



March 4, 2025

U.S. Department of Agriculture, Food Safety and Inspection Service  
1400 Independence Avenue SW, Mailstop 3758  
Washington, DC 20250-3700  
Docket No. FSIS-2024-0021

*Sent via electronic submissions on the Federal e-Rulemaking Portal: [www.regulations.gov](http://www.regulations.gov)*

**Re: Comments Responding to the Request for Information on Food Date Labeling**

To Whom It May Concern,

These comments are submitted in response to the United States Department of Agriculture's (USDA) Food Safety and Inspection Service and the Food and Drug Administration's (FDA) Request for Information (RFI) on Food Date Labeling. We appreciate the opportunity to provide comments on this issue.

The Center for Science in the Public Interest (CSPI) recommends that USDA and FDA issue regulations requiring mandatory date labeling as an exercise of its authority to prevent misleading labeling. If a quality date is warranted (i.e., the date after which the quality of the item may deteriorate), we recommend products be labeled with "BEST If Used By." When a discard or safety date is warranted (i.e., the date after which the item should not be consumed), we recommend using the term "expires on."

We also recommend allowing products to be labeled with "or freeze by" following a uniform quality date label phrase. In other words, "BEST If Used or Freeze By" would be allowed. Finally, we recommend reducing consumer confusion by ending the consumer-facing use of "sell by" dates. Following the determination of the best date labeling terminology and parameters, a consumer education campaign will be critically important.

CSPI is a non-profit consumer education and advocacy organization that has worked since 1971 to improve the public's health through better nutrition and food safety. CSPI helped to lead efforts to win passage of the Nutrition Labeling and Education Act, the Healthy, Hunger-Free Kids Act (to improve school food), the Food Safety Modernization Act, chain restaurant menu labeling, and the Food Allergen Labeling and Consumer Protection Act. CSPI also publishes *Nutrition Action* (NA) and is supported by the subscribers to NA, individual donors, and foundation grants. CSPI is an independent organization that does not accept any corporate donations.

Through feature articles in NA, CSPI has educated hundreds of thousands of readers about topics including the environmental impacts of our food system and opportunities to make personal and system-wide improvements to reduce food loss and waste. Further, through CSPI's advocacy work related to values-based food procurement, we support a food system that is sustainable, ethical, safe, and healthy. CSPI is a member of the Zero Food Waste Coalition, a coalition of organizations dedicated to informing and influencing U.S. food loss and waste policy at the federal, state, and local levels to drive tangible progress toward the Environmental Protection Agency (EPA) and USDA's goal of reducing food loss and waste by 50% by 2030.<sup>1</sup>

During the first Trump Administration, critical steps were taken to reduce food waste by launching the Winning at Reducing Food Waste Initiative in 2018 (now known as the Federal Interagency Collaboration to Reduce Food Loss and Waste). Additionally, during the same administration, food loss and waste policies were authorized for the first time in the Farm Bill and the Winning on Reducing Food Waste Strategy was released.<sup>2</sup> In 2024, USDA, FDA, and EPA built on those successes by publishing the National Strategy for Reducing Food Loss and Waste and Recycling Organics.<sup>3</sup> USDA and FDA now have the opportunity to further build on that momentum by addressing date labels, which the agencies committed to addressing in both the 2018 and 2024 strategies.

We would also like to respond directly to some of the questions for commenters included in the RFI. The headers and numbers below correspond with how they are listed in the RFI.

### **Research on Consumer Perception of Date Labeling**

*8. What studies or data are available on consumer understanding of current date labeling on food that FSIS and FDA regulate, and why are these studies or data important for FSIS and FDA to consider? Are there data and studies that demonstrate that consumers are confused by date labels and believe the dates determine whether food is safe? Are there any available studies or data on whether and how consumers consider food date labels when grocery shopping or when deciding to discard food at the home?*

A recent systematic review of consumer perceptions of date labeling and storage found that consumers find date labels confusing, and much of the confusion comes from challenges with interpreting the labels, inconsistent placement, poor legibility, and label-type meanings.<sup>4</sup>

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<sup>1</sup> The White House. *National Strategy for Reducing Food Loss and Waste and Recycling Organics*. June 2024. <https://www.epa.gov/circulareconomy/national-strategy-reducing-food-loss-and-waste-and-recycling-organics>. Accessed on March 4, 2025.

