



August 3, 2004

Ms. Janice D. Buchanon, Chair
Conference for Food Protection
445 Winn Way, Suite 320
Decatur, GA 30031

Dear Ms. Buchanon:

This is in response to your letter dated June 1, 2004, in which you transmitted the 2004 Conference for Food Protection (CFP) recommendations related to the Food and Drug Administration's (FDA) Food Code and other issues that recommend FDA's involvement, to the Center for Food Safety and Applied Nutrition (CFSAN). Thank you for the opportunity to respond.

I am pleased to report that we are in basic agreement with each of the 43 CFP recommendations. Our response to each of the recommendations are grouped into one of two categories:

- Category 1: 41 CFP recommendations with which we conceptually agree;
- Category 2: 2 CFP recommendations that we would like to discuss at the August, 2004 CFP Executive Board meeting.

For Category 1 recommendations, we plan to incorporate the intent of the recommendation in the next edition of the FDA Food Code. The exact language recommended by CFP may be modified before being incorporated into the FDA Food Code to clarify or to maintain the Code's internal consistency. The CFP Issue numbers are listed numerically and by Council within each Category. We have retained the Part 1 and Part 2 groupings, within Category 1, that you used in your letter to Dr. Brackett (Director at CFSAN). A single asterisk notes issues that relate to a CFP Committee. A double asterisk indicates issues that were also referred by the CFP to the United States Department of Agriculture (USDA). We have been in contact with USDA in developing our response to each of these recommendations.

For Category 2 recommendations, we have summarized why we would like to discuss these at the next CFP Executive Board meeting.

Category 1: CFP recommendations with which CFSAN conceptually agrees

Part 1: 2004 Conference for Food Protection recommendations for changes to 2001 FDA Food Code language

<u>Issue Number</u>	<u>Issue Title</u>
2004-I-012	Revising the definition of "Potentially Hazardous Food" in the FDA Food Code
2004-I-014	Demonstration of Knowledge - "Compliance with the Food Code" Section 2-102.11
2004-I-017	Clarify and expand when shucked shellfish may be removed from the container in which they were received
2004-I-018	Revise paragraph 3-203.12(B)(2)(b) of the 2001 FDA Food Code to be consistent with the "Commingle" definition provided in paragraph 1-201.10(B)(13)
2004-I-019	Pasteurized Eggs, Substitute for Raw Shell Eggs for Certain Recipes
2004-II-009	Accredited Program Definition
2004-II-013 **	Food Security at Retail.
	We will determine the references or web links to be included in the FDA Food Code based on consultation with FDA & USDA food security experts.
2004-II-019*	CFP Inspection Form Committee, Recommendation to accept Inspection Form and instructional documents
2004-II-021*	CFP Inspection Form Committee, Recommended Elements that should be on an Inspection Form and their Justification
2004 III-007	Update bibliography references listed in Annex 2, Section 3-501.17 of the 2001 FDA Food Code
2004 III-009*	Time Only as a Public Health Control for 6 hours
2004-III-012	Growing Sprouts in Retail Food Establishments
2004 III-014	Addition of Cheese Date Marking Exemption to Section 3-501.17 (D)
2004 III-017	Addition of exempt food to Section 3-501.17
2004 III-023	Revise Reduced Oxygen Packaging Criteria
2004 III-029	Reducing Norovirus: Prevention of Bare Hand Contact with Ready-to-Eat Foods

2004 III-030

Reducing Norovirus: Implementing Effective Employee Health Interventions

Category 1: CFP recommendations with which CFSAN conceptually agrees

Part 2: 2004 Conference for Food Protection recommendations that are related to the FDA Food Code and/or request FDA's involvement in the solution

Issue Number

Issue Title

2004-I-003*

Food Recovery Committee Report

2004 III-004*

Continuation of the CFP Food Allergen Committee

The labeling recommendation included in the 2002 committee report is outside the scope of the FDA Food Code and will not be incorporated in the 2005 FDA Food Code.

2004-I-006

Final Recommended Guidance for Permanent Outdoor Cooking Operations – 2003

2004-I-009*

Variations at Retail Committee Final Report

2004-I-010*

Variations at Retail Committee – Association of Food and Drug Officials (AFDO) Final Retail Meat & Poultry Processing Guidelines

2004-I-013

Person in Charge present during food production Section 2-101.11

2004-I-026

Clarify that walk-in coolers without prefabricated floors should not be considered equipment as defined in the 2001 FDA Food Code, Subparagraph 1-201.10(B)(28)(b) and specify allowances for installation of floor drains in coolers in the 2005 FDA Food Code, Section 5-402.11 and the FDA Food Establishment Plan Review Guide

In this recommendation, the FDA is asked to work with the Plan Review Committee to review the plumbing codes and other related documents to develop a recommended solution and clarifying language to allow floor drains in refrigerated rooms and walk-in coolers. The recommendation calls for this proposed clarification to be presented to the Conference for Food Protection Executive Board for consideration and inclusion in the 2005 FDA Food Code. In order to effect change in the 2005 Food Code, the FDA must receive input from the committee and the Board by October, 2004.

