

APPENDIX

New Jersey Forest Task Force Invasive Species Legislation

Senate Environment and
Energy Committee
Dec 15, 2022

Patricia Shanley, Ph.D.



- Intergovernmental Science-Policy Panel on Biodiversity and Ecosystem Services (IPBES)
- Global Forest Expert Panel on Forests & Human Health – International Union of Forestry Research Organizations (IUFRO)
- Food & Agricultural Organization of the United Nations – Report to be launched at the Intl. Day of the Forest in March 2023

New Jersey Forest Task Force

200 Participants, 35 organizations represented - Consensus on *Invasive Species*

An invasive species is:

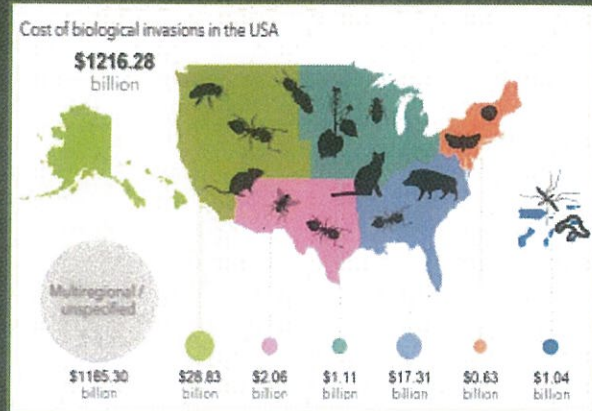
1. Non-native (alien) to the ecosystem under consideration, &
2. Whose introduction causes or is likely to cause economic or environmental harm or harm to human health"

- **Forests** – best natural defense against climate change and species extinction
- *Invasive species cause forest degradation and biodiversity loss*



Invasive Species – Threaten Ecosystems, Economies & Human Health

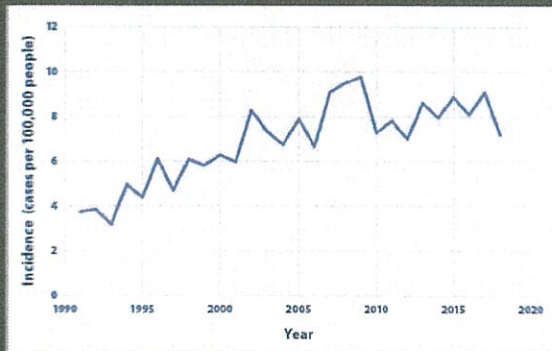
- Hazard for human health
- Spread infectious disease
- Degrade water quality
- Endanger food security
- Leading cause of species extinction
 - 42 % of threatened or endangered species are at risk due to invasive species



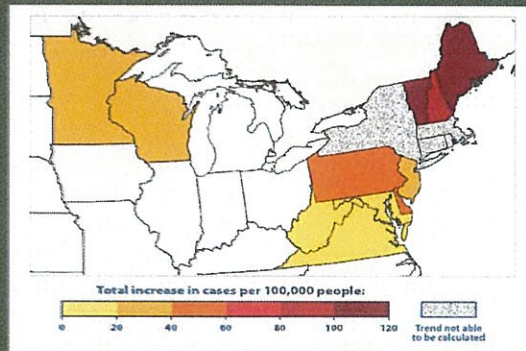
Source: Northwest Aquatic Research, LLC. Invasive Species Management, 2020.

Spread Infectious Disease

Reported Cases of Lyme Disease in the United States, 1991–2018



Climate Change Accelerates Spread of Invasives & Disease

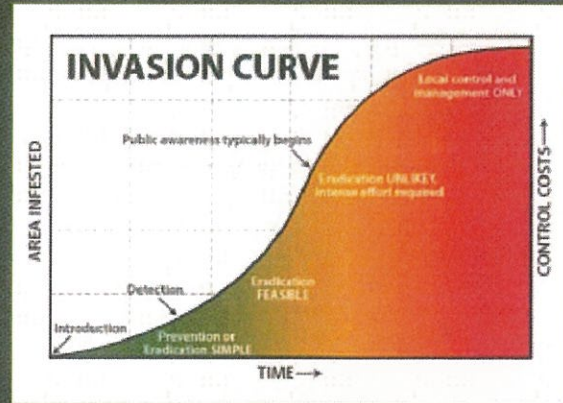


- **Infected ticks** occur with 2 times the frequency in invasive species – *public health hazard*

2x

Proactive Management Reduces Future Costs

- **Estimated global cost** of invasive species over the last 4 decades - 1.3 Trillion dollars, 5% Global economy
- **Pre-invasion management spending** is 25-times lower than post-invasion
- **Native species and intact forests foster climate resilience, and reduce spread and cost of invasive species**



Source: Northeast Aquatic Research, LLC. Invasive Species Management, 2020

Invasive Species: Rapidly Expanding Territory



Oriental Bittersweet
Strangles trees



Japanese Barberry – Tick Magnet
3 x more root biomass than blueberries



Emerald Ash Borer– 25 million trees
9% of NJ's forests

Invasives outcompete natives – form monocultures and dense underground networks – cut off light and nutrients – change soil chemistry – high reproductive success – reduce carbon sequestration – clog waterways – diminish ecosystem services and recreational values.
Climate change, deer and forest fragmentation exacerbate spread.

Native species sustained, nourished and healed NJ's indigenous inhabitants for millennia – we lose a living library of our culture

3x

Immediate Action Needed

- New Jersey one of only 4 states in the continental US **not** regulating commercial plant sales
- Urgent – Create Invasive Species Council – collaborative, learn from NY & PA
- Evaluate an estimated 200 plants to begin (FoHVOS list – 15 years)
- Rapidly emerging species necessitate an ongoing evaluation and selection process
- Look out for climate change “sleepers” moving into NJ
- Build on Invasive Species Task Force Models in NJ



Existing Models In NJ Can Be Scaled Up

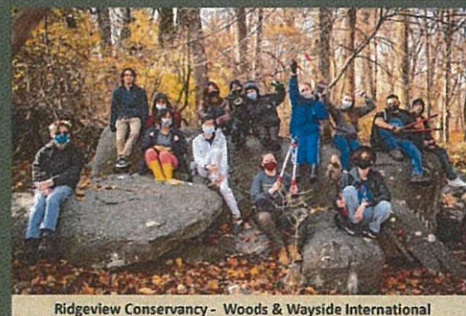
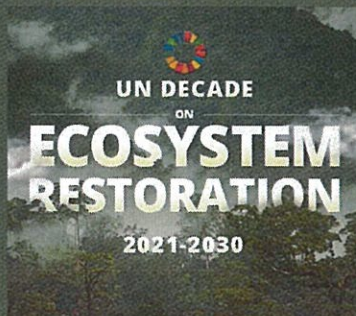


Friends of Hopewell Valley Open Space Invasives Strike Force



Union County Adopt-a-Trail Program

Revive & Expand YCC Youth Conservation Corps



Ridgeview Conservancy - Woods & Wayside International

4x

An Opportunity: Linking Forest Stewardship & Youth Resilience

Rise in stress, depression, loneliness, suicide
(39% increase among NJ children over the past decade)

NJ Governor's Teen Mental Health Initiative focuses on
prevention & resilience

NJ K-12 Education includes climate change curriculum



Working to eradicate invasive species can tackle two global problems – locally
Forests urgently need restoration - youth urgently need meaningful activity



*"The health of our forests reflects
the health of our community"*

Chief Mann of the
Ramapough Lenape Nation

Thank you!

Patricia Shanley, Ph.D.
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PEOPLE & PLANTS



The Native Plant Society of New Jersey

December 15, 2022

**Testimony before the
New Jersey Senate Environment and Energy Committee Hearing
December 15, 2022 at 10:00 am
Room 10, 3rd Floor, State House Annex, Trenton, NJ**

Re: *Bill S2186 which would prohibit the sale, distribution, or propagation of certain invasive plant species without permit from Department of Agriculture.*

Who we are:

The Native Plant Society of New Jersey is a statewide non-profit organization dedicated to the appreciation, protection, and study of the native flora of New Jersey. Founded in 1985, we have over 1200 members across the state, and are organized into county and regional chapters. Our members include gardeners, horticulturists, naturalists, landscape designers, students, and native plant enthusiasts from all walks of life. Our mission is to promote the appreciation, protection and study of New Jersey's native flora.

Our view on the need to ban invasive plants:

We critically need a bill against invasive plants. The Garden State is only one of four states in the nation without such a ban.

We have previously written to Senators Smith and Greenstein in support of bill S2186. We also endorse expanding its scope, in particular to make it more flexible to meet emerging threats, and we have signed on to the proposal to amend S2186 that is being submitted to this committee by the New Jersey Forestry Task Force.

Most importantly, we believe it is time to enact such legislation, even in its current form. The points below provide just a brief summary of key reasons which such legislation is critical.

- Invasive plant species are a serious environmental problem in New Jersey. These aggressive plants do not stay in the gardens where they are planted; their seeds spread into surrounding fields and woods, where they outcompete and crowd out native species. At Camp Glen Grey in Mahwah, for example, scouts have to make their way among invasive Japanese barberry plants that have escaped from gardens. Barberries are covered in sharp barbs and harbor ticks that can carry Lyme disease.
- Because invasive plant species are, by definition, great at spreading, when invasive pests do arrive, they do huge amounts of damage. The Tree of Heaven, for example, which is an invasive plant that has spread throughout the northeast, is a primary host for the spotted lanternfly that threatens massive collateral damage to not only native plants but also to treasured native trees such as red maples and black walnuts and to agriculture—notably New Jersey's viniculture industry.
- Invasive species choke out plants that naturally grow in our great state. Non-native wisteria, English ivy, Oriental bittersweet, and hardy kiwi for example, can rapidly spread through woods and choke out trees, blocking their access to sunlight and killing them.
- Native plant species co-evolved, over millions of years, with local fauna. Many insects will only feed on very specific native species of plants; without the presence of those plants, the insects cannot reproduce. Monarch butterfly caterpillars, which can only feed on the milkweed plant, are the most famous example of this tight connection between native plants and native insects.
- When we lose local insects, we also lose birds. Although adult birds may feed on seeds and other food sources, more than 90% of bird species feed *only insects* to their young. No insects, no

birds. The population of North American birds has dropped nearly 30% since 1970, according to data from the Cornell Lab of Ornithology.

- Coupled with our work with the Department of Agriculture to support the Jersey Natives initiative, we believe that we can help the nursery trade move away from plants that are bad for our environment toward plants that are good for the environment, belong in Jersey, and even boost sales for nurseries.

Respectfully submitted on behalf of the Native Plant Society of New Jersey (NPS NJ)

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8x



REFED

Benefits of Standardizing Date Labels

NJ Senate Hearing
December 15, 2022

9x

Who We Are

ReFED is the national nonprofit working to end food loss and waste across the food system by advancing data-driven solutions to the problem.

Our Vision

A sustainable, resilient, and inclusive food system that optimizes environmental resources, minimizes climate impacts, and makes the best use of the food we grow.



DATA & INSIGHTS

Leveraging data and insights that highlight supply chain inefficiencies and economic opportunities **to inform and motivate progress**



CAPITAL & INNOVATION

Catalyzing capital to **spur innovation and scale high-impact initiatives**



STAKEHOLDER ENGAGEMENT

Mobilizing and connecting supporters **to take targeted action**

Food Loss and Waste: An Overview



Feeding More People with Fewer Resources

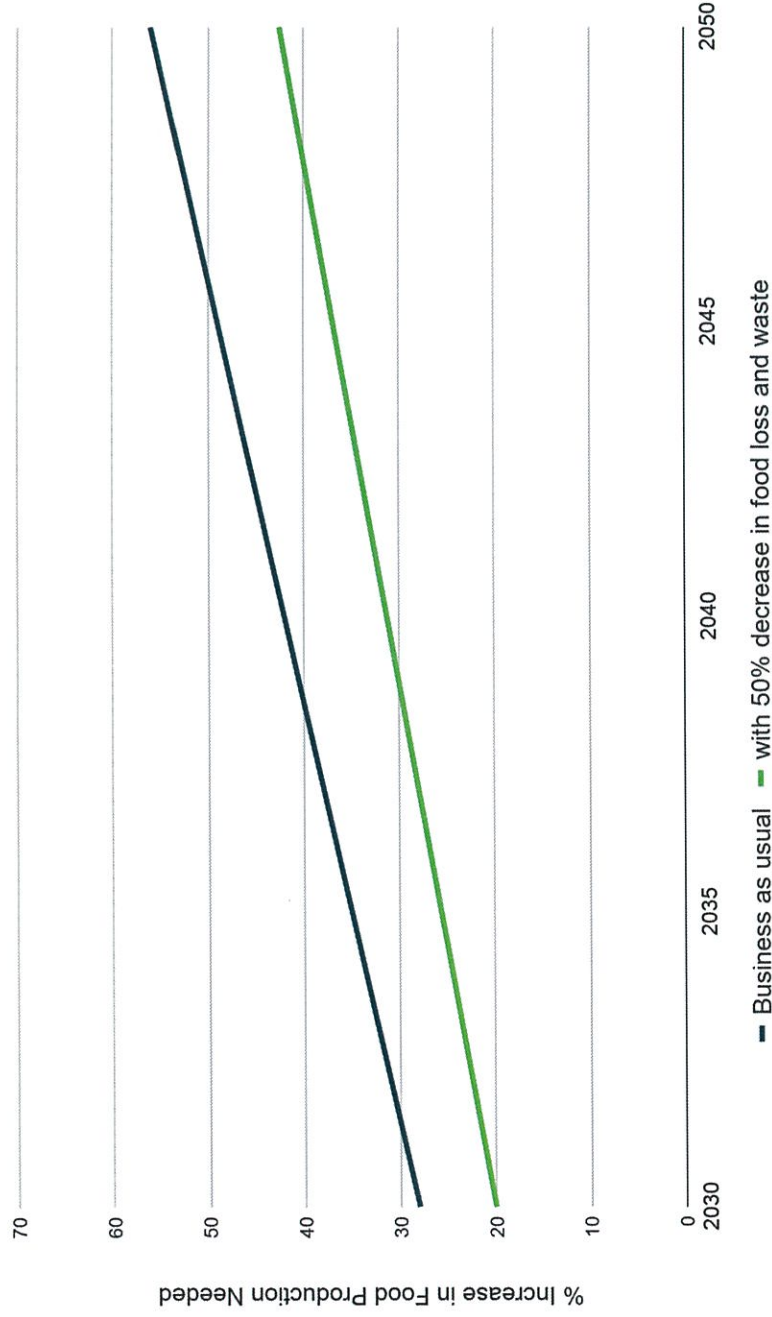
50%

The United Nations predicts we'll need to increase global food supply by this amount to feed the population in 2050...

Yet a new study is showing that agricultural productivity has decreased by this amount due to the impacts of climate change:

21%

Feeding More People with Fewer Resources



*We estimate that reducing food loss and waste by 50% globally would reduce the food calorie gap by 24%, extrapolating from WRI, "Creating a Sustainable Food Future 2018."

13x



Global Food Waste

$\frac{1}{3}$ of all food produced¹

\$1T in value²

8% of global GHG emissions³



¹ FAO, *Food Waste Footprint & Climate Change*, 2011

² FAO, 2014

³ Mbow et al., 2019

14x

Here in the US...



35%

of all food goes uneaten



\$408B

is spent on food that's never eaten each year



4%
of U.S. GHG
Emissions



14%
of all
Fresh Water Use



18%
of all
Cropland Use



24%
of Landfill Inputs
#1 material (EPA Estimate)

And in New Jersey, we estimate food surplus to be...

3.3B

Pounds
of food

\$10B

in value

1.4M

Cars-worth
of GHGs
emissions



16x

Food Waste-Climate Connection

1

Eliminates Landfill
Methane

2

Avoids Upstream
Emissions

3

Avoids Land
Conversion



1. Krause 2019
2. ReFED Insights Engine
3. Read et al. (2020) via [EPA's 2021 Farm to Kitchen Report](#)

17x

PROJECT DRAWDOWN.

Food waste is ranked #1 of 93 global solutions for reversing climate change globally by Project Drawdown.¹

Rank	Solution	Gigatons Mitigated (2020-2050)
1	Reduced Food Waste	88.50
2	Plant-Rich Diets	78.33
3	Family Planning and Education	68.90
4	Refrigerant Management	57.15
5	Tropical Forest Restoration	54.45
6	Onshore Wind Turbines	46.95
7	Alternative Refrigerants	42.73
8	Utility-Scale Solar Photovoltaics	40.83
9	Clean Cooking	31.38
10	Distributed Solar Photovoltaics	26.65

Top 10 Solutions



¹ Scenario 1, Drawdown Solutions, 2022.

18x



Reducing food waste is available now.



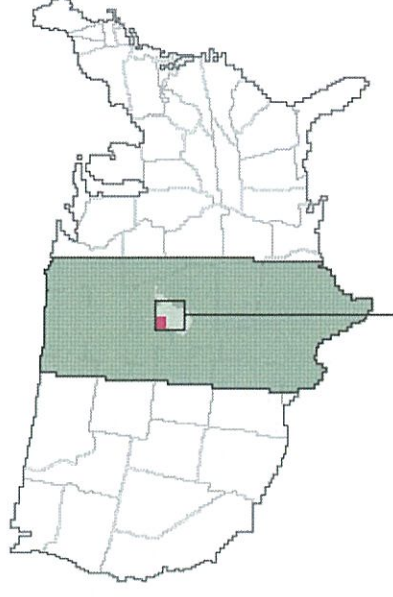
Impact of Reducing Food Waste by 50%

Reduce Threats to Biodiversity¹ by **17%**

Reduce Land Use by at least **9%**
(an area the size of Arizona)²

Reduce Water Use by ³

11%



2.6 million acres of grassland were plowed up from 2018-2019, primarily to make way for row crop agriculture. This is an area larger than Yellowstone National Park. Restoring the full amount of carbon to croplands can take 350 years.⁴

1. Read, Hondula, & Muth. 2022.
2. Read et al. (2020) via EPA's 2021 Farm to Kitchen Report.
3. Kumm et al. (2012) via EPA's 2021 Farm to Kitchen Report.
4. World Wildlife Fund, The Ploypoint Report: 2021c



Help Mitigate Effects of Food Insecurity

Provide **4B** additional meals¹



1. ReFED Insights Engine

Source: Feeding America





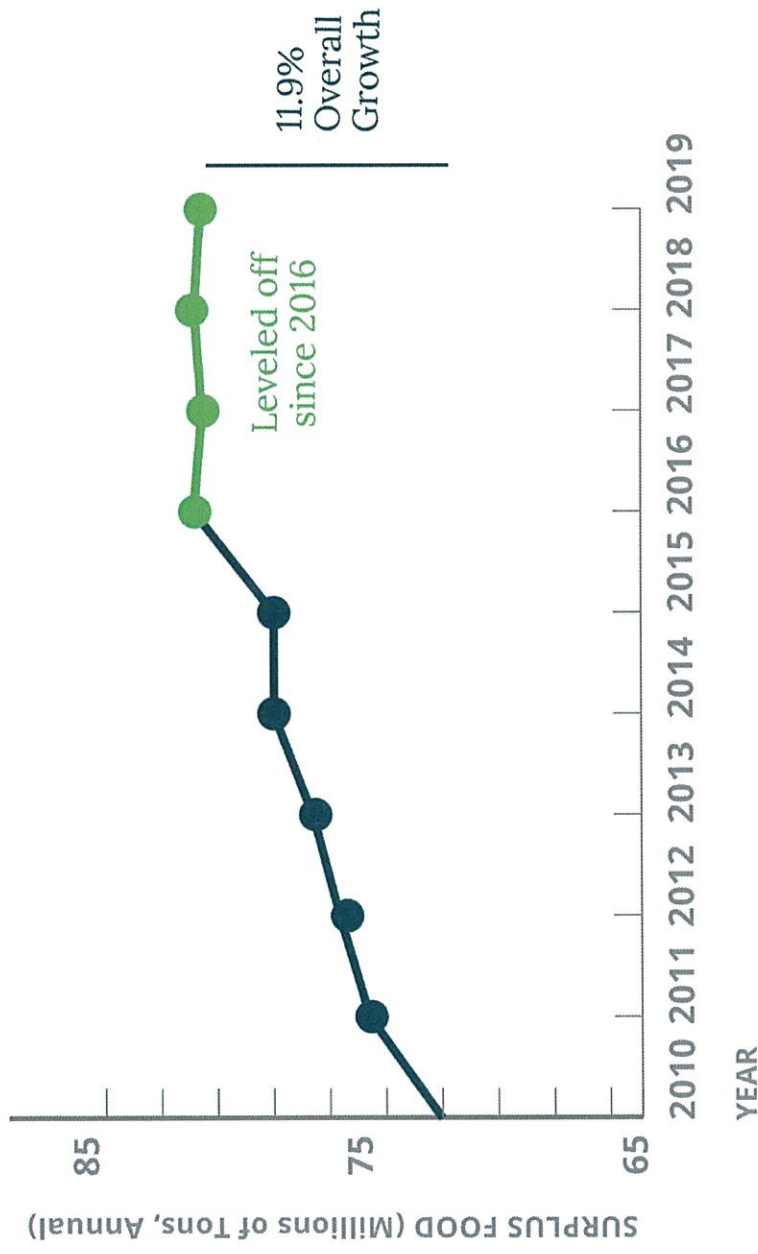
50%

National and international goal
for the amount of food waste
that must be reduced by the year
2030

EPA's Food Recovery Hierarchy



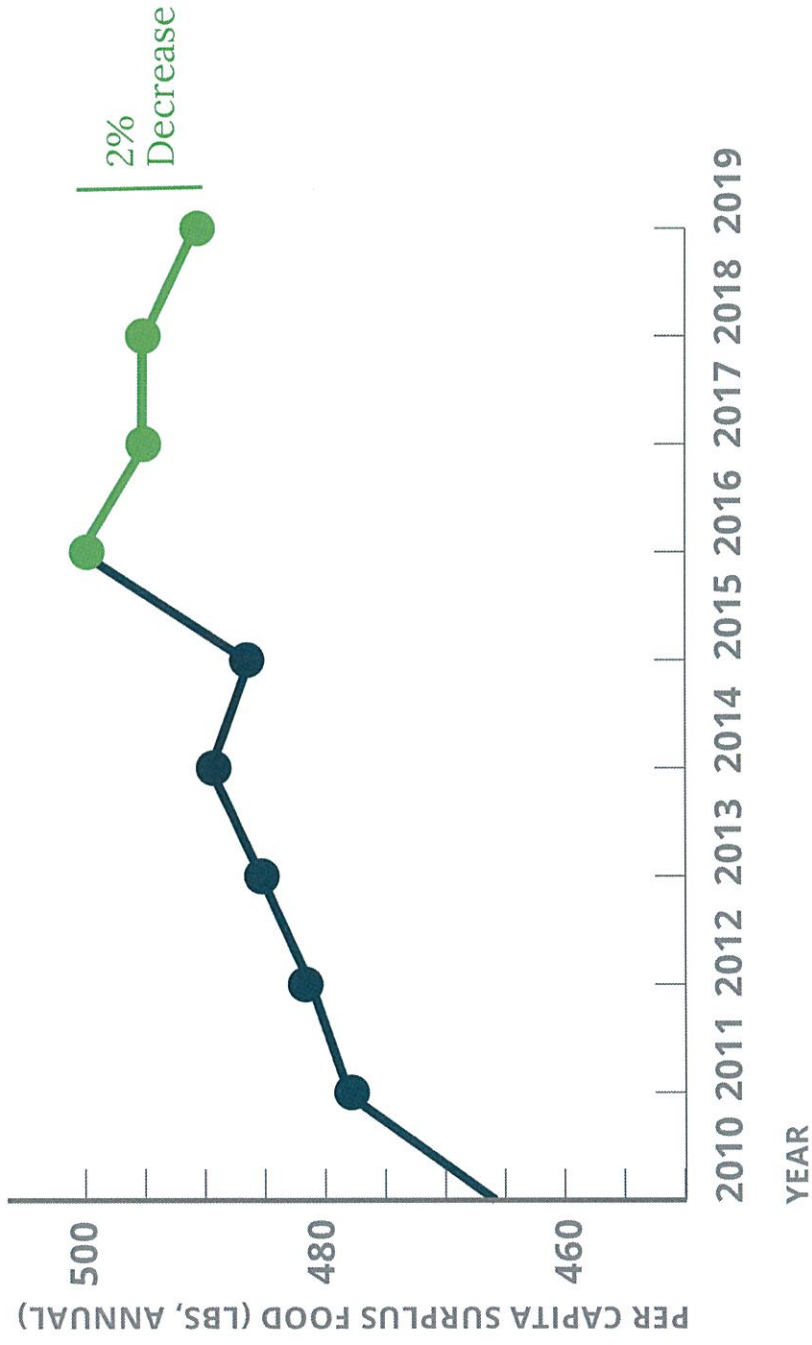
But we're not reducing surplus food fast enough...



