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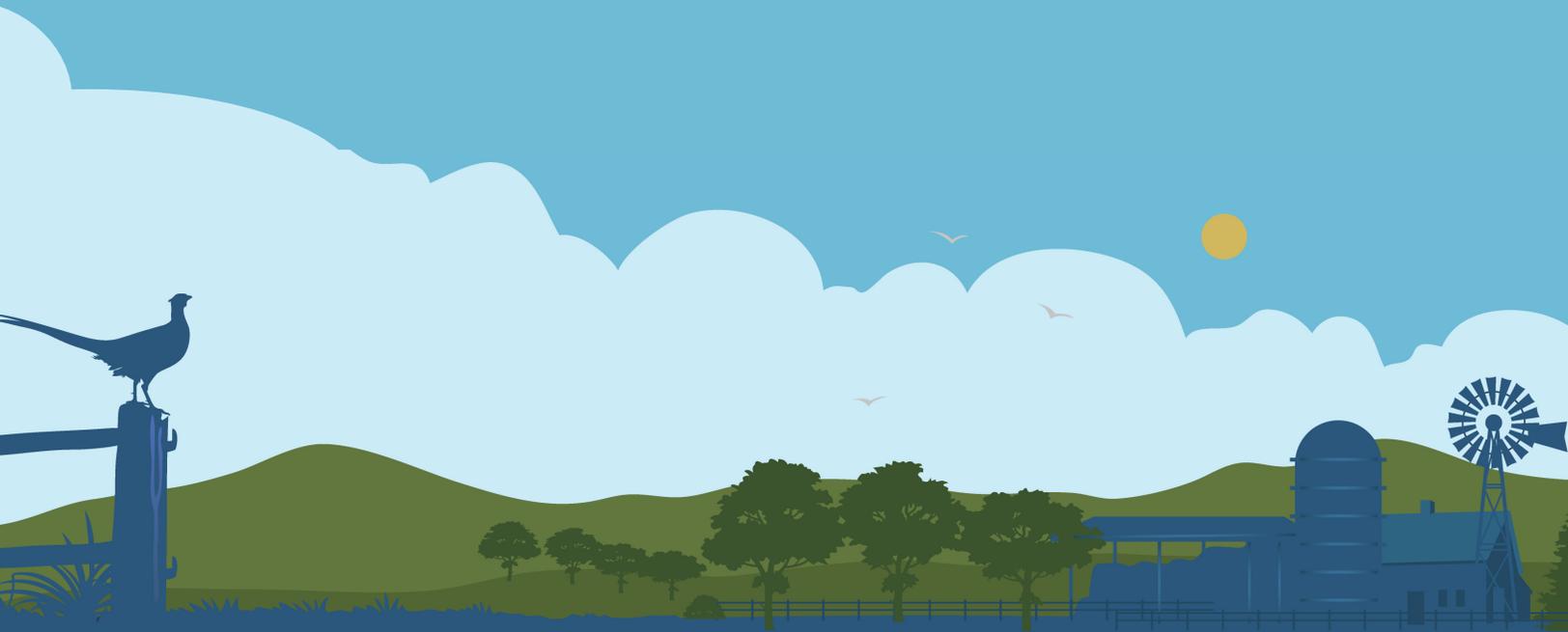


ReFED



Opportunities to Reduce Food Waste in the 2023 Farm Bill

APRIL 2022



Prevention



Recovery



Recycling



Coordination

AUTHORS

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ACKNOWLEDGEMENTS

This report would not have been possible without the advice and support of the many individuals and organizations with whom we discussed the ideas provided herein or who provided input and feedback on our drafts, including Melissa Melshenker Ackerman (Produce Alliance), Lesly Baesens (Denver Department of Public Health & Environment), Joe Bolick (Iowa Waste Reduction Center), Linda Breggin (Environmental Law Institute), Bread for the World, Carrie Calvert (Feeding America), Cory Mansell (Center for EcoTechnology (CET)), Darraugh Collins (Food Rescue U.S. - Detroit), Shirley DelRio, Paul Goeringer (University of Maryland College of Agriculture & Natural Resources), Nora Goldstein (BioCycle), Eva Goulbourne (Littlefoot Ventures), Andy Harig (FMI-The Food Industry Association), LaToya Huggins (Produce Alliance), Bryan Johnson (City of Madison, Wisconsin - Streets Division), Sona Jones (WW International), Wes King (National Sustainable Agriculture Coalition (NSAC)), David Matthews-Morgan, Andrew Morse (Iowa Waste Reduction Center), Stacie Reece (City of Madison, Wisconsin), Barbara Sayles (Society of St. Andrew), Niyeti Shah (WW International), Rachel Shumaker (City of Dickinson, ND), Tom Smiarowski (University of Massachusetts Extension, Center for Agriculture, Food, and the Environment), Latha Swamy (City of New Haven, CT, Food System Policy Division), Danielle Todd (Make Food Not Waste), Jennifer Trent (Iowa Waste Reduction Center), Lorren Walker (Elias Walker), Renee Wallace (FoodPLUS Detroit), among others.

