



N A S H V I L L E

F   D

W A S T E

I N I T I A T I V E

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Scaling China's Waste Mountains:
Potential Governance Reforms to
Address Solid and Hazardous Waste

ELI 50th Anniversary Seminar

March 27, 2019

A photograph of a plate of food on a dark wooden table. The plate is divided into sections containing green salad, quinoa, bread, hard-boiled eggs, potatoes, and a dark vegetable. A blue semi-transparent overlay covers the left side of the plate, with white text overlaid on it. A silver fork is on the left and a silver knife is on the right of the plate. A glass of water is visible in the background.

Up to
40%
of all food in the U.S.
goes uneaten

Source: NRDC, Wasted 2017, with data from USDA, EPA, NIH, ReFED, and UNFAO

Image Source: trijandjs

Food waste has **serious resource impacts**



21% OF U.S. WATER USE



19% OF CROPLAND



37M CARS-WORTH OF GHGS



18% OF FERTILIZER



19% LANDFILL VOLUME



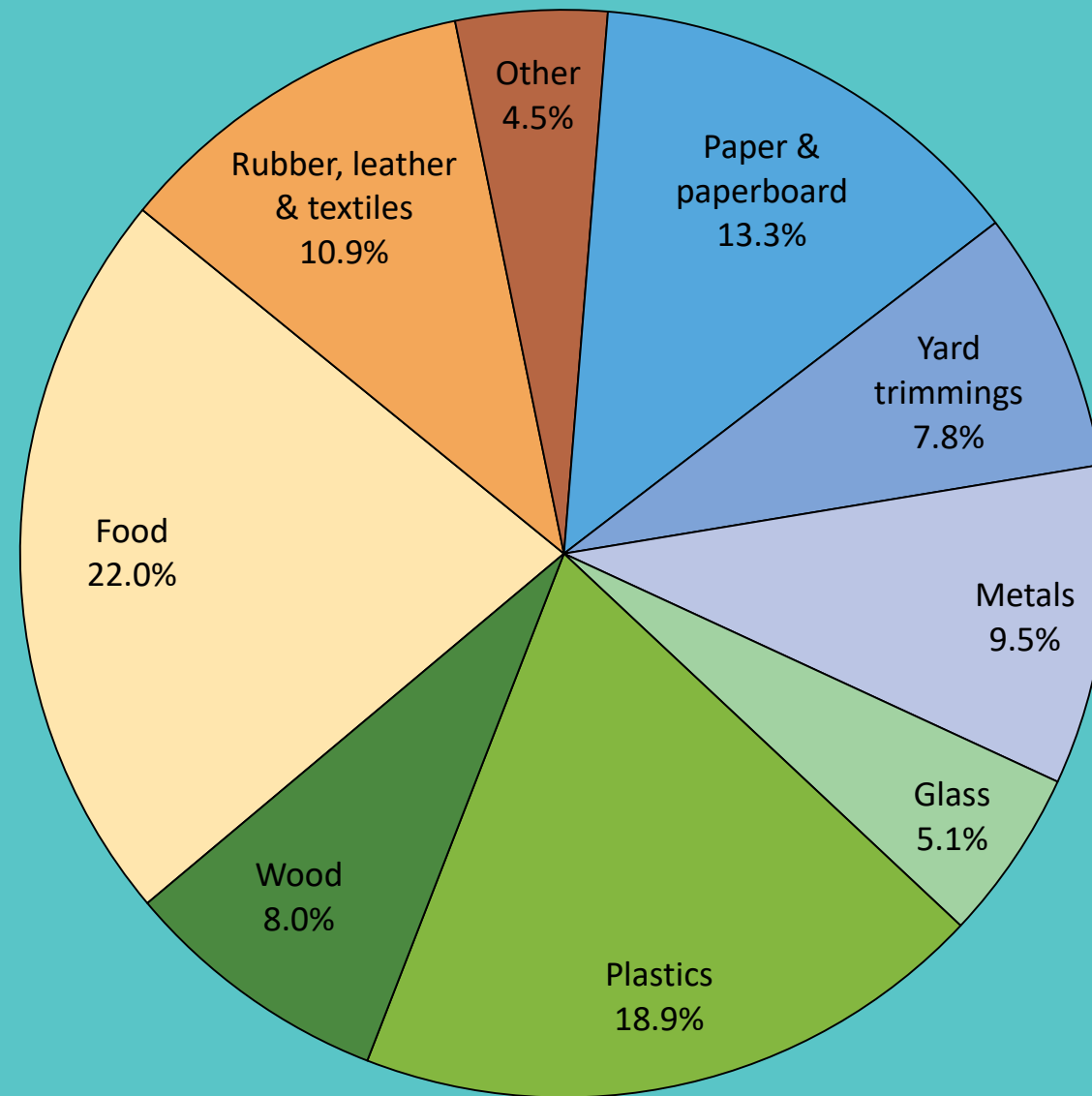
95%

of food waste goes to
landfills or incinerators

*Source: EPA, Advancing
Sustainable Materials
Management: 2015 Fact Sheet*

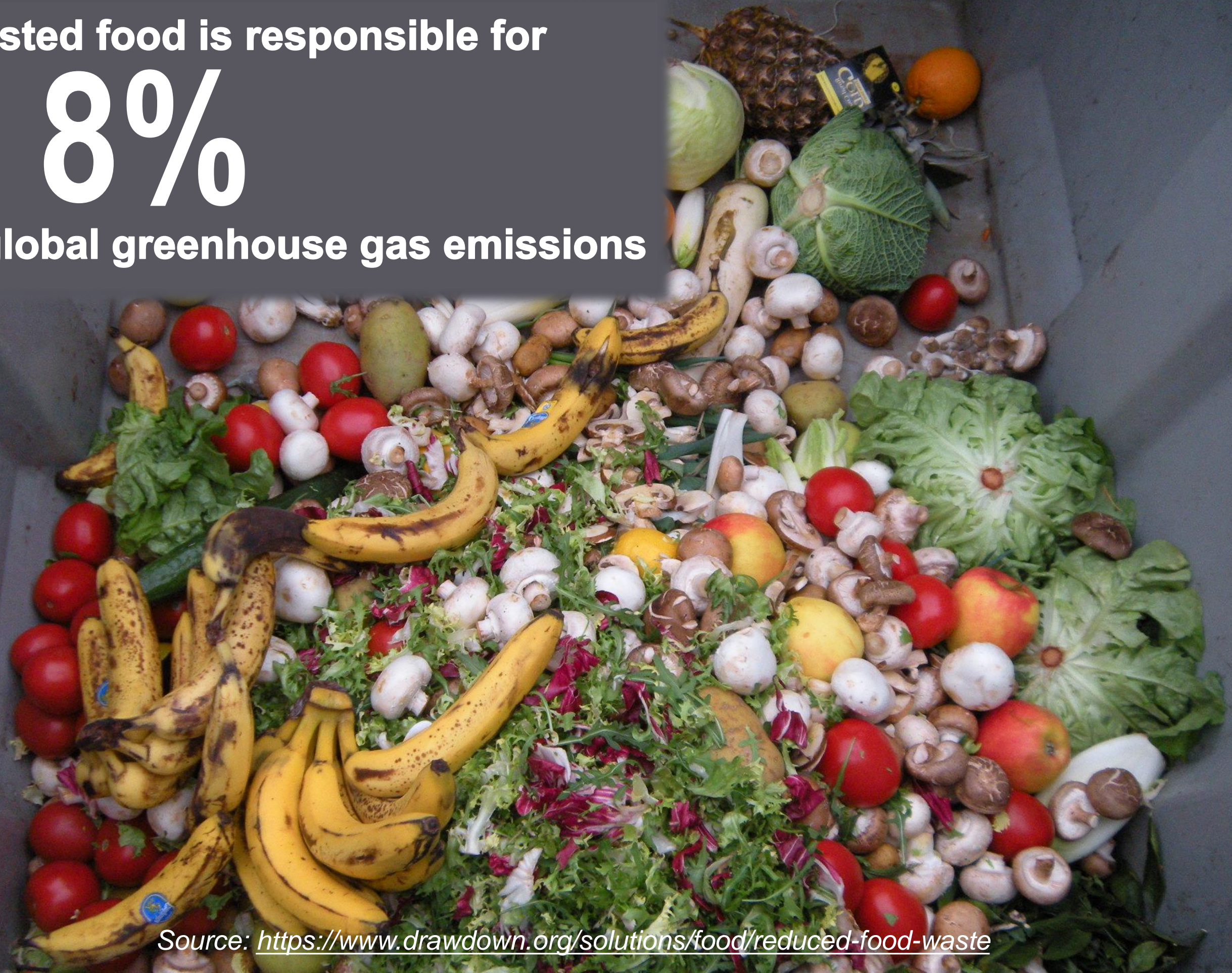
Food Waste as a Landfill Component

Composition of municipal solid waste landfills in the United States, 2015



Source: EPA, *Advancing Sustainable Materials Management: 2015 Fact Sheet*

Wasted food is responsible for
8%
of global greenhouse gas emissions

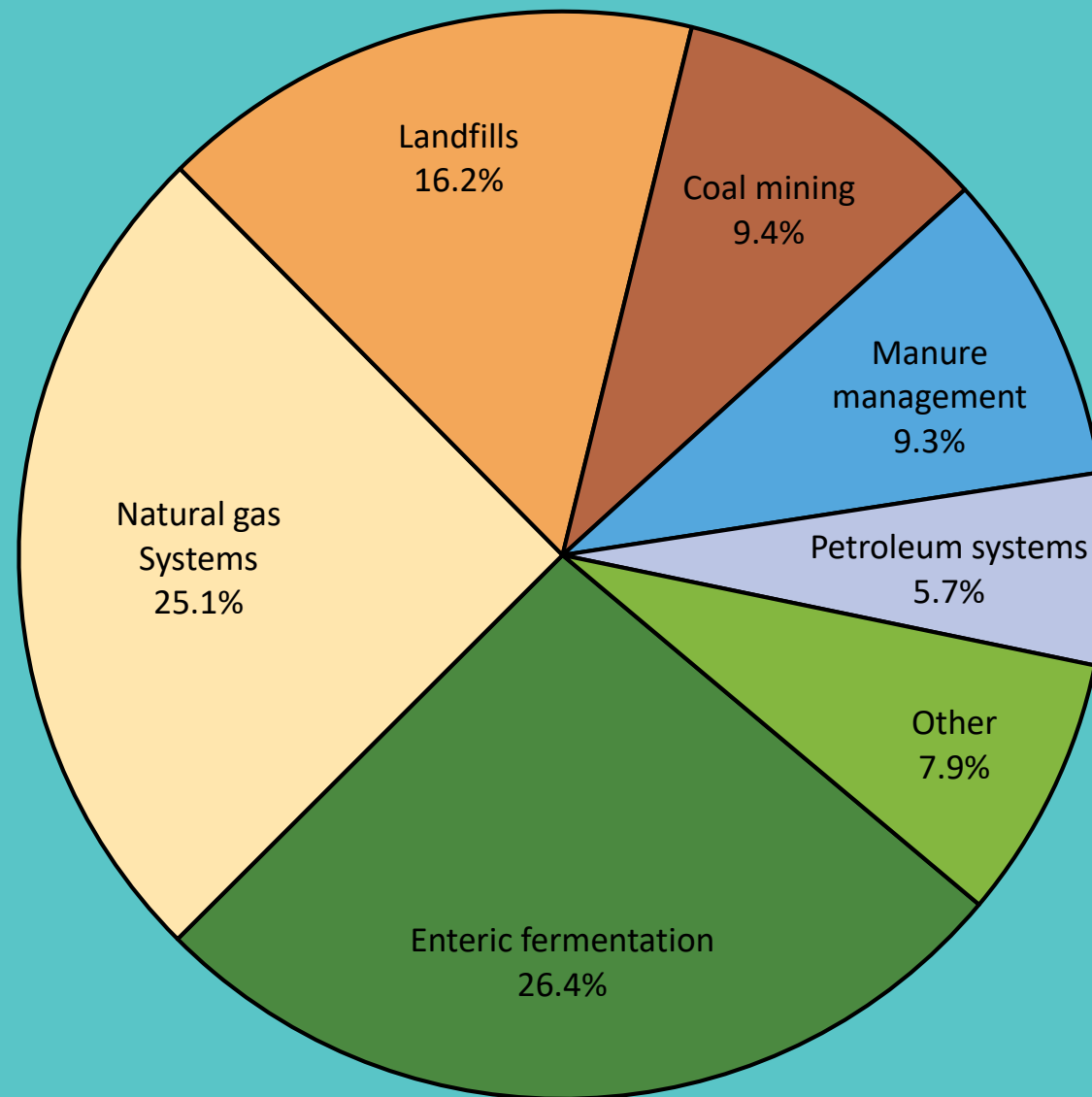


Source: <https://www.drawdown.org/solutions/food/reduced-food-waste>


Image: https://commons.wikimedia.org/wiki/File:Trashed_vegetables_in_Luxembourg.jpeg

