

NC Department of Health and Human Services **Regional Meeting #2**

Food Protection and Facilities Branch

December 7, 2023



Before We Get Started

- **When you join the meeting, please mute your microphone.**
- **Please keep your microphone muted during the meeting unless you are called upon by the presenter.**
- **Cameras are not required.**
- **Please use the chat box on the right-side of your screen if you have questions during the meeting.**
- **A chat monitor will capture the questions and make sure they get answered.**



Standard Operating Procedures to Reduce Food Waste in Prepared Foods in NC

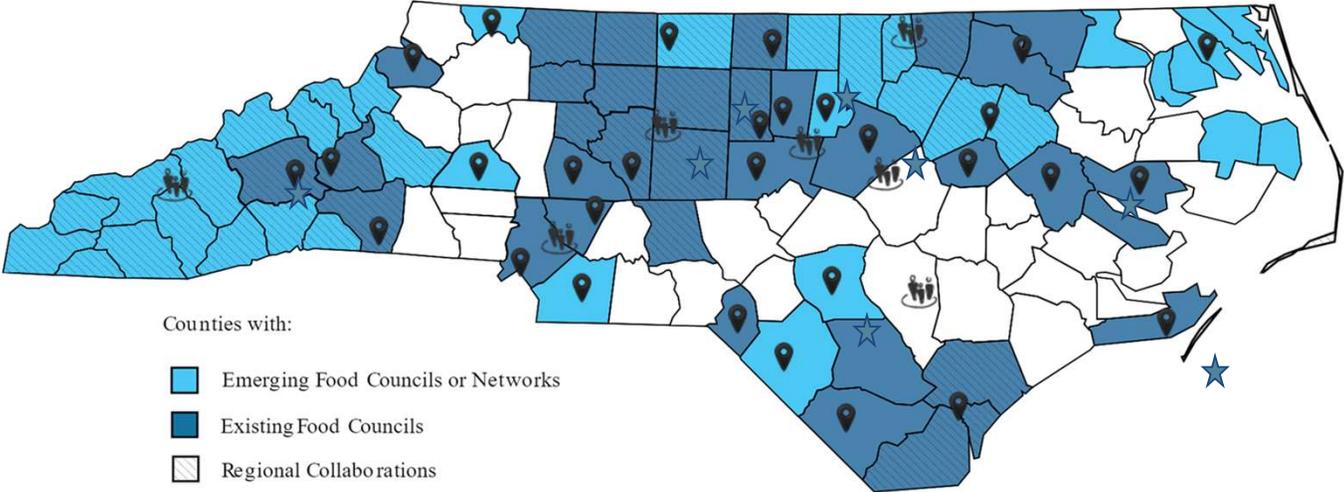
Ellen Shumaker, PhD





Food recovery, also called food rescue, is the practice of gleaning wholesome food for human consumption that would otherwise not be used and go to waste from institutions such as restaurants, dining facilities (businesses, hospitals, cafeterias, etc.), grocery stores, markets, etc. and donating that food to vetted nonprofit agencies able to feed clients in their community.

NC Food Network



Counties with:

- Emerging Food Councils or Networks
- Existing Food Councils
- Regional Collaborations

★ Involved in food waste & recovery collaboration



Working Group Goal

Due to widely varying interpretations and enforcement of state-level food safety regulations at the local level, leftover prepared foods that could be legally and safely donated and consumed are instead entering landfills.

Last year, a group of local food councils – including the Asheville–Buncombe Food Policy Council, the Cabarrus Farm & Food Council, the Carteret Food & Health Council, the Chatham Community Food Council, the Davidson Food Network, the Greater High Point Food Alliance, the Guilford County Food Council, and the Orange County Food Policy Council – reached out to the NC Local Food Council (NCLFC) with an issue they were noticing that was affecting food recovery efforts in their communities.

The local food councils highlighted confusion within the communities and local health departments and identified the need for clarity around the rules and regulations that provide the framework for prepared food recovery activities for human consumption.

In response to the local food councils' request for support, NCLFC formed a Food Waste Recovery Working Group including members from state and local councils to better understand the challenges regarding prepared food recovery policy, and to identify the next steps to improve prepared food recovery outcomes.

**A Snapshot of
Standard Operating Procedures, Regulations, & Guidelines
for
Prepared Food Recovery Across North Carolina**



January 21st, 2021

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 702
Apr 27, 2021
HOUSE PRINCIPAL CLERK

H

HOUSE BILL DRH30238-MKa-83

D

Short Title: NC State Food Lab/Food Waste/COVID-19. (Public)

