

**Conference for Food Protection
2020 Issue Form**

Issue: 2020 I-025

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– Update definitions in relation to food for animals

Issue you would like the Conference to consider:

In an effort to prevent and reduce human foodborne illness as a result of food for animals, modifying definitions to be able to achieve this should be considered. Modify the definition of "food" to align more with the Federal definition of food to include food for animals should be considered. Modify the definition of "food establishment" to ensure this change should only be effective at existing establishments, therefore exclude establishments that exclusively prepare, sell, or hold food for animals. Modify the definition of "ready-to-eat food" to account for uncooked or partially cooked food for animals such as but not limited to raw pet food or dried pet treats.

Note: Utilizing the term "food for animals" instead of "animal food" to reduce confusion with the "animal foods" definition in the 2017 Food Code.

Public Health Significance:

Problem that needs to be addressed:

Human foodborne illness can be caused by food for animals. Several outbreaks with whole genome sequencing traceback have revealed food for animals as the source for human illness. A recent national human foodborne illness outbreak affecting 34 states with over 154 reported cases and 25 hospitalizations was traced back to pig ear pet treats. Twenty-seven cases were children younger than 5 years old. Examples of nationwide human foodborne illness contributed to contaminated pet food has been associated with both raw and dry pet food products. It is possible food for animals could have been a source for even more outbreaks in the past. Foodborne illness surveys used in epidemiological investigations typically have not addressed exposure to food for animals; therefore, an association may have been missed during previous investigations.

Additionally, food for animals is currently not regulated to prevent human foodborne illness at all levels throughout its entire supply chain. Consistent and collaborative regulation of food for animals may mitigate the associated risks. The same pathogens causing

foodborne illness in humans are present in pet foods. Although the same safety measures apply, they are often overlooked when the products are intended for animals. Often consumers are handling animal pet foods in their own kitchens and simultaneously preparing human foods. Pet owners regularly handle their pet's foods and treats, and thereby unknowingly, or possibly unconsciously, expose themselves to potential foodborne pathogens.

Recalls of pet food for animals have been issued as a precaution as the products contain pathogen strains harmful to both humans and animals. While helpful, precautionary recalls are a reactive response to a problem where preventative measures exist. A unified, one health approach to prevention is necessary.

Cause of the problem:

The extent of the human-companion animal bond is undeniable and ever-growing. Humans are now viewing their pets as a member of their family. By default, humans have significantly more exposure to their pets' food. Food for animals can be found in thousands of establishments of varying types such as grocery stores, farmer's markets, and home improvement stores across the country. An explosion of new varieties of food for animals such as refrigerated and frozen pet food, are increasing in popularity and availability. Most animal food regulatory programs do not have the capacity to verify safety measures at even a fraction of these establishments nor do most have the training or tools required for time/temperature control for safety food for animals. A significant misperception may exist among consumers and regulators alike dismissing human foodborne illness caused by contaminated food for animals or how these two outwardly different worlds connect.

Why the status quo is not addressing the problem:

As stated above, the exponential expansion of the pet food market into traditional human food establishments has exceeded the resources of animal food regulatory programs. The regulatory focus has generally been at the manufacturing level. This has left less resources for the retail sector. Most animal food regulators are untrained in the requirements for time/temperature control for safety food for animals associated with refrigerated and frozen pet foods. Often they do not have the equipment, such as thermometers, to properly regulate risk factors associated. Science tells us proper cold holding and freezing significantly limits the exponential growth of bacteria. Also, proper handling and storage reduces risk of cross-contamination. Some jurisdictions may have instituted authorities to enforce these prevention measures such as New York State Department of Agriculture and Markets where they recently seized almost 100 pounds of refrigerated raw meat dog food packages for temperature abuse in a chain supermarket or Seattle-King County Public Health that created a Zoonotic Disease Prevention Regulation implementing safety measures in pet food retail businesses. However, these authorities are rare and inconsistent across the country.

The Food Safety Modernization Act (FSMA) was enacted into law in 2011 with the main purpose to prevent adulteration. Most animal food regulatory agencies adopt FSMA regulations and/or AAFCO (Association of American Feed Control Officials) Model Bill and Regulations. Within these laws and regulations, there are very little safety measures existing for the retail sector since neither properly address known retail prevention measures. Furthermore, the Food Code does not address food for animals, even though the federal definition of "food" includes food for other animals since the definition's

inception in 1906 with the Pure Food and Drug Act and food for animals is offered at Food Code establishments.

Another goal of FSMA is to build and maintain an integrated food safety system with mutual reliance, essentially viewing public health through a one-health approach which recognizes that all components are interconnected. In the past, there has been limited collaboration between human food regulators and animal food regulators, resulting in silos and lack of awareness of how each type of food is regulated. Utilizing diverse expertise on both ends of the food spectrum, a unified approach to addressing food for animals in commerce could be enhanced to a level of prevention, mutual reliance, and in integrated food safety system; thus advancing the desired outcomes of FSMA.

