Conference for Food Protection
2018 Issue Form

Issue: 2018 I-030

Council Recommendation:	Accepted as Submitted	_____	Accepted as Amended	_____	No Action	_____
Delegate Action:	Accepted	_____	Rejected	_____		

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Issue History:

This is a brand new Issue.

Title:

Amend Food Code – 3-201.11 Compliance with Food Law

Issue you would like the Conference to consider:

The 2013 Food Code section 3-201.11(A) Compliance with Food Law currently states: "FOOD shall be obtained from sources that comply with LAW.[P]" This issue proposes that the language be amended to read "FOOD shall be obtained from APPROVED sources that comply with LAW."

Section 1-201.10(B) Statement of Application and Listing of Terms, Defined Terms states:

'"Law" means applicable local, state, and federal statutes, regulations, and ordinances.'

'"Approved" means acceptable to the REGULATORY AUTHORITY based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.'

The current Food Code language in 3-201.11 arguably allows for food that comes from license-exempt sources, which may be uninspected, to be used and/or sold in a retail food establishment. A food processor or manufacturer producing food for human consumption in the absence of licensing or inspection requirements can qualify as meeting the requirement of Food Code 3-201.11, as written, if they lawfully fall under a license-exemption. However, in some cases the criteria to meet a license-exemption are minimal and/or unenforceable, and may not provide a verifiable way to determine conformity with principles, practices, and generally recognized standards that protect public health.

By adding the word "APPROVED" to the code language of 3-201.11, it would bring consistency to language and ideas mentioned in various other parts of the Food Code and Annex. The Food Code currently uses the term "approved source" in the following sections:

- 2-103.11 Person in Charge- The person in charge shall ensure that: (E) EMPLOYEES are visibly observing FOODS as they are received to determine that they are from APPROVED sources, delivered at the required temperatures, protected from contamination, UNADULTERED, and accurately presented, by

routinely monitoring the EMPLOYEES' observations and periodically evaluating FOODS upon their receipt;[Pf]

- 3-701.11 Discarding or Reconditioning Unsafe, Adulterated, or Contaminated Food.- (B) FOOD that is not from an APPROVED source as specified under §§ 3-201.11 - . 17 shall be discarded.[P]

Public Health Significance:

Food from unsafe sources is one of the top five risk factors that are most often responsible for foodborne illness outbreaks.

The Food Code Annex 3 - Public Health Reasons/Administrative Guidelines (p. 398) states:

"A primary line of defense in ensuring that food meets the requirements of § 3-101.11 is to obtain food from approved sources, the implications of which are discussed below. However, it is also critical to monitor food products to ensure that, after harvesting and processing, they do not fall victim to conditions that endanger their safety, make them adulterated, or compromise their honest presentation. The regulatory community, industry, and consumers should exercise vigilance in controlling the conditions to which foods are subjected and be alert to signs of abuse.

Food, at all stages of production, is susceptible to contamination. The source of food is important because pathogenic microorganisms may be present in the breeding stock of farm animals, in feeds, in the farm environment, in waters used for raising and freezing aquatic foods, and in soils and fertilizers in which plant crops are grown...

...Food should be purchased from commercial supplies under regulatory control...Controlled processing is required for the safe preparation of food entering commerce."

Part of the food establishment plan review process, as outlined in the Food Code Annex 3 - Public Health Reasons/Administrative, Chapter 8-Compliance and Enforcement (p. 543) is:

"Standard operating procedures (SOPs) are a part of that foundation and ideally are developed in tandem with designing the facility. Consequently, as an integral part of the plan review process, discussion needs to occur about such procedures and their scope...Operating procedures should include definitive practices and expectations that ensure that:

"...(2) Food is received from approved sources as specified under § 3-201.11,"

The Food Code Annex 5 - Conducting Risk-Based Inspections (p. 602) states:

"Food from unapproved, unsafe, or otherwise unverifiable sources should be discarded or put on hold or under embargo until appropriate documentation is provided. In addition, inspectors should ensure that management and employees are aware of the risk of serving or selling food from unapproved sources."

Recommended Solution: The Conference recommends...:

that a letter be sent to FDA requesting that Section 3-201.11 of the most current edition of the Food Code be amended as follows: (new language is underlined)

3-201.11 Compliance with Food Law.

(A) FOOD shall be obtained from APPROVED sources that comply with LAW.[P]

Submitter Information:

Name:	Becky Steiner, MPH, REHS
Organization:	Clay County Public Health Center
Address:	800 Haines Dr
City/State/Zip:	Liberty, MO 64068
Telephone:	816-595-4258
E-mail:	bsteiner@clayhealth.com

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