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Docket Clerk  
U.S. Department of Agriculture  
Food Safety and Inspection Service  
1400 Independence Avenue SW  
Mailstop 3758  
Washington, DC 20250-3700

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

**Re: Docket No. FSIS-2024-0021; Comments on the FSIS and FDA's Request for Information on Food Date Labeling**

On behalf of the [Zero Food Waste Coalition](https://www.zerofoodwaste.org/) (ZFWC), we submit this comment in response to the U.S. Department of Agriculture (USDA) Food Safety and Inspection Service (FSIS) and the U.S. Food and Drug Administration's (FDA) Request for Information on Food Date Labeling. The ZFWC is a coalition of more than 250 organizations with operations across all 50 states—including retailers, food rescue groups, local governments, academic institutions, and waste management organizations—working to advance food waste policy at the federal, state, and local levels. Our mission is to drive meaningful progress toward the U.S. goal of reducing food loss and waste by 50% by 2030. With expertise spanning the entire food system, ZFWC supports policies that reduce waste, improve government efficiency, and protect consumer health.

We commend USDA and FDA for collaborating to better understand the impact of non-standardized date labels on both consumers and industry. The ongoing success of interagency efforts to reduce food waste is a direct result of the *Winning on Reducing Food Waste Initiative* launched in 2018 by the first Trump Administration,<sup>1</sup> which was further bolstered by the *2019 Federal Interagency Strategy to Reduce Food Waste*.<sup>2</sup> Its legacy continues today as the *Federal Interagency Collaboration to Reduce Food Loss and Waste*.<sup>3</sup> ZFWC also strongly supports the recently published *National Strategy for Reducing Food Loss and Waste and Recycling*

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<sup>1</sup> U.S. ENV'T PROT. AGENCY, U.S. FOOD & DRUG ADMIN. & U.S. DEP'T OF AGRIC., FORMAL AGREEMENT AMONG EPA, FDA, AND USDA RELATIVE TO COOPERATION AND COORDINATION ON FOOD LOSS AND WASTE (2018), <https://www.usda.gov/sites/default/files/documents/usda-fda-epa-formal-agreement.pdf>.

<sup>2</sup> U.S. DEP'T OF AGRIC., U.S. ENV'T PROT. AGENCY & U.S. FOOD & DRUG ADMIN., EPA 530-F-19-004, WINNING ON REDUCING FOOD WASTE: FY 2019-2020 FEDERAL INTERAGENCY STRATEGY (2019), <https://www.usda.gov/sites/default/files/documents/interagency-strategy-on-reducing-food-waste.pdf>.

<sup>3</sup> *Federal Interagency Collaboration to Reduce Food Loss and Waste*, U.S. ENV'T PROT. AGENCY, <https://www.epa.gov/sustainable-management-food/federal-interagency-collaboration-reduce-food-loss-and-waste#partners> (last updated Jan. 29, 2025).

*Organics*, which outlines key agency strategies to tackle food waste, including a renewed commitment to addressing confusion around food date labels.<sup>4</sup>

Below, we provide research and data that indicate that the current regulatory system leads to enormous amounts of food waste through inconsistent messaging, supply chain inefficiencies, and widespread consumer confusion. The current patchwork of state-level date label requirements is a financial burden for companies, food recovery organizations, and food insecure American families. **Establishing standardized federal date labels—with one quality-based label and one safety-based label—alongside investment in consumer education will reduce food waste while keeping money in the pockets of hardworking Americans.**

The first part of this comment gives an overview of the date label problem, providing context on the level of food waste generated under the existing date labeling system, how the current date label system operates, and the effects of this system on consumers. This first section then outlines a federal solution to date labels that addresses both food waste and consumer confusion. The second part of this comment will then provide more detailed answers to the questions posed in the agencies' Request for Information.

## **I. Federal Standardization Will Reduce Food Waste and Help Consumers Manage Inflation**

### **Food Waste and Date Labeling in the U.S.**

Each year, roughly 30-40% of the U.S. food supply goes to waste,<sup>5</sup> which cost the country \$338 billion in 2023 alone.<sup>6</sup> In other words, more than 1% of the U.S. GDP is wasted every year on growing, processing, and selling discarded food.<sup>7</sup> At the same time, nearly 1 in 7 American households (18 million) are food insecure, and nearly 1 in 5 households with children are struggling to afford enough food, according to the most recent estimate by USDA.<sup>8</sup> This means that parents or children are often feeling hungry, skipping meals, or not eating for a whole day to save money.<sup>9</sup> By one estimate, redistributing just 30% of the food currently going to waste could fully meet the dietary needs of every food-insecure family in America.<sup>10</sup> Inflation

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<sup>4</sup> THE WHITE HOUSE, NATIONAL STRATEGY FOR REDUCING FOOD LOSS AND WASTE AND RECYCLING ORGANICS (2024), <https://www.usda.gov/sites/default/files/documents/NATIONAL-STRATEGY-FOR-REDUCING-FOOD-LOSS-AND-WASTE-AND-RECYCLING-ORGANICS.pdf>.

<sup>5</sup> *Why Should We Care About Food Waste?*, U.S. DEP'T OF AGRIC., <https://www.usda.gov/about-food/food-safety/food-loss-and-waste/why-should-we-care-about-food-waste> (last visited Mar. 3, 2025); *see also Food Waste Monitor*, REFED INSIGHTS ENGINE, <https://insights-engine.refed.org/food-waste-monitor?view=overview&year=2023> (last updated Feb. 24, 2025).

<sup>6</sup> *Food Waste: The Problem*, REFED, [https://refed.org/food-waste/the-problem/#what\\_is\\_food\\_waste](https://refed.org/food-waste/the-problem/#what_is_food_waste) (last updated Feb. 24, 2025).

<sup>7</sup> U.S. BUREAU OF ECONOMIC ANALYSIS, "TABLE 1.1.5. GROSS DOMESTIC PRODUCT", <https://www.bea.gov/itable/national-gdp-and-personal-income> (open Interactive Data Tables; choose Section 1 – Gross Domestic Product and Income, then Table 1.1.5; modify to the Annual series) (last visited Mar. 3, 2025).

<sup>8</sup> MATTHEW P. RABBITT ET AL., USDA ECON. RSCH. SERV., HOUSEHOLD FOOD SECURITY IN THE UNITED STATES IN 2023 8-9 (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).

<sup>9</sup> *Id.* at 9.

<sup>10</sup> NAT. RES. DEF. COUNCIL, WASTED: HOW AMERICA IS LOSING UP TO 40 PERCENT OF ITS FOOD FROM FARM TO FORK TO LANDFILL 4 (2nd ed. 2017), <https://www.nrdc.org/sites/default/files/wasted-2017-report.pdf>.

also continues to add greater stressors on American families struggling to keep up with the rising cost of groceries.<sup>11</sup> Therefore, the federal government’s efforts to combat food waste, as initiated in the *Winning on Reducing Food Waste Initiative*, is not only an economic imperative but also a crucial strategy to combat hunger.

A major driver of food waste in the U.S. is inconsistent and confusing date labels on food packaging. Each year, 4.3 million tons of food waste in the U.S. can be traced to concerns over date labels,<sup>12</sup> costing American households and businesses more than \$22 billion.<sup>13</sup> Retailers often remove perfectly good food from shelves because of arbitrary or misleading date labels, while consumers—faced with inconsistent and unclear phrasing—unnecessarily throw out safe, edible food.<sup>14</sup> Examples of these unclear date label phrases include “Sell By,” “Expired On,” “Freshest By,” and “Enjoy By,” among others.<sup>15</sup> With households wasting more than \$150 billion of food in 2023,<sup>16</sup> addressing this issue is one of the most cost-effective strategies to reduce food waste, support businesses, and help American families save money.<sup>17</sup> As Americans are increasingly concerned about the rising costs of feeding their families, eliminating confusion over the meaning of food date labels would help households make use of all the food brought into their homes, thereby maximizing their food budgets. The ubiquitous confusion over food date labels and the low cost of standardizing such labels makes solving this issue an extremely cost-effective opportunity that will support American businesses and families.

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<sup>11</sup> See BUREAU OF LAB. STAT., CONSUMER PRICE INDEX – JANUARY 2025 3 (2025), <https://www.bls.gov/news.release/pdf/cpi.pdf>; see also Christopher Rugaber, *US inflation got worse with rising prices on groceries and gasoline*, ASSOCIATED PRESS NEWS, <https://apnews.com/article/inflation-economy-federal-reserve-48e77a855078b37bf3ccd58c9db94c82> (Feb. 12, 2025, 2:43 PM); *A Policy Win-Win? Three Opportunities to Address High Food Prices and Reduce Waste*, REFED (Jan. 15, 2025), <https://refed.org/articles/a-policy-win-win-three-opportunities-to-address-high-food-prices-and-reduce-waste/>.

<sup>12</sup> *Food Waste Monitor*, REFED INSIGHTS ENGINE, [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) (displaying surplus food generated by all sectors according to cause of surplus) (last updated Feb. 24, 2025).

<sup>13</sup> *Food Waste Monitor*, REFED INSIGHTS ENGINE, [https://insights-engine.refed.org/food-waste-monitor?break\\_by=cause&indicator=us-dollars-surplus&view=detail&year=2023](https://insights-engine.refed.org/food-waste-monitor?break_by=cause&indicator=us-dollars-surplus&view=detail&year=2023) (displaying surplus food generated in dollars according to cause of surplus) (last updated Feb. 24, 2025).

