

**Conference for Food Protection
2020 Issue Form**

Issue: 2020 II-029

Council Accepted as Accepted as

Recommendation: Submitted _____ 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:

CFP Model Code

Issue you would like the Conference to consider:

The Conference on Food Protection should ~~publish a model code document based on the 2017 Food Code but encompassing the recommendations of the CFP process solely. FDA would have a voice in the determination of the issues as does every member of the Conference.~~ publish a list of food code changes adopted by the conference but not incorporated into the FDA Model Code. Further, the CFP should engage in a dialog with the FDA specifically addressing steps to be taken to ensure that issues recommended for adoption are incorporated in to the Model Code.

Public Health Significance:

~~CFP makes recommendations, based on unanimous consent between the 50 states, to FDA. Often the recommendations for changes to the food code are ignored or discounted. There are many stakeholders that ensure safe food in the food regulatory sphere. Utilizing a system that is science-based and with strong emphasis on data driven risk analysis is a paramount to our mission. Many of FDA objections appear to be based on the principle that the absence of evidence is evidence of absence, which is a logic fallacy. This lends to the impression that the States do not feel they have a say in the code. CFP was "created to provide a formal process whereby members of industry, regulatory, academia, consumer, and professional organizations are afforded equal input in the development and/or modification of food safety guidance." However, this is not the case in practice. The members of industry, regulatory, academia, consumer, and professional organizations do not have an equal input in the development and/or modification of food safety guidance as evidenced by the FDA Model Food Code itself. The Food Code lacks recommendations approved by the Conference and in no small numbers.~~

Two years ago, CFP recommended 26 changes. All 50 States voted in favor. These recommendations went to FDA and only 13 were accepted. Most recently 15 issue

recommendations were submitted to FDA and only 5 were accepted. Note: The FDA Response letters from 2012, 2014, 2016, 2018 are included as attachments, although not in full due to size limitations. Full letters can be found on CFP website at www.foodprotect.org under Biennial Meetings.

Recent examples ~~of such discounting~~ include the storage within the restroom issue (2018-I-31) and the cedar plank (2018-I-032) issue. FDA looks at a rubric to determine if an item is a core, Pf, or Priority. The rubric is not available to the public.

While FDA is acknowledged as the paramount regulatory agency in the realm of food safety, this status must be tempered by the understanding that the State, Local, Tribal and Territorial regulatory agencies have primary jurisdiction in retail food regulation and not the federal agency. The FDA can provide valuable insight and it does, however, the value of the Conference is at stake if, after all the time and energy spent by committee members to develop issues, they are not incorporated into the Model Code. These SLTT members, as well as those from the other groups mentioned above have equal interest in ensuring food safety in retail establishments. Therefore, the Model Code should reflect the decisions made at the Conferences Biennial meetings. The Conference as a deliberative body must take action to address this concern. ~~it is an executive branch agency of the federal government and as such is not free from the influence of outside forces. The CFP, through its deliberative process can lay bare such influences and promote a regulatory structure based on the best science, the experience of the regulators and practical applicability.~~

The place for debate and determination of the content of the code is CFP. ~~Not an opaque process at the federal agency.~~

Recommended Solution: The Conference recommends...:

- ~~- The creation of a memorandum that allows the Conference to express their displeasure with the FDA regarding their recent disregard to State opinion.~~

~~Further, the CFP should publish a model code that consists solely of the modifications of the code adopted by the CFP. The Executive Board enter purposeful discussion with FDA with the goal of reducing the number of Issues recommended by the assembly of delegates for incorporation into the model code that are not adopted.~~

~~And, the conference publish a compendium document that could be conveniently adopted by reference, by the various jurisdictions, containing all code sections recommended for adoption, but not incorporated into the code.~~

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Supporting Attachments:

- "CFP 2018 FDA Response Letter"
- "FDA Response to CFP Recommendations 2016"
- "FDA Response to CFP 2014"
- "2012 FDA Response to CFP"

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.