<sup>2</sup> Environmental Protection Agency. *Winning on Reducing Food Waste: FY 2019-2020 Federal Interagency Strategy*. April 2019. [https://www.epa.gov/sites/default/files/2019-05/documents/reducingfoodwaste\\_strategy.pdf](https://www.epa.gov/sites/default/files/2019-05/documents/reducingfoodwaste_strategy.pdf). Accessed March 4, 2025.

<sup>3</sup> The White House. *National Strategy for Reducing Food Loss and Waste and Recycling Organics*. June 2024. <https://www.epa.gov/circulareconomy/national-strategy-reducing-food-loss-and-waste-and-recycling-organics>. Accessed on March 4, 2025.

<sup>4</sup> Llagas BR et al. Consumer perceptions of date labelling and storage advice and its relationship with food waste: A systematic scoping review of the academic & grey literature. *Future Foods*. 2025;11(100577):1-17.

Many consumers incorrectly believe that date labels indicate the date after which food is no longer safe to eat. In reality, date labels are most often a manufacturer's estimate of product's optimal quality and are not regulated by the federal government.<sup>5</sup> A 2025 nationally representative survey found that consumer confusion around food date labeling led 88% of consumers to discard food near the package labeling date at least occasionally and that 44% of participants thought that date labeling was federally regulated.<sup>6</sup> The same study found that consumers most frequently recognized "best if used by" and "best by" as quality labels, at 79% and 78% respectively.<sup>7</sup> Clearly, consumers are not making the intended distinction.

Additionally, the study found that 66% of participants recognized "expires on" as a safety label and 44% understood "use by" as a safety label.<sup>8</sup> Given the greater consumer clarity around using the "expires on" language, we recommend this as the best safety indicator.

We understand that several industry and advocacy groups have chosen "USE by" as their recommended language. Industry recommendations align with creating one quality phrase and one safety phrase (an idea we agree with). The Voluntary Product Code Dating Initiative created by the Consumer Brands Association and the Food Marketing Institute, allow "BEST If Used By" as a quality date and "USE By" as a safety date, with the option to include "freeze by" as well.<sup>9</sup> As noted, "use by" is not supported by the strongest empirical evidence.

Some products carry a "sell by" date which is used to inform retailers about stock rotation but can mislead consumers.<sup>10</sup> As such, this type of "sell by" information should be expressed in a way that retailers can identify but is not confusing to consumers. The state of California passed a law in 2024 that,

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<sup>5</sup> Neff et al. *Consumer Perceptions of Food Date Labels 2025 National Survey*. Harvard Law School Food Law and Policy Clinic. 2025. <https://chlp.org/resources/consumer-perceptions-of-food-date-labels-2025-national-survey/>. Accessed February 28, 2025.

<sup>6</sup> Neff et al. *Consumer Perceptions of Food Date Labels 2025 National Survey*. Harvard Law School Food Law and Policy Clinic. 2025. <https://chlp.org/resources/consumer-perceptions-of-food-date-labels-2025-national-survey/>. Accessed February 28, 2025.

<sup>7</sup> Neff et al. *Consumer Perceptions of Food Date Labels 2025 National Survey*. Harvard Law School Food Law and Policy Clinic. 2025. <https://chlp.org/resources/consumer-perceptions-of-food-date-labels-2025-national-survey/>. Accessed February 28, 2025.

<sup>8</sup> Neff et al. *Consumer Perceptions of Food Date Labels 2025 National Survey*. Harvard Law School Food Law and Policy Clinic. 2025. <https://chlp.org/resources/consumer-perceptions-of-food-date-labels-2025-national-survey/>. Accessed February 28, 2025.

