

August 29, 2000

Mr. Joseph Levitt, Director
Center for Food Safety and Applied Nutrition
Food and Drug Administration
Room 6820A
200 C Street, SW
Washington, DC 20204

Dear Mr Levitt:

The National Restaurant Association represents more than 40,000 member companies and more than 200,000 individual foodservice establishments. We would like to comment on the Center for Food Safety and Applied Nutrition (CFSAN) formal response to the 2000 Conference for Food Protection (CFP) Chair, Ms. Lydia Strayer regarding the recommendations of the 2000 Conference for Food Protection (CFP). The National Restaurant Association has been supportive of the activities of the Conference for Food Protection since its inception. CFP is a potential means for bringing cooperative science-based guidance to the FDA for the sometimes-controversial issues surrounding the FDA Model Food Codes.

It is clear to us that the recommendations of the CFP represent in most cases the best consensus views of state and local regulatory authorities in the United States with some input from academia and the food industry. Recommendations of this body are generated with thousands of hours of thoughtfulness and deliberation, and have generally been accepted by industry and CFSAN in the past. Unfortunately, from latest CFSAN correspondence to the 2000 CFP Chair it appears that the CFSAN's general acceptance of CFP recommendations for changes in the FDA Model Food Codes has now come to an end.

Out of 21 minor recommendations from the 2000 CFP, it appears that CFSAN will agree to accept only three, which is less than 15% of the total number of recommendations sent to the Agency. While some of the eight recommendations that CFSAN "conceptually agrees with" might also be included if the end result is agreement with the specific recommendations of CFP, this is still below 50% CFSAN acceptance. Clearly the term "conceptually agree" infers some further interpretation or anticipate changes by CFSAN which may not correspond with the specific consensus recommendations of the 2000 CFP.

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We are troubled by CFSAN's response to the minimal 2000 CFP recommendations and believe it is a serious blow to the consensus building CFP process and the ultimate resolution of the controversial issues in the 1999 FDA Food Code. The persistent inability of CFSAN to work with industry or to accept the CFP science-based recommendations to resolve longstanding controversial elements of the FDA Food Code is a serious problem that will continue to stall the uniform adoption of the FDA Food Code at the state and local levels.

We hope to remain engaged in the process to fully resolve the controversial elements in the 1999 FDA Food Code, so that the 2001 FDA Food Code can be more easily adopted by industry and state regulatory authorities. We urge CFSAN to not adopt a "take it or leave it attitude" and to more fully consider the recommendations and positions of those that will have to implement and enforce the FDA Model Food Code to resolve the continuing persistent controversies in the FDA Model Food Code. Please feel free to contact us at any time regarding this matter at (202) 331-5900.

Sincerely,

Steven F. Grover, R.E.H.S.

Vice President, Health and Safety Regulatory Affairs

Cc: Steven C. Anderson, President and Chief Executive Officer
Lee Culpepper, Senior VP, Government Affairs and Public Policy
Lydia Strayer, 2000 CFP Chair
Tom Billy, USDA, FSIS
Dr. Authur P. Liang, National Center for Infectious Diseases
Trevor Hayes, CFP