

**Conference for Food Protection
2018 Issue Form**

Issue: 2018 I-018

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

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Issue History:

This is a brand new Issue.

Title:

Amend Food Code 3-502.12 Reduced Oxygen Packaging Without a Variance

Issue you would like the Conference to consider:

Section 3-502.12 of the 2013 Food Code currently is formatted in a way that is redundant and difficult to understand.

Paragraph 3-502.12(B) currently requires that a retail food establishment implement a HACCP plan as outlined in 8-201.14(C) and (D), yet 8-201.13 requires a retail food establishment to submit a HACCP plan as outlined in 8-201.14. It is conflicting to require a retail food establishment to only submit parts of what is required in 8-201.14. In addition, 8-201.14(B) already requires that a firm list the foods covered under the HACCP plan, therefore to list it as a requirement in 3-502.12(B)(1) is redundant.

Moving the allowance for cheese that meets the Standards of Identity as specified in 21 CFR (Code of Federal Regulations) 133.150 Hard cheeses, 21 CFR 133.169 Pasteurized process cheese or 21 CFR 133.187 Semisoft cheeses to subparagraph 3-502.12(B)(2) will simplify this section of the Code. The requirements to perform reduced oxygen packaging on certain cheeses and on foods listed in 3-502.12(B)(2) are the same. Therefore, this change will not make an impact on the existing requirements; it will serve to simplify the section.

Subparagraph 3-502.12(B)(3) describes a requirement for the retail food establishment to provide a description on how the package shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background. Moving this requirement to subparagraph 3-502.12(B)(5) will provide clarity that a firm should provide operational procedures concerning this requirement.

Public Health Significance:

Simplifying and eliminating redundancy will provide clarity to this complex section and would be beneficial to both industry and regulatory agencies.

Recommended Solution: The Conference recommends...:

that a letter be sent to the FDA requesting that Section 3-502.12 of the most current edition of the Food Code be amended as follows (language to be removed is in strikethrough format; new language is underlined):

3-502.12- Reduced Oxygen Packaging Without a Variance, Criteria

(A) Except for a FOOD ESTABLISHMENT that obtains a VARIANCE as specified under § 3-502.11, a FOOD ESTABLISHMENT that PACKAGES TIME/TEMPERATURE CONTROL FOR SAFETY FOOD using a REDUCED OXYGEN PACKAGING method shall control the growth and toxin formation of *Clostridium botulinum* and the growth of *Listeria monocytogenes*.^P

(B) Except as specified under ~~¶(F)~~ ¶(E) of this section, a FOOD ESTABLISHMENT that PACKAGES TIME/TEMPERATURE CONTROL FOR SAFETY FOOD using a REDUCED OXYGEN PACKAGING method shall implement a HACCP PLAN that contains the information specified under ~~¶¶ 8-201.14 (C) and (D)~~ § 8-201.14 and that:^{Pf}

~~(1) Identifies the FOOD to be PACKAGED;~~^{Pf}

~~(2) Except as specified under ¶¶ (C) - (E) ¶¶ (C) - (D) of this section, requires that the PACKAGED FOOD shall be maintained at 5°C (41°F) or less and meet at least one of the following criteria:~~^{Pf}

~~(a) Has an A_w of 0.91 or less;~~^{Pf}

~~(b) Has a PH of 4.6 or less;~~^{Pf}

~~(c) Is a MEAT or POULTRY product cured at a FOOD PROCESSING PLANT regulated by the USDA using substances specified in 9 CFR 424.21, Use of food ingredients and sources of radiation, and is received in an intact PACKAGE,~~^{Pf} ~~or~~

~~(d) Is a FOOD with a high level of competing organisms such as raw MEAT, raw POULTRY, or raw vegetables;~~^{Pf} ~~or~~

(e) Is a cheese that is commercially manufactured in a FOOD PROCESSING PLANT with no ingredients added in the FOOD ESTABLISHMENT and that meet the Standards of Identity as specified in 21 CFR 133.150 Hard cheeses, 21 CFR 133.169 Pasteurized process cheese or 21 CFR 133.187 Semisoft cheeses;^E

~~(3) Describes how the PACKAGE shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:~~^{Pf}

~~(a) Maintain the FOOD at 5°C (41°F) or below,~~^{Pf} ~~and~~

~~(b) Discard the FOOD if within 30 calendar days of its PACKAGING if it is not served for on-PREMISES consumption, or consumed if served or sold for off-PREMISES consumption;~~^{Pf}

~~(4)~~ (2) Limits the refrigerated shelf life to no more than 30 calendar days from PACKAGING to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first;^P

~~(5)~~ (3) Includes operational procedures that:

(a) Prohibit contacting READY-TO-EAT FOOD with bare hands as specified under ¶ 3-301.11(B),^{Pf}

(b) Identify a designated work area and the method by which: ^{Pf}

(i) Physical barriers or methods of separation of raw FOODS and READY-TO-EAT FOODS minimize cross contamination, ^{Pf} and

