EPA’s Food Recovery Hierarchy: Feed the People-Increasing Donations

October 19, 2016

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Food Recovery Hierarchy

Most Preferred

Source Reduction
Reduce the volume of surplus food generated

Feed Hungry People
Donate extra food to food banks, soup kitchens and shelters

Feed Animals
Divert food scraps to animal feed

Industrial Uses
Provide waste oils for rendering and fuel conversion and food scraps for digestion to recover energy

Composting
Create a nutrient-rich soil amendment

Landfill/Incineration
Last resort to disposal

Least Preferred

Waste Not, Want Not
Feeding the Hungry and Reducing Solid Waste Through Food Recovery
Sustainable Management of Food: U.S. Wasted Food Profile

Source: Advancing Materials Management Facts and Figures 2013, EPA (June 2015)
Impacts of Wasted Food

Society

Environment

Economy
US 2030 Food Loss & Waste Reduction Goal

- On September 16, 2015, US EPA Deputy Administrator Meiburg and USDA Secretary Vilsack announced the United States’ first-ever national food waste reduction goal.
- Reduce wasted food by 50% by 2030.
Where is the Wasted Food?

- **Consumer 47%**
  - Plate Waste
  - Damage
  - Expired/Spoiled

- **Foodservice 48%**
  - Plate Waste
  - Over Prep
  - Expired/Spoiled

- Residential: 34,740
- Full-Service Restaurants: 15,851
- Industrial: 2,411
- Quick-Service Restaurants: 10,780
- Grocery Stores: 1,664
- Institutional: 8,000

In one month, a family of 4 wastes ...

- Grains: 18.5 pounds
- Fresh fruit and vegetables: 24 pounds
- Processed fruit and vegetables: 10.5 pounds
- Fluid milk: 22 pounds
- Meat and fish: 10.4 pounds
- Sweeteners: 15 pounds
- Fats and oils: 8.6 pounds
- Other food (includes eggs; peanuts; tree nuts; dry beans, peas and lentils; dairy other than fluid milk): 12.8 pounds

Image credit: Bill Marsh and Kari Haskell/The New York Times; Photograph by Tony Cenicola/The New York Times
National Picture of Organics Policy
Development of Best Management Practices (BMPs)

- Generator focused guidance
- Stakeholder Process in 2015
Best Management Practice Guidelines

- Trends
- Consensus
- Guidance for business
- Resource for Health Agents
Donating Food: Primary Areas of Focus

- Food Safety
- Food Labeling
- Food Storage
- Food Transportation
- Relationship and Partnership Building

Image courtesy of Food For Free
Food Safety

Food for consumption
  • Vulnerable populations
  • Cull food

Food handled in accordance with the retail food code

Image courtesy of Food For Free
Food Labeling

• Generic allergen labeling for prepared food
• Past date food separated and marked
• Perishable and semi-perishable
Food Storage

• Food-grade packaging
• Covered containers/wrapping
• Maintain Time/Temp logs
Food Transportation

• Maintain transportation logs
• Ensure food arrives in the same condition it departs
• Danger zone >2 hr
Relationship and Partnership Building

• Develop a trust-based relationship
• Have written procedures
  • What types of food
  • How much food
  • Pickup frequency
• Share documentation (e.g. ServSafe)

Image courtesy of Katy Jordan/Lovin’ Spoonfuls
Food Donation Guidelines on RecyclingWorks

The RecyclingWorks in Massachusetts program has worked with state and local health officials, food rescue organizations, food banks, and organizations with established food donation programs to develop this Food Donation guidance document by holding three stakeholder meetings across the state in Springfield (March 25, 2015), Worcester (April 9, 2015) and Boston (April 29, 2015). The information gained from the meetings was used to create this guidance document.

The US EPA’s Food Recovery Hierarchy ranks feeding hungry people near the top of its priorities as a strategy to reduce wasted food. Businesses should consider how each strategy on the EPA Hierarchy can contribute to a comprehensive food waste reduction plan.

This document is intended to provide guidance to organizations interested in establishing Food Donation programs by offering a broad overview of how successful food donation programs should be structured. In order to have a successful food donation

http://recyclingworksma.com/donate/
Legal Fact Sheet for Massachusetts Food Donation: Liability Protections - July 2012

Businesses and nonprofits that provide or receive donated food generally are well protected by laws designed to provide immunity from liability related to such donations. The federal Good Samaritan Food Donation Act provides liability protections for food donors, and Massachusetts’ Good Samaritan law provides additional liability protections for businesses in the state.

