**Conference for Food Protection**

**2014 Issue Form**

**Internal Number: 080**

**Issue: 2014 III-022**

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| **Council Recommendation:** | Accepted as  Submitted |  | Accepted as Amended |  | No Action |  |
| **Delegate Action:** | Accepted |  | Rejected |  |  |  |

*All information above the line is for conference use only.*

**Title:**

When partial cooking is actually incubation

**Issue you would like the Conference to consider:**

Amend FDA Food Code section 3-401.11(D) to prevent holding partially cooked foods in the temperature danger zone for more than 1 hour before service and to ensure partially cooked fish is treated for parasite destruction.

**Public Health Significance:**

To meet consumer demand many operators serve partial or under-cooked meats and fish. Through false logic some operators mistakenly believe that it is safe to undercook foods using any time or temperature providing they adhere to the Food Code section 3-401.11 (D). This false logic can result in partially cooking a food at a temperature in the danger zone for a lengthy period of time. For example cooking a fish filet to 110°F for 5 minutes is one thing; however leaving a dozen of these filets at that temperature for 2 hours would be considered incubation not cooking.

**Recommended Solution: The Conference recommends...:**

that a letter be sent to the FDA requesting the 2013 Food Code be amended as follows (new language is underlined; language to be removed is in strikethrough format):

3-401.11 Raw Animal Foods

(D) A raw animal food such as raw egg, raw fish, raw-marinated fish, raw molluscan shellfish, or steak tartare; or a partially cooked food such as lightly cooked fish, soft cooked eggs, or rare meat other than whole-muscle, intact beef steaks as specified in ¶ (C) of this section, may be served or offered for sale upon consumer request or selection in a ready-to-eat form if:

(1) As specified under ¶¶ 3-801.11(C)(1) and (2), the food establishment serves a population that is not a highly susceptible population;

(2) The food, if served or offered for service by consumer selection from a children's menu, does not contain comminuted meat; Pf and

(3) The consumer is informed as specified under § 3-603.11 that to ensure its safety, the food should be cooked as specified under ¶ (A) or (B) of this section; ~~or~~ and

(4) The FOOD, if partially cooked, is not subjected to temperatures above 41°F and below 135°F for more than 1 hour before service, and

(5) The food, if raw fish, raw-marinated fish, partially cooked or marinated partially cooked fish, is treated for or exempt from, parasite destruction as specified in ¶¶ 3-402.11 (A and B); or

(~~4~~6) The regulatory authority grants a variance from ¶ (A) or (B) of this section as specified in § 8-103.10 based on a HACCP plan that:

(a) Is submitted by the permit holder and approved as specified under § 8-103.11,

(b) Documents scientific data or other information showing that a lesser time and temperature regimen results in a safe food, and

(c) Verifies that equipment and procedures for food preparation and training of food employees at the food establishment meet the conditions of the variance.

**Submitter Information:**

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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.