Sponsors: Representative Insko.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO APPROPRIATE FUNDS FROM THE CORONAVIRUS STATE FISCAL
3 RECOVERY FUND FOR THE NORTH CAROLINA STATE EXTENSION FOOD
4 SAFETY LAB TO DEVELOP METHODS TO SAFELY REDUCE FOOD WASTE IN
5 RESPONSE TO THE COVID-19 PANDEMIC.
6 The General Assembly of North Carolina enacts:
7 SECTION 1. Definitions. – For the purposes of this act, the following definitions
8 apply:
9 (1) Coronavirus State Fiscal Recovery Fund. – Funds received by the State of
10 North Carolina from the Coronavirus State Fiscal Recovery Fund created by
11 the American Rescue Plan Act of 2021, P.L. 117-2.
12 (2) COVID-19. – Coronavirus disease 2019.
13 SECTION 2.(a) There is appropriated to the Board of Governors of The University
14 of North Carolina from the Coronavirus State Fiscal Recovery Fund the sum of fifty thousand
15 dollars (\$50,000) to be allocated to North Carolina State University for the North Carolina State
16 Extension Food Safety Lab to develop standard operating procedures and training for how to
17 safely recover unserved prepared food for the purpose of reducing food waste in response to the
18 COVID-19 pandemic.
19 SECTION 2.(b) Use of Funds. – Of the funds appropriated from the Coronavirus
20 State Fiscal Recovery Fund by this act, funds shall only be used for necessary eligible
21 expenditures in accordance with federal law and guidance. These funds shall be available for
22 expenditure until the deadline provided by federal law.
23 SECTION 3. This act is effective when it becomes law.

Overall Approach to Using SOPs

- Donor coordination with food recovery organization
 - Frequency of donations
 - Required processes
- Outputs:
 - Printed SOPs for reference
 - Donor & Food recovery agency versions
 - Recorded training
- Partnerships for dissemination

Prepared Food Recovery for Food Donors



Given concerns about the environmental impacts of food waste and the fact that food insecurity is an increasing problem, many people in the food service industry are looking to better understand when and how it is safe to donate food for human consumption that would otherwise be wasted. You may find that more foods can be donated than you originally thought. We hope this document will help you.

This guide provides Standard Operating Procedures (SOPs) for donating leftover prepared food. The goal of these SOPs is to create consistent standard operating procedures to remove confusion surrounding the varying interpretations for how to manage leftover prepared food, ultimately reducing food waste.

The food donor should coordinate with the food recovery organization regarding frequency of donations and processes required to donate food in addition to the SOPs outlined in this document. The following SOPs are particularly applicable for food donors:

- Packing and Transport
- Labeling
- Multiple Day Rescue Method

The table below outlines the guidelines for donated food based on who prepared the food, type of food, and other details.

Prepared Food Donation Guidelines

	DONOR TYPE	FOOD PREPARATION	STORAGE	PACKAGING	Why Not?
Can be Donated	<ul style="list-style-type: none"> • Permitted or licensed donor type only • Restaurant • Bakery • Educational Institution 	<ul style="list-style-type: none"> • Food in prep areas or coolers • Foods on a buffet that are temperature controlled and protected by sneeze guard 	<ul style="list-style-type: none"> • TCS* foods that have been held below 41°F • See SOPs for more details 	Commercially wrapped items with no damage to packaging	<p>In home/non-certified kitchen: We have no way of confirming that this food was prepared in a way to reduce risk of food borne illness</p> <p>Customer self-service: This type of buffet service introduces the risk of contamination from people serving themselves</p>
Cannot be Donated	Items prepared in individual's home, community	Dishes put out on the buffet table for customer self-service	Food held under Time as a Public Health Control**		

Prepared Food Recovery for Organizations Receiving Food Donations (Food Recovery Organizations)



Given concerns about the environmental impacts of food waste and the fact that food insecurity is an increasing problem, many people in the food service industry are looking to better understand when and how it is safe to donate food for human consumption that would otherwise be wasted to organizations like yours. You may find that more foods can be donated than you originally thought. We hope this document will help you work with donors to increase the amount of food donations your organization is receiving.

This guide provides "Standard Operating Procedures" (SOPs) for organizations receiving prepared food donations. The goal of these SOPs is to create consistent standard operating procedures to reduce confusion surrounding the varying interpretations for how to manage leftover prepared food, ultimately reducing food waste.

The food recovery organization should coordinate with the food donor regarding frequency of donations and processes required to donate food in addition to the SOPs outlined in the "Prepared Food Recovery for Food Donors" document. The food recovery organization should provide clear expectations to the donor as it relates to what foods may be donated, the process for receiving foods, how foods should be labeled, and other requirements. This document includes SOPs specific to the food recovery organization, beginning at the point of food receipt from the donor:

- Receiving Donated Food
- Storage
- Delivery of Food
- Reheating
- Food Handler Hygiene

The table below outlines the guidelines for donated food based on who prepared the food, type of food, and other details.

