Federal and State Regulations on Selling Pickled Vegetables

Introduction[1,2]

Pickling is an ancient method of food preservation dating back to 3rd century BC China. Unfermented pickles are typically put into an airtight jar with acid and flavorings and heated to kill any potential bacteria on the fruit or vegetable that may cause illness or spoilage. After a few days, the pickles are ready for consumption. The biggest concern about pickled foods is *Clostridium botulinum*. *Clostridium botulinum* is a microorganism that produces a fatal toxin in anaerobic environments with a pH above 4.6. The toxin causes botulism, a serious paralytic illness that can be fatal and is considered a medical emergency. Be sure to follow recipe directions and use recipes from reputable sources such as universities.

Recipes

Recipe 1: extension.oregonstate.edu/fch/sites/default/files/documents/pnw_355_picklingvegetables.pdf
Recipe 2: www.clemson.edu/extension/hgic/food/food_safety/preservation/hgic3420.html
Recipe 3: extension.colostate.edu/topic-areas/nutrition-food-safety-health/making-pickles-9-304/

North Central Region
Center for FSMA Training, Extension and Technical Assistance

Standards of Identity/Definitions

Acidified foods[3]—low-acid foods to which acid(s) or acid food(s) are added; these foods include but are not limited to, beans, cucumbers, cabbage, artichokes, cauliflower, puddings, peppers, tropical fruits, and fish. They have a water activity greater than 0.85 and have a finished equilibrium pH of 4.6 or below. These foods may be called "pickles" or "pickled ____".
Low-acid foods[4] - any foods, other than alcoholic beverages, with a finished equilibrium pH greater than 4.6 and a water activity (a_w) greater than 0.85. Tomatoes and tomato products having a finished equilibrium pH less than 4.7 are not classed as low-acid foods.
Pickles[3]—pickles are considered an acidified foods as they have a water activity (a_w) greater than 0.85 and have a finished equilibrium pH of 4.6 or below.

The information in this document pertains to specific types of manufacturers. Manufacturers that sell their product directly to consumers through farmers' markets, roadside stands, or other similar venues should direct their attention to the "For Manufacturers Selling Directly to Consumers" portion of this document. Manufacturers that do not sell directly to consumers (those that sell to restaurants, grocery stores, or other manufacturers) should view the "For Manufacturers Not Selling Directly to Consumers" portion of this document, directly below.

For Manufacturers Not Selling Directly to Consumers

Federal[5]

All pickle and relish producers are required to follow current Good Manufacturing Practices [21 CFR Part 117, Subpart B, and 21 CFR 117.4 (Qualifications of individuals who manufacture, process, pack, or hold food.)]. If the manufacturer sells less than $500,000 in the preceding 3 years, that business is exempt from Hazard Analysis and Risk-based Preventive Controls [21 CFR Part 117, Subparts C and G]. If the manufacturer sell more than 50% of their food directly to consumers within 275 miles of the production facility, that business is exempt from Hazard Analysis and Risk-based Preventive Controls [21 CFR Part 117, Subparts C and G]. Current Good Manufacturing Practices are practices that minimize the likelihood of allergen/

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chemical, microbial, and physical contamination of foods. Personnel must be trained on food safety as it relates to their job duties. The plant, grounds, equipment, utensils, and processing lines must be kept in good sanitary condition. The canning process must be adequate to create a safe pickled product.
In addition to pickle and relish producers requirements to follow 21 CFR Part 117, acidified foods operations must also follow 21 CFR Part 114. These operations must have a supervisor who has attended an FDA recognized training course specifically designed for canning acidified foods (21 CFR 114.10). The most widely available approved course is the Better Process Control School. Anyone working on the processing and packaging side of an acidified foods operation must be under supervision by the trained individual during all operating hours.[3,6,7]

The food safety plan required by 21 CFR Part 117, Subpart C, must contain a written hazard analysis. This hazard analysis identifies hazards requiring preventive controls or must give a justification as to why a hazard does not require a preventive control. If a hazard requiring a preventive control is identified, written documentation of the preventive control, monitoring procedures, corrective actions, verification procedures, including validation information for process preventive controls, and a recall plan are required.