Food Waste as a Source of Greenhouse Gases

Sources of CH₄ (methane) emissions in the United States, 2017



Source: EPA, Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2017

A close-up photograph of a young girl with dark, curly hair, looking slightly to the right. She is holding a bright red cherry tomato in her mouth with her right hand. The background is a soft-focus outdoor setting with green foliage and a grey wall. A decorative white dashed line runs horizontally across the top of the image.

Reduce losses by **30 percent**

**FEED 42 MILLION
AMERICANS**

Source: NRDC, Wasted 2017, with data from USDA

\$218

billion

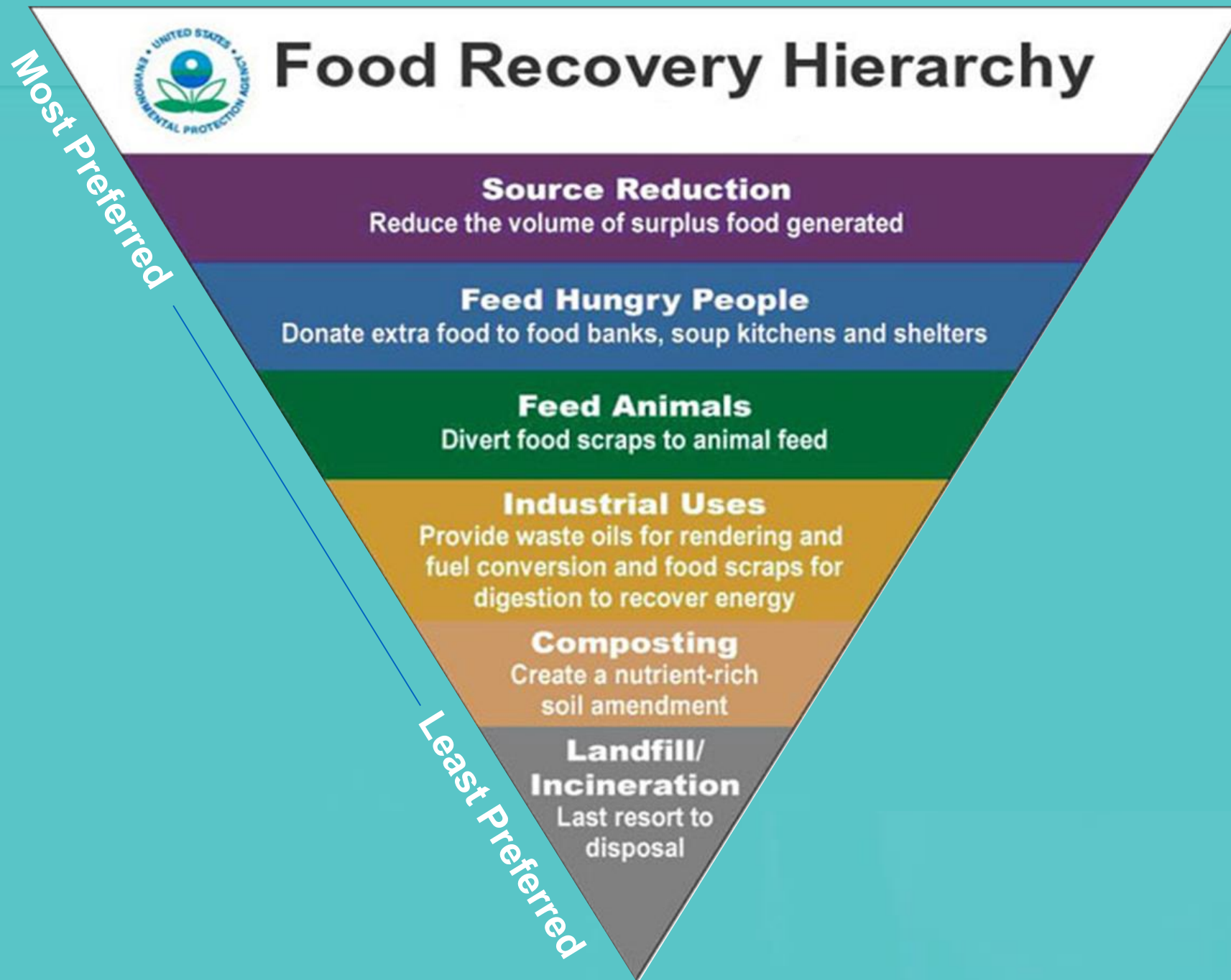


\$1800

for the average
family of four

Source: NRDC, Wasted 2017; ReFED

Prioritizing Action: Measure and...