Prepared Food Donation Guidelines

	DONOR TYPE	FOOD PREPARATION	STORAGE	PACKAGING	Why Not?
Can be Donated	<ul style="list-style-type: none"> • Permitted or licensed donor type only • Restaurant • Bakery • Educational Institution 	<ul style="list-style-type: none"> • Food in prep areas or coolers • Foods on a buffet that are temperature controlled and protected by sneeze guard 	<ul style="list-style-type: none"> • TCS* foods that have been held below 41°F • See SOPs for more details 	Commercially wrapped items with no damage to packaging	<p>In home/non-certified kitchen: We have no way of confirming that this food was prepared in a way to reduce risk of food borne illness.</p> <p>Customer self-service: This type of buffet service introduces the risk of contamination from people serving themselves</p>

Donor SOPs

- Food Donation Guidelines
- Packing & Transporting Food for Donation SOP
- Multiple Day Rescue Method SOP
- Labeling SOP
- Regulatory Framework
- Example Logs

Prepared Food Donation Guidelines

DONOR TYPE	FOOD PREPARATION	STORAGE	PACKAGING	
Can be Donated	<ul style="list-style-type: none"> Permitted or licensed donor type only Restaurant Bakery Educational Institution 	<ul style="list-style-type: none"> Food in prep areas or coolers Foods on a buffet that are temperature controlled and protected by sneeze guard 	<ul style="list-style-type: none"> TCS* foods that have been held below 41°F See SOPs for more details 	Commercially wrapped items with no damage to packaging
Cannot be Donated	Items prepared in individual's home, community group, or non-certified kitchen	Dishes put out on the buffet table for customer self-service	Food held under Time as a Public Health Control**	

*TCS foods refers to foods that require time/temperature control for safety.

**Time as a Public Health Control is an approach used where foods normally kept under temperature control are not and uses time as the parameter instead. If these foods are held at room temperature, they must be discarded after 4 hours.

Why Not?

In home/non-certified kitchen: We have no way of confirming that this food was prepared in a way to reduce risk of food borne illness.

Customer self-service: This type of buffet service introduces the risk of contamination from people serving themselves.

Time as a Public Health Control: Given the difficulty of monitoring time parameters with these types of food, these foods may not be donated.

Food Safety Fact

Bacteria that can cause food borne illness (pathogens) grow best in what is called the Temperature Danger Zone (between 41°F and 135°F). This is why we want to keep TCS foods outside of that range.

The pathogens *Clostridium botulinum* and *Listeria monocytogenes*, which can both cause serious illness and death grow well in environments with reduced oxygen that occurs when a food is vacuum sealed.

Packing and Transporting Food for Donation SOP

- Cooked, properly cooled time/temperature control required for safety (TCS) foods must be packaged and stored at 41°F or below to prevent the growth of pathogens and stored in food-grade containers and equipment. Coordinate with the food recovery organization as to the most appropriate food container for their operations.
- Store unused containers in the appropriate storage area, at least 6 inches off the ground, away from heat and sunlight, and covered to prevent contamination.
- Make sure that containers are unused, clean, and free from debris or contaminants before filling.
- Do not use any containers that are damaged or appear to have been already used or contaminated.
- For food that has already been cooled, fill containers in a cool environment to ensure that the temperature of the food stays below 41°F during filling. Check the temperature of the food in several places prior to filling containers to ensure that it is below 41°F. Keep food at 41°F or below at all times during filling. Foods may be frozen after packing but confirm with your food recovery partner that they have the capacity for storing frozen batches of food.
- For food that is being packaged from hot, fill containers/bags and make sure the food is cooled from 135°F to 70°F within 2 hours, and from 135°F to 41°F within 6 hours.
- Food may NOT be placed in a reduced oxygen environment, which includes vacuum sealing, cook-chill, and any other process that drives out oxygen. Food can be sealed in bags as long as a vacuum is NOT drawn.
- Fill containers in a clean area that is free from potential contamination, including contamination on filling surfaces and from debris in the air.
- Label container immediately (see Labeling Standard Operating Procedures).
- **Clean** and **sanitize** equipment after using.
- When transporting foods for donation, TCS foods must be kept below 41°F. It is recommended to keep a thermometer in several containers to track the temperature.

Food Safety Fact

Because of the risk of Listeria growth, the food that was prepared first sets the timeline for how long a container of multiple batches can safely be served.

Multiple Day Food Rescue Method SOP

- Cooked, properly cooled TCS foods must be packaged and stored at 41°F or below to prevent the growth of pathogens. A partially-filled container can be supplemented with additional correctly-cooled food at a later date. The date labeling of the multiple day food bag or container must follow the oldest food in the batch.
- Follow the same procedure for Packing Food for Donation SOP.

Labeling SOP

- All TCS foods must be properly labeled.
- Only approved labels should be used to label food packages. Food recovery organizations should be consulted as to any other requirements for labels.
- Labels must be able to adhere securely to the food package after filling and be able to be written on clearly with permanent no-smudge ink.