<sup>14</sup> NAT. RES. DEF. COUNCIL, *supra* note 10, at 38.

<sup>15</sup> See Roni Neff et al., *Misunderstood food date labels and reported food discards: A survey of U.S. consumer attitudes and behaviors*, 86 WASTE MGMT. 123, 126 (2019) (available at <https://doi.org/10.1016/j.wasman.2019.01.023>).

<sup>16</sup> *Food Waste Monitor*, REFED INSIGHTS ENGINE, [https://insights-engine.refed.org/food-waste-monitor?break\\_by=sector&indicator=us-dollars-surplus&view=detail&year=2023](https://insights-engine.refed.org/food-waste-monitor?break_by=sector&indicator=us-dollars-surplus&view=detail&year=2023) (displaying surplus food generated in dollars according to sectors) (last updated Feb. 24, 2025).

<sup>17</sup> ReFED estimates that standardizing date labels, a \$22 billion problem, would require less than \$6 million in upfront and operating costs. *Solutions Database: Standardized Date Labels*, REFED INSIGHTS ENGINE, <https://insights-engine.refed.org/solution-database/standardized-date-labels> (last updated Feb. 24, 2025).

## The Current Date Labeling Patchwork

Food date labels are not federally required on any food products in the U.S.,<sup>18</sup> aside from infant formula (which is outside the scope of this RFI).<sup>19</sup> Where certain food products, such as meat or poultry, do bear a date label—applied either voluntarily or as required by state law—there are extremely limited federal requirements on those labels. For example, to comply with USDA Food Safety and Inspection Service (FSIS) requirements, meat, poultry, and egg products that have a date label need only follow a specific date format: the applied calendar date must express both the month and day of the month, and in the case of shelf-stable and frozen products, the year must also be displayed; additionally, immediately adjacent to the date must be a phrase explaining the meaning of that date, including but not limited to “Sell By,” “Use Before,” or “Best if Used By.”<sup>20</sup> FDA does not have any corresponding requirements on date label formatting.

Importantly, food products under FSIS jurisdiction must not bear labels that are untruthful or misleading.<sup>21</sup> The Food and Drug Administration (FDA) similarly requires that any food under its jurisdiction must not be misbranded with a false or misleading date label.<sup>22</sup> While FSIS and FDA both recommend that food industry members voluntarily utilize “Best if Used By” for food products that are dated to signify freshness or quality,<sup>23</sup> there are no uniform or universally utilized food date labels terms in the U.S., nor are there any federal prohibitions on using any date label phrase (as long as it is not false or misleading).<sup>24</sup>

Because of the lack of federal standards, states have passed their own food date labeling laws. This current patchwork of date label regulations across the country further exacerbates the amount of food waste attributable to date labels. No two states have the same date label policy,<sup>25</sup>

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<sup>18</sup> *Food Product Dating*, FOOD SAFETY & INSPECTION SERV., <https://www.fsis.usda.gov/food-safety/safe-food-handling-and-preparation/food-safety-basics/food-product-dating> (last updated Nov. 30, 2023); while the U.S. Department of Agriculture (USDA) does not require quality or food safety date labels for products under its purview, it does require a “pack date” for poultry products and thermally processed, commercially sterile products to help identify product lots and facilitate trace-back activities in the event of an outbreak of foodborne illness. *See* 9 C.F.R. § 381.126 (2024) and § 431.2(e) (2024).

<sup>19</sup> Infant Formula Act of 1980, 21 U.S.C. § 350a; 21 C.F.R. § 107.20 (2024); Food Date Labeling, 89 Fed. Reg. 96205, 96206 (Food Safety & Inspection Serv. and Food & Drug Admin. Dec. 4, 2024).

<sup>20</sup> 9 C.F.R. § 317.8(b)(32) (2024).

<sup>21</sup> 9 C.F.R. 317.8(a) (2024); 9 C.F.R. 381.129(a) (2024); 9 C.F.R. 590.411(f) (2024).

<sup>22</sup> Food, Drug and Cosmetic Act, 21 U.S.C. § 331 and § 343; Food Date Labeling, 89 Fed. Reg. 96205, 96206 (Food Safety & Inspection Serv. and Food & Drug Admin. Dec. 4, 2024).

<sup>23</sup> *Food Product Dating*, FOOD SAFETY & INSPECTION SERV., <https://www.fsis.usda.gov/food-safety/safe-food-handling-and-preparation/food-safety-basics/food-product-dating> (last updated Nov. 30, 2023); FRANK YIANNAS, LETTER TO ‘FOOD INDUSTRY’, U.S. FOOD & DRUG ADMIN. (May 23, 2019), <https://www.fda.gov/media/125114/download>.

<sup>24</sup> *Food Product Dating*, FOOD SAFETY & INSPECTION SERV., <https://www.fsis.usda.gov/food-safety/safe-food-handling-and-preparation/food-safety-basics/food-product-dating> (last updated Nov. 30, 2023); Food Date Labeling, 89 Fed. Reg. 96205, 96206 (Food Safety & Inspection Serv. and Food & Drug Admin. Dec. 4, 2024).

<sup>25</sup> HARVARD L. SCH. FOOD LAW & POLICY CLINIC, DATE LABELS: THE CASE FOR FEDERAL REGULATION 3 (2019), [https://chlp.org/wp-content/uploads/2013/12/date-labels-issue-brief\\_June-2019.pdf](https://chlp.org/wp-content/uploads/2013/12/date-labels-issue-brief_June-2019.pdf) [hereinafter THE CASE FOR FEDERAL REGULATION]; *See also* HARVARD L. SCH. FOOD L. & POL’Y CLINIC & NAT. RES. DEF. COUNCIL, THE DATING GAME: HOW CONFUSING DATE LABELS LEAD TO FOOD WASTE IN AMERICA 12-15 (2013), <https://www.nrdc.org/sites/default/files/dating-game-report.pdf> [hereinafter THE DATING GAME].

a problem which gets more pronounced as consumers and companies commute or operate between neighboring states with different policies. As we describe in more detail below, states have widely inconsistent date label requirements and standards, ranging from those that have minimal label requirements to those requiring date labels on a large portion of the food supply.<sup>26</sup> In addition to date label application requirements, some states' regulations also prohibit or restrict the sale or donation of past-date food products, causing needless waste because the restrictions are not grounded in actual food safety risk. Without a federal standard, date labels will continue to be regulated by this inconsistent state-by-state set of laws, and American businesses and families will continue to needlessly waste wholesome food.

This state patchwork of date label laws is also a burden to food industry members seeking to simplify date labeling practices. The most wide-spread effort to date by industry has been the voluntary Product Code Dating Initiative, launched in 2017 by the Food Marketing Institute (now known as FMI - The Food Industry Association) and the Grocery Manufacturers Association (now known as the Consumer Brands Association (CBA)), the two largest food industry trade groups in the U.S. The Product Code Dating Initiative encourages manufacturers and retailers to use standard date labels on consumer-facing food packages.<sup>27</sup> Participating companies would ensure their food products use only one of two standard phrases: "BEST If Used By" on food products for which the labels intend to communicate an estimation of a food's peak quality and "USE by" on food products where they intend to communicate the date before which a high-risk food should be consumed.<sup>28</sup> Unfortunately, the Initiative is inconsistent with 27 different states' date label laws for at least one food product.<sup>29</sup> It is also inconsistent with the USDA's own guidance, which says that "Use By" is a quality indicator rather than a safety indicator.<sup>30</sup> This means that even with the high rate of adoption of the Initiative, or of other similar industry-led solutions, the inconsistent patchwork of state date label requirements will continue to obstruct full date label standardization.

### Effects on Consumers

Current research on the impact of date labels shows that consumers are still confused by the many date label phrases used on the market today. Consumers waste money by tossing food unnecessarily because it is difficult to keep track of what different date label phrases mean. For example, in one representative survey, almost an equal number of respondents believed that "Use By" was a *quality*-indicating date label as those who believed it was a *safety*-indicating date

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<sup>26</sup> THE DATING GAME, *supra* note 25.

<sup>27</sup> FOOD MKTG. INST. & GROCERY MFRS. ASS'N, FMI – GMA PRODUCT CODE DATING INITIATIVE (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); see also CONSUMER BRANDS ASS'N, BEST IF CLEARLY LABELED: HOW THE CONSUMER PACKAGED GOODS INDUSTRY IS REDUCING CONFUSION AND FOOD WASTE 3 (2019), [https://consumerbrandsassociation.org/wp-content/uploads/2019/11/ConsumerBrands\\_ClearlyLabeled.pdf](https://consumerbrandsassociation.org/wp-content/uploads/2019/11/ConsumerBrands_ClearlyLabeled.pdf).

<sup>28</sup> FOOD MKTG. INST. & GROCERY MFRS. ASS'N, *supra* note 27.

<sup>29</sup> THE CASE FOR FEDERAL REGULATION, *supra* note 25, at 11-13.

<sup>30</sup> *Food Product Dating*, FOOD SAFETY & INSPECTION SERV., <https://www.fsis.usda.gov/food-safety/safe-food-handling-and-preparation/food-safety-basics/food-product-dating> (last updated Nov. 30, 2023).



label.<sup>31</sup> In the same survey, only 17% of respondents correctly indicated date labels are federally regulated only for specific foods, but still 88% of respondents stated that they discard food based on the date label at least occasionally.<sup>32</sup> The results of this and other research, further demonstrated in our responses below, show that consumers' confusion around the meaning of date labels, along with their continued reliance on these same labels, leads directly to the excessive disposal of safe and edible food products. Creating a clearer and more easily understandable date label system through standardization would give consumers accurate and trustworthy information, which the research clearly shows leads to less food waste.

