"Variance" means a written document issued by the regulatory authority that authorizes a modification or waiver of one or more requirements of this subchapter if, in the opinion of the regulatory authority, a health hazard or nuisance will not result from the modification or waiver.

**37.106.311 MINIMUM STANDARDS FOR ALL HEALTH CARE FACILITIES: FOOD SERVICE ESTABLISHMENTS**

(1) A health care facility which serves food or beverage to patients or residents shall comply with the food service establishment act, Title 50, chapter 50, MCA, and food service establishments rules, ARM Title 37, chapter 110, subchapter 2.

**37.110.253 VARIANCES**

(1) A food service establishment may request a variance to waive or modify requirements of this subchapter by petitioning the local health authority.

(2) The local health authority may grant a variance by modifying or waiving the requirements of this chapter if in the opinion of the local health authority a health hazard will not result from the variance.

(3) If a variance is granted, the local health authority may require any of the following information for its records on the food establishment:

(a) a statement by the petitioner of the proposed variance from this subchapter's requirements, citing the relevant rule numbers;

(b) a rationale by the petitioner explaining how the potential public health hazards addressed by the relevant rules will be alternatively addressed by the proposal; and

(c) a hazard analysis and critical control point plan (HACCP) from the petitioner requesting the variance that includes the information required for a HACCP plan and its relevance to the variance requested.

(4) The petitioner may ask for approval from the department if the local health authority denies the variance, or the local health authority does not exist or is absent. For department approval, the petitioner shall submit the information required in (3)(a) through (c) of this rule.

(5) The recipient of a variance must demonstrate to the regulatory authority conformance with approved procedures through compliance with the HACCP plan, if one is required, or procedures that are submitted and approved as a basis for the variance. (History: Sec. 50-50-103, MCA; IMP, Sec. 50-50-103, MCA; NEW, 2000 MAR.)