Label Information

Labels must contain the following information:

Part 1: Food Source Information

- Food service provider or restaurant and location
- Food description
- **Allergen** ingredients (if applicable) and food allergen notice
- Original cook date and time
- Number of days between original cook date and freezing date (if applicable)

Part 2: Information for Safe Use

- Reminder that food must be kept refrigerated
- Days left for safe consumption when refrigerated (dependent on when food is donated)
- Consume or discard by date (dependent on when food is donated)
- Cooking/reheating instructions
- Warning statement: If container has been damaged do not eat contents

Part 3: Receiving Information

(to be completed for food recovery organization)

- Ship date and time out of the freezer (if applicable)
- Transport agency or food bank name
- Receiving/Serving organization name

It is critical to track and label the date that food was originally cooked so that the food recovery organization can serve it when it is still safe. Even if they are refrigerated at 41 degrees or lower, prepared foods that are held for longer than 7 days have a higher risk of *Listeria* growth .

Label Examples

Tuffy's Chicken Salad
White meat chicken salad on croissant
Contains: egg, wheat

Wolfpack Deli 919 Wolf's Den Way Raleigh, NC 27695
Prepared on: 11/1/2023
Consume or discard by: 11/7/2023

Shipped on: 11/2/2023 at 10:00 am
Raleigh Food Recovery 111 Food Bank Ln. Raleigh, NC 27607

Keep refrigerated at 41°F or below
If container has been damaged do not eat contents

Mrs. Wolf's Beef Stew
Beef in gravy with potatoes, carrots and peas
Contains: soy

Wolfpack Deli 919 Wolf's Den Way Raleigh, NC 27695
Prepared on: 07/1/2023 Frozen on: 07/3/2023
Thawed on: 11/4/2023 **Consume or discard by:** 11/7/2023

Shipped on: 11/5/2023 at 10:00 am
Raleigh Food Recovery 111 Food Bank Ln. Raleigh, NC 27607

Reheat in pot on stove until internal temperature is 165°F as measured by a food thermometer. Stir contents before temping.

Keep refrigerated at 41°F or below
If container has been damaged do not eat contents

Write or print enough labels with the required information to place on each filled container using no-smudge permanent ink. Re-print or re-write any labels that are incorrect or difficult to read. Use pre-printed templates when possible.

Unserviced Prepared Food Recovery in North Carolina: Regulatory Framework & Liability

Regulatory Framework

North Carolina counties must adhere to the state's Public Health Laws, which aim to promote the highest level of health for the people. These laws encompass food and food establishments.

Food establishments in North Carolina are regulated at the county level under state laws NC GS 130A - 248 and 15A NCAC 18A .2600, known as the "Rules Governing the Protection and Sanitation of Food Establishments."¹ These rules are administered by the North Carolina Department of Health and Human Services (DHHS), specifically the Environmental Health Section Food Protection and Facilities Branch. The North Carolina Food Code is the reference document for these rules, adapted from the 2017 FDA Food Code and updated in 2021.² The DHHS Food Protection Program develops the standards that County Health Departments enforce.

DHHS accredits county health departments and provides oversight to ensure state laws and rules compliance. County health departments have delegated authority with state-level oversight. In some counties, the health department may operate as part of a human services agency with additional responsibilities, such as social services and aging.³

While each county has the flexibility to interpret rules and guidance within the state framework to enforce standards that protect public health, DHHS advises the counties on interpretations of the standards. County health departments are encouraged to refrain from implementing regulations based on their own interpretations. Nevertheless, local interpretation may vary. DHHS strives to standardize the implementation of rules and guidance across the state by organizing regular meetings to disseminate up-to-date information and foster consistent interpretation.

In December 2016, DHHS issued a position statement on donated food, serving as a starting point and recognizing the need to develop standard operating procedures (SOPs) to inform prepared food recovery.⁴

Unserviced Prepared and Ready-to-Eat Food Recovery

Unserviced prepared and ready-to-eat foods refer to prepared foods that have not passed into the hands of a consumer.

Ready-to-eat foods that have been prepared and are in an unpackaged form that have not passed into the hands of a consumer have the potential to be donated. Foods that have passed into the possession of a consumer may only be donated if they are non-TCS foods in the unopened, original package or whole fruit/nuts/vegetables.” (Refer to the definition of TCS (Time Temperature Control for Safety) foods in 1-201.10)

Under the NC Food Code, leftover unserviced prepared and ready-to-eat foods can be donated, provided that the donor institution follows the standard operating procedures for recovery outlined in this toolkit. These donations fall under the protection of the Emerson Act.

¹ 130a/gs_130a-248, 15A NCAC 18A .2600,

² NC Food Code

³ NC Gen Statute § 130A-34.

⁴ DHHS Position Statement on Donated Food 12.14.16

Unserviced Prepared Food Recovery in North Carolina: Regulatory Framework & Liability

State and Federal Liability Protections for Donors of Prepared and Served Food

Both federal and North Carolina laws provide liability protections for establishments and individuals who donate food. The Bill Emerson Good Samaritan Food Donation Act safeguards these donors from liability unless they act with gross negligence or intentional misconduct.⁵

However, it is essential to note that the Emerson Act only protects food donations that comply with both state and local food safety standards.⁶ The Act explicitly states, "Nothing in this section shall be construed to supersede State or local health regulations."⁷ Interestingly, a document issued by the North Carolina Department of Environmental Quality indicates that, based on the legislative history of the Emerson Act, the act guarantees liability protection for donors of donated food even past its use-by date.⁸ However, this interpretation represents the agency's view and does not offer guidance on differentiating between food safety rules and other types of rules.