The current lack of federal date label standardization also creates health hazards for consumers. Some consumers are aware that there are no federally required differences among the many different date label phrases; some consumers then begin to unsafely ignore the meaning behind any of the labels on their food products out of a lack of trust, care, or understanding of the date labels.<sup>33</sup> A 2021 survey found that even respondents who knew that date labels are supposed to have different meanings did not really believe in those differences.<sup>34</sup> These respondents said the following of date labels: "All [date labels] mislead people into thinking good food has spoiled," and "[t]hey mean nothing, really."<sup>35</sup> Consumers who treat date labels as if they all mean the same thing or have no meaning at all could run into health and safety risks when a food date label *does* actually indicate a safety or expiration date, such as on deli meats.<sup>36</sup> A 2025 consumer survey highlighted this exact unsafe behavior: older adults—who have a greater vulnerability to foodborne illness—were most likely to toss food based on sensory information over date labels, regardless of the date label phrase, and so, on average, did not follow guidance on when to discard deli meats.<sup>37</sup> Unfortunately risks like this will continue with the current date label landscape as it is both inconsistent, with different requirements for different products in each state, and inaccurate, as most date labels have no uniform, standard definition. Until date labels are meaningfully differentiated, consumers will continue to needlessly throw away food, waste the money they spent on that food, and make riskier choices in what they choose to consume.

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<sup>31</sup> RONI NEFF ET AL., CONSUMER PERCEPTIONS OF FOOD DATE LABELS: 2025 NATIONAL SURVEY 5 (2025), <https://chlpj.org/resources/consumer-perceptions-of-food-date-labels-2025-national-survey> [hereinafter 2025 NATIONAL CONSUMER SURVEY] (this study was led by researchers from Johns Hopkins Bloomberg School of Public Health, Harvard Law School Food Law and Policy Clinic, and ReFED).

<sup>32</sup> *Id.* at 3.

<sup>33</sup> See Debasmita Patra et al., *Understanding and addressing food waste from confusion in date labeling using a stakeholders' survey*, J. AGRIC. & FOOD RSCH., June 2022, at 1, 3 (available at <https://doi.org/10.1016/j.jafr.2022.100295>).

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> U.S. FOOD AND DRUG ADMINISTRATION, FOOD CODE: 2022 RECOMMENDATIONS OF THE UNITED STATES PUBLIC HEALTH SERVICE FOOD AND DRUG ADMINISTRATION Annex 3 – 143 (2023), <https://www.fda.gov/media/164194/download?attachment> [hereinafter 2022 FOOD CODE]; CTR. FOR FOOD SAFETY & APPLIED NUTRITION and FOOD SAFETY & INSPECTION SERV., QUANTITATIVE ASSESSMENT OF RELATIVE RISK TO PUBLIC HEALTH FROM FOODBORNE LISTERIA MONOCYTOGENES AMONG SELECTED CATEGORIES OF READY-TO-EAT FOODS (2003), <https://www.fda.gov/media/77947/download>.

<sup>37</sup> 2025 NATIONAL CONSUMER SURVEY, *supra* note 31, at 6.

## The Solution: Federal Standardization

Because of the issues outlined above, **ZFWC supports a standard date label at the federal level.** Standardization would eliminate all date label phrases from the market except for the following two straightforward phrases: “BEST If Used By” as a quality label or “USE By” as a safety label. Date label standardization should allow the application of date labels to be voluntary on all food products (aside from infant formula), merely requiring that if a company chooses to apply a date label to any of its products, the product must be labeled with *only one* of those two standard labels. It should also ensure wide-spread education about the meanings of the standardized date labels. Food products under these new standards would either display a date label accompanied by one of the two standard phrases or display no date label at all. This decision to label a food product would no longer be regulated by individual states but instead left up to the discretion of the entities responsible for producing or manufacturing food products, so long as they applied one of the two standard labels.

Research shows that this kind of date label standardization would create a multitude of benefits for consumers, families, and food industry members. A standardized date label system would provide much more consistent and reliable information to consumers about how to handle their food. Food manufacturers could opt to use the “USE By” label for food products that should be discarded after the printed date, such as on deli meats, molluscan shellfish, or foods in reduced oxygen packaging.<sup>38</sup> Manufacturers could opt to use the “BEST If Used By” label, on the other hand, to simply provide consumers with a general estimate on how long a food product is at its peak quality. With this information in hand, consumers can use their own judgment to decide what to do with their food products, with the knowledge that quality dates do not indicate the pathogenic safety risks of the food product. Standardizing date labels in this way would greatly reduce the 3 billion pounds of food that consumers throw away every year due to the inconsistent meanings of current date labels,<sup>39</sup> which adds up to an annual loss of \$7.7 billion for U.S. households.<sup>40</sup> Using conservative estimates, standardizing date labels would divert at least 425,000 tons of food waste, the equivalent of 708 million meals, from going to landfill every year.<sup>41</sup>

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<sup>38</sup> Other food categories with safety-related concerns are outlined in FDA’s Model Food Code. 2022 FOOD CODE, *supra* note 36.

<sup>39</sup> 1.45 million tons displayed on the website is equivalent to 2.9 billion pounds of food wasted. *Food Waste Monitor*, REFED INSIGHTS ENGINE, [https://insights-engine.refed.org/food-waste-monitor?break\\_by=cause&indicator=tons-surplus&sector=residential&view=detail&year=2023](https://insights-engine.refed.org/food-waste-monitor?break_by=cause&indicator=tons-surplus&sector=residential&view=detail&year=2023) (displaying surplus food generated in the residential sector across states in 2023 by the cause of food waste) (last updated Feb. 24, 2025).

<sup>40</sup> *Food Waste Monitor*, REFED INSIGHTS ENGINE, [https://insights-engine.refed.org/food-waste-monitor?break\\_by=cause&indicator=us-dollars-surplus&sector=residential&view=detail&year=2023](https://insights-engine.refed.org/food-waste-monitor?break_by=cause&indicator=us-dollars-surplus&sector=residential&view=detail&year=2023) (displaying surplus food generated in the residential sector across all states in 2023 by the dollar amount) (last updated Feb. 24, 2025).

<sup>41</sup> *Solutions Database: Standardized Date Labels*, REFED INSIGHTS ENGINE, <https://insights-engine.refed.org/solution-database/standardized-date-labels> (last updated Feb. 24, 2025). The conversion from tons of food to meals recovered was calculated using ReFED’s estimation calculator. *Meals Recovered*, REFED INSIGHTS ENGINE DOCUMENTATION, [https://docs.refed.org/methodologies/impact\\_calculator/meals\\_recovered.html](https://docs.refed.org/methodologies/impact_calculator/meals_recovered.html).

Federal date label standardization would also bring date labeling practices across the country more in-line with industry-coordinated and globally recommended best practices. As stated above, the Product Code Dating Initiative is an effort spurred by food industry members who want to reduce confusion for both retailers and consumers so that food is not needlessly wasted as well as simplify their own supply chains. The Initiative simplifies date labels to two standard phrases, which are similar to the international date label standards suggested in the *Codex Alimentarius*.<sup>42</sup> Aligning U.S. food date label standardization with these recommended standards would reduce barriers for companies seeking to coordinate labeling efforts in their national and global supply chains.

In pursuit of these numerous benefits, ZFWC has supported standardized date labels at the federal level since our inception. One bipartisan proposal in Congress, the Food Date Labeling Act (FDLA), is supported by ZFWC. The FDLA states that if businesses choose to apply a date label, the label must use one of two standard phrases: the uniform quality date label phrase “BEST If Used By” or the uniform discard date label phrase “USE By.”<sup>43</sup> The Act would also prohibit states from restricting sale or donation of food after the quality-based “BEST If Used By” date.

Along the same lines, we believe the FDA and USDA could collaborate to standardize date labels under their existing authority to ensure product labels are not misleading,<sup>44</sup> thereby mitigating consumer confusion. Because FDA and USDA have jurisdiction over different food products—USDA has authority to regulate meat, poultry, and some egg products, while FDA has authority to regulate safety and labeling for all other food products—both agencies would need to act in coordination to ensure that labeling language is the same for all food products. Since the evidence shows that date labels are misleading to consumers, FDA and USDA can interpret their existing authority to allow them to regulate date labeling as a form of misbranding of food items, without any additional action on the part of Congress. Together, the agencies could utilize their statutory authority as it stands now to establish a standardized federal date labeling system, solving the numerous issues caused by the confusing and inconsistent date labels we have today in a way that supports consumers while also improving the landscape for companies to have more clear and consistent standards to follow nationally. Federal date label standardization would help to solve the numerous ongoing problems outlined above, and ZFWC invites standardization through administrative action or through legislation.

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<sup>42</sup> The *Codex* states that for prepackaged foods going to consumers, the “Use-by Date” (or “Expiration Date”) shall be declared when a food must be consumed before a certain date to ensure its safety, and the “Best[-Quality] Before Date” shall be declared when the “Use-by Date” is not required. JOINT FAO/WHO CODEX COMMISSION, GENERAL STANDARD FOR THE LABELLING OF PREPACKAGED FOODS CXS 1-1985 2 & 4.7.1 (revised 2024), [https://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](https://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).

