

LINDA LINGLE
Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512

SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

LATE TESTIMONY

TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEES ON
CONSUMER PROTECTION AND COMMERCE
MONDAY, MARCH 31, 2008
2:05 P.M.
ROOM 325

HOUSE CONCURRENT RESOLUTION NO. 244, PROPOSED HD1
URGING THE DEPARTMENT OF AGRICULTURE TO ADOPT RULES CONSISTENT
WITH FEDERAL LAW TO PROHIBIT THE MEAT PACKING INDUSTRY AND MEAT
OR MEAT PRODUCT RETAILERS FROM USING GAS OR OTHER TECHNOLOGY TO
EXTEND THE EXPIRATION DATE OF MEAT SOLD IN THE STATE.

Chairperson Herkes and Members of the Committee:

Thank you for this opportunity to provide testimony on House Concurrent Resolution 244, Proposed HD1 urging the Department of Agriculture to adopt rules consistent with Federal law to prohibit the meat packing industry and meat or meat product retailers from using gas or other technology to extend the expiration date of meat sold in the state.

The Department of Agriculture (HDOA) defers to the Department of Health as this subject falls under their jurisdiction. While there remains under HDOA a statute on meat inspection, the department no longer has such a program as it stopped doing inspection for the federal government many years ago. We understand that the Department of Health has jurisdiction over food adulteration under chapter 328, the State's version of the Food, Drug and Cosmetic Act.

While it may be generally accepted that treating meat with safe levels of carbon monoxide is not harmful, this resolution addresses the issue that there are other

concerns surrounding the treatment of meat in this manner. The red meat color resulting from the gas treatment may deceive the consumer into thinking that the meat is fresher than it is. It is possible for the meat to appear fresh but to have high bacterial levels indicative of spoilage even though the meat is within the labeled 'use, sell or freeze by' date listed on the package.



March 31, 2008

The Honorable Bob Herkes
Chair, Committee on Consumer Protection and Commerce
House of Representatives
415 South Beretania Street, Room 325
Honolulu, HI 96813

LATE TESTIMONY

RE: HCR244 HD1 Proposed

Dear Chair Herkes and Members of the Committee:

On behalf of the Grocery Manufacturers Association, I am writing to express our opposition to HCR244 HD1 Proposed, urging the Department of Agriculture to adopt rules consistent with federal law to prohibit the meat packaging industry and meat or meat product retailers from using gas or other technology to extend the expiration date of meat sold in the state.

The Grocery Manufacturers Association (GMA) represents the world's leading food, beverage and consumer products companies. The Association promotes sound public policy, champions initiatives that increase productivity and growth and helps to protect the safety and security of the food supply through scientific excellence. The GMA board of directors is comprised of fifty-two chief executive officers from the Association's member companies. The \$2.1 trillion food, beverage and consumer packaged goods industry employs 14 million workers, and contributes over \$1 trillion in added value to the nation's economy.

The resolution addressed a concern that the use of carbon monoxide resulted in products in which color, one of a number of indicators of freshness, was maintained until the package was opened. This concern took two forms: (1) food safety and (2) potential for consumer deception. Neither remains valid today.

This innovative technology does not present any food safety issue. On the contrary, it eliminates opportunities for cross-contamination in the grocery store, the cart, grocery bags, the refrigerator, or the kitchen counter because it provides consumers with leak-proof, individually wrapped, direct from packaging plant code-dated product. The U.S. food safety policy at the production facility is zero tolerance for pathogens. The food spoilage bacteria which make products unpalatable as they age do not themselves

GROCERY MANUFACTURERS ASSOCIATION

1350 I Street, NW :: Suite 300 :: Washington, DC 20005 :: ph 202-639-5900 :: fx 202-639-5932 ::

www.gmaonline.org

present food safety issues. New scientific research into the effect of the packaging on intentionally introduced e.coli contamination has been conducted under conditions of temperature abuse, as requested by interested consumer representatives. This research is demonstrating that this packaging can actually reduce pathogens that may escape other processing safeguards and enter meat products. Further testing to validate these results by well-known food science experts is currently underway.

