



**OFFICE OF FOOD PROTECTION, DOVER: 302-744-4546**

**ENVIRONMENTAL HEALTH FIELD SERVICES**

**New Castle County: 302-283-7110 Kent County: 302-744-1220 Sussex County: 302-515-3302**

**PROCEDURE TO REQUEST A VARIANCE  
FROM STATE OF DELAWARE FOOD CODE**

**Question:** As the Permit Holder or Person-in-Charge of a food establishment, what procedures must I follow to request a variance to modify or waive a requirement in the Delaware Food Code?

**Answer:** State of Delaware Food Code addresses the information requirements in the following sections:

Section 8-103.10 Modifications and Waivers

Section 8-103.11 Documentation of Proposed Variance and Justification

Section 8-103.12 Conformance with Approved Procedures

**Definition:**

**VARIANCE** means a written document issued by the Division of Public Health that authorizes a modification or waiver of one or more requirements of the State of Delaware Food Code if a health hazard or nuisance will not result from the modification or waiver.

**▶ Who May Submit a Variance Request?**

A Food Establishment permit holder may submit a written request for a variance to modify or waive one or more Food Code requirements.

**▶ To Whom Should the Request Be Addressed?**

A variance request should be sent to:

Manager, Office of Food Protection

Jesse Cooper Building

417 Federal Street

Dover, DE 19901

**▶ What Happens When I Submit a Variance Request?**

- Upon receipt of the request by the Office of Food Protection (OFP), the request will be reviewed for the contents specified in State of Delaware Food Code, Section 8-103.11.
- If the request is incomplete, OFP will return the request to the applicant, indicating the deficient area(s). OFP will provide a copy of this correspondence to the Division of Public Health (DPH) Director's Office and the Health Systems Protection (HSP) Section Chief.
- If the request is complete, OFP will evaluate the request on whether the proposed alternative will satisfy the public health rationale for the State of Delaware Food Code requirement for which modification or waiver is being requested.
- OFP will formulate a recommendation to approve or disapprove the request and, together with the basis for that recommendation, will forward both to the DPH Director.
- All requests will be returned to the applicant. A disapproved request will be returned to the applicant with an indication of deficient areas needing additional controls or documentation