

**Conference for Food Protection  
2014 Issue Form**

**Internal Number: 067  
Issue: 2014 I-025**

<b>Council Recommendation:</b>	Accepted as Submitted _____	Accepted as Amended _____	No Action _____
<b>Delegate Action:</b>	Accepted _____	Rejected _____	

*All information above the line is for conference use only.*

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**Title:**

Consumer Advisory - Amend Section 3-603.11

**Issue you would like the Conference to consider:**

The FDA Food Code recognizes that consumers should have notice regarding the risk of foodborne illness from raw or undercooked meats, poultry, seafood, shellfish, or eggs. However, the consumer advisory fails to provide adequate notice for persons to accurately assess the risk of severe illness and death from pathogenic *Vibrio* bacteria in raw oysters.

**Public Health Significance:**

FoodNet data indicates that *Vibrio* illnesses have more than doubled while illnesses from all other major foodborne pathogens have either been stable or decreased. There is also evidence that serious pathogenic *Vibrio* species are becoming more common in raw shellfish. *Vibrio vulnificus* in raw oysters harvested from the Gulf of Mexico has long posed a well-defined risk of severe illness and death to consumers with compromised immune systems, liver damage, diabetes, the genetic disorder hemochromatosis, and certain gastric disorders. In recent years, a number of *V. vulnificus* cases are associated with oysters harvested along the East Coast. *Vibrio parahaemolyticus* is associated with mild gastroenteritis in persons with healthy immune systems, and can progress to life-threatening infections in persons with pre-existing medical conditions. In 2012, a highly virulent West Coast strain of *V. parahaemolyticus* appeared in East Coast oysters causing the largest oyster-associated outbreak ever recorded along the Atlantic Coast. Outbreaks in 2013 far exceed the count of cases from 2012. Given the increasing number of illnesses and the spread of pathogenic strains to new areas, it is critical that persons have adequate notice of the risk so that they will seek early medical care and inform their doctor they have eaten raw oysters. While the strongest prevention is to require all oysters shipped interstate to be treated post-harvest to eliminate the pathogen, the industry has resisted such requirements. The proposed warning is, therefore, consistent with industry preferences for consumer education in lieu of other controls. It is a critical requirement because other than self-identification, food establishments have no way of recognizing at-risk patrons. To the extent that patrons have adequate information about their own health status, the warnings may reduce the number of illnesses and deaths (with the attendant bad publicity associated with news reports and lawsuits). Additionally, since consumer perceptions can alter choices thus reducing demand, industry interests and public health walk hand-in-hand with

providing adequate notice that allows at-risk populations to understand and assess the danger of consuming raw oysters.

**Recommended Solution: The Conference recommends...:**

that a letter be sent to the FDA recommending the 2013 Food Code be amended with the addition of new consumer advisory language to Section 3-603.11, as follows (new language in underline format):

Section 3-603.11 Consumption of Animal Foods that are Raw, Undercooked, or Not Otherwise Processed to Eliminate Pathogens

(D) Every FOOD ESTABLISHMENT that offers raw oysters shall provide a written warning to any person who orders raw oysters, stating:

WARNING

THIS FACILITY OFFERS RAW OYSTERS. EATING THESE OYSTERS MAY CAUSE SEVERE ILLNESS AND EVEN DEATH IN PERSONS WHO HAVE LIVER DISEASE, CANCER, DIABETES, OR OTHER CHRONIC ILLNESSES THAT WEAKEN THE IMMUNE SYSTEM. If you eat raw oysters and become ill, you should seek immediate medical attention. If you are unsure if you are at risk, you should consult your physician.

(E) Warnings under subsection (D) are not required whenever the FOOD ESTABLISHMENT has received a copy of a current verification letter from the dealer and tags or labels are as required by Section 3-202.18 of this Code demonstrating that the oysters have been subjected to an oyster treatment process sufficient to reduce Vibrio bacteria to an undetectable level, as defined in the U.S. Food and Drug Administration Bacteriological Analytical Manual, 2004 Edition.

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**Attachments:**

- α "Public Health Rationale Raw Oysters"
- α "Increase in Vibrio Illnesses-- CDC"

*It is the policy of the Conference for Food Protection to not accept Issues that would endorse a brand name or a commercial proprietary process.*