

**Conference for Food Protection
2012 Issue Form**

**Internal Number: 083
Issue: 2012 I-040**

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

All information above the line is for conference use only.

Title:

Packaged Food Labeling Clarification

Issue you would like the Conference to consider:

Foods can be wrapped in non-durable containers for sale in food service establishments, including carry-out restaurants and delis. It is the interpretation of some regulatory authorities, that foods wrapped in non-durable packaging for self-service are required to be labeled per the current labeling law. There are violations that are currently being reported for this practice. Foods served in non-durable packaging in a food service establishment should not fall under the requirements of the labeling law which was meant for foods in durable packages from a food processing plant.

Public Health Significance:

It is important that all foods requiring labeling under the law are in fact labeled for the protection of the consuming public with special dietary or health needs. It is equally effective to have information available (foodservice employee, signage, written hard copy or online website) for foods in a foodservice environment that do not meet the "packaged" definition.

The 2009 Food Code defines "Packaged" as follows:

Packaged.

(1) "Packaged" means bottled, canned, cartoned, securely bagged, or securely wrapped, whether PACKAGED in a FOOD ESTABLISHMENT or a FOOD PROCESSING PLANT.

(2) **"Packaged"** does not include a wrapper, carry-out box, or other nondurable container used to containerize FOOD with the purpose of facilitating FOOD protection during service and receipt of the FOOD by the CONSUMER.

Recommended Solution: The Conference recommends...:

that a letter be sent to the FDA requesting the 2009 Food Code (as modified by the Supplement issued in 2011) be amended as follows:

- 1) The FDA reinforces the legal definition of "packaged" in Section 1-201.10 (2), regarding the difference between durable and non-durable packaging.
- 2) The FDA adds language similar to the following to the next 2013 Food Code, Annex section 3 - Public Health Reasons/ Administrative Guidelines; Chapter 1 - Purpose and

Definitions, that describes the circumstances that labeling of foods in non-durable packaging is exempt:

- a) Foods in non-durable packaging held in a cold display unit in the service line are available to the customer in a self-service format. Foodservice employees and/ or information are available to address ingredient questions.
- b) "Grab-n-go" type items in kiosks in the front of a restaurant are available as a convenience to the customer in a self-service format. Foodservice employees and/ or information are available to address ingredient questions.

Submitter Information:

Name: Catherine Adams Hutt
Organization: National Restaurant Association
Address: 1200 Seventeenth Street, NW
City/State/Zip: Washington, DC 20036
Telephone: 630-605-3022 Fax:
E-mail: cadams@rdrsol.com

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.