

WAC 173-306-900 Variances. (1) Any person applying for an ash disposal permit or who owns or operates an ash generation or disposal facility may apply to the department for a variance from any section of this chapter. The application must be accompanied by information such as the department may require.

(2) The applicant shall provide usual and reasonable public notification within the area that will be impacted, including publication in the area's major general circulation newspaper and mailing notices to surrounding property owners. Proof of compliance must be submitted with the variance application.

(3) The department shall give public notice of an application and allow a thirty-day public comment period. Notice must be mailed to persons who have written to the department asking to be notified of all variance requests and shall indicate that a public hearing may be requested.

(4) In considering a variance request, the department shall consider:

(a) The relative interests of the applicant, other property owners likely to be affected by the applicant's activity and the general public;

(b) If the ash handling practices or facility location protect public health, worker health, safety or the environment to a degree equal to or greater than the standard from which a variance is requested;

(c) Whether compliance with the rule from which the variance is sought would produce hardship without equal or greater benefits to the public;

(d) Whether compliance with the rule will require spreading of costs over a considerable time period; and

(e) Whether the timetable is for a period that is sufficient to comply with this chapter.

(5) The department shall approve or disapprove a variance request within ninety days of receipt unless the applicant and the department agree to a continuance.

(6) Any variance granted under this section may be renewed. Application for a variance renewal must be made at least sixty days before the expiration of the variance and must follow the application process of subsections (1) through (5) of this section.

[Statutory Authority: Chapter 70.138 RCW. WSR 00-19-018 (Order 00-17), § 173-306-900, filed 9/8/00, effective 10/9/00; WSR 90-10-047, § 173-306-900, filed 4/30/90, effective 5/31/90.]