**Conference for Food Protection**

**2020 Issue Form**

**Issue: 2020 I-003**

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| **Council Recommendation:** | Accepted asSubmitted |  | Accepted as Amended |  | No Action |  |
| **Delegate Action:** | Accepted |  | Rejected |  |  |  |

*All information above the line is for conference use only.*

**Title:**

FRC Food Code Amendment

**Recommended Solution: The Conference recommends...:**

that a letter be sent to the FDA requesting the following:

1. Amendment of the most current version of the Food Code to include:

a) Add general provision as section 3-101.12 Donation of Food, acknowledging that it is appropriate for licensed retail and foodservice establishments to donate food to organizations provided that the food has been stored, held, prepared or displayed in a manner that is in accordance with the applicable food safety requirements contained in the Food Code. Text to be considered for inclusion in the CFP Issue submission could be as follows: "FOOD that has not been received, stored, held, prepared, displayed, or labeled in accordance with Chapter 3 shall not be offered for FOOD DONATION."

b) Add a definition of the term "FOOD DONATION" to section 1-201.10 (B) to establish a recognized definition for that term so that when it is used in the Food Code, its meaning is widely understood as distributing food to another organization for charitable purposes with the intention that it be consumed by humans. Text to be considered for inclusion in the CFP Issue submission could be as follows: "FOOD DONATION: Practice by which a FOOD ESTABLISHMENT offers FOOD at no cost to an organization for distribution to, and consumption by, individuals in need. The donated FOOD is not offered for sale to the end consumer."

c) Furthermore that section 8-101.10 (A) be modified to reflect that it also applies to food that is donated with the following modification: "The REGULATORY AUTHORITY shall apply this Code to promote its underlying purpose, as specified in § 1-102.10, of safeguarding public health and ensuring that FOOD is safe, unADULTERATED, and honestly presented when offered to the CONSUMER or for FOOD DONATION."

2. That FDA publish supplemental guidance or interpretive language that addresses safe food donation practices and its relationship to current Food Code provisions, where appropriate. Among other issues, the FDA guidance should specifically address donation of the following:

a) FOOD requiring a VARIANCE as specified in 3-502.11 and 3-502.12 without a VARIANCE.

b) Exposed FOOD that has been on display to CONSUMERS or that has been offered for customer self-service.

c) TCS FOOD that has been held or displayed for sale or service using time alone without temperature control as specified in 3-501.19

d) FOODS packaged in the FOOD ESTABLISHMENT and that may or may not be required to be labeled when offered for sale or service in the FOOD ESTABLISHMENT

e) FOODS that are offered for sale or service in an unPACKAGED form in the FOOD ESTABLISHMENT.

f) JUICE PACKAGED in a FOOD ESTABLISHMENT that has not been treated to yield a 5-log reduction of the most resistant microorganism of public health significance.

g) Animal-derived foods that is FOOD offered, served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in READY-TO-EAT form or as an ingredient in another READY-TO-EAT and for which FOOD ESTABLISHMENTS are required to inform CONSUMERS of the increased risk of consuming such FOOD by way of a DISCLOSURE and REMINDER, as specified in 3-603.11.

h) Refrigerated, READY-TO-EAT TCS FOOD that is subject to the date marking requirements in 3-501.17

i) FOOD that bears a quality-based or safety-based date label that was applied by the manufacturer or the FOOD ESTABLISHMENT and for which the date has passed.

j) FOOD donated in bulk packaging, with or without a label.

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.