

**Conference for Food Protection
2020 Issue Form**

Issue: 2020 I-011

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

Delegate Action: Accepted _____ Rejected _____

All information above the line is for conference use only.

Issue History:

This is a brand new Issue.

Title:

Amend Food Code – Clarify “Utensil” Definition

Issue you would like the Conference to consider:

Recommend the Conference for Food Protection to consider an amendment to the definition of "Utensil" (see page 24 of the 2017 Food Code) provided in 1.201.10 Statement of Application and Listing of Terms. The "Utensil" definition should clarify on the differences between multi-use articles (that normally undergo suitable ware-washing) and single-use or single-service articles (that are normally discarded after one-time use), and should also clearly state the exclusion (from "utensils" definition) for secondary cartons or containers that store packaged foods (where food is not exposed to the environment). Such significant changes should further clarify the associated definition of "Food-contact surface" (see page 8 of the 2017 Food Code) that also includes: - the utensils with which food normally comes into contact, (or) - from which food may drain, drip, or splash into a food ,or, onto a surface normally in contact with food. For more information, see content document attached: *Proposal to Review the Definitions of "Utensil" and "Equipment" provided in the 2017 Food Code and ensuring their relation with the "Food-contact surface" Definition.*

Public Health Significance:

According to the CDC, over 60% of the food-related outbreaks occur in food service establishments such as restaurants, and that contaminated equipment and utensils are one of the top 5 factors contributing to food borne illnesses. Utensils are identified as food-contact surfaces. However, not all utensils undergo ware-washing, since single-service or single-use articles are discarded after one-time use. Hence, only the multi-use utensils that are identified as food-contact surfaces that must be cleaned as specified under Part 4-6 of the 2017 Food Code, and sanitized as specified under Part 4-7 of the Code in order to control cross-contamination of food and to prevent food-borne disease occurrences. For more information, see content document attached: *Proposal to Review the Definitions of "Utensil" and "Equipment" provided in the 2017 Food Code and ensuring their relation with the "Food-contact surface" Definition.*

Recommended Solution: The Conference recommends...:

... that a letter be sent to the FDA requesting the definition for "Utensil" listed under 1-201.10 [see page 24 of the Food Code 2017] be amended as follows (language to be deleted is in strike-through format, new language to be added is underlined):

"Utensil"

(1) means a FOOD-CONTACT implement or container used in the storage, preparation, transportation, dispensing, sale, or service of FOOD, such as KITCHENWARE or TABLEWARE that is multiuse, SINGLE-SERVICE, or SINGLE-USE; gloves used in contact with FOOD; multiuse gloves; temperature sensing probes of FOOD TEMPERATURE MEASURING DEVICES; and probe-type price or identification tags used in contact with FOOD. These multiuse articles normally undergo suitable WAREWASHING.

(2) includes SINGLE-SERVICE, or SINGLE-USE ARTICLES; packaging; and disposable gloves in contact with food. These items are normally for one-time use only, and do not undergo WAREWASHING. However, such items shall be made of SAFE MATERIAL, and are required to be inspected for conformance to proper specifications, prior to their use.

(3) does not include any secondary package, implement or container used for storing large quantities of PACKAGED FOODS.

For more information, see content document attached: *Proposal to Review the Definitions of "Utensil" and "Equipment" provided in the 2017 Food Code and ensuring their relation with the "Food-contact surface" Definition.*

Submitter Information:

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Content Documents:

- "Proposal to Review the Definitions of "Utensil" and "Equipment""

Supporting Attachments:

- "Key References"

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.

Proposal to Review the Definitions of “Utensil” and “Equipment” provided in the 2017 Food Code and ensuring their relation with the “Food-contact surface” Definition

Presented by:

Amit M. Kheradia

Content Document created in support of Issues submitted to CFP:

- Amend Food Code – Clarify “Equipment” definition
- Amend Food Code – Clarify “Utensil” definition

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Acknowledgement

This Content Document has been developed to provide supporting information to the following proposed Issues for CFP 2020:

- *Amend Food Code – Clarify “Equipment” definition*
- *Amend Food Code – Clarify “Utensil” definition*

An appreciable level of thought and effort has been put into creating this clarification document, and there may be some limitations in the proposal as I am a first-time submitter to CFP. Whereas the Content Document closely references the “**Key references**” provided in this document, any other views expressed in this document should be that of the submitter unless they might implicitly refer to the “**Key references**” provided.

I look forward to any feedback.