Recommended policy solution:

In an effort to reduce or prevent human foodborne illnesses caused by food for animals, amendment of relevant definitions in the Food Code is recommended. To enact these updates a letter should be sent to FDA requesting the amendment of relevant definitions in the Food Code.

Potential consequences with recommendation:

Human food regulatory agencies will have to determine if their laws grant them authority to utilize the federal definition of food (Federal Food, Drug & Cosmetic Act, §321(f)) or if they have an equivalent definition. This would allow these agencies the proper authority if they were to adopt the new Food Code that contained the proposed changes. Otherwise, they would need to modify their law's definition.

Human food regulators will likely only have an additional aisle to inspect when in the human food establishments; those that store food for animals. The proposed changes will only be applied to human food regulator's existing inventory. Grocery stores, being the most likely example, are already accustomed to this type of regulation; however, the product companies may not be as familiar with retail regulation. Outreach and inclusion of the animal food industry is needed. To ensure equivalent and consistent regulation on the retail level, language updates will be proposed to AAFCO Model Bills and Regulations Committee for retail animal food establishments.

Recommended Solution: The Conference recommends...:

that a letter be sent to FDA requesting §1-201.10(B) of the most recent edition of the Food Code be amended as follows (new language underlined, deleted language ~~strikeout~~):

"Food" means a raw, cooked, or processed edible substance, ice, BEVERAGE, or ingredient used or intended for use or for sale in whole or in part for human or other animal consumption, or chewing gum.

Food Establishment.

(1) "Food establishment" means an operation that:

(a) stores, prepares, packages, serves, vends food directly to the consumer, or otherwise provides FOOD for human consumption such as a restaurant; satellite or catered feeding location; catering operation if the operation provides FOOD directly to a CONSUMER or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; ~~or~~ FOOD bank; or stores FOOD for animal consumption; and

(b) relinquishes possession of FOOD to a CONSUMER directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

(2) "Food establishment" includes:

(a) An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the REGULATORY AUTHORITY; and

(b) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the PREMISES; and regardless of whether there is a charge for the FOOD.

(3) "Food establishment" does not include:

(a) An establishment that offers only prePACKAGED FOODS that are not TIME/TEMPERATURE CONTROL FOR SAFETY FOODS;

(b) A produce stand that only offers whole, uncut fresh fruits and vegetables;

(c) A FOOD PROCESSING PLANT; including those that are located on the PREMISES of a FOOD ESTABLISHMENT

(d) A kitchen in a private home if only FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD, is prepared for sale or service at a function such as a religious or charitable organization's bake sale if allowed by LAW and if the CONSUMER is informed by a clearly visible placard at the sales or service location that the FOOD is prepared in a kitchen that is not subject to regulation and inspection by the REGULATORY AUTHORITY;

(e) An area where FOOD that is prepared as specified in Subparagraph (3)(d) of this definition is sold or offered for human consumption;

(f) A kitchen in a private home, such as a small family day-care provider; or a bed-and-breakfast operation that prepares and offers FOOD to guests if the home is owner occupied, the number of available guest bedrooms does not exceed 6, breakfast is the only meal offered, the number of guests served does not exceed 18, and the CONSUMER is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the FOOD is prepared in a kitchen that is not regulated and inspected by the REGULATORY AUTHORITY; ~~or~~

(g) A private home that receives catered or home-delivered FOOD; ~~or~~

(h) An establishment that offers FOOD for animal consumption or serves animals as their main function, such as pet food retail business, a feed store, or a groomer.

(2) "Ready-to-eat food" includes:

(a) Raw animal FOOD that is cooked as specified under § 3-401.11 or 3-401.12, ~~or~~ frozen as specified under § 3-402.11, or uncooked or partially cooked if for animal consumption;

(b) Raw fruits and vegetables that are washed as specified under § 3-302.15;

(c) Fruits and vegetables that are cooked for hot holding, as specified under § 3-401.13;

(d) All TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is cooked to the temperature and time required for the specific FOOD under Subpart 3-401 and cooled as specified under § 3-501.14 or uncooked or partially cooked if for animal consumption;

(e) Plant FOOD for which further washing, cooking, or other processing is not required for FOOD safety, and from which rinds, peels, husks, or shells, if naturally present are removed;

(f) Substances derived from plants such as spices, seasonings, and sugar;

(g) A bakery item such as bread, cakes, pies, fillings, or icing for which further cooking is not required for FOOD safety;

(h) The following products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens: dry, fermented sausages, such as dry salami or pepperoni; salt-cured MEAT and POULTRY products, such as prosciutto ham, country cured ham, and Parma ham; and dried MEAT and POULTRY products, such as jerky or beef sticks; and

(i) FOODS manufactured as specified in 21 CFR Part 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

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Supporting Attachments:

- "Supporting Attachments"

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