(ii) Access to the processing EQUIPMENT is limited to responsible trained personnel familiar with the potential HAZARDS of the operation, ^{Pf} and

(c) Delineate cleaning and SANITIZATION procedures for FOOD-CONTACT SURFACES; ^{Pf} and

(d) Describe how the PACKAGE shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to: ^{Pf}

(i) Maintain the FOOD at 5°C (41°F) or below, ^{Pf} and

(ii) Discard the FOOD if within 30 calendar days of its PACKAGING if it is not served for on-PREMISES consumption, or consumed if served or sold for off-PREMISES consumption; ^{Pf}

~~(6)~~ (4) Describes the training program that ensures that the individual responsible for the REDUCED OXYGEN PACKAGING operation understands the: ^{Pf}

(a) Concepts required for a safe operation, ^{Pf}

(b) EQUIPMENT and facilities, ^{Pf} and

(c) Procedures specified under Subparagraph ~~(B)(5)-(B)(3)~~ of this section and ~~¶¶ 8-201.14 (C) and (D)~~ § 8-201.14. ^{Pf}

~~(7)~~ (5) Is provided to the REGULATORY AUTHORITY prior to implementation as specified under ¶ 8-201.13(B).

(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. ^P

(D) Except as specified under ¶(C) and ~~¶(F)-¶(E)~~ of this section, a FOOD ESTABLISHMENT that PACKAGES TIME/TEMPERATURE CONTROL FOR SAFETY FOOD using a cook-chill or sous vide process shall:

(1) Provide to the REGULATORY AUTHORITY prior to implementation, a HACCP PLAN that contains the information as specified under ~~¶¶ 8-201.14 (C) and (D)~~ § 8-201.14; ^{Pf}

(2) Ensure the FOOD is:

(a) Prepared and consumed on the PREMISES, or prepared and consumed off the PREMISES but within the same business entity with no distribution or sale of the PACKAGED product to another business entity or the CONSUMER, ^{Pf}

(b) Cooked to heat all parts of the FOOD to a temperature and for a time as specified under ¶¶ 3-401.11 (A), (B), and (C), ^P

(c) Protected from contamination before and after cooking as specified under Parts 3-3 and 3-4, ^P

(d) Placed in a PACKAGE with an oxygen barrier and sealed before cooking, or placed in a PACKAGE and sealed immediately after cooking and before reaching a temperature below 57°C (135°F), ^P

(e) Cooled to 5°C (41°F) in the sealed PACKAGE or bag as specified under § 3-501.14 and: ^P

(i) Cooled to 1°C (34°F) within 48 hours of reaching 5°C (41°F) and held at that temperature until consumed or discarded within 30 days after the date of PACKAGING; ^P

(ii) Held at 5°C (41°F) or less for no more than 7 days, at which time the FOOD must be consumed or discarded; ^P or

(iii) Held frozen with no shelf life restriction while frozen until consumed or used. ^P

(f) Held in a refrigeration unit that is equipped with an electronic system that continuously monitors time and temperature and is visually examined for proper operation twice daily, ^{Pf}

(g) If transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices to ensure that times and temperatures are monitored during transportation, ^{Pf} and

(h) Labeled with the product name and the date PACKAGED; ^{Pf} and

(3) Maintain the records required to confirm that cooling and cold holding refrigeration time/temperature parameters are required as part of the HACCP PLAN and:

(a) Make such records available to the REGULATORY AUTHORITY upon request, ^{Pf} and

(b) Hold such records for at least 6 months; ^{Pf} and

(4) Implement written operational procedures as specified under Subparagraph (B)(5) (B)(3) of this section and a training program as specified under Subparagraph (B)(6) (B)(4) of this section. ^{Pf}

~~(E) Except as specified under ¶(F) of this section, a FOOD ESTABLISHMENT that PACKAGES cheese using a REDUCED OXYGEN PACKAGING method shall:~~

~~(1) Limit the cheeses PACKAGED to those that are commercially manufactured in a FOOD PROCESSING PLANT with no ingredients added in the FOOD ESTABLISHMENT and that meet the Standards of Identity as specified in 21 CFR 133.150 Hard cheeses, 21 CFR 133.169 Pasteurized process cheese or 21 CFR 133.187 Semisoft cheeses; ^P~~

~~(2) Have a HACCP PLAN that contains the information specified under ¶¶ 8-201.14 (C) and (D) and as specified under ¶¶ (B)(1), (B)(3)(a), (B)(5) and (B)(6) of this section; ^{Pf}~~

~~(3) Labels the PACKAGE on the principal display panel with a "use by" date that does not exceed 30 days from its packaging or the original manufacturer's "sell by" or "use by" date, whichever occurs first; ^{Pf} and~~

~~(4) Discards the REDUCED OXYGEN PACKAGED cheese if it is not sold for off-PREMISES consumption or consumed within 30 calendar days of its PACKAGING. ^{Pf}~~

~~(F)(E) 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.~~

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