Thank you for the opportunity,

Submitter: Amit M. Kheradia

Structure of this Proposal

This content document proposal supports the following Issues submitted to CFP 2020:

- *Amend Food Code – Clarify “Equipment” definition*
- *Amend Food Code – Clarify “Utensil” definition*

The **objective** of the proposal, and hence its structure, is to explain why there is a significant need to change the definitions of “Equipment” and “Utensil” in the 2017 Food Code, so that they are consistent with the associated definition of “Food-contact surface”

The rationale or basis of the proposed recommendations in these Issues are expressed in the “**Background Information and Opinions**” section. This is the most important section of the document.

The “**Recommendations to CFP**” section shall repeat the Issues submission details that were derived from analyzing the rationale discussed in the previous section. The Recommendations for both Issues are highlighted in **blue**.

The “**Proposed Summary Chart**” provides a chart that summarizes the proposed classification of “Food-Contact Surface” with respect to the definitions of “Equipment and Utensils.” This takes into account the previous two sections i.e. “Background Information and Opinions” and “Recommendations to CFP.”

The **Key References** are the links or information sources used for obtaining background information for this proposal.

Background Information and Opinions

According to the CDC, over 60% of the foodborne illness outbreaks may be sourced to food-service establishments, such as restaurants. ⁽ⁱ⁾ Furthermore, use of contaminated equipment and utensils has been listed as one of the top 5 CDC factors contributing to foodborne illnesses. ⁽ⁱⁱ⁾ These essential pieces of inter-linked information basically explain why the management of food-contact surfaces of equipment and utensils (through the instrument of the Food Code provisions) are important in controlling contamination incidences in establishments and in the prevention of foodborne diseases. ⁽ⁱⁱⁱ⁾. **Note:** Please see the “**key references**” section on superscripts ⁽ⁱ⁾, ⁽ⁱⁱ⁾, ⁽ⁱⁱⁱ⁾.

2017 Food Code defines “**food-contact surface**” [see page 8 of the Code] as:

- (1) A surface of EQUIPMENT or a UTENSIL with which FOOD normally comes into contact; or
- (2) A surface of EQUIPMENT or a UTENSIL from which FOOD may drain, drip or splash:
 - (a) Into a FOOD, or
 - (b) Onto a surface normally in contact with FOOD.

This definition closely aligns with 21 CFR 110.3 (g) which states that “food-contact surfaces are those surfaces that contact human food and those surfaces from which drainage onto the food or onto surfaces that contact the food ordinarily occurs during the normal course of operations.” The section further states that “food-contact surfaces include utensils and food-contact surfaces of equipment.”

It therefore becomes clear that it is not practical to amend the definition of the “food-contact surface” in 2017 Food Code. However, the problem lies with the definitions of “Equipment” and “Utensil” as referenced below:

See page 7 of the 2017 Food Code on “**Equipment**” definition -

- (1) “**Equipment**” means an article that is used in the operation of a FOOD ESTABLISHMENT such as a freezer, grinder, hood, ice maker, MEAT block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, TEMPERATURE MEASURING DEVICE for ambient air, VENDING MACHINE, or WAREWASHING machine.
- (2) “**Equipment**” does not include apparatuses used for handling or storing large quantities of PACKAGED FOODS that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

The fundamental concern with the “**Equipment**” definition is that it does not take into account any other physical structure, surface or accessory attached to, or in the vicinity of an actual equipment, which may directly influence an equipment’s capability of producing safe food. An example is a vicinity surface above the cooking vat equipment from which condensation drips back into food – such as surface needs to be called out as part of an equipment, and hence a food-contact surface. Furthermore, equipment can undergo surface modifications, and any accessory extensions (that directly influence an equipment’s capability to produce safe food) need to be called out as part

of an equipment, and hence a food-contact surface (FCS). It is important to call out these additional surfaces as “food-contact” because unlike nonfood-contact surfaces (NFCS), they need to have properties that are required to follow applicable sections of Part 4-6 and Part 4-7 of the Code, as such FCS need to be cleaned and sanitized after cleaning and before use.

See page 24 of the 2017 Food Code on “**Utensil**” definition -

"Utensil" means a FOOD-CONTACT implement or container used in the storage, preparation, transportation, dispensing, sale, or service of FOOD, such as KITCHENWARE or TABLEWARE that is multiuse, SINGLE-SERVICE, or SINGLE-USE; gloves used in contact with FOOD; temperature sensing probes of FOOD TEMPERATURE MEASURING DEVICES; and probe-type price or identification tags used in contact with FOOD.