The Emerson: Good Samaritan Act

The Bill Emerson Good Samaritan Food Donation Act (the Emerson Act) provides a federal baseline of protection for food donors. The Emerson Act creates individual, business, and nonprofit organizations, and the owners of businesses and nonprofit organizations. It also creates exemptions—individuals, that have donated food, from strict liability for food damage. These individuals and businesses are protected as long as they donate qualifying types of food to qualified recipients.

Legal Fact:

Sheets:

• Liability Protections
• Date Labeling
• Tax Incentives
• Feeding Food Scraps to Livestock

The Emerson Act provides two unique protections of donated food in order to reduce potential for liability for the donation of food.

1. The Emerson Act is considered a non-profit organization.
2. The nonprofit organization that receives the donated food distributes it to needy populations.
3. The ultimate recipient of the food is protected from liability for the food.

Each of these requirements must be satisfied in order to qualify for the protection. If not satisfied, the donor or recipient has no protection from liability.

Gross Negligence involves “voluntary and conscious conduct (including failure to act)” by a person or organization that knew that the donated food was likely to have harmful health impacts.

http://www.recyclingworksma.com/donate
About FLPC

• Serve clients
• Train students
• 4 Main Policy Areas:
  • Community Empowerment
  • Sustainable Food Production
  • Food Access & Obesity Prevention
  • Reducing Food Waste

Learn more at http://www.chlpi.org/flpc
FLPC Fact Sheet: Liability Protections

• Federal Law
  • Bill Emerson Good Samaritan Act (42 U.S.C. § 1791)
    • Provides liability protection for individuals, businesses and non-profits that make qualifying donations
  • Qualifying Donations:
    • Donated to a non-profit
    • Donated food is distributed to needy populations
    • Recipients of food are not charged

• Rhode Island Law
  • Provides civil and criminal liability protection to individuals, businesses, and organizations that make qualifying donations:
    • Qualifying donations:
      • Donated to charitable or non-profit organization
      • Food is maintained at a safe temperature and fit for human consumption
      • Recipients of food are not charged
FLPC Fact Sheet: Date Labeling

• Federal Law
  • No federal laws regulating date labeling with the exception of infant formula

• Rhode Island Law
  • Requires date labels on shellfish and prepackaged bakery products.
    • Shucked shellfish
      • < 64 ounces must include a “Sell By” or “Best if Used By” label
    • Raw Shucked Shellfish
      • < 1.89 liters must include a “Sell By” date label
      • > 1.89 liters must include the date shucked
    • Rhode Island does not explicitly prohibit the sale or donation of shellfish that is past-date.
  • Prepackaged Bakery Products
    • Must be labeled with a “pull date”
    • If past date may be sold or donated if:
      • Separated from foods that are not past date; and
      • Clearly labeled as past date
FLPC Fact Sheet: Tax Incentives

Federal Enhanced Deduction for Food Donations

• **Eligible Businesses**
  • Tax incentives changed at the end of 2015, making enhanced deductions for food donations permanent for *all* businesses
  • All businesses are now eligible for an enhanced tax deduction under 170(e)(3) of the Internal Revenue Code, up to 15% of taxable income

• **Eligible donations**
  • Food donated to a 501(c)(3) nonprofit
  • Given away for free
  • Nonprofit must give the donor a written statement about the donation

• Businesses/donations not eligible for the enhanced deduction may be eligible for a general deduction

• Rhode Island does not have state-level tax incentives for food donations
FLPC Fact Sheet: Feeding Food Scraps to Livestock

• Federal Laws
  • Food scraps can generally be fed to animals so long as:
    • Food scraps containing meat or animal by-products are heat-treated; and
    • Food scraps containing mammalian protein are not feed to ruminant animals

• Rhode Island Law
  • Allows the feeding of animal-derived and vegetable food scraps to if:
    • A permit has been obtained; and
    • The food waste has been heat-treated
  • These requirements only apply if feeding more than 4 swine

  • Individuals may feed household food scraps to their own swine without conducting heat-treatment it and without obtaining a permit.

• Find out more about feeding food scraps to animals in *Leftovers for Livestock: A Legal Guide for Using Excess Food as Animal Feed*
CONNECTIONS IN RHODE ISLAND

• RI Food Policy Council
• Food Systems Plan
• Johnson and Wales University
• RI Organics Ban
• RI Department of Health
Food Recovery Challenge

Changing how we think about our resources today for our children’s tomorrow