

**Conference for Food Protection
2016 Issue Form**

Issue: 2016 II-004

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 issue was submitted for consideration at a previous biennial meeting, see issue: 2014-I-032; new or additional information has been included or attached and the recommended solution has been revised.

Title:

Imminent Health Hazard: Modify Enforcement & PIC Duties

Issue you would like the Conference to consider:

Modify both the enforcement action and the duties of the Person in Charge in the FDA Food Code relative to "Imminent Health Hazard" so that a facility 1) with a written emergency operating plan that is preapproved by the regulatory authority; and that 2) takes immediate corrective action to eliminate, prevent or control a risk or hazard in accordance with that written and preapproved emergency operating plan; and that 3) informs the regulatory authority of the risk or hazard having occurred and the written preapproved emergency operating plan having been implemented should not have to cease operations.

Public Health Significance:

As stated in CFP's 2014 Emergency Action Plan for Retail Food Establishments, "All retail food establishments are vulnerable to a potential emergency or disaster that could impact the safety of the food and products they sell or serve to consumers. Yet, in times of crises, these facilities can also serve the community and provide valuable resources." During crisis, industry and public health are partners with a common purpose; to restore normalcy to the community quickly while protecting the public health in the process. Industry is the expert at feeding people, not emergency management agencies. The sooner food establishments can get operating; the sooner communities can return to normal. Pre-approval of emergency operating plans enables facilities to remain in operation and the regulatory authority to deploy their limited resources more efficiently, starting with establishments that don't have emergency operating plans, because delays in re-opening hurt all stakeholders; customers, employees and first responders.

The proposed language for Food Code Section 2-103.11(P) is modeled after language in the State of Georgia Rules & Regulations Governing Food Service, 511-6-1 effective November 1, 2015, found in a supporting attachment accompanying this Issue.

In the following link, "Emergency Action Plan for Retail Food Establishments", CFP 2014, note in particular Localized Emergency or Event #s 2, 3 & 4 located on pages 4-5. Also note planning for Response to an Emergency paragraphs 1, 2 & 3 located on page 7. Also see chart I on page 17; Procedures for Handling Refrigerated TCS Foods during a Power Outage.

<http://www.foodprotect.org/media/guide/Emergency%20Action%20Plan%20for%20Retail%20food%20Est.pdf>

In the following link, "Lessons Learned: Food Safety Preparedness before the Next Natural Disaster" in Food Safety Magazine, August/September 2014, note in particular, authors Kalis & Blake (CDC), Hatch (AL DPH) & Corby (AFDO) on the value of preapproved emergency operating plans. Kalis & Blake add that in a crisis, food service providers with preapproved emergency operating plans become part of the infrastructure that protects public health.

<http://www.foodsafetymagazine.com/magazine-archive1/augustseptember-2014/lessons-learned-food-safety-preparedness-before-the-next-natural-disaster/>

Recommended Solution: The Conference recommends...:

that a letter be sent to the FDA requesting that the 2013 Food Code be amended by adding new paragraphs to Sections 8-404.11 and 2-103.11 as follows (underline format used for new language):

Section 8-404.11. Ceasing Operations and Reporting.

(A) Except as specified in ¶ (B) and (C) of this section, a PERMIT HOLDER shall immediately discontinue operations and notify the REGULATORY AUTHORITY if an IMMINENT HEALTH HAZARD may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, SEWAGE backup, misuse of POISONOUS OR TOXIC MATERIALS, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health.

(B) A PERMIT HOLDER need not discontinue operations in an area of an establishment that is unaffected by the IMMINENT HEALTH HAZARD.