In a nutshell, by looking at the definition, we may classify utensils into:

- (a) **Multi-use Utensils** that normally undergo warewashing (i.e. they are cleaned and sanitized after cleaning and before use), generally according to applicable sections of Part 4-6 and Part 4-7 of the Code. Examples of such utensils include scoops, stainless steel knives, silver spoons etc.
- (b) **Single-use or Single Service Utensils** that do not undergo warewashing. Rather, they are normally for one-time use only, and then discarded. However, such items must be made of SAFE MATERIAL, and are required to be inspected for conformance to proper specifications, prior to their use. Examples of single-use utensils include disposable plates and spoons, disposable clothes and even single-use packaging for storing exposed food.

Clearly, it becomes important to distinguish between single-use and multi-use utensils, because by reading the Food Code in context, it may mean that all utensils must be cleaned and sanitized as per applicable sections of Part 4-6 and Part 4-7 of the Code, which is not the case. For instance, disposable gloves are single-use, since they are used one-time and then discarded, while, multiuse gloves may be cleaned and sanitized before use and after cleaning.

Additionally, the Code should also clearly state the exclusion (from “utensils” definition) for secondary cartons or containers that store packaged foods (where food is not exposed to the environment).

In summary, the given amendment proposals to the definitions of “Equipment” (see page 7 of the 2017 Food Code) and “Utensil” (see page 24 of the 2017 Food Code) provided in 1.201.10 Statement of Application and Listing of Terms should further clarify that definition of “Food-contact Surface” (see page 8 of the Code), and further bring it into better alignment with the rest of the Food Code, and also the 21 CFR 110.3 (g) definition that has already been stated in this section.

Recommendations to CFP

Recommendations for both Issue Titles are **Highlighted in blue under Recommended**

Solution

<input checked="" type="checkbox"/> <i>New or additional information has been included or attached.</i>

Title: Amend Food Code – Clarify “Equipment” definition

Issue you would like the Conference to consider:

Recommend CFP to consider an amendment to the definition of “Equipment” (see page 7 of the 2017 Food Code) provided in 1.201.10 Statement of Application and Listing of Terms. The “Equipment” definition should also consider any physical structure, surface or accessory attached to, or in the vicinity of an actual equipment, which may directly influence an equipment’s capability of producing safe food. Such a significant change should further clarify the associated definition of “Food-contact surface” (see page 8 of the 2017 Food Code) that also includes the surface of equipment with which food normally comes into contact, or, from which food may drain, drip, or splash into a food or onto a surface normally in contact with food. For more information, see content document attached: *Proposal to Review the Definitions of “Utensil” and “Equipment” provided in the 2017 Food Code and ensuring their relation with the “Food-contact surface” Definition.*

Public Health Significance:

According to the CDC, over 60% of the food-related outbreaks occur in foodservice establishments such as restaurants, and that contaminated equipment and utensils are one of the top 5 factors contributing to foodborne illnesses. Hence, equipment surfaces that are identified as food-contact surfaces must be cleaned as specified under Part 4-6 of the 2017 Food Code, and sanitized as specified under Part 4-7 of the Code in order to control cross-contamination of food and to prevent foodborne disease occurrences. For more information, see content document attached: *Proposal to Review the Definitions of “Utensil” and “Equipment” provided in the 2017 Food Code and ensuring their relation with the “Food-contact surface” Definition.*

Recommended Solution:

The Conference recommends....

... that a letter be sent to the FDA requesting that the definition for “**Equipment**” listed under 1-201.10 [see page 7 of the 2017 Food Code] be amended as follows (language to be deleted is in strikethrough format, new language to be added is underlined):

Equipment.

(1) "**Equipment**" means an article that is used in the operation of a FOOD ESTABLISHMENT such as a freezer, grinder, hood, ice maker, MEAT block, mixer, oven, reach-in refrigerator, scale, sink, slicer,

stove, table, TEMPERATURE MEASURING DEVICE for ambient air, VENDING MACHINE, or WAREWASHING machine.

(2) "Equipment" includes any physical structure, surface or accessory (e.g. ball bearings, overhead covers etc.) attached to, or in the vicinity of the actual EQUIPMENT which may directly influence an EQUIPMENT's capability for the production of SAFE FOOD.