Furthermore, President Biden signed an amendment in 2022 to the Emerson Act called the Food Donation Improvement Act (FDIA).⁹ This amendment expanded the liability protections for donating food and grocery products and updated the 2022 Food Code.¹⁰ The new code extends the liability protections to include:

1. Donations of apparently fit grocery products or apparently wholesome food, with the recipient being charged a good Samaritan reduced price that does not exceed the cost of handling, administering, and distributing the food or produce.
2. Food donated directly to a needy individual by a retail grocer, wholesaler, agricultural producer, restaurant, caterer, school food authority, or institution of higher education.
3. Donations of excess food that may have passed a "best by" date but are still safe for consumption.

Additionally, North Carolina has a similar law that protects food donors. N.C.G.S. 99B-10(a) shields establishments and individuals who donate food to non-profit organizations as long as they do not engage in conduct that constitutes gross negligence, recklessness, or intentional malfeasance.¹¹ The same law also provides protection for the entities that serve the food.¹²

Note: It is essential to consult with legal experts or relevant authorities for specific guidance and clarification regarding implementing these regulations in your locality.

Food Recovery SOPs

- Food Donation Guidelines
- Receiving Prepared Donated Food SOP
- Storage SOP
- Delivery SOP
- Reheating SOP
- Food Handler Hygiene SOP
- Regulatory Framework
- Example Logs

Storage SOP

All food should be stored in a manner that ensures quality and maximizes safety of the food served to customers.

Storage of Cooked TCS Foods:

1. Place cooked TCS foods in one of these storage areas within 4 hours to avoid bacterial growth:
 - 41°F or lower – refrigerator temperatures
 - 0°F – deep chill storage temperatures
2. If stored with other food items that are not prepared or ready-to-eat, place cooked TCS foods on the top shelf of the refrigerator or cooler as shown below. If food products are stored together in a refrigerator, they should be placed on shelves in the following order:

Food Safety Fact

This ordering is to avoid raw foods from cross contaminating prepared/ready-to-eat foods.

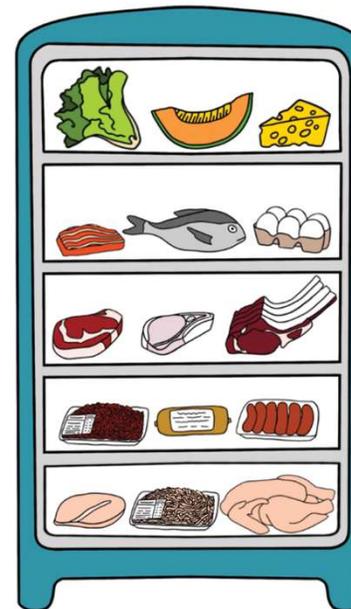
Ready-to-eat foods, produce, and already cooked foods

Eggs and whole cuts of fish

Whole cuts of beef, pork and lamb

Non-intact and ground meats

All poultry and stuffed products



It is critical to track and label the date that food was originally cooked so that the food recovery organization can serve it when it is still safe. Even if they are refrigerated at 41 degrees or lower, prepared foods that are held for longer than 7 days have a higher risk of *Listeria* growth.

3. Store cooked TCS foods in containers that are clean, dry, and intact. If necessary, repackage food in clean, well-labeled, airtight containers. NEVER put in chemical containers, such as cleaning supplies, and NEVER put chemicals in food storage containers.
4. Make sure all TCS foods have been labeled with a preparation date, a package/fill date, and a use-by date (See Labeling Standard Operating Procedure).
5. Store cooked TCS foods no more than 7 days at 41°F from date of preparation, which counts as "day 1." Consider the total time the food has been stored, including the storage time both before and after it has been packed for donation.
6. Keep all food items on shelves at least 6" above the floor to facilitate air circulation and proper cleaning.
7. Store food out of direct sunlight.

The person in charge will:

1. Check logs and temperatures of storage rooms, freezers, and refrigerators
2. Review logs to make sure there are no temperature deviations
3. Document all corrective action taken on the appropriate forms
4. File logs

8. Place chemicals and supplies in appropriate storage areas, away from food. Store pesticides and chemicals away from food handling and storage areas. They must be stored in original, labeled containers.
9. Rotate cooked TCS foods when placing them in storage by placing the new items behind the old items to ensure that the older items are used first (First In, First Out inventory rotation).
10. Check to make sure that labels remain attached to their respective packages. Replace any labels that come off or are damaged in a way that makes it difficult or impossible to read any information on the label.