There is simply no continuing need for legislative activity at this time. This packaging system has been successfully marketed for four years with over 600 million servings consumed by satisfied customers. Moreover, the FDA has determined, as a matter of scientific fact, that the carbon monoxide present in this packaging is not a “color additive” because it does not become part of the meat or poultry product but dissipates upon opening of the packaging.

For these reasons, we respectfully request that this committee oppose this legislation.

Sincerely,

Caroline Silveira
Director, State Affairs
Grocery Manufacturers Association

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Low Oxygen Packaging System Increasing Consumer Satisfaction While Enhancing Food Safety Initiatives

March 26, 2008



1. Packaging History

2. Low Oxygen Packaging

3. Consumer Satisfaction

Food Has Been Packaged In Modified Atmospheres Since 1980's



Beef Case Ready History

A commitment to improving food safety and consumer satisfaction

Food Safety Control and Consumer Satisfaction

Increased



1. Rail Beef

Strengths:
Traditional meat cut

Weaknesses:
Control
Code date at retail
3-day color
X-contamination
Non-USDA insp.
Non-HACCP
Not leak proof
Shrink



2. Store Grinds

Strengths:
Traditional meat cut

Weaknesses:
Control
Code date at retail
3-day color
X-contamination
Non-USDA insp.
Non-HACCP
Not leak proof
Shrink



3. Vac-Pack

Strengths: Packed under USDA inspection, oxygen-free

Weaknesses:
Purple color
Code date at retail
Repackaged in many cases at retail
Shrink



4. Low-Ox Bag

Strengths: Packed under USDA inspection, meat blooms at retail

Weaknesses:
Code date at retail
3-day color
Poor color
Not leak proof
Shrink



5. Ground Chub

Strengths: Meat ground, sealed and code dated at USDA inspected facility
Leak proof, tamper evident

Weaknesses:
Consumer can't see meat
Purple color
Application specific only to ground meats



6. High Ox Lid

Strengths: Meat sealed and code dated at USDA inspected facility, meat is fully bloomed, leak proof, tamper evident

Weaknesses:
Rancid flavors
Oxidation by-products
Cooked color at unsafe temperatures



7. Low Ox Lid

Strengths: Meat sealed and code dated at USDA inspected facility, meat is fully bloomed, leak proof, tamper evident

Weaknesses:
Color is stable beyond shelf life

*Case Ready packaging reduces cross contamination, especially lid stock packaging.

Consumers Rely On Sell By Dates

81% of consumers rely on sell by dates. (FMI 2005)