(2) (3) "Equipment" does not include apparatuses used for handling or storing large quantities of PACKAGED FOODS that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

For more information, see content document attached: *Proposal to Review the Definitions of "Utensil" and "Equipment" provided in the 2017 Food Code and ensuring their relation with the "Food-contact surface" Definition.*

...

<input checked="" type="checkbox"/> <i>New or additional information has been included or attached.</i>

Title: Amend Food Code – Clarify “Utensil” Definition

Issue you would like the Conference to consider:

Recommend CFP to consider an amendment to the definition of “Utensil” (see page 24 of the 2017 Food Code) provided in 1.201.10 Statement of Application and Listing of Terms. The “Utensil” definition should clarify on the differences between multiuse articles (that normally undergo suitable WAREWASHING) and single-use or single-service articles (that are normally discarded after one-time use), and should also clearly state the exclusion (from “utensils” definition) for secondary cartons or containers that store packaged foods (where food is not exposed to the environment). Such significant changes should further clarify the associated definition of “Food-contact surface” (see page 8 of the 2017 Food Code) that also includes the utensils with which food normally comes into contact, or, from which food may drain, drip, or splash into a food or onto a surface normally in contact with food. For more information, see content document attached: *Proposal to Review the Definitions of “Utensil” and “Equipment” provided in the 2017 Food Code and ensuring their relation with the “Food-contact surface” Definition.*

Public Health Significance:

According to the CDC, over 60% of the food-related outbreaks occur in foodservice establishments such as restaurants, and that contaminated equipment and utensils are one of the top 5 factors contributing to foodborne illnesses. Utensils are identified as food-contact surfaces. However, not all utensils undergo WAREWASHING, since single-service or single-use articles are discarded after one-time use. Hence, only the multiuse utensils that are identified as food-contact surfaces must be cleaned as specified under Part 4-6 of the 2017 Food Code, and sanitized as specified under Part 4-7 of the Code in order to control cross-contamination of food and to prevent foodborne disease occurrences. For more information, see content document attached: *Proposal to Review the Definitions of “Utensil” and “Equipment” provided in the 2017 Food Code and ensuring their relation with the “Food-contact surface” Definition.*

Recommended Solution:

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“Utensil”

(1) means a FOOD-CONTACT implement or container used in the storage, preparation, transportation, dispensing, sale, or service of FOOD, such as KITCHENWARE or TABLEWARE ~~that is multiuse, SINGLE SERVICE, or SINGLE USE; gloves used in contact with FOOD; multiuse gloves;~~ temperature sensing probes of FOOD TEMPERATURE MEASURING DEVICES; and probe-type price or identification tags used in contact with FOOD. These multiuse articles normally undergo suitable WAREWASHING.

(2) includes SINGLE-SERVICE, or SINGLE-USE ARTICLES; packaging; and disposable gloves in contact with food. These items are normally for one-time use only, and do not undergo WAREWASHING. However, such items shall be made of SAFE MATERIAL, and are required to be inspected for conformance to proper specifications, prior to their use.

(3) does not include any secondary package, implement or container used for storing large quantities of PACKAGED FOODS.

For more information, see content document attached: *Proposal to Review the Definitions of “Utensil” and “Equipment” provided in the 2017 Food Code and ensuring their relation with the “Food-contact surface” Definition.*

...

...

Attachments:

Content Documents: *(documents requiring Council review; approval or acknowledgement is requested in the recommended solution above)*

<See this Proposal: *Proposal to Review the Definitions of “Equipment” and “Utensil” provided in the 2017 Food Code and ensuring their relation with “Food-contact surface” Definition*>