Federal Initiatives

Obama Administration:
US Food Loss and Waste Reduction Goal (2015)



Reduce
food waste by

50%

by 2030

Implemented through a suite of
voluntary EPA and USDA programs

Federal Initiatives (continued)

Trump Administration: Winning on Reducing Food Waste (2018)

- Joint agency formal agreement signed by USDA, EPA and FDA for improved coordination and communication across federal agencies
- Engage businesses and educate consumers



Enhanced Federal Tax Deduction for Food Donation

- In 1976, Congress amended the Tax Reform Act to give C-corporations an enhanced tax deduction for donations (including food donations) to charity
- In 2015, this deduction was expanded to all businesses

NASHVILLE FOOD WASTE INITIATIVE

A DONOR'S GUIDE TO THE ENHANCED FEDERAL TAX DEDUCTION FOR FOOD DONATION

This note provides a brief introduction, for taxpayers that are not C corporations, to the enhanced federal income tax deduction for businesses that donate food to a food bank or other charitable organization.

CAN MY BUSINESS BENEFIT?
Sole proprietorships, partnerships, S corporations, and limited liability companies (LLCs) can all benefit. If your business donates food to a charitable organization and expects to owe taxes in the following five years, you can potentially claim a deduction. To claim a deduction, your business must generate taxable income, and you must retain a donation record from the charitable organization.

HOW DO I CALCULATE MY DEDUCTION?
Your deduction is the lesser of:
i. your tax basis for the donated food (generally, your cost) plus one-half of the profit margin (fair market value minus the tax basis), or
ii. twice your tax basis.
Fair market value is your normal selling price—what you charge for food of the same type and quality. The food must be “apparently wholesome.”²

LET'S GO THROUGH THE CALCULATION:
1. **Determine your basis**—the amount it cost to produce the food you donated. Smaller businesses that don't use inventory tax accounting and aren't required to capitalize indirect costs can generally use 25 percent of the fair market value of the donated food as their basis.
2. **Subtract your basis from the fair market value** to find the amount of profit margin—meaning the profit you would have made from selling the food.
3. **Calculate your deduction.** Divide the profit margin in half and add the basis, or double the basis—the lesser of the two equals your deduction.

ARE THERE LIMITS TO HOW MUCH I CAN DEDUCT?
Yes. Your deduction cannot exceed 15 percent of your business' net income. Also, your charitable contributions cannot offset more than 50 percent of your adjusted gross income. If you donate food in excess of the 15 percent or 50 percent limits, you can carry the deduction over to each of the following five years. You will apply the 15 percent and 50 percent limits until the deduction is used up or five years expire.

HOW CAN I FIND MORE INFORMATION?
Download the free “Federal Enhanced Tax Deduction for Food Donation: A Legal Guide” by the Harvard Food Law & Policy Clinic and the University of Arkansas School of Law's Food Recovery Project.

This document is only a brief summary of the deduction. It does not seek to provide legal or tax advice and does not address C corporations. You should speak to your accountant or lawyer to learn more about the federal deduction.

EXAMPLE: A restaurant donates surplus entrees with a fair market value of \$100. The tax basis of these entrees was \$30. The expected profit margin is the fair market value minus the tax basis (\$100-\$30), which is \$70. Under the enhanced deduction, the restaurant is eligible to deduct the smaller of:
Tax basis X 2 = \$30 X 2 = \$60
or
Tax basis + (expected profit margin / 2) = \$30 + (\$70/2) = \$65
The enhanced deduction would be \$60. The enhanced deduction is substantially higher than the general deduction, which is limited to the tax basis of \$30.¹

¹ Federal Enhanced Tax Deduction for Food Donation: A Legal Guide, Harvard Food Law & Policy Clinic and the University of Arkansas School of Law's Food Recovery Project (2016), p. 4, available at <https://www.chlpi.org/wp-content/uploads/2013/12/Food-Donation-Fed-Tax-Guide-for-Pub-2.pdf>.
² The Emerson Act defines “apparently wholesome” donations as “food that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.” 42 U.S.C. § 1791(b)(2).

For more, see: <https://www.chlpi.org/wp-content/uploads/2013/12/Food-Donation-Fed-Tax-Guide-for-Pub-2.pdf>;
IRC 170(e)(3)(c)

Food Waste Reduction in the 2018 Farm Bill

- Expanded liability protections for food donation
- Funding for pilot projects for composting and food reduction plans in 10 states
- Funding for states to expand food recovery and redistribution
- Creation of a Food Loss and Waste Liaison within USDA

For more information:

CHLPI: <https://www.chlpi.org/2018-farm-bill-includes-major-food-waste-reduction-provisions-including-several-flpc-recommendations/>

State Food Waste Laws and Policies

- Organic waste bans (5 states)
- Tax incentives for food donation (10 states)
- Liability protection for food donation (24 states)
- Date labels:
 - Seven states have no date label regulations
 - 23 states require date labels on certain foods, but allow sales after those dates
 - 20 states require date labels on certain foods and prohibit sales after those dates