<sup>9</sup> The Association of Food, Beverage and Consumer Products Companies and Food Marketing Institute. FMI – GMA Product Code Dating Initiative. February 2017. [https://www.fmi.org/docs/default-source/Industry-Topics-Doc/fact-sheet-product-code-dating-initiative.pdf?sfvrsn=59de6c6e\\_2](https://www.fmi.org/docs/default-source/Industry-Topics-Doc/fact-sheet-product-code-dating-initiative.pdf?sfvrsn=59de6c6e_2). Accessed on March 4, 2025.

<sup>10</sup> NRDC. New Report: Food Expiration Date Confusion Causing up to 90% of Americans to Waste Food. September 2013. <https://www.nrdc.org/press-releases/new-report-food-expiration-date-confusion-causing-90-americans-waste-food>. Accessed on March 4, 2025.

among other things, aims to reduce consumer confusion by ending the consumer-facing use of “sell by” dates.<sup>11</sup> Other states, such as Virginia, have considered similar legislation.<sup>12</sup>

In the absence of federal regulation, states have stepped in, but the current state-by-state patchwork of regulation for date labels is confusing for consumers. Every state regulates date labels to some degree, ranging from limited regulation of specified food products to extensive regulation of food products.<sup>13</sup> Even in states that require date labels for certain foods, companies often can choose what terms to use, meaning that consumers see a variety of labels, even on similar products. For brands that sell across state lines, companies may have to label the same product with different labels in different states or include multiple phrases on the same package in order to comply with each state's law.

Twenty states prohibit or restrict sale or donation past the label date, even if the date included is only an indication of quality, not safety.<sup>14</sup> Collectively, this leads retailers and individuals to throw away food that they think may be unsafe, when in many cases the food is still safe and edible and could be sold or donated.

*9. What data are available on the most effective ways for presenting food date labels on food items so that consumers can easily access and clearly understand the information?*

Food label information should be designed to ensure it captures consumers’ attention on packaging that is often crowded with other information. Federal date labeling practices should encourage a minimum font size with type color that contrasts with the package background and encourage manufacturers to ensure this information is centrally located and set apart from other label elements.

The agencies should consider the opportunity to add icons or symbols that can help indicate safety. For example, a 2025 national survey on consumer perceptions of food date labels found that adding a “stop” hand icon to “use by” increased the perception that it was a safety label to 61% from 44%. However, fewer respondents said they understood the meaning (82% compared to 95% without the hand icon).<sup>15</sup>

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<sup>11</sup> NRDC. California Becomes First State to Ban “Sell By” Dates on Packaged Foods. September 2024. <https://www.nrdc.org/press-releases/california-becomes-first-state-ban-sell-dates-packaged-foods>. Accessed on March 4, 2025.

<sup>12</sup> Virginia Legislative Information System. Food packaging, certain; uniform labeling requirements. HB2710. <https://lis.virginia.gov/bill-details/20251/HB2710>. Accessed on March 3, 2025.

<sup>13</sup> ReFED. U.S. Food Waste Policy Finder – Date Labeling. <https://policyfinder.refed.org/?category=prevention&key=date-labeling>. Accessed on March 4, 2025.

<sup>14</sup> Beckmann et al. Promoting Food Donation: Date Labeling Law and Policy. November 2021. Harvard Law School Food Law and Policy and The Global Food Banking Network. <https://www.foodbanking.org/wp-content/uploads/2023/01/atlas-date-labeling-issue-brief.pdf>. Accessed March 4, 2025.

<sup>15</sup> Neff et al. *Consumer Perceptions of Food Date Labels 2025 National Survey*. Harvard Law School Food Law and Policy Clinic. 2025. <https://chlp.org/resources/consumer-perceptions-of-food-date-labels-2025-national-survey/>. Accessed February 28, 2025.

## Food Loss and Waste Research

*11. What studies detailing the effects of date labeling on food waste should FSIS and FDA consider and why?*

Over 30% of all food produced or imported into the United States goes unsold or uneaten,<sup>16</sup> often ending up in landfills or incinerated. Meanwhile, almost 1 in 7 American households (about 18 million households) are food insecure.<sup>17</sup> In 2023, Americans wasted over 3 billion pounds of food – or approximately \$7 billion worth of food – due to date label confusion alone.<sup>18</sup>

Waste due to date labels occurs at the household level, as well as throughout the entire supply chain. Approximately 6% of all food waste is a result of the lack of date label standardization.<sup>19</sup> A 2016 study by Walmart found that there were 47 different date labels being used on products by private label suppliers.<sup>20</sup> Standardizing date labels will likely reduce food waste and its associated costs across the supply chain.

