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# POLICY MEMO

## Donation of Canned Foods Produced by Volunteer Groups:

### How Volunteer Groups in North Carolina can Produce and Donate Canned Foods to Food Pantries and Food Banks

#### Introduction and Background

In North Carolina, there are individuals and volunteer groups that are interested in donating home-canned and jarred goods to food pantries and food banks to help address food insecurity. Food pantries and food banks across the state accept donations of fresh produce and canned and jarred foods that meet commercial standards, but many churches and community members preserve and extend the life of locally grown foods in their own kitchens. The food grown and packaged in these communities can be donated to individuals and families in need, but governments and private institutions (like food banks and food pantries) restrict donations due to the potential health risks associated with canned products if they are incorrectly produced. This memo articulates the procedures for donating canned foods to food banks and food pantries in North Carolina while discussing statutes and regulations at the federal and state level.

Feeding America is a nationwide network of food banks which provides food pantries with much of the food they distribute to people in need. Feeding America is a private, non-governmental organization, but because of its relationship with 60,000 food pantries in the US, Feeding America's internal policies dictate much of what foods can and can't be donated across the United States. Across the country, food pantries and food banks affiliated with Feeding America do not accept home-canned donations unless they meet commercial standards, effectively making commercial and donation standards synonymous.<sup>1</sup> According to Feeding America policy, home-canned donations that do not meet commercial standards are not to be accepted due to the risks of improper canning which may lead to botulism and other health and safety concerns.<sup>1</sup>

All food pantries and banks in North Carolina, including those that are not served by Feeding America, must comply with government regulations. These dictate that all food makers looking to distribute food must operate under and follow North Carolina Department of Agriculture and Consumer Services (NCDCA) and U.S. Food and Drug Administration (FDA) regulations.<sup>2,3,4</sup> NCDCA regulates the process of canning goods through kitchen and facility inspections along with product and recipe testing.<sup>5,6,7</sup> FDA regulates broader functioning requirements of food makers and processors, such as equipment, water, waste, and physical facilities.<sup>4</sup> By producing canned foods in compliance with regulations for public commerce under state and federal law, volunteer groups are able to donate their canned goods.

The Bill Emerson Good Samaritan Food Donation Act of 1996<sup>8</sup> ("the Act") is a federal law that seeks to minimize liability and encourage food donations to non-profits. However, the Act states that local and state regulations supersede it.<sup>9</sup> Because canning regulations exist at the state level in North Carolina, donors must follow state law when seeking to donate home-canned goods.

There are three avenues that individuals and volunteer groups can take that could enable them to donate their canned foods under NCDA, USDA, and Feeding America guidelines and regulations.

## Policy Compliance

### Avenue 1

The first avenue that individuals and volunteer groups can take that would enable them to donate their canned foods under NCDA, USDA, and Feeding America guidelines and regulations is to have the food canned in a licensed food processing facility.<sup>5,10</sup> This option would require the individual or volunteer group to initially have their product tested by NCDA.<sup>11</sup> This includes the testing of pH and the proportions of individual ingredients.<sup>6</sup> After the NCDA approves the recipe, the product can be canned at a licensed facility, not requiring additional permits or licensure from the individual or volunteer group.

- Advantages
  - Individuals and volunteer groups wanting to donate canned food would not have to undergo process of establishing a licensed and inspected facility.
  - Existing licensed food processing facilities could donate canning services to assist individuals and volunteer groups wanting to donate canned food.
- Disadvantages
  - The individual or volunteer group would have to pay the licensed facility for the canning service unless it is donated.

### Avenue 2

The second avenue that individuals and volunteer groups can take that could enable them to donate their canned foods under NCDA, USDA, and Feeding America guidelines and regulations is to produce canned acidified foods (natural pH of 4.6 or below) and low-acid foods that meet federal and state standards to enter public commerce or be donated. This means that the individual or group must produce the canned foods in a way that follows all USDA and NCDA regulations.<sup>2,3,4,12</sup>

There are multiple requirements that must be met to produce acidified canned foods that meet commercial and donation standards in compliance with Feeding America regulations, federal, and NC food laws. First, the product will need to be tested by the NCDA.<sup>6</sup> Next, an NCDA Permitted Kitchen, which is a non-home based commercial facility, will need to be used for producing the food.<sup>7</sup> This NCDA Permitted Kitchen will also need a variance to the NC Food Code for producing shelf-stable foods which is granted by the NC Variance Committee.<sup>13,14</sup> Along with the variance, a Hazard Analysis Critical Control Point (HACCP) Plan (a systematic plan to address biological, chemical, and physical food safety) must be adopted and implemented.<sup>15,16</sup> The NCDA requires a non-home based commercial facility, a variance to the Food Code for shelf-stable foods, and a HACCP Plan because of the health risks of botulism associated with improper canning. Lastly, a Certified Food Protection Manager is required to be the operator of the NCDA Permitted Kitchen in order to ensure the safe production of food.<sup>17,18</sup> Because of the difficulty of receiving all required permits and variances, this avenue is often not pursued by individuals and volunteer groups wanting to donate their canned foods but is a possibility.