For more information: <https://www.refed.com/tools/food-waste-policy-finder/>

Examples of Local Food Waste Policies

- Organic waste bans/mandatory recycling
 - Austin, Boulder, New York, Portland, San Francisco, Seattle
 - Vary by factors such as types of generators covered and waste production threshold
- Procurement policies requiring purchase of compost products
- Pay-as-you-throw pricing policies
- Public education

For more information:

EPA: <https://www.epa.gov/transforming-waste-tool/managing-and-transforming-waste-streams-tool>

ILSR: <https://ilsr.org/composting-rules-library/>

Key Factors for Cities

- Food Insecurity
 - Over 100,000 people (including 25,000 children) are food-insecure in Nashville
- Waste Management:
 - About 20 percent of waste in landfills is food/Nashville's primary MSW landfill expected to close in about 6 years
- Climate Mitigation
 - Nashville Mayor's pledge to reduce City's carbon footprint

Nashville Food Waste Initiative: A Holistic Food Waste Strategy for Nashville

A pilot program of the Natural Resources Defense Council exploring efforts to fight food waste at the municipal level by:

- Working with key community stakeholders and institutions
- Building on existing policies, partnerships, and community assets
- Prioritizing actions in line with EPA hierarchy



NFWI Projects

- **Measuring and Preventing Food Waste**
 - Commercial and residential food waste assessment
 - **Leanpath pilot with key business partners**
 - Farm Survey
 - **Food recovery gap analysis**

- **Recuing Surplus Food**
 - **Landscape Analysis of Prepared Food Rescue**
 - Matchmaking
 - Packaging Pilot and Best Practices Research
 - Educational Materials

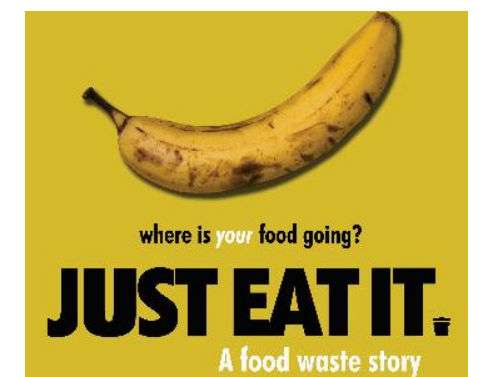
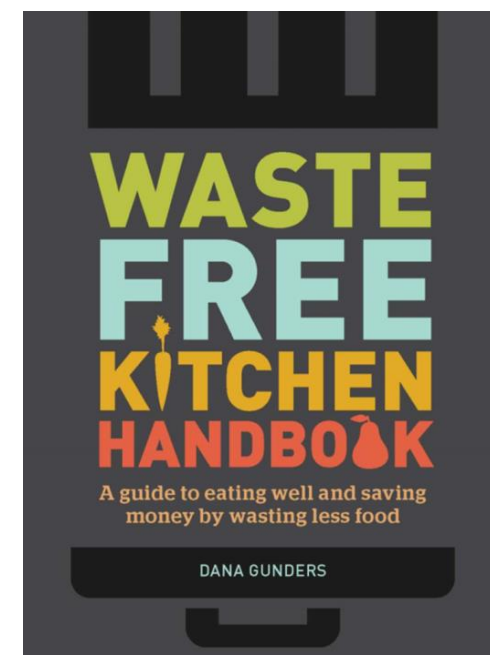
NFWI Projects

■ Recycling Food Scraps

- **Metro's Solid Waste Master Plan Task Force**
- **Landscape Analysis of Industrial, Commercial, and Institutional Food Scrap Recycling in Nashville**
- Convening on increasing food scrap recycling capacity
- Matchmaking efforts
- Anaerobic digester project advice