Source: ReFED

24x

Even if you look per capita



25x

Corporate and Municipal Commitments

10x20x30



200+ COMPANIES

44+ COMPANIES

12+ COMPANIES



16 CITIES



26x

Actual Reductions



(SINCE 2020)



(SINCE 2017)



(SINCE 2020,
Healthcare sector)



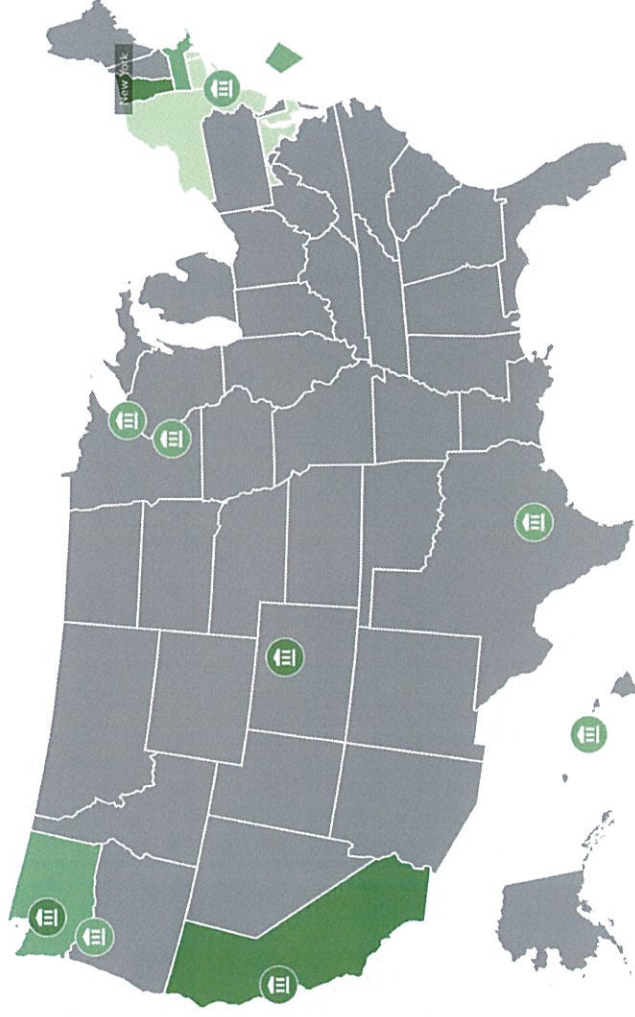
27x

2021 State Policy Action



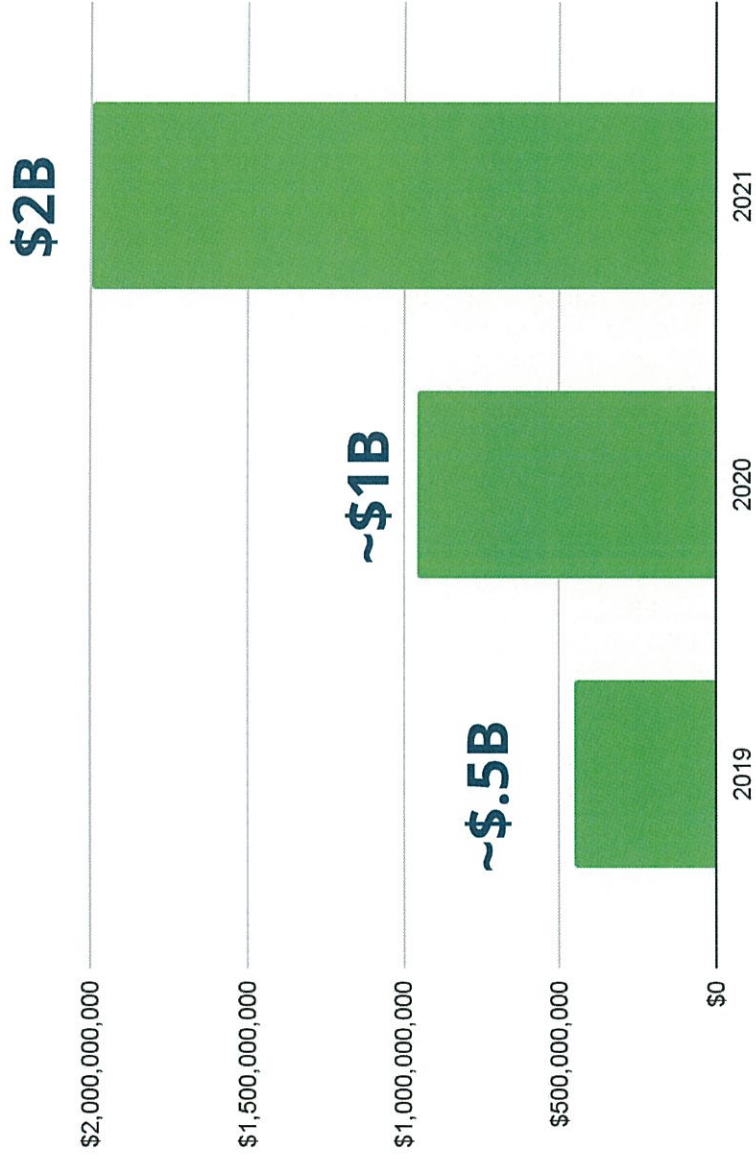
99 Bills introduced

28 Bills passed



28X

Huge uptick in private capital



29x

A Blueprint for Action

The *Roadmap to 2030* looks at the entire food system and provides a framework to focus waste reduction efforts. Powered by the Insights Engine, the *Roadmap to 2030* is an indispensable resource for reaching our 2030 goal.

7

ReFED outlined seven key action areas for the food system to focus its efforts over the next ten years to *prevent, rescue, and recycle* food at risk of going to waste.

PREVENTION



Optimize
The
Harvest



Enhance
Product
Distribution



Refine
Product
Management



Maximize
Product
Utilization



Reshape
Consumer
Environments



Strengthen
Food
Rescue



Recycle
Anything
Remaining

RECYCLING



30x

ReFED Analyzed 42 Solutions to Food Waste

OPTIMIZE THE HARVEST	ENHANCE PRODUCT DISTRIBUTION	REFINE PRODUCT MANAGEMENT	MAXIMIZE PRODUCT UTILIZATION	RESHAPE CONSUMER ENVIRONMENTS	STRENGTHEN FOOD RESILIENCE	RECYCLE ANYTHING REMAINING
Buyer Spec Expansion	Decreased Transit Time	Assisted Distressed Sales	Active & Intelligent Packaging	Meal Kits	Donation Coordination & Matching	Centralized Anaerobic Digestion
Cleaning	First Expired First Out	Decreased Minimum Order Quantity	Manufacturing Byproduct Utilization (Up-cycling)	Buffer Signage	Donation Education	Community Composting
Imperfect & Surplus Produce Channels	Intelligent Routing	Dynamic Pricing	Manufacturing Line Optimization	Consumer Education Campaigns	Donation Storage Handling & Capacity	Centralized Composting
Partial Order Acceptance	Temperature Monitoring (Pallet Transport)	Enhanced Demand Planning	Edible Coatings	K-12 Lunch Improvements	Donation Transportation	Co-digestion at Wastewater Treatment Plants
Field Cooling Units	Reduced Warehouse Handling	Increased Delivery Frequency	Improved Recipe Planning	Package Design	Donation Value-Added Processing	Home Composting
In-Field Sanitation Monitoring	Advanced Shipment Notifications	Markdown Alert Applications	In-House Repurposing	Portion Sizes	Blast Chilling to Enable Donations	Livestock Feed
Innovative Grower Contracts	Early Spoilage Detection (Hyperspectral Imaging)	Minimized On-Hand Inventory	Precision Food Safety	Small Plates	Donation Reverse Logistics	Waste-Derived Agricultural Inputs
Labor Matching	Inventory Traceability	Temperature Monitoring (Foodservice)	Discount Meal Plates	Standardized Date Labels	High-Frequency Reliable Pickups	Insect Farming
Smaller Harvest Lots	Modified Atmosphere Packaging System	Waste Tracking (Foodservice)	Employee Meals	K-12 Education Campaigns	Established Relationships with Businesses	Renderling
Improved Communication for Planning Schedules	Vibration & Drops Tracking	Low Waste Event Contracts	Larger Quantities for Take Home	Trayless	Culling SOPs	Waste-Derived Processed Animal Feed
Sanitation Practices & Monitoring	Optimized Truck Picking, Loading (e.g., Cross-Docking)	Direct to Consumer Channels	Small and Versatile Menus	Home Shelf-life Extension Technologies		Waste-Derived Bioplastics
Optimized Harvesting Schedules	Enforcing Cold Chain SOPs	Online Marketplace Platform	Soup-Wide Cooking	Smart Home Devices		Waste-Derived Biomaterials
On-Farm / Near-Farm Processing	Regular Maintenance on Refrigerated Trucks	Online Advanced Grocery Sales		Waste Conscious Promotions		Enabling Technologies (e.g. de-paqueting and pre-treatment)
Local Food Systems	Cross-Docking	Precision Event Attendance		Frozen Value-Added Processing of Fresh Produce		Separation & Measurement
Clear Product Ownership		Repackaging Partially Damaged Products		Customizable Menus/Options		Relationships with Waste Haulers
		Local Automated Order Fulfillment		To-Go Offerings		Waste Audits by Waste Haulers
		SKU Rationalization		Free Items Offered Upon Request (e.g. bread, chips)		
		Markdowns		Storytelling (e.g. product impact, source, upcycled ingredients components)		
		Optimal Storage				
		Reduced Displays				
		Optimized Walk-in Layouts				

The ReFED Insights Engine



Understand the Problem
Visit the [Food Waste Monitor](#)



Explore the Solutions
Visit the [Solutions Database](#)



Find Solution Providers
Visit the [Solution Provider Directory](#)



Calculate Impact
Visit the [Impact Calculator](#)

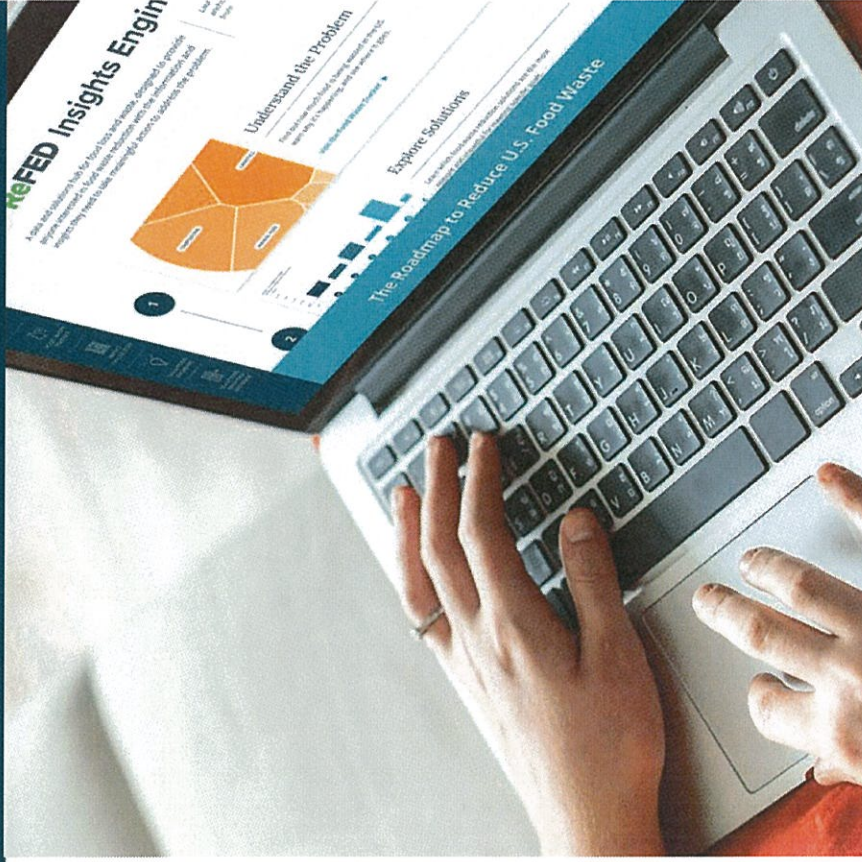


Track Capital
Visit the [Capital Tracker](#)

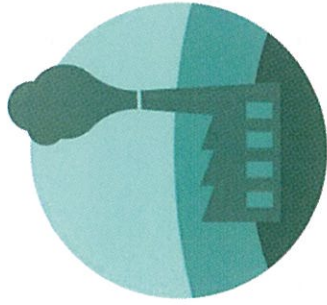


Review Policies
Visit the [Policy Finder](#)

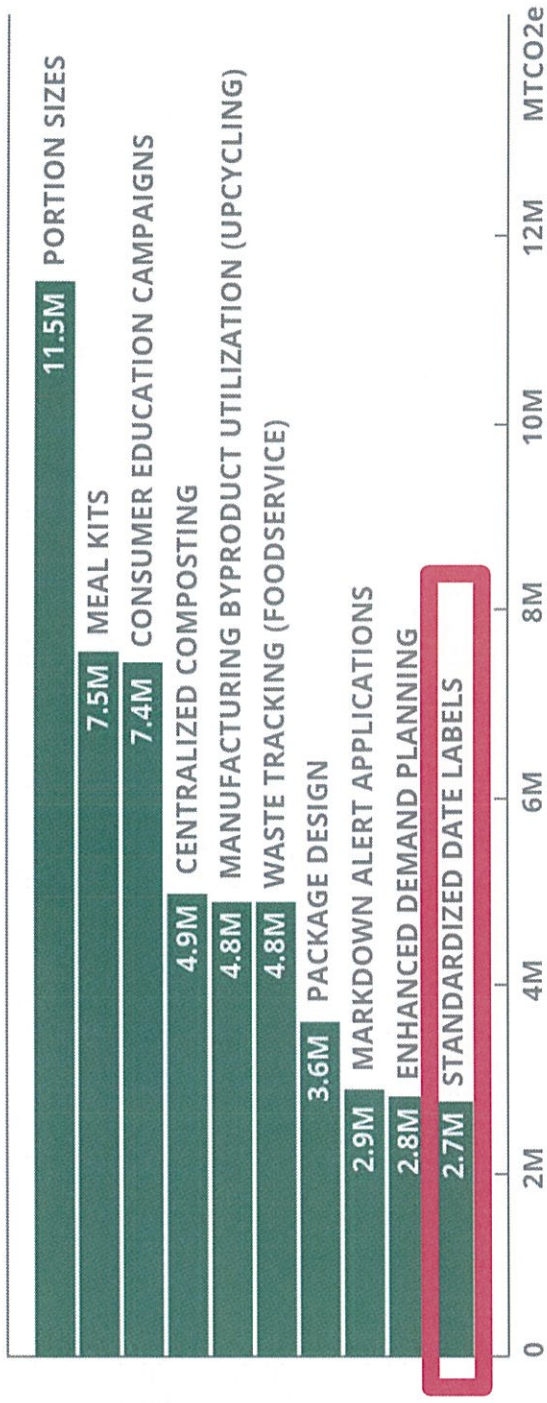
Launch Insights Engine



Date Labels - A Top Solution for Reducing GHGs



Top Ten Solutions | GHG EMISSIONS AVOIDED IN MTCO₂e

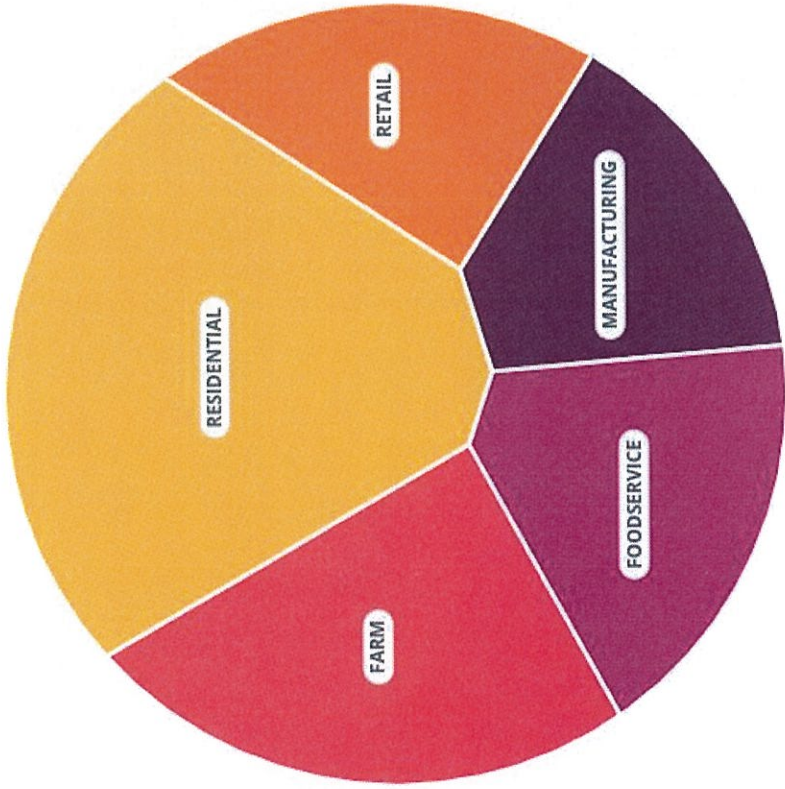


33X

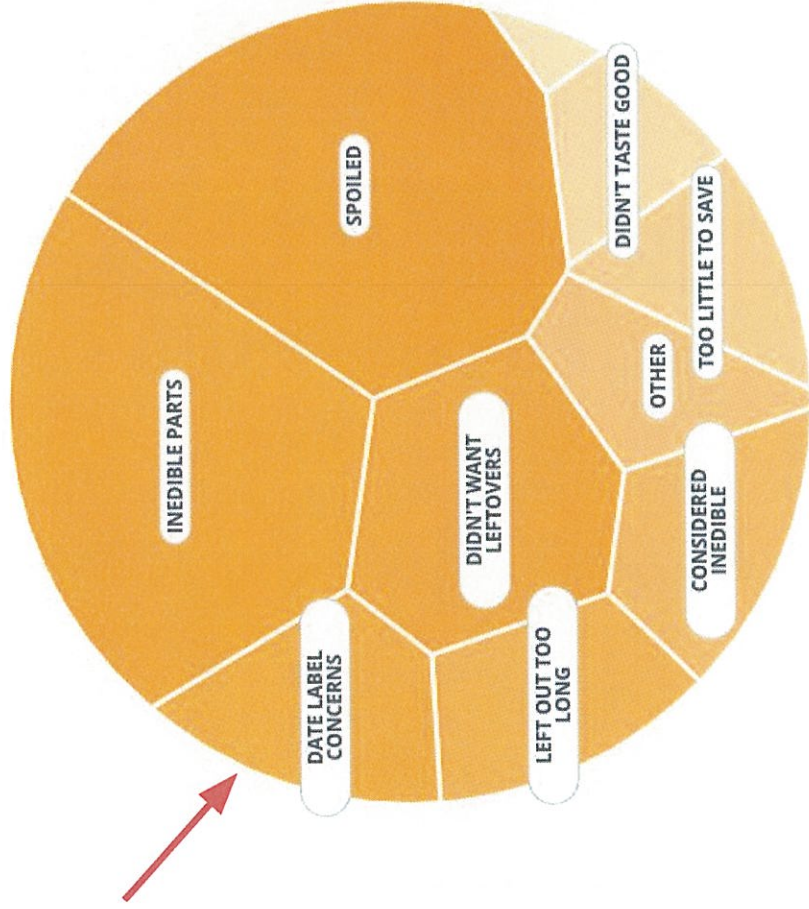
Standardizing Date Labels



34x



Households are largest source of food waste (37%)

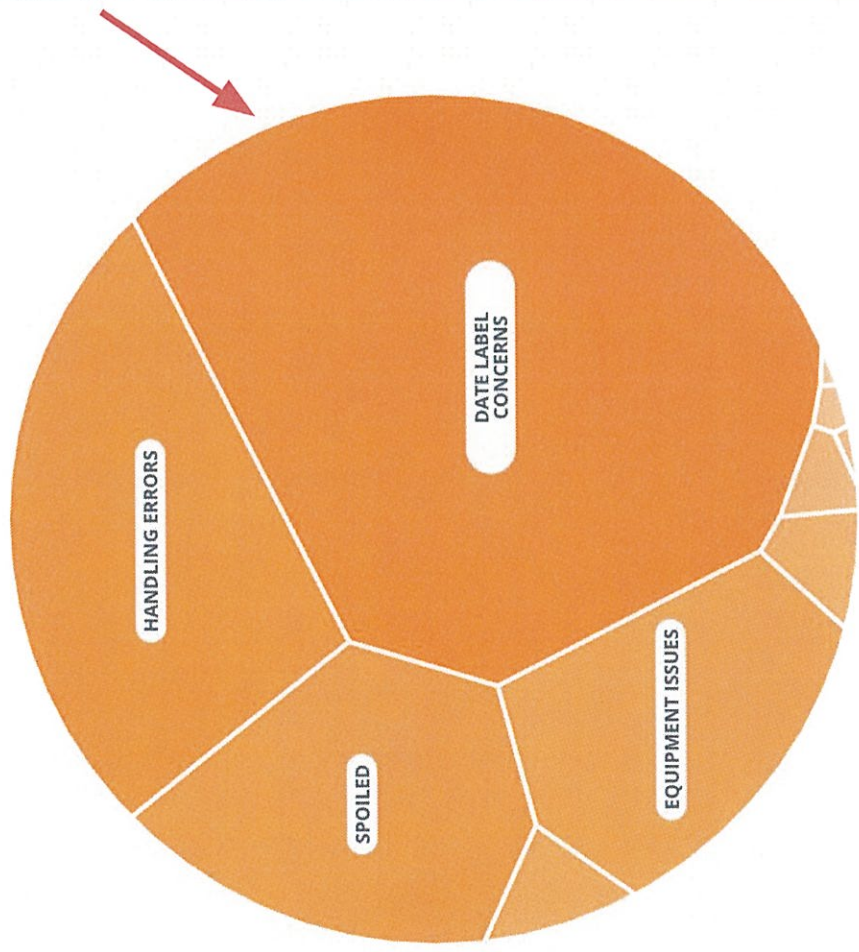


Date label concerns represent 7.6% or ~4.5 billion pounds of household food surplus nationally.