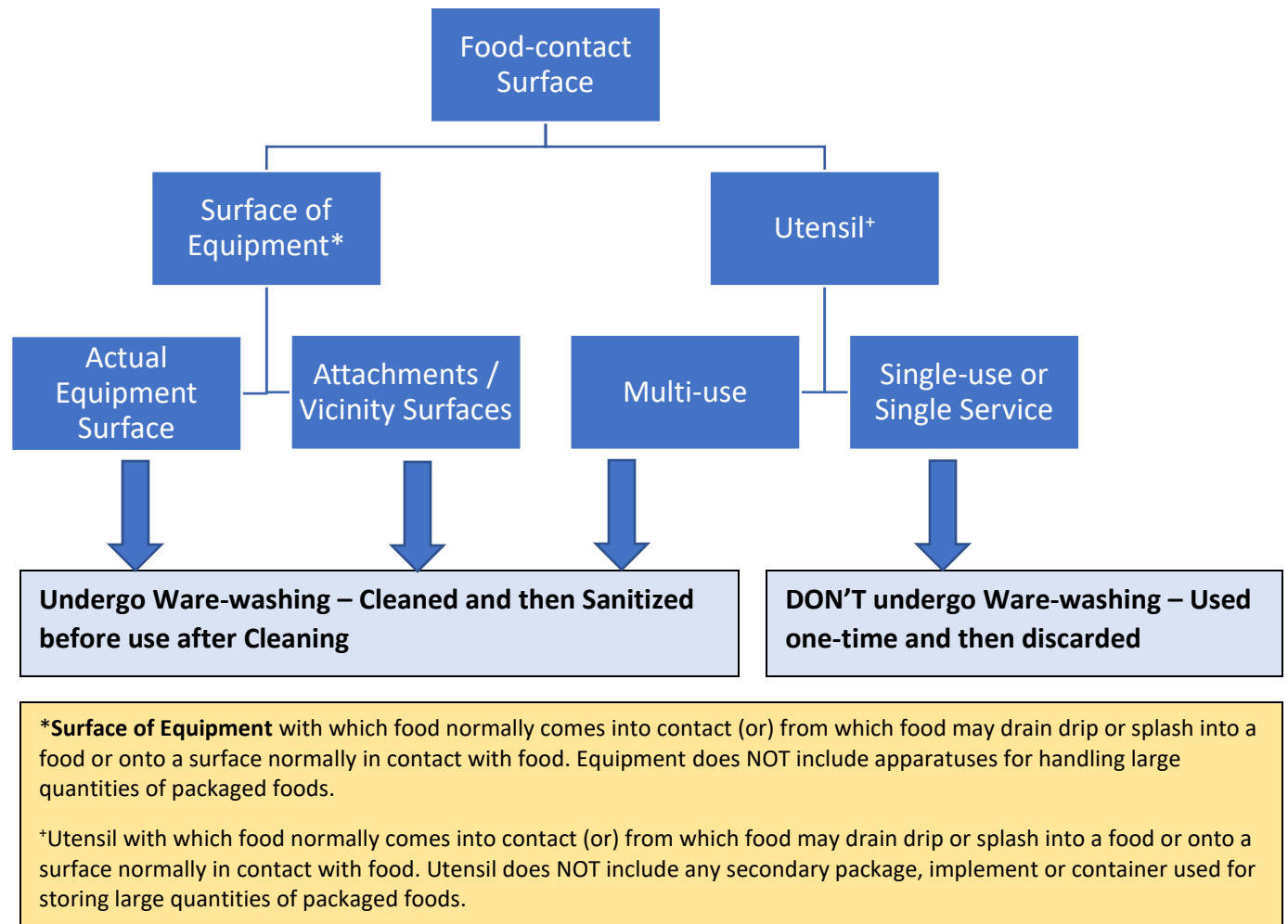
Supporting Attachments: *(documents submitted to provide background information to Council)*

<See **Key References** in this document>

...

Proposed Summary Chart

The chart (illustrated below) shows the intended classification of “Food-contact surface” after taking the proposed changes (put forward in the Issues, and as described in the preceding sections of this Content Document) into account:



Key References

- i. 2017 Food Code: <https://www.fda.gov/food/fda-food-code/food-code-2017>
- ii. Top 5 CDC Risk Factors: <http://www.sbcounty.gov/uploads/dph/dehs/Depts/EnvironmentalHealth/FormsPublications/Top5CDCRiskFactorsContributingFoodborneIllness.pdf>
- iii. CDC Infographic Preventing Foodborne Illness Outbreaks: <https://www.cdc.gov/nceh/ehs/publications/pfio-infographic.html>

Submitted by: Amit M Kheradia

Organization: Remco

For New CFP 2020 Issues Proposed:

- Amend Food Code – Clarify “Equipment” definition
- Amend Food Code – Clarify “Utensil” definition

Key References

- i. 2017 Food Code: <https://www.fda.gov/food/fda-food-code/food-code-2017>
- ii. Top 5 CDC Risk Factors:
<http://www.sbcounty.gov/uploads/dph/dehs/Depts/EnvironmentalHealth/FormsPublications/Top5CDCRiskFactorsContributingFoodbornellness.pdf>
- iii. CDC Infographic Preventing Foodborne Illness Outbreaks:
<https://www.cdc.gov/nceh/ehs/publications/pfio-infographic.html>