**Conference for Food Protection**

**2018 Issue Form**

**Issue: 2018 I-016**

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

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

**Issue History:**

This is a brand new Issue.

**Title:**

Amend Food Code-Resolve conflict in § 3-502.12 (C) and (F): ROP Criteria

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

The 2013 Food Code § 3-502.12 paragraph (F)Reduced Oxygen Packaging without a Variance, Criteria is in a regulatory conflict with paragraph (C).

§ 3-502.12 (C) Except for FISH that is frozen before, during, and after PACKAGING, a FOOD ESTABLISHMENT may not PACKAGE FISH using a REDUCED OXYGEN PACKAGING method.

§ 3-502.12 (F) A HACCP Plan is not required when a FOOD ESTABLISHMENT uses a REDUCED OXYGEN PACKAGING method to PACKAGE TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is always: (1) Labeled with the production time and date, (2) Held at 5°C (41°F) or less during refrigerated storage, and (3) Removed from its PACKAGE in the FOOD ESTABLISHMENT within 48 hours after PACKAGING.

The conflict is that paragraph (C) prevents unfrozen fish from being packaged in ROP without a HACCP plan; while paragraph (F) specifies conditions whereby any TCS food can be ROP packaged without a HACCP plan when held for less than 48h. If paragraph (C) is considered superior to (F), then the following operations would require an ROP HACCP Plan when performed under the 48-hour rule:

* sous vide cooking vacuum packaged seafood items for immediate service
* using ROP bags to chill unfrozen seafood items
* using unfrozen seafood in cook chill recipes (e.g. soups)
* vacuum packaging unfrozen seafood (including marination enhancement)

**Public Health Significance:**

The 48-hour rule 3-502-12 (F) is supported by US FDA science in the Skinner-Larkin model for psychrotrophic Clostridium botulinum and via the FDA Food Code performance standard 7 day ready-to-eat shelf life regarding Listeria monocytogenes. Foods are safe for at least 7 days at 41°F in cold reduced oxygen packaging storage based on these two scientific sources. The 48 hours was chosen to provide an extra safe buffer, building in a potential for mild temperature abuse. Therefore, there is no safety reason to prohibit the 48-hour reduced oxygen packaging of unfrozen seafood.

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

that a letter be sent to the FDA requesting § 3-502.12 of the most current edition of the Food Code, Reduced Oxygen Packaging without a Variance, Criteria be amended as follows (new language is underlined):

(C) Except as specified under ¶ (F) of this section, for FISH that is frozen before, during, and after PACKAGING, a FOOD ESTABLISHMENT may not PACKAGE FISH using a REDUCED OXYGEN PACKAGING method.

**Submitter Information:**

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