

## Frequently Asked Questions

The 2017 FDA Food Code will soon be adopted as the regulation for all retail food establishments in Connecticut. Below are some of the many questions the Food Protection Program (FPP) has received from local health officials including certified food inspectors, directors of health, and those being trained as Food Inspector Training Officers who volunteered for the Self-Assessment/Quality Assurance Pilot Study. Additional questions may be posted as they are received but the FPP encourages the use of the FDA Code and the annexes first as many of the answers are provided there. The 2017 FDA Food Code can be downloaded [here](#).

### 1. **How does the food code affect temporary events and mobile vendors?**

The FDA Food Code is a unicode, meaning that all types of retail food establishments are included under the same regulatory language. Also, see Connecticut General Statutes Section (CGS) 19a-36(g) for the definitions of food establishment, temporary food service establishment, and itinerant food vending food establishment. **Note:** The definition of a class 1 food establishment was modified during the 2018 legislative session. See EHS Circular Letter #2018-17 and the 2018 Supplement to the CGS for the revised language.

### 2. **Under the 2017 FDA Food Code, does the Person in Charge (PIC) have to have Certified Food Protection Manager (CFPM) training or is demonstration of knowledge still applicable? Updated!**

Paragraph 2-102.12 (A) of the 2017 FDA Food Code states “The person in charge shall be a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program.” However, within the regulations that are currently in development, there is a provision that will allow class 2, 3, and 4 establishments to appoint an alternate, non-certified person in charge that can be utilized during non-peak hours of operation. See question #7 below. Additionally, CGS §19a-36i (4) states “Each class 2 food establishment, class 3 food establishment, and class 4 food establishment shall employ a certified food protection manager.” This means that class 1 establishments will be expected to have a PIC at all times, however, they will not need to be certified through an accredited program. This only applies to class 1 establishments.

Also, ¶2-102.20 (B) of the FDA Food Code states “A food establishment that has a person in charge that is certified by a food protection manager certification program that is evaluated and listed by a Conference for Food Protection - recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs is deemed to comply with ¶ 2- 102.12.” Training is not required, only passing an approved exam.

### 3. **What will happen if we find an establishment that is not registered with the state? Updated!**

CGS §19a-36i (3) states: “**No permit to operate a food establishment shall be issued** by a director of health unless the applicant has provided the director of health with proof of registration with the department and a written application for a permit in a form and manner prescribed by the department.” (Emphasis added.) Therefore the local health department will not issue a license until the operator of the food establishment provides proof of registration with the state. This would include when a new establishment is applying for a license the first time, or when they apply for renewal. **Note:** Regulations to

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implement §19a-36i through §19a-36m of the CGS will have to be passed for the registration requirement to begin. Local health departments will be notified when the system is ready to be used. **Note: Until the system is ready, local health departments should continue to issue new and renew food licenses/permits as usual.**

**4. What hand wash signage is required? What does it need to state?**

¶ 6-301.14 of the FDA Food Code provides information related to handwashing signage.

**5. Will more information regarding date marking be made available from the FPP?**

¶ 3-501.17 of the FDA Food Code provides information related to date marking including foods required to be date marked and disposition of foods found not to be date marked.

**6. Some certificates we accepted for the Qualified Food Operator requirement do not have expiration dates. How do we determine the expiration date?**

If a certificate does not have an expiration date, the individual will need to show proof when the certification was obtained. It must have been acquired within the previous 5-year period.

**7. Does the CFPM have to be the PIC at all times?**

**Updated!**

The FDA Food Code requires that there must be a PIC in all establishments at all times. The CGS state that in class 2, 3, and 4 establishments, the PIC must be a CFPM (with a valid certification). Legislation passed during the 2018 session included a provision for an alternate person in charge for those times when the CFPM cannot be present. The proposed regulations to implement the FDA Food Code includes language to limit the use of the alternate person in charge to "...non-peak hours of operation, such as an overnight shift where only one or two employees are onsite, and there is limited or no food preparation is taking place." Since this is only proposed language, it cannot be enforce until the regulations are passed.

**8. Can the PIC be more than one person?**

Yes.

**9. Does the use of time as a public health control still need prior approval from the local Director of Health?**

No, but all requirements listed in ¶ 3-501.19 of the FDA Code must be followed.