Color is not an accurate indicator of freshness

Beef

Chicken

Pork

Turkey

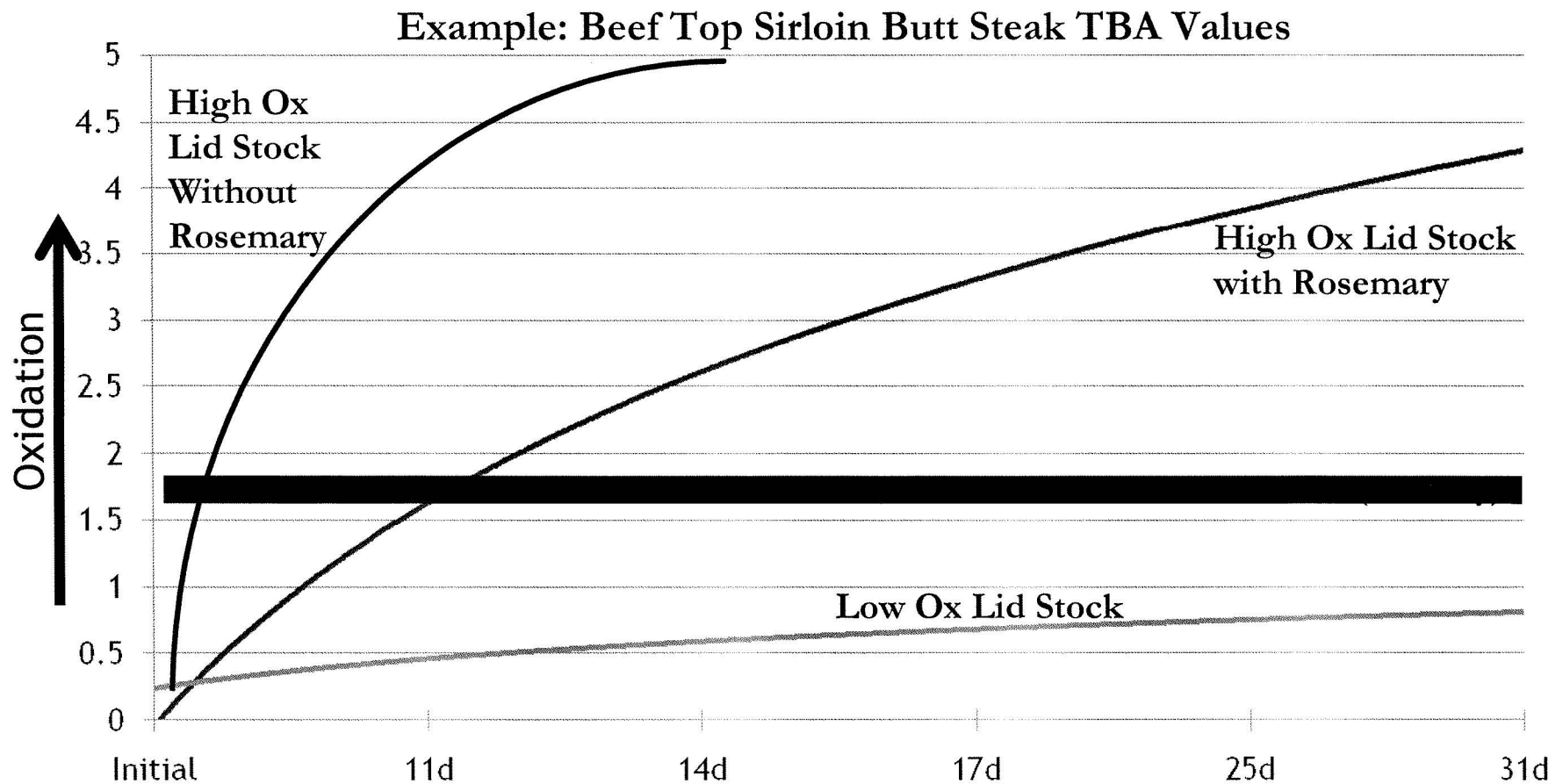


Consumers use a number of sensory attributes ;

1. Sell by dates
2. Packaging
3. Smell
4. Color
5. Texture
6. Taste

*Studies conducted by FMI, AMI and CFA show that consumers rely on sell by dates.

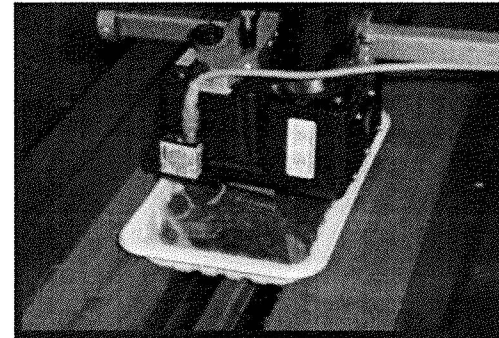
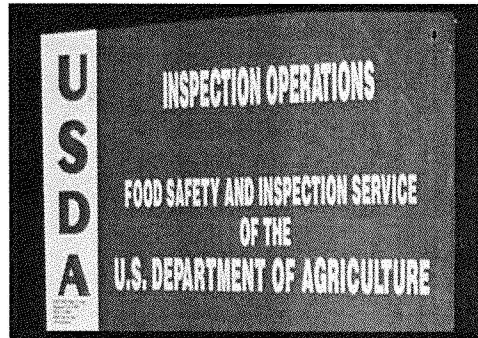
High Oxygen Packaged Beef Becomes Oxidized Sooner



