



Michael R. Pence  
Governor

Jerome M. Adams, MD, MPH  
State Health Commissioner

CERTIFIED MAIL # 7009 2820 0003 8638 0062

November 9, 2016

Carrie Ballinger, Associate  
RTM Consultants, Inc.  
6640 Parkdale Place, Suite J  
Indianapolis, IN 46254

Representing:

Messmann's Meats  
16603 Lima Road  
Huntertown, IN 46748

RE: Variance Request # 972016

**Order to Approve a Variance**

On July 1, 2016, the Indiana State Department of Health (ISDH) Food Protection Program office received a request from you representing Messmann's Meats, Huntertown, IN to vary sections 195 of 410 IAC 7-24, "Retail Food Establishment Sanitation Requirements," relating to the use of reduced oxygen packaging (ROP) for cooked food products.

After reviewing the application and accompanying materials, there were some questions and additional information needed to fully understand and complete the review to make a final determination on the request. A meeting with Mr. Mike Messmann, Owner and Dan Miller, ISDH occurred on September 26, 2016 to clarify points of agreement resulting in the following variance approval.

This **VARIANCE APPROVAL** is based on the following criteria:

- The designated production location for this variance is:  
Messmann's Meats, 16603 Lima Road, Huntertown, IN 46748

This location produces numerous raw and cooked food products from hunter-owned white-tail deer. The items subject to this variance request are intended to be: vacuum packaged summer sausage, vacuum packaged snack sticks, and vacuum packaged jerky made of venison and which may also contain a proportion of pork or other meat. These products are prepared, cooked, cooled, vacuum packaged, and then frozen as a finished product before being provided to the customer.



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essential public health services.

- The cooking temperature for all products containing game animals will be at least 165F for 15 seconds. This would be in place of the critical limits stated in the provided HACCP Plan.
- The critical limits for the cooling parameters of the above stated products will be: 135F to 70F in 2 hours and 70F to 41F or less in 4 hours, with a combined total cooling period of less than 6 hours. The vacuum packaged items would then continue to cool to frozen prior to receipt by the customer.
- All meat used in the above named products which was not provided by the deer owner for the deer owners own products will be purchased from a source where the meat has been inspected by USDA or BOAH, and bears markings to that effect.
- All spices, seasonings, and curing ingredients will be purchased from commercial sources.
- All of the finished product will be returned to the owner of the deer, and finished product labeling will be provided to include:
  - Name and address of the production facility;
  - Weight of the packaged product;
  - "Not for sale";
  - A list of ingredients, in predominance by weight, including sub-sets of seasoning ingredients;
  - A date will separate batches or lots from each other; and
  - A consumer warning stating the following in at least 12 font:  
  
"IMPORTANT: MUST BE STORED FROZEN," and  
"For food safety, open packaging upon removal from freezer".
- The labeling, except for the consumer warning and "Not for sale", may be in the form of a sticker on the product or pre-written label on paper which includes all of the above information. All packages of the items included under this variance request will continue to be marked as "Not for sale" and will be marked with the above consumer warning.
- Messmann's Meats will have laboratory tests conducted on their finished products for residual nitrites on a self-established interval that is at least once per season, and that laboratory testing for E. coli (Shiga-toxin producing, or "STEC") and Salmonella should also occur on the same basis.
- The residual nitrite concentration in the above named finished products may not exceed 200ppm.
- Records of laboratory testing will be retained for at least one year from the date of processing.
- Items which are not retrieved by the customer will be removed from the premises after 30 days from the date of processing.
- All current and future employees participating in deer receiving or production of the above mentioned products will be trained on the HACCP Plan, SSOP's, the conditions of this

approval, and will receive training to recognize the animal carcass common signs of Chronic Wasting Disease (CWD) and Bovine Tuberculosis.

- ISDH will be notified of any substantive changes in the production process of the above named products that may affect the HACCP plan criteria.
- A Certified Food Handler as defined in 410 IAC 7-22, will be provided for this location to oversee all food safety requirements while cooked items continue to be produced.
- If laboratory or epidemiological evidence implicates that one or more of the above named products has caused, or is likely to cause illness, a recall of all implicated products will be performed, and recalled products will be destroyed.
- A copy of this approval letter and the submitted application must be kept onsite in the above named establishment at all times and readily available for review by state and/or local health department personnel.
- This variance does not extend to locations not listed above. There shall be no other food establishments in Indiana conducting this process by this company unless explicitly approved by the ISDH Food Protection Program. The company must request and receive approval from ISDH Food Protection Program at least thirty (30) days prior to adding new Indiana locations to this variance.
- This Variance Order is limited to Messmann's Meats and the current scope of the existing operations as indicated in submitted materials.
- This Variance Order is not transferable to a new owner.
- This Variance Order is limited to being in compliance with all other applicable state and local regulations.
- Any provisions not adhered to may result in the revocation of this order.
- Some of the submitted materials may be considered confidential or proprietary for RTM Consultants, Inc. and/or Messmann's Meats. It is a condition of this approval that RTM Consultants, Inc. and Messmann's Meats agree to allow copying and transmittal of submitted materials to Indiana food regulatory authorities for regulatory purposes. It is the responsibility of the variance requestor to obtain all necessary copyright permissions from third parties.

**If you wish to request an administrative review or stay of effectiveness of this decision pursuant to Ind. Code §4-21.5-3-7(a), you must petition for such review in writing. The petition must state facts demonstrating that:**

- a. you are a person to whom the decision is specifically directed;
- b. you are aggrieved or adversely affected by the decision; or,
- c. you are entitled to review under any law.

**Your request for review or stay of effectiveness must be filed in writing and addressed to:**

**Indiana State Department of Health  
Attn: Court Administrator  
Office of Legal Affairs  
2 North Meridian Street, Section 3H  
Indianapolis, Indiana 46204**

**on or before December 9, 2016. If no request for review or stay of effectiveness is filed by December 9, 2016, this decision shall become final.**

DATED AT INDIANAPOLIS, INDIANA THIS 9<sup>th</sup> DAY OF NOVEMBER 2016.

PURSUANT TO IC 16-19-3-4.3 AND IC 16-42-5-5.2, I HEREBY APPROVE A VARIANCE OF FOOD PROTECTION RULES AS STATED ABOVE.

JEROME M. ADAMS, MD, MPH  
STATE HEALTH COMMISSIONER

By: 

Judith Lovchik, PhD, D(ABMM)

Assistant Commissioner

Public Health Protection and Laboratory Services Commission

cc: ISDH Executive Board  
ISDH Food Protection Staff  
ISDH Office of Legal Affairs  
Allen County Health Department