



Council Recommendation: Accepted as Submitted _____ Accepted as Amended _____ No Action _____

Delegate Action: Accepted _____ Rejected _____

All information above the line is for conference use only.

All 5 sections below the line must be completed before the Issue will be reviewed for assignment to Council.

PLEASE READ THE INSTRUCTIONS DOCUMENT PRIOR TO COMPLETING THE FORM.

Press Tab key to move forward to the next field and Shift and Tab keys to move backward. You can also use the 4 arrows to navigate within and between text boxes. Boxes will expand to accommodate additional text. Copy and paste may be used.

1. Title: [Briefly describe the purpose of this Issue.]

Preventing Contamination from Hands, Section 3-301.11

2. Issue you would like the Conference to consider: [Explain in detail the Issue that concerns you. List relevant references.]

Section 3-301.11 This section states that "...food employees may not contact exposed, ready-to-eat food with their bare hands..." and prohibits bare-hand contact by food employees. While Food Code Annex 3 goes on to give some guidance on possible exceptions to the absolute prohibition, Annex 3 is not part of the mandatory code. Therefore, the annex has proven difficult to comply with and has been widely interpreted. Furthermore, it is generally lost during state adoption. This section, in some localities has been enforced as a mandatory glove law or a complete bare-hand prohibition without allowing reasonable alternatives. The FDA has publicly stated that this is not the Agency's intent, but the Food Code in Section 3-301.11 and in Annex 3 states that "bare-hand contact with ready-to-eat food...is prohibited...."

3. Public Health Significance: [Completely describe what impact this Issue will have on food service, retail food or vending.]

Evaluations of actual ready-to-eat (RTE) food handling tasks in restaurants found a significant number that were not likely to be accomplished with the current alternatives to bare hand contact. Regulatory officials in certain municipalities that have mandated no bare hand contact with RTE foods have observed such examples and "exempted" them on a case-by-case basis, while other regulatory officials have not – leading to growing non-uniformity. Tasks like the garnishing of a plate, peeling shrimp and picking steamed crabs have elicited a "don't ask – don't tell" policy with certain inspectors that is counter to the openness sought for HACCP discussions.

The use of gloves is in itself not a cure all and still requires a good handwashing program to ensure food safety. FDA highlighted this in their report (Evaluation of Risks Related to Microbiological Contamination of Ready-to-eat Food by Food Preparation Workers and



the Effectiveness of Interventions to Minimize those Risks, 1999) that "it has been demonstrated that both the interior and exterior of gloves can become contaminated with surface hand microorganisms if the hands are not washed prior to gloving. Hands themselves can also be contaminated with organisms found on the glove surface."

On September 22, 1999, NACMCF met and was charged by the FDA to evaluate if bare hand contact with food contributes to foodborne illnesses. The NACMCF discussion noted that science supports policies to remove ill food handlers from food handling tasks and that proper hand washing procedures reduce microbial loads on the skin. However, the NACMCF recommended that insufficient scientific data exists to support a complete ban on bare hand or arm contact of ready-to-eat food or whether physical barriers are needed at all times.

The NACMCF recommendation to FDA involved the following elements that are already part of the food code:

- Effective hand washing practices and management (Subpart 2-301)
- Food-safety training promoting the importance of healthy food handlers and hand washing practices (Subpart 2-102-103)
- Use of utensils/tongs/deli tissues or single-use gloves in high-risk food preparation situations. (Subpart 3-304)

While the public health significance of this issue is provided by FDA in Annex 3; the vast majority of government agencies who have adopted the FDA Food Code (in whole, part, or by reference) have not adopted the Annexes, and this scientific reasoning is not recognized or communicated to the user level.

Furthermore, the Conference deliberated this issue in 2002 and came to a consensus recommendation in Coucil III that was supported by the FDA.

4. Recommended Solution: [State as precisely as possible what action you would like the Conference to take to address this Issue. Cite the **specific** type of change, location (page and line), and exact wording to be changed in a document, such as the Food Code or Conference document.] **The Conference recommends.....**

The Conference recommends a letter should be sent to the FDA Commissioner to urge the following changes to Section 3-301.11, page 48 of the 2001 Food Code:

Section 3-301.11 of the 2001 FDA Model Food Code should be modified to accommodate a more practical approach to limiting bare hand contact. The model Food Code should read as follows:

(C) Except when washing fruits and vegetables as specified under § 3-302.15 or as specified in (D) and (E) of this section, FOOD EMPLOYEES may not contact exposed, READY-TO-EAT FOOD with their bare hands and shall use suitable UTENSILS such as



deli tissue, spatulas, tongs, single-use gloves, or dispensing EQUIPMENT.

(D) FOOD EMPLOYEES may contact exposed, READY-TO-EAT FOOD with their bare hands

if:

- (1) The PERMIT HOLDER complies with § 2-201.11;
- (2) The PERSON IN CHARGE complies with Subparagraphs 2-102.11(C)(1)-(3) and (8), 2-103.11 (D), and §§ 2-201.12 and 2-201.13;
- (3) The PERSON IN CHARGE maintains a documented plan in the FOOD ESTABLISHMENT that is readily available at all times for use by EMPLOYEES and for REGULATORY AUTHORITY review upon request, and that specifies:
 - (a) Why it is necessary for FOOD EMPLOYEES to contact READY-TO-EAT FOOD in specified situations,
 - (b) The FOODS that will be contacted by bare hands,
 - (c) The HAZARD presented by bare-hand contact is the possible transfer of bacterial, viral, or parasitic pathogens from FOOD EMPLOYEES' hands to the FOOD,
 - (d) The procedures and practices that require EMPLOYEES to wash their hands before returning to their work stations,
 - (e) A training program for the FOOD EMPLOYEES that specifies:
 - (i) Who is responsible for the training,
 - (ii) The program content, including instructions to FOOD EMPLOYEES about the HAZARD as specified in Subparagraph (D)(3)(c) of this section, not to work when they are ill with any of the symptoms or diagnoses specified under § 2-201.11, good hygienic practices, proper handwashing, the principles of safe FOOD preparation procedures, and precluding cross contamination, and
 - (iii) The frequency of the training including periodic refresher sessions,
 - (f) How FOOD EMPLOYEE compliance with the plan will be monitored, documented, and verified, and
 - (g) Corrective actions to be taken when the plan is not followed, such as when an ill FOOD EMPLOYEE is found preparing FOOD;
- (4) The PERSON IN CHARGE ensures compliance with the plan specified in Subparagraph (D)(3) of this section and amends it as required by the REGULATORY AUTHORITY; and
- (5) FOOD EMPLOYEES comply with the plan specified in Subparagraph (D)(3) of this section, § 2-301.14, and Part 2-4.

(E) A PERMIT HOLDER or PERSON IN CHARGE electing to comply with (D) of this section, may also implement one or more of the following:

- (1) Vaccination against hepatitis A for FOOD EMPLOYEES, including initial and booster shots or medical evidence that a FOOD EMPLOYEE has had a previous illness from hepatitis A virus;
- (2) Double handwashing;
- (3) Use of nailbrushes; or
- (4) Use, after proper handwashing, of a hand sanitizer as specified under



§ 2-301.16.

5. Submitter:			
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