

GUIDANCE FOR REQUESTING A VARIANCE

Variations are intended for the allowance of specialized processes that will enhance operations with science based controls and monitoring. Certain types of food or specialized food processing methods available to retail establishments will require additional documentation to be filed with the Department before they can be conducted at a licensed establishment.

WHAT IS A VARIANCE?

A “variance” is defined in Department regulations **40-7-1 Retail Food Sales** as:

“a written document issued by the Department that authorizes a modification or wavier of one or more requirements of these regulations, if, in the opinion of the Department, a health hazard or nuisance will not result from the modification or wavier.”

The decision to grant or deny a variance request will be based on the best available science, either submitted by the applicant or sought out by the Department Variance Committee, before a final decision is made.

Food operations conducted under a variance will also require submission and approval of a Hazard Analysis Critical Control Point (HACCP) plan; HOWEVER, the Retail Food Sales regulations allow some specialized processing methods to be conducted under an approved HACCP plan without need of a variance from the Department. See the table on page 2 for more information.

WHAT IS HACCP?

HACCP, as defined by the National Advisory Committee on Microbiological Criteria for Foods, consists of a seven step process that a food producer or establishment operator can use to address hazards introduced or controlled by a process.

WHAT IS A HACCP PLAN?

A **HACCP Plan** is defined in the **Georgia Retail Food Sales Regulations** as a written document that delineates the formal procedures for following the HACCP principles developed by the National Advisory Committee on Microbiological Criteria for Foods. A properly constructed HACCP plan will address the following HACCP principles:

1. Conduct a **hazard analysis** to identify potential food safety hazards reasonably likely to occur.
2. Identify **critical control points** (CCP’s); which are a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.
3. Establish **critical limits** for each critical control point; which are the maximum or minimum value to which a hazard must be controlled at a CCP to minimize the risk of a potential food hazard.
4. Establish critical control point **monitoring requirements**; these are necessary to ensure that the process is under control at each critical control point.
5. Establish **corrective actions**; which are predetermined actions to be taken when monitoring indicates a deviation from an established critical limit.
6. Establish **record keeping** procedures.
7. Establish **verification procedures** for ensuring the HACCP system is working as intended; these may include such activities as review of HACCP plans, CCP records, critical limits and microbial sampling and analysis.

WHEN IS A VARIANCE AND/OR A HACCP PLAN REQUIRED?

VARIANCE AND A HACCP PLAN	HACCP PLAN ONLY*
Smoking food for preservation, rather than flavor enhancement	

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Curing food	Time/Temperature Control for Safety Food (TCS Food) packaged under ROP, shall be maintained at 41°F or less, AND meets one of the following criteria: <ul style="list-style-type: none"> • Has a water activity (A_w) of 0.91 or less; • Has a pH of 4.6 or less; • 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 or Radiation, and is received in an intake package; or • Is a food with a high level of competing organisms, such as meat, raw poultry, or raw vegetables.
Food additives: <ul style="list-style-type: none"> • For food preservation rather than flavor enhancement, or • To render the food non-Time/Temperature Control for Safety Food (non-TCS Food) 	
Reduced Oxygen Packaging (ROP), EXCEPT where otherwise specifically allowed by regulation. <i>See Retail Food Sales 40-7-1-.12(11)f</i>	
Operating a molluscan shellfish life-support display tank (wet storage of molluscan shellfish)	
Custom processing game animals and deer for personal use, and not for sale or service in the retail establishment	Fish that is frozen before, during, and after packaging using a ROP method
Preparing food by any other method determined by the Department to require a variance and HACCP plan	Food that is prepared and packaged using a cook-chill or sous vide method
Sprouting seeds or beans	Specific cheeses that are packaged using a ROP method
Certain raw or undercooked foods of animal origin, conducted under an approved HACCP plan.	Juice packaged in a retail establishment, which has been treated to attain a 5-log reduction

**Additional regulations for each process as applicable can be found under 40-7-1-.12(11).*

WHAT ARE THE CONTENTS OF A HACCP PLAN?

For a retail food establishment that is required to have a HACCP plan, the plan and specifications shall indicate:

1. A categorization of the types of **Time/Temperature Control for Safety Foods** that are processed and/or served.
2. A flow diagram by specific food or category type identifying critical control points and providing information on the following:
 - Ingredients, materials, and equipment used in the preparation of that food; and
 - Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved.
3. Food employee and supervisory training plan that addresses the food safety issues of concern.
4. A statement of standard operating procedures for the plan under consideration, including and clearly identifying:
 - Each critical control point (CCP);
 - The critical limits for each CCP;
 - The method and frequency for monitoring and controlling each CCP by the food employee designated by the person in charge (PIC);
 - The method and frequency for the PIC to routinely verify that the food employee is following standard operating procedures and monitoring CCP's;
 - Action to be taken by the PIC if critical limits for each CCP are not met;
 - Records to be maintained by the PIC to demonstrate that the HACCP plan is properly operated and managed.
5. Additional scientific data or other information, as required by the Department, supporting the determination that food safety is not compromised by the proposal.

HOW DO YOU APPLY FOR A VARIANCE?

A Variance Request Application form must be submitted to the Georgia Department of Agriculture Retail Program Manager and Variance Committee.

The applicant shall provide the following information with the application:

1. A statement of the proposed variance to the Retail Food Sales Regulations requirement, citing the relevant Regulation section(s);
2. An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant Regulation sections will be alternatively addressed by the proposal; and
3. A HACCP Plan as specified by 40-7-1-39(3)(a), that includes the information specified in 40-7-1-39(4) as it is relevant to the variance request.

If you need additional guidance completing or submitting an application, or for technical questions, please submit them via email to VarianceQuestions@agr.georgia.gov.

VARIANCE AGREEMENT

Once a variance has been granted by the Department and HACCP plans are accepted, no changes or modifications may occur without prior review by the Department. It is the responsibility of the establishment to notify the Department immediately if there are to be any changes made in the authorized process. Variance acceptance applies only to the type of food or food products, and the type of variance requested, specifically listed on the variance application form. That plan also becomes a condition of the Food Sales Establishment License. Any adjustment or deviation from the authorization will require resubmission of a new variance request to the GAVC.

The Department will verify the plan is being followed as part of our usual inspection process. If the Department determines that the variance is not being followed, or if recurring deficiencies are observed, a compliance conference may be required. If deficiencies continue to persist, the authorized plan may be revoked by the Department and all operations associated with the variance shall cease. Upon revocation, and after deficiencies have been corrected, the permit holder may apply for another variance.

Monitoring records must be maintained for a minimum of three years or longer, as specified in the variance acceptance. Monitoring records must be made available upon request from the Department during routine inspections, or at any other time the request is made by the Department.

A copy of the variance and HACCP plan must be maintained on site and conveniently located, such that it is available for review by Department representatives at any time the request is made.

The Department reserves the right to rescind the variance granted, and/or the acceptance of HACCP plans and related documents, at any time. Notification that compliance with the full intent and scope of 40-7-1 will be sent to the Owner and Contact Person as listed on the Variance Request Application form.

CONTACT INFORMATION

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