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Food Service Variance Fact Sheet

What is a variance?

A variance is a written document issued by the Oklahoma State Department of Health (the Department) that authorizes a modification or waiver of one or more of the requirements of the Oklahoma State Food Service Establishment Regulations (Chapter 257). A variance may be granted by the regulatory authority if in the opinion of the regulatory authority a health hazard or nuisance will not result from the variance. If a variance is granted, the regulatory authority shall retain the required documents for the food establishment.

When is a variance request required?

A variance request is required to be submitted when a food establishment would like to make a modification or waiver to the requirements of the Chapter 257. In addition, **Section 310:257-5-63 requires a food establishment to obtain a variance for specialized processing methods from the Department before:**

1. *Smoking food as a method of food preservation rather than as a method of flavor enhancement;*
2. *Curing food;*
3. *Using food additives or adding components such as vinegar: to preserve/render non- potentially hazardous food;*
4. *Packaging food using a reduced oxygen packaging method except as specified under paragraph (2) of this subsection where a barrier to Clostridium Botulinum and Listeria Monocytogenes in addition to refrigeration exists;*
5. *Operating a molluscan shellfish life-support system display tank used to store and display shellfish that are offered for human consumption;(310:257-7-35b)*
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; or*
8. *Sprouting seeds or beans in a retail food establishment.*

When is a variance request required? Cont.

9. *Serving raw animal food such as raw egg, raw fish, raw-marinated fish, raw molluscan shellfish, or steak tartare; or a partially cooked food such as lightly cooked fish, soft cooked eggs, or rare meat other than whole-muscle, intact beef steaks to a **highly susceptible population**.*

Additionally, variance requests may be submitted requesting addition, omission or modification of equipment to meet an establishments needs. These types of variances do not require a HAACP plan but do require all other sections of the Variance Request form to be properly filled out.

In accordance with Section 310:257-5-64, a food establishment may use ROP as a packaging method without obtaining a variance if the food being packaged meets one of the following criteria and a HACCP plan is in place that complies with 310:257-5-64.

What are the requirements for submitting a variance request?

As specified in 310:257-15-2, 15-3, and 15-4, the establishment must submit a statement of the **proposed variance** that includes the section citing relevant rules related to the modification; **rationale** of how the public health hazard will be addressed, and a **HACCP plan**, if required, and as specified in 310:257-15-8 and 15-9

What is required in my HACCP Plan?

HACCP Plan requirements are specified in 310:257-15-8 and 15-9. Please submit the food establishment's HACCP plan along with the Variance Request form to the Department through the Oklahoma City-County Health Department. Any variance request that lacks "**part or all**" of the information required under Chapter 257 will not be approved and will be returned to the establishment for further clarification or correction.

Please feel free to submit documents and photographs that will help the Department and OCCHD verify that a health hazard or nuisance will not result from the variance. The Department will provide the submitter with the department's decision regarding the waiver request.

Chapter 257 can be found on-line at the Oklahoma State Department of Health website, <https://www.ok.gov/health2/documents/CPD-OSDH%20257%20FDA2009%20Finalized%208-31-11.pdf>. If you have any questions regarding the submission of your variance request, please call 425-4347.