<sup>43</sup> Food Date Labeling Act of 2023, S. 1484, 118th Cong. (2023); Food Date Labeling Act of 2023, H.R. 3159, 118th Cong. (2023).

<sup>44</sup> 21 U.S.C. § 331(b); A label may be deemed misleading under the FDCA not only if its language makes misleading representations, but also if the label fails to reveal important information to the consumer; 21 U.S.C. § 321(n) 21 U.S.C. § 463(a); 21 U.S.C. § 607(c), (e); 21 U.S.C. § 1043.



## **II. Responses to USDA-FSIS and FDA RFI Questions**

To further respond to the questions posed by USDA-FSIS and FDA in the RFI, we have provided below more specific data and research that shows that the simple act of standardizing date labels can significantly reduce food waste in the U.S. and save stakeholders across the food system money.

### **1. Which products contain date labels, and which do not? Why do some products contain date labels and others do not?**

Aside from on infant formula, for which date labels are already federally required,<sup>45</sup> and which is outside the scope of this RFI, date labels are not federally mandated on any food products. The application of date labels onto food products, according to federal law, is voluntary.<sup>46</sup> Where food products do bear a voluntary date label, USDA has requirements on those labels. For example, as noted above, to comply with FSIS requirements, meat, poultry, and egg products that have a date label must use this format: the applied calendar date must express both the month and day of the month, and in the case of shelf-stable and frozen products, the year must also be displayed; additionally, immediately adjacent to the date must be a phrase explaining the meaning of that date, such as “Best if Used By.”<sup>47</sup> Also, food products under FSIS jurisdiction must not bear dates that are untruthful or misleading.<sup>48</sup> The USDA has guidance and the FDA has a letter to industry that recommends using the term “Best if Used By” to indicate a food’s quality or freshness.<sup>49</sup> There is also federal guidance that encourages states to require the use of date labels on certain food products, such as the FDA Food Code model language suggesting that food in reduced oxygen packaging bear a date label to indicate the products’ shelf life, but this guidance does not require or suggest the use of any particular date label term.<sup>50</sup>

While federal law has almost no date labeling requirements, many states *do* have date labeling requirements on very specific food products. Because nearly every state has adopted some version of the FDA Food Code, many states require date labels on food products like molluscan shellfish and reduced-oxygen packaged foods; however, since the Food Code itself is not encoded in any federal law, states may adopt only some portions of it, or may not have updated their Food Code adoption to the most recent version.<sup>51</sup> Along with these Food Code adoptions, which already vary state by state, there are a number of other differences among even

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<sup>45</sup> Infant Formula Act of 1980, 21 U.S.C. § 350a; 21 C.F.R. 107.20(c) (2024).

<sup>46</sup> While the U.S. Department of Agriculture (USDA) does not require quality or food safety date labels for products under its purview, it does require a “pack date” for poultry products and thermally processed, commercially sterile products to help identify product lots and facilitate trace-back activities in the event of an outbreak of foodborne illness. 9 C.F.R. 431.2(e) (2024).

<sup>47</sup> *Id.* at § 317.8(b)(32); *id.* at § 590.411 (2024).

<sup>48</sup> *Id.* at § 317.8; *id.* at § 381.129 (2024).

<sup>49</sup> *Food Product Dating*, FOOD SAFETY & INSPECTION SERV., <https://www.fsis.usda.gov/food-safety/safe-food-handling-and-preparation/food-safety-basics/food-product-dating> (last updated Nov. 30, 2023; FRANK YIANNAS, *supra* note 23).

<sup>50</sup> 2022 FOOD CODE, *supra* note 36, at 140.

<sup>51</sup> U.S. FOOD AND DRUG ADMINISTRATION, ADOPTION OF THE FDA FOOD CODE BY STATE AND TERRITORIAL AGENCIES RESPONSIBLE FOR THE OVERSIGHT OF RESTAURANTS AND/OR RETAIL FOOD STORES 4 (2023), <https://www.fda.gov/media/107543/download?attachment>.

neighboring states' labeling requirements.<sup>52</sup> For example, while New York does not require date labels on any dairy products (or any other food products, except the very limited number of foods recommended under the FDA's Food Code provisions), its neighboring states Pennsylvania, New Jersey, and Connecticut all have specific and unique dairy product date label requirements.<sup>53</sup> Meanwhile, nearby Massachusetts has no date label requirement on dairy products but does specifically require date labels on pre-packaged perishable foods and restricts sale of all foods past the labeled date.<sup>54</sup> With these different requirements at the state level, the current patchwork of state laws is difficult to navigate for food manufacturers and retailers.

Date labels can be further complicated at the local level, as counties and cities can pass ordinances with specific date labeling requirements, as mentioned in the FDA model Food Code. For example, the city of Baltimore prohibits the sale of any perishable food past its expiration date; whereas the state of Maryland does not.<sup>55</sup> Therefore, date labels on food products are applied by food manufacturers or retailers to more closely align with state or local requirements. However, these **different requirements and different phrasings of those requirements at the jurisdiction-by-jurisdiction level make the current patchwork of laws even more difficult to navigate for food manufacturers and retailers.**

2. What standards or criteria do manufacturers and producers consider when deciding which food date label phrase to use? Are different phrases used for different products or categories of products, and if so, why? Are there legal or trade requirements or marketing standards that impact which phrases are used (i.e. local or state requirements, industry best practice standards, etc.)? If so, please describe.

Phrases on food date labels vary widely, including options such as “Best By,” “Sell By,” “Expires On,” “Enjoy By,” “Use By,” “Freshest Before,” or even a date without any phrase at all. Trade groups and federal agencies encourage the use of certain date label phrases for clarity: The Consumer Brands Association and FMI, the Food Industry Association, for example, encourage the use of “BEST if used by” to indicate optimal quality and “USE by” to indicate a safety date. However, since there are no universal, uniform requirements on food product date labeling, manufacturers and retailers generally have the freedom to use any phrase they would like on their products. The choice of which food date label phrase to use can incorporate any number of factors, from who their audience for the phrase is (“Sell By” is most commonly a date

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<sup>52</sup> THE DATING GAME, *supra* note 25; *Date Labeling*, REFED U.S. FOOD WASTE POLICY FINDER, <https://policyfinder.refed.org/?category=prevention&key=date-labeling> (displaying ‘Date Labeling’ policies by state).

<sup>53</sup> *See Date Labeling*, REFED U.S. FOOD WASTE POLICY FINDER, <https://policyfinder.refed.org/?category=prevention&key=date-labeling> (displaying ‘Date Labeling’ policies by state); *see also* 3 PA. CONS. STAT. § 5743 (2024); N.J. REV. STAT. § 24:10-57.23 (2024); CONN. GEN. STAT. ANN. § 22-197B (2024).

<sup>54</sup> *Massachusetts Food Waste Policy*, REFED U.S. FOOD WASTE POLICY FINDER, <https://policyfinder.refed.org/massachusetts/>.

<sup>55</sup> BALTIMORE, MD., HEALTH CODE § 6-505.1 (2024) (available at: [https://legislative.reference.baltimorecity.gov/sites/default/files/Art%2000%20-%20Health%20\(rev%2023DEC24\).pdf](https://legislative.reference.baltimorecity.gov/sites/default/files/Art%2000%20-%20Health%20(rev%2023DEC24).pdf))

label phrase intended as guidance for retail stores holding the products, not for consumers themselves) to how quickly a food product usually spoils or loses quality.

In some cases, local and state requirements determine the specific phrases that must be used. For example, New Hampshire requires the use of only the phrases “expiration date” or “sell by” to be clearly and legibly printed or stamped on prewrapped sandwiches.<sup>56</sup> However, even in many states that require food products to have a date label, the state does not require a specific phrase—they either just reference a date label generally, or they allow a range of label phrases. An example of this phenomenon is the state of Georgia, which requires that eggs sold within the state have either a packing date or an expiration date on the container.<sup>57</sup> While the packing date in Georgia is required to have “no words, numbers, or letter preceding or following” the date (ex: JUN 10), the expiration date must use one of the following phrases: “Exp.,” “Sell By,” “Best Before,” “Not to be Sold After,” or any “words of similar import,” allowing for virtually any phrase that indicates expiration of the product.<sup>58</sup>

### 3. What standards or criteria do manufacturers and producers consider when deciding what date to use?

As mentioned above, some states require a specific date to be used on specific products; a very limited number of states also set criteria for how the date is chosen. In Montana or Pennsylvania, milk products would have to be labeled with a sell-by date no more than 12 or 17 days after pasteurization, respectively.<sup>59</sup>

Outside of requirements like those mentioned above, manufacturers and retailers are ultimately free to define shelf-life according to their own market standards. Some may choose a date based on consumer complaint frequency; whereas, others may look to published food quality research or conduct shelf-stability tests themselves.<sup>60</sup> Testing is burdensome, however, and many manufacturers that lack the requisite time, money, expertise, or initiative to conduct such testing will end up using open dates that are “no more than very good guesses or industry practice.”<sup>61</sup> Even those who conduct accurate tests can still apply varying date labels.<sup>62</sup> Manufacturers and retailers that are opposed to any quality change in their product can choose to set their label dates earlier to ensure that food is consumed only at its peak freshness, in order to protect their brand integrity.<sup>63</sup> Ultimately, there is a high degree of variability, arbitrariness, and imprecision in the date labeling process.

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<sup>56</sup> N.H. CODE ADMIN. R. ANN. AGR. 1412.04 (2024).

