



**CABINET FOR HEALTH AND FAMILY SERVICES
OFFICE OF THE SECRETARY
Department for Public Health
Division of Public Health Protection & Safety**

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POLICY DOCUMENT 2013-01

**SUBJECT: Policy Statement Regarding Acidified Foods
(Pickling) in the Retail Food Establishment**

STATEMENT OF PURPOSE: To establish uniform policy guidance for addressing the special process of Food Acidification (Pickling) in Retail Food Service Establishments, and the variance approval process for firms engaging in this "high-risk" process.

The purpose of this policy statement is to call your attention to a new trend of "canning" in the restaurant setting, and to establish uniform policy guidance for addressing this issue under Kentucky's Retail Food Program. Specifically, the Food Safety Branch has reason to believe that a number of restaurants across the state are either considering this practice, or may already be actively engaged in the practice of "canning" in the retail-food environment. Given the new "local foods" movement, other facilities across the state may be interested in following suit. These practices may include pickling vegetable products, including but not limited to cucumbers, okra, asparagus, beans, etc. for shelf-stable (unrefrigerated) storage for later use in restaurant menu items.

Since "home-canning" or "pickling" (acidifying) foods in the retail environment is considered a "high-risk," special process, this is a prohibited practice unless the restaurant has first obtained a variance per the 2005 FDA Food Code (available [here](#)). Specifically, section 3-502.11 (Variance Requirement) in the 2005 FDA Food Code cites a number of "high-risk," special processes in the retail environment—each with special approval requirements. These "high-risk" processes include, but are not limited to, reduced oxygen packaging (ROP), smoking, curing, drying, and seed sprouting.

The purpose of this policy statement is to outline for our Local Health Department and Retail Food Industry partners, food-specific, Kentucky Food Safety Branch requirements and procedures for

those retail food establishments engaged in or wishing to engage in the “high-risk,” special process of “pickling” (acidifying) foods for shelf-stable (ambient temperature) storage. Some facilities or operators may use the terms “canning” or “home-canning” to describe this process.

For the purpose of this policy statement, “canning” includes the process of acidifying (pickling) foods, but **DOES NOT** include pressure canning. Pressure canning of foods under a retail food establishment permit is prohibited. Entities wishing to engage in this process will be required to obtain a Food Manufacturing permit, separate and apart from the Retail-Food permit, and meet additional state/federal requirements.

This is to advise that no person shall conduct the “high-risk,” special process of “canning” or acidifying (pickling) foods in a retail-food establishment until they have submitted a variance request and received written approval for the variance request from the KY Department for Public Health—Food Safety Branch. All variance request packets for “canning” or acidifying (pickling) foods should be forwarded to our Retail Food Program Supervisor as follows:

Ms. Pamela M. Hendren
Retail Food Section Supervisor
Kentucky DPH—Food Safety Branch
Health Services Building, Mail Stop HS1C-F
275 East Main Street
Frankfort, KY 40621
pamelam.hendren@ky.gov

Before a variance from a requirement of the 2005 FDA Food Code is approved, the following information (see Section 8-103.11; Documentation of Proposed Variance and Justification) shall be provided to the Kentucky Food Safety Branch by the person requesting the variance:

- A completed Variance Request Form (attached) for **each** “high-risk, special process” menu item.
- A detailed recipe shall be submitted for **each** scheduled process.
- A completed FDA Form 2541a (4/12) (Food Process Filing For All Methods Except Low-Acid Aseptic) for **each** product. This form can be accessed at:
<http://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM076784.pdf>.
- A Formal cover letter from a Process Control Authority (PCA) describing PCA review of all scheduled (special) processes. For acidified foods, a scheduled process means the process selected by a processor as adequate, for use under the conditions of manufacture, to achieve and maintain a food that will not permit the growth of microorganisms under shelf stable conditions. A PCA is a person specially qualified, with expert knowledge of thermal processing requirements in hermetically sealed containers, and who has adequate facilities to make such a determination. Entities may contact the Food Safety Branch for assistance in locating an approved PCA.
 - The cover letter should also contain (1) a statement affirming that the special processes reviewed by the PCA meet all pertinent requirements of the 2005 FDA Retail Food Code and, (2) a statement that if the restaurant operator follows the

