

## Maine Food Code Specialized Processing Methods

### 3-502 Specialized Processing Methods

#### 3-502.11 Variance Requirement.\*

A Food or Eating Establishment shall obtain a Variance from the Regulatory Authority, as specified in §8-103.10 and under §8-103.11 before:

- (A) Smoking Food as a method of Food preservation rather than as a method of flavor enhancement;
- (B) Curing Food;
- (C) Using Food Additives or adding components such as vinegar:
  - (1) As a method of Food preservation rather than as a method of flavor enhancement, or
  - (2) To render a Food so that it is not Potentially Hazardous Food (Time/Temperature Control for Safety Food);
- (D) Packaging Food using a Reduced Oxygen Packaging method, except where the growth of, and toxin formation by **Clostridium botulinum**; and the growth of **Listeria monocytogenes** are controlled as specified under §3-502.12;
- (A) Operating a Molluscan Shellfish life-support system display tank used to store or display shellfish that are offered for human consumption;
- (F) Custom processing animals that are for personal use as Food and not for sale or service in a Food or Eating Establishment;
- (G) Preparing Food by another method that is determined by the Regulatory Authority to require a Variance; or
- (H) Sprouting seeds or beans.

#### 3-502.12 Reduced Oxygen Packaging, Criteria.\*

(See Policy Change Letter dated 12/21/17 for Reduced Oxygen Packaging)

(A) Except for a Food or Eating Establishment that obtains a Variance as specified under §3-502.11, a Food or Eating Establishment that packages Potentially Hazardous Food (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*.

(B) A Food or Eating Establishment that packages Potentially Hazardous Food (Time/Temperature Control for Safety Food) using a Reduced Oxygen Packaging method shall have a HACCP Plan that contains the information specified under ¶ 8-201.14(D) and that:

(1) Identifies the Food to be Packaged;

(2) Except as specified under ¶¶ (C) - (E) 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:

(a) Has an  $A_w$  of 0.91 or less,

(b) Has a PH of 4.6 or less,

(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)(2012 ed.), and is received in an intact Package, or

(d) Is a food with a high level of competing organisms such as raw meat, raw poultry, or raw vegetables;

(3) Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:

(a) Maintain the Food at 5°C (41°F) or below, and

(b) Discard the Food if within 14 calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;

(4) Limits the shelf life to no more than 14 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;

(5) Includes operational procedures that:

**(a)** Prohibit contacting Ready-to-Eat Food with bare hands, as specified under ¶ 3-301.11(B),

**(b)** Identify a designated area and the method by which:

**(i)** Physical barriers or methods of separation of raw Foods and Ready-to-Eat Foods minimize cross contamination, and

**(ii)** Access to the processing Equipment is restricted to responsible trained personnel familiar with the potential Hazards of the operation, and

**(c)** Delineate cleaning and Sanitization procedures for Food-Contact Surfaces;

and

**(6)** Describes the training program that ensures that the individual responsible for the Reduced Oxygen Packaging operation understands the:

**(a)** Concepts required for a safe operation,

**(b)** Equipment and facilities, and

**(c)** Procedures specified under Subparagraph (B)(5) of this section and ¶ 8-201.14(D).

**(A)** Except for Fish that is frozen before, during, and after packaging, a Food or Eating Establishment may not package Fish using a Reduced Oxygen Packaging method.

**(B)** Except as specified under ¶ (C) of this section, a Food or Eating Establishment that packages

Food using a cook-chill or sous vide process shall:

**(1)** Implement a HACCP Plan that contains the information as specified under ¶ 8-201.14(D);

**(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,

**(b)** Cooked to heat all parts of the Food to a temperature and for a time as specified under § 3-401.11,

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

**(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),

**(e)** Cooled to 5°C (41°F) in the sealed package or bag, as specified under § 3-501.14, and subsequently:

**(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;

**(ii)** Cooled to 1°C (34°F) within 48 hours of reaching 5°C (41°F), removed from refrigeration equipment that maintains a 1°C (34°F) food temperature and then held at 5°C (41°F) or less for no more than 72 hours, at which time the Food must be consumed or discarded;

**(iii)** Cooled to 3°C (38°F) or less within 24 hours of reaching 5°C (41°F) and held there for no more than 72 hours from Packaging, at which time the Food must be consumed or discarded; or

**(iv)** Held frozen with no shelf life restriction while frozen until consumed or used.

**(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,

**(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, and

**(h)** Labeled with the product name and the date packaged; 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, and

**(b)** Hold such records for at least 6 months; and

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

(E) A Food Establishment that packages cheese using a Reduced Oxygen Packaging method shall:

(1) Limit the cheeses packaged to those that are (1) commercially manufactured in a Food Processing Plant; (2) with no ingredients added in the Food Establishment; and (3)

that meet the Standards of Identity as specified in 21 CFR 133.150 (Hard cheeses)(2012 ed.), 21 CFR 133.169 (Pasteurized process cheese)(2012 ed.) or 21 CFR 133.187 (Semisoft cheeses)(2012 ed.); \*

(2) Have a HACCP Plan that contains the information specified under ¶ 8-201.14(D) and as specified under ¶¶ (B)(1), (B)(3)(a), (B)(5) and (B)(6) of this section;

(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; 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.

December 27, 2017

To: Eating Establishment Licensees

Re: Policy Change to the 2013 Maine Food Code, section 3-502.12 Reduced Oxygen Packaging

Dear Licensee:

The Department of Health and Human Services has become aware that the 2013 FDA Food Code has relaxed some of the storage time and temperature requirements for section 3-502.12 Reduced Oxygen Packaging (ROP) without a variance. The current 2013 Maine Food Code section 3-502.12 would require an establishment to apply for a variance if they wanted to follow these updated requirements. The 2013 Maine Food Code is based on the 2009 FDA Food Code and 2011 Supplement.

Significant changes in the 2013 FDA Food Code for section 3-502.12 are:

- A HACCP plan is not required for foods placed in ROP and subsequently removed from ROP within 48 hours provided these foods are labeled with the production date and time and held at 41 F or lower during storage.
- The shelf life on ROP foods without a variance (at 41F) has been extended from 14 days to 30 days.
- Cook chill and sous vide foods may be held for 7 days at 41F after cooling to 41F.

After reviewing the 2013 FDA Food Code section 3-502.12, the Department approves of the above changes to the 2013 Maine Food Code effective immediately. Should you have any questions regarding these changes, please contact your district health inspector or our offices at 207-287-5671.

Sincerely,



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