



August 17, 2016

*Submitted Electronically via Regulations.gov*

Mr. Alfred Almanza  
Deputy Under Secretary for Food Safety  
Food Safety and Inspection Service  
U.S. Department of Agriculture  
1400 Independence Ave., SW  
Washington, DC 20250

**Re: Petition Number 16-03; Petition to Establish Regulations for the Labeling and Validated Cooking Instructions for Not-Ready-to-Eat Stuffed Chicken Breast Products That Appear Ready-to-Eat**

Dear Deputy Under Secretary Almanza,

On behalf of the American Frozen Food Institute (AFFI), I am writing in support of the petition the National Chicken Council (NCC) submitted on May 24, 2016, assigned Petition Number 16-3, which requests that the Food Safety and Inspection Service (FSIS) establish regulations for labeling and validated cooking instructions for not-ready-to-eat (NRTE) stuffed chicken breast products that may appear ready-to-eat (RTE). As the voice of the U.S. frozen food industry, AFFI is the national trade association that represents the interests of all segments of the frozen food industry. AFFI members manufacture and distribute frozen foods throughout the United States and globally. NRTE stuffed chicken products that may appear RTE often are sold in frozen form, and the labeling of these products therefore is of interest to our members.

AFFI believes the NCC petition will enhance food safety by reinforcing proper consumer handling of these products and ensuring consumers have all the tools at hand to cook these products thoroughly and safely. We therefore encourage FSIS to move forward with rulemaking consistent with the petition.

**General Comments**

AFFI understands the important role that consumers, and consumer education, have to play in food safety. As part of our *Listeria*-related initiatives, we are planning to conduct updated consumer insight research to better understand and quantify consumer handling and cooking practices for frozen foods in general. Historically, consumers and food service establishments have followed cooking

instructions on frozen foods to ensure safety. Where gaps exist, AFFI recognizes industry's important role to educate consumers and customers.

AFFI agrees with NCC that NRTE stuffed chicken breast products that may appear RTE present a unique challenge when it comes to maintaining consumer awareness of food safety procedures. AFFI supports the NCC petition because the petition would advance consumer awareness and education by ensuring consumers are aware of the raw nature of NRTE stuffed chicken breast products that may appear RTE and that they have the information necessary to safely cook and handle these products.

### **NCC Petition Addresses Potential for Consumer Confusion**

AFFI recognizes the potential for customers to be uncertain of the proper cooking and handling methods for NRTE stuffed chicken breast products that may appear RTE. These products often are frozen and have the appearance of being fully cooked. Consequently, there is potential for consumers to be confused and believe the products are already fully cooked and only need to be heated for palatability. Even when proper cooking instructions are provided, because of the unique nature of these products, consumers might only reheat the product to make it warm enough to eat, rather than cooking the product to the temperature necessary to kill pathogenic bacteria.

Consumers are the last step in any food safety process and consequently play a critical role in preventing foodborne illness. It therefore is imperative that consumers be equipped with clear, accurate information on how to handle food safely. Given the potential for consumer confusion with these products, regulatory action is appropriate in this instance to help educate consumers.

### **Label Statements, Warnings, and Validated Cooking Instructions Are Effective Consumer Education Tools**

AFFI supports NCC's proposal to use on-pack labeling and validated cooking instructions to draw consumers' attention to the raw nature of these products and to alert them that the products must be cooked correctly. NCC's proposed regulation would help prevent further consumer confusion by establishing consistent messaging to customers and ensuring that they recognize the raw nature of NRTE stuffed chicken breast products that may appear RTE. Once aware that these products are raw, the proposal to require on-pack validated cooking instructions would provide consumers with the information necessary to cook the raw products safely.

The use of required label statements has been effective in similar circumstances in which consumers needed to be made aware of safety information. For example, FSIS currently requires certain meat and poultry products to be labeled with safe handling instructions and a corresponding safe handling statement.<sup>1</sup> Other

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<sup>1</sup> See 9 C.F.R. §§ 317.2(l); 381.125(b).

products are required to bear special handling statements for safety (e.g., “Keep Refrigerated” or “Keep Frozen”).<sup>2</sup> Similarly, FSIS has recently required that mechanically tenderized beef products bear warning statements and validated cooking instructions to ensure consumers are aware those products are non-intact and understood how to cook them properly.<sup>3</sup> The labeling requested in NCC’s petition is consistent with FSIS’s policy of using labeling to provide consumers necessary safety information about the product.

In sum, like current mandatory label statements and warnings, NCC’s proposed labeling regulation would effectively alert customers that these products are raw and instruct consumers how to appropriately handle and cook the raw products to maintain their safety.

### **A Compliance Guideline for Validated Cooking Instructions Would Help Ensure Effectiveness of the Proposed Regulation**

AFFI also agrees that an FSIS Compliance Guideline on validated cooking instructions to accompany the proposed regulation would be beneficial to industry, regulators, and consumers alike.

A more detailed Compliance Guideline to complement the proposed regulation would assist industry by providing clear guidance on how FSIS expects establishments to develop accurate and effective cooking instructions, as well as what must be included in the instructions. A clear understanding of FSIS’s expectations will, in turn, facilitate industry compliance. Similarly, the creation of detailed guidelines would assist FSIS inspection personnel when evaluating an establishment’s compliance with the regulation.

A requirement to provide on-pack validated cooking instructions will have limited effectiveness if consumers are not able to execute those instructions properly. The issuance of a Compliance Guideline would indirectly benefit consumers as well by helping industry develop validated cooking instructions consumers can easily understand and replicate.

For these reasons, AFFI encourages FSIS to grant NCC’s request and promulgate a Compliance Guideline to instruct industry on how to validate cooking instructions for NRTE stuffed chicken breast products that may appear RTE in compliance with the proposed regulation.

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NCC has proposed an effective, commonsense solution to address consumer confusion about the proper handling and cooking procedures for NRTE stuffed chicken breast products that may appear RTE. We urge FSIS to undergo a rulemaking adopting NCC’s proposed regulation and to issue a corresponding

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<sup>2</sup> See 9 C.F.R. §§ 317.2(k); 381.124(a).

<sup>3</sup> 9 C.F.R. § 317.2(e)(3).

Compliance Guideline on validating cooking instructions incorporating NCC's Best Practices.

Respectfully submitted,



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cc: Daniel L. Engeljohn, Ph.D., Assistant Administrator, Office of Policy and Program Development  
Roselyn Murphy-Jenkins, Director, Labeling and Program Delivery Division