

(Effective until March 1, 2022.)

WAC 246-215-03540 Specialized processing methods—Reduced oxygen packaging without a variance, criteria (2009 FDA Food Code 3-502.12).

(1) Except for a FOOD ESTABLISHMENT that obtains a VARIANCE as specified under WAC 246-215-03535, a FOOD ESTABLISHMENT that packages POTENTIALLY HAZARDOUS FOOD using a REDUCED OXYGEN PACKAGING method shall control the growth and toxin formation of *Clostridium botulinum* and the growth of *Listeria monocytogenes*.

(2) A FOOD ESTABLISHMENT that packages POTENTIALLY HAZARDOUS FOOD using a REDUCED OXYGEN PACKAGING method shall have a HACCP PLAN that contains the information specified under WAC 246-215-08215(4) and that:

(a) Identifies the FOOD to be PACKAGED;

(b) Except as specified under subsections (3) through (5) of this section, requires that the PACKAGED FOOD must be maintained at 41°F (5°C) or less and meet at least one of the following requirements:

(i) Has an A_w of 0.91 or less;

(ii) Has a pH of 4.6 or less;

(iii) Is a MEAT or POULTRY product cured at a FOOD PROCESSING PLANT regulated by the USDA using substances specified in 9 C.F.R. 424.21, Use of Food Ingredients and Sources of Radiation, and is received in an intact package; or

(iv) Is a FOOD with a high level of competing organisms such as raw MEAT, raw POULTRY, or raw vegetables;

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

(i) Maintain the FOOD at 41°F (5°C) or below; and

(ii) Discard the FOOD if within fourteen calendar days of its packaging it is not served for on-PREMISES consumption, or consumed if served or sold for off-PREMISES consumption;

(d) Limits the refrigerated shelf life to no more than fourteen 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:

(e) Includes operational procedures that:

(i) Prohibit contacting READY-TO-EAT FOOD with bare hands as specified under WAC 246-215-03300(2);

(ii) Identify a designated work area and the method by which:

(A) Physical barriers or methods of separation of raw FOODS and READY-TO-EAT FOODS minimize cross contamination; and

(B) Access to the processing EQUIPMENT is limited to responsible trained personnel familiar with the potential hazards of the operation; and

(iii) Delineate cleaning and sanitization procedures for FOOD-CONTACT SURFACES; and

(f) Describes the training program that ensures that the individual responsible for the REDUCED OXYGEN PACKAGING operation understands the:

(i) Concepts required for a safe operation;

(ii) EQUIPMENT and facilities; and

(iii) Procedures specified under (e) of this subsection and WAC 246-215-08215(4).

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

(4) Except as specified under subsection (3) of this section, a FOOD ESTABLISHMENT that PACKAGES FOOD using a cook-chill or sous vide process shall:

(a) Implement a HACCP PLAN that contains the information as specified under WAC 246-215-08215(4);

(b) Ensure the FOOD is:

(i) 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;

(ii) Cooked to heat all parts of the FOOD to a temperature and for a time as specified under WAC 246-215-03400;

(iii) Protected from contamination before and after cooking as specified under Part 3, Subpart C and D;

(iv) 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 135°F (57°C);

(v) Cooled to 41°F (5°C) in the SEALED package or bag as specified under WAC 246-215-03515 and subsequently:

(A) Cooled to 34°F (1°C) within forty-eight hours of reaching 41°F (5°C) and held at that temperature until consumed or discarded within thirty days after the date of packaging;

(B) Cooled to 34°F (1°C) within forty-eight hours of reaching 41°F (5°C), removed from refrigeration EQUIPMENT that maintains a 34°F (1°C) FOOD temperature and then held at 41°F (5°C) or less for no more than seventy-two hours, at which time the FOOD must be consumed or discarded;

(C) Cooled to 38°F (3°C) or less within twenty-four hours of reaching 41°F (5°C) and held there for no more than seventy-two hours from packaging, at which time the FOOD must be consumed or discarded;

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

(vi) 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;

(vii) 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

(viii) Labeled with the product name and the date PACKAGED; and

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

(i) Make such records available to the REGULATORY AUTHORITY upon request; and

(ii) Hold such records for at least six months after the last date the product was sold or served.

(d) Implement written operational procedures as specified under subsection (2)(e) of this section and a training program as specified under subsection (2)(f) of this section.

(5) A FOOD ESTABLISHMENT that PACKAGES cheese using a REDUCED OXYGEN PACKAGING method shall:

(a) 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 C.F.R. 133.150 Hard cheeses, 21 C.F.R. 133.169 Pasteurized process cheese or 21 C.F.R. 133.187 Semisoft cheeses;

(b) Have a HACCP PLAN that contains the information specified under WAC 246-215-08215(4) and as specified under subsection (2)(a), (c)(i), (e), and (f) of this section;

(c) Labels the package on the principal display panel with a "use by" date that does not exceed thirty days from its packaging or the original manufacturer's "sell by" or "use by" date, whichever comes first; and

(d) Discards the reduced oxygen PACKAGED cheese if it is not sold for off-PREMISES consumption or consumed within thirty calendar days of its packaging.

[Statutory Authority: RCW 43.20.050 and 43.20.145. WSR 13-03-109, § 246-215-03540, filed 1/17/13, effective 5/1/13.]

(Effective March 1, 2022.)