Storeroom Sanitation:

1. Maintain clean and uncluttered storage areas. Storage areas should be positioned to prevent contamination from garbage.
2. Dispose of items that are beyond the expiration or “use by” dates.
3. Store all items on shelves at least 6” above the floor to facilitate air circulation and proper cleaning.
4. Check for signs of rodents or insects. If there are signs of the presence of rodents or insects, notify the restaurant manager.

Temperature Control:

1. Check the temperature of all refrigerators, freezers, and dry storerooms at the beginning of each day.
 - Refrigerator temperatures should be between 36°F and 41°F.
 - Freezer temperatures should keep the products frozen.
2. Record temperatures on the appropriate temperature log and initial (sample log provided).
3. Take corrective actions if temperatures are out of the recommended range.
4. Don't overload refrigerated storage areas, as this prevents airflow and makes the unit work harder to stay cold.
5. Use caution when cooling hot food in the refrigerator, as this warms the unit and puts other foods into the temperature danger zone.
6. Keep units closed as much as possible to maintain proper temperatures.
7. Defrost all units on a regular schedule to aid in proper maintenance and air circulation.

Food Safety Fact

Bacteria that can cause food borne illness (pathogens) grow best in what is called the Temperature Danger Zone (between 41°F and 135°F). This is why we want to keep TCS foods outside of that range.

Delivery SOP

- Cooked, properly cooled time/temperature control required for safety (TCS) foods must be packaged and stored at 41°F or below to prevent the growth of pathogens and stored in food-grade containers and equipment.
- When transporting foods for donation, TCS foods must be kept below 41°F. It is recommended to keep a thermometer in several containers to track the temperature.
- Foods should be transported in clean vehicles and should be separated from personal items.

Reheating SOP

Transported foods must be reheated to 165°F or above throughout to prevent the growth of pathogens as it is assumed they are TCS.

Equipment Selection

Only use food-grade equipment to reheat TCS foods. Acceptable equipment includes pots, pans, and baking dishes. Do not reheat in food packaging containers not intended for re-use.

Reheating from Frozen Procedure

1. Reheat foods to 165°F in the appropriate equipment, on stovetops or in conventional, convection, or microwave ovens.
 - a. Food may be reheated from frozen or from thawed.
 - b. If thawing, ensure that food does not reach above 41°F for more than 4 hours.
 - c. TCS food reheated in a microwave oven must be reheated so that all parts of the food reach a temperature of at least 165°F and the food is rotated or stirred, covered, and then allowed to stand covered for 2 minutes after reheating.
2. Ensure that the reheated food has reached the appropriate temperature prior to serving by checking the food in several places with a digital, instant-read thermometer.

Heating to 165°F ensures that any potentially harmful bacteria, particularly *Listeria*, that may have grown is effectively killed off.

Food Safety Fact

Many food borne outbreaks have been linked back to poor food handler hygiene. This is why it is critical for anyone handling food to know how to handle it safely.

There are numerous food handler specific training courses available. Contact your local Extension office to see what training options are in your area.

Food Handler Hygiene SOP

- All food handlers should receive training on safe food handling and hygiene and the SOPs contained in this document as part of their onboarding training. This training should include the information listed below, as well as safe food handling practices.
- All food handlers should wear clean clothes.
- Hair shoulder length or longer should be pulled back.
- Food handlers should not eat, drink, chew gum, use tobacco, or vape in food preparation area. Personal items should be kept away from food preparation and storage areas.
- Hands should be washed at the start of a shift, before handling food, before putting on new gloves, and switching between raw and cooked or a ready-to-eat food. Hands should also be washed after handling raw food, using the restroom, coughing, sneezing, or blowing nose, touching tissue, hair, or face, cleaning/sanitizing, removing garbage, changing gloves, breaks, and touching money.
- Gloves should be used when handling ready-to-eat foods.
- Anyone who is sick should not be handling food.

Health Policy

The food recovery organization should have a health policy in place regarding these guidelines. This health policy must include:

- Clear directions on when a food handler should report illness to manager
- Vomit/diarrhea cleanup plan

Dissemination

- SOPs are available as PDFs
 - Food donor
 - Food recovery organization
- Webinars will be recorded soon

Questions?



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NC DEPARTMENT OF HEALTH AND HUMAN SERVICES

Tobacco Prevention and Control Branch

N.C. Smoke-free Restaurants and Bars Law: Clarifying the Private Club Exemption

Kaycee Deen, JD, MA
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Jim Martin, MS
Director of Policy and Programs

December 6, 2023

Smoke-Free Restaurants and Bars Law

North Carolina has had this in place since January 2, 2010!

NO NEED FOR RESERVATIONS ABOUT **NORTH CAROLINA'S SMOKE-FREE LAW**



MOST NORTH CAROLINIANS DON'T SMOKE
Nearly **8 out of 10** are nonsmokers.