**10. Are "meals on wheels" recipients considered a Highly Susceptible Population (HSP)?**

Only if the meals are being delivered to a facility that provides custodial care for immune compromised individuals, preschool age children, or older adults.

**11. Are public schools considered a HSP?**

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Only if they serve food to preschool age children, e.g. if they have a preschool program.

**12. Did the FDA Code become effective on July 1, 2018 or will it now be January 1, 2019?** **Updated!**

The FDA Code will become effective when the regulations to implement the Code are passed. In response to requests from local directors of health a legislative change to extend the effective date passed during the 2018 legislative session. The new date is “**not later than January 1, 2019.**” A specific date cannot be given at this time because the date is dependent upon when the regulations to implement the code are passed and there is no way to determine that, as there are many steps in the regulation approval process. The intent however, is to have the regulations pass as close to December 31, 2018 as possible.

**13. Can the compliance guide inspection forms (green/black/red) and other compliance tools associated with Section 19- 13-B42 of the Regulations of Connecticut State Agencies (RCSA) be discarded after June 30, 2018?**

All inspection forms that were utilized for compliance with 19-13-B42, 19-13-B48 or 19-13-B49 of the RCSA will no longer be valid once the implementation date for FDA Food Code has been approved (not later than January 1, 2019). Once you are conducting inspections for compliance with the FDA Food Code, you must use the form provided by FPP or an electronic form that has been pre-approved by the FPP.

**14. For shellfish tags, is it chronological order from date last product was sold?**

See ¶ 3-203.12(C)(1) of the 2017 FDA Food Code.

**15. Is clean up of vomiting and diarrheal knowledge an actionable item?**

Yes, see item #5 under Employee Health on the FDA Food Code inspection form, and ¶ 2-501.11 in the 2017 FDA Food Code.

**16. Under the Food Code, what will happen to the moms’ and pops’ FSEs?**

They will have to comply with the CGS, the FDA Food Code requirements, and the RCSA.

**17. Will the state be responsible for registering temporary events before locals can grant a permit?**

Temporary food establishments and farmers’ markets are exempt from registering with DPH. See §19a-36i(3) of the CGS and Circular Letter 2017-16 that was sent on June 23, 2017 under Section 4.

**18. For temporary event inspections, are we required to use the new form or can locals still use their own form?**

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All local health departments are required to use the form provided by the FPP, as only forms approved by the Commissioner can be used for food establishment inspections. See CGS §19a-36j(b).

**19. 2013 FDA Code was adopted by CT legislature. What does it mean for CT (CFIs) when 2017 Food Code comes out?**

CGS § 19a-36h(a) states: “Not later than January 1, 2019, the commissioner shall adopt and administer by reference the United States Food and Drug Administration’s Food Code, **as amended from time to time, and any Food Code Supplement published by said administration** as the state’s food code for the purpose of regulating food establishments.” (Emphasis added.) The 2017 version is the current version and therefore will be in effect in addition to any changes published in the next Supplement or in subsequent versions. Changes to the FDA Food Code made by FDA will automatically be adopted provided such language does not conflict with the CGS or RCSA. Inspectors will need to review all changes.

**20. The “Right to Appeal” is visible (on the inspection form), should it be hidden?**

No. Everyone is entitled to due process and so food owners/managers must be informed of their right to appeal an order. See Circular Letter 2017-16 that was sent on June 23, 2017 under Section 7 for information on appeals. Including this language on the inspection form makes the form a type of a legal order.

**21. Is DPH anticipating local health responsibility for food recalls? Will locals be asked to contact or visit vendors?**

No. In the past the FPP sent recall notices to LHDs, however, more recently, and in the future, such notices will only be sent in special circumstances, such as an outbreak with Connecticut cases associated with a product known to be distributed in Connecticut. The Dept. of Consumer Protection Food and Standards Division has authority over Connecticut food recalls and conducts effectiveness checks when requested by USDA and FDA. If DCP requests assistance, the FPP would notify LHDs.

**22. Advised wording for adopting FDA code in local ordinance template?**

The CGS and the RCSA provide the authority for local directors of health and certified food inspectors to enforce the FDA Food Code. Local counsel should be contacted for guidance in revising local ordinances.