*12. What factors do firms (e.g., manufacturers, retailers, food banks) and individuals consider when determining which food items to donate or discard? Specifically, do firms or individuals use food date labels to inform decisions to donate or discard food items? Please provide supporting studies or data.*

In addition to reducing waste, CSPI is interested in ensuring that date labeling modifications improve food safety for consumers. We are aware of a limited number of date labeling requirements that relate to food safety, including labeling guidance in the FDA Food Code for specific situations related to product packaged using reduced oxygen packaging and date marking related to listeria control for high-risk, ready-to-eat foods.<sup>21</sup>

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<sup>16</sup> ReFED. Food Waste the Problem. 2023. <https://refed.org/food-waste/the-problem/#:~:text=In%20the%20U.S.%2C%2038%25%20of,food%20system%20is%20radically%20inefficient>. Accessed March 4, 2025.

<sup>17</sup> Rabbitt MP et al. *Household Food Security in the United States in 2023*. USDA Economic Research Service. September 2024. [https://ers.usda.gov/sites/default/files/\\_laserfiche/publications/109896/ERR-337.pdf?v=85017](https://ers.usda.gov/sites/default/files/_laserfiche/publications/109896/ERR-337.pdf?v=85017). Accessed on February 28, 2025.

<sup>18</sup> Neff et al. *Consumer Perceptions of Food Date Labels 2025 National Survey*. Harvard Law School Food Law and Policy Clinic. 2025. <https://chlp.org/resources/consumer-perceptions-of-food-date-labels-2025-national-survey/>. Accessed February 28, 2025.

<sup>19</sup> ReFED. Insights Engine Food Waste Monitor. 2023. [https://insights-engine.refed.org/food-waste-monitor?break\\_by=cause&indicator=tons-surplus&view=detail&year=2023](https://insights-engine.refed.org/food-waste-monitor?break_by=cause&indicator=tons-surplus&view=detail&year=2023). Accessed on March 4, 2025.

Notes: Displaying surplus food generated by all sectors according to cause of surplus; values on the website may differ slightly as the website shows live data.

<sup>20</sup> Greenaway T. Can Walmart's Food Labels Make a Dent in America's \$29bn Food Waste Problem? The Guardian. June 26, 2016. <https://www.theguardian.com/sustainable-business/2016/jun/26/food-waste-walmart-date-labels>. Accessed on February 28, 2025.

<sup>21</sup> U.S. Food and Drug Administration. 2022 Food Code. January 2023. <https://www.fda.gov/media/164194/download?attachment>. Accessed on March 4, 2025.

CSPI considers it paramount that similar considerations are taken as the agencies develop guidelines for manufacturers in determining which foods would receive a label that indicates safety and what the date for that label should be. The safety label should be used on those foods that present a risk of foodborne illness if consumed past the label's date, such as deli meats and unpasteurized cheese.

Although the list of foods that would require the safety label is short, the agencies should not minimize the importance of developing clear guidance on how safety dates are determined by manufacturers or of distinguishing between safety and palatability. There should be strong empirical evidence for the date chosen for safety labels. The agencies should encourage that any studies being conducted to help determine the safety date be conducted in a way that maximizes shelf life (thereby reducing food waste) and minimizes food safety risk by ensuring that companies do not select shorter dates that would maximize repurchase and hence profits.

Additionally, date labels can influence decisions to donate food. However, because guidance around date labels is limited and confusing, donation practices are varied. The Comprehensive Resource for Food Recovery Programs, included in the 2022 FDA Food Code, provides some guidance to retailers and food service establishments on interpreting date labels and indicates there are no federal laws prohibiting donating shelf-stable foods that have exceeded their quality dates.<sup>22</sup> Further guidance notes that items past their "Best by" dates "could potentially be donated" because the food may be safe to eat.<sup>23</sup> However, food past its "expires on" or "use by" date should not be donated because of food safety concerns. This is consistent with guidance from Feeding America, the nation's largest network of food banks, which directs individuals to avoid donating food that is past its "use by" or "sell by" date, due to food safety concerns.<sup>24</sup>

The different date labels cause confusion among anti-hunger program administrators.<sup>25</sup> Uniform federal date labeling would help to standardize procedures on when food should be donated, helping to reduce food waste, or discarded to ensure food safety.