Report design by Najeema Holas-Huggins.



About the Harvard Law School Food Law and Policy Clinic

FLPC serves partner organizations and communities in the United States and around the world by providing guidance on cutting-edge food system issues, while engaging law students in the practice of food law and policy. FLPC is committed to advancing a cross-sector, multi-disciplinary and inclusive approach to its work, building partnerships with academic institutions, government agencies, non-profit organizations, private sector actors, and civil society with expertise in public health, the environment, and the economy. FLPC's work focuses on increasing access to healthy foods, supporting sustainable and equitable food production, reducing waste of healthy, wholesome food, and promoting community-led food system change. For more information, visit www.chlpi.org/FLPC.

About NRDC (Natural Resources Defense Council)

NRDC defends the rights of all people to live free from environmental harm in a clean, healthy, and thriving natural world. We combine the power of more than three million members and online activists with the expertise of some 750 scientists, lawyers, and policy advocates across the globe to ensure the rights of all people to the air, the water, and the wild. For more information, visit www.nrdc.org.

About ReFED

ReFED is a national nonprofit working to end food loss and waste across the food system by advancing data-driven solutions to the problem. We leverage data and insights to highlight supply chain inefficiencies and economic opportunities; mobilize and connect supporters to take targeted action; and catalyze capital to spur innovation and scale high-impact initiatives. Our goal is a sustainable, resilient, and inclusive food system that optimizes environmental resources, minimizes climate impacts, and makes the best use of the food we grow. To learn more about solutions to reduce food waste, please visit www.refed.org.

About World Wildlife Fund

WWF is one of the world's leading conservation organizations, working for 60 years in nearly 100 countries to help people and nature thrive. With the support of 1.3 million members in the United States and more than 5 million members worldwide, WWF is dedicated to delivering science-based solutions to preserve the diversity and abundance of life on Earth, halt the degradation of the environment, and combat the climate crisis. Visit www.worldwildlife.org to learn more.

EXECUTIVE SUMMARY

The United States produces and imports an abundance of food each year, but approximately 35% of it goes unsold or uneaten.¹ Annually, 80 million tons of surplus food are not consumed. Of this, 54.2 million tons go to landfill or incineration, or are left on the fields to rot.² Farmers, manufacturers, households, and other businesses in the United States spend \$408 billion each year to grow, process, transport, and dispose of food that is never eaten.³ This waste carries with it enormous economic, environmental, and social costs, but also represents great opportunity. ReFED, a national nonprofit working with food businesses, funders, policymakers, and more, to reduce food waste, analyzed 40+ food waste solutions, and found that the implementation of these solutions has the potential to generate \$73 billion in annual net financial benefit, recover the equivalent of 4 billion meals for food insecure individuals, save 4 trillion gallons of water, and avoid 75 million tons of greenhouse gas emissions annually.⁴

The federal government has an important role to play in the continued effort to reduce food waste. In 2015, the United States Department of Agriculture (USDA) and the United States Environmental Protection Agency (EPA) jointly announced the nation's first-ever food waste reduction goal, aiming to cut food waste in the United States by 50% by the year 2030.⁵ While the food waste reduction goal is a step in the right direction, in order to make this goal a reality, it is imperative for the federal government to make food waste reduction a legislative priority.