<sup>57</sup> GA. COMP. R. & REGS. 40-3-1.01 (2024).

<sup>58</sup> GA. COMP. R. & REGS. 40-3-1.01 (2024).

<sup>59</sup> MONT. ADMIN. R. 32.8.101 (2025); 3 PA. CONS. STAT. § 5743 (2024).

<sup>60</sup> EASTERN RESEARCH GRP., INC., CURRENT STATE OF FOOD PRODUCT OPEN DATES IN THE U.S. 3-1 (2003).

<sup>61</sup> Theodore P. Labuza & Lynn M. Szybist, *Current Practices and Regulations Regarding Open Dating of Food Products* 40 (The Retail Food Industry Ctr., Working Paper No. 01, 1999).

<sup>62</sup> See Rachael Jackson, *Best by? Use by? How companies come up with date labels*, EAT OR TOSS (Nov. 8, 2023), <https://www.eatortoss.com/how-companies-come-up-with-date-labels-factors-that-influence-best-by-use-by-and-other-date-labels/>.

<sup>63</sup> See *id.*; THE DATING GAME, *supra* note 25, at 17.

Standardizing date label phrasing does not necessarily require any changes to the process by which industry members determine their products' labeled date. Determining which date to put on a label is complex, context-dependent, and often varies product to product. This would make standardizing the process of determining the label date an inefficient use of government resources. Instead, standardizing the date label phrases to "BEST If Used By" and "USE By" would provide much needed clarity to retailers and consumers as to what they should be taking away from the label placed by the manufacturer: quality information or safety information.

4. Would a particular product have a different date depending on the phrase used (e.g., would the date be the same or different if the phrase were "Best if Used By" versus "Use By" or "Freeze By")? If so, please explain.

The current system does not provide any guarantee that there is a correlation between the date label phrase used and the date provided on the package. Given the lack of federal standards for date label phrases, manufacturers have broad license to use whichever phrase they want (in states with no required date label phrases) or the phrase that most closely aligns with requirements imposed on them by the state (in states that require specific date label phrases). However, state laws themselves allow for the use of phrases that are not intuitive to consumers. State laws, as mentioned above, may require that a food product bears an "expiration date" but will allow the use of any phrase that the manufacturer deems similar enough. For example, Wisconsin requires that all egg packages are labeled with a packing date *and* one of the following: an expiration date, a sell by date or a use by date.<sup>64</sup> Wisconsin uses "expiration date" and "sell by" date interchangeably, and further allows any phrase or abbreviation to be used to identify that expiration or sell by date.<sup>65</sup> Without any federal standardization of date label phrases, many different date label phrases can be used interchangeably with the same or different meanings, which directly contributes to consumer confusion and therefore food waste.

5. What challenges or limitations do food manufacturers have when establishing or changing food date labels?

Food manufacturers establishing or changing food date labels may run into legal challenges depending on the states in which they conduct their business. Due to the very specific standards that some states have for products like dairy, eggs, and even pre-wrapped sandwiches,<sup>66</sup> manufacturers in those states must keep close track of whether the products they are selling meet each state's requirements to avoid fines. This impedes a manufacturer's ability to establish or change its date labeling practices, even if those changes would be beneficial to the manufacturer or to its consumers.

This impediment is illustrated in the obstacles that manufacturers face in trying to follow voluntary date labeling guidance. For example, the FMI/CBA Product Code Dating Initiative, mentioned above, is inconsistent with 27 different states' date label laws for at least one food

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<sup>64</sup> WIS. ADMIN. CODE ATP § 88.34(1)(f) (2024).

<sup>65</sup> WIS. ADMIN. CODE ATP § 88.34(1)(f)(1) (2024).

<sup>66</sup> N.H. REV. STAT. ANN. § 438:26-b (2024).

product.<sup>67</sup> This conflict would make it impossible for a company that operates across state lines to change all of its products' labels to follow industry-coordinated guidance while complying with stringent and specific state laws.

The same issue arises for companies seeking to follow guidance from the federal government. USDA FSIS and FDA both recommend that food industry members voluntarily use a "Best if Used By" food date label when labeled to indicate quality, which "aims to lessen consumer confusion and reduces food waste."<sup>68</sup> State labeling requirements again function here as obstacles, conflicting with federal guidance and restricting industry from following informed recommendations aimed at reaching the national food waste goals set by the Presidential Administration in 2019.

Notwithstanding these state-specific legal obstacles, there are not any other significant logistical challenges in establishing or changing date labels. Manufacturers simply have to update the stamps they use to match any desired date phrasing. Further, it should not be too difficult for manufacturers to use up existing supply of pre-stamped packages before the new date label standards come into effect, as it is impractical to stock large quantities of food packaging. However, especially for shelf-stable food products, there is a lot of product already circulating within the food supply chain. For example, a can of fish may have a shelf life of several years; therefore, a brand may continue to show the current food date label phrase far into the future. This should be considered when establishing the implementation timeline and expectations for any new date label standards implemented by agency action or legislation.<sup>69</sup>

6. Are there costs associated with changing the date label phrase or date used in addition to the costs associated with any label change? If so, please explain what those are. What data are available on the use of certain food date label phrases and cost to manufacturers, retailers, or consumers?

Adjusting date labels on food products would require a relatively limited, one-time cost to change the date label phrase or label design in the printer.<sup>70</sup> By contrast, doing business within the existing patchwork system of date labels requires constant upkeep. Any company seeking to conduct business across state lines must stay up to date with the unnecessarily costly process of ensuring compliance with up to 42 different date label standards, given that no two states that

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<sup>67</sup> THE CASE FOR FEDERAL REGULATION, *supra* note 25, at 11-13.

<sup>68</sup> THE WHITE HOUSE, *supra* note 4; *See Food Product Dating*, FOOD SAFETY & INSPECTION SERV., <https://www.fsis.usda.gov/food-safety/safe-food-handling-and-preparation/food-safety-basics/food-product-dating> (last updated Nov. 30, 2023); FRANK YIANNAS, *supra* note 23.

<sup>69</sup> Delayed implementation was built into California's new date label standardization law, which passed in September 2024 but does not begin enforcement until July 2026. Cal. Assemb. B. 660, 2023-2024 Leg., Reg. Sess. (Cal. 2024) (enacted). Delayed implementation is also built into the language of the Food Date Labeling Act, which delays applicability for 2 years from the date of the Act's enactment. Food Date Labeling Act of 2023, S. 1484, 118th Cong. § 5 (2023); Food Date Labeling Act of 2023, H.R. 3159, 118th Cong. § 5 (2023).

<sup>70</sup> By one estimate, the upfront and operating costs of nationally standardizing date labels would only require less than a combined \$6 million of investment from private, public, and philanthropic funding. *Solutions Database: Standardized Date Labels*, REFED INSIGHTS ENGINE, <https://insights-engine.refed.org/solution-database/standardized-date-labels> (last updated Feb. 24, 2025).



require date labels have the same date label laws.<sup>71</sup> Recently, California passed AB 660, which will require by July 1, 2026 that food manufacturers, processors, and retailers must only use “BEST if Used by” or “BEST if Used or Frozen by” (to indicate quality) and “USE by” or “USE or Freeze by” (to indicate safety).<sup>72</sup> This language closely mirrors the language of the proposed Food Date Labeling Act and the language used in the voluntary Product Code Dating Initiative. While manufacturers gear up to make that adjustment, other states continue to propose bills with different label requirements. In Massachusetts for example, Senate Bill SD.482 has been proposed in the current session, and seeks similar changes as California’s new law, but requires the use of the phrase “expires on” instead of “USE by.”<sup>73</sup> This minor difference in the two states’ requirements means that manufacturers and retailers will face logistical hurdles to comply with both laws concurrently. Situations like this will continue to arise and create more cost burdens on manufacturers and food producers until date labels are standardized at the federal level.

The lack of federal standardization also increases costs for retailers. Consumer misconceptions around the meaning of date labels<sup>74</sup> and specific state laws that restrict sales of food products past their printed date label<sup>75</sup> result in higher numbers of unsaleable and often discarded food for retail stores.<sup>76</sup> An industry initiative in the U.S. estimated in 2001 that about \$900 million worth of inventory was removed from the supply chain due to date code expiration and identified the lack of standardization of date coding as one of the five factors driving that loss.<sup>77</sup> While that data is outdated, the lack of any date label standardization or education since this initiative leads us to believe this loss has stayed the same or even worsened with inflation. These economic losses that retailers suffer can get passed to consumers in increases in the price of goods. Standardizing date labels can reduce the cost burden that retailers and therefore consumers suffer from the current date labeling system.

7. How do grocery retailers determine that a food item is no longer sellable? Do the considerations differ depending on the food item? Do the considerations take into account the phrase and/or date on the label, and if so, how?

Many state labeling laws include restrictions on sale for items that are past their labeled date. Through adoption of the FDA Food Code, almost all states have laws in place that restrict

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<sup>71</sup> THE CASE FOR FEDERAL REGULATION, *supra* note 25, at 3.

<sup>72</sup> Cal. Assemb. B. 660, 2023-2024 Leg., Reg. Sess. (Cal. 2024) (enacted).

<sup>73</sup> SD.482, 194th Gen. Ct. (Ma. 2025). A similar bill in the House proposes using “use by,” not “expires on.” HD.197, 194th Gen. Ct. (Ma. 2025).