THE SMOKE-FREE LAW HASN'T HARMED NORTH CAROLINA'S HOSPITALITY INDUSTRY
A 2013 study of North Carolina's statewide smoke-free law concluded that the law had **NO NEGATIVE IMPACT** on the state's restaurant or bar employment.



North Carolina's smoke-free restaurants and bars law REDUCED the weekly average Emergency Room visits for HEART ATTACKS by 21%

PUBLIC SUPPORT IS HIGH
A 2012 poll found that **83 percent** of North Carolina voters support the state's smoke-free law.

IT PAYS TO GO SMOKE-FREE

- Lower maintenance and overhead costs.
- Higher restaurant resale value.
- Healthier workers.



THERE IS NO SAFE LEVEL OF SECONDHAND SMOKE

SECONDHAND SMOKE CONTAINS **7,000 TOXIC CHEMICALS** & MORE THAN **70 CAUSE CANCER**

"By going nonsmoking, it gave us a whole new market of customers."
Robert Nixon, JACKSONVILLE, CHARLOTTE, NC

Learn more from North Carolina restaurant and bar owners about operating smoke-free in a new video at www.youtube.com/smokefreebusiness.

State of North Carolina | Pat McCrory, Governor
Department of Health and Human Services | Aldona Z. Woe, M.D., Secretary
Division of Public Health
www.ncdhhs.gov | www.publichealth.nc.gov
N.C. DHHS is an equal opportunity employer and provider.



There are Exemptions to the Law...

1. Designated smoking room in a lodging establishment

2. Cigar bar: gross revenue from alcohol and cigars; humidors required; 21 and over only; smoke must not migrate into areas where smoking is banned by state or local law; must be freestanding structure; gross income reporting requirement

3. Private clubs: must maintain selective membership; must be operated by the members; restricted service only to members or members' guests; nonprofit status



We will Focus Here...

1. Designated smoking room in a lodging establishment

2. Cigar bar: gross revenue from alcohol and cigars; humidor required; 21 and over only; smoke must not migrate into areas where smoking is banned by state or local law; must be freestanding structure; gross income reporting requirement

3. Private clubs: must maintain selective membership; must be operated by the members; restricted service only to members or members' guests; nonprofit status

What Factors are Used to Define a Private Club?

- 1. the genuine selectivity in the admission of its members;**
- 2. the membership's control over the operations of the club;**
- 3. the history of the organization;**
- 4. the use of the facility by nonmembers;**

5. the purpose of the club's existence;
6. whether the club advertises for members;
7. whether the club is for profit or nonprofit; and
8. the formalities observed by the club, such as bylaws, meeting, membership cards, etc.

**What Factors are Used
to Define a Private
Club?**

Continued

What is the definition of a “private club?”



What do the courts say?

There is no single definition of “private club.” Each factor is considered and either tips the balance in favor of or against private club status. “Genuine selectivity” is the most important factor.

How is the Smoke-Free Restaurant and Bars Law Enforced?



Enforcement

Ultimately, businesses that are not following the smoke-free restaurants and bars law may be issued warnings and/or fines by the local health director. §130A-497

130A-496: Smoking is prohibited in all enclosed areas of restaurants and bars.



How do the food sanitation and smoke-free laws intersect?

Laws regarding food sanitation inspection/enforcement are separate from the smoke-free restaurants and bars law and do not impact the local health director's and his/her designee's ability to enforce the smoke-free law.

There is a new infographic!

Visit: https://bit.ly/privateclub_smokefree

OR

Scan below QR Code





Environmental Health Legislative Updates

**Food Protection & Facilities Branch
Shane Smith, Branch Head**

December 6, 2023

S.L. 2023-137

- **Section 29.1**
 - Reduces reinspection time period to ten business days
 - Raise alphabetical grade
- **Sections 29.2 & 29.3**
 - Category IV inspection frequency once every four months
 - Requires additional education visit during the FY
 - Requires changes to compliance calculation for the disbursement of funds

Category IV Changes

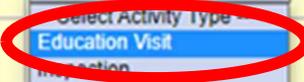
- **IT and Business Rules have been changed to accommodate the new educational visit and change from quarterly to tri-annual inspections**
- **For purposes of compliance for this FY, three total inspections plus the educational visit will meet requirements**
- **Inspections completed in October will be calculated in overall compliance**

Educational Visit

- **Must follow language in the Session Law**
 - Discuss any priority violation from previous three inspection
 - Public health risk factor (in-service training)
 - HACCP plan (if applicable)
- **“Educational Visit” activity type added to inspection form and comment addendum in EIDS**
- **Must have this checked to receive credit for visit**