WAC 246-215-03540 Specialized processing methods—Reduced oxygen packaging without a variance, criteria (FDA Food Code 3-502.12). (1) Except for a FOOD ESTABLISHMENT that obtains a VARIANCE as specified under WAC 246-215-03535, 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*.

(2) Except as specified under subsection (6) of this section, a FOOD ESTABLISHMENT that packages TIME/TEMPERATURE CONTROL FOR SAFETY FOOD using a REDUCED OXYGEN PACKAGING method shall have a HACCP PLAN that contains the information specified under WAC 246-215-08215 (3) and (4) and that:

(a) Identifies the FOOD to be PACKAGED;

(b) Except as specified under subsections (3) through (5) of this section, requires that the PACKAGED FOOD must be maintained at 41°F (5°C) or less and meet at least one of the following requirements:

(i) Has an A_w of 0.91 or less;

(ii) Has a pH of 4.6 or less;

(iii) Is a MEAT or POULTRY product cured at a FOOD PROCESSING PLANT regulated by the USDA using substances specified in 9 C.F.R. 424.21, Use of Food Ingredients and Sources of Radiation, and is received in an intact package; or

(iv) Is a FOOD with a high level of competing organisms such as raw MEAT, raw POULTRY, or raw vegetables;

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

(i) Maintain the FOOD at 41°F (5°C) or below; and

(ii) Discard the FOOD if within thirty calendar days of its packaging it is not served for on-PREMISES consumption, or consumed if served or sold for off-PREMISES consumption;

(d) Limits the refrigerated shelf life to no more than thirty 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:

(e) Includes operational procedures that:

(i) Prohibit contacting READY-TO-EAT FOOD with bare hands as specified under WAC 246-215-03300(2);

(ii) Identify a designated work area and the method by which:

(A) Physical barriers or methods of separation of raw FOODS and READY-TO-EAT FOODS minimize cross contamination; and

(B) Access to the processing EQUIPMENT is limited to responsible trained personnel familiar with the potential hazards of the operation; and

(iii) Delineate cleaning and sanitization procedures for FOOD-CONTACT SURFACES; and

(f) Describes the training program that ensures that the individual responsible for the REDUCED OXYGEN PACKAGING operation understands the:

(i) Concepts required for a safe operation;

(ii) EQUIPMENT and facilities;

(iii) Procedures specified under (e) of this subsection and WAC 246-215-08215 (3) and (4); and

(g) Is provided to the REGULATORY AUTHORITY prior to implementation as specified under WAC 246-215-08210(2).

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

(4) Except as specified under subsections (3) and (6) of this section, a FOOD ESTABLISHMENT that PACKAGES FOOD using a cook-chill or sous vide process shall:

(a) Provide to the REGULATORY AUTHORITY prior to implementation a HACCP PLAN that contains the information as specified under WAC 246-215-08215 (3) and (4);

(b) Ensure the FOOD is:

(i) 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;

(ii) Cooked to heat all parts of the FOOD to a temperature and for a time as specified under WAC 246-215-03400 (1) through (3);

(iii) Protected from contamination before and after cooking as specified under Part 3, Subparts C and D of this chapter;

(iv) 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 135°F (57°C);

(v) Cooled to 41°F (5°C) in the SEALED package or bag as specified under WAC 246-215-03515 and:

(A) Cooled to 34°F (1°C) within forty-eight hours of reaching 41°F (5°C) and held at that temperature until consumed or discarded within thirty days after the date of PACKAGING;

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

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

(vi) 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;

(vii) 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

(viii) Labeled with the product name and the date PACKAGED; and

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

(i) Make such records available to the REGULATORY AUTHORITY upon request; and

(ii) Hold such records for at least six months after the last date the product was sold or served.

(d) Implement written operational procedures as specified under subsection (2)(e) of this section and a training program as specified under subsection (2)(f) of this section.

(5) Except as specified under subsection (6) of this section, a FOOD ESTABLISHMENT that PACKAGES cheese using a REDUCED OXYGEN PACKAGING method must:

(a) 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 C.F.R. 133.150 Hard Cheeses, 21 C.F.R. 133.169 Pasteurized Process Cheese or 21 C.F.R. 133.187 Semisoft Cheeses;

(b) Have a HACCP PLAN that contains the information specified under WAC 246-215-08215 (3) and (4) and as specified under subsection (2)(a), (c)(i), (e), and (f) of this section;

(c) Labels the package on the principal display panel with a "use by" date that does not exceed thirty days from its packaging or the original manufacturer's "sell by" or "use by" date, whichever comes first; and

(d) Discards the REDUCED OXYGEN PACKAGED cheese if it is not sold for off-PREMISES consumption or consumed within thirty calendar days of its packaging.

(6) A HACCP PLAN is not required when a FOOD ESTABLISHMENT uses a REDUCED OXYGEN PACKAGING method to PACKAGE raw or READY-TO-EAT TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is always:

(a) Labeled with the production time and date;

(b) Held at 41°F (5°C) or less during refrigerated storage; and

(c) Removed from its PACKAGE in the FOOD ESTABLISHMENT within forty-eight hours after PACKAGING.

[Statutory Authority: RCW 43.20.050 and 43.20.145. WSR 21-01-122, § 246-215-03540, filed 12/15/20, effective 3/1/22; WSR 13-03-109, § 246-215-03540, filed 1/17/13, effective 5/1/13.]