

**Conference for Food Protection
2020 Issue Form**

Issue: 2020 II-015

Council Recommendation: Accepted as Submitted _____ Accepted as Amended _____ No Action _____

Delegate Action: Accepted _____ Rejected _____

All information above the line is for conference use only.

Issue History:

This is a brand new Issue.

Title:

AC #5 - Amend Food Code for Written Notification of Major Food Allergens

Issue you would like the Conference to consider:

Amend the Food Code to add a new Paragraph to 3-602.12 to require the PERMIT HOLDER to notify CONSUMERS of the presence of MAJOR FOOD ALLERGENS as ingredients in unpackaged FOOD items using brochures, deli case or menu notifications, label statements, table tents, placards, or other effective written means.

Public Health Significance:

Each year, millions of Americans have allergic reactions to food. Although most food allergies cause relatively mild symptoms some food allergies can cause severe reactions that are life-threatening. There is no cure for food allergies. Strict avoidance of food allergens and early recognition and management of allergic reactions to food are important measures to prevent serious health consequences.

Food allergies are a significant and emerging public health concern and impact approximately 15 million Americans, including 5.9 million children under the age of 18. That's 1 in 13 children or roughly two in every classroom. Economically, the eight (8) food allergens cost US families 25 billion dollars annually. In addition, tax funded local, state and federal food safety agencies are forced to respond to what can be a preventable food safety/poisoning-type exposure. It also should be noted that a food allergy is an impairment that limits a major life activity and may qualify an individual for protection under the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973.

The Centers for Disease Control & Prevention reports that the prevalence of food allergies in children increased by 50 percent between 1997 and 2011. Given there is no cure for food allergies, public health prevention measures remain the best method to reduce the number of anaphylactic reactions that result in the following:

- Every three minutes, a food allergy reaction sends someone to the emergency room.¹

- Each year in the U.S., 200,000 people require emergency medical care for allergic reactions to food.²
- Pediatric hospitalizations for food allergies tripled between the late 1990s and the mid - 2000s. Between 2004 and 2006, an average of 9,500 children received in - patient hospital care for food allergies each year.³
- About 40 percent of children with food allergies have experienced a severe allergic reaction such as anaphylaxis.?
- Each year, roughly 30,000 individuals require emergency room treatment and 150 individuals die because of allergic reactions to food.?

The Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282, Title II) (FALCPA) improved food labeling information for the millions of consumers who suffer from food allergies. The Act is especially helpful to children who must learn to recognize the allergens they must avoid.

Furthermore, according to the Food Allergen Labeling and Consumer Protect Act (FALCPA) the eight major allergens must be declared in simple terms either in the ingredient list or via a separate allergen statement. However, FALCPA does not regulate the use of advisory/precautionary labeling (e.g., "may contain," "made in a facility that also processes").?

Consumers with food allergies depend on allergen information that is made available on labels and menus (or "notifications") when making a purchasing decision. In a recent survey of 788 food-allergic consumers and family members, respondents overwhelmingly preferred a combination of verbal and written allergen notifications. Like other developed countries similar to the United States, affording consumers information to make informed decisions provides them the opportunity to prevent unintended food allergen exposures. Given there is no cure, prevention is the best public health food safety control method to prevent unintended illness and death.

References:

1. Clark S, Espinola J, Rudders SA, Banerji, A, Camargo CA. Frequency of US emergency department visits for food - related acute allergic reactions. *J Allergy Clin Immunol.* 2011; 127(3):682 - 683.
2. U.S. Department of Education, Office for Civil Rights. Questions and Answers on the ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools. <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-504faq-201109.html>.
3. Branum A, Lukacs S. Food allergy among U.S. children: Trends in prevalence and hospitalizations. NCHS data brief, no 10. Hyattsville, MD: National Center for Health Statistics. 2008. <https://www.medpagetoday.com/upload/2008/10/23/allergy.pdf>.
4. Gupta RS, Springston MR, Warriar BS, Rajesh K, Pongracic J, Holl JL. The prevalence, severity, and distribution of childhood food allergy in the United States. *Pediatrics* 2011; 128(1):e9 - 17.
5. <https://www.fda.gov/food/food-allergengluten-free-guidance-documents-regulatory-information/food-allergen-labeling-and-consumer-protection-act-2004-falcpa>

6. NIAID - Sponsored Expert Panel. Guidelines for the diagnosis and management of food allergy in the United States: Report of the NIAID - sponsored expert panel. *J Allergy Clin Immunol.* 2010; 126(6):S1 - 58

Website:

<https://www.fda.gov/Food/IngredientsPackagingLabeling/FoodAllergens/default.htm>

Please refer to Supporting Attachments:

3. Allergen Notification Consumer Survey

4. Food Industry Survey Results

5. Restaurant servers' risk perceptions and risk communication-related behaviors when serving customers with food allergies in the US

6. Comparing the Eating Out Experiences of Consumers Seeking to Avoid Different Food Allergens

7. Consumer Preferences for Written and Oral Information about Allergies When Eating Out

8. Food Allergy Knowledge and Attitudes of Restaurant Managers and Staff: An EHS-Net Study

Recommended Solution: The Conference recommends...:

That a letter be sent to FDA requesting that a new Paragraph be added to Section 3-602.12 of the most recent edition of Food Code as shown below (new language underlined).

3-602.12 Other Forms of Information

The PERMIT HOLDER shall notify CONSUMERS of the presence of MAJOR FOOD ALLERGENS as ingredients in unpackaged FOOD items using brochures, deli case or menu notifications, label statements, table tents, placards, or other effective written means. CONSUMER notifications of MAJOR FOOD ALLERGENS must be specific to FOOD items that contain MAJOR FOOD ALLERGENS and must include either the common name or an easily-understood image of the relevant MAJOR FOOD ALLERGEN.

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