In NJ, costing citizens \$267M.



36x



Also a big issue for grocery stores.



37x

Date Label Basics

1. Date labels typically reflect quality, not safety.
2. Date label timeframes and phrases are not federally regulated.
3. Consumers misinterpret dates to be about safety and prematurely discard food.
4. Consumers have no way to distinguish if a date *is* about safety.
5. "Sell By" dates are B2B communication that further this confusion.
6. Voluntary initiatives cannot guarantee full compliance, making it difficult to provide education.

Harvard/Hopkins Survey

84%

of consumers discarded food near the package date **“at least occasionally”**

37%

of consumers reported that they **“always”** or **“usually”** discard food near the package date.



39x

Industry Voluntary Guidelines - 2017

Quality



BEST IF USED BY

Describes product quality, where the product may not taste or perform as expected but is safe to use or consume.

Elevated-Risk



USE BY

Applies to the few products that are highly perishable and/or have a food safety concern over time; these products should be consumed by the date listed on the package – and disposed of after that date.

("Best By" for meat industry)



40x

Industry Voluntary Guidelines - Compliance

CBA 2019:
87% Compliance

Ohio State 2019:
35% Compliance



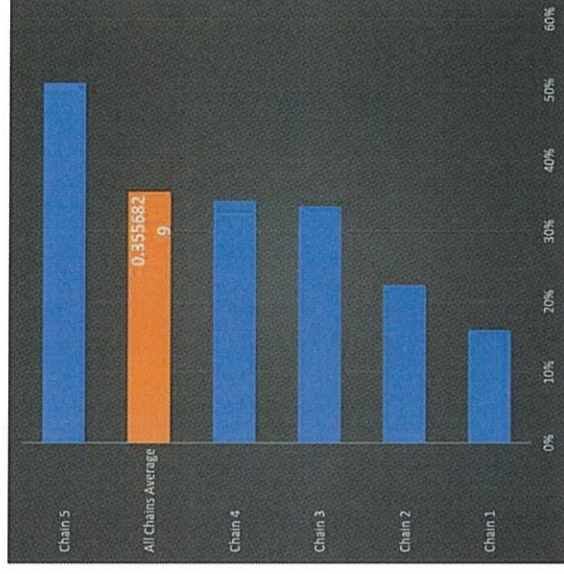
87%
of all products

As of December 2018, nearly nine-in-ten CPG products carried the new label language.



98%
anticipated by end of 2019

CPG companies project that 98% of their products will carry the new labels by 2019, with total adoption by January 2020.



41x

Recent activity

- Three federal bills introduced; none have passed.
- Companies in the UK have begun removing dates entirely, including on milk.
- Several brands are supporting federal date label standardization

Time is Ripe for Legislation

- **Precedence** - No other state has passed the two-date system into law.
- **Consumer protection** - Helping consumers distinguish if there truly is a safety concern. Education will be key for this.
- **Further food budgets**- Potential to save NJ citizens some of the \$267M of food they now discard.
- **Climate mitigation** - Help to achieve climate goals by reducing greenhouse gas footprint as well as landfill burden.



43x



Dana Gunders
Executive Director
dana.gunders@refed.org



44x



**FOOD LAW
and POLICY CLINIC**
HARVARD LAW SCHOOL

Members of the Environment and Energy Committee, thank you for the opportunity to provide testimony in support of Senate Bill 418, which would standardize date labels on food products in New Jersey and would establish a public education program around date labels and food safety. My name is Tori Oto and I am an attorney at the Harvard Law School Food Law and Policy Clinic (FLPC). FLPC serves partner organizations and communities by providing guidance on cutting-edge food system issues while engaging law students in the practice of food law and policy. Specifically, FLPC focuses on increasing access to healthy foods, supporting sustainable production and regional food systems, and reducing waste of healthy, wholesome food.

FLPC has been identifying, analyzing, and recommending improvements to laws and policies that impact how much food goes to waste for more than a decade, and has released reports with legal guidance and policy recommendations for reducing food waste targeted at various actors and levels of government. As a national and global leader in the laws and policies surrounding food waste, FLPC receives multiple requests from state-level advocates working to reform their laws to reduce the amount of food that goes to waste. In the last few years, FLPC has provided technical assistance in nearly twenty states, educating policymakers and advocates alike on the law relating to food waste and identifying ways to make the relevant laws and policies stronger. Standardizing date labels and educating consumers about the meaning of date labels is one of the key solutions FLPC has identified to reduce food waste.

This testimony will provide context on the problem of food waste in the United States and New Jersey, including its implications for the environment, the economy, and food security. Next, this testimony will provide context about how date labels are regulated in New Jersey, followed by a description of S.418 and how its date labeling provisions will address food waste within the state.

Food waste in New Jersey is an environmental and social welfare problem. Every year, approximately 22% of waste generated in New Jersey is food.¹ According to the New Jersey Department of Environmental Protection's estimates, about 1.46 million tons of food is wasted in New Jersey every year.² When food is wasted, natural resources are wasted and the environment is polluted without any benefit to Americans. Across the United States, producing wasted food accounts for 21% of freshwater and generates approximately 270 million metric tons of CO₂e greenhouse gas emissions every year, which is equivalent to the air pollution generated by 58 million passenger vehicles.³

¹ *Solid Waste and Recycling*, NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION 4 (Aug. 2021), <https://www.nj.gov/dep/dsr/trends/trends-solid-waste-recycling.pdf>.

² *Solid Waste and Recycling*, NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION 4 (Aug. 2021), <https://www.nj.gov/dep/dsr/trends/trends-solid-waste-recycling.pdf>.

³ *On the Road to Reduction*, REFED (Apr. 17, 2017), <https://ReFED.com/articles/on-the-road-to-reduction/>; DARBY HOOVER & YVETTE CABRERA, FOOD WASTE POLICY GAP ANALYSIS AND INVENTORY: MIDATLANTIC, SOUTHEAST, AND GREAT LAKES REGIONS, NRDC, FLPC, & CTR. FOR ECOTECHNOLOGY (CET) (Aug. 3, 2021), <https://www.nrdc.org/resources/food-waste-policy-gap-analysis-and-inventory-midatlantic-southeast-and-great-lakes-regions>.

Food waste is a social welfare problem because people are spending money on food they do not ultimately consume and food businesses are throwing away wholesome, edible food that could be distributed to people. Food prices are rising significantly in 2022. The USDA's Economic Research Service predicts that within 2022, all food prices will rise up to 10.5%; and even more drastically, at home food prices (i.e., grocery store food products) are predicted to increase up to 12%.⁴ Standardizing date labels and educating consumers about their meaning enables consumers to stop wasting food unnecessarily and will help people get more out of their food dollars.

Implementing food waste solutions can also mitigate food insecurity problems. While wholesome, edible, and nutritious food goes to waste in landfills or incineration, between 7-9% of households in New Jersey lack consistent access to a sufficient amount of wholesome food to live an active lifestyle.⁵ Food insecurity is distributed inequitably across racial lines. In New Jersey, approximately 17% of Blacks and Hispanics are food insecure.⁶ Across the United States, significantly more food is wasted than would be necessary to feed all food insecure Americans.⁷ Confusion surrounding date labels drives food businesses to throw away rather than redirect their surplus, wholesome food to food recovery organizations. S.418 clarifies this confusion for food businesses and food recovery organizations, thereby supporting New Jersey food recovery infrastructure.

It is necessary for government actors to help find new pathways to reduce wasted food and recover and distribute the food that is still safe and edible, not only for the environmental benefits, but also to help Americans get the greatest impact out of their food dollars and to mitigate food insecurity in the United States. According to the EPA Food Recovery Hierarchy, which prioritizes food waste reduction efforts according to their associated environmental, social, and economic benefits, preventing food waste is the best management strategy, followed by distributing food to people.⁸ Reforming date labels both prevents food waste and increases food recovery, making it a top food management strategy.

No federal laws regulate date labels on food products, except for infant formula.⁹ Though the FDA and USDA have legislative authority to ensure food safety and to protect consumers from deceptive food labeling,¹⁰ which would include the ability to regulate date labels, this authority has only resulted in guidance related to date labels. As a consequence of the lack of federal regulation of date labels, states, including New Jersey, create their own date labeling laws and regulations that are inconsistent with one another and confuse consumers.

⁴ *Food Price Outlook, 2022 and 2023*, US DEP'T OF AGRIC. ECONOMIC RESEARCH SERVICE (Nov. 2022, 2022), <https://www.ers.usda.gov/data-products/food-price-outlook/summary-findings/#:~:text=In%202022%2C%20all%20food%20prices,between%207.0%20and%208.0%20percent.>

⁵ *Complete Health Indicator Report of Food Insecurity*, NEW JERSEY DEPARTMENT OF HEALTH (Nov. 3, 2022), https://www-doh.state.nj.us/doh-shad/indicator/complete_profile/FoodInsecurity.html.

⁶ *Complete Health Indicator Report of Food Insecurity*, NEW JERSEY DEPARTMENT OF HEALTH (Nov. 3, 2022), https://www-doh.state.nj.us/doh-shad/indicator/complete_profile/FoodInsecurity.html.

⁷ KIRSTEN JAGLO ET AL., FROM FARM TO KITCHEN: THE ENVIRONMENTAL IMPACTS OF U.S. FOOD WASTE, EPA OFF. OF RSCH. & DEV. 15 (2021), https://www.epa.gov/system/files/documents/2021-11/from-farm-to-kitchen-the-environmental-impacts-of-u.s.-food-waste_508-tagged.pdf.

⁸ *Food Recovery Hierarchy*, US ENVIRONMENTAL PROTECTION AGENCY (August 28, 2022), <https://www.epa.gov/sustainable-management-food/food-recovery-hierarchy>.

⁹ *Food Product Dating*, US DEP'T OF AGRIC. FOOD SAFETY & INSPECTION SERVICE, <https://www.fsis.usda.gov/wps/portal/fsis/topics/food-safety-education/get-answers/food-safety-fact-sheets/food-labeling/food-product-dating/food-product-dating>; 21 CFR § 107.20(c).

¹⁰ 21 U.S.C. § 331(b); 21 U.S.C. § 343; 21 U.S.C. § 463(a); 21 U.S.C. § 607(c); 21 U.S.C. § 1043.

46x

New Jersey's date label requirements are limited. New Jersey only regulates date labels on dairy and shellfish. The shellfish date labeling requirement states that raw shucked shellfish must contain a sell-by date.¹¹ The dairy date labeling requirement requires fluid milk products to contain a "NOT TO BE SOLD AFTER" or a "SELL BY" date.¹² Dairy products cannot be sold past this date,¹³ though donation of dairy and seafood products past the sell-by date is permissible and protected under the New Jersey Food Bank Good Samaritan Act.¹⁴ These dates can be confusing, as consumers do not understand the meaning of "sell by" on products. Further, the date labels on all other food products are not currently regulated, meaning that food products may bear any other date label phrase that a food manufacturer or retailer applies to the food. In fact, a survey conducted by Walmart found 47 different date label phrases in use.¹⁵

Manufacturers have broad discretion over what date to use on their food products. Usually, the date manufacturers choose is based on the product's quality and not the product's safety. That date labels rarely indicate safety is contrary to public belief. Most people, including consumers and food businesses, assume date labels indicate food safety and throw away food past the date label, even though it is safe to consume. According to a nationally representative study conducted in 2016, 84% of consumers report that they "occasionally" throw away food when it is close to or past its date label, and one-third of consumers say they "always or usually" do so.¹⁶ The confusion over date labels extends to food banks and other food recovery organizations; these organizations are also often unsure whether they are allowed to distribute food past the quality based date label. Consumers, food businesses, and food recovery organizations alike unnecessarily throw away wholesome food because of inconsistent and confusing date labels.

S.418 would create a standardized dual date labeling scheme in New Jersey. For foods that require time and temperature controls in order to maintain the food's safety, manufacturers may include a safety-based, elevated risk date. If a manufacturer does include this elevated risk date, they must use the term "USE By" alongside the actual date. For all other foods that do not require time and temperature controls to maintain the food's safety, manufacturers may instead use a quality-based date. If they choose to use a quality date, they must use the term "BEST if Used By" alongside the actual date.

S.418 aligns with the model policy that FLPC and other advocates in the food waste space have determined best reduces food waste and supports food rescue for donation, while maintaining food safety.¹⁷ The date labeling scheme proposed in S.418 also aligns with the Voluntary Product Code Dating

¹¹ N.J. ADMIN. CODE. § 8:24-3.2(n)(ii) (2021).

¹² N.J. STAT. ANN. § 24:10-57.23 (2021).

¹³ N.J. STAT. ANN. § 24:10-57.23 (2021).

¹⁴ N.J. STAT. ANN. § 24:4A-1—A5 (2021).

¹⁵ Twilight Greenaway, *Can Walmart's food labels make a dent in America's \$29bn food waste problem?*, THE GUARDIAN (Jun. 26, 2016), <https://www.theguardian.com/sustainable-business/2016/jun/26/food-waste-walmart-date-labels>.

¹⁶ Roni A. Neff, et. Al., *Misunderstood food date labels and reported food discards: A survey of U.S. consumer attitudes and behaviors*, 86 WASTE MANAGEMENT 123 (2019), <https://www.sciencedirect.com/science/article/abs/pii/S0956053X19300194>.

¹⁷ See EMILY M. BROAD LEIB, JOSEPH S. BECKMANN ET AL., HARV. L. SCH. FOOD L. & POL'Y CLINIC (FLPC), NAT. RES. DEF. COUNCIL (NRDC), REFED, & WORLD WILDLIFE FUND (WWF), OPPORTUNITIES TO REDUCE FOOD WASTE IN THE 2023 Farm Bill 3–5 (2022), <https://chlpi.org/wp-content/uploads/2022/04/2023-Farm-Bill-Food-Waste.pdf>; *Product Code Dating*, FMI—THE FOOD INDUS. ASSOC., <https://www.fmi.org/industry-topics/labeling/product-code-dating> (last visited Dec. 7, 2022); *Grocery Industry Launches New Initiative to Reduce Consumer Confusion on Date Labels*, CONSUMER BRANDS ASSOC. (Feb. 2017), <https://consumerbrandsassociation.org/posts/grocery-industry-launches-new-initiative-to-reduce->

Initiative established by The Food Industry Association (FMI) and the Consumer Brands Association (formerly the Grocery Manufacturers Association, GMA).¹⁸ Additionally, limiting date labels to one safety-based and one quality-based date label aligns with the international standard for date labels, the *Codex Alimentarius*.¹⁹

By standardizing the possible labels to two, and prohibiting the use of other terms, including “SELL By” dates, S.418 will mitigate consumer confusion about the meaning of date labels. According to a 2016 consumer survey, consumers already consider “BEST If Used By” to indicate quality and “USE By” to indicate food safety.²⁰ A consumer education campaign will further solidify this understanding into consumer’s minds. S.418 imposes a minimal burden on businesses because businesses are not *required* to use a date label, but only states that if they do use a date label, it must be uniform according to the dual date labeling scheme.

The dual date labeling scheme in S.418 will maintain food safety. As mentioned previously, a food product’s date label is rarely based on whether the food product is safe to consume. States across the United States have varying date labeling schemes and some states, such as New York,²¹ do not require any date labels. There are no worse food safety outcomes in states based on their date labeling schemes, so modifying New Jersey’s date label system is unlikely to adversely affect food safety. If anything, because S.418 will establish a safety-based date that will be explicitly connected to the food product’s safety risk, S.418 would connect date labels with science more accurately than the current date labelling scheme.

Furthermore, in recognition of the fact that foods are still safe to consume after the quality-based date, S.418 allows food businesses to sell or donate foods past the quality-based date. The bill also requires the Commissioner of Health to create a public education program on date labeling. Once date labels are standardized, the Commissioner can educate consumers about which date labels indicate safety vs. quality and how best to evaluate food for food safety risks, as well as how to evaluate food for consumption past the quality-based date.

New Jersey can be a national leader by passing this legislation. While several other states have enacted legislation to eliminate senseless date label requirements, many have introduced legislation to require standardized labels akin to those proposed in S.418, and one state (California) passed a law to

[consumer-confusion-on-product-date-labels/](https://insights-engine.refed.org/solution-database/standardized-date-labels); *Standardized Date Labels*, REFED <https://insights-engine.refed.org/solution-database/standardized-date-labels> (last visited Dec. 13, 2022); *Call to Action to Standardize Food Date Labels Worldwide by 2020*, CHAMPIONS 12.3, <https://champions123.org/sites/default/files/2020-09/champions-123-call-to-action-to-standardize-food-date-labels-worldwide-by-2020.pdf> (last visited Dec. 13, 2022); *What’s the deal with food date labelling?*, HELLMANN’S, <https://www.hellmanns.com/us/en/inspiration/date-labelling.html> (last visited Dec. 13, 2022).

¹⁸ *Product Code Dating*, FMI—THE FOOD INDUS. ASSOC., <https://www.fmi.org/industry-topics/labeling/product-code-dating> (last visited Dec. 7, 2022); *Grocery Industry Launches New Initiative to Reduce Consumer Confusion on Date Labels*, CONSUMER BRANDS ASSOC. (Feb. 2017), <https://consumerbrandsassociation.org/posts/grocery-industry-launches-new-initiative-to-reduce-consumer-confusion-on-product-date-labels/>.

¹⁹ See FAO & WHO, *Codex Alimentarius International Food Standards: General Standard for the Labelling of Prepackaged Foods*, CXS 1-1985 (Rev. 2018), http://www.fao.org/fao-who-codexalimentarius/sh-proxy/en/?lnk=1&url=https%253A%252F%252Fworkspace.fao.org%252Fsites%252Fcodex%252Fstandards%252FCXS%2B1-1985%252FCXS_001e.pdf.

²⁰ *Consumer Perceptions of Date Labels: A National Survey*, HARVARD FOOD LAW AND POL’Y CLINIC, NATIONAL CONSUMERS LEAGUE & JOHNS HOPKINS CENTER FOR A LIVABLE FUTURE 2 (May 2016), http://www.chlpi.org/wp-content/uploads/2013/12/Consumer-Perceptions-on-Date-Labels_May-2016.pdf.

²¹ *Legal Fact Sheet: New York Food Donation: Date Labels*, HARVARD FOOD LAW AND POL’Y CLINIC (Sept. 2018), https://www.dec.ny.gov/docs/materials_minerals_pdf/datelabelhfs.pdf.

encourage standard labels,²² no other state in the United States has yet enacted legislation requiring standardized date labels. However, international examples demonstrate the success of the dual date label model in reducing food waste and its associated environmental harms. For example, the United Kingdom standardized its date labeling to two standard labels, and the Waste and Resources Action Programme (WRAP) undertook a nationwide campaign to educate consumers about waste.²³ Over 5 years, the campaign reduced consumer food waste by 21% and saved households \$8.6 billion USD.²⁴ These food waste savings avoided 1.6 million tons of greenhouse gases for the United Kingdom.²⁵ Passing S.418 would move New Jersey one step closer to reaching its goal to reduce food waste by 50% by 2030.²⁶

Thank you for this opportunity to testify in support of S.418.

²² CAL. FOOD. & AGRIC. CODE § 82000, 82001.

²³ CRAIG HANSON & PETER MITCHELL, THE BUSINESS CASE FOR REDUCING FOOD LOSS AND WASTE, CHAMPIONS 12.3 7-8 (Mar. 2017), <https://champions123.org/sites/default/files/2020-08/business-case-for-reducing-food-loss-and-waste.pdf>.

²⁴ CRAIG HANSON & PETER MITCHELL, THE BUSINESS CASE FOR REDUCING FOOD LOSS AND WASTE, CHAMPIONS 12.3 7-8 (Mar. 2017), <https://champions123.org/sites/default/files/2020-08/business-case-for-reducing-food-loss-and-waste.pdf>.

²⁵ WASTE RES. ACTION PROG. (WRAP), COURTAULD COMMITMENT 2025 MILESTONE PROGRESS REPORT 4 (2020), <https://wrap.org.uk/sites/default/files/2020-08/Courtauld-Commitment-2025-Milestone-Progress-Report.pdf> (last visited Dec. 7, 2022).

²⁶ N.J. STAT. ANN. § 13:1E227 (2021).