<sup>74</sup> Roni Neff et al., *Misunderstood food date labels and reported food discards: A survey of U.S. consumer attitudes and behaviors*, 86 WASTE MGMT. 123 (2019) (available at: <https://doi.org/10.1016/j.wasman.2019.01.023>); Melissa Kavanaugh & Jennifer J. Quinlan, *Consumer Knowledge and Behaviors Regarding Food Date Labels and Food Waste*, FOOD CONTROL, Sept. 2020, at 1 (available at: <https://doi.org/10.1016/j.foodcont.2020.107285>).

<sup>75</sup> *Date Labeling*, REFED U.S. FOOD WASTE POLICY FINDER, <https://policyfinder.refed.org/?category=prevention&key=date-labeling> (displaying ‘Date Labeling’ policies by state).

<sup>76</sup> THE DATING GAME, *supra* note 25, at 22.

<sup>77</sup> RAFTERY RESOURCE NETWORK, INC., EXPIRED PRODUCT PROJECT 2 (2003), <https://studylib.net/doc/18546832/expired-product-project---grocery-manufacturers-association> (not the official or original link) (developed for the Joint Industry Unsaleables Steering Committee of Grocery Manufacturers of America & Food Marketing Institute).

the sale of foods that are stored in reduced oxygen packaging and foods that require time and temperature control for safety if they are past their labeled date.<sup>78</sup> In addition to these safety requirements, many states also restrict the sale of specific foods past the labeled date, even if that date label is not indicative of food safety. For example, Colorado, Illinois, Georgia, Oregon, and Wisconsin, all restrict the sale of eggs past their labeled date, but each of the states' unique label requirements and sale restrictions are based on different inputs, such as the packing date, the candling date, or the packagers' recommendations.<sup>79</sup> Montana prohibits the sale of milk more than twelve days past pasteurization,<sup>80</sup> even though milk is generally still safe and tasty for twice that amount of time.<sup>81</sup> Massachusetts and Oregon require that past date packaged "perishable" foods, with the word "perishable" holding a different legal definition in each state, be restricted from sale unless the past date products are placed in a separate location and relabeled as being past date.<sup>82</sup>

Along with these state requirements and restrictions, companies may voluntarily place date labels on products to communicate with consumers about the quality or safety of their products or communicate with retailers about when to pull items off shelves. It is still dependent on the retailer whether or not to sell the items past-date, as long as they are not prohibited from selling due to state laws. However, even where past-date sale is not restricted, we have heard of many examples of health inspectors citing retailers for having past-date food on the shelves. For this reason, added clarity around which dates are quality indicators could help reduce unnecessary waste.

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?

FSIS and FDA should consider the following studies and data for the reasons expressed below:

- Roni Neff et al., *Misunderstood food date labels and reported food discards: A survey of U.S. consumer attitudes and behaviors*, 86 WASTE MGMT. 123 (2019) (reporting on a survey from April 2016);

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<sup>78</sup> *Date Labeling*, REFED U.S. FOOD WASTE POLICY FINDER, <https://policyfinder.refed.org/?category=prevention&key=date-labeling> (displaying 'Date Labeling' policies by state); U.S. FOOD & DRUG ADMIN., ADOPTION OF THE FDA FOOD CODE BY STATE AND TERRITORIAL AGENCIES RESPONSIBLE FOR THE OVERSIGHT OF RESTAURANTS AND/OR RETAIL FOOD STORES 4 (2023), <https://www.fda.gov/media/107543/download?attachment>.

<sup>79</sup> 8 COLO. CODE REGS. § 1202-10:3.0-4.0 (2024); ILL. ADMIN. CODE TIT. 8, § 65.30 (2024); GA. COMP. R. & REGS. 40-3-1.01 (2024); OR. REV. STAT. § 616.815 (2024); WIS. ADMIN. CODE ATCP § 88.34 (2024).

<sup>80</sup> MONT. ADMIN. R. 32.8.202 (2024).

<sup>81</sup> See Tibor Deák, *Food Technologies: Pasteurization*, in 3 ENCYCLOPEDIA OF FOOD SAFETY 219, 223 (Yasmine Motarjemi, Gerald Moy & Ewen Todd eds., 2014) (stating that HTST pasteurized milk is typically safe to consume for 2-3 weeks).

<sup>82</sup> 105 MASS. CODE REGS. 500.006 (2024); OR. REV. STAT. § 616.825 (2024).

- Melissa Kavanaugh & Jennifer J. Quinlan, *Consumer Knowledge and Behaviors Regarding Food Date Labels and Food Waste*, 115 FOOD CONTROL 107285 (2020);
- Debasmita Patra et al., *Understanding and addressing food waste from confusion in date labeling using a stakeholders' survey*, 8 J. AGRIC. & FOOD RSCH. 100295 (2022);
- Catherine Turvey et al., *Impact of Messaging Strategy on Consumer Understanding of Food Date Labels*, 53 J. OF NUTRITION EDUC. & BEHAV. 389 (2021);
- Megan L. Davenport et al., *Food-related routines, product characteristics, and household food waste in the United States: A refrigerator-based pilot study*, 150 RESOURCES, CONSERVATION & RECYCLING 104440 (2019);
- RONI NEFF ET AL., CONSUMER PERCEPTIONS OF FOOD DATE LABELS: 2025 NATIONAL SURVEY, JOHNS HOPKINS BLOOMBERG SCH. OF PUB. HEALTH, HARVARD L. SCH. FOOD L. & POL'Y CLINIC & REFED (2025).

These are published studies on consumers' perceptions of and responses to date labels, and they all indicate that **consumers are consistently confused about the meaning of date labels and have trouble figuring out how to use the date label to decide whether to consume or discard their food.** The 2016 survey discussed in *Misunderstood food date labels* was a large representative study that found that 40% of respondents understood “use by” to be a quality label and 42% understood it to be a safety label.<sup>83</sup> Kavanaugh and Quinlan's study found that only 37.2% correctly identified the meanings of all three tested date label phrases (“best by/use by” [both here defined as quality labels], “sell by,” and “expiration” dates).<sup>84</sup> In Patra et al., the study included food industry stakeholders as respondents, and showed that 34% of respondents believed that all the tested date labels meant the same thing; even amongst the 66% that stated that they knew there were *some* differences between labels, their qualitative responses indicated otherwise (e.g., “They mean nothing, really”).<sup>85</sup> 75% of respondents in this survey also affirmatively stated that they are confused by date labels.<sup>86</sup> The study in Davenport et al. tracked U.S. consumers' utilization of items in their home refrigerators and found that ambiguous date labeling significantly decreases the odds that food items are fully utilized (i.e., they were thrown out earlier than necessary).<sup>87</sup> Finally, Turvey's survey with 2,607 respondents reported significant gaps between the number of respondents who stated they understood date label

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<sup>83</sup> See Roni Neff et al., *Misunderstood food date labels and reported food discards: A survey of U.S. consumer attitudes and behaviors*, 86 WASTE MGMT. 123, 126 (2019) (available at <https://doi.org/10.1016/j.wasman.2019.01.023>) [hereinafter *Misunderstood food date labels*].

<sup>84</sup> Melissa Kavanaugh & Jennifer J. Quinlan, *Consumer Knowledge and Behaviors Regarding Food Date Labels and Food Waste*, FOOD CONTROL, Sept. 2020, at 1, 3 (available at: <https://doi.org/10.1016/j.foodcont.2020.107285>).

<sup>85</sup> Debasmita Patra et al., *Understanding and addressing food waste from confusion in date labeling using a stakeholders' survey*, 8 J. AGRIC. & FOOD RSCH., June 2022, at 1, 3 (available at <https://doi.org/10.1016/j.jafr.2022.100295>).

<sup>86</sup> *Id.*

<sup>87</sup> Megan L. Davenport et al., *Food-related routines, product characteristics, and household food waste in the United States: A refrigerator-based pilot study*, RESOURCES, CONSERVATION & RECYCLING, Nov. 2019, at 1, 5-10 (available at: <https://doi.org/10.1016/j.resconrec.2019.104440>).

phrases and the number of participants who correctly identified those phrases' specific meanings.<sup>88</sup>

These studies also indicate that **consumers continue to make decisions about their food based on date labels, regardless of their confusion.** In Neff's 2016 study, 84% of respondents reported that they discard food based when it is near its package date at least occasionally, with 37% reporting they always or usually do so.<sup>89</sup> 81.6% of respondents in Kavanaugh and Quinlan's study indicated that they often or always look at food date labels, and 71.6% of respondents reported using date labels to assess the edibility of food products.<sup>90</sup> In Patra's study, 88% of respondents stated that food date labels are a determining factor when purchasing a food product.<sup>91</sup> Turvey's study found that almost all of them (98-99%) reported checking date labels at least sometimes before deciding whether to buy or to eat food.<sup>92</sup> Every study that collected respondents' ages found that younger adult participants (from age 18-34) are most likely to discard food based on the printed date label.