Congress has started to take these necessary steps. In 2018, for the first time ever, Congress included measures in the Farm Bill to reduce food waste, for example, by clarifying liability protections for food donors, financing food recovery from farms, encouraging food waste recycling through community compost funding, and better coordinating food waste reduction efforts across the federal government.⁶ Many of these programs were suggested in the *Opportunities to Reduce Food Waste in the 2018 Farm Bill* report, on which this report is based.⁷ While the inclusion of these programs was an important first step, there is significant room for improvement in the 2023 Farm Bill. The farm bill authorizes roughly \$500 billion over five years in expenditures across the entire food system, and the upcoming farm bill is poised to use a portion of this funding to build upon the successful pilot programs launched in 2018 and ensure more comprehensive investment in food waste reduction.

Opportunities to Reduce Food Waste in the 2023 Farm Bill details how Congress can take action to reduce food waste and offers specific recommendations of provisions to include in the 2023 Farm Bill. Given the bipartisan support for measures to reduce food waste,⁸ the next farm bill provides an exciting opportunity to invest in food waste reduction efforts for greater social, economic, and environmental benefits. This report breaks food waste recommendations into four categories, based on whether they are intended to prevent food waste, increase food recovery, recycle food scraps through composting or anaerobic digestion, or coordinate food waste reduction efforts.

Below are a summary of the four categories and the top recommendations for each that are described in greater detail later in this report as well as mentions of relevant pending federal legislation (that are also included in further detail in Appendix C):



FOOD WASTE PREVENTION

Prevention efforts focus on interventions at the root causes of food waste—they locate and address inefficiencies in the food system and food related practices before excess food is produced, transported to places where it cannot be utilized, or discarded rather than eaten. More than 85% of greenhouse gas emissions from landfilled food waste result from activities prior to disposal, including the production, transport, processing, and distribution of food.⁹ The greenhouse gas emissions embodied in the food wasted by consumers and consumer-facing businesses account for more than 260 million metric tons of carbon dioxide equivalent (CO₂e) per year,¹⁰ which is equivalent to the annual emissions of 66 coal-fired power plants.¹¹ Food waste prevention efforts keep millions of tons of food out of the landfill and have the most potential for environmental,



economic, and social benefits. Altogether, the food waste prevention policies discussed in this section have the potential to annually divert nearly 7 million tons from landfills, while generating more than \$27.4 billion each year in net financial benefit.¹²

Standardize and Clarify Date Labels

There is no federal regulation for date labels used on food. Instead, each state decides whether and how to regulate date labels, leading to a patchwork of inconsistent regulations and myriad date labeling terms such as “sell by,” “best by,” “expires on,” and “use by.” Manufacturers have broad discretion over what dates to affix to their food products, often using dates that typically reflect food quality and taste rather than food safety. Yet businesses, individuals, and even state regulators frequently misunderstand date labels and interpret them to be indicators of safety, leading to the unnecessary waste of wholesome food. Some states even restrict or forbid the sale or donation of past-date foods that are still safe to donate and eat. These inconsistent and misguided state laws lead to wholesome foods unnecessarily being discarded rather than donated. In order to reduce consumer confusion and the resulting food waste, the 2023 Farm Bill should standardize date labels through the Miscellaneous Title or a new Food Waste Reduction Title.

Launch a National Food Waste Education and Awareness Campaign

American consumers alone are responsible for 37.2% of all U.S. food waste.¹³ Research shows that while consumers understand the importance of food waste reduction in the United States, they do not recognize their own role in these efforts. So far there have been successful small-scale campaigns to educate consumers, but to really move the needle, a coordinated, well-funded national campaign is needed. The 2023 Farm Bill can address and correct wasteful practices by providing \$7 million annually through 2030 for a national food waste education and awareness campaign—with \$3 million for research into effective consumer food waste reduction strategies and \$4 million for consumer-facing behavior change campaigns—within the Miscellaneous or a Food Waste Reduction Title.