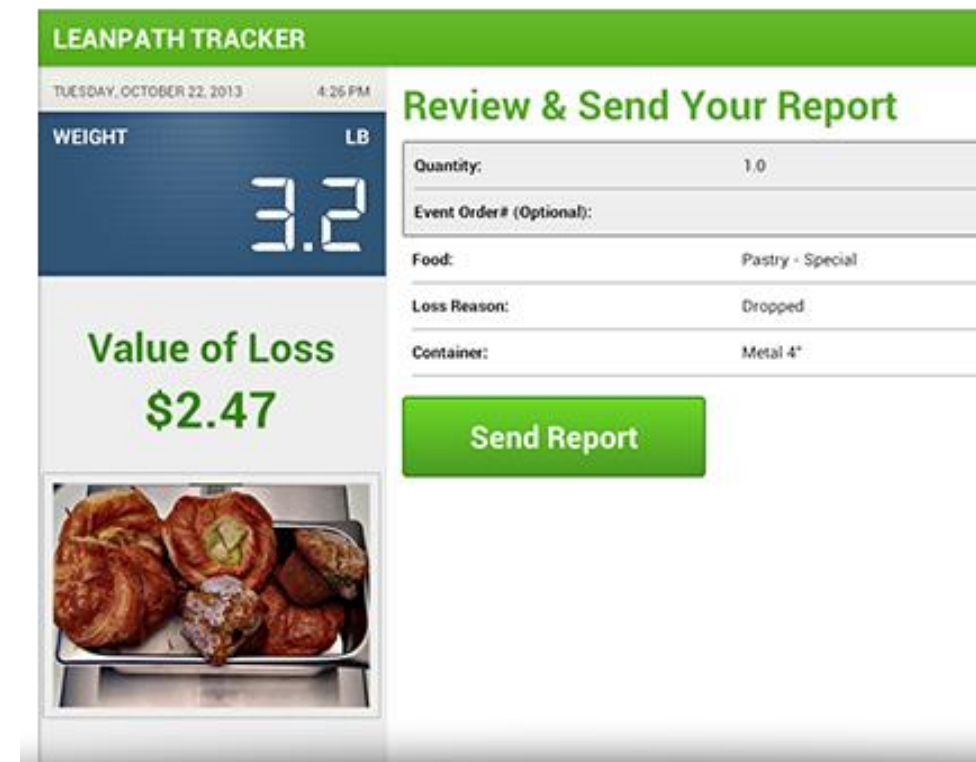
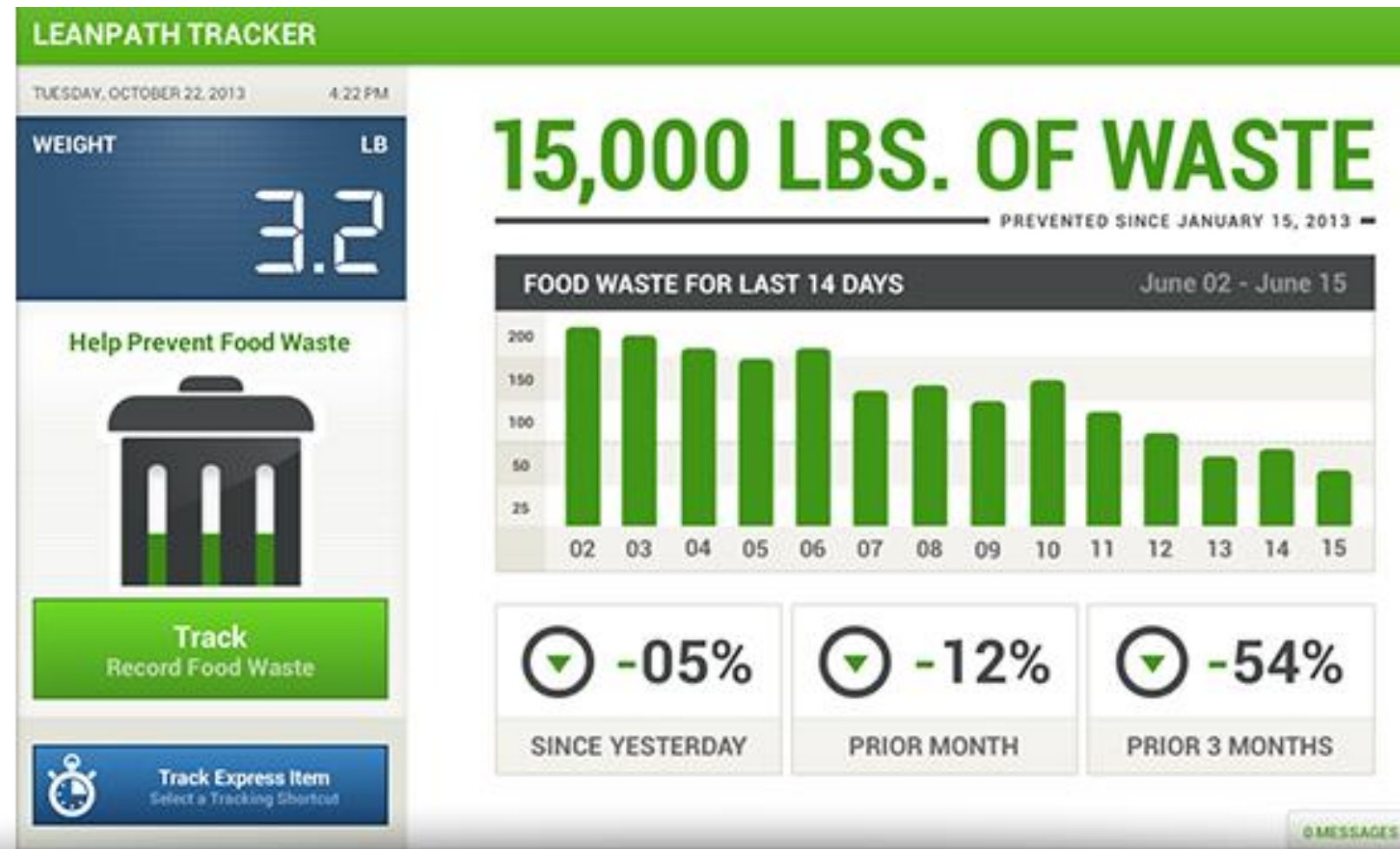
■ Community Education and Engagement

- Mayor's Livable Nashville Committee
- **Mayor's Food Saver Challenge**
- **Ad Council campaign with NRDC**
- Film events and panel discussions



Leanpath Software Pilot:

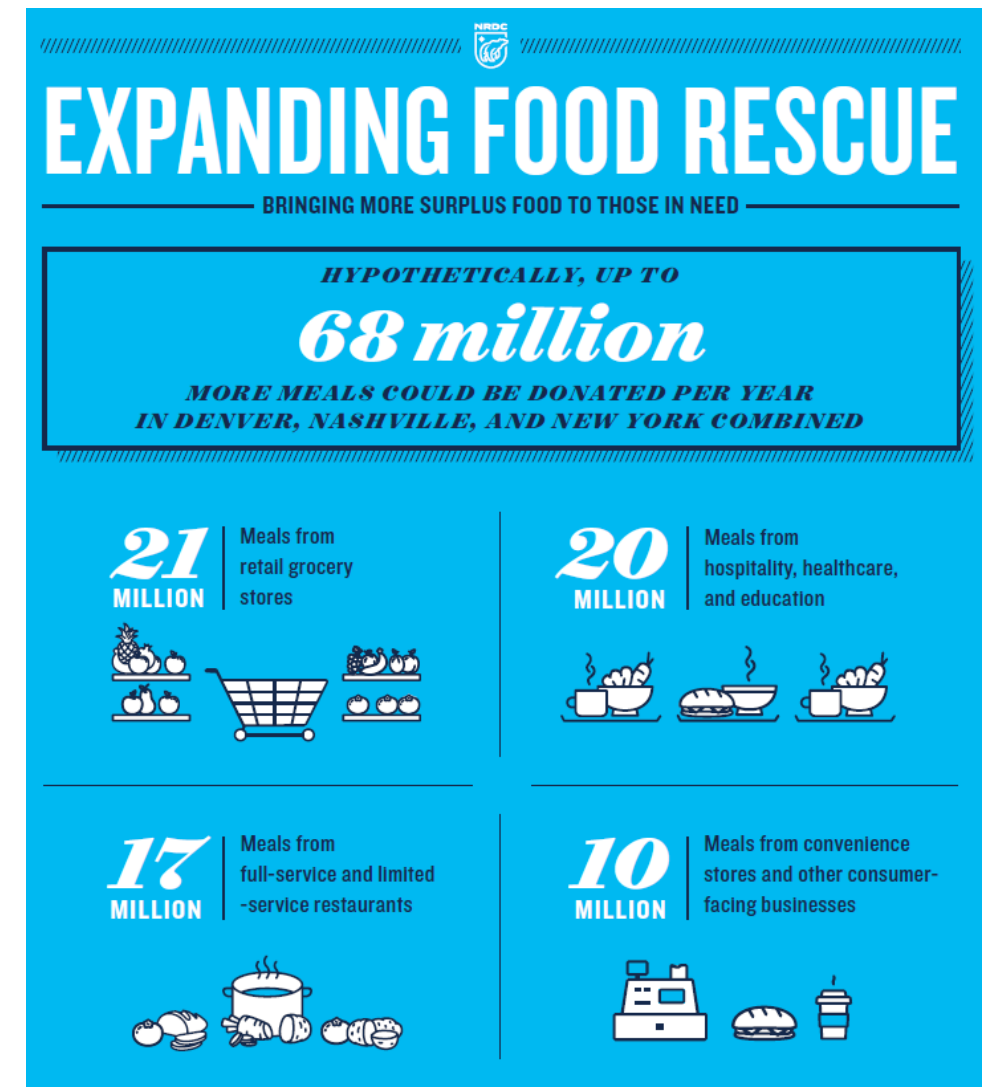
- Tennessee State University (Sodexo)
- Belmont University (Aramark)
- Vanderbilt University (self-operated)



Photos: www.leanpath.com/how-it-works/

NRDC's Food Recovery Gap Analysis

- 15.6% of Nashvillians are food insecure
- Meal Gap: 19.3 million meals/year
- 45% of need met by current donations
- **Remaining gap of 10 million meals/year**
- Additional 48% of meal gap could be met under “maximum” scenario—nearly closing Nashville’s meal gap



Source: Feeding America, Map the Meal Gap; NRDC, Modeling the Potential to Increase Food Rescue: Denver, New York City, and Nashville

Surplus Food Rescue: Prepared Food Rescue Landscape Analysis

- Investigated barriers and opportunities to increased prepared food rescue in Nashville
- Key findings include:
 - Last mile organizations and donors have diverse needs and objectives, making intelligent matchmaking crucial
 - Lack of knowledge about liability protections and tax incentives is widespread
 - Lack of storage, transportation and packaging are key impediments



Photo: Kid-Friendly Nashville

Nashville Food Rescue Landscape Analysis

Emmett McKinney
JoAnne Berkenkamp
Linda Breggin

Nashville Food Waste Initiative

Surplus Food Rescue: Educational Materials



Legal Fact Sheet: The Bill Emerson Good Samaritan Food Donation Act

Businesses and nonprofits that provide or receive donated food are generally well-protected by laws designed to provide immunity from liability related to food donations. The Bill Emerson Good Samaritan Food Donation Act (the Emerson Act) provides a federal baseline of protection for food donors.¹ The Emerson Act covers individuals, businesses, nonprofit organizations, the officers of businesses and nonprofit organizations, and gleaners—individuals that harvest donated agricultural crops to a nonprofit organization that distributes the food to the needy.²

The Emerson Act protections apply so long as the following criteria are met:

- 1) **Donation Recipient:** The donor must donate to a nonprofit organization that distributes the donated food to needy populations.³ Direct donations from the donor to needy individuals do not seem to be protected by the Act.⁴
- 2) **Good Faith:** The donations must be made in good faith.⁵
- 3) **Qualifying Foods:** The donor must donate qualifying foods, unless specific reconditioning steps have been taken.⁶ Qualifying foods are those that meet "all quality and labeling standards imposed by Federal, State, and local laws and regulations," even if they are not "readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions."⁷ State and local quality and labeling laws vary, and donors should be aware of requirements specific to their state or locality since the Emerson Act does not protect donations that are not in compliance with those laws.⁸
 - o **Exception for Non-Qualifying Food:** If a food does not meet all applicable federal, state, and local standards, the donor can still be protected by the Emerson Act as long as (s)he follows all of the Act's reconditioning procedures,⁹ which include:
 - The donor informs the nonprofit of the nonconforming nature of the product;¹⁰
 - The nonprofit agrees to recondition the item so that it is compliant;¹¹ and
 - The nonprofit knows the standards for reconditioning the item.¹²
- 4) **No Charge for Food:** The ultimate recipients cannot pay for the donated food.¹³ However, if one nonprofit donates food to another nonprofit for distribution, the Act allows the first nonprofit to charge the distributing nonprofit a nominal fee to cover handling and processing costs.¹⁴

What Types of Donations are not Covered by the Emerson Act: So long as the above criteria are met, the Emerson Act is quite protective of donors, and does not hold a donor liable unless the donor acts with gross negligence or intentional misconduct.¹⁵

- **Gross Negligence** involves "voluntary and conscious conduct (including a failure to act)" by a person or organization that knew when the donation was made that the donated food was likely to have harmful health impacts.¹⁶
- **Intentional Misconduct** is when a person or organization donates "with knowledge . . . that the conduct is harmful to the health or well-being of another person."^{17,18}