49x



Food Waste in NJ

Food Waste Team

Rutgers Cooperative Extension

New Jersey Agricultural Experiment Station

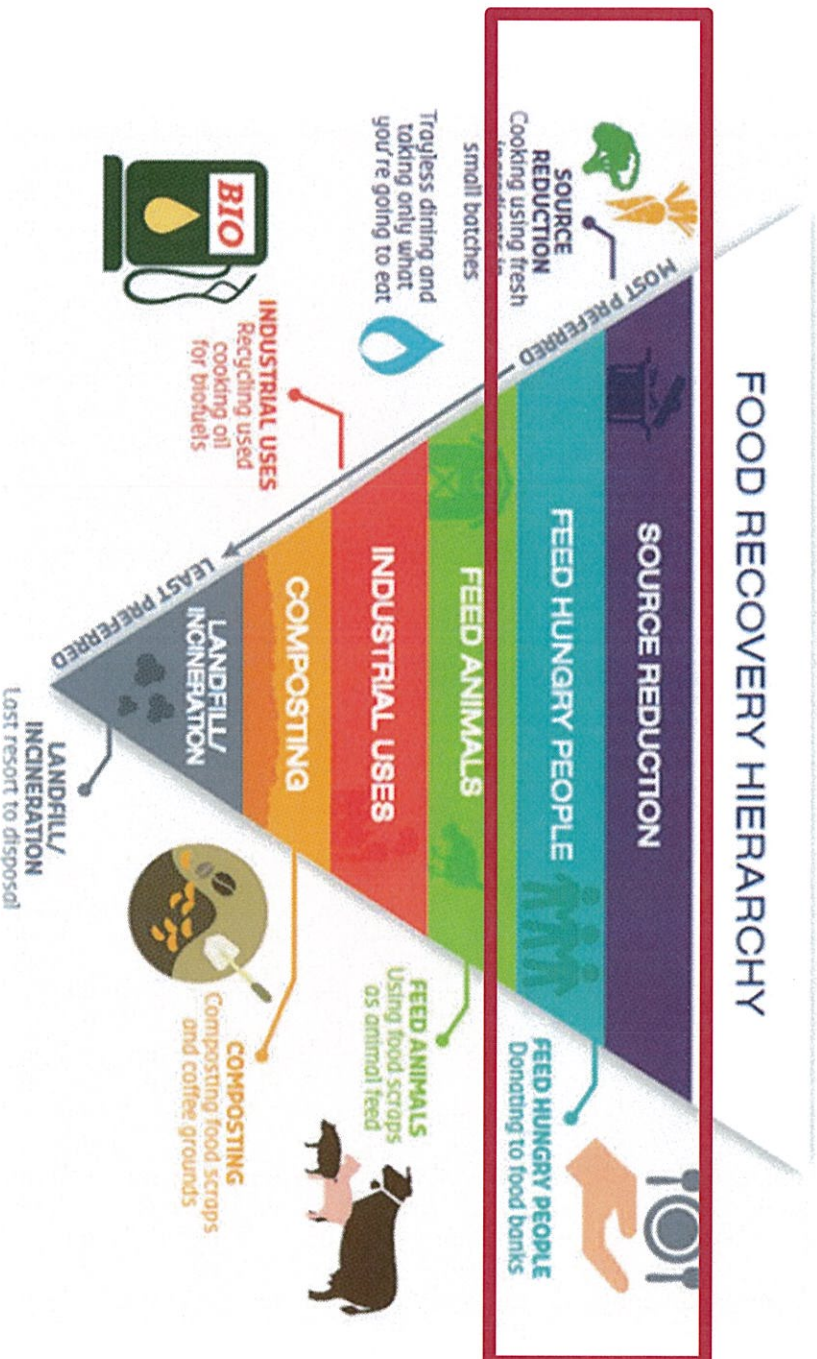
Sara Elnakib, PhD, MPH, RDN

Amy Rowe, PhD

December 2022

50x

How to Reduce Food Waste?



EPA Food Recovery Hierarchy <https://www.epa.gov/sustainable-management-food/food-recovery-hierarchy>

51x

National & State Food Waste Reduction Goals



On September 16, 2015, the first-ever national food loss and waste goal in the United States was launched, calling for a 50% reduction by 2030.

USDA Food Loss and Waste Retrieved on May 13, 2020 <https://www.usda.gov/foodlossandwaste>



In August 2017, the first Food Waste legislation in New Jersey was passed. Bill S3027 establishes that NJ will reduce its Municipal Solid Food Waste by 50% come 2030

New Jersey Department of Environmental Protection <https://www.nj.gov/depr/dshw/food-waste/>

Case Study of Paterson Public Schools in 2017

Of Paterson's 47 schools, 15 schools were randomly selected to be included in the plate waste study.

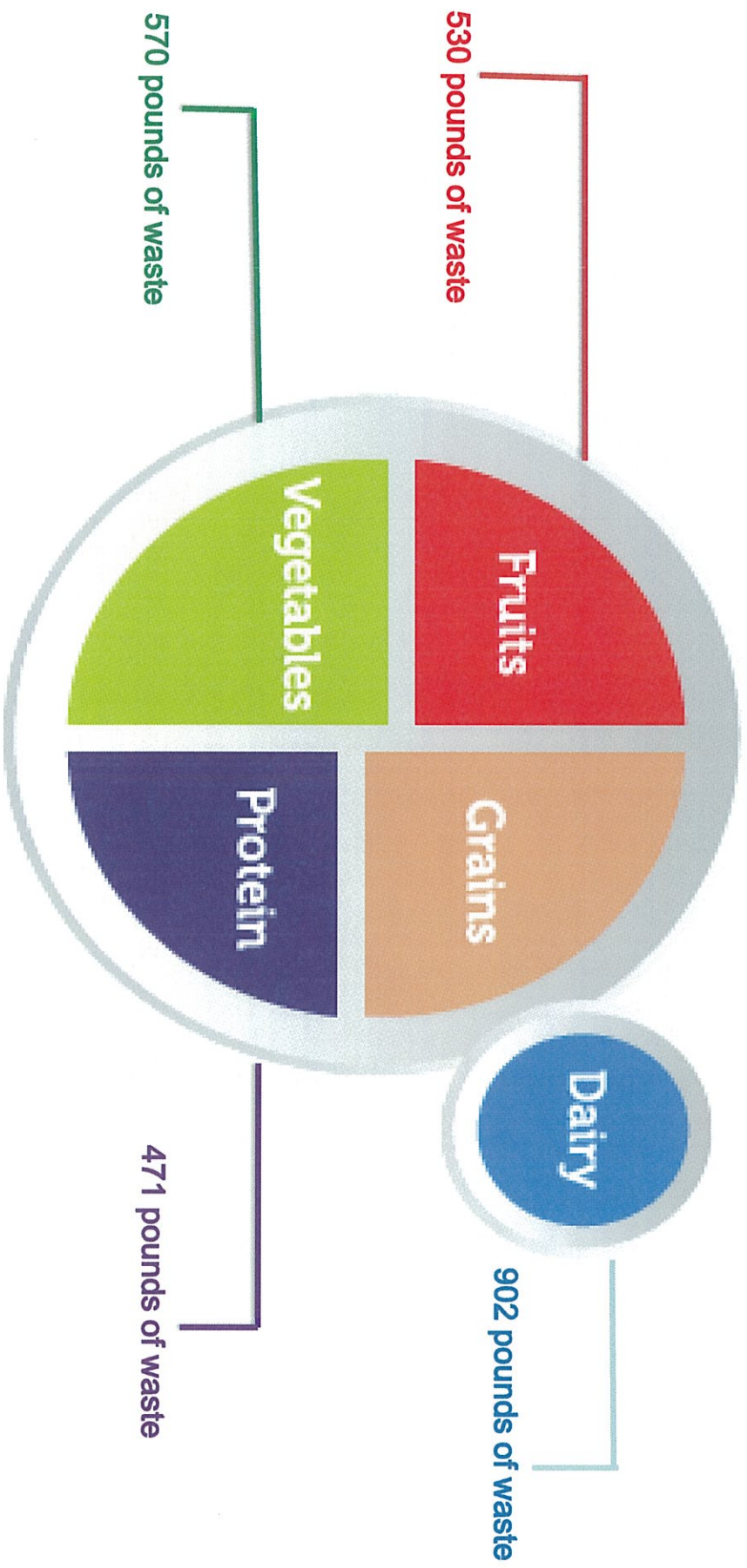
- Inclusion criteria were elementary and middle schools that prepared meals on-site.
- 30 schools were eligible, 15 were randomly selected using a random number generator.

Before and after study without a control evaluating a food service training program on food waste.

- Food waste was measured *twice* before and after food service staff training program.
- A convenience sample of 30% of trays in each school on each day were selected to determine food waste.

54x

Food Waste-Pre-Intervention



2,473 pounds

Wasted in our 30 visits in schools

56x

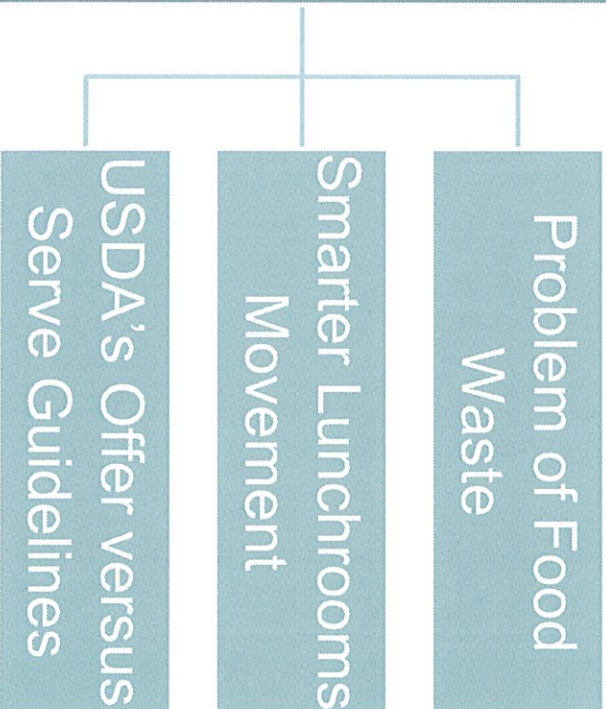


What does this mean?

- That is approximately **84** pounds of waste per school per day
- Which means it can be as much as **14,838** pounds of waste a year per school.
- **623,196** pounds of food waste for the whole district for the year.

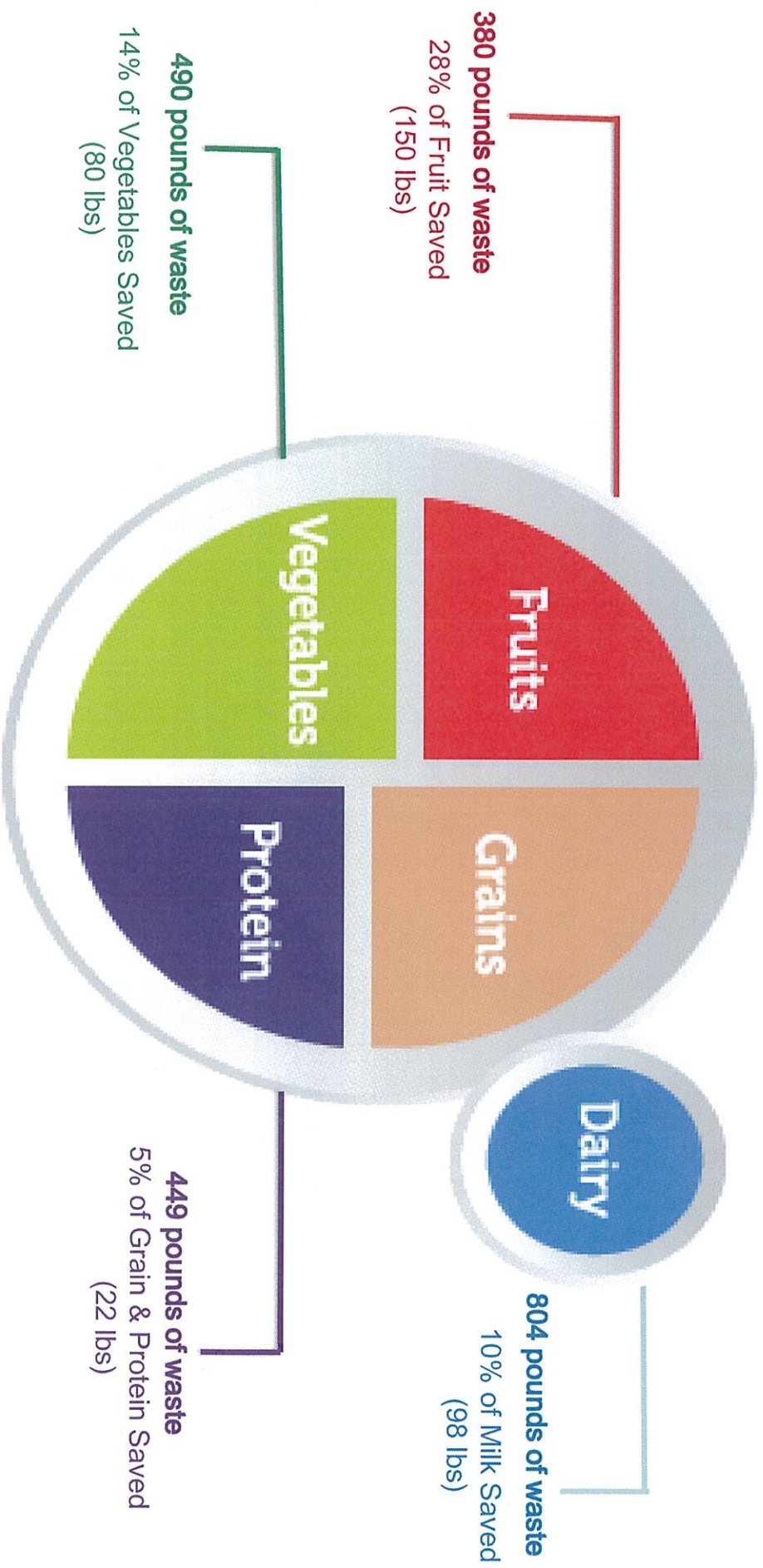
Intervention

Food Service Training



58x

Food Waste: Post-Intervention



59x

350 pounds

of food saved after our training

60x



What does this mean?

- ⋮ That is approximately **12** pounds of waste **SAVED** per school per day
- ⋮ Which means it can be as much as **2,160** pounds of waste **SAVED** a year per school.
- ⋮ **90,720** pounds of food waste **SAVED** for the whole district for the year.

\$76,452

cost savings for the school district per year

62x

63x

**ENVIRONMENTAL IMPACT OF FOOD
WASTE SAVED**

WATER SAVINGS: TOTALS



Graininger.com

- Milk = 10,416 gallons saved
- Protein/grains = 12,496 gallons saved
- Fruits = 15,600 gallons saved
- Vegetables = 2,880 gallons saved

459

42,000 gallons of water saved across schools in audit
1,400 gallons of water per school per day
10.5 million gallons saved across whole district for school year *****

ENERGY SAVINGS: TOTALS



iconfinder.com

Calculations similar to water
Estimates generally reported in kWh/lb or kcal/hectare

- Milk = 74 kWh saved
- Protein/grains = 722 kWh saved
- Fruits = 189 kWh saved
- Vegetables = 12 kWh saved

Nearly 1000 kWh saved across schools in audit
33 kWh saved/school/day
250,000 kWh saved across whole district for school
year*****

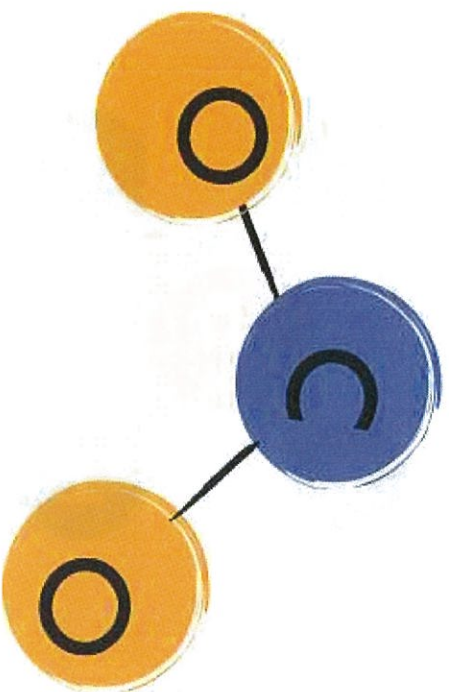
65x

CARBON DIOXIDE SAVINGS: TOTALS

Calculations similar to water

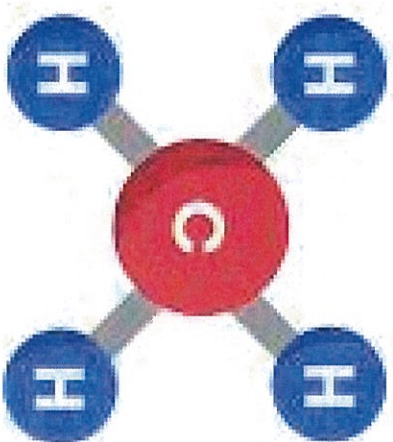
- Milk = 237 pounds of CO2 equivalents
- Protein/grains = 34 pounds of CO2 equivalents
- Fruits = 14 pounds of CO2 equivalents
- Vegetables = 10 pounds of CO2 equivalents

x 99



295 pounds CO2 saved across schools in audit
10 pounds CO2 equivalents saved/school/day
37 tons of CO2 equivalents saved across whole district
for school year*****

METHANE SAVINGS: TOTALS



Calculations based only on food waste pounds

- 25 pounds CH₄ saved across schools in audit
- 0.83 pounds CH₄ saved/school/day
- 3 tons of CH₄ saved across whole district for school year*****

67x

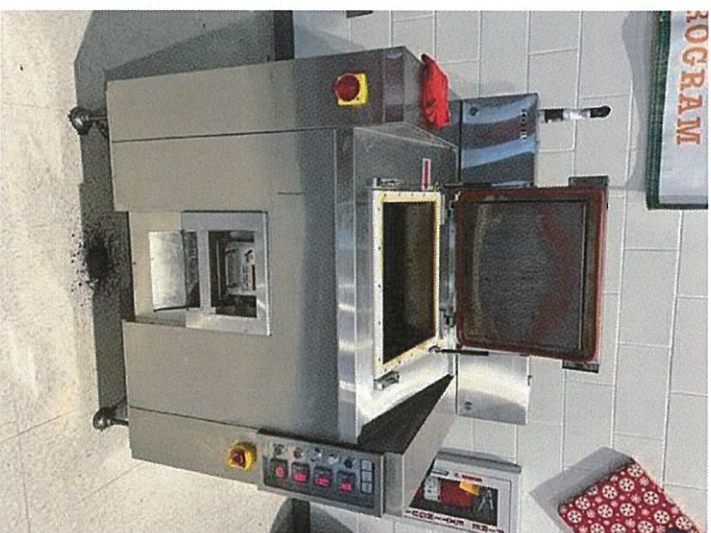
Bills Proposed

- **S418-** Establishes standards for food date labeling; requires Commissioner of Health to establish public education program and promulgate guidelines related to food safety.
 - Educating the public on food safety and food waste is essential to reduce waste.
- **S3153-** Authorizes schools to receive and compost food waste from other schools, under certain conditions.
 - Food Waste Generated should be considered for full districts

X 29

Next Steps

- Developing Share Table legislation
- Expanding education & Composting



69x

Rutgers.edu New Brunswick RBHS Newark Camden Online Rutgers Health Rutgers Search

RUTGERS | Cooperative Extension Food Waste Team

Home Who We Are What We Do Food Waste at Home Food Waste at Schools Environmental Impacts Health Inspectors

Rutgers Cooperative Extension Food Waste Team

Rutgers Cooperative Extension of Passaic County created a Food Waste Team in 2018 to address the growing issue of food waste. The RCE-FW team has focused its food waste reduction efforts on the school sector. Working with food service workers, the RCE-FW facilitates trainings to help food service departments reduce food waste, and creates comprehensive toolkits on how to implement food waste reduction efforts in schools.

RCE-FW was awarded an Environmental Education grant from the Environmental Protection Agency in 2019 to develop an in-person food waste education curriculum. RCE-FW has worked with Paterson and New Brunswick schools to implement food waste reduction interventions. Most recently, RCE-FW partnered with Sustainable Jersey on a grant-funded project, Sustainable and Scalable Food Waste Solutions for Schools 2021-2022.

Sign up for our mailing list and receive information on our latest food waste reduction efforts!

[Sign Up](#)



FOX

SCAN TO
STAY IN TOUCH



Thank you for your time.
What Questions Do You Have?



Contact Information

For questions, comments, and inquiries

Email Address
elnakisa@njaes.rutgers.edu
rowe@njaes.rutgers.edu

Phone Number 848-932-3661

Website <https://sites.rutgers.edu/food-waste/>



7/1x

Water savings: Calculations



watercalculator.org

- Food category pounds wasted pre-intervention
- Food category pounds wasted post-intervention
- Gallons of water needed to produce one pound of that food

72x

Water savings: Milk



Ubscan01.com

- 902 pounds of milk wasted pre-intervention
- 804 pounds of milk wasted post-intervention
- 98 pounds of milk saved
- 105 gallons of water to produce one pound of milk*
- **More than 10,000 gallons of water saved**

73x

Reference:

https://waterfootprint.com/assets/documents/Report_48_Water_Footprint_Animal_Products_Vol1_1.pdf

Water savings: Protein and grains



Stewartinves.com

Beef = 1873 gallons/lb
Chicken = 292 gallons/lb
Wheat = 241 gallons/lb*

- Assume each entrée is 25% protein and 75% grain
- Proteins were beef, chicken
- Grains were wheat
- Chicken was served much more often than beef (75/25)
- More than **12,000 gallons** of water saved

74x

*Reference:

<https://www.waterandpollution.org/news/food-facts-how-much-water-does-it-take-to-produce>

Legal Fact Sheet

New Jersey Food Donation: Date Labels

Created by the Harvard Law School Food Law and Policy Clinic, October 2021

Date labels are the dates on food packaging that are accompanied by phrases such as “use by,” “best before,” “sell by,” “enjoy by,” and “expires on.” Date labels can lead to food waste across the supply chain. Consumers may discard food after the date on the package due to confusion about product safety and retailers or manufacturers may discard food due to confusion about selling or donating the past-date food. However, most date labels are only used to indicate freshness or quality.

Federal Law on Date Labels

There is currently no federal law regulating date labels,¹ with the exception of infant formula.² Congress has, however, passed legislation delegating general authority to the FDA and the USDA to ensure food safety and protect consumers from deceptive or misleading food labeling.³ To date, the FDA and the USDA have not interpreted this authority to allow them to regulate date labels, thus:

- The FDA does not require date labels on foods, other than infant formula.⁴
- The USDA does not require date labels on foods under its purview, including meats, poultry, and egg products.⁵ If, however, USDA-regulated foods are dated, either as required under state law (see below) or voluntarily, they must include: (1) a day and month (and year for frozen or shelf-stable products) and (2) an explanatory phrase, such as “best if used by.”⁶ USDA revised its date labeling guidance in December 2016 to encourage food manufacturers and retailers to use “best if used by” to describe a date meant to communicate the time of peak product quality.⁷ USDA guidance of this kind does not carry the force of law and is merely a recommendation to industry.⁸

In the absence of federal date labeling laws, two major trade associations for retailers and consumer products manufacturing, the Food Marketing Institute (FMI) and Grocery Manufacturers Association (GMA), launched a voluntary initiative to encourage retailers and manufacturers to only use one of two standard phrases on consumer facing food packaging.⁹ The initiative encourages retailers and manufacturers to adopt the phrase “BEST if Used By” to describe dates meant to communicate freshness/quality and the phrase “USE By” for the few products that carry an increased food safety risk if consumed past a certain date.¹⁰

Though non-binding, government guidance and industry initiatives help to clarify date labels and indicate industry support for specific labeling regimes. Currently, because federal law is so limited, states have broad discretion to regulate date labels.¹¹

New Jersey Law on Date Labels

As a result of broad state discretion in the absence of federal law, states have enacted inconsistent date labeling laws.¹² In response to this patchwork regulatory landscape, food manufacturers label foods with conservative dates based on optimal food quality and freshness,¹³ rather than on food safety.¹⁴ Despite this practice, many consumers continue to mistakenly believe date labels are related to food safety;¹⁵ however, there is no evidence linking post-date consumption to foodborne illnesses.¹⁶

New Jersey’s date labeling requirements are limited; it imposes them only on dairy and shellfish.¹⁷ Beyond these products, New Jersey does not require date labels on food products.

