



GUIDANCE FOR REQUESTING A FOOD VARIANCE

What is a *Variance*?

A “variance” is defined by the 2012 Wyoming Food Safety Rule to mean a written document issued by the Wyoming Department of Agriculture that authorizes a modification or waiver of one or more requirements of this Rule if, in the opinion of the regulatory authority, a health hazard or nuisance will not result from the modification or waiver. The decision to grant to or deny a variance request will be based on the best available science submitted by the applicant or sought out by the Food Variance Committee at the time the decision is made.

Variances are intended for the allowance of specialized processes that will enhance operations with science based controls and monitoring. All supporting documentation must be submitted along with a completed *Variance Request Form*. Approved Variance Requests and HACCP Plans are final and no changes or modification may occur without prior review and approval by this Department or local jurisdiction. Compliance with approved variances will be monitored by the Department. Due to advancements in technology and changing public health concerns, approved variances will be subject to periodic review by the Food Variance Committee. It is the responsibility of the establishment to follow the procedures approved by the Food Variance Committee and to notify the Department immediately if there is to be any change made in the approved process. Inspections by the Department or local jurisdictions will be completed to ensure compliance with approved Food Variance procedures and/or HACCP Plan.

When is a Variance or HACCP Plan Required?

Some types of food or food processing will require a variance and an approved Hazard Analysis Critical Control Point (HACCP) Plan; while some circumstances will require a variance, but not a HACCP Plan.

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. HACCP is a systematic approach to the identification, evaluation, and control of food safety hazards based on the following seven principles:

HACCP Principles are:

1. Conduct a food safety **HAZARD ANALYSIS**.
2. Identify **CRITICAL CONTROL POINTS**, also called “CCP’s”
3. Establish **CRITICAL LIMITS** for preventive measures.
4. Establish **MONITORING PROCEDURES** for control points.
5. Establish **CORRECTIVE ACTIONS**.
6. Establish an effective **RECORD KEEPING/DOCUMENTATION** system.
7. Establish **VERIFICATION PROCEDURES** to ensure the HACCP Plan is working.

What is a HACCP Plan?

A HACCP plan is defined by the 2012 Wyoming Food Safety Rule as a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods. The successful implementation of a HACCP plan is facilitated by commitment from top management. The next step is to establish a plan that describes the individuals responsible for developing, implementing and maintaining the HACCP system.

The HACCP Plan and specifications shall indicate:

1. A categorization of the types of Potentially Hazardous Foods (Time/Temperature Control for Safety Foods) that are specified in the menu such as soups and sauces, salads, and bulk, solid foods such as meat roasts, or other foods that are specified by the Department .
2. A flow diagram by specified 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 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 CCPs;
 - Action to be taken by the PIC if the critical limits for each CCP are not met; and
 - Additional scientific data or other information, as required by the Regulatory Authority, supporting the determination that the food safety is not compromised by the proposal.

What Types of Processes Require a HACCP Plan and NOT a Variance?

According to Wyoming Food Safety Rule, Chapter 3, Section 64, the following processes require a HACCP Plan but will not require a variance:

1. Potentially Hazardous Food (Time/Temperature Control for Safety Food) that is packaged using a Reduced Oxygen Packaging (ROP) method and is maintained at 4°F or less and meets at least one of the following criteria:
 - Has a water activity (Aw) 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 intact package; or
 - Is a Food with a high level of competing organisms, such as raw Meat, raw Poultry, or raw vegetable.
2. Fish that is frozen before, during, and after packaging using ROP method;

3. Food that is prepared and packaged using a cook-chill or sous vide method;
4. Specified cheeses that are packaged using a ROP method

What Types of Food and/or Methods Require a Variance and a HACCP Plan?

According to the Wyoming Food Safety Rule, Chapter 3, Section 63 the following food and methods will require a variance and a HACCP plan:

1. Smoking food as a method of food preservation rather than a method of flavor enhancement;
2. Curing food;
3. Using additives or adding components such as vinegar to address pH:
 - a. As a method of food preservation rather than as a method of flavor enhancement; or
 - b. To render a food so that it is not potentially hazardous (Time/Temperature Control of Safety Food);
4. Packaging food using a ROP method except where the growth of and toxin formation by *Clostridium botulinum* and the growth of *Listeria monocytogenes* are controlled as specified under Chapter 3, Section 64; offered for human consumption;
5. Operating a molluscan shellfish life-support system display tank used to store or display shellfish that re offered for human consumption;
6. Custom processing animals that are for personal use as food and not for sale or service in a Food Establishment;
7. Preparing food by another method that is determined by the Regulatory Authority to require a variance;
8. Sprouting seeds or beans

What Types of Processes Require a Variance but not a HACCP Plan?

Processes that require a variance but not a HACCP plan most often relate to the design, installation and construction of retail food facilities. An establishment may apply for a variance for a modification or waiver that allows that establishment an exemption from strictly following what is written in the 2012 Wyoming Food Safety Rules. When an establishment wants to operate outside the food code limits the Department may approve a modification for that establishment if the Department is provided with satisfactory proof that the grant of a variance will not jeopardize the public's health, safety, or welfare.

How Does my Organization or Establishment Apply for a Variance?

A *Variance Request Form* shall be submitted to the Wyoming Variance Committee. Please contact your local WDA/CHS Inspection Specialist for assistance when completing and submitting the *Variance Request Form*. A final approval or denial letter will be sent out to the establishment requesting a variance by the Consumer Health Services Manager.