

---

# Can Congress cut food waste? It depends on the success of this bill

By [Cody Boteler](#) | [@codyboteler](#) | Aug. 14, 2017

For decades, the federal government has regulated how landfills operate, how air and water are protected and how dangerous sites are cleaned up. However, the federal government has yet to implement a national policy on how to handle food waste.

The lack of federal guidance on food waste has left the U.S. with a patchwork of food waste solutions, with some states, like New Jersey, pursuing ambitious food waste goals — while others seem to all but ignore the issue. Now with the introduction of the Food Recovery Act (H.R. 3444), a vision of what could become the first national food waste policy is taking shape. A similar measure was introduced in 2015, but did not make it out of committee.

Rep. Chellie Pingree introduced the legislation at the end of June, and it has been referred to half a dozen House committees. Sen. Richard Blumenthal introduced the same legislation in the Senate a few days later. While some time may pass before either measure comes to a vote — especially since Congress is now in recess — even a trimmed-down version of the introduced measures would have wide-ranging implications for how the U.S. handles food waste. Featured here is a breakdown of some of the impacts of the legislation, if enacted into law.

## Implications for anaerobic digestion (AD)

One of the biggest implications from the bill is the new requirements it would put on anyone seeking a grant or a loan from the federal government to install an anaerobic digester. In order to qualify for the loan or grant, the AD operator would have to submit two items to the Department of Agriculture: a written agreement to adhere to the Environmental Protection Agency's (EPA) food recovery hierarchy and a written plan on what to do with the digestate that's left behind after biogas is produced from AD.

The law would also prohibit the Department of Agriculture from issuing loans to AD operations that use only manure, and require the department to give preference to AD operations that use "primarily" food waste. This requirement could prove to be a boon for energy production, as food scraps and other food waste have a much higher energy potential than manure from any animal.

## Implications for schools

Schools will be encouraged — though not required — to purchase "lower-price, nonstandard-size or -shape produce." Put more simply: Schools will be encouraged to purchase ugly food for their nutritional programs.

"Ugly food," which is largely made up of misshapen or slightly damaged produce, is just as healthy and safe as conventional-looking produce. However it often goes to waste on a retail-level because grocery stores don't want to stock it and turn off customers. By introducing ugly food in schools, the education system would not only help combat the food waste issue, but would also expose a younger generation to accepting and eating food that may look unconventional.

## Implications for the private sector

Date labels, a [longtime bane of food waste advocates](#), would finally be standardized on the federal level. Under the legislation, if a labeler wants to include a "quality" label, they must use the phrase "BEST if Used By." Any food that could expire, or would otherwise require a safety label, will need to have the phrase "USE By." This mandated distinction will, ideally, lead to fewer consumers tossing out food if they're unsure whether it's safe to consume. An optional "Freeze By" label would also be permissible.

The [Bill Emerson Good Samaritan Food Donation Act](#) would be lightly amended to further protect those whom food is being donated to. The law would be amended to specify that "apparently fit" grocery products and "apparently wholesome" food meet "safety and safety-related" standards, not just "quality and labeling" standards as the law currently reads. It would also become easier to donate food. The passage of the date on a date label would be codified as not being a barrier to legal protection after donating food.

## Implications for the federal government

The Food Recovery Act of 2017 would change the way that the Dept. of Agriculture doles out loans and grants. For example, the Department would be required to reserve 5% of the funds made available under the [Consolidated Farm and Rural Development Act](#) for loans for municipal or county AD or composting projects. The department would also reserve \$50 million (half in loans, half in grants) for waste disposal facilities to incorporate AD operations — upping the chances that localities could begin pursuing AD projects to handle waste and generate revenue.

The Department will be required to conduct a study on developing technologies to increase the amount of time that food can sit on shelves before going bad. Officials will also be required to measure how much food is produced that is not harvested or does not make it to market each year, and present those findings with recommendations on decreasing overall food waste.

In addition to establishing a "food recovery liaison" and starting nationwide campaigns on reducing food waste, executive agencies would be developed to donate excess food to nonprofits. [The Federal Food Donation Act of 2008](#) would be amended, simply, by replacing the word "encourage" with "require."

## Looking ahead

When lawmakers return to Washington after August recess, it's hard to say whether this bill will be considered a priority — and not everyone is entirely optimistic.

"It will likely be difficult for [the bill] to garner meaningful Republican support in this Congress," said Solid Waste Association of North America (SWANA) CEO David Biderman in an email. "It is not likely to be a top legislative priority for the Republican leadership in the House or the Senate."

Whether it makes it to the House or Senate floor in its current, full form, supporters say that any kind of progress is a good thing. To food waste advocates, introducing the bill has brought the idea of food waste to the national stage. JoAnne Berkenkamp, senior advocate at the Natural Resources Defense Council, said that introducing this bill was like putting a "stake in the ground, [and], as a country say[ing], 'Hey, this matters.'"

"We're very encouraged to see this legislation introduced. It provides a common sense road map for tackling food waste in the United States. There are elements, like food date labeling that could stand on their own or be picked up [in other legislation]," Berkenkamp said in an interview with Waste Dive. "The introduction of the bill is a really important step, and the content of the bill is really strong."

Follow Cody Boteler on [Twitter](#)