*13. What estimates are available concerning the value of food that is discarded due to date labels, including any studies regarding the value discarded due to confusion of date labels?*

The benefits of reducing food waste are wide-reaching, and standardizing date labeling would translate to financial savings across the spectrum. Farmers, manufacturers, households, and businesses across the

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<sup>22</sup> Food Recovery Committee. *Comprehensive Resource for Food Recovery Programs*. Revised 2016. <https://www.foodprotect.org/media/guide/comprehensive-resource-for-food-recovery-2016-version.pdf>. Accessed on March 4, 2025.

<sup>23</sup> Conference for Food Protection. *How Food Establishments Can Donate Food*. 2021. <https://www.foodprotect.org/media/guide/1a-handout-how-food-establishments-can-donate-food-12-7-21-compressed.pdf>. Accessed on March 4, 2025.

<sup>24</sup> Morello P. *What to donate to a food bank and what to avoid*. Feeding America. January 2020. <https://www.feedingamerica.org/hunger-blog/what-donate-food-bank-and-what-avoid>. Accessed February 4, 2025.

<sup>25</sup> Broad Leib E. *The Dating Game: How Confusing Food Date Labels Lead to Food Waste in America*. NRDC. 2013. <https://chlp.org/wp-content/uploads/2013/12/dating-game-report.pdf> Accessed on March 4, 2025.

country spend over \$380 billion every year to grow, process, transport, and dispose of food that is never eaten.<sup>26</sup> Standardizing date labels would have a net financial benefit of \$3.8 billion per year, the large majority of which would be savings to consumers.<sup>27</sup> On average, each year consumers in the United States spend roughly \$1,300 on food that is ultimately wasted.<sup>28</sup>

## Conclusion

We respectfully request that the Administration improve and streamline date labels across the United States by limiting the date phrases that can be used on food and clarifying their meaning for industry and consumers. Defining and requiring standard labels provides clarity on when food is past the recommended quality date for consumption versus when the food is unsafe to eat.

Federal date label practices should limit standard date label phrases to one to indicate product quality, such as “BEST if used by” and one to indicate product safety, such as “expires on.” Having one dedicated phrase to convey product quality and one dedicated phrase to convey product safety would ensure date labels have a consistent meaning across food products, food manufacturers, and geographic locations.

Following the determination of the best date labeling terminology, the agencies should pursue a wide-reaching consumer education campaign. Even with standardized and clarified date labels, consumer confusion will likely remain high, and a consumer education campaign can help to explain the updates and mitigate outstanding confusion.

Thank you for your consideration of these comments and recommendations.

Sincerely,

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Center for Science in the Public Interest

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<sup>26</sup> ReFED. *Insights Engine Food Waste Monitor*. 2023. [https://insights-engine.refed.org/food-waste-monitor?break\\_by=destination&indicator=us-dollars-surplus&view=detail&year=2023](https://insights-engine.refed.org/food-waste-monitor?break_by=destination&indicator=us-dollars-surplus&view=detail&year=2023). Accessed on February 28, 2025. Note: displaying the dollar amount of surplus food generated by all sectors; values on the website may differ slightly as the website shows live data.

<sup>27</sup> ReFED. *Standardized Date Labels*. <https://perma.cc/MU6K-NZRJ>. Accessed March 4, 2025. Note: if you visit the live page, values may differ slightly as the website shows live data.

<sup>28</sup> Conrad Z. Daily cost of consumer food wasted, inedible, and consumed in the United States, 2001–2016. *Nutrition Journal*. 2020;19(35). <https://nutritionj.biomedcentral.com/articles/10.1186/s12937-020-00552-w>.