Low-acid canned foods can be produced using a similar process, but the kitchen would be required to use a kitchen device known as a retort to follow the according regulations.<sup>16,19</sup> The requirements are different for

low-acid products because they can be at a higher risk for being hosts for clostridium botulinum, the bacteria responsible for botulism. Using a retort in the canning process decreases chances of clostridium botulinum contamination by reducing the chances of human error. If a kitchen followed all requirements for acidified foods and had access to a retort, they could apply to NCDA for a variance and HACCP plan for producing low-acid canned foods as well.

- Advantages
  - Individuals and volunteer groups wanting to donate canned food would have a permitted kitchen and could share their kitchen with other groups if operated under food code.<sup>3</sup>
  - Individuals and volunteer groups wanting to donate canned food would have a canned product that meets commercial and donation standards.
- Disadvantages
  - Individuals and volunteer groups wanting to donate canned food would need to undergo a specific process to receive licensure, variance, and a HACCP plan.
  - Once a kitchen is certified, it must continually operate under strict regulations to maintain its license.<sup>3,4</sup>
  - High cost of equipment (retort) for a safely processing low-acid canned food facility.

### Avenue 3

The third avenue that individuals and volunteer groups could take would enable them to can and donate jams and jellies. Because the health risks associated with these products are lower, individuals and volunteer groups are able to can these foods in a home kitchen that meets NCDA requirements.<sup>7</sup> The individual or volunteer group would first be required to have NCDA test their product.<sup>6</sup> After testing, the processing area must be approved to meet the standards set by the FDA's Good Manufacturing Practices and the N.C. Food, Drug, and Cosmetic Act.<sup>20,21</sup> These standards include:

- Food surfaces need to be smooth and easily cleanable.
- No pets are allowed in the house at any time.
- Hot and cold running water must be easily accessible.
- Kitchen light bulbs must be shatter-resistant or have a protective shield.

After ensuring that your kitchen meets the standards, subsequent steps would include: developing a product plan, creating food product labels, and completing the application for home processing inspection.<sup>7</sup> More information about this process can be obtained from the NCDA website.<sup>7</sup>

- Advantages
  - The regulations required to can jams and jellies has a lower threshold than those for high and low-acid canned foods.
  - Individuals and volunteer groups wanting to donate canned jams and jellies could process these foods in a home kitchen that meets NCDA requirements.
- Disadvantages
  - Canned jams and jellies are higher in sugar than most low-acid and acidified canned foods.

## Conclusion

By following USDA and NCDA regulations, and the internal policies at Feeding America, individuals and volunteer groups wanting to donate canned food that they produce are able to donate these goods to food pantries. While these processes and procedures may not be simple, it is possible to produce and donate canned foods. The rules and regulations primarily exist to minimize the potential risk for bacteria growth that may increase the risk of foodborne illnesses in a more vulnerable population.

Completing all of the required steps is a substantial amount of work for individuals and volunteer groups to take on in order to produce and donate canned foods. Rather than canning, volunteer groups could alternatively freeze or dehydrate foods to extend the life of the product. Information about dehydrating and freezing produce can be gathered from North Carolina Cooperative Extension and the National Center for Home Food Preservation.<sup>22,23</sup>

## Case Studies

### Prince Edward County Cannery and Commercial Kitchen - Virginia Food Works <sup>24</sup>

Virginia Food Works is a non-profit organization hired by the County whose mission is to support local food systems. When individuals in Prince Edward County realized that people in their community were not eating the tons of produce that they grew, they got together and decided to build a food processing facility in town. The organization has operated the Prince Edward County Cannery in central Virginia since 2010, providing food entrepreneurs and individuals interested in canning a friendly community environment to process foods. Along with canning, the non-profit provides information, assistance, and networking to their clients in attempt to create a stronger local food system. The facility is currently only capable of canning acid or acidified foods, but still serves as a compelling example for community canneries.

