**Conference for Food Protection**

**2018 Issue Form**

**Issue: 2018 I-021**

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| **Council Recommendation:** | Accepted as  Submitted |  | Accepted as Amended |  | No Action |  |
| **Delegate Action:** | Accepted |  | Rejected |  |  |  |

*All information above the line is for conference use only.*

**Issue History:**

This is a brand new Issue.

**Title:**

Amend Food Code – Food Establishment Requirement to Retain Variance

**Issue you would like the Conference to consider:**

A recommendation is being made to clarify the food establishment is required to maintain a copy of a variance approval on site.

The FDA Food Code Section 8-103.11 discusses the documentation that is required to be kept once a food establishment has submitted a variance to the regulatory authority. Clarification is needed to ensure a food establishment has a requirement to keep the variance approval on-site.

**Public Health Significance:**

The FDA Food Code explains compliance and enforcement requirements in Chapter 8. Specifically, in Section 8-103.11, the Food Code says "Before a VARIANCE from a requirement of this Code is APPROVED, the information that shall be provided by the PERSON requesting the VARIANCE and retained in the REGULATORY AUTHORITY'S file on the FOOD ESTABLISHMENT includes..."

It is important that the food establishment and the Person in Charge have a copy of the approved variance procedures on-site. This is generally required in the duties of the person in charge (2-103.11 (O)), where it discusses maintaining and implementing plans. However, it is not clear that the approval paperwork is required to be kept on-site. The Person in Charge must be aware that a variance has been granted, and must be able to provide the paperwork on-site when requested by the Regulatory Authority.

**Recommended Solution: The Conference recommends...:**

that a letter be sent to the FDA requesting that Section 8-103.11 of the most current edition of the Food Code be amended to include clarifying language for variance procedures that do not require a HACCP Plan. Recommended language to read (new language is underlined):

Before a VARIANCE from a requirement of this Code is APPROVED, the information that shall be provided by the PERSON requesting the VARIANCE and retained by the FOOD ESTABLISHMENT and in the REGULATORY AUTHORITY'S file on the FOOD ESTABLISHMENT includes...

**Submitter Information:**

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| Name: | Veronica Bryant | | |
| Organization: | NC DHHS | | |
| Address: | 1632 Mail Service Center | | |
| City/State/Zip: | Raleigh, NC 27699-1632 | | |
| Telephone: | 9192186943 |  |  |
| E-mail: | veronica.bryant@dhhs.nc.gov |  |  |

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