Current Establishment ID	County	047-Hoke	Type	01-Restaurant	Category	IV- Every four months and Edu Visit	Status	A
	Number	0010	Find		FDA Type			
Establishment Name	EDINBOROUGH RESTAURANT			Permitee	CHRIS MCDUFFIE			
Location Address	Delete	Address Line 1	Address Line 2	City	State	Zip (xxxxx-xxxx)		
	<input type="checkbox"/>	224 S. MAIN STREET		RAEFORD	NC	28376		
Mailing Address (Only if different from location)	Delete	Address Line 1	Address Line 2	City	State	Zip (xxxxx-xxxx)		
	<input type="checkbox"/>	P O BOX 369		RAEFORD	NC	28376-0000		
Facility Phone Number	() - Ext.			Cell Phone Number	() - Ext.			
Fax Phone Number	() - Ext.							
*Previous Establishment ID	County	Type	Number	Latitude/Longitude	Lat	Long		
					34.974422	-79.224024		
Email Address	[REDACTED]			Update Facility Demographic				
	Send Email							

Previous Establishment ID	County <input type="text"/> Type <input type="text"/> Number <input type="text"/>	Latitude/Longitude Lat <input type="text" value="34.974422"/> Long <input type="text" value="-79.224024"/>
Email Address	<input type="text" value="REDACTED"/>	<input type="button" value="Update Facility Demographic"/>
Send Email		
Activity Date	<input type="text" value="11-27-2023"/>	* Activity Type
Score	<input type="text"/>	No Violations Marked
No. of Risk Factor/ Intervention Violations	<input type="text"/>	No. of Repeat Risk Factor/ Intervention Violations
Water Type	<input type="text" value="5-Municipal/Community"/>	Waste water System
Person in Charge (first name) (last name)	<input type="text"/> <input type="text"/>	*EHS ID
Verification Date	<input type="text"/>	Contact Phone Number
Begin Time (military hh:mm)	<input type="text"/>	End Time (military hh:mm)
Facility Status	<input type="text" value="A-Active, Open"/>	Seating <input type="text" value="1"/>
State Notes (maximum 1000 characters)	<input type="text"/>	
<input type="button" value="View Form"/>		<input type="button" value="Add"/> <input type="button" value="Update"/> <input type="button" value="Delete"/>



Comment Addendum to Food Establishment Inspection Report

Establishment Name: MANCHESTERS BAR AND GRILL

Location Address: 9101-153 LEESVILLE ROAD

City: RALEIGH **State:** NC

County: WAKE **Zip:** 27613

Wastewater System: **Municipal/Community** **On-Site System**

Water Supply: **Municipal/Community** **On-Site Supply**

Permittee: STEADMAN & STEADMAN LLC

Telephone: [REDACTED]

Establishment ID:

092014223

Date: 11/09/2023

Inspection **Re-Inspection**

Visit

Verification

Name Change

Status Change

Pre-Opening Visit

Education Visit

Status Code: A

Category#: 4

Educational Visit

- ***Reviewing previous priority items***
 - Mark “OUT” on inspection sheet
 - Provide a simple narrative of what was discussed on comment addendum
- ***No priority items were marked on previous inspections***
 - In-service training can be provided on any risk factor
 - Document on comment addendum

Educational Visit

- ***Required HACCP plans (if applicable)***
 - HACCP verification can be documented on the State's HACCP verification form or other applicable form
 - Include a comment addendum with educational visit activity documented
- **FAQ sheet sent in weekly update**
 - November 27-30

ABC Law Changes

S.L. 2023-129

- **Section 16**
- **Amends the definition of a bar in the sanitation statutes**
- **Technical correction to last year's Short Session that removed the private bar exemption**
- **Restores inspection of bars that serve food per NCGS 130A-248(a)**
- **Deadline for compliance extended to March 27, 2024**
- **FAQ sheet sent in weekly update (November 27-30)**

Private Clubs

To meet the definition of a “private club” in NC G.S. 130A-250:

- **Private Club G.S. 18B-1000 (5)**
 - **501(c) of the IRS Code**
 - **Be in operation for a minimum of 12 months**

Private Clubs

To meet the definition of a “private club” in NC G.S. 130A-250:

- **Qualified facility G.S. 18B-1000 (5a)**
 - **On-premises malt beverage**
 - **On-premises unfortified wine**
 - **On-premises fortified wine**
 - **Mixed beverage**
- **Residential private club G.S. 18B-1000 (5b)**

Custom Processing

- **Facilities that offer custom processing AND retail meat sales have until 1/31/24 to obtain a permit from EH**
- **Facilities have been identified by NCDA**
- **Grant available as part of S.L. 2023-134 to assist facilities with compliance**
- **Reach out to your Regional Specialist with questions**

Rules Update

- **Final three sets of rules are on pace for March 2024 deadline**
- **15A NCAC 18A .1600, .1000, .2518 and .2539 approved at last CPH meeting, now open for public comments until January 30, 2024**
- **MFU work group in progress, will convene after the first of the year on subcommittee suggestions**
- **Thanks to all the volunteers!**



Environmental Health Legislative Updates

• **Questions?**



Shared Kitchens: Building Better Partnerships

**Piedmont Food Processing Center
Sue Ellsworth & Eric Hollman**

December 6, 2023



Environmental Health Legislative Updates

**Environmental Health Section
Larry Michael, State EH Director
December 6, 2023**