For dairy products, New Jersey regulates both the formatting of date labels and the process through which those dates are determined. In New Jersey, all “fluid milk products” – including yogurt and creams – are subject to date labels.¹⁸ Unless the product is hermetically sealed and sterilized, the packaging must have either the words “NOT TO BE SOLD AFTER” or “SELL BY” (or another “clearly understandable legend approved by the department”), followed by an abbreviated month and date.¹⁹ In determining the sell-by date, the manufacturer must notify New Jersey regulators of its intended date and make available the basis for that date upon request; regulators reserve the right to impose a moratorium on the sale of the product if they are unsatisfied either with the intended date or the methodology by which it was determined.²⁰ Most

75x

importantly, dairy products cannot be sold past the sell-by date in New Jersey.²¹ However, the New Jersey Food Bank Good Samaritan Act allows for donation of these foods past its sell-by date.²²

New Jersey also imposes date labeling requirements on shellfish. Raw shucked shellfish must be packaged with labeling that either contains a sell-by date (if the package is less than one-half gallon) or the date on which the shellfish was shucked (if the package is one-half gallon or larger.)²³

New Jersey places no restrictions on past-date donation of food items under the Food Bank Good Samaritan Act.²⁴

Conclusion

In sum, because there is no federal law on date labeling, regulation of these labels has been left largely to the states. New Jersey requires date labels on prepackaged perishable food and milk or milk products and restricts the past-date sale of these products, while also requiring date labels for raw shucked shellfish, but otherwise does not regulate date labeling. However, municipalities within the state may impose additional restrictions on date labeling; it is therefore important for manufacturers and local retailers to be aware of local laws.

¹ See FOOD PRODUCT DATING, U.S. DEP'T OF AGRIC. FOOD SAFETY & INSPECTION SERV., <https://www.fsis.usda.gov/wps/portal/food-safety-education/get-answers/food-safety-fact-sheets/food-labeling/food-product-dating/food-product-dating> (last visited October 22, 2018).

² 21 CFR § 107.20(c) (2019).

³ 21 U.S.C.A. § 331(b) (West 2019); 21 U.S.C.A. § 343 (West 2019); 21 U.S.C.A. § 463(a) (West 2019); 21 U.S.C.A. § 607(c) (West 2018); 21 U.S.C.A. § 1043 (West 2019).

⁴ See FOOD PRODUCT DATING, U.S. DEP'T OF AGRIC. FOOD SAFETY & INSPECTION SERV., <https://www.fsis.usda.gov/wps/portal/food-safety-education/get-answers/food-safety-fact-sheets/food-labeling/food-product-dating/food-product-dating> (last visited October 22, 2018); 21 C.F.R. § 107.20 (2019); 21 CFR § 107.20(c) (2019).

⁵ See FOOD PRODUCT DATING, U.S. DEP'T OF AGRIC. FOOD SAFETY & INSPECTION SERV., <https://www.fsis.usda.gov/wps/portal/food-safety-education/get-answers/food-safety-fact-sheets/food-labeling/food-product-dating/food-product-dating> (last visited October 22, 2018). The USDA does, however, require a "pack date" for poultry and a "lot number" or "pack date" for egg products certified by the USDA. See U.S. DEP'T OF AGRIC., AGRIC. MKTG. SERV., AMS PY INSTRUCTION NO. 910, SHELL EGGS GRADING HANDBOOK, SECTION 5 (2012).

⁶ 9 C.F.R. § 317.8(b)(32) (2019).

⁷ See Press Release, Food Safety & Inspection Serv., U.S. Dep't of Agric., USDA Revises Guidance on Date Labeling to Reduce Food Waste (Dec. 14, 2016), <https://www.fsis.usda.gov/wps/portal/food-safety-education/get-answers/food-safety-fact-sheets/food-labeling/food-product-dating/food-product-dating> (last visited October 22, 2018).

⁸ See, e.g., *P. Gas & Elec. Co. v. Fed. Power Comm.*, 506 F.2d 33, 38 (D.C. Cir. 1974) (holding that an "agency cannot apply or rely upon a general statement of policy as law").

⁹ See *Grocery Industry Launches New Initiative to Reduce Consumer Confusion on Product Date Labels*, GROCERY MANUFACTURERS ASSOC. (Feb. 15, 2017), <http://www.gmaonline.org/news-events/newsroom/grocery-industry-launches-new-initiative-to-reduce-consumer-confusion-on-pr/>.

¹⁰ See *Grocery Industry Launches New Initiative to Reduce Consumer Confusion on Product Date Labels*, GROCERY MANUFACTURERS ASSOC. (Feb. 15, 2017), <http://www.gmaonline.org/news-events/newsroom/grocery-industry-launches-new-initiative-to-reduce-consumer-confusion-on-pr/>.

¹¹ See, e.g., U.S. CONST. amen. X.

¹² See, e.g., HARVARD FOOD LAW & POLICY CLINIC AND NAT'L RES. DEF. COUNCIL, THE DATING GAME: HOW CONFUSING FOOD DATE LABELS LEAD TO FOOD WASTE IN AMERICA 14 fig. 4. (2013) (showing the substantial variations between state laws).

¹³ See FOOD PRODUCT DATING, U.S. DEP'T OF AGRIC. FOOD SAFETY & INSPECTION SERV., <https://www.fsis.usda.gov/wps/portal/food-safety-education/get-answers/food-safety-fact-sheets/food-labeling/food-product-dating/food-product-dating> (last visited October 22, 2018); EASTERN RESEARCH GROUP, INC., CURRENT STATE OF FOOD PRODUCT OPEN DATES IN THE U.S. 3-2 (2003), http://foodrisk.org/files/Food_Open_Dating.pdf.

¹⁴ See EASTERN RESEARCH GROUP, INC., CURRENT STATE OF FOOD PRODUCT OPEN DATES IN THE U.S. 3-2 (2003), http://foodrisk.org/files/Food_Open_Dating.pdf; THEODORE P. LABUZA & LYNN M. SZYBIST, CURRENT PRACTICES AND REGULATIONS REGARDING OPEN DATING OF FOOD PRODUCTS 20 (The Retail Food Industry Ctr., Working Paper No. 01, 1999), <http://ageconsearch.umn.edu/record/14318/files/tr99-01.pdf>.

¹⁵ See EASTERN RESEARCH GROUP, INC., CURRENT STATE OF FOOD PRODUCT OPEN DATES IN THE U.S. 4-11 (2003); Katherine M. Kosa et al., *Consumer Knowledge and Use of Open Dates: Results of a Web-Based Survey*, 70 J. FOOD PROTECTION 1213, 1218 (2007).

¹⁶ See, e.g., BUSINESS REFERENCE PANEL, BETTER REGULATION OF 'USE BY' DATE LABELLED FOODS: A BUSINESS REVIEW 19 (2011), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/262575/11-1474-use-by-dates-report.pdf (finding no direct evidence linking foodborne illness in the United Kingdom to consumption of food past its expiration date).

¹⁷ N.J. Stat. Ann. § 24:10-57.23 (2016); N.J. Admin. Code. § 8:24-3.2 (2007).

¹⁸ N.J. Stat. Ann. § 24:10-57.23 (2016).

¹⁹ N.J. Stat. Ann. § 24:10-57.23 (2016).

²⁰ N.J. Stat. Ann. § 24:10-57.23 (2016).

²¹ N.J. Stat. Ann. § 24:10-57.23 (2016).

²² For more on liability protection for New Jersey food donors, see FLPC's Legal Fact Sheet on liability protection.

²³ N.J. Admin. Code. § 8:24-3.2(n)(ii) (20 07).

²⁴ For more on liability protection for New Jersey food donors, see FLPC's Legal Fact Sheet on liability protection.



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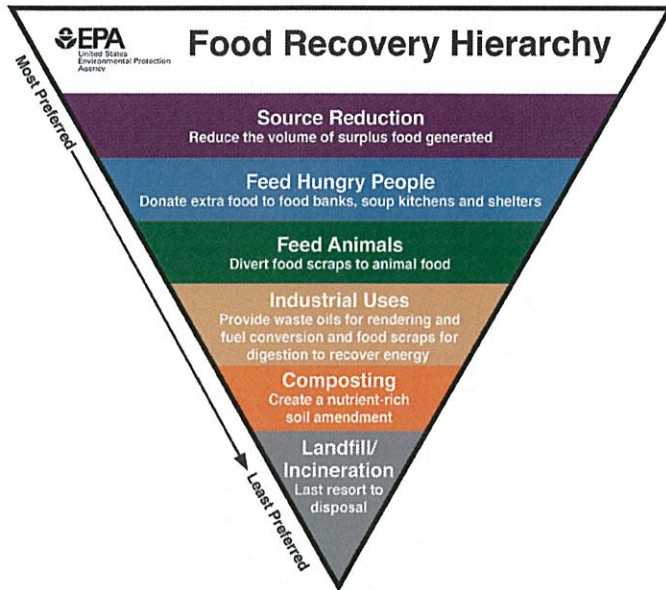
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NEW JERSEY FOOD DONATION



Why Donate Food?

The US EPA's Food Recovery Hierarchy ranks feeding hungry people as a top strategy for reducing food waste. While food donation does not solve the root causes of food insecurity, it is critical for channeling appropriate food to people in need.



The United States wastes 30-40% of food it produces



The United States wastes 30-40% of food it produces



There are **49 million** people in the US, including more than **16 million children**, who are food insecure, at risk of going hungry or lack adequate access to wholesome food



More than **760,000** people in New Jersey are facing hunger every day, and more than **190,000** of these are children



In September 2015, the first-ever national food loss and waste goal in the US was launched, calling for a **50% reduction by 2030**



In July 2017, the first NJ food waste legislation was passed. Bill S3027 states NJ will reduce its municipal solid food waste by **50% come 2030**



Foods That Can Be Donated

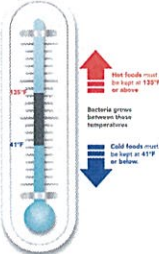
- Hot Food not served and kept at temperature and/or cooled properly
entrees, soups
- Cold Food not served and kept at temperature
- sandwiches, yogurt parfaits, salads
- Whole or Cut Produce
- strawberries, lettuce, onions, tomatoes, herbs
- Foods past "best by"/"sell by" dates but that are fit for consumption
- Beverages
- juice, bottled water, lemonade, tea
- Packaged Shelf Stable Items
- dry pasta, canned vegetables, pudding
- Pasteurized Dairy Products
- sour cream, milk, yogurt, cheese
- Raw Meat (beef, chicken, pork)
- Foods that are past its "best by" or other open date but still fit for consumption
- "packed on," "sell by"

Foods That Cannot Be Donated

- Previously served food such as from a buffet
- Distressed foods
- foods damaged by flood, fire, smoke
- Food in sharply dented or rusty cans
- Food in opened or torn containers
- Foods with an expiration date or "do not use after" date

Remember to Follow Food Safety Guidelines

Food that require Time Temperature Control for Safety (TCS) needs to be handled with care to ensure it is still fit for human consumption. Proper time and temperature control practices must be followed.



Food Temperatures

Hot foods must be kept at **135°F or above**

Cold foods must be kept at **41° F or below**

Cooked food must be cooled rapidly to a safe temperature.

Examples of Foods That May Require TCS

Cut produce (cut tomatoes, melon, and lettuce)

Dairy, meat, and seafood



Many food rescue organizations can provide businesses with containers, pick up foods on a regular schedule, and provide businesses with documentation records. It matters to those who need it no matter the size or frequency of the donation.



Licensed food establishments are protected under food donation laws and liability protections

The Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. § 1791) encourages food donations by providing liability protections for businesses that donate 'apparently wholesome' food in 'good faith' to nonprofit organizations. Extensive legal research does not indicate even a single legal case related to food donation liability.

New Jersey has also passed legislation to provide additional liability protection for donors. These laws protect donors that donate food to nonprofits unless the donor "knew or had reasonable grounds to believe" that the food was not fit for human consumption.

Food donations may qualify for an enhanced tax deduction for your business

According to the Federal Tax Code, eligible businesses can deduct the lesser of either (a) twice the cost of acquiring the donated food or (b) the cost of acquiring the donated food plus half the food's expected profit margin if it were sold at fair market value. Businesses should contact their tax preparer to determine any application to their business.

Labeling

All donations need to be labeled as **"Donated Food - Not for Resale."**

Transporting

Licensed food facilities need to take all reasonable and necessary steps to maintain the integrity of the food that is being donated. If food cannot be delivered at proper temperatures, is adulterated, or is compromised in any way, then the food must be composted or discarded. Local health inspectors should be contacted for any questions on maintaining product.

We encourage you do your part to support our municipality from reducing food waste and supporting food security. Start today and reach out to your local emergency food provider and see what they will accept.

[Insert your logo here]



The Rutgers Cooperative Extension, Center for EcoTechnology (CET), and Sustainable Jersey have worked together to develop this guidance document. This 2022 document provides guidance for New Jersey food waste generators on opportunities to donate food. The document consolidates federal and state regulations, including information on liability protection, health codes, and more.



Legal Fact Sheet

New Jersey Food Donation: Liability Protections

Created by the Harvard Law School Food Law and Policy Clinic, November 2021

Businesses (including farms) and nonprofits that provide or receive donated food are generally well-protected by laws designed to provide immunity from liability related to donations. The federal Bill Emerson Good Samaritan Food Donation Act provides liability protection for food donors, and New Jersey's "Food Bank Good Samaritan Act" provides robust additional liability protection to food donors, distributors, and landowners who allow gleaning.

The Bill Emerson Good Samaritan Act

The Bill Emerson Good Samaritan Food Donation Act (the Emerson Act) provides a federal baseline of protection for food donors and distributing organizations.¹ The Emerson Act covers individuals, businesses, non-profit organizations, and the officers of businesses and non-profit organizations. It also covers gleaners—individuals that harvest donated agricultural crops to the needy or to a nonprofit organization that distributes to the needy.² Donating individuals and businesses are protected when they donate qualifying types of food in good faith.

- **Qualifying Food:** The donated food must be "apparently wholesome" or an "apparently fit grocery product" and meet "all quality and labeling standards imposed by Federal, State, and local laws and regulations," even if it is not "readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions."³
- **Exception for Reconditioned Food:** Even if a food does not meet all applicable standards, the donor can be protected by the Emerson Act if (s)he follows all of the Act's reconditioning procedures,⁴ which include:
 - 1) The donor informs the nonprofit of the nonconforming nature of the product;
 - 2) The nonprofit agrees to recondition the item so that it is compliant; and
 - 3) The nonprofit knows the standards for reconditioning the item.

The Emerson Act protects most but not all donations of qualifying food. In order to get protection, the transaction must be structured such that:⁵

- 1) The donor donates to a non-profit organization.⁶
- 2) The non-profit organization that receives the donated food distributes it to needy populations. Direct donations from the donor to needy individuals do not seem to be protected by the Act.
- 3) The ultimate recipients do not pay for this donated food. However, if one nonprofit donates food to another nonprofit for distribution, the Act allows the first nonprofit to charge the distributing nonprofit a nominal fee to cover handling and processing costs.

If these criteria are met, the Emerson Act is quite protective of donors, and does not hold a donor liable unless the donor acts with gross negligence or intentional misconduct.⁷

- **Gross Negligence** involves "voluntary and conscious conduct (including a failure to act)" by a person or organization that either failed to follow local and state safety regulations, or knew at the time of donation that the food was likely to have harmful health impacts.
- **Intentional Misconduct** is when a person or organization donates "with knowledge . . . that the conduct is harmful to the health or well-being of another person."

Essentially, an individual or organization should not donate or facilitate the distribution of donated food that the individual or organization knows is likely to be harmful or dangerous. Unfortunately, the Act gives little guidance on what activities are gross negligence or intentional misconduct. However, the House of Representatives Report associated with the Emerson Act indicates that each case must be analyzed individually, and that, for example, donating food past the sell-by date generally will not impact liability protections because such labeling is not federally required and generally does not correspond to food safety.⁸ The lack of court cases interpreting the Emerson Act suggests how protective the Act is of donors; research does not reveal a single case related to food donation liability.⁹

Liability Protection for Food Donation in New Jersey

In addition to the federal liability protections, there are several ways in which New Jersey's state law is relevant to liability protection for food donations.

- **The Emerson Act:** The Emerson Act indicates that donated food must meet all applicable state and local food quality and labeling standards in addition to federal requirements.¹⁰ Therefore, state laws regarding food labeling and safety must be followed for a food donor to receive protection under the federal Emerson Act.
- **State Authority:** States are free to enact laws that are more protective of donors than the federal Emerson Act, which sets a floor on liability protection. New Jersey has passed state legislation, codified in N.J. Rev. Stat. §§ 24:4A-1—A-5. and described below.

Overview of New Jersey State Liability Protection Law

New Jersey's liability protection law has been in place since 1982, predating the federal legislation (the Emerson Act in 1996). The law provides both civil and criminal liability protections beyond those provided by federal law. Additional protections include coverage for donations made directly to individuals, rather than extending only to those donations made through nonprofit organizations, and a presumption that the food donor was making the donation in good faith.¹¹ The state also provides protection to nonprofit intermediaries who charge a small fee for donated food, so long as the fee is "sufficient only to cover the cost of storing, transporting, or otherwise handling the food."¹² This means nonprofit intermediaries can recoup the costs of handling donated food, and can utilize innovative approaches to sell surplus food at deeply reduced prices.

In addition, whereas federal law is silent as to whether donation of post-date food is eligible for liability protection, New Jersey is explicit: donation of food that is past its "best by" or other open date but still fit for consumption is protected.¹³ Liability protection is unavailable when injury is a direct result of a donor, gleaner, or non-profit organization's gross negligence, recklessness, or knowing misconduct.¹⁴

Owners of agricultural land are not liable should the food gleaned from their land result in injury.¹⁵ They are also explicitly protected from civil liability stemming from injuries sustained by gleaners while on their property.¹⁶

Conclusion

Federal law and New Jersey state law provide ample liability protections from both civil and criminal liability for both food donors and distributors, for packaged as well as perishable or prepared foods, so long as the donated food complies with federal and state safety rules and is donated in good faith and without the donor acting with gross negligence or with intentional misconduct. New Jersey state law bolsters federal liability protections by providing protections for the ultimate distribution of donated food for a nominal fee and for donations made directly from the donor to an individual.

¹ 42 U.S.C. § 1791.

² 42 U.S.C. § 1791(c)(1); 42 U.S.C. § 1791(b)(5).

³ 42 U.S.C. § 1791(c)(1); 42 U.S.C. § 1791(b)(5) (Outlining an exception for mislabeled food products that are "not readily marketable," which can also be protected if the donor explains the mislabeling to the recipient, and the recipient has sufficient knowledge to and does recondition the product to meet applicable standards.)

⁴ 42 U.S.C. § 1791 (e).

⁵ 42 U.S.C. § 1791(c).

⁶ The Act defines a non-profit as an incorporated or unincorporated entity that satisfies these requirements: (1) operates "for religious, charitable, or educational purposes" and (2) "does not provide net earnings to, or operate in any other manner for the benefit of any officer, employee, or shareholder." 42 U.S.C. § 1791(b)(9).

⁷ 42 U.S.C. § 1791(c)(3).

⁸ U.S. GPO, House Report 104-661, Committee Views, E (July 9, 1996); Legal Guide to Food Recovery, U. ARK. L.L.M. DEPT OF AGRIC. & FOOD LAW 10 (2013), available at <http://law.uark.edu/documents/2013/06/Legal-Guide-To-Food-Recovery.pdf>. AKA: Legal Guide to Food Recovery.

⁹ Legal Guide to Food Recovery, U. ARK. L.L.M. DEPT OF AGRIC. & FOOD LAW 10 (2013), available at <http://law.uark.edu/documents/2013/06/Legal-Guide-To-Food-Recovery.pdf>.

¹⁰ 42 U.S.C. § 1791(c); 42 U.S.C. § 1791(b) (1-2).

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- ¹¹ N.J. Rev. Stat. §§ 24:4A-3.
 - ¹² N.J. Stat. Ann. § 24:4A-2.
 - ¹³ N.J. Stat. Ann. § 24:4A-3(d).
 - ¹⁴ N.J. Stat. Ann. § 24:4A-3.
 - ¹⁵ N.J. Stat. Ann. § 24:4A-3.
 - ¹⁶ N.J. Stat. Ann. § 24:4A-3.1.



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Energy and Water Impacts from a School Food Waste Reduction Program



Sara Elnakib RD, MPH and Amy Rowe, Ph.D.
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Abstract

The USDA estimates that 30-40% of the food produced in the US is wasted, which is 133 billion pounds and \$161 billion worth of food waste each year.

15 Paterson, NJ, schools participated in a school food waste reduction study, with the programming based on a behavioral economics program to improve student consumption. Pre- and post-training food waste audits were undertaken, with 2,473 pounds wasted before the intervention and 2,123 wasted after training. Overall, 350 pounds of food were saved, which was a 14% reduction in food waste.

Approximately 12 pounds of food were saved per school per day and a total of 90,720 pounds of food waste saved for the district for the year. The estimated food cost savings is \$76,452 per year.

Agricultural production data was used to show the environmental impact of this program. An estimated 42,000 gallons of water were saved due to the intervention, which extrapolates to the conservation of more than 10.5 million gallons of water by the school district over the 180-day school year. An estimated 33 kWh of energy were conserved because of the training implementation, saving more than 250,000 kWh by the district annually.



Methods

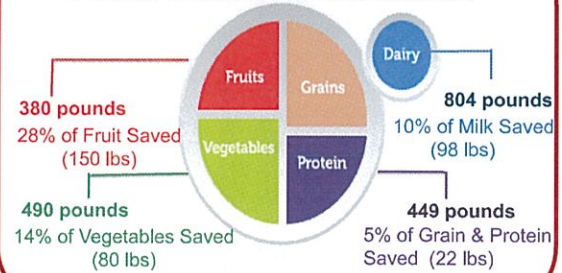
- ♥ Schools with own kitchens
- ♥ Elementary/middle schools
- ♥ Weighed both hot and cold entrée options
- ♥ 15 schools assessed twice
- ♥ 30% of trays were weighed
- ♥ Each food item weighed separately
- ♥ Audits done pre- and post-education of foodservice personnel



Education

- ♥ Smarter Lunchroom movement. Make healthy choices:
 - ♥ Visible
 - ♥ Convenient
 - ♥ Appealing
- ♥ Offer vs. Serve – allow students to decline some options.
- ♥ Share tables – non-perishable or packaged items can be placed on a table for others to take.

Food Waste Reduction



Environmental Impacts

Agricultural production data was used to estimate water and energy savings.