*Precpt Foods data. Dr. Daren Cornforth, Utah State University paper supports above data.

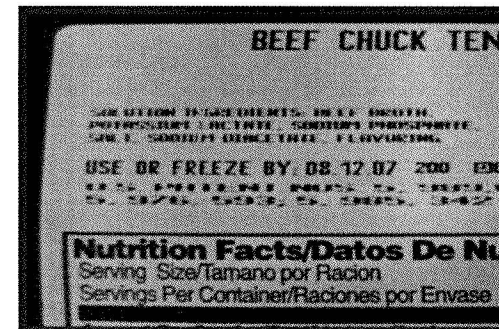
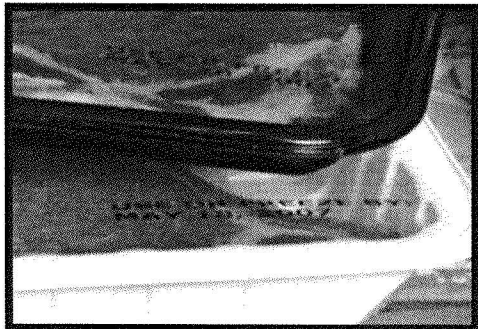
Leak Proof/Tamper-Proof Trays

Packaged under USDA inspection



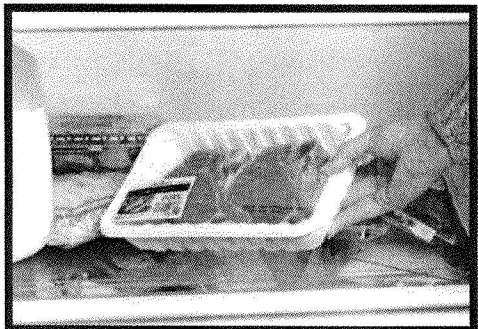
Print is tamper-proof and printed directly on package

Date is printed in bold, 15 point font on front



Date is also printed on back

Tamper-proof lidded tray reduces cross-contamination



Cholesterol/Colesterol	60mg	20%
Sodium/Sodio	310m	13%
Total Carbohydrate/Carbohidrato Total	0g	0%
Protein/Proteinas	21g	
Iron/Hierro		10%

Not a significant source of Dietary Fiber, Sugars, Vitamin A, Vitamin C, and Calcium.
 No es una fuente significativa de Fibra Dietética, Azúcares, Vitamina A, Vitamina C, y Calcio.
 *Percent Daily Values are based on a diet of 2,000 calories.
 *Los Porcentajes de Valores Diarios están basados en una dieta de 2,000 calorías.

IF NOT SATISFIED, CALL 1-800-523-4635 FOR A REFUND WITH PROOF OF PURCHASE. VISIT

Customer service 800# printed on every package

CO MAP: 65% Nitrogen, 35.6% Carbon Dioxide and 0.4% Carbon Monoxide

What do consumers want?

Cleanliness...