The sixth survey above, *Consumer Perceptions of Food Date Labels: 2025 National Survey*, is a recent follow-up survey to the 2016 survey reported about in Neff's 2019 article, and its results indicate that consumer misunderstanding of date labels is getting worse with time.<sup>93</sup> This new edition of the survey included 2,069 U.S. adults, which is more twice as many respondents as the original survey.<sup>94</sup> The results of this survey showed that the 88% of respondents discard food near or past the date on the label, up from 84% in 2016.<sup>95</sup> A larger portion of respondents in this survey also mistakenly thought the federal government regulates all date labels, up to 44% this time from the original 36%.<sup>96</sup> When asked about their knowledge of the meanings of the eight tested date labels ("Best if used by," "Expires on," "Use by," "Best by," "Sell by," "Use by [with an icon]," "Best if used by [with an icon]," and a date with no label), an average of 87% believed that they knew the labels' meanings, but only an average of 53% of respondents were able to give the labels' correct meaning; overall, 39% of respondents assumed they knew the meanings but were actually incorrect.<sup>97</sup> Across multiple analyses, young adults and households with children were found to be most often prone to date label

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<sup>88</sup> Catherine Turvey et al., *Impact of Messaging Strategy on Consumer Understanding of Food Date Labels*, 53 J. NUTRITION EDUC. & BEHAV. 389, 396 (2021) (available at: <https://doi.org/10.1016/j.jneb.2021.03.007>).

<sup>89</sup> *Misunderstood food date labels*, *supra* note 83, at 126.

<sup>90</sup> Kavanaugh & Quinlan, *supra* note 84, at 2-3.

<sup>91</sup> Patra et al., *supra* note 85.

<sup>92</sup> Turvey et al., *supra* note 88, at 394.

<sup>93</sup> 2025 NATIONAL CONSUMER SURVEY, *supra* note 31, at 6. For the original survey, see EMILY BROAD LEIB ET AL., CONSUMER PERCEPTIONS OF DATE LABELS: NATIONAL SURVEY, [https://chlp.org/wp-content/uploads/2013/12/Consumer-Perceptions-on-Date-Labels\\_May-2016.pdf](https://chlp.org/wp-content/uploads/2013/12/Consumer-Perceptions-on-Date-Labels_May-2016.pdf) (the 2016 survey was led by researchers from Harvard Law School Food Law and Policy Clinic, National Consumers League, and Johns Hopkins Center for a Livable Future).

<sup>94</sup> 2025 NATIONAL CONSUMER SURVEY, *supra* note 31, at 2.

<sup>95</sup> *Id.* at 3.

<sup>96</sup> *Id.*

<sup>97</sup> *Id.* at 4.

misinformation;<sup>98</sup> Hispanic and Black respondents and respondents in the lowest income and education groups were also likelier to discard food based on the date label.<sup>99</sup>

FSIS and FDA should consider the data provided in these studies for multiple reasons. First, these independently conducted studies that used different question types and recruited from different segments of the population all indicate that **consumers find date label phrases either too confusing or meaningless**, and based on the findings of most recent study, **this problem is getting worse**. Second, the studies affirm that a majority of consumers do check date labels and make decisions based off of those date labels, both at the store and at home. Third, these studies all suggest through their findings that more date label uniformity and more education about the meanings of date labels would decrease consumer confusion, would help clarify differences between quality and safety date labels and thus between foods that are merely labeled for freshness or taste and those that actually increase in risk over time, and would reduce the food waste caused by date labeling and thus reduce food costs for households. All of these studies underscore the urgent need for date label standardization.

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?

The research on date label understanding among consumers shows that the current system allowing for virtually any phrase to be used on food products creates confusion and misunderstanding of food date labels. This is evidenced by indications that consumers often think date labels are interchangeable or do not provide any useful information.<sup>100</sup> As noted above, the phrase “Best if used by” was most understood by respondents to mean a quality date.<sup>101</sup> **Respondents who knew the difference between a quality date and a safety date also produced less food waste than respondents who could not tell the difference between those types of date labels.**<sup>102</sup> The results of these studies indicate that the most effective way to present food date labels is through the use of standard date labels that clearly and unambiguously utilize one quality-based date label or one safety- or discard-date label.

The 2025 survey in Neff et al. also tested the use of icons alongside the “Best if used by” and “Use by” date labels to determine whether these visual cues would increase respondents’ understanding of those date label phrases.<sup>103</sup> Both of these date label phrases were tested with and without an accompanying icon, to compare the outcomes. The results of this survey provide two important findings. First, an easily understood icon can increase a consumer’s accuracy in

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<sup>98</sup> *Id.* at 6.

<sup>99</sup> *Id.*

<sup>100</sup> Patra et al., *supra* note 85; *See also Misunderstood food date labels*, *supra* note 83, at 126.

<sup>101</sup> *Misunderstood food date labels*, *supra* note 83, at 126.

<sup>102</sup> Kavanaugh & Quinlan, *supra* note 84, at 3.

<sup>103</sup> The “Best if used by” date label icon contained images of an eye, nose, and tongue, and stated “Best if used by XX/XX, then simply: LOOK, SMELL, TASTE, DON’T WASTE,” with each word written under its corresponding visual cue. The “Use by” date label icon was a hand with all five fingers held up, gesturing to a viewer to stop. No additional information or education was offered alongside these icons. 2025 NATIONAL CONSUMER SURVEY, *supra* note 31, at 4.



identifying a date label phrases' information.<sup>104</sup> The use of a very commonly understood hand gesture led to increased accuracy in identifying the meaning of the "Use by" label, while the less commonly understood eye, nose, and tongue icon accompanying the "Best if used by" label led to a decrease in accuracy in identifying the "Best if used by" label's meaning. Icons or other visuals therefore must be easily and quickly understood by consumers to be effective. Second, a novel visual cue may lead consumers to doubt their understanding of a date label in the short term.<sup>105</sup> For both the "Use by" and "Best if used by" labels, respondents had reduced confidence in their perceived understanding of the date labels' meaning when the label was presented with an icon. However, since a readily understood icon can increase consumer accuracy in identifying a date label's meaning, icons can still be a useful tool. Consumer education about date label icons would help mitigate the loss in confidence that occurs when a visual icon is used, while maintaining the increase in accuracy in consumer understanding of a date label's meaning.

10. What studies exist on the factors that should be considered in a national education campaign aimed at reducing consumer confusion about date labels? Please explain your reasoning as to why a study should be considered.

Given the broad confusion around the meanings of date labels in the U.S., a national education campaign is needed to help inform consumers about the meanings of the date labels that they use to make decisions about their food. However, we believe resources should not be used on an education campaign regarding date labels before date labels are standardized. Since the current system allows for freedom of use of almost any phrase, and since state laws and requirements in some cases create unique definitions of date label phrases, **a national date label education campaign would not help in reducing consumer confusion unless or until date labels are standardized.** With standardized labels in place, an education campaign would still be needed because many people often assume they understand date labels when they do not. The survey conducted in *Impact of Messaging Strategy on Consumer Understanding of Food Date Labels* showed that participants were confidently incorrect about their understanding of the labels considered in the study. In its survey of more than 2,500 respondents, 92.1% believed they knew the meaning of "Best if Used By," but only 46.2% correctly identified its specific meaning; 89.4% of respondents believed they knew what "Use By" meant, but only 24.3% correctly identified its specific meaning.<sup>106</sup>

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<sup>104</sup> 83% of respondents correctly identified the meaning of "Best if used by" when the term was presented without an icon, but only 64% answered correctly when the term was presented with an icon. By contrast, the "Use by" icon improved actual correct responses, as only 47% of respondents provided the correct meaning of "Use by" without an icon, while 61% of respondents correctly identified the meaning of "Use by" with the icon. This indicates that respondents' actual ability to understand the date label went up with the "Use by" icon. 2025 NATIONAL CONSUMER SURVEY, *supra* note 31, at 4.

<sup>105</sup> 97% of respondents believed that they knew what "Best if used by" without an icon meant, while only 79% of respondents believed they knew what "Best if used by" with an icon meant. Similarly, for the "Use by" label, 95% of respondents stated that they knew its meaning when "Use by" was presented without the icon, while only 82% thought they understood its meaning when "Use by" was presented with the icon. These results indicate a loss of confidence due to the icon itself. 2025 NATIONAL CONSUMER SURVEY, *supra* note 31, at 4.

<sup>106</sup> Turvey et al., *supra* note 88.

This study also experimented with different factors that improved respondent understanding of date label phrases. First, the study establishes that an effective date label education campaign should capture the attention of its audience; the study authors explain that many consumers assume that they know the meaning of the new date label phrases already and might lose interest quickly.<sup>107</sup> Second, this study found that the method of education (of the seven tactics that were tested) did not significantly alter how much each focus group learned, and clarifies that regardless of tactic, strategy, or medium, effective messages should not feel didactic to the audience and should incorporate intuitive and interesting visual components.<sup>108</sup> Finally, the study found that consumers who think about food safety most often will also most often misunderstand a quality date label because they tend to assume date labels are safety indicators, so a successful national education campaign should provide guidance for consumers to become more familiar with the causes and the signs of food spoilage; this should help assuage their fears and build trust in their own senses, and eventually, in the quality date label.<sup>109</sup>

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

Along with the studies cited above, FSIS and FDA should also consider the following studies:

- MITRE & GALLUP, THE STATE OF FOOD WASTE IN AMERICA (2023);
- Aishwarya Badiger et al., *When considering whether to waste food, consumers focus attention on food label dates rather than phrases*, 168 WASTE MGMT. 230 (2023).