- PCA approved special processes; the food safety of the finished food products should not be compromised.
- **IMPORTANT:** The PCA cover letter shall contain a statement addressing the fact that any deviations in the PCA reviewed scheduled process (including but not limited to changes in recipe or ingredients, changes in acidulant(s), and/or changes in container sizes, etc.,) will invalidate the safety controls and render null and void any approved variance.
 - Kentucky's variance approval process also requires verification of successful attendance and completion of a Better Process Controls School (BPCS) for Acidified Foods by the operator or Person In Charge (PIC) at this establishment.
 - A current BPCS schedule can be found on-line at: http://www.gmaonline.org/file-manager/Events/Bro_BPCS-011411.pdf .
 - This is to advise that a BPCS can also be completed on-line through the University of California. More information regarding this on-line course is available at: http://www.fruitandvegetable.ucdavis.edu/Cooperative_Extension_Short_Course_s/Better_Process_Control_School_Online/ .
 - The University of Kentucky—College of Agriculture's Food Systems Innovation Center (FSIC) also provides Better Process Controls School training for acidified foods, as well as technical assistance in meeting Food Code requirements. For more information, please contact FSIC at (859) 257-7272. The FSIC website is available at: <http://www.uky.edu/fsic> .
 - **IMPORTANT:** In the event a variance is granted, all processing of "high-risk," special process foods shall be conducted either solely by—or under the direct supervision of—an individual who has successfully completed a BPCS.
 - Written verification from the retail food establishment operator or PIC attesting that the "high-risk," special process foods reviewed and approved by the PCA will only be used in the "back of the house" for use in menu items intended to be consumed on-site by consumers.

Variance requests that are incomplete and do not contain all of the bulleted information and documentation noted above will not be reviewed.

Given the food safety concerns associated with "high-risk," special process of acidifying (pickling) foods in the retail environment, including the risk of *Clostridium botulinum* and subsequent toxin formation in improperly acidified product, the Food Safety Branch would like to take this opportunity to encourage our local health department partners to closely evaluate whether or not these practices may be occurring within their jurisdictions during routine establishment inspections. If there are questions about processes occurring within the retail food establishment that may require a variance, please contact the Food Safety Branch for guidance.

Where such "high-risk" practices are identified for which a variance approval has not been issued (or cannot be produced by the operator) appropriate action should be taken to ensure that such products are removed and discontinued from use in the establishment. Appropriate steps should then be taken to ensure that the restaurant ceases these practices until "approved" to resume, and that information on the variance approval process is provided to the operator. Attached, for your

review, are an informational letter and DPH variance request form for establishments intending to engage in this practice.

Should an establishment intend to prepare “high-risk” acidified (pickled) foods for use beyond the “back of the house,”—for instance marketing the products in package form to the consumer—it is the determination of the Food Safety Branch that the firm should then be required to obtain an additional food manufacturing permit, separate and apart from its retail food service permit.

SPECIAL NOTE: A retail food establishment is not permitted to manufacture and market “high risk,” special processed foods in prepackage form. The manufacture of such products intended to be sold/marketed to consumers in package form will require that the operator or PIC make application for a separate food manufacturing permit through this office.

This is to advise that the Kentucky Food Safety Branch has communicated the public health risks relative to the “high-risk,” special process of home-canning/pickling to our Kentucky Restaurant Association (KRA) partners. We have further communicated to our KRA partners the procedures for approval of the special process requirements that are contained in this document, as well as the attached informational handouts.

Please note, this policy statement is meant **ONLY** to address “high-risk” foods. Certain foods “canned” in the establishment might be considered “low-risk.” These foods generally include products such as most fruit jams and jellies made with real sugar, and most barbecue sauces. Please note that Technical Consultants from our Retail Food Section, as well as Inspectors from our Food Manufacturing Section are available to assist our Local Health Department partners in evaluating these sometimes complex processes.

In the event that a variance request is approved for a particular retail food establishment, the Food Safety Branch will immediately notify the local health department with jurisdiction over that establishment. Staff from the Food Safety Branch will be available to conduct an initial on-site field inspection with local health department food safety professionals at the establishment. Local health department inspection roles/responsibilities in establishments with formal variance approvals for “high-risk,” acidified (pickled) foods will include the following:

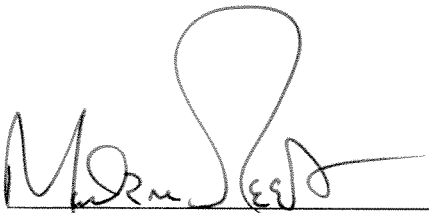
- A formal menu review to ensure that variance approvals are available for each menu item that has been identified as a “high-risk,” special process.
- A detailed recipe review for each item to ensure that the firm is not deviating from the original, standardized process as reviewed by a process control authority (PCA) and submitted with the original, approved variance request.

SPECIAL NOTE: *Variance approvals are specific to the recipe/menu item/process submitted by the Process Control Authority (PCA). Any deviations in the PCA reviewed scheduled process (including but not limited to changes in recipe or ingredients, changes in acidulant(s), and/or changes in container sizes, etc.,) will invalidate the safety controls, and will void any product-specific variance approvals that may have been issued.*

Thank you for your patience and expertise as we continue to collaboratively address food protection concerns in our retail food settings. Should you need assistance, or should you like to arrange an on-site review with one of our technical consultants, feel free to contact this office at 502-564-7181.

Included Documents Relative to this Policy Statement:

- KY DPH Request for Variance
- Variance Requirements and Procedures for Retail-Food Establishments (Acidified Foods)



Submitted by:
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January 9, 2013



Reviewed/Approved by:
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KY DPH, DPHPS
January 9, 2013