



North Carolina Department of Health and Human Services
Division of Public Health

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June 1, 2014

POSITION STATEMENT: Packaged Foods and Labeling in Food Establishments

PURSUANT TO: 15A NCAC 18A .2600, 2009 FDA Food Code

SOURCE: Kristina V. Nixon, MPA, REHS, Field Supervisor
Food Protection and Facilities Branch

ISSUE: Labeling PACKAGED FOODS in FOOD ESTABLISHMENTS regulated under
15A NCAC 18A .2600

This position statement supersedes any previously written labeling correspondence.

DISCUSSION AND RATIONALE:

Section 3-602.11 *Food Labels* of the 2009 FDA Food Code requires FOOD PACKAGED in a FOOD ESTABLISHMENT to be labeled as specified in paragraph (B) as follows: (1) the common name of the FOOD or accurate description; (2) if made from two or more ingredients, a list of all ingredients (including ingredients in each FOOD component, e.g., mayonnaise) in descending order of predominance by weight; (3) quantity of contents; (4) name and place of the business; (5) declaration of each MAJOR FOOD ALLERGEN; (6) nutrition labeling if health claims are made; and (7) disclosure of COLOR ADDITIVES in salmonid FISH.

PACKAGED is defined in Chapter 1 of the 2009 Food Code as bottled, canned, cartoned, securely bagged or wrapped, whether PACKAGED in a FOOD ESTABLISHMENT or a FOOD PROCESSING PLANT. 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.

The 2009 Food Code Annexes, Annex 3, offers *Public Health Reasons (PHR)* for each Code citation. The purpose of FOOD labels is to allow the consumer the opportunity to assess relevant information, especially allergen information, prior to obtaining the FOOD for purchase. When FOOD is displayed in a manner that promotes CONSUMER interaction with a FOOD EMPLOYEE prior to making a selection, the FOOD is considered PACKAGED for convenience and therefore FOOD labels are not required. This allows consumers to pick up protected FOOD without requiring serving UTENSILS and therefore be in compliance with the FOOD display requirements of the Code.

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RESPONSE / INTERPRETATION:

The following scenarios are provided to clarify compliance with Section 3-602.11 Food Labels:

1. Self-service PACKAGED FOODS at un-manned stations.

When FOOD is displayed on a cafeteria type serving line and the line is not continually manned by FOOD EMPLOYEES, PACKAGED FOODS are required to be labeled (e.g., convenience store self-service displays, deli displays, meat market displays, cafeterias). FOOD that is displayed in this manner must be labeled as specified in Paragraph 3-602.11(B).

2. PACKAGED FOODS displayed at manned service lines.

When FOOD is displayed on a cafeteria type serving line and the line is continually manned by FOOD EMPLOYEES, PACKAGED FOODS are not required to be labeled. Continually manned means that FOOD EMPLOYEES are available in a serving capacity at all times CONSUMERS are obtaining FOOD.

3. FOOD PACKAGED for delivery and sale at a second location.

PACKAGED FOOD transported to off-site locations for sale must meet labeling requirements unless handed out by a FOOD EMPLOYEE of the FOOD ESTABLISHMENT that PACKAGED the FOOD. FOODS portioned per CONSUMER selection such as pizza delivery and Meals on Wheels are not required to be labeled.

4. Bulk unPACKAGED FOODS available for CONSUMER self-service.

Bulk FOODS shall be prominently labeled with the following information: (1) the manufacturer's or processor's label that was provided with the FOOD; or (2) a card, sign, or other method that includes the information in paragraph 3-602.11(b). A FOOD BAR where FOOD is selected in ready-to eat portions is not considered bulk dispensing and is exempt from labeling requirements.

5. Bulk FOODS portioned per CONSUMER specification.

No label is required unless a health, nutrient content, or other claim is made and the product is manufactured or prepared at another facility not owned by the same PERSON.

To minimize label revisions due to ingredient additions or substitutions, the ingredients and likely ingredients may be included on the label.

Food establishments may request a variance in accordance with Section 8-103.10 when food labeling is not in compliance with Section 3-602.11.

REFERENCES:

15A NCAC 18A .2600
2009 FDA Food Code
NC Food Code Manual

NOTE: Position statements are policy documents to clarify how to interpret or enforce a law or rule. They are not enforceable on their own, but are intended to promote uniform interpretation and enforcement of the underlying law or rule.