

WAC 173-304-700 Variances. (1) Any person who owns or operates a solid waste facility may apply to the jurisdictional health officer for a variance from any section of this regulation. The application shall be accompanied by such information as the jurisdictional health department may require. The jurisdictional health department may grant such variance, but only after due notice or a public hearing if requested, if it finds that:

(a) The solid waste handling practices or location do not endanger public health, safety or the environment; and

(b) Compliance with the regulation from which variance is sought would produce hardship without equal or greater benefits to the public.

(2) No variance shall be granted pursuant to this section until the jurisdictional health department has considered the relative interests of the applicant, other owners of property likely to be affected by the handling practices and the general public.

(3) Any variance or renewal shall be granted within the requirements of subsection (1) of this section and for time period and conditions consistent with the reasons therefor, and within the following limitations:

(a) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement, or control of pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available and subject to the taking of any substitute or alternative measures that the jurisdictional health department may prescribe;

(b) The jurisdictional health department may grant a variance conditioned by a time table if:

(i) Compliance with the regulation will require spreading of costs over a considerable time period; and

(ii) The time table is for a period that is needed to comply with the regulation.

(4) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. No renewal thereof shall be granted, unless following a public hearing on the complaint or due notice, the jurisdictional health department finds the renewal is justified. No renewal shall be granted except on application. Any such application shall be made at least sixty days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the jurisdictional health department shall give public notice of such application in accordance with rules and regulations of the jurisdictional health department.

(5) An application for a variance, or for the renewal thereof, submitted to the jurisdictional health department shall be approved or disapproved by the jurisdictional health department within ninety days of receipt unless the applicant and the jurisdictional health department agree to a continuance.

(6) No variance shall be granted by a jurisdictional health department except with the approval and written concurrence of the department prior to action on the variance by the jurisdictional health department.

(7) Variances granted by a jurisdictional health department will be accepted as variances under this regulation.

(8) Public notice shall be given by mailing a notice of the variance application to persons who have written to the jurisdictional health department asking to be notified of all variance requests.

[Statutory Authority: Chapter 43.21A RCW. WSR 85-22-013 (Order 85-18),
§ 173-304-700, filed 10/28/85.]