



Maricopa County

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Reduced Oxygen Packaging under the “48 Hour Exemption.”

Under the 2013 FDA Food Code a new subsection was added, 3-502.12(F), which expanded the use of Reduced Oxygen Packaging (ROP) for limited situations without requiring a variance or prior Department approval. Historically, anytime a food, which required time/temperature control for safety, was “sealed” in a container, regardless of time or shelflife, a detailed plan, called a HACCP Plan, was required to be created and approved by the Department. This written plan was required to address the potential hazards associated with botulism and Listeria. One of the most recognized methods for maintaining control of these slow growing organisms was storing food refrigerated for a short shelflife. The FDA recognized that if the shelf-life was limited to less than 48 hours, when stored below 41°F, that botulism and Listeria would be controlled.ⁱ

To qualify for the exemption, some very specific criteria must be met:

3-502.12(F) “48hr HACCP Exemption.”

- The package must be marked with the production time and date.
- The package must be stored under 41°F.
- The food must be removed from the package within 48hrs of sealing in the food establishment.

Universal Limitations and Prohibitions:

- Fish may not be packaged using ROP unless frozen before, during and after. Packaging of unfrozen fish and fish products requires a variance and prior Department approval. 3-502.12(C).
- Only federally inspected or state inspected cheeses can be packaged, and soft cheeses, such as brie, cannot be packaged using ROP. “House-made” blends are prohibited without obtaining a variance. 3-502.12(E)(1).
- Food cannot be sold directly to customers under ROP, since removal from package cannot be verified to be conducted within 48hrs. 3-502.12(F)(3).
- Food must be fully cooked pursuant to 3-502.12 (D)(2)(b), if cooking in package is conducted. Partial in package cooking or use of alternate cooking parameters cannot be used without obtaining a variance.

Since limitations and prohibitions exist, the operator must be able to demonstrate that they meet these requirements, so it is recommended that the establishment contact their inspector for further clarification/details prior to implementing the use of ROP.

The items listed above can be found in the 2013 FDA Food Code, particularly the specialized process sections 3-502.11 and 3-502.12, as well as the 2013 FDA Food Code Annex.

ⁱ 2013 FDA Food Code Annex 3 p.473