

Conference for Food Protection – Committee FINAL Report

Template approved: 08/14/2013

Committee Final Reports are considered DRAFT until deliberated and acknowledged by the assigned Council at the Biennial Meeting

COMMITTEE NAME: Unattended Food Establishments

COUNCIL or EXECUTIVE BOARD ASSIGNMENT: Council I

DATE OF REPORT: January 29, 2016 (Rev 2/11/16)

SUBMITTED BY: Co-Chairs Ric Mathis and Larry Eils

COMMITTEE CHARGE(s): Unattended Food Establishments Issue 2014-I-019

1. Develop recommendations on whether and how the Food Code should be modified to address unattended food merchandising operations.
2. Consider any existing guidance from FDA and others and develop a CFP guidance document that could assist states when addressing the need to have alternative protective provisions in place when approving a waiver or variance for entities that do not meet section 2-101.11 and 2-103.11 of the 2013 Food Code.
3. Report back at the 2016 Biennial Meeting with a recommendation to Council I.

COMMITTEE ACTIVITIES AND RECOMMENDATIONS:

1. Progress on Overall Committee Activities:

The committee's activity began by the Co-chairs emailing the committee information describing and depicting micro markets and their operation in order to familiarize them with this new type of food service. (See attachment "NAMA Technical Bulletin Micro Market" November 2012). After several very productive email meetings, our first conference call was held on February 12, 2015. The committee had a great deal of meaningful discussion. A consensus was reached regarding the initial approach to Food Code Section 2-101.11 in that these establishments would not be required to have a person-in-charge present during all hours of operation.

Next, the committee sought to develop a name for this type of operation. A lengthy discussion followed about how the operation should be characterized/defined. It was agreed that the Co-chairs along with a sub-committee would use existing information from Indiana (Guidance for Regulation of "Micro Markets" June 6, 2013) and Ohio (3717 Ohio Uniform Food Safety Code, OAC 3717-1-01) and other available resources to develop a composite definition to be discussed during the next call. The agreed upon name was Unattended Food Establishment. Using the composite definition as a template, the committee developed its final definition which is as follows:

Unattended Food Establishment means an operation that provides packaged foods or whole fruit using an automated payment system; and has controlled entry not accessible by the general public.

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Controlled Entry means selective restriction or limitation of access to a place or location.

After reviewing existing guidance from FDA and other jurisdictions, the committee identified those components or activities indicative of an establishment of this type which were not in the Food Code. These activities were: definitions, plan review, location, nature and source of food and beverages offered for sale, refrigerated display cases, food service equipment limitations, security, routine maintenance, oversight, and designation of responsibilities.

Another sub-committee reviewed Food Code Section 2-103.11 *Person-In-Charge* (PIC) Items (A) through (O) to determine the food safety risk levels of the various responsibilities of the PIC listed in this Section relating to Unattended Food Establishments. (See attached “Person in Charge Duties Unattended Food Service Establishments”) It was determined that Item (E) of this attachment was the only activity with a medium risk level for this type of operation if there was no person in charge present. All other designated responsibilities of the Person in Charge were deemed a low or no risk with regards to the operation of an Unattended Food Establishment. 2-103-11 Person in Charge (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.

In an Unattended Food Establishment operation the route driver is responsible for the following activities: obtain the food from an approved source (company kitchen or commercial product); maintain the food at 41 F or below from receipt, during transportation and placement in the display refrigerator at the location; all food must be pre-packaged; and all food must be protected from potential sources of contamination from receipt, transportation and their final display at the location. Item (E) covers all these activities done by the route driver.

The committee agreed that Unattended Food Establishments should be addressed in the Food Code and initially sought to identify where and how the Food Code should be modified. However, given the charge of the committee and available time, the members elected to focus on developing a guidance document that could assist state and local agencies when considering the regulation of Unattended Food Establishment. This document contains recommended minimum requirements when approving a waiver or variance for the operation of an Unattended Food Establishment. (See attached “Guidance Document for Unattended Food Establishments”) This guidance document completes the second charge given to the committee.

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Throughout the committee's work our FDA advisors provided input regarding possible concerns for an operation without a person-in-charge. At the same time they answered the many questions raised by the committee concerning how various sections of the Food Code related to items being included in the guidance document. See attached Memo to FDA National Retail Food Team 12/12/1024 as one example.

2. Recommendations for consideration by Council:

The Co-chairs, on behalf of the members of the Conference for Food Protection Unattended Food Establishment Committee, recommends:

1. Acknowledging the work of the Unattended Food Establishment Committee;
- and 2. Re-creating the Unattended Food Establishment Committee following the CFP 2016 Biennial Meeting to develop a guidance document and recommendations on how the Food Code should be modified to address Unattended Food Establishments and present their findings at the 2018 CFP Biennial Meeting.

CFP ISSUES TO BE SUBMITTED BY COMMITTEE:

1. Issues to be submitted:

a. Title: Report - Unattended Food Establishments

b. Title: Re-create - Unattended Food Establishments

Re-creating the Unattended Food Establishment Committee following the CFP 2016 Biennial Meeting to continue the charges assigned in Issue I-019 and:

1. Develop recommendations on how the FDA Food Code addresses Unattended Food Establishments;

2. Continue to review the "Guidance Document for Unattended Food Establishments" and any existing guidance from FDA and others to update the CFP guidance document that could assist states when addressing the need to have alternative protective provisions in place when approving a waiver or variance for entities that do not meet section 2-101.11 and 2-103.11 of the 2013 Food Code;

3. Present their findings at the 2018 CFP Biennial Meeting.

c. Title: Guidance Document for Unattended Food Establishments

1. Approval of the Unattended Food Establishment Committee document titled *Guidance Document for Unattended Food Establishments*

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2. Posting the approved document in PDF format on the Conference for Food Protection website.

COMMITTEE MEMBER ROSTER (attached):