- ♥ Water usage data for production per serving or per pound of milk, wheat, beef, apples, spinach, etc. was used for the calculations.
- ♥ 42,000 gallons of water were saved due to the intervention.
- ♥ This would result in more than 10.5 million gallons of water saved by the school district over the 180-day school year.
- ♥ Energy usage data for production per serving or per pound of milk, wheat, beef, apples, spinach, etc. was used for the calculations.
- ♥ An estimated 33 kWh of energy were conserved due to the intervention.
- ♥ More than 250,000 kWh would be saved by the district annually.

Acknowledgment

Co-Investigator **Marisel Mendez**, MPH
Special Thank you to the Food Service Director **Dave Buchholtz** and the research team: **Natasha Saatchin, Arsho Karajelian, Aya Tarek, Ayana Andrews, Petra Efelis, Steve Harris & John West**



Best Practice Food Safety Standard Operating Procedures for Share Tables Can Reduce Food Waste While Improving Food Security During COVID-19 and Beyond

This paper summarizes rules, regulations, and best practices of share table food safety practices in schools to decrease food waste and increase food security and reviews current policies to develop best practices for share tables Standard Operating Procedures (SOPs). Out of 18 SOPs reviewed a majority 38.8% (7 states) were guidelines, followed by 27.7% were regulation and guidance (5 states), 16.6% guidance (3 states), 11.1% were regulation and guideline (2 states), and only 1 of 18 (5.5%) was regulation. Best practices include collecting input from parents, using proper/clear signage, and educating school faculty on share table procedures.

BEST PRACTICES

*Lorraine Kunick, MPH, RDN;
Jennifer Shukaitis, MPH; Sara
Elnakib, PhD, MPH, RDN*



Approximately 41 million people in America are food insecure, a number that includes about 13 million children (USDA, 2017). Feeding America projects an exacerbation of the issue with an additional 4 million people who will face food insecurity due to the pandemic (Feeding America, 2021). Despite the prevalence of food insecurity, an astounding 40% of America's food supply is wasted every year (NRDC, 2017), costing \$161 billion annually (Buzby et al., 2014). Food waste in the U.S. has been increasing at an alarming rate, with Americans wasting 50% more than they did in the 1970s (Hall et al., 2009).

In 2015, the United States

Department of Agriculture (USDA) and United States Environmental Protection Agency (EPA) collaborated to create the first ever national goal of reducing food waste by 50% by the year 2030 (EPA, 2015). Many states have created policies that support this national food waste reduction goal. The New Jersey Department of Environmental Protection (NJDEP) created a "sector-based approach" implementation plan to support this goal (NJDEP, 2017). This includes the publication of a K-12 Food Waste Reduction Guide that encourages strategies such as composting, anaerobic digestion and share table use (NJDEP, 2019).

Share tables are a designated place in the lunchroom where students can place unopened food and beverages they do not wish to consume. They are relatively simple to set up and are low or no-cost solutions to reducing waste and increasing food insecurity (USDA, 2016). Share table food may be used as snacks for after school programs or sports practices, or even donated to local food pantries or soup kitchens. According to one study that analyzed plate waste from 46 schools across nine cities in eight states, on average each school wasted approximately 39.2 pounds of food per student per year (WWF, 2019). Based on this figure, schools in the U.S. waste about 530,000 food tons per year. Thus, K-12 schools are a crucial area of focus for reducing food waste. Furthermore, for the more than 30 million students participating in the National School Lunch Program (NSLP) and more than 14 million students participating in the School Breakfast Program (SBP), increased food consumption and decreased food waste helps children get the adequate nutrition they need to thrive in school and life (USDA, 2017). Share tables can serve as a great opportunity for Family and Consumer Sciences (FCS) Educators to provide food waste education and support food insecurity reduction efforts.

PURPOSE

Share table regulations and guidance allow for FCS educators to focus on promoting Health in All Policies (HiAP) because share tables can help reduce food insecurity, hunger and help provide adequate nutrition to food insecure individuals (CDC, 2018). The purpose of this best practice article is to describe food safety practices when FCS Educators are implementing share tables. The USDA supports and encourages the use of share tables in child nutrition programs that utilize

the National School Lunch Program (USDA, 2016). School leaders may be fearful of potential liability from donating food; however, the federal Bill Emerson Good Samaritan Act (42 U.S. Code § 1791) protects against liability for these types of donations (USDA, 1997). Schools that want to donate food must follow proper food safety practices. Unfortunately, many states have little guidance on how to safely organize, execute, and monitor share tables in schools while maintaining proper food safety.

BACKGROUND

LITERATURE REVIEW

A previous research study has assessed state-level share table policies in all 50 U.S. states and Washington DC K-12 schools in the Spring and Summer of 2018 (Prescott et al., 2020). According to that study, only 54% of states had any guidance on food safety practices of share tables. The collected policies were reviewed for 11 key share table characteristics: health code, standard operating procedure (SOP), identifying items, critical limits, monitoring, corrective actions, record keeping, establishing reuse/redistribution plan, marketing and outreach, allergy considerations and unique ideas. Out of the 50 states, the research found that 6 states, provided an SOP, 3 states required an SOP, 5 states recommend an SOP, 13 states provided a guidance document, and the remaining 23 states have no policy document regarding share table food safety (Prescott et al., 2020). Building on that study, eighteen state policies found online were reviewed for the following: department of origin, legislative level, incentive, and best practices. The SOPs recommended in this paper were developed from an extensive review of the policies from these 18 states.

FINDINGS

DEPARTMENT OF ORIGIN

Thirteen of the 18 (72.2%) share table policies originated in each state's department education whether it was in conjunction with the inspections and appeals authority or another health or nutrition agency within the state. The breakdown for the department of origin can be found in Table 1.

LEGISLATIVE LEVEL

Legislative level was identified by how SOPs addressed state regulations and guidance on those regulations and were sorted into 5 categories (regulation and guidance, regulation and guideline, regulation, guidance, and guideline). A regulation is a specific regulatory citation/provision, while a guidance is either a statement of internal policy or an explanation of the interpretation/application of a regulation. Lastly, a guideline is an extension of guidance. Out of 18 SOPs reviewed a majority 38.8% (7 states) were guidelines, followed by 27.7% were regulation and guidance (5 states), 16.6% guidance (3 states), 11.1% were regulation and guideline (2 states), and only 1 of 18 (5.5%) was regulation. The breakdown for the legislative level can be found in Figure 1.

INCENTIVES

Incentives were measured by how the standard operating procedures were framed when trying to incentivize their use. Common incentives included reducing food waste 55.6% of SOPs or 10 of 18 states, food safety 27.8% of SOPs or 5 of 18 states, food recovery 5.5% of SOPs or 1 of 18 states, working with food banks 5.5% of SOPs or 1 of 18 states, and a combination of reducing food waste and promoting food safety 5.5% of SOPs or 1 of 18 states.

BEST PRACTICES

When comparing the components of the standard operating procedures, all states reviewed had a list for allowable food and beverages, and 4 of 18 (22.2%) states had a section on best practices. Some best practices compiled after a review of the 18 SOP's include the following:

Notification and Outreach

1. Communicate to parents informing them of the capability of the share table.
2. Request input from parents and guardians to ensure families are comfortable with their children participating in the share table.
3. Communicate allergy information, indicate that students with allergies should not take food from the share table as items from the share table may contain ingredients containing allergens or have been handled by a student who had contact with an allergen. If a student is unable to manage, it is the responsibility of those supervising the students in the cafeteria. Some states (CO and IA) suggest keeping share table items separate from allergens to prevent cross contact and provide training to those

monitoring the share table to protect students with allergies.

Liability

1. Ensure school board approval with accepting the liability of any food borne illness due to the sharing of food and ensure that the share table does not conflict with policies and procedures pertaining to food allergies.
2. Ensure the share table follows local and state health department regulations.

Share Table Design

1. Clearly identify items allowed and not allowed to be shared on SOP.
2. Keep share table items separated by food group to prevent cross-contamination.
3. Signage must be posted to notify students of the purpose of the share table, share table procedures and allowable foods.

Share Table Maintenance

1. Do not mix ready to eat items with items that have not yet been prepared and served.
2. Include explicit instructions to discard any out-of-date items "When in doubt, throw it out".
3. Regularly educate and train teachers, principals and other school staff on share table policies and procedures.
4. Provide times and temperatures in SOPs for critical control points.
5. Designate a point person for monitoring times and temperatures of the share table and location of record keeping documents.
6. Proper monitoring including strict time and temperature controls should be documented.
7. Identify corrective actions that need to be taken if share table items are compromised through poor time and temperature control.
8. Identify use of share table items correctly handled, whether redistribution to lunch program, redistribution to school program such as afterschool programs or athletics, or external donation.

OVERALL FOOD WASTE REDUCTION STRATEGIES

Several more food waste reduction strategies were identified as being effective in reducing food waste. For example, Iowa's SOP stated the need for food service departments to consider alternate production strategies to reduce food waste at the source. Additionally, Offer vs. Serve (OVS) reduces excess food waste on lunch

trays and allow students to only take foods they plan to eat, while still allowing for a reimbursable meal option in National School Lunch and School Breakfast Programs. Finally, school staff should educate students about the share table in a way that does not pressure students to donate foods from their meal while ensuring students do not bully or exert undue influence on other students to donate their food. All these added measures make an impact on a reduction in food waste.

COVID-19 CONSIDERATIONS

Standard Operating Practices should include the following considerations for COVID-19 safety:

1. Reinforce hand washing policy; students and staff must wash hands prior to handling or consuming food to avoid pathogens from spreading.
2. Share table food must be washed prior to redistribution or sharing.
3. Only Individually wrapped items or whole produce items with thick inedible peels may be shared.
4. Medically vulnerable populations should not partake in the share table.
5. Social distancing and wearing face masks must be followed when dropping off items to the share table.



SUMMARY

With such a high amount of food waste produced in schools and a great need for food security post-pandemic, share tables can be an important intervention impacting both issues. While reviewing 18 SOPs throughout the country we have found there are best practices any share table SOP should consider before implementation. Elements of food safety planning, maintenance and communication have been highlighted in this manuscript as best practices. In sum, Family and Consumer Sciences Extension professionals can play an integral role in ensuring that share table practices meet food safety considerations while effectively reducing food waste and increasing food security to those in need.

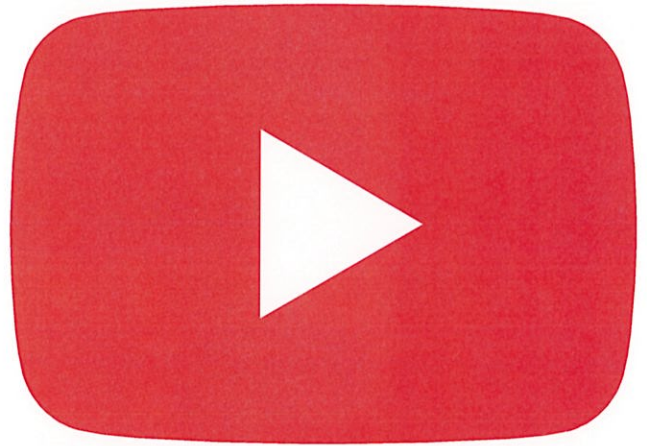


You may click here to access the references, tables, and graphs for this article.



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M E M O R A N D U M

TO: Members of the **Senate Environment and Energy Committee**

FROM: Hilary Chebra, Manager, Government Affairs, *CCSNJ*

RE: **S- 418 (Smith/Greenstein)**

DATE: December 15, 2022

The Chamber of Commerce Southern New Jersey (CCSNJ) would like to voice our concerns with **S- 418 (Smith/Greenstein)**, which establishes standards for food date labeling. The bill also requires the Commissioner of the New Jersey Department of Health (NJDOH) to establish a public education program and promulgate guidelines related to food safety.

As written, this bill would mandate new food date labeling requirements for food manufacturers. The CCSNJ appreciates the importance of ensuring consumers understand food labeling and safety, however this bill will create an inconsistent labeling system that will inevitably confuse consumers. **S- 418 (Smith/Greenstein)** would create a piecemeal approach to food labeling standards that is burdensome and costly for manufacturer's compliance. Currently, food manufacturers create their labeling for shipping nationally and this bill would establish different standards for New Jersey, forcing manufacturers to change their labeling to meet different state requirements, which can slow down the manufacturing process and ultimately create supply chain issues.

Additionally, there are currently national guidelines that manufactures use to create standard labeling. These guidelines were created by industry leaders through a voluntary, national program that has received the support of the U.S. Food and Drug Administration (USFDA). This program has allowed for flexibility, allowing manufacturers to react to consumer feedback and make changes to ensure consumers understand the labeling, therefore helping to reduce food waste.

While we appreciate the sponsor's intent to reduce food waste, this bill could do just the opposite as it will create another burdensome mandate for food manufacturers in New Jersey, which could ultimately lead to more inconsistencies in food labeling.

For these reasons, the CCSNJ respectfully opposes **S- 418 (Smith/Greenstein)**.

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Members of the Senate Environment and Energy Committee:

On behalf of the New Jersey Business & Industry Association, the state's largest business association, I am writing to express our opposition to Senate Bill No. 418, which would mandate food labelling on various food products.

We support the comments of the Food Council in their opposition to this legislation. The reasons for our opposition are simple. Not every "problem" needs a legislative and regulatory solution, and this is especially so when the private sector has already created a system to address the issues being raised in the pending legislation. This is also not a situation where legislative "codification" of existing standards is appropriate or useful. In fact, it may be harmful to both the existing system and to consumer awareness.

Despite the best intentions of legislation to merely codifying standards, regulators may take different positions when they adopt regulations. Even minor differences in standards will cause conflicts between states which will put manufacturers in a difficult situation. Products are not manufactured for each state, but on a national or regional basis. If New Jersey has a different regulatory requirement than another state, even for a minor issue, it will add costs and confusion to have a New Jersey product. It will also not solve any problem.

Manufacturers also need flexibility. They respond to consumer input and the needs of the marketplace. This flexibility will disappear if they now must meet legally binding regulatory requirements.

In summary, I will fall back on the old adage, "if it ain't broke, don't fix it." The existing food labelling system is working and consumers understand what the labels mean. It is not broke. There is no need to change this system. It could only make things worse.

Thank you for your consideration and we ask that this bill not be voted out of committee.

Raymond Cantor
Deputy Chief Government Affairs Officer
New Jersey Business & Industry Association
(609) 433-4931

91x

**Testimony of Gary Sondermeyer
Vice President of Operations
Bayshore Family of Companies
Representing the Association of New Jersey Recyclers
Senate Environment and Energy Committee
Hearing on S3153
December 15, 2022**

Good Morning Chairman Smith and esteemed members of the Senate Environment & Energy Committee, my name is Gary Sondermeyer, Vice President of Operations at the Bayshore Family of Companies. Thank you for the opportunity to offer brief testimony today on behalf of the Association of New Jersey Recyclers (ANJR) on S3153.

The mission of ANJR is to support, promote and enhance source reduction, reuse practices, organics management, and recycling activities in the State of New Jersey. ANJR provides educational and training programs, and also advances policies that support sustainable materials management, which in turn benefits the environment, the communities and the economy of New Jersey. We are a not-for-profit, 501(c) (3), nonpartisan network that was incorporated in 1984. ANJR's members consist of individuals and organizations from both the public and private sectors, governmental entities, the recycling industry, and the business community.

We thank Governor Cody for sponsoring S3153 related to the regional management of food waste through in-vessel or enclosed composting systems. We feel this bill is extremely important toward advancing sustainable organic material management in New Jersey.

Through the Climate Change Alliance, President and CEO Valerie Montecalvo and I at Bayshore Recycling formed an "Organics Workgroup" back in April of 2021. We conducted a Statewide stakeholder process and brought together some 80 diverse organizations to discuss what barriers we had to remove to advance both food recovery and sustainable food waste management in New Jersey. We ultimately identified 17 "opportunities for

action” and adopted our Statewide Plan in August of 2021. I also wish to mention that this was a true “public/private partnership” endeavor as the NJDEP and Department of Agriculture were key participants during our stakeholder process. In essence, what our Organics Workgroup sought to do was develop the implementation plan for Chapter 5 of the DEP’s Global Warming Response Act 80 x 50 Report, which is dedicated to greenhouse gas reduction in the waste management and agricultural sectors. Since the publication of our State Plan in August 2021, we have been working collaboratively in an attempt to remove the identified barriers to more sustainable management of food recovery systems and food waste. S3153 seeks to remove one important barrier to regional composting in schools.

We strongly support S3153 which will allow schools with in-vessel or enclosed compost facilities to accept appropriate food waste from other schools without the need for administratively difficult to obtain and prohibitively expensive DEP permits. This will allow schools, on completely a discretionary basis, to develop and implement the regional management of food waste generated by school cafeterias and breakfast/lunch programs.

In this regard, we respectfully request that amendments be made to S3153 to make it identical to A4548 which ANJR testified on earlier this year on September 29, 2022 before the Assembly Environment and Solid Waste Committee. More specifically, we request that the language in A4548 which exempts schools from DEP regulation be added in. More specifically:

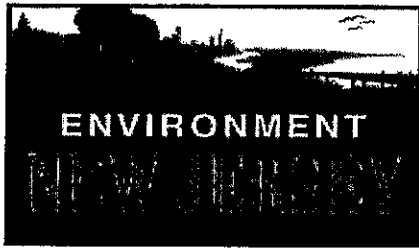
“b. 1 A school that receives food waste pursuant to subsection a. of this section shall not be required by the Department of Environmental Protection to obtain a permit, approval, or other authorization issued by the department pursuant to the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.), the "New Jersey Statewide Mandatory Source Separation and Recycling Act," P.L.1987, c.102 (C.13:1E-99.11 et al.), the "Air Pollution Control Act (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.), or the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), or any rules or regulations adopted pursuant thereto, in connection with the receipt of the food waste or the processing of food waste generated on-site.”

If I might offer an illustrative example regarding the importance of S3153. I serve as Chair of the Board of Trustees of the Sustainable Jersey Program. Our Municipal Program now actively involves some 466 New Jersey towns and our Schools Program some 383 registered school districts and 1,066 individual schools. Through an NJDEP Recycling Enhancement Act grant we applied for and received, 3 in-vessel composters were purchased and installed at elementary schools in Long Branch, Delran and Newton. As it stands now, these schools can only accept food waste generated in their individual school. However, with passage of S3153, each, at their own discretion, could open the use of their in-vessel composter to other schools within their school district.

Our vision through ANJR and the other organizations we work with is for each school in the State to have some form of a school garden and to be actively engaged in donating as much food as possible through share tables available to students and cooperative recovery programs linked to local pantries. For food that can't be donated, the vision is for each school to have access to composting of food waste as opposed to sending it to landfills where greenhouse gases are generated. Small, in-vessel compost systems cost approximately \$20,000 - \$40,000 depending on the size, make and model. S3153 will enable school districts to consider more favorable economics in the purchase of such units for use on a regional basis.

Finally, and as this Committee also knows well, New Jersey is the first State in the country to require climate change curriculum to be introduced in our K – 12 schools. Sustainable food management should be part of each student's education experience. Regional management of food for both donation/recovery and food waste management will allow Administrators and teachers the ability to evaluate district-wide programs and to provide real world, hands-on learning experiences to students through school gardens and composting systems. I'm happy to report that this is the case currently in many New Jersey schools, but why not all of them?

For all these reasons, ANJR strongly supports S3153. Thank you for the opportunity to speak today - I would be happy to answer any questions you may have.



Doug O'Malley, Director
Senate Environment Committee
Testimony on EV Battery Bill Package
December 15, 2022

EVs are Cleaner: The International Council On Clean Transportation released a study in 2021 that found that electric vehicles "have by far the lowest lifecycle GHG emissions" compared to other powertrains, including plug-in hybrids and hydrogen. (GHG stands for greenhouse gas.) We have known this since at least 2012, when researchers conducted a study for the California Air Resources Board that found EVs had the "least overall impact" on the environment when considering total lifecycle energy usage.

There are many reasons EVs have a lower impact on the environment than gas cars. One of the most important factors is that an electric motor is more efficient than an ICE. An electric motor can turn about 90 percent of its energy into power at the wheels. In contrast, gas engines in passenger vehicles are typically only 35-40% efficient. Another important factor is that it is possible to produce electricity from zero-emission sources, such as wind, solar, and hydroelectric. In contrast, burning petroleum-based fuel without creating emissions is impossible.

The environmental impact of driving a gas-powered vehicle: Since gas vehicles have a higher environmental impact when you're driving them, you can calculate your car's main impact by determining the fuel efficiency of your vehicle. According to the EPA, a gallon of gas burned creates about 8,887 grams of CO₂. Fuel efficiency for gas-powered vehicles is measured in miles per gallon (mpg), with the average mpg in 2021 equaling 25.4 based on EPA data. So, the total CO₂ emitted by the average gas-powered vehicle is approximately 350 grams per mile. This will vary widely depending on the vehicle you drive – a 2022 Dodge Ram emits approximately 741 grams of CO₂ per mile while a 2022 Chevrolet Spark emits about 269 grams of CO₂ per mile.

EV Battery Explainer: Manufacturing differences in batteries: An EV battery is much larger than the battery in a gas-powered vehicle, so this is where most of the difference comes in manufacturing impact. To calculate the environmental impact of an EV battery, you need to look at the size of the battery and where it was manufactured. A larger EV battery takes more energy to manufacture. So, a Tesla Model S battery with a 95 kilowatt-hour (kWh) battery uses more energy to produce than a Hyundai Ioniq 5 with a 74 kWh battery or a Tesla Model 3 with a 57.5 kWh battery.

How long do the batteries in EVs last?: The California state government requires EV batteries to last at least 150,000 miles, although experts estimate they will last upwards of 200,000 miles.

What minerals are used in EV batteries?: EV batteries are primarily lithium-ion and include nickel, lithium, cobalt, graphite, copper, and manganese. EV batteries also require rare earth metals such as neodymium, which is used to create permanent magnets and allow for longer range batteries.

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What are the environmental impacts of an EV and its battery compared to an internal combustion engine (ICE) vehicle?: Unlike ICE vehicles, EVs produce no tailpipe emissions so they are not contributing to air pollution or local greenhouse gas emissions (GHGs). However, more GHGs are produced from the manufacturing of an EV compared to an ICE vehicle due to minerals required to make the battery. According to *Reuters*, Americans have to drive an average of 13,500 miles in their new EV for it to be more environmentally friendly than an ICE vehicle. This number varies based on the size and efficiency of the EV battery, the fuel economy of the ICE car used for comparison (*Reuters* used a Toyota Corolla), and the electricity source for the EV battery.

Are EV batteries recyclable? The short answer is yes. New companies across the United States like Redwood Materials (Tesla's primary battery recycling company), Li-Cycle, and Ascend Elements are developing methods to recycle EV batteries. In some cases up to 95% of the materials in an EV battery can be recycled. While this technology is still growing, the methods for recycling are being improved as EVs become more popular.