...in the cart

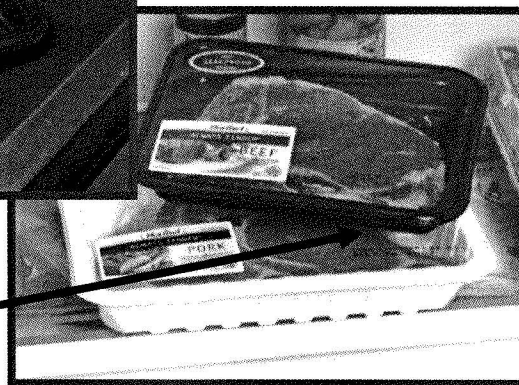


**Low Ox Lid Stock
Packaging Reduces
Cross-Contamination**



...at the register

**Leak Proof
Packaging Reduces
Cross-Contamination**



...in the
refrigerator

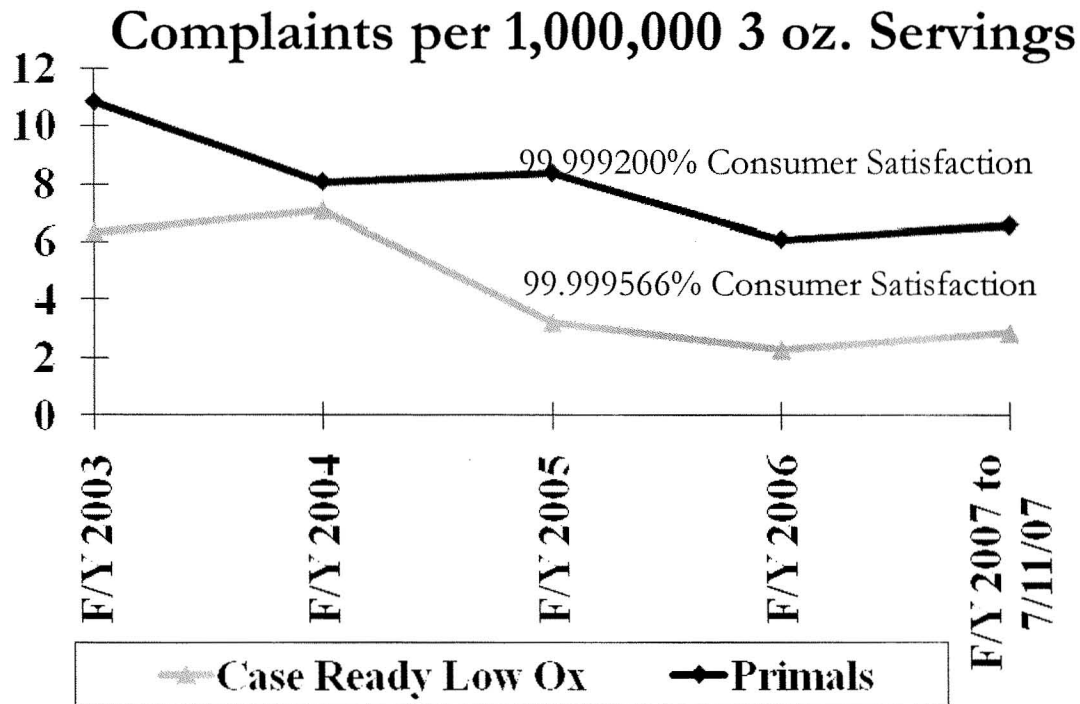
USDA APPROVAL GRANTED;

"Color is not an accurate indicator of
freshness refer to use or freeze by date"

On packages beginning April 2008.

Not a food safety issue; Not a consumer deception issue

Reduced Consumer Complaints With Leak Proof Packaging



- Over 4 years in market
- 125 million packages purchased
- 600 million servings consumed

Complaints = any and all consumer reported quality or formula issues with our product (e.g. packaging, flavor, texture, fat, etc.)

*Percent Daily Values are based on a 2,000 calorie diet.
*Los Porcentajes de Valores Diarios estan basados en una dieta de 2,000 calorias.