In other words, one should not donate or facilitate the distribution of donated food that one knows is likely to be harmful or dangerous. Unfortunately, the Act gives little guidance on what activities qualify as gross negligence or intentional misconduct. However, the House of Representatives Report associated with the Emerson Act has indicated that each case must be analyzed individually, and that, for example, donating food past the sell-by date generally will be protected because such labeling is not federally required and generally does not correspond to

Food Donation Guidelines for Licensed Food Facilities

Save food and help people in need

Metro Public Health Dept
Nashville / Davidson County
Protecting, Improving, and Sustaining Health

For more food safety information, please visit:
Metro Public Health Department
www.nashville.gov/Health-Department.aspx

NASHVILLE
FOOD WASTE INITIATIVE

Food Scrap Recycling: Metro's Zero Waste Master Plan Task Force

- Kickoff meeting held June 2017
- Draft plan expected April 2019

DAVIDSON COUNTY
Long-Term Solid Waste Master Plan

Solid Waste Master Plan

Priorities

1. Reach zero waste-defined as 90% diversion from landfill disposal
2. Increase recycling, food waste reduction and recovery, and composting programs throughout Davidson County
3. Adopt recycling and recovery programs targeted towards the growing construction and demolition waste stream
4. Strengthen public education and outreach programs



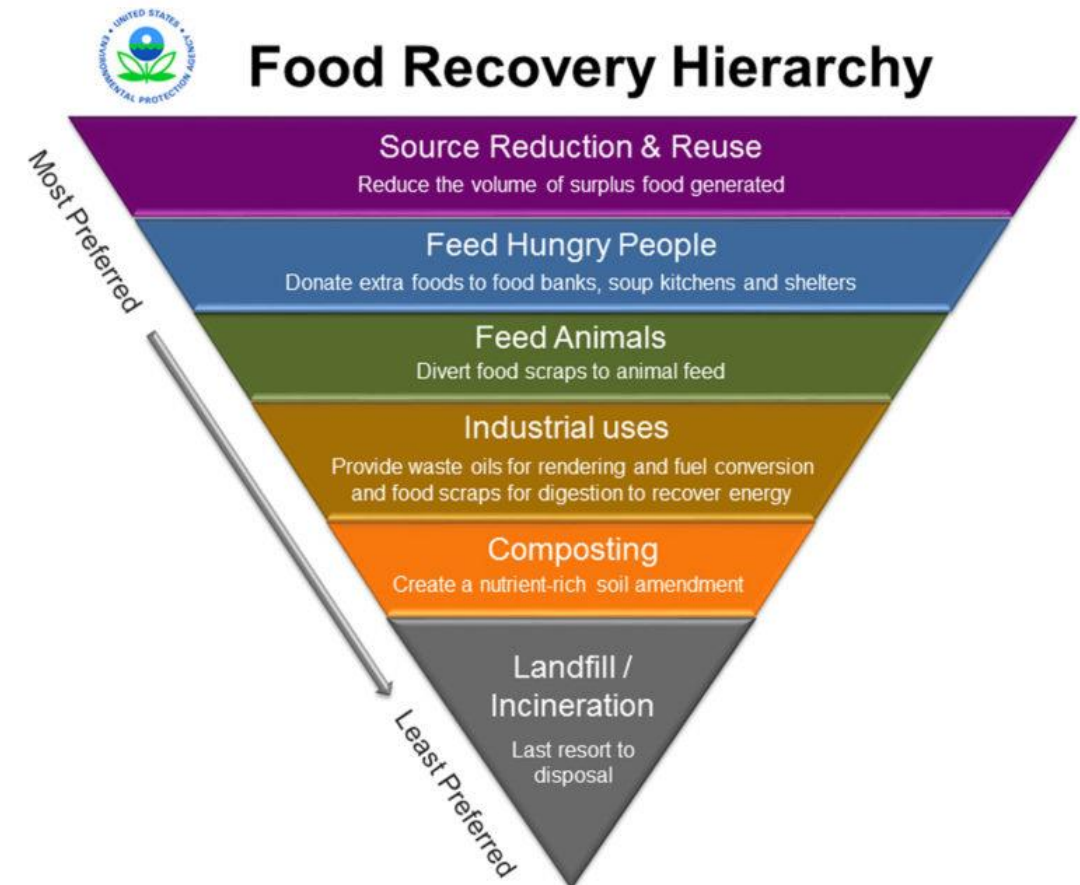
Food Scrap Recycling: Landscape Analysis

Goals:

- Research opportunities and barriers to expanding food scrap recycling infrastructure in Nashville
- Evaluate barriers and opportunities for increased recycling of food scraps

Method:

- Conduct background research
- Convene stakeholders
- Conduct interviews and survey
- Prepare report
- Re-convene stakeholders



Community Engagement: Mayor's Food Saver Challenges

Hospitality Sector:

- Launched as a 30-day pilot in early 2017
- Relunched on an ongoing basis in November 2018
- 40 participating businesses
- Partnership with industry (nashvillefoodsaver.com)

Retailers:

- Ongoing
- Kroger's Zero Hunger/Zero Waste campaign



The logo consists of the text "SAVE THE FOOD.COM" in a white, pixelated, monospace-style font, centered on a solid black rectangular background.

SAVE THE FOOD.COM

Available for free online:

- TV ads
- Videos for web and other applications
- Out-of-home: billboards, bus stops, trucks
- Print
- Social media
- Interactive website with consumer resources



BEST IF USED.



40% OF FOOD IN AMERICA IS WASTED

COOK IT, STORE IT, SHARE IT.

SAVETHEFOOD.COM



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NRDC