If the battery isn't damaged during its use in an EV, such as in a car accident, these batteries have additional usable capacity – an estimated 80% of the original rated capacity. This means that if the battery was manufactured to store 100 kWh, it can now store up to 80 kWh. In order to make use of the remaining capacity, the batteries can be broken down to salvage smaller components for reuse and refurbishment, or they can be repurposed and used in a less demanding application, such as stationary storage.

For stationary storage, companies such as RePurpose Energy and B2U Storage Solutions are repurposing these batteries to be used for renewable energy generation support. They connect multiple EV batteries together, along with battery monitoring and cooling technology, to create a larger battery that is about the size of a shipping container. The battery stores solar electricity generated during the day and supplies electricity at high-demand times in the evening. As the grid becomes cleaner, added grid storage becomes more necessary to support the generation variability of renewable sources. These used batteries are a great way to both extend the lifespan of a product that has already been manufactured and support the renewable energy transition. After this second-life use, the batteries are then ready to be recycled

Can we use recycled materials to manufacture new batteries? Yes. Once materials have been recovered, they can then be processed and used in the manufacturing of new lithium-ion batteries. This is a preferable source to using virgin ore because it reduces the amount of mining necessary to produce EVs.

Recent research has shown that by 2050 recycled materials could supply 45–52% of cobalt, 22–27% of lithium, and 40–46% of nickel used in the United States light- and heavy-duty vehicle fleet. Efforts across the United States to increase the sales of EVs are underway – places like California expect to have 100% of all car sales be electric by 2035 – so being able to recycle batteries and reuse the metal within them is a critical step in the transformation to a cleaner transportation system.

Recycling is key to making EVs greener: EV batteries currently represent about half of the lithium-ion batteries (by mass) that are being recycled, which also includes consumer electronics and waste from battery manufacturing. With 3.8 million EVs on the road today in North America and sales growing year over year, the number of EVs retiring in coming years will continue to increase as they eventually are totaled or age out of the fleet.

This increase will result in vehicle batteries comprising a much higher percentage of the recycling stream; retirements are expected to be 6 to 7 times higher in 2025 than in 2020 and 20 to 40 times higher

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in 2030. Companies recycling these batteries are setting themselves up to accommodate this upcoming wave by expanding their capacity.

These recycling companies are securing a battery stream by partnering with auto manufacturers. For example, major automakers are partnering with Redwood Materials, a recycling company based in Nevada. Redwood is not only recycling but will soon be closing the material loop by manufacturing battery components with recovered materials.

Redwood Materials has also implemented a recycling program to learn more about the location of retired and uncollected batteries, and how to decrease the costs of transporting these batteries to the recycling facility. Transportation from their location of retirement to the recycling plant is expensive, representing about 50-60% of the recycling costs. These costs are due to the special packaging and requirements needed for shipping retired batteries and their large size and weight. But, transportation costs can potentially be decreased if a more efficient collection system is developed.

Researchers have been modeling potential reverse logistics networks and now Redwood Materials is completing research of their own through a learning-by-doing approach. Their new Recycling Program consists of picking up and recycling any retired lithium-ion battery in California at no cost. They are also working with dealerships and dismantlers in order to collect as many batteries as possible.

California is considering battery recycling requirements: As you can see, there is a lot happening in the industry space. And while there is currently no recycling requirement in the United States, California passed a bill that indicates recycling may be a priority for the state.

Assembly Bill 2832 passed in 2018 creating the California Battery Recycling Advisory Group. This group consists of automotive and battery manufacturers, government agency representatives, and public interest groups. They recently recommended policies to the legislature that could increase the recycling of EV batteries. These recommendations included the creation of a California State requirement that batteries be recycled, holding the auto manufacturer responsible for ensuring that happens. This is not unlike how mattress, paint, and carpet disposal is currently regulated within California.

In addition to the California work, the federal government is also paying attention. In the Bipartisan Infrastructure Bill, funds were allocated toward battery recycling research and development. This is in addition to the funding of the ReCell Center, a lab created by the Department of Energy that is focused on decreasing costs and increasing yields of recycling.

Battery end-of-life is very important for ensuring that batteries are safely disposed of and that materials are recovered and used again in battery manufacturing. While there is a lot going on to push forward the uptake of EVs and replace gasoline cars for good, many people are simultaneously working to make sure that EV batteries are being reused, repurposed, and recycled.

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Principles for an EV Battery Recycling Program:

The increasing production of batteries for electric cars, trucks, and buses prompts the need to propose a circular approach, enabling the sustainable management of certain end of life products, and allowing for the growth of future business development opportunities. We believe in and support well-crafted extended producer responsibility (EPR) programs that respect and reflect the unique needs of large batteries and the operational needs of the EV sector.

We support closed-loop battery recycling when batteries are determined to have reached the end of their service life. Any framework that regulates the management of battery waste must provide flexibility to suit the needs of a broad range of battery types, sizes, weights, applications and users. Any framework needs to properly understand the true meanings and definitions of "end of life" as they relate to EV traction batteries. EV batteries will require a different framework than the one currently laid out in the current legislation (S3373).

We, along with other stakeholders, support a: 1) a landfill ban for EV batteries; 2) Mandate EV manufacturers to take back the EV batteries they produce on request if there's no other alternative 3) Consider the value of EV batteries 4) Create a collection system for EV batteries that is simple for consumers and market participants.

Batteries are valuable: EV li-ion batteries contain critical minerals and are very valuable even when they have reached the end of their service life. The collection framework must take into consideration the value of the battery at the end of its life, and the private ownership of that value by an EV owner. There are already many competing collectors for the small number of end-of-life EV batteries available on the market.

Producers should have a take-back obligation: Requiring producers take back their battery packs when no other party wants to avail themselves of their value at end of life is important to ensure that no battery is discarded or landfilled. This principle is the foundation of producer responsibility for EV batteries.

No battery should go to a landfill: EV lithium-ion (li-ion) batteries are highly recyclable. Recovering and recycling battery materials minimizes the lifecycle environmental impacts of those products. However, EV batteries are high-voltage batteries and should be handled with care by trained professionals such as automotive technicians.

New Jersey has the opportunity to develop model EPR legislation for EV batteries that can be replicated in states across the country ensuring that EVs have minimal negative environmental impacts. The New Jersey State Senate should consider creating a separate EPR stream which obligates producers to take-back their own EV batteries on request but does not prescribe collection rates given the wide range of battery use cases and life expectancies (based on cycling, temperature management, chemistry, use case, and more). One of the best ways that New Jersey can create a robust and sustainable EV battery recycling industry is to actually get more electric vehicles deployed faster in the state, through more aggressive EV rebates, more extensive EV infrastructure and adopting the Advanced Clean Cars II standards.

Hello Joey,

I represent the [Institute of Scrap Recycling Industries \(ISRI\)](#) which is quite interested in the topic of how to put e-vehicle batteries to good use following their useful life in powering electric vehicles.

ISRI members have been participating in a task force in California that addresses these challenges. I understand that the task force has met on several occasions and produced a preliminary report. I would be happy to obtain a copy for your committee if you do not already have it.

Please let me know if there is anything else that ISRI can do to assist Senator Smith's committee tomorrow or in the future on this topic.

Frank

Frank Brill
Brill Public Affairs

100x



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**New Jersey Senate Environment and Energy Committee
December 15, 2022**

Chairman Smith, Vice-Chair Greenstein and Members of the Committee,

The Coalition for Community Solar Access (CCSA) provides this written testimony in support of Senate Bill 3305 (S3305).

CCSA is a national, business-led trade organization, composed of over 100 member companies, that works to expand access to clean, local, affordable energy nationwide through the development of robust community solar programs. Today, only a small minority of households and businesses have access to solar because they rent, live in multitenant buildings, have roofs that are unable to host a solar system, are shaded by trees, or experience some other mitigating factor. Community solar refers to local solar facilities shared by multiple community subscribers who receive credit on their electricity bills for their share of the power produced.

CCSA has been an active participant in the development of the successful community solar pilot program in New Jersey and looks forward to continuing that participation in establishing the state's permanent program. Community solar is in high demand in New Jersey, as demonstrated in the first year of the pilot program which drew 800 megawatts of project applications for only 150 megawatts of available capacity. It is also a unique market segment that achieves multiple policy ends, in that it requires providing benefits to low-to-moderate-income residents, with at least 51% of every project serving those customers.

S3305 would require BPU to allow low- and moderate-income residential customers to self-attest to income for participation in community solar programs. This is a best practice that has been adopted in Delaware and Virginia and is anticipated to also be incorporated in Maryland and Massachusetts. Self-attestation is respectful of consumer privacy and the most efficient means to verifying eligibility for state programs.

New Jersey is at the forefront of community solar with significant low- to- moderate income participation requirements and should embrace self-attestation as a best practice.

Please support Senate Bill 3305.

Sincerely,
Charlie Coggeshall
Mid-Atlantic Director, CCSA

101x

Arcadia

December 15, 2022

Chairman Bob Smith
Senate Environment and Energy Committee
Re: Letter of Support for S-3305 – Smith/Ruiz

Chairman Smith,

Arcadia appreciates your commitment to expanding access to community solar programs for low and moderate income (LMI) individuals. Arcadia is the largest manager of community solar projects in the United States, with more than 1 gigawatt (GW) of capacity under management in 14 states, including New Jersey, where we manage 58 projects that will include approximately 9,000 subscribers. We **support** S-3305 as it will provide an avenue for these customers to access community solar programs by self-attesting to their income. The legislation ensures that these customers do not face additional roadblocks toward enrollment.

Currently, LMI individuals in New Jersey may individually qualify as LMI if they provide proof of participation in a handful of government programs or if they reside in a certain census block. However, only a fraction of people who qualify as LMI actually participate in these programs or live within the geographic boundaries currently enshrined in the community solar program rules. Further, LMI customers may not wish to share confidential information about their participation in a government assistance program. As such, self-attestation should serve as a sufficient verification method on its own, rather than requiring an unnecessary and more onerous additional step for LMI participation in New Jersey.

Requiring additional steps, beyond those for other subscribers, introduces more obstacles. In turn, this reduces the number of LMI customers who would complete the signup process. If the status quo for income verification persists, then this will continue to discourage LMI customers from subscribing to community solar programs. This outcome runs counter to New Jersey's policy goals for accessible, LMI-inclusive clean energy.

Again, we appreciate your commitment to this issue and expanding access to community solar, and we **support** S-3305.

Sincerely,

James Feinstein
Policy Manager
Arcadia



New Jersey Audubon

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**Testimony to the New Jersey Senate Environment and Energy Committee
Supporting S2712
December 14, 2022**

Eileen Murphy, Ph.D.
Vice President, Government Relations
NJ Audubon
Eileen.murphy@njaudubon.org
609-400-3842

NJ Audubon supports the bill S2712 which prohibits the sale, manufacture, distribution, and use of firefighting foam containing intentionally added perfluoroalkyl and polyfluoroalkyl substances, aka PFAS. We applaud the Senate for acknowledging and taking action on reducing human exposures to PFAS through this route.

I am Dr. Eileen Murphy, Vice President Government Relations at NJ Audubon and previous Director of the science division of NJ Dept of Environmental Protection where I conducted research on the occurrence of chemical contaminants including PFAS in drinking water for 21 years. I also served for six years as a chartered member of the USEPA Science Advisory Board where I provided expert advice to the agency on issues such as chemical contamination. I appreciate the opportunity today to provide testimony to the Committee about per- and polyfluoroalkyl substances, known as PFAS.

Perfluoroalkyl and polyfluoroalkyl substances (PFAS) are molecules consisting of a chain of carbon and fluorine atoms linked together. This carbon-fluorine bond is extremely strong, making the degradation of these chemicals slow and difficult. This unique structure also results in chemical properties that allow materials coated with them to repel both water and oil. Given these highly desirable qualities, they have been used in a variety of industrial and household products such as stain repellent textiles, **fire-fighting foams**, personal care products, stain- and water-resistant clothing, carpets and furniture, and paper coatings since the 1940s. PFAS do not degrade readily, which is how they got the nickname “forever chemicals,” although some of the longer chain chemicals can break down into shorter chain perfluorinated compounds. Those that do break down, do so very slowly. As a result, PFAS can build up in people, animals, and the environment over time. They have also been found in fish, deer and other wildlife, and appear in the blood of 95-97% of US residents tested. In other words, it’s everywhere.

According to the USEPA CompTox database, there are **over 12,000** individual PFAS used in commerce and industry today. As our methods for detecting these chemicals improves, and as more perfluorinated substances are used commercially, we will continue to detect more of them in environmental media.

A natural immediate step in addressing the issue of PFAS in the environment is eliminating it from commerce and industry. Because fire-fighting foams are one of the more significant sources of PFAS to

waterways, it makes sense to start here. Indeed, the federal government has introduced bills prohibiting the use of fluorinated chemicals in firefighting foams at airports and elsewhere, and the Department of Defense has prohibited PFAS containing foams from use at US military bases. Several pending bills in the US Congress address PFAS containing firefighting foams ([HR 4381](#), [S 231](#), [S 1796](#), [S2518](#), [S 3662](#), [HR 4350](#)).

Several states have passed or pending legislation to limit or restrict the use of PFAS containing firefighting foams or otherwise regulating their use.

Passed legislation: [Colorado](#), [Connecticut](#), [Illinois](#), [Kentucky](#), [Maine](#), [Michigan](#), [Minnesota](#), [Nevada](#), [New Hampshire](#), [New York](#), and [Washington](#)

Pending legislation: [Alaska](#), [Hawaii](#), [Illinois](#), [Iowa](#), [Minnesota](#), [North Carolina](#), and [Rhode Island](#)

Good Afternoon,

I would like to voice my support for Senate Bill 2186 which prohibits the sale, distribution, or propagation of certain invasive plant species without permit from the Department of Agriculture, and I also support the proposed amendments as described in the written testimony submitted by the NJ Forest Stewardship Task Force. The bill is sorely needed, and long overdue. I hope you will consider my opinion and allow New Jersey to join our neighboring states on this issue.

Thank You,
Dan Ross

--

Daniel Ross
Green Team Chair
Washington Twp.

105x

Good afternoon,

I would like to express my support for Senate Bill 2186 - which prohibits the sale, distribution, or propagation of invasive plant species as amended and described in written testimony submitted by the NJ Forest Stewardship Task Force.

Thank you,

Carrie Springer
Resident, Lebanon Twp.

106x



SIERRA CLUB
NEW JERSEY CHAPTER



NJ Forest Task Force

Testimony to the NJ Senate Environment and Energy Committee in support of S2186 - Prohibits sale, distribution, or propagation of certain invasive plant species without permit from Department of Agriculture.

December 15, 2022

Consensus Recommendations for Invasives Species Management Legislation
Prepared by Invasive Species subgroup: Sandra Chen, Emile DeVito, Jeanne Fox, Amy Greene, John Landau, Patricia Shanley, and Michael Van Clef

Signatories of participants on the task force in support of this bill and this testimony appear at the end.

The NJ Forest Task Force came to a very strong consensus that robust management of invasive species (including plants, vertebrate and invertebrate animals, and pathogens) is imperative to protect New Jersey's public and private forests as well as agricultural production and urban landscapes.

- Accelerating environmental damages from invasive species in NJ are exacerbating negative global and local climate change impacts.
- Control of invasive species is necessary to maintain the climate defence ecosystem services required for New Jersey's future.

We understand that two bills have been introduced by the legislature (Invasive Plant Regulation bill S2186/A3677 and Invasive Species Task Force bill A2629), but we ask that the recommendations below be considered to strengthen them, ideally beginning with amendments to Invasive Plant Regulation bill S2186/A3677. This bill to regulate the sale, distribution, and propagation of invasive plants can be a foundational building block for invasive species management by halting the continuing purposeful spread of harmful species and establishing best practice invasive species management governance.

New Jersey is one of only four states in the continental US and two states in the Northeast that have no commercial plant regulations (the other Northeast state is Rhode Island). But there is an opportunity and need for regional leadership— the average overlap of regulated species lists across neighboring states is only 17% with the highest amount of neighbor overlap being just above 50%.¹ This neighbor-to-neighbor inconsistency seriously impairs the effectiveness of state regulations because invasive species spread widely and freely without any regard for state borders.

The New Jersey Forest Task Force recommendations for Invasives Species Legislation to bring NJ towards leadership are:

¹ [Beaury, E.M., E.J. Fusco, J.M. Allen, and B.A. Bradley \(2021\) "Invasive plant regulations in the United States are reactive and inconsistent", Journal of Applied Ecology](#)

1. Adopt the definition established by the National Invasive Species Council -
 "An invasive species is:
 1) non-native (alien) to the ecosystem under consideration, and
 2) whose introduction causes or is likely to cause economic or environmental harm or harm to human health."

2. The foundational invasive species management bill, ideally an amended S2186, should legislatively re-establish a permanent and updated New Jersey Invasive Species Council (NJISC) to develop and manage a binding policy and process to regulate and manage invasive plants, vertebrate and invertebrate animals, and pathogens, operating with full public transparency and engagement.

An NJISC should be 'in but not of' the Department of Agriculture and DEP, with additional experts and stakeholders representing other interests including New Jersey Invasive Species Strike Team, New Jersey Nursery and Landscape Association, New Jersey Highlands Council, Pinelands Commission, New Jersey Agricultural Experiment Station, universities, ecologists, botanists, non-profit conservation groups and indigenous peoples.

The Invasives Species Council shall be authorized to:

- Develop practical strategies and policy to collaboratively research, deploy, monitor, and promote invasive species control methods including but not limited to
 - Regulation of sale, distribution, and propagation
 - Integrated Pest Management methods
 - Biocontrols to mitigate existing widespread invasives
 - Application of deer herd reduction
 - Prescribed burns
 - Reducing unintended human-assisted spreading
 - Community outreach and engagement
- Define a robust, transparent regulatory protocol consistent with proven best practices, with one model being the regulatory protocol established in New York and recently adopted in Pennsylvania.
- Maximize the effectiveness and efficiency of invasive species management within the context of scarce resources of NJDEP and NJDA
 - Form partnerships with NJ organizations such as the New Jersey Invasive Species Strike Team (NJISST)
 - Harness volunteers, including youth volunteers to improve their connections to the natural world
 - Build multifaceted collaborations and cooperations with regional states and the Northeast Regional Invasive Species and Climate Control (NERISCC) consortium
- Promote and coordinate data from citizen-scientist mobile app and web-based tools and associated invasive species distribution databases
 - Includes EDDMaPs as managed by NJISST and other states, iMap Invasives as managed by New York State, and iNaturalist.
- Develop and manage the state strategic plan for invasive species control.

- The first consideration should be to review the 2009 Invasive Species Strategic plan which is still largely relevant.
 - Re-adoption or adoption-with-updates should be done if it is determined to be the most timely and efficient approach.
 - The council should define a regular schedule to review the plan and update it as warranted
 - Develop strategy and policy to slow the human-assisted spread of existing invasives through best practices adoption including
 - Firewood regulations
 - North America Invasives Species Management (NAISMA) “Play-Clean-Go” and “Weed Free Products” programs (Programs - NAISMA)
 - Focus heavily on community outreach and education through partnerships and collaborations as well as direct outreach from NJDEP and NJDA
 - Focus on channels, media and content investments specific to New Jersey
 - Leverage existing and extensive outreach and training materials such as Penn State University extension, Lower Hudson PRISM and NJISST instead of spending time to recreate these resources.
- 3. Regarding regulation of the sale, distribution and propagation of invasive species:
 - The current proposed S2186 list of species to be regulated is acceptable as a quick start, but it is only a small and static sample of commercial invasive threats. The re-establishment of the NJISC should be authorized to proceed upon enactment of the law so that a more robust entity can immediately begin to evaluate the full suite of harmful invasive species.
 - Listing or de-listing an invasive species shall be an administrative (non-legislative) process to be initiated by the identification of specific species for regulation by NJISC. Identification for regulation shall be determined by NJISC original evaluation or by NJISC review of all species regulated by the states of NY, PA, CT, MD, DE or VA. The criteria to be considered include:
 - (1) the threat the species poses to native species in the State;
 - (2) the threat the species poses to any sensitive habitats or endangered or threatened species in the State;
 - (3) the threat the species poses to any historical, cultural, or infrastructure resources in the State; and
 - (4) the likelihood that the species will escape intended areas of use and propagate uncontrolled in the State.
 (1-4 are per proposed S2186 section 4.b. with “areas of use” replacing “cultivated areas”)
 - Requiring that any protocol must consider the inclusion of species already vetted and listed (including any sterile cultivars within one of those species that are already vetted and excepted) by neighboring states will:

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- Save significant time and work during the review process, allow New Jersey to benefit from the significant efforts of our neighboring states
 - Efficiently enforce the regional coordination often cited as critical to controlling invasive species
 - Because invasives species management becomes exponentially more difficult and improbable as the population of a species grows, the legislation should stipulate that newly emerging invasive species should be priorities for NJISC review and listing even though many of these species are not yet 'obviously' causing severe damage in natural areas.
 - This strategy fits well with the widely established invasive species management practice of "Early Detection / Rapid Response" (EDRR) to prevent harm while it is still practical and possible.
- A deadline of no more than 1 year should be mandated to create the first complete regulated invasive species list. The NJISC shall:
 - Designate for regulation the species listed in the proposed NJ S2186/A3677 as well as review for designation any species that are regulated in NY, PA, CT, MD, DE or VA . Not designating any species regulated in these states requires an active and fully documented decision.
 - Evaluate the 191 plant species and 97 other species listed as Widespread, Emerging, and Watch/Potential as of 2022 by the New Jersey Invasive Species Strike Team as candidates for regulation.
 - Continuing to evaluate and designate species for regulation, whether proposed in New Jersey or regulated in neighboring states, shall be an on-going responsibility of the council.
 - Allow the sale, distribution, and propagation of sterile cultivars of otherwise regulated species that are approved for sale in NY, PA, CT, DE, or VA and determined by the council to be safe for NJ.
 - Establish the policy and requirements for all permitted and regulatory exceptions.
 - Establish labeling and educational material requirements such as
 - Labeling and education material requirements regarding distribution and sale of excepted cultivars
 - Labeling of invasive plants being sold during their phase-out period
- The NJISC shall consider the impacts of species regulation decisions on the New Jersey nursery and landscape industry, including making reasonable efforts to minimize economic burdens.
 - The inventory life cycle for growers may be less than a year for annuals to a decade or more for trees.
 - The current proposed S2186 phase-out period of 24 months is an unfair and unnecessary economic burden for the nursery industry. We recommend building a dichotomy that emphasizes differences between newly emerging vs. already widespread species as well as

the dichotomy between widely sold vs. not widely sold species. An example suggested phase-out period is provided below:

Pipeline Flush Category	Annual Plants Timeline	Perennial Herbaceous Plants Timeline	Woody Shrub Species Timeline	Tree Species Timeline
Species not widely planted or newly emerging species in natural areas	1 yr	2 yrs	3yrs	5 yrs
Widely planted species or already widespread species in natural areas	2 yrs	3 yrs	5 yrs	10 yrs

- Penalties imposed by NJDA should involve fines sufficient to stop and prevent violation.
 - NJDA may give a warning or small fine for a first offense, but fines must escalate to many thousands of dollars for subsequent offenses.
 - Regulated species are permanently listed, requiring an administrative action to change a specific listing status. New listings may be added on an ongoing basis. To assure currency, the full regulated species list should be reviewed by NJISC at minimum of every three years. This will allow consideration of newly emerging invasive species, including species that are beginning to spread due to a warming climate.
4. To cost-effectively increase the pool of NJ Invasives Species Management Resources, legislation should allow for the creation of one or more formal public/private partnerships similar to the New York State PRISM's (Partnerships in Regional Invasives Species Management, e.g. [LowerHudson PRISM](#)).
- Partner Groups should include organizations such as:
- New Jersey Invasive Species Strike Team
 - NY/NJ Trail Conference (this organization hosts Lower Hudson PRISM with headquarters in Mahwah New Jersey)
 - County Park Commissions
 - NJ Land Conservancies
 - Rutgers Environmental Stewards, NJ Forestry Association Woodland Stewards and other citizen-steward organizations
 - [New Jersey Youth Corp](#) and other youth-engagement organizations
 - NJ Native Plant Society

Neighboring State Information

New York

New York Regulation:

https://www.dec.ny.gov/docs/lands_forests_pdf/isprohibitedplants2.pdf

Report to Legislators:

https://www.dec.ny.gov/docs/lands_forests_pdf/invasive062910.pdf

NY Invasive Species Council: <https://www.dec.ny.gov/animals/6989.html>

Specifics and background information:

<https://www.dec.ny.gov/animals/99141.html>

Pennsylvania

Pennsylvania Invasive Species Council -

https://www.agriculture.pa.gov/Plants_Land_Water/PlantIndustry/GISC/Pages/default.aspx

PA invasives plan -

https://www.agriculture.pa.gov/Plants_Land_Water/PlantIndustry/GISC/Documents/PISC%205%20Year%20Plan.pdf

PA legislation -

<https://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?act=46&sesInd=0&yr=2017>

They utilized the species evaluation system established by New York and are considering adding species to the regulated list.