For Manufacturers Selling Directly to Consumers

Illinois[8]

Pickles– Any vegetables that are canned must include a step that raises the acidity, by pickling, fermenting, or other means of adding acid. Cottage food producers are strongly encouraged to test the acid level of any allowed canned product by sending a sample jar to a commercial food lab. Remember, the cottage food producer is responsible for safely producing and storing foods and should take every reasonable step to ensure food safety.
General Guidance– Labeling and Signage requirements must be met. The name and residence of the person preparing and selling products as a cottage food operation must be registered with the county health department of a unit of local government where the cottage food operation resides. A fee may be charged for registration. The person preparing and selling products as a cottage food operation needs Certified Food Protection Manager (CFPM) certification.

Indiana[9]

Non-fermented, pickled vegetables– For example pickles, beets, etc. that are acidified (i.e., vinegar added) and do not require refrigeration may not be sold by a Home-Based Vendor. Note: Vegetables that require the addition of any acid (e.g., vinegar) are NOT considered fermented.

Iowa[10]

Home canned fruits and vegetables (i.e. pickles)- are not allowed to be sold at a farmers' market unless they are produced in a licensed kitchen.

Kansas[11]

Home canned pickles (includes pickled vegetables and pickled eggs), canned vegetables or meat, and sauerkraut- are not allowed to be sold without proper licensing.

Michigan[12]

Canned pickled products– items like corn relish, pickles or sauerkraut must be produced in a licensed kitchen.

Minnesota[13]

Pickled products– products with an equilibrium pH value of 4.6 or lower and heat treated to kill vegetative cells are exempt from licensing. Examples, including but not limited to: Pickled asparagus, Pickled beets, Pickled cantaloupe, Pickled carrots, Pickled chow chow, Pickled corn relish, Pickled cucumber, Pickled green beans (Dilly Beans), Pickled green tomatoes, Pickled okra, Pickled relish, Pickled summer yellow squash, Pickled three-bean salad, Pickled watermelon rinds, Pickled zucchini, and Pickles, sweet or dill.

General Guidance- Cottage food producers must do the following:

1. Register with the MDA before selling exempt food regardless of the amount of food sold.
2. Take an approved food safety course once every three years while actively selling cottage food.
3. Register with the MDA each year food is sold under the Cottage Food Exemption.
4. Prepare and sell only NON-potentially hazardous food (such as baked goods, certain jams and jellies) and/or home canned pickles, vegetables, or fruits with a pH of 4.6 or lower.
5. Label food with your name and address, date produced, and ingredients, including potential allergens.
6. Display a sign that says "These products are homemade and not subject to state inspection." If you are selling on the Internet, post this statement on your webpage.
7. Deliver food directly to the ultimate consumer. The person who makes the food must be the same person who sells and delivers the food.
8. Sell from a private home, at farmer's markets, community events, or on the Internet.
9. Consult local authorities regarding business licensing /sales prohibitions due to zoning requirements.
10. Sell less than $18,000 in a calendar year. If you sell between $5,000 and $18,000 per year, a $50 fee applies to your registration.

Missouri[14]

Salsa, pickles, and BBQ sauce- These foods are common examples of acidified or low acid canned foods that require a license and must be produced in an inspected facility. A producer must attend a Better Process Control School and have their process reviewed by a process authority.

Nebraska[15]

Meat, fruits, vegetables (green beans, tomatoes), pickles (all low acid canned foods)- You must have a permit to sell these home canned products.

North Dakota[16,17]

The ND Cottage Foods Act allows for the sale of uninspected, homemade cottage food products to an informed, end consumer for at-home consumption.

