

**Conference for Food Protection
2016 Issue Form**

Issue: 2016 I-040

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:

FOOD guard criteria comprise a CORE item, not a PRIORITY ITEM.

Issue you would like the Conference to consider:

Section 3-306.11 of the 2013 FDA Food Code describes FOOD guards as a PRIORITY ITEM ("P"). "Preface x" of the code defines a PRIORITY ITEM as ". . . a provision in this Code whose application contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness. . ."

We looked for data to support the categorization of FOOD GUARDS as PRIORITY ITEMS. A review of scholarly articles and discussions with epidemiologists at various agencies, including Dr. Aron Hall at the CDC did not turn up any evidence of food borne disease transmission being associated with the lack of FOOD GUARDS, or their being out of position in some way. Frankly, we were surprised as retail grocery stores merchandise produce without FOOD GUARDS, and we had assumed that if there was data it would likely be associated with these large and numerous open food display areas. Instead, Dr. Hall responding in writing to our inquiry, stated that he was not aware of any data indicating a relationship between FOOD GUARDS and disease transmission. Section 3-306.11 "FOOD DISPLAY" is designated as a PRIORITY ("P") item, and requires food on display to be protected by various means, one of which is by the use of FOOD GUARDS, which are also known as "sneeze guards". The American National Standards Institute (ANSI) sanitation standard for FOOD GUARD's extremely granular and its specified measurements for the food guard based upon the anthropometrics of "the average person" whereby the guard or shield, must intercept the straight line from the "average" persons mouth to the food on display. If a regulatory authority determines that a ANSI sanitation listed FOOD GUARD is slightly out of place given its installation on the counter and the location of the food on display, the operator is cited for a critical violation. The entire premise of using these precise measurements for the "average" persons anthropometrics lacks substance. Designing a functional, compliant food guard is often an impossible feat as consumers can range in height from 4' tall in elementary school, to 6'8" tall and taller in high school, or in a corporate cafeteria or any other commercial food service operation. Because compliant FOOD GUARDS are often (if not always) an obstruction to reach-in

access for many above or below average persons, patrons have to contort themselves to reach their desired items, and in so doing can touch with hands or articles of clothing - other foods. Touching ready to eat foods with hands is a known contributing factor to food borne disease transmission. Food Guards being in or out of position to intercept the direct line from the average persons mouth to the food on display, is not a contributing factor to food borne disease transmission. We maintain that function takes precedence over form and that when FOOD GUARDS are provided, they must enable convenient access of food for the self-service guest. Further, there is no critical need for the food guard to intercept the line from the average persons mouth to the food on display as theorized and assumed as is evidenced by the ANSI sanitation standards precise measurement criteria.

Public Health Significance:

PRIORITY ITEM ("P") designations are supposed to be reserved for critical safety criteria for hazards known to contribute to food borne disease and injury. Assigning this designation to items that lack criticality such as FOOD GUARD'S, is wasteful and does nothing to promote food safety. The mis-categorization of this risk adds confusion and diminishes the importance of other to Priority designations due to its arbitrary, non-scientific categorization. Further, because ("P") item criteria comprise the highest risk categorization in the FDA Food Code, inspection agencies and design professionals are persuaded to waste thousands if not millions of hours every year complying with the arbitrary ANSI sanitation standards specified measurements because of the sections Priority designation. The cost of of compliance with section 3-306.11 is staggering, especially in light of the fact that it does nothing to improve public health and safety and instead wastes valuable time and money that could instead be used to mitigate risk factors known to contribute to food borne disease transmission.

There are some other reasons one might want a FOOD GUARD. For example, it could be used as a barrier or heat shield adjacent to a griddle or a broiler, or perhaps a hot food well or baines marie. But the ANSI sanitation measurements for a FOOD GUARD's are irrelevant for these examples - as the function of the FOOD GUARD here is actually to be a patron or child guard to reduce likelihood that they could be burned. Surely no reasonable person would think that the FOOD GUARD provides any microbial risk mitigation in these examples, as the thermal mass of the hot food would destroy any aerosolized organism from a cough or sneeze on contact. One could argue that such a guard protects from physical hazards. But foods on display are there for a short amount of time, and there is no data to suggest a physical or chemical hazard exists whether there is a FOOD GUARD used or not.

When the ANSI sanitation standards precise measurement requirements for FOOD GUARDS result in them becoming an obstacle to easy access to food, a documented hazard to the food is created; the inadvertent bare hand contact with ready to eat foods. The logical risk based preventative control for this hazard is to require convenient access to foods for all consumers, even those that are above or below "average", or handicapped. FOOD GUARDS that are obstacles to food access cause many patrons to simply choose not to reach for the item, diminishing the sales opportunity for the operator and the nutritional choice of the consumer. This is especially true with children and the handicapped.

Lacking scientific data that FOOD guards effectively protect food from contamination, the PRIORITY ITEM designation in section 3-306.11 of the FOOD CODE is arbitrary and inappropriate. This is not to say that FOOD guards cannot or should not be used. Rather, when FOOD GUARDS are used, form must follow function. Finally, FOOD GUARDS comprise a Core item, not a Priority item nor a Priority foundation item.

Recommended Solution: The Conference recommends...:

a letter be sent to the FDA requesting the 2013 Food Code be amended as follows (language to be added is underlined; language to be deleted is in strikethrough format):

Section 3-306.11 Food Display.

~~Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the CONSUMER before consumption,~~ FOOD on display shall can be protected from contamination shielded by the use of PACKAGING; counter, service line, or salad bar FOOD guards; display cases; or other effective means ^P. When FOOD guards are used, they shall be installed and maintained in a manner that allows self-serve consumers convenient access to the displayed foods.

Section 4-204.12 Equipment Openings, Closures and Deflectors

(E) When FOOD guards are provided, they shall be installed and maintained in a manner that self-service consumers are allowed convenient access to the food in order to reduce the risk of inadvertent hand or clothing contact with other foods on display.

Submitter Information 1:

Name: Thomas Johnson, Chief Manager
Organization: Johnson Risk Solutions, LLC
Address: 1408 Northland Dr #406
City/State/Zip: Mendota Heights, MN 55120
Telephone: 651-587-0418
E-mail: tomj@jdpinc.com

Submitter Information 2:

Name: Steve Carlson, President
Organization: Rippe Associates
Address: 6117 Blue Cir Dr, Suite 100
City/State/Zip: Minnetonka, MN 55343
Telephone: 952-933-0313
E-mail: scarlson@ripple.com

Supporting Attachments:

- "CDC Food Guards (2015)"

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.