DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration
College Park, MD 20740

JUL 31 2012

Ms. Lori LeMaster, Chair
Conference for Food Protection
2792 Miramar Lane
Lincoln, California 95648-2070

Dear Ms. LeMaster:

Thank you for your letter dated May 29, 2012, in which you transmitted the recommendations made by the Conference for Food Protection (CFP) at its 2012 Biennial meeting in Indianapolis. In accordance with the Memorandum of Understanding between the Food and Drug Administration (FDA) and the CFP, I am pleased to respond with FDA's current position on those recommendations that pertain to the FDA Food Code or to otherwise recommend action on the part of FDA.

FDA appreciates the efforts of all participants in the 2012 Biennial Meeting who collaborated to develop the recommendations made to FDA that are intended to further food safety and foster cooperation among Federal, state, local, territorial, and tribal agencies and our partners in industry, academia, and consumers.

Part 1 of your letter identified 27 recommendations for changes to the FDA Food Code or the various Food Code Annexes. FDA agrees in principle with almost all of the 27 recommendations and plans to revise the 2013 edition of the Food Code to address those recommendations.

The Part 1 recommendations to which FDA will be giving additional consideration before concurring with the recommendation made by the CFP are identified and discussed in detail below.

Please note that there are additional Part 1 recommendations with which FDA agrees in principle but for which we may not agree with the specific proposed wording for the Food Code changes. In these cases, FDA may modify the recommended text, either to provide clarity or to achieve consistency with the structure or conventions of the Food Code.

2012-I-036 – Designation of Water Temperature at Handwashing Sinks as a Core Item

This recommendation contains two parts. The first part suggests FDA review the priority designation assigned to Section 5-202.12 of the 2009 Food Code based on current science.

The second part makes a specific recommendation to divide that section into subsections and to designate one subsection as a Priority Foundation Item and one subsection as a Core Item. FDA expressed its opinion at the 2012 meeting that, based on a preliminary review of the designations, the current designation is appropriate. Based on the CFP recommendation, FDA agrees to carefully reconsider the designation assigned to Section 5-202.12 using the established criteria for making such designations and to consider recent publications that may inform the process. FDA will make a decision regarding a change to the designation after it completes such a review.

2012-III-08 – Addressing Non-Typhoidal Salmonella in the Food Code

FDA agrees in principle with the CFP recommendation to modify the FDA Food Code to specifically address Non-Typhoidal Salmonella (NTS) and the steps food establishments should take to prevent its transmission by infected food employees. However, before modifying the Food Code to incorporate the suggested revisions, FDA needs to determine the status of NTS on CDC's "List of Infectious and Communicable Diseases which are Transmitted through the Food Supply," as CDC is in the process of updating that list. FDA will take into consideration additional information made available by CDC as the agency determines how best to modify the Food Code to address the inclusion of NTS among the pathogens that trigger the need for certain employee health-related preventive controls, as described in the Food Code. FDA will keep the CFP Executive Board and the membership informed on progress on this effort.

2012-III-021- Determining the Disposition of Refrigerated Potentially Hazardous Food above 5°C (41°F)

This recommendation also contains two parts – first to add language to Annex #4 and second to create a committee to review and update the *CFP Emergency Action Plan for Retail Food Establishments*. FDA supports CFP's intention to create a CFP Committee to review and update the *CFP Emergency Action Plan for Retail Food Establishments* to enhance the recommendations for determining the disposition of potentially hazardous foods that have been subject to limited temperature abuse due to the unanticipated interruption of adequate temperature control (such as during emergency power outages). FDA is prepared to participate on that Committee and will carefully consider the recommendations put forward with this CFP issue and subsequent revisions to the CFP *Emergency Action Plan* document. FDA recognizes the value of having sound recommendations for how food establishments should best manage the potential risks associated with disruptions of temperature control, especially in situations in which consumer access to food may be limited.

FDA is not ready at this time, however, to commit to incorporating the specific recommendations made by CFP into the FDA Food Code or its Annexes. FDA believes further consideration needs to be given to: 1) the various model predictions of microbial growth likely to be associated with unanticipated disruption of proper refrigerated food storage; and 2) what level of monitoring and documentation are appropriate to allow for limited temperature abuse without compromising public safety.

FDA believes the new CFP Committee discussions should closely examine the recommendations in 2012-III-021 and looks forward to assisting in development of enhanced guidance for the industry and public health officials.

2012-III-025 - Dual Step Hand Cleanse-Sanitize Protocol without Water (Note: This title is derived from the original issue submission and is not relevant to the final recommendation.)

This recommendation also contains two parts; one that suggests charges to a CFP committee and one that suggests a Food Code change. FDA agrees with the recommendation that the same CFP committee that is to consider revisions to the *CFP Emergency Action Plan for Retail Food Establishments* (as described in 2012-III-021 above), should also consider how that document can best address hand hygiene recommendations when natural or man-made disasters make normal handwashing stations impracticable. The recommendation also suggests that FDA modify the Food Code to capture the concept that under catastrophic disaster situations, handwashing requirements should be "in accordance with emergency guidance documents." Since the Food Code is primarily intended to identify appropriate routine preventive controls at retail and does not specifically address all the various food safety implications of a catastrophic disaster situation, FDA does not agree that such recommendations specific to hand washing alone belong in the FDA Food Code. Further, it is not clear to FDA what, if any, "emergency guidance documents" the CFP had in mind when recommending that the Food Code reference such documents. FDA will wait for the new CFP Committee to complete its charge and update the *Emergency Action Plan* document to include hand hygiene recommendations before considering whether and where to reference those recommendations in the Food Code.

Part 2 of your letter identified 14 recommendations that request FDA take some action other than modification of the FDA Food Code. FDA agrees in principle with all the recommendations in Part 2 of your letter, including four recommendations for improving the National Voluntary Retail Food Regulatory Programs Standards. Your letter also requests FDA to work in various capacities to enhance the information and resources it makes available to the various stakeholder groups that participate in the CFP.

We trust that the CFP membership will recognize that FDA does not have unlimited resources and so must consider each of these recommendations in the context of overall agency priorities. FDA will do its best to keep CFP leadership and its members informed on progress made toward delivering on these recommendations. Allow us to elaborate on a couple CFP Recommendations of note in Part 2 of your letter.

2012-II-027 – Recommendations for Promoting the Field Training Manual

FDA very much appreciates the support shown by CFP for the use of the *Field Training Manual for Regulatory Retail Food Safety Inspection Officers.* FDA welcomes the suggestions made by CFP to improve access to this resource by regulatory agencies. To be useful, the recommendations in this manual must be tailored to the individual jurisdiction and the priorities of the jurisdiction's program manager or training officer. Therefore, widespread distribution of the resource without guided instruction may not achieve the desired outcome. Improving inspector training programs and the resources available to them continues to be an important part of FDA's retail food safety initiative and a focus of activity of FDA's Regional Retail Food Specialists.

2012-III-029 - Public Release of Food Allergy Resource Document

FDA acknowledges CFP's renewed request that FDA disseminate useful materials on the control of food allergens at retail. FDA is developing such guidance, and we are considering options for making it available to the public for review and comment. We do so with the understanding that the CFP Food Allergen Committee is no longer an established committee.

We hope this letter provides sufficient information about our positions on the relevant 2012 CFP Recommendations. We look forward to continuing our cooperative relationship with the Conference.

Sincerely,

Michael M. Landa
Director
Center for Food Safety
and Applied Nutrition