

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	
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 foodborne 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 foodborne 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.

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

Receiving Prepared Donated Food SOP

- All food received from donors should be inspected carefully to ensure temperature control and proper labeling.
- When foods are transported or donation, TCS foods must be kept below 41°F.
- Food containers should be clean and undamaged. Containers that show signs of tampering should NOT be accepted.
- All TCS foods must be labeled.

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

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 foodborne 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.

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

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.

Food Safety Fact

Many foodborne 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

**These SOP's were created by the NCLFC
Food Waste Reduction Working Group.**



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

Unserved 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.

⁵ 42 U.S.C. § 1791(c)(3) (2018).

⁶ 42 U.S.C. § 1791(f) (2018).

⁷ Id.

⁸ N.C. Dep't of Environmental Quality, Harvard Food Law and Policy Clinic, Legal Fact Sheet for N.C. Food Donation: Liability Protections (2017).

⁹ Food Donation Improvement Act (FDIA)

¹⁰ 2022 Food Code

¹¹ N.C. Gen. Stat. § 99B-10(a) (2019).

¹² N.C. Gen. Stat. § 99B-10(b) (2019).

