

**Conference for Food Protection
2012 Issue Form**

**Internal Number: 107
Issue: 2012 III-023**

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

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Title:

Amend FDA Food Code Section 3-403-11(C)

Issue you would like the Conference to consider:

The 2009 FDA Food Code Section 3-403.11(C) addresses the reheating for hot holding of product that was received already fully cooked and packaged to prevent contamination during distribution. Product users may remove less than full case quantity out of the package to prepare at a single time. This leaves identical product in the freezer/cooler in a non-intact package. Manufacturers of this type of product and national and regional chain foodservice outlets have expressed concern that the code as stated can and is interpreted that the 135°F reheating temperature is no longer adequate once that package is opened and the provision of Section 3-403.11(C) no longer applies. Since remaining product must then be cooked to 165°F, some chains have taken the position to only have one cook procedure and then cook all products to 165°F for hot holding and therefore dramatically change the quality of the products.

Public Health Significance:

These products were processed under food processing regulations covering the lethality for vegetative pathogens as well as the cooling and/or stabilization of the product after cooking to control *C. botulinum* and *C. perfringens* germination and outgrowth. This same product from a previously opened package can also be heated to any temperature for immediate service in response to an individual consumer order per Section 3-403.10.

The following was supplied by FDA Food Specialist John Marcello in response to my enquiry on interpretation of Section 3-403.11(C).

"The cooked meat products and chicken patties have received a thermal process that reduces or eliminates all bacterial pathogens to an acceptable level. The commercially processed, ready-to-eat, packaged cooked meat and chicken patties have received a controlled cooking process that destroys vegetative bacterial cells and a controlled cooling process that prevents the germination of any spores present. Packaging prevents recontamination and refrigeration (freezing in the scenario you submitted) prevents spore germination. Because of the low levels of contaminations in both types of products, a reheating temperature of 135°F is considered safe and adequate prior to hot holding.

Any remaining portions of cooked meat or chicken patties that were not removed from the original package of commercially processed food, may still be reheated to 135°F. for hot

holding provided it has been held under refrigeration at 41°F or below (or as in the scenario you provided - frozen) at all times; had no bare hand contact; clean and sanitized utensils were used to dispense and process the products; and the packaging was covered/closed to prevent re-contamination. This seems to me something that can be accomplished with reasonable care.

If any remaining portions of the cooked meat products or chicken patties are held above 41°F, such as a "working supply;" cross contaminated; reheated then cooled; or in some other way had the potential for bacterial levels to increase from recontamination and/or proliferation; the reheating temperature should be 165°F for 15 seconds or the product should be discarded depending on the situation.

While there may be some limited potential for recontamination of the cooked meats or chicken patties during opening and removal of the first portion, reclosing/recovering the package/container and holding the product under refrigeration (frozen) prevents any increase in bacterial numbers (proliferation)."

Recommended Solution: The Conference recommends...:

that a letter be sent to FDA requesting Section 3-403.11(C) of the 2009 Food Code (as modified by the Supplement issued in 2011) be amended as follows (new language is underlined):

(C) Ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant, shall be heated to a temperature of at least 57°C (135°F) for hot holding. ^P Product, cooked chicken tenders as an example, that remains after the original package is opened may still be heated to 57°C (135°F) for hot holding provided the product continues to be held under refrigeration at 5°C (41°F) or below at all times; had no bare hand contact; clean and sanitized utensils were used to dispense and process the products; and the packaging was covered/closed to prevent re-contamination.

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