Relevant Pending Legislation

Food Date Labeling Act of 2021 (H.R. 6167, S.3324 117th Cong. 1st Sess., 2021); School Food Recovery Act of 2021 (H.R. 5459, 117th Cong. 1st Sess., 2021)



SURPLUS FOOD RECOVERY

Food recovery solutions aim to recover surplus food and redistribute it to individuals experiencing food insecurity. Recovering surplus food within the supply chain and reducing barriers to food donation could result in the recovery of roughly 2.3 million additional tons of food each year and a net financial benefit of \$8.8 billion.¹⁴ Nearly half of this new food recovery potential comes from farms, more than a third from restaurants, and the rest from grocers and retailers.¹⁵

Strengthen and Clarify the Bill Emerson Good Samaritan Food Donation Act

Many businesses are reluctant to donate food because of perceived liability concerns associated with donation, such as a food recipient getting sick.¹⁶ To eliminate these barriers to surplus food donation, the 2023 Farm Bill should strengthen and clarify the Bill Emerson Good Samaritan Food Donation Act, which protects food donors from liability.¹⁷ It should do so by delegating authority over the Act to the USDA and mandating that the USDA publish regulations interpreting the Act. The 2023 Farm Bill should also modify the Act to protect donors who donate directly to individuals and organizations that charge a small fee for donated food.

Increase Funding Support for Food Recovery Infrastructure and for Post-Harvest Food Recovery

The USDA should expand investments in food recovery infrastructure and innovative food recovery models to overcome barriers to increased food recovery and donation. To support the development of food recovery operations, Congress should increase funding for food infrastructure efforts, either through new 2023 Farm Bill investments or by making several funding initiatives from the COVID-19 response permanent. Additionally,

it should continue supporting innovative food recovery models by increasing funding for the Community Food Projects Competitive Grants Program within the Nutrition Title and earmarking a portion of the grants for food recovery projects. Congress should also increase funding for the Local Agriculture Market Program in the Horticulture Title, increase its applicability to food waste reduction beyond just “on-farm food waste,” and earmark a portion of its funding for food waste prevention and recycling and food recovery.

Relevant Pending Legislation

Further Incentivizing Nutritious Donations of Food (or FIND) Act of 2022 (H.R. 7313, 117th Cong. 2nd Sess., 2022); Food Donation Improvement Act of 2021 (H.R. 6521, S.3281, 117th Cong. 1st Sess., 2021); Fresh Produce Procurement Reform Act of 2021 (H.R. 5309, 117th Cong. 1st Sess., 2021).



FOOD WASTE RECYCLING

Food waste is the largest component of landfills nationwide—contributing over 36 million tons to landfills each year¹⁸ and accounting for 24.1% of landfilled municipal solid waste.¹⁹ Food waste alone produces 4% of all U.S. greenhouse gas emissions per year.²⁰ Further, instead of being wasted, these organic inputs could contribute to better soil matter and reduce soil loss, contributing to a more circular economy. Despite improvements in food waste prevention and recovery initiatives, some food is inevitably discarded. Recycling remaining food waste has the annual potential to divert 20.9 million tons of food scraps from landfills and produce a net financial benefit of \$239.7 million.²¹ The 2023 Farm Bill should support methods of food waste management that are sustainable, economically beneficial, and limit the use of landfill space and reliance on incinerators.

Provide Grants to Support Proven State and Local Policies that Reduce Food Waste Disposed in Landfills or Incinerators

Landfills continue to be overburdened by food waste.²² States and cities are running out of space to store organic waste as they continue to rely on landfills to manage this waste.²³ Further, as food items decompose in landfills, they release harmful greenhouse gases at alarming rates, which can cause potential harm to human health, agriculture, and other natural ecosystems and resources.²⁴

State and local policies such as organic waste bans, waste diversion requirements, landfill taxes, and Pay-As-You-Throw policies have been shown to move the needle on reducing food waste and are essential to divert food waste from landfills and incinerators. When food waste generators that produce a certain threshold of food waste (e.g., grocery stores and hospitals) are prevented from transporting organic waste to landfills or have a strong financial reason not to waste food, they will make changes such as offering smaller portions, donating surplus food, recycling food scraps, and repurposing their leftovers. The 2023 Farm Bill should provide \$650 million in yearly funding for ten years for state, local, and tribal governments, independently or as part of a public-private partnership to plan or implement proven policies that reduce food waste in landfills and incinerators.²⁵ As part of this program, Congress should require the USDA (in collaboration with EPA) to maintain a database of the state and local food waste reduction policies that have proven success, and data on their impacts. Congress can establish this program in the 2023 Farm Bill within the Miscellaneous Title or a dedicated Food Waste Reduction Title.