The studies cited in this comment connect the current system's date labeling inconsistencies to increased food waste. As explained above, multiple studies have indicated that respondents misunderstand date label phrases and still decide to toss food based on those same date labels. More specifically, the Kavanaugh and Quinlan study above found that there is a negative correlation between knowledge of date labels and food wastage: **participants that have greater knowledge of the meaning of date labels do not throw away safe, edible food as often as others.**<sup>110</sup> Also, a 2023 national study of actual food waste habits conducted by MITRE corporation and Gallup found that date labels were a cause of household food waste.<sup>111</sup> Their analysis of 9,000 U.S. households showed that average household food waste is 6.2 cups per week, with overreliance on date labels being one of two primary contributors to household food waste (the other being leftover waste/spoilage). In part, this is because households that always or often throw food away based on the date label throw away twice as much food as households that say they ignore the date label.<sup>112</sup>

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<sup>107</sup> *Id.* at 398.

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*

<sup>110</sup> Kavanaugh & Quinlan, *supra* note 84, at 3.

<sup>111</sup> MITRE & GALLUP, THE STATE OF FOOD WASTE IN AMERICA 25 (2023), <https://sites.mitre.org/household-food-waste/wp-content/uploads/sites/41/2023/11/The-State-of-Food-Waste-in-America-11-14-23.pdf>.

<sup>112</sup> *Id.*

One final recent study found that the date printed on food products could have a greater impact on consumers' decision to waste food than the date label phrase used on the products.<sup>113</sup> Using eye-tracking technology, this smaller study of 68 participants assessed which part of a date label participants looked at before deciding to toss milk.<sup>114</sup> The study found that participants spent more time and were more drawn to looking at the package date than at the date label phrase, regardless of the date label phrase.<sup>115</sup> However, a lack of standardization has a serious impact on this result. As mentioned by participants in Debasmita et al., the variety of date label options with the lack of any federal standards makes many consumers feel as though all the date label phrases are interchangeable, misleading, and even meaningless.<sup>116</sup> Therefore, the fact that consumers in the eye-tracking study regarded date label phrases as less important than the actual printed dates themselves further proves the need for date label phrase standardization and for consumer education. Respondents still spent time looking at the date label phrase, but since date label phrases are still so confusing, respondents decided to toss the milk based on the printed date, which was the only easily comprehensible piece of information available to them.<sup>117</sup> Standardization and consumer education would return meaning and usefulness back to date label phrases; once consumers can trust date label phrases to convey consistent and accurate information about food products, they can use the phrasing to make more informed decisions about when to eat or discard food.

All of these studies suggest that date labels are determinative factors in consumers' decisions about whether to purchase and throw away food products. FSIS and FDA should consider these studies because they so clearly lay out that consumer confusion about the meaning of date labels strongly influences decisions about what to do with food, and they show a direct correlation between consumers' lack of understanding and the amount of food they throw away. A standardized date label in tandem with a strategic national education campaign would help consumers understand how to discern between quality date labels and safety date labels so they can make more informed decisions and save money.

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.

State date label laws, as they currently stand, pose barriers to food donation. In addition to restricting past-date sale, some states prohibit or otherwise restrict donation of past-date food, even though the date generally is intended to indicate quality rather than safety.<sup>118</sup> For example, Kentucky requires a "use by" date on consumer packages of milk and dairy products (which is

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<sup>113</sup> Aishwarya Badiger et al., *When considering whether to waste food, consumers focus attention on food label dates rather than phrases*, 168 WASTE MGMT. 230, 233-4 (2023) (available at: <https://doi.org/10.1016/j.wasman.2023.06.006>).

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> See Patra et al., *supra* note 85.

<sup>117</sup> Badiger et al., *supra* note 113.

<sup>118</sup> THE CASE FOR FEDERAL REGULATION, *supra* note 25, at 7.

statutorily synonymous with “Sale by” and “Best if used by”).<sup>119</sup> The “use by” date in Kentucky seems to be intended as a quality indicator, not a safety indicator.<sup>120</sup> However, after the “use by” date passes, the products must be sent back to their milk plant of origin “for destruction,” quashing any opportunity for retailers to donate even safe and edible products.<sup>121</sup> Date label standardization at the federal level would create a label system with clear distinguishing factors, separating foods with quality date label from foods with safety date labels. This could help states to continue regulating food donations past the safety date to ensure food safety, while allowing donations of past-date foods with no safety risk.

Even without restrictive state date label laws, firms and individuals often toss food that they could donate because they misunderstand quality labels to be safety labels. Given how many survey respondents consistently misunderstand the meaning of date labels—including respondents from the food industry<sup>122</sup>—and how many respondents indicated that they decide a food’s edibility and safety based on the printed date label, it follows that those same respondents would choose to toss past-date food rather than to donate it. Donors are also often concerned about liability associated with food safety risk from donated food, even though food donors and nonprofit organizations that distribute donated food are protected from liability for donated food by the federal Bill Emerson Good Samaritan Food Donation Act (and similar state laws).<sup>123</sup> State and local food inspectors have been known to frustrate food recovery efforts on the basis of questionable—or, in some cases, clearly mistaken—interpretations of how local health codes and food safety laws view past-date foods. For example, an inspector may assume that a past-date product cannot be safe or wholesome, even though date labels alone are not reliable indicators of safety or wholesomeness.<sup>124</sup> These factors influence firms to discard food that gets close to its date label instead of retaining the foods for donation.

Finally, experts in food recovery and food waste report that there is also widespread confusion amongst food bank and food recovery program staff over the meaning of various date labels. Food safety officers working with food recovery organizations must consequently spend considerable time and effort educating workers and volunteers about the date labeling system, and those workers must in turn educate clients and end-users when they express concerns or uncertainty about the products they are receiving.<sup>125</sup>

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<sup>119</sup> 902 KY. ADMIN. REGS. 50:010 § 1(26) (2024).

<sup>120</sup> “‘Use by’ means the date on a consumer package or container of Grade A pasteurized milk or milk products subsequent to the date of manufacturing, processing or packaging that represents the period of time the product will remain unspoiled and acceptable for consumption when transported, handled and stored under approved conditions. The terms ‘Sale by’ or ‘Best if used by’ shall have the same meaning as ‘use by’.” *Id.* Here, “use by” indicates when the product is “unspoiled” and “acceptable” and it is interchangeable with “best if used by,” which all indicate that it is being applied for quality, not safety.

<sup>121</sup> 902 KY. ADMIN. REGS. 50:080 § 4(3) (2024).

<sup>122</sup> Patra et al., *supra* note 85.

<sup>123</sup> THE DATING GAME, *supra* note 25, at 22.

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

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 most current data on date labels estimates that non-standardized date labels cause the waste of billions of dollars every year in terms of wasted food and lost economic opportunity. According to ReFED, date label confusion leads directly to \$22 billion in terms of food waste every year,<sup>126</sup> with about \$7.7 billion of that value lost by consumers.<sup>127</sup> Also, industry data from 2001 indicates that the \$900 million worth of inventory removed from the supply chain was removed in part because of a lack of date label standardization.<sup>128</sup>

These billions of dollars of losses in food throughout the supply chain and particularly in consumers' homes is directly related to the lack of standardized date labels and dearth of consumer education on the meaning of date labels. Date label standardization would create a system that is easier to understand for consumers and simpler for industry to follow in order to know what can be kept on shelves, sold, or donated past the date. ReFED estimates that even without any investment in consumer education, date label standardization would create a \$1.82 billion financial benefit.<sup>129</sup> This benefit is created by saving consumers money as they waste less food, by reducing the cost of goods as industry can utilize more of the food it produces, and by increasing the amount of food available for donation, thus reducing the financial burdens of food insecurity.

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<sup>126</sup> *Food Waste Monitor*, REFED INSIGHTS ENGINE, [https://insights-engine.refed.org/food-waste-monitor?break\\_by=cause&indicator=us-dollars-surplus&view=detail&year=2023](https://insights-engine.refed.org/food-waste-monitor?break_by=cause&indicator=us-dollars-surplus&view=detail&year=2023) (displaying surplus food generated in dollars according to cause of surplus) (last updated Feb. 24, 2025).

<sup>127</sup> *Food Waste Monitor*, REFED INSIGHTS ENGINE, [https://insights-engine.refed.org/food-waste-monitor?break\\_by=cause&indicator=us-dollars-surplus&sector=residential&view=detail&year=2023](https://insights-engine.refed.org/food-waste-monitor?break_by=cause&indicator=us-dollars-surplus&sector=residential&view=detail&year=2023) (displaying surplus food generated in the residential sector across all states in 2023 by the dollar amount) (last updated Feb. 24, 2025).

<sup>128</sup> RAFTERY RESOURCE NETWORK, INC., EXPIRED PRODUCT PROJECT 2 (2003), <https://studylib.net/doc/18546832/expired-product-project---grocery-manufacturers-association> (not the official or original link) (developed for the Joint Industry Unsaleables Steering Committee of Grocery Manufacturers of America & Food Marketing Institute).

<sup>129</sup> *Solutions Database: Standardized Date Labels*, REFED INSIGHTS ENGINE, <https://insights-engine.refed.org/solution-database/standardized-date-labels> (last updated Feb. 24, 2025).



## **Conclusion**

The Zero Food Waste Coalition welcomes agency leadership to better understand and address the negative impacts of the current date labeling system on industry, consumers, and on food waste in the U.S. Standardizing date labels would greatly contribute to the agencies' and the national goal to halve food waste by 2030, while reducing confusion and cost for businesses and consumers. As a national network of food loss and waste stakeholders, we are available for further discussion or questions you may have.

Thank you for your consideration of ZFWC's comments and recommendations.

Sincerely,  
The Zero Food Waste Coalition

*Policy positions taken by the Zero Food Waste Coalition and any of its working groups are not necessarily reflective of the positions or opinions of all of its members.*