<http://cedatareporting.pa.gov/reports/powerbi/Public/AG/PI/PBI/PISC%20Invasive%20Species>

<https://woodyinvasives.org/regulatory-information/pennsylvania/>

Connecticut Regulation

<https://cipwg.uconn.edu/ct-state-invasive-plant-laws/#>

Delaware Regulation

<https://why.org/articles/ban-on-invasive-plants-great-win-for-delaware-conservation/>

<https://legis.delaware.gov/json/BillDetail/GenerateHtmlDocument?legislationId=48260&legislationTypeId=1&docType>

Virginia Regulation

<https://vnps.org/action-alert-phasing-out-the-propagation-and-sale-of-invasive-plants/>

Maryland Regulation

[Maryland Invasive Plants Prevention and Control](#)

NJ Forest Stewardship Task Force, Invasive Species subgroup members and authors of the testimony:

Sandra Chen, MS. EdD, Princeton Shade Tree Commission

Emile DeVito, PhD., Manager of Science & Stewardship, NJ Conservation Foundation

Jeanne Fox, JD, Adjunct Faculty Columbia SIPA & Rutgers Bloustein; former BPU President; former EPA Regional Administrator; former DEPE Commissioner/Deputy Commissioner

Amy Green, MS, PWS, Raritan Township Environmental Commission

John Landau, Member Morris township Environmental Commission, NJ Forestry Association Woodland Steward

Patricia Shanley, PhD, Woods & Wayside International

Michael Van Clef, PhD., FoHVOS NJ Invasive Species Strike Team

NJ Forest Stewardship Task Force co-chairs support this testimony.

Andrew Bennett, Board Member, NJ Forestry Association

Tom Gilbert, co-Executive Director, NJ Conservation Foundation

Eileen Murphy, Ph.D., Vice President Government Relations, NJ Audubon

Anjuli Ramos, NJ Chapter of Sierra Club

Last Name	First Name	Affiliation	NJ County or Town
Ace	Kristin	Chair, Morristown Shade Tree Commission	Morristown
Akers	Fred	Operations Manager, Great Egg Harbor Watershed Association	Newtonville
Barreca, BS Environmental Science	Charles T	Duke Farms	Clinton
Basralian	Joseph	Chair, Open Space Advisory Committee	Chatham Twp
Bernier	Daniel	Director, Union County Dept Parks & Recreation, Div of Park Environmental Services	Union
Caccavale	Kathleen	Chair, Sustainable Madison Advisory Committee	Madison
Cahill-Makowsky	Ann M.	NJ Resident	Bordentown
Carola	Captain Hugh M.	Program Director, Hackensack Riverkeeper, Inc.	South Hackensack
Chambers	Lydia	Co-Chair, Friends of the Drew Forest Board	Harding
Chase, Jr, PhD (biochemistry)	Theodore	Former Board, NJ Conservation Foundation	Franklin Twp, Somerset

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Conway	Thomas	Chair, Ringwood Environmental Commission	Ringwood
Cuthbert, EdDd	Barbara	NJ Resident	Princeton
Donnelly, BS natural Resource Management	David	Retired - NJ State Park Service	Toms River
Dorwood	Sue	Beaver Lake Realty Company	Hardyston
Foelsch	Bill	Executive Director, NJ Recreation and Park Association Director of Parks and Recreation, Morris County	Morris County
Frey, Master Landscape Architecture	Wilma	NJ Resident	Tewksbury
Helmer	David	Executive Director, Morris County Park Commission	Morris
Hepburn, PhD	Christine	Trustee, Ridge and Valley Conservancy, Friends of the Drew Forest	Hardwick
Homyak	Nicholas R.	- Member Invasives Strike Force (Laborer) - Highlands Coalition Member/ NY/NJ Trail Conference/ Volunteer in Parks	Parsippany Troy-Hills
Honachefsky, Jr.	William	Retired NJDEP	Clinton, Hunterdon County
Huntington, BS Landscape Architecture	Wayne	Founder, Steward Green Former Director of Research and Natural Resources for Duke Farms	Bridgewater
Johanson	Erica	NJ Resident	East Amwell
Kayman, SM Environmental Health Sciences and Air Pollution Congrol	Lindsey	Environmental Education Fund	Princeton
Kazimierczyk	Joe	Sourland Conservancy	Hillsborough
Kibler	William S.	Director of Policy, Raritan Headwaters	Flemington
Krehel	Kate	PHS for Climate Action	Princeton
Kroll	Judy	Co-Chair, Friends of the Drew Forest Board	Madison

Louie, MD, MPH	Diane	NJ Resident	Madison
Lyons, BS, MS Forestry	James	THW Conservation Strategies	Hewitt
Mann	Elaine	NJ Resident	Colts neck
McDermott, PhD	Melanie H	Co-President, Highland Park Shade Tree Committee	Highland Park
Meckel	Douglas	NJ Resident	Hopewell
Michniewski	Susan	NJ Resident	Hopewell
Middaugh	Peggy	UU Faith Action Environmental Justice Task Force Trustee, NJ Tree Foundation	Manchester
Miller, BS Environmental Science	Erica	NJ Tree Farm	Neptune
Moore	Shauna	Manager of Horticulture, Somerset County Park Commission	Somerset County
Oltman	Laura	Support Roaring Rock Park	Washington
Partridge, PhD	Dustin	NJ Resident	Kennelon
Platz	Elmer	Owner, Mount Vernon Farms, LLC	Vernon
Quinnn, Ph.D.	James	Professor Emeritus, Rutgers Univ.	New Brunswick
Rhoads, PhD	Jaclyn	Assistant Executive Director, Pinelands Preservation Alliance	
Rinear	Paul	NJ Resident	
Roberts-Lawler, B.A. Biology	Nancy	Lebanon Township Environmental and Open Space Commission Musconetcong Watershed Association Water Quality Manager, retired New Jersey Water Quality Monitoring Council, member PEACE New Jersey, Founder/Board Chair	Lebanon Township, Hunterdon

Rosenbaum, Certified Ecological Restoration Practitioner, SER	Jared	Wild Ridge Plants, LLC	Pohatcong
Ruga	Elliott	Policy & Communications director, NJ Highlands Coalition	Boonton
Sands, Master Environmental Law & Policy	Tammy L.	Chair, Princeton Environmental Commission	Princeton
Sauer	Leslie	Brook Hollow Farms	Sergeantsville
Shebitz, PhD Ecosystem Science	Daniela J	Kean Univ, School of Environmental and Sustainability Science	Cranford
Sillars, BS Forestry, MBA	Scott	NJ Resident	Princeton
Soos, BA, Med	Anne	Princeton Environmental Commission	Princeton
Taylor, MS Geography, conc in Forest Management	Cindy	NJ Resident	Hightstown
Thein	Gary	NJ Resident	Livingston
Thonet, PE, PP	John	President, Thonet Associates	Pittstown
Tilly	Susi	Executive Director, Ridge and Valley Conservancy	Newton
Wander, PhD	Sharon	Ridge and Valley Conservancy	Fredon Twnp
Webb, Ph.D., Ecology and MS Ecology and Forest Resources	Sara	Professor emerita, Drew Univ.	Madison
Wilfert Eckel, PhD	Randi V.	President, the Native Plant Society of NJ	Frenchtown
Wilson	Jessica	Executive Director, NYC Audubon	NYC

**STATEMENT SEEKING LIMITED AMENDMENT TO
S2186 (GREENSTEIN)**

The New Jersey Press Association (“NJPA”) is a non-profit organization incorporated in 1857 under the laws of the State of New Jersey. It has a membership of 16 daily newspapers, 2 affiliate newspapers, over 95 weekly newspapers, over 35 digital news websites, 1 specialty newspaper, as well as over 20 corporate and non-profit associate members. NJPA submits this position paper seeking a limited amendment to S2186.

S2186 (the “Bill”) prohibits the sale, distribution, or propagation of certain invasive plant species without a permit from Department of Agriculture. The Bill provides, in relevant part:

2. No person may sell, *offer for sale*, distribute, or propagate for sale or distribution, an invasive plant species in the State without a permit.

(Emphasis added). NJPA believes that the news media may be captured, perhaps unintentionally, within the language of the Bill.

The news media receive and publish a vast number of classified and display advertisements that cover a wide array of goods and services. It would be not only fundamentally unfair but also virtually impossible for the news media to be charged with the task of scrutinizing and researching every item placed in such advertisements to determine specific characteristics of the advertised items, what the advertised items are designed to do and/or how the items will ultimately be used. At the end of the day, that responsibility properly rests with the advertisers.

Thus, in order to clarify the scope of the Bill, NJPA respectfully seeks an amendment that reads as follows:

Nothing in this act shall be construed to impose liability on news media that accept and/or publish advertising that may fall within the scope of the statute.

Thank you for your consideration.

New Jersey Press Association
609-406-0600, ext. 14
December 8, 2022

**STATEMENT SEEKING LIMITED AMENDMENT TO
S2712 (SINGLETON)**

The New Jersey Press Association (“NJPA”) is a non-profit organization incorporated in 1857 under the laws of the State of New Jersey. It has a membership of 16 daily newspapers, 2 affiliate newspapers, over 95 weekly newspapers, over 35 digital news websites, 1 specialty newspaper, as well as over 20 corporate and non-profit associate members. NJPA submits this position paper seeking a limited amendment to S2712.

S2712 (the “Bill”) prohibits the sale, manufacture, distribution, and use of firefighting foam containing intentionally added perfluoroalkyl and polyfluoroalkyl substances. The Bill provides, in relevant part:

1. a. Beginning two years after the effective date of this act, no person shall use, or shall sell, *offer for sale*, manufacture, or distribute for sale or use in the State any class B firefighting foam containing intentionally added PFAS.

(Emphasis added). NJPA believes that the news media may be captured, perhaps unintentionally, within the language of the Bill.

The news media receive and publish a vast number of classified and display advertisements that cover a wide array of goods and services. It would be not only fundamentally unfair but also virtually impossible for the news media to be charged with the task of scrutinizing and researching every item placed in such advertisements to determine specific characteristics of the advertised items, what the advertised items are designed to do and/or how the items will ultimately be used. At the end of the day, that responsibility properly rests with the advertisers.

Thus, in order to clarify the scope of the Bill, NJPA respectfully seeks an amendment that reads as follows:

Nothing in this act shall be construed to impose liability on news media that accept and/or publish advertising that may fall within the scope of the statute.

Thank you for your consideration.

New Jersey Press Association
609-406-0600, ext. 14
December 8, 2022

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December 14, 2022 Senator Bob Smith VIA EMAIL AND FEDEX
SENBSMITH@NJLEG.ORG 216 Stelton Road, Suite E-5 Piscataway, NJ 08854
Senator Patrick Diegnan SENDIEGNAN@NJLEG.ORG 908 Oak Tree Avenue, Unit
P South Plainfield, NJ 07080 RE: SENATE BILL NO. 3256 Dear Senators: The
New Jersey Coalition of Automotive Retailers (NJ CAR) is the state trade
association that represents the 500+ franchised new car and truck retailers that
grow the \$40 billion auto retail industry in New Jersey and represents nearly 36,000
men and women who work in New Jersey at dealerships and support an additional
34,000 jobs in the Garden State. Franchised dealers currently offer more than 40
vehicles with a plug, and dozens more are coming in the next few years. Their
employees receive extensive training and education on electric vehicle batteries.
They are the frontline advocates for consumers and the public when it comes to the
sale and repair of electric vehicles and the storage of used electric vehicle batteries. I
write to offer some guidance on Senate Bill 3256, which is scheduled for discussion
only on Thursday, December 15th in the Senate Environment and Energy
Committee. The bill establishes an “Electric Vehicle Battery Repurposing Fund.”
The purpose of the bill is to support the repurposing, remanufacturing, and
recycling of electric vehicle batteries and creates an “Electric Battery Repurposing
Fund” in an amount equal to \$500 for each retail sale of an electronic vehicle in New
Jersey during the prior fiscal year. NJ CAR members offer two observations on the
bill: 1. the bill should include a provision identifying a stakeholder group that will
be consulted on the development of the bill’s repurposing, remanufacturing, and
recycling goals. The bill does not contain such a provision. Instead, it provides that
the use of the amounts credited to the Fund shall be determined by rules and
regulations to be adopted by the Commissioner of Environmental Protection in
consultation with the Director of the Division of Taxation. 2. in addition, NJ CAR
requests that auto dealers be added as members to that group. Their knowledge and
experience handling electric vehicle batteries is invaluable to a practical
understanding of how New Jersey can best support the industry in responsibly
repurposing, remanufacturing, and recycling electric vehicle batteries. Thank you
for the opportunity to provide these comments.

Sent from: jappleton@njcar.org

119x

December 14, 2022 Senator Linda R. Greenstein VIA EMAIL AND FEDEX
SENGREENSTEIN@NJLEG.ORG 1249 South River Road, Suite 105 Cranbury, NJ
08512 Senator Richard J. Codey SENCODEY@NJLEG.ORG 651 Old Mt. Pleasant
Avenue Livingston, NJ 07039 RE: SENATE BILL NO. 3372 Dear Senators: The
New Jersey Coalition of Automotive Retailers (NJ CAR) is the state trade
association that represents the 500+ franchised new car and truck retailers that
grow the \$40 billion auto retail industry in New Jersey and represents nearly 36,000
men and women who work in New Jersey at dealerships and support an additional
34,000 jobs in the Garden State. Franchised dealers currently offer more than 40
vehicles with a plug, and dozens more are coming in the next few years. Their
employees receive extensive training and education on electric vehicle (EV)
batteries. They are the frontline advocates for consumers and the public when it
comes to the sale and repair of electric vehicles and the storage of electric vehicle
batteries. I write to offer some guidance on Senate Bill 3372, which is scheduled for
discussion only on Thursday, December 15th in the Senate Environment and
Energy Committee. The bill establishes an “Electric Vehicle Battery Recycling Task
Force” in the Department of Environmental Protection (DEP). The purpose of the
bill is to study ways to safely store, reuse, recycle, and dispose of used electric
vehicle batteries. The bill provides that the Task Force shall consist of 11
representatives from: the Board of Public Utilities, DEP, the New Jersey
Department of Transportation, EV manufacturers, recycling facilities, the academic
community, and environmental experts. NJ CAR members request that, as part of
the discussions, consideration be given to adding representation from franchised
auto dealerships. Local franchised new car dealerships are best positioned to ensure
the balance needed to protect the local communities in which they sell EVs with the
interests of EV manufacturers. In addition, including New Jersey dealerships will
ensure that these local businesses have some input into the role state officials and
auto franchisors plan for the dealers. Allowing manufacturers to have input without
local dealer engagement ignores the reality that, in most cases, it will be the dealers
that have to deal with used electric vehicle batteries and that electric vehicle
manufacturers will eventually delegate their duties and responsibilities to those
dealers. Thank you for the opportunity to provide these comments.

Sent from: jappleton@njcar.org

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December 14, 2022 Senator Bob Smith VIA EMAIL AND FEDEX

SENBSMITH@NJLEG.ORG 216 Stelton Road, Suite E-5 Piscataway, NJ 08854 Senator Jean Stanfield SENSTANFIELD@NJLEG.ORG Elmwood Business Park, Suite B-101

Evesham, NJ 08053 RE: SENATE BILL NO. 3373 Dear Senators: The New Jersey Coalition of Automotive Retailers (NJ CAR) is the state trade association that represents the 500+ franchised new car and truck retailers that grow the \$40 billion auto retail industry in New Jersey and represents nearly 36,000 men and women who work in New Jersey at dealerships and support an additional 34,000 jobs in the Garden State.

Franchised dealers currently offer more than 40 vehicles with a plug, and dozens more are coming in the next few years. Their employees receive extensive training and education on electric vehicle batteries. They are the frontline advocates for consumers and the public when it comes to the sale and repair of electric vehicles and the storage of used electric vehicle batteries. I write to offer some guidance on Senate Bill 3373, which is scheduled for “discussion only” on Thursday, December 15th in the Senate Environment and Energy Committee. The bill requires manufacturers of EVs to develop and submit EV battery management plans within 180 days after the effective date of the bill and that the plans be reviewed at least once every two years. It specifies what a manufacturer must include in an EV battery management plan. In addition, the bill requires that manufacturers and retailers be precluded from selling their EVs unless the manufacturer of the EV is engaged in the implementation of, or has fully implemented, an approved EV battery management plan. The bill requires that manufacturers provide consumers with educational materials related to the plan and allows manufacturers to provide that information to retailers for distribution to consumers. The Department of Environmental Protection (DEP) is to post on its website each approved EV battery management plan and a list of each manufacturer participating in the EV battery management plan, to which retailers must turn before ordering an EV. The bill identifies the options available to DEP whenever “a person” has violated the bill’s provisions, including assessing a civil administrative penalty of not less than \$5,000 nor more than \$10,000 per violation. Most significantly, NJ CAR members caution that this bill sets bad public policy for New Jersey by preventing EV sales. The bill literally prohibits the sale of a consumers’ choice for an EV if the EV is manufactured by a company that is not in compliance with the administrative filings required under this bill. Balancing the interests of an administrative process over consumer choice sets New Jersey on the wrong path to achieving its EV goals. In addition, the bill penalizes franchised dealers who depend on their ability to sell the EVs that New Jersey consumers want to buy. Under this bill, consumers who are unable to buy their preferred EV in New Jersey because of this administrative requirement, will be encouraged to buy their EV elsewhere. NJ CAR members offers the following additional observations on the bill: 1. the bill should prohibit manufacturers from delegating to its franchisees any responsibility for the development or implementation of a manufacturer’s plan without compensating the dealer for costs associated with carrying out that plan; and 2. the bill should clarify that a franchisee’s reliance on the DEP website at the time of sale is offers a dealer a “safe harbor” protecting the dealer from any claim of noncompliance in the event a manufacturer fails to comply with the terms and conditions of its plan. Thank you for the opportunity to provide these comments.

Sent from: jappleton@njcar.org

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this massive turnover of \$118 million dollars to recreation is out of control and allows far too wasteful methods to be used. the logging of the pinelands for an alleged wildfire that never comes is an example of anti environmental actions by the nj dep. the recreation nj dep is anti environmental in all respects and we need to be much more careful with what taxpayers pay for. the taxpayers already paid to save a lot of land which is now being logged, burned up, and attacked by chemicals showing that what we tried to save in nature is being attacked by this same nj dep. we need to stop the infusion of so much tax dollars to this anti environmental agency. this spending does not accomplish a thing, except to pay salaries that get higher and higher and higher for doing nothing. vote no

Sent from: jeanpubilc1@gmail.com

122x

this program is a boondoggle and needs to be voted down. solar power can and should be put on top of homes, warehouses, stores, etc. but this goes too far and is in fact discriminatory in terms of how any community can benefit from this or only alleged "low income" communities. we are already sending trillions of dollars to low income communities and to tax this on top of all we do already is beyond the pale. we have spent enough on low income communities so that nobody can afford to live at all in nj anymore. the costs need to be stopped. vote no on this new welfare program.

Sent from: jeanpublic1@gmail.com

123x

i do not think schools should be involved in taking food waste from other schools. this should be individual if at all. the fact is i don't think food waste is that big an issue. i think every school could make an arrangement with a farmer who could feed the food waste to his animals. this does not have to have state fat cat bureaucracy issues at all. and getting the state involved in this minor issue makes no sense at all. certainly food left over can be taken home by the staff instead of dumped so that it is used. i see no reason for state involvement at all. the costs of this will be astronomical and impact all taxpayers negatively the costs of this food collection will be on top of the food inflation we have right now. nobody is wasting food when it costs so much these days.

Sent from: jeanpublic1@gmail.com

124x

taxpayers should not be hit for this. industry should be solving this issue of batteries. the fact is electric batteries disposal and costs are way way out of sight for the majority of drivers in nj. most of them will never be able to afford cars because of the immense cost of these batteries. there may not be enough rare metals to even make these cars. this is pie in the sky and has no real relevance. industry should pay for this issue and should not be allowed to make cars until they solve this issue. this is not a taxpayer issue and should not be financially set on taxpayers wallets. we can get 100 miles out of a gallon of gas and do other things to solve this transport issue. we don't need electric vehicles which burn up on highways for hours and hours and can ignite in a junkyard. the vehicles have problems that need solving. stop putting this on taxpayers. vote no

Sent from: jeanpublic1@gmail.com

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we should insist tha tindustry figure this out on recycling. we dont have to let them sell these vehicles until they set up a system that pleases all of us. i see no readon that costs here are tyying to be fixedon taxpayers/citiuzens. this is an industry issue land the industry should not be allowed to sell these cars until they figure out a system to recycle these very very expensive batteries that nobody will be able to afford as well as the propensity of these batteries to burn up in a crash incineerating the drivers and the long time they burn, and incndniary burning in junkyard cars. the entire vehicle has alot of problems that industry shoudl be made to figurE out.not taxpayers. vote no.

Sent from: jeanpublic1@gmail.com

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