Provide Grants and Loans for the Development of Organic Waste Processing Infrastructure

In addition to implementing waste bans, waste diversion requirements, zero waste goals, and waste prevention plans, state and local communities must also develop their organic waste processing capabilities to manage the organic waste diverted from landfills and to realize the benefits of these strategies. Both compost and anaerobic digestion infrastructure have the potential to convert food waste into productive soil amendments.

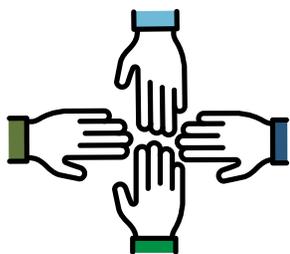
These organic waste processing capabilities are also costly. In the 2018 Farm Bill, Congress authorized the creation of the Community Compost and Food Waste Reduction Project (CCFWR) to provide pilot funding for local governments in at least ten states to study and pilot local compost and food waste reduction plans.²⁶ CCFWR



funding enables localities to enhance their waste prevention capacities and has already fostered a positive impact within communities.²⁷ Congress should build on the existing CCFWR program and adopt new strategies to develop composting and anaerobic digestion infrastructure. In order to scale the program's benefits, Congress should increase the total and per project funding available for the CCFWR program in the next farm bill. In addition, as CCFWR projects are generally small community projects, Congress should provide larger funding for the development of new compost and anaerobic digestion facilities, by providing \$200 million per year for ten years in new composting infrastructure.

Relevant Pending Legislation

Cultivating Organic Matter through the Promotion Of Sustainable Techniques (or COMPOST) Act of 2021 (H.R. 4443, S.2388, 117th Cong. 1st Sess. 2021); Zero Food Waste Act of 2021 (H.R. 4444, S.2389, 117th Cong. 1st Sess. 2021).



FOOD WASTE REDUCTION COORDINATION

Data and research on food waste are critical to providing insight on areas that future policymaking should prioritize. A lack of comprehensive research and federal agency coordination in this space prevents effective management of national resources to address food waste. In the 2018 Farm Bill, Congress established a USDA Food Loss and Waste Reduction Liaison, a welcome step towards reducing food waste and increasing food recovery at the federal level. The 2023 Farm Bill should build upon this by further developing and funding food waste reduction coordination.

Increase Funding for the Food Loss and Waste Reduction Liaison and Create a Broader Research Mandate

The Food Loss and Waste Reduction Liaison (the Liaison) fills an important role for federal food waste reduction. The Liaison coordinates food waste reduction efforts across agencies, researches and publishes research on sources of food waste, supports organizations engaged in food loss prevention and recovery, and recommends innovative ways to promote food recovery and reduce food waste.²⁸ However, the Liaison only receives enough funding to staff the individual Liaison position with no funding for additional support staff, which inhibits the Liaison's ability to fulfill their statutory mandate.²⁹ Congress should increase the funding and develop the Liaison position into a Food Loss and Waste Office, so that there are more staff and capacity to carry out the duties set out in the farm bill. Congress should also identify modernizing and expanding national food waste data and farm food waste loss measurement as explicit goals for the Liaison, using the additional funding provided.

Provide Funding for the Federal Interagency Food Loss and Waste Collaboration

In 2018, the United States Food and Drug Administration (FDA), the USDA, and the EPA launched an interagency task force known as the Federal Interagency Food Loss and Waste Collaboration (the Collaboration) that is committed to working towards the national goal of reducing food loss and waste by 50% by 2030.³⁰ The Collaboration plays a vital role in the federal government's involvement in food loss and waste reduction efforts. Congress should authorize \$2 million in annual funding for the Collaboration in the 2023 Farm Bill to better position it to meet the United States' 2030 food waste reduction goal.³¹ Congress should require a broader set of federal agencies to engage in the Collaboration such as the Department of Defense, the Department of Transportation, the Department of Homeland Security, the Department of Education, and the General Services Administration, among others. Congress should also require the Collaboration to deliver regular reports to Congress on its progress towards achieving the national food waste reduction goal. These provisions can be included in the Miscellaneous Title or in a new Food Waste Reduction Title.

Relevant Pending Legislation

National Food Waste Reduction Act of 2021 (H.R. 3652, 117th Cong. 1st Sess. 2021).



Prevention



Recovery



Recycling



Coordination

ENDNOTES

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- ¹⁵ *Id.*; ReFED INSIGHTS ENGINE, *supra* note 13.
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