Pickled foods- The following items are allowed if acidified and the equilibrium pH is less than 4.6, verified using a calibrated pH meter: Pickles, salsa, sauerkraut, kimchi, fruit chutney, and applesauce.

General Guidance- Labeling and Handling Instructions guidelines must be met.

Ohio[18]

Pickles and pickled products- must be produced in a licensed facility.

South Dakota[19]

Home-canned foods– foods having an equilibrium pH value below 4.6 and meeting standards that destroy bacteria, yeast, and molds to a required level may be produced in a home kitchen. All products must have

official verification from a third-party processing authority in writing. All products must be properly labeled.

Wisconsin[20,21]

A person is not required to obtain a license to sell at retail food products that the person prepares and cans at home in Wisconsin if all of the following apply:

- The food products are pickles or other processed vegetables or fruits with an equilibrium pH of 4.6 or lower
- The person sells the food products at a community or social event or a farmers' market in Wisconsin
- The person receives less than $5,000 per year from the sale of the food products
- The person displays a sign at the place of sale stating: "These canned goods are homemade and not subject to state inspection"
- Each container of food product that is sold is labeled with the name and address of the person who prepared and canned the food product, the date on which the food product was canned, the statement "This product was made in a private home not subject to state licensing or inspection.", and a list of ingredients in descending order of prominence. If any ingredient originates from milk, eggs, fish, crustacean shellfish, tree nuts, wheat, peanuts, or soybeans, the list of ingredients shall include the

Resources

[1] https://catalog.extension.oregonstate.edu/pnw355
[2] https://nchfp.uga.edu/how/can6b_pickle.html
[3] 21 CFR 114 https://www.ecfr.gov/cgi-bin/text-idx?SID=5adb4042d1b92be50b44b5e3653cd3c8&node=pt21.2.114&rgn=div5
[4] 21 CFR 113 https://www.ecfr.gov/cgi-bin/text-idx?SID=3d037581cdbeef69950d3a18e049bf94&mc=true&node=se21.2.113_13&rgn=div8
[5] 21 CFR 117 https://www.ecfr.gov/cgi-bin/text-idx?SID=01afb009a9de6f6797d02757e59ef157&mc=true&node=pt21.2.117&rgn=div5#sp21.2.117.b
[6] http://ucfoodsafety.ucdavis.edu/Better_Process_Control_Schools/
[7] https://foodsafety.ncsu.edu/acidified-foods-manufacturing-school/
[8] http://web.extension.illinois.edu/cottage/foods.cfm
[9] https://ag.purdue.edu/foodsci/pages/in-hea-1309-info.aspx
[10] https://dia.iowa.gov/sites/default/files/documents/2016/01/farmers_market_summary.pdf
[11] https://www.bookstore.ksre.ksu.edu/pubs/MF3138.pdf
[12] http://www.michigan.gov/mdard/0,4610,7-125-50772_45851-240577--,00.html
[13] https://www.mda.state.mn.us/food-feed/cottage-food-law-guidance
[14] http://health.mo.gov/safety/foodsafety/pdf/FarmersMarketsBrochure.pdf
[15] http://www.nda.nebraska.gov/publications/foods/food_safety_farmers_markets_craft_shows.pdf
[16] https://www.health.nd.gov/sites/www/files/documents/Files/HR/FL/Cottage%20Foods/Summary%20of%20Cottage%20Foods%20_Final%20Document%2021220.pdf
[17] https://www.health.nd.gov/regulation-licensure/food-and-lodging/cottage-food
[18] https://agri.ohio.gov/wps/portal/gov/oda/divisions/food-safety/resources/cottage-food
[19] https://doh.sd.gov/food/farmers-markets.aspx?
[20] https://datcp.wi.gov/Pages/Licenses_Permits/FoodLicenses.aspx
[21] docs.legis.wisconsin.gov/statutes/statutes/97.pdf

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Prepared by: Jacque Overdiep, III and Angela Shaw, PhD.

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