the director of the Department of Environmental Management. See 4 R.I. GEN. LAWS ANN. §§ 4-3-8, 4-3-6.

<sup>25</sup> 4 R.I. GEN. LAWS ANN. § 4-3-6.

<sup>26</sup> *Id.* § 4-3-2.