

**Conference for Food Protection
2020 Issue Form**

Issue: 2020 I-023

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

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Issue History:

This is a brand new Issue.

Title:

Amend Food Code to Address New Reusable Scenarios in Food Retail

Issue you would like the Conference to consider:

The language in Food Code 2017 does not provide adequate guidance on allowed practices surrounding several emerging reuse scenarios in food retail. These include but are not limited to the use of customer-owned containers in restaurants, markets, temporary food facilities and closed loop schemes.

The mixed terms used in the current Code, specifically section 3-304.17, are undefined and therefore the scenarios intended for regulation are ambiguous. This ambiguity, in conjunction with an exception as opposed to rule-based orientation makes for guidance that resists complete understanding by either agency or industry audiences.

Public Health Significance:

As the "conscious consumption" movement grows, consumers increasingly demand sustainable ways to process, store, and procure food. Food handling regulations must accommodate these new ways to reduce waste and excess packaging. Reducing uncertainty in the language of the regulation encourages food handling practices that are both safe and sensitive to these emerging values.

What's more, updates to the Food Code will have strong downstream benefits for state and regional regulatory agencies who rely on federal synthesis of pertinent issues in the retail and food service landscape. Significant time and resources can be saved by agencies and industry alike with the adoption of guidance that is clear and uniformly enforceable. Consensus on comprehensive reusable standards by the Conference is critical for progress, and with a four year interval between Food Code updates, the time to address these scenarios is now.

Recommended Solution: The Conference recommends...:

that section 3-304.17 proactively address a wider range of scenarios by clarifying safety standards surrounding the use of reusable containers, including but not limited to:

1. Replacement of conflicting or ambiguous terms: Taking inspiration from recent CA legislation (see "Assembly Bill No 619 in Supporting Attachments), define reusable containers as those either provided by or returned to the food facility.
2. Better identify the scenarios being regulated: Stipulate that for ready-to-consume TCS foods, reusable containers must be designed and constructed for reuse per Section 3-304.17(B)(1) of the Code. Remove the arbitrary distinction between food and beverage handling scenarios, with the exception of water vending.

The Conference further recommends a letter be sent to the FDA requesting that the most current edition of the Food Code be amended to replace section 3-304.17 with new language below. Explanatory notes are found in the attached content document entitled "Refilling Reusables Language".

3-304.17 Refilling Returnables Refilling Reusable Containers

~~(A) Except as specified in ¶¶ (B)–(E) of this section, empty containers returned to a FOOD ESTABLISHMENT for cleaning and refilling with FOOD shall be cleaned and refilled in a regulated FOOD PROCESSING PLANT.~~

(A) A reusable container is designed and constructed for reuse in accordance with the requirements specified under Part 4-1 and 4-2.

~~(B) A take-home FOOD container returned to a FOOD ESTABLISHMENT may be refilled at a FOOD ESTABLISHMENT with FOOD if the FOOD container is:~~

(B) Only reusable containers returned to a food establishment may be refilled with ready-to-eat or TCS foods either by a food employee or the consumer, except as specified in ¶¶ (1)-(2) of this section.

~~(1) Designed and constructed for reuse and in accordance with the requirements specified under Part 4-1 and 4-2;~~

(1) A consumer-owned container not specifically designed for reuse may be refilled by the same consumer with a non-TCS food or beverage in a contamination-free transfer process.

~~(2) One that was initially provided by the FOOD ESTABLISHMENT to the CONSUMER, either empty or filled with FOOD by the FOOD ESTABLISHMENT, for the purpose of being returned for reuse;~~

(2) Consumer-owned containers that are not food-specific may be filled at a water vending machine or system.

~~(3) Returned to the FOOD ESTABLISHMENT by the CONSUMER after use;~~

~~(4) Subject to the following steps before being refilled with FOOD: (a) Cleaned as specified under Part 4-6 of this Code;~~

~~(b) Sanitized as specified under Part 4-7 of this Code; P and~~

~~(c) Visually inspected by a FOOD EMPLOYEE to verify that the container, as returned, meets the requirements specified under Part 4-1 and 4-2. P~~

~~(C) A take-home FOOD container returned to a FOOD ESTABLISHMENT may be refilled at a FOOD ESTABLISHMENT with BEVERAGE if:~~

~~(1) The BEVERAGE is not a TIME/TEMPERATURE CONTROL FOR SAFETY FOOD-~~

~~(2) The design of the container and of the rinsing EQUIPMENT and the nature of the BEVERAGE, when considered together, allow effective cleaning at home or in the FOOD ESTABLISHMENT;~~

~~(3) Facilities for rinsing before refilling returned containers with fresh, hot water that is under pressure and not recirculated are provided as part of the dispensing system;~~

~~(4) The CONSUMER-owned container returned to the FOOD ESTABLISHMENT for refilling is refilled for sale or service only to the same CONSUMER; and-~~

~~(5) The container is refilled by:~~

~~(a) An EMPLOYEE of the FOOD ESTABLISHMENT, or-~~

~~(b) The owner of the container if the BEVERAGE system includes a contamination-free transfer process as specified under §§ 4-204.13(A), (B), and (D) that cannot be bypassed by the container owner.~~

(C) Establishment-owned, managed, or provided reusable containers returned to a food establishment for refilling with food shall be cleaned as specified under Part 4-6 and sanitized as specified under Part 4-7 of this Code prior to refilling.

~~(D) Consumer-owned, personal take-out BEVERAGE containers, such as thermally-insulated bottles, nonspill coffee cups, and promotional BEVERAGE glasses, may be refilled by EMPLOYEES or the CONSUMER if refilling is a contamination-free process as specified under §§ 4-204.13(A), (B), and (D).~~

(D) Reusable containers returned to a food establishment for refilling by a food employee or the consumer must be refilled in a contamination-free transfer process such that:

(1) Any consumer-owned container is isolated from food-serving surfaces or such surfaces are sanitized by an employee after each filling.

(2) The food establishment shall prepare, maintain and adhere to written procedures to prevent cross-contamination which additionally address waste water disposal. The food establishment shall make the written procedures available to the enforcement agency upon request.

~~(E) CONSUMER-owned containers that are not FOOD-specific may be filled at a water-VENDING MACHINE or system.~~

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Content Documents:

- "Refilling Reusables Language"
- "Refilling Reusables Proposed Requirements"

Supporting Attachments:

- "Assembly Bill No. 619"

It is the policy of the Conference for Food Protection to not accept Issues that would endorse a brand name or a commercial proprietary process.