2004-II-011 * and **	Interdisciplinary training in foodborne illness investigation
2004-II-012 * and **	Revision of Standard #5, Foodborne Illness Investigation and Response to include food security/food terrorism preparedness and response
2004-II-016*	Certification of Food Safety Regulation Professionals
2004-II-017	Certification of Health Officials
2004-II-018*	CFP Inspection Form Committee, Recommendation to accept committee report
2004-II-023	Baseline Survey Frequency Change
2004-II-024 * and **	Compliance and Enforcement Legal Remedies
2004-II-025	CFP endorsement of FDA field-testing of the draft Audit Manual For Conducting Voluntary National Retail Food Regulatory Program Standards Self-Assessment Evaluations, 12/03
2004-II-026	Extension of Phase-In Time for Compliance with Risk Factors and Interventions
2004-II-027 * and **	Request to consider whether or not a minimum level of food allergy knowledge should be required for managers or persons in charge of retail food establishments
2004-II-028 * and **	Creation of Coordinated Educational or Instructional Materials for Emergencies
2004 III-002	Endorsement of the FDA HACCP Guides by the Conference of Food Protection
2004 III-015*	Section 3-501.17 date marking violation to be identified as a non-critical violation
2004 III-020*	Identification of sanitation practices, standard operating procedures, and good retail practices to limit post-processing contamination with and growth of <i>Listeria monocytogenes</i> in food establishments
2004 III-031	Allow vacuum packaging of hard and semi-soft cheese at retail food establishments
2004 III-032**	Provide guidance to retail establishments and restaurants on the handling of steaks that have been blade tenderized
2004 III-033	Chemical Sanitization Using Quaternary Ammonium Compound Solutions

Category 2: CFP recommendations that CFSAN plans to discuss with the CFP Executive Board

2004-I-030 Unsanitary Handling of Drinking Water Coolers

The CFP recommends that the FDA work with all stakeholders to develop and distribute guidelines for the handling of drinking water coolers. We would appreciate the Board’s input to identify specific stakeholders and a mechanism to address this issue.

2004-I-011 Designation of Food Code Provisions as Critical and Non-Critical

Issues 2004-I-011 and 2004-III-015 will have a dramatic impact on the Food Code and we look forward to working with the CFP to make the needed changes. The challenge is to resolve recommendations from both Issues that appear to overlap. Issue 2004-III-15 establishes a CFP committee to study the issue of critical items and public health risk and provide recommendations to the 2006 conference. Similarly, Issue 2004-I-011 requests that the FDA work with all stakeholders and the Conference to redesignate FDA Food Code provisions in terms of the risk factors and public health interventions. Please clarify the intent of these recommendations.

Other Items for Discussion:

We would like to discuss an Issue with the Board that did not move forward to the FDA for consideration because of a “No Action” status received in Council meetings. A brief discussion is given here, but more detail will be provided during the FDA Agency Report at the upcoming Executive Board meeting.

1. Issue 2004-I-023 “Cold Holding of Potentially Hazardous Food”.

This Issue was voted on by Council I as “no action” because many of the state and local programs have adopted 41° F and passage of this issue as amended in Council I would cause implementation problems for them and industry. The State Voting Delegates did not extract the “no action” recommendation. The Council did, however,

recommend that “All of Council I members and consultants encourage further work on the resolution of this issue by all stakeholders before the Conference for Food Protection 2006”.

FDA would like to place this item on the agenda for the August, 2004 CFP Executive Board meeting to discuss possible collaboration to resolve this issue before the 2006 CFP meeting.

We are available to discuss with the CFP Executive Board our perspective about any of the Conference recommendations and request that at least enough time is allotted in the August meeting agenda to specifically discuss the items noted above in Category 2 and in “Other Items for Discussion.”

I trust that this letter adequately responds to your June 1, 2004 letter and provides sufficient information about our positions. I look forward to continuing in our cooperative relationship with the Conference.

Sincerely yours,

/s/

Janice F. Oliver
Deputy Director
Center for Food Safety
and Applied Nutrition

cc:
USDA
CDC