(C) A PERMIT HOLDER need not discontinue operations if the facility has experienced an interruption of water service or an extended interruption of electrical service for two or more hours so long as the facility has a specific written emergency operating plan that has been preapproved by the regulatory authority and if the Person in Charge takes immediate corrective action to eliminate, prevent or control the risk or hazard in accordance with the specific written preapproved emergency operating plan and if the Person in Charge informs the regulatory authority of the specific risk or hazard having occurred and of the specific written preapproved emergency operating plan having been implemented. ^{Pf}

Section 2-103.11. Person in Charge

The Person in Charge shall ensure that:

(P) Imminent Health Hazard. If an imminent health hazard exists because of an emergency such as a fire, flood, interruption of electrical or water service for two or more hours, sewage malfunction, misuse of poisonous or toxic materials, onset of an apparent

foodborne illness outbreak, gross unsanitary occurrence or condition, or other circumstances that may endanger public health, then operations are immediately discontinued and the Health Authority is notified.^P If, however, the Imminent Health Hazard consists of an interruption of water service or an extended interruption of electrical service for two or more hours, the establishment may continue to operate under a specific written emergency operation plan that has been preapproved by the Health Authority prior to the occurrence of the specific emergency event provided the Person in Charge notifies the Health Authority that the specific emergency event has occurred and the preapproved specific written emergency operation plan is being implemented.^{Pf}

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Supporting Attachments:

- "Rules & Regulations Governing Food Service for the State of Georgia"

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.

Below are the Rules & Regulations Governing Food Service (Food Code) for the State of Georgia, effective November 1, 2015. Note Section 511-6-1.03 (2) (n), Management & Personnel, Responsibilities of the Person in Charge (PIC), Imminent Health Hazard which is highlighted in yellow.

511-6-1-.03 Management and Personnel

(1) Demonstration of Knowledge. Based on the risk of foodborne illness inherent to the food service operation, during inspections and upon request, the person in charge shall demonstrate to the Health Authority knowledge of foodborne disease prevention, application of the Hazard Analysis Critical Control Point principles, and the requirements of this Chapter. The person in charge shall demonstrate this knowledge in one of the following ways:

(a) Compliance with Chapter. Complying with this Chapter by having no violations of Priority Items during the current inspection; ^{Pf}

(b) Certified Food Service Manager. Being a certified food service manager who has shown proficiency of required information through passing a test that is part of an accredited program; ^{Pf}
or

(c) Correct Answers to Food Safety Questions. Responding correctly to the inspector's questions as they relate to the specific food operation. The areas of knowledge include:

1. Describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee; ^{Pf}

2. Explaining the responsibility of the person in charge for preventing the transmission of foodborne disease by a food employee who has a disease or medical condition that may cause foodborne disease; ^{Pf}

3. Describing the symptoms associated with the diseases that are transmissible through food; ^{Pf}

4. Explaining the significance of the relationship between maintaining the time and temperature of time/temperature control for safety food and the prevention of foodborne illness; ^{Pf}

5. Explaining the hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish; ^{Pf}

6. Stating the required food temperatures and times for safe cooking of time/temperature control for safety food including meat, poultry, eggs, and fish; ^{Pf}

7. Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of time/temperature control for safety food; ^{Pf}

8. Describing the relationship between the prevention of foodborne illness and the management and control of the following:

- (i) Cross contamination, ^{Pf}
- (ii) Hand contact with ready-to-eat foods, ^{Pf}
- (iii) Handwashing, and ^{Pf}
- (iv) Maintaining the food service establishment in a clean condition and in good repair; ^{Pf}

9. Describing foods identified as major food allergens and the symptoms major food allergen could cause in a sensitive individual who has an allergic reaction; ^{Pf}

10. Explaining the relationship between food safety and providing equipment that is:

- (i) Sufficient in number and capacity, and ^{Pf}
- (ii) Properly designed, constructed, located, installed, operated, maintained, and cleaned; ^{Pf}

11. Explaining correct procedures for cleaning and sanitizing utensils and food-contact surfaces of equipment; ^{Pf}

12. Identifying the source of water used and measures taken to ensure that it remains protected from contamination such as providing protection from backflow and precluding the creation of cross connections; ^{Pf}

13. Identifying poisonous or toxic materials in the food service establishment and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of according to law; ^{Pf}

14. Identifying critical control points in the operation from purchasing through sale or service that when not controlled may contribute to the transmission of foodborne illness and explaining steps taken to ensure that the points are controlled in accordance with the requirements of this Chapter; ^{Pf}

15. Explaining the details of how the person in charge and food employees comply with the HACCP plan if a plan is required by the law, this Chapter, or an agreement between the Health Authority and the food service establishment; ^{Pf}