†IF NOT SATISFIED, CALL 1-800-523-4635 FOR A REFUND WITH PROOF OF PURCHASE

**800 number listed on every
package for consumer feedback**

Scientists Endorsing the Safety & Quality of Low Oxygen CO MAP Packaging:

- Dr. Alden Booren – Michigan State University
- Dr. Joseph Sebranek – Iowa State University
- Dr. Melvin Hunt – Kansas State University
- Dr. Daren Cornforth – Utah State University
- Dr. Chance Brooks – Texas Tech University
- Dr. Mindy Brashears – Texas Tech University
- Dr. Gary Acuff – Texas A&M University
- Dr. Mike Doyle – Director of the Center for Food Safety at University of Georgia
- Dr. Michael Osterholm – Director of Center for Infectious Disease Research & Policy – University of Minnesota
- Dr. Oddvin Sorheim – Norwegian Food Research Institute*
- Dr. Roger Mandigo – University of Nebraska
- Dr. Susan Brewer – University of Illinois
- Dr. Terry Houser – University of Florida

*CO MAP was used successfully for many years in Norway. It was not “borrowed” in the EU, but for competitive reasons, was not approved when Norway joined the EU.

Additional CO MAP Benefits

- Recent temperature abuse testing conducted at request of consumer organizations;
 - CO MAP system outperforms other current MAP systems, even at extreme temperature abuse (70° & 95°F).
 - Following intentionally introduced E.coli 0157-H7 contamination, CO MAP demonstrates pathogen reduction properties even at extreme temperature abuse levels.
 - Further testing to validate these results by well known food science experts is currently underway.

3/26/08

FDA/FSIS REGULATORY HISTORY/CO-MAP TIMELINE

- **7/2/03:** Precept (a joint venture between Hormel and Cargill) a determination from FSIS that CO-MAP barrier lidstock packaging is acceptable for use with meat and poultry products based on previously accepted GRAS notification for Pactiv “mother bag” technology and FSIS requests views of FDA and the use of 0.4% carbon monoxide (“CO”). The FDA GRAS notification documents the safety of this use of low levels of carbon monoxide.
- **9/11/03:** FDA tells FSIS that a separate GRAS notification will be required because the Pactiv system allows meat to re-equilibrate with standard air and to “age” in the in-store meat display cabinet as though it was not exposed to CO, and the Precept technology does not.
- **1/06/04:** Precept files a GRAS notification for the use of CO in its barrier lidstock packaging with FDA. The notification contains all of the same safety information regarding use of and exposure to CO, as well as evidence demonstrating that CO does not inhibit the growth of spoilage microorganisms (a temperature abuse study on ground beef, a shelf life study on ground beef and a shelf life study of whole muscle meats).
- **4/28/04:** FSIS tells FDA that the effect of the CO barrier lidstock packaging in maintaining product color could potentially mislead consumers into believing that they are purchasing a product that is fresher or of greater value than it actually is and may increase the potential for spoilage.
- **5/12/04:** Precept submits additional information to substantiate shelf life determinations for this packaging.
- **5/28/04:** Precept submits additional information demonstrating that (1) the open code date is stamped on the package at the point of manufacturing is well within the life of the product; and (2) product within code date that spoils as a result of temperature abuse will have other signs of spoilage that are not masked by CO – such as odor, etc., that can be cloaked for packaging that allows for ongoing odor exchange
- **6/2/04:** FSIS tells Precept that it has determined on the basis of all of this additional information that CO barrier lidstock package is suitable for use with meat and poultry products and will not “mislead consumers into believing they are purchasing a product that is fresher or of greater value than it actually is or increase the potential for masking spoilage.”
- **7/29/04:** FDA accepts the Precept GRAS notification for CO-MAP barrier lidstock packaging to the effect that its use will not mask spoilage and that it will

perform in a manner comparable to similar systems. FDA also reports that FSIS has determined that the packaging is suitable for use with meat and poultry products.

- **3/08:** USDA Office of Inspector General confirms that these FSIS suitability determinations “were consistent with the agency’s understanding of the FSIS/FDA Memorandum of Understanding, the Federal Meat Inspection Act and FSIS’ regulations.