### Commercial Kitchen at Open Door - Haywood County Gleaners <sup>25</sup>

In Waynesville, North Carolina, a volunteer group of gleaners gathers residual produce from local farms and donates it to local food banks and pantries. Farmers and consumers were not able to consume the food before it spoiled, leading the Gleaners to look into food preservation opportunities to extend the shelf life of donated food. The volunteer group took classes through their Cooperative Extension office on how to properly can acidified foods, while learning how to properly dehydrate and freeze what would typically be low-acid canned foods. By partnering with the Commercial Kitchen at Open Door Ministries of Waynesville, the Gleaners had access to a facility where they could process the gleaned produce.<sup>26</sup> To cover the funds for canning and freezing, the group sought out grants and donations. The volunteer group continues to glean produce and donate foods to battle local food insecurity.

## Resources

1. Feeding America Policies: <http://www.feedingamerica.org/ways-to-give/give-food/become-a-product-partner/food-safety.html>
2. USDA Title 21: <https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?fr=145.135>
3. NC Food Code: <http://ehs.ncpublichealth.com/faf/docs/foodprot/NC-FoodCodeManual-2009-FINAL.pdf>
4. FDA Food Code:  
<http://www.fda.gov/downloads/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/UCM374510.pdf>
5. Licensed Food Processing Facilities: <http://www.ncagr.gov/markets/agribiz/foodbiz.html#>
6. NCDA Product Testing: [https://fbns.ncsu.edu/extension\\_program/food\\_product\\_testing.html](https://fbns.ncsu.edu/extension_program/food_product_testing.html)
7. NCDA Permitted Kitchen: <http://www.ncagr.gov/fooddrug/food/homebiz.htm>
8. Bill Emerson Good Samaritan Food Donation Act, 42 U.S.C. § 1791 (1996);  
<https://www.law.cornell.edu/uscode/text/42/1791>
9. Bill Emerson Good Samaritan Food Donation Act, 42 U.S.C. § 1791(f) (1996);  
<https://www.law.cornell.edu/uscode/text/42/1791>
10. NC Food Code Section 3-201.12: <http://ehs.ncpublichealth.com/faf/docs/foodprot/NC-FoodCodeManual-2009-FINAL.pdf>
11. NC Food Code Section 3-201.11: <http://ehs.ncpublichealth.com/faf/docs/foodprot/NC-FoodCodeManual-2009-FINAL.pdf>
12. FDA Definition of Acidified and Low-Acid Canned Foods  
<https://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/AcidifiedLACF/default.htm>
13. Example of variance request from Wake County:  
<http://www.wakegov.com/food/healthinspections/resources/Documents/Request-Variance.pdf>
14. NC Food Code Section 3-502.11: <http://ehs.ncpublichealth.com/faf/docs/foodprot/NC-FoodCodeManual-2009-FINAL.pdf>
15. HACCP Plan: <http://www.haccpalliance.org/sub/haccpmodels/guidebook.pdf> ,  
[https://fbns.ncsu.edu/extension\\_program/documents/acidified\\_haccp\\_considerations.pdf](https://fbns.ncsu.edu/extension_program/documents/acidified_haccp_considerations.pdf)
16. NC Food Code Section 3-502.12: <http://ehs.ncpublichealth.com/faf/docs/foodprot/NC-FoodCodeManual-2009-FINAL.pdf>
17. NC Food Code Section 2-102.11: <http://ehs.ncpublichealth.com/faf/docs/foodprot/NC-FoodCodeManual-2009-FINAL.pdf>
18. Certified Food Protection Manager: <https://www.ansi.org/accreditation/credentialing/personnel-certification/food-protection-manager/ALLdirectoryListing?menuID=8&prgID=8&statusID=4>,  
<http://ehs.ncpublichealth.com/faf/docs/foodprot/NC-FoodCodeManual-2009-FINAL.pdf>
19. Low Acid Canning with a Retort: <https://www.fda.gov/ICECI/Inspections/InspectionGuides/ucm074995.htm>
20. FDA Good Manufacturing Practices:  
<https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?CFRPart=110>
21. N.C. Food, Drug and Cosmetic Act:  
[https://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter\\_106/Article\\_12.html](https://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_106/Article_12.html)
22. North Carolina Cooperative Extension – Food Dehydration: <https://foodsafety.ces.ncsu.edu/home-food-preservation/>
23. National Center for Home Food Preservation – Food Freezing: <http://nchfp.uga.edu/how/freeze.html>
24. Virginia Food Works: <https://virginiafoodworks.org/>
25. Haywood County Gleaners: <http://www.haywoodgleaners.org/>
26. Open Door Ministries: <http://opendoor-waynesville.org/>