

Example Food Safety for Food Donation Language

3-9 Donation of Foods

Subparts

3-901 Donation as a Lawful Practice

3-902 Standards for Donation of Food

Donation as a Lawful Practice 3-901.11 Lawful Food Donation

- (A) The practice of donating surplus food to another party, for ultimate distribution to needy individuals, is a lawful practice for a FOOD ESTABLISHMENT.
- (B) The following categories of FOOD shall not be donated:
- (1) FOOD that is unsafe, adulterated or otherwise required to be discarded as specified under § 3-701.11;
 - (2) FOOD that has not been protected from contamination as specified under §§ 3-301 – 3-307;
 - (3) FOOD that is not from an approved source as specified under § 3-201.11;
 - (4) FOOD that does not comply with the standards for food donation as specified under § 3-902.

Standards for Donation of Food 3-902.21 Previous Service

- (A) Except as specified in ¶ (B) of this section, exposed FOOD which has been previously served to a CONSUMER may not be donated.
- (B) FOOD that has been offered for CONSUMER self-service may be donated if the food establishment can verify that the food has been protected from contamination in accordance with subparts 3-305, 3-306 and 3-307.

3-902.22 Time/temperature Control for Safety Foods

- (A) A TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that has been heated, cooked, or hot held in a FOOD ESTABLISHMENT may be donated if:
- (1) the FOOD has been maintained at or above 57 degrees Celsius (135 degree Fahrenheit) up until the time of donation; or
 - (2) the FOOD
 - (a) has been kept at or above 57 degrees Celsius (135 degree Fahrenheit) during hot holding and service, and subsequently cooled in accordance with time and temperature requirements under 3-501.14 and 3-501.15; and
 - (b) the temperature of the FOOD is at or below 5 degrees Celsius (41 degrees Fahrenheit) at the time of donation.
- (B) FOOD transported by a FOOD ESTABLISHMENT for donation shall be maintained and delivered at or below 5 degrees Celsius (41 degrees Fahrenheit) for cold FOODS.

or above 57 degrees Celsius (135 degrees Fahrenheit) for hot FOODS.

(1) FOODS received at a temperature between 5 and 57 degrees Celsius (41 and 135 degrees Fahrenheit) that have been within that range for less than four hours must be immediately served.

FOODS received at a temperature between 5 and 57 degrees Celsius (41 and 135 degrees Fahrenheit) that have been within that range for more than four hours may not be donated.

3-902.23 Labeling

(A) Except as specified in ¶(B) of this section, donated packaged FOODS shall be labeled consistent with federal law and with § 3-302.11.

(B) The following information shall not be required on donated packaged FOODS

(1) Nutrition labeling is not required on donated FOODS pursuant to 21 CFR 101.9.

(C) Donated prepared foods should be labeled consistent with federal law. Labels on donated prepared FOODS need only include the following information:

(1) The name and location of the donor and of the recipient organization;

(2) A description of the FOOD;

(3) The date the FOOD was donated;

(4) A disclaimer that the food may contain or have come into contact with a MAJOR FOOD ALLERGEN.

(D) Donated fresh produce does not require any labeling.

3-902.24 Past-date food products

(A) READY-TO-EAT TIME/TEMPERATURE CONTROL FOR SAFETY FOOD may not be donated after the passage of the manufacturer's "best by" or "use by" date unless it was frozen prior to that date and has remained in a frozen state.

(B) FOODS that are not READY-TO-EAT TIME/TEMPERATURE CONTROL FOR SAFETY FOOD may be donated after the passage of the manufacturer's "best by," "use by," or other such labeled date.