16. Explaining the responsibilities, rights, and authorities assigned by this Chapter to the:

- (i) Food employee, ^{Pf}
- (ii) Conditional employee, ^{Pf}
- (iii) Person in charge, ^{Pf}

(iv) Health Authority; ^{Pf} and

17. Explaining how the person in charge, food employees, and conditional employees comply with reporting responsibilities and exclusion or restriction of food employees. ^{Pf}

(2) Responsibilities of the Person in Charge (PIC). There must be a person in charge on the premises of the food service establishment at all times. The person in charge shall ensure compliance with the following:

(a) Operations Not Conducted in Private Home. Food service establishment operations are not conducted in a private home or in a room used as living or sleeping quarters; ^{Pf}

(b) Authorized Personnel Access. Persons unnecessary to the food service establishment operation are not allowed in the food preparation, food storage, or warewashing areas, except that brief visits and tours may be authorized by the person in charge if steps are taken to ensure that exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles are protected from contamination; ^{Pf}

(c) Authorized Persons Compliance. Employees and other persons such as delivery and maintenance persons and pesticide applicators entering the food preparation, food storage, and warewashing areas comply with this Chapter; ^{Pf}

(d) Employee Handwashing. Employees are effectively cleaning their hands, by routinely monitoring the employees' handwashing; ^{Pf}

(e) Monitoring of Receiving. Employees are visibly observing and verifying delivered foods as they are received to determine that they are from approved sources and are placed into appropriate storage locations, as required by this Chapter, such that they are received and maintained at the required temperatures, protected from contamination, unadulterated, and accurately presented, by routinely monitoring the employees' observations, maintaining receiving/corrective action records for deliveries during non-operating hours, and periodically evaluating foods upon their receipt as specified within DPH Rule 511-6-1-.04(3)(m);^{Pf}

(f) Proper Cooking Techniques. Employees are properly cooking cold/hot holding, and reheating for hot holding time/temperature control for safety food, being particularly careful in cooking, reheating, and holding those foods known to cause severe foodborne illness and death, such as eggs and comminuted meats, through daily oversight of the employees' routine monitoring of the cooking, holding, and reheating for hot holding temperatures using appropriate temperature measuring devices properly scaled and calibrated. ^{Pf}

(g) Proper Cooling Methods. Employees are using proper methods to rapidly cool time/temperature control for safety food, that are not held hot or are not for consumption within four hours, through daily oversight of the employees' routine monitoring of food temperatures during cooling; ^{Pf}

(h) Consumer Food Safety. Consumers who order raw or partially cooked ready-to-eat foods of

animal origin are informed that the food is not cooked sufficiently to ensure its safety;^{Pf}

(i) Proper Sanitizing. Employees are properly sanitizing cleaned multiuse equipment and utensils before they are reused, through routine monitoring of solution temperature and exposure time for hot water sanitizing, and chemical concentration, pH, temperature, and exposure time for chemical sanitizing;^{Pf}

(j) Clean Tableware. Consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets;^{Pf}

(k) Bare Hand Contact. Unless the conditions specified in DPH Rule 511-6-1-.04(4)(a)4 are met, employees are preventing cross-contamination of ready-to-eat food with bare hands by properly using suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment;^{Pf}

(l) Food Safety Training. Employees are properly trained in food safety, including food allergy awareness, as it relates to their assigned duties;^{Pf}

(m) Reporting Responsibilities. Food employees and conditional employees are informed in a verifiable manner of their responsibility to report in accordance with the Chapter, to the person in charge, information about their health and activities as they relate to diseases that are transmissible through food;^{Pf} and

(n) Imminent Health Hazard. If an imminent health hazard exists because of an emergency such as a fire, flood, interruption of electrical or water service for two or more hours, sewage malfunction, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross unsanitary occurrence or condition, or other circumstances that may endanger public health, then operations are immediately discontinued and the Health Authority is notified.^P However, establishments may continue to operate under an emergency operation plan that has been approved by the Health Authority prior to the occurrence of such emergency events.^{Pf}

(o) Procedures and Plans. Written procedures and plans, where specified by this Chapter and as developed by the food service establishment, are maintained and implemented as required.^{Pf}