



Section J

DEPARTMENT OF PUBLIC HEALTH PROCESS FOR CONSIDERING RULES VARIANCE AND WAIVER REQUESTS

- I. Request for Variance/Waiver
 - A. The Petition for variance/waiver should be made in writing to the Program/Section responsible for implementing the rule from which the variance/waiver is requested. The petition should include, at a minimum, the following information:
 - 1. Name of petitioner, address, phone number, contact person, attorney, or person representing the petitioner/applicant.
 - 2. The rule from which a variance or waiver is requested.
 - 3. The type of action requested (variance or waiver).
 - 4. The specific facts of substantial hardship which would justify a variance or waiver for the petitioner.
 - 5. The alternative standards which the petitioner agrees to meet.
 - 6. A showing that such alternative standards will afford adequate protection for the public health, safety, and welfare.
 - 7. The reason why the variance or waiver requested would serve the purpose of the underlying statute.
 - 8. The duration of the variance/waiver requested.
- II. Procedures for processing petitions
 - A. Upon the receipt of a petition for a variance or waiver, the Program/Section should review the petition to determine if it contains all the information required. If additional information is required, the petitioner should be contacted and informed about the need to provide such information
 - B. When the Program/Section determines that a petition is complete, the date should be stamped on the petition and the request posted on the Georgia Net. This date will be the official "receipt" date. The Division Attorney will be responsible for posting the request on the Georgia Net, and should be notified within 1 day of the receipt of a complete petition.
 - C. Decisions about granting or denying petitions must be made no sooner than 15 days after posting the petition on the Georgia Net, but no more than 60 days after



receiving the completed petition. Time limits should not begin until all required information has been received and the petition has been determined to be complete.

- D. The Division must enter all pending petitions for variances/waivers and all approved variances/waivers on the Georgia Net in a timely manner.
 - 1. The register must be updated upon each grant or denial of a variance/waiver
 - 2. The register must be made available to the public upon request.
- E. Members of the public may submit written comments concerning a proposed variance/waiver prior to the approval of the variance/waiver.

III. Review of Petitions for Variance/Waivers

- A. A review of petition for a variance/waiver should be conducted by the Program/Section responsible for implementing the rule from which a variance/waiver is requested. The Division Attorney had been designated by the Director to decide whether to grant or deny variances/waivers. Program staff should provide the following information to the Division Attorney within 15 calendar days after receipt of the complete petition:
 - 1. Name of petitioner
 - 2. Complete Rule Citation. The exact title and chapter of rules and the specific rule for which variance is being requested.
 - 3. Purpose of the Rule. Explanation of the intended purposes of the rule.
 - 4. Justification for Variance/Waiver. Specific facts of substantial hardship which would justify a variance/waiver, including:
 - a. alternative standards which the person seeking the variance/waiver agrees to meet;
 - b. a showing that such alternative standards will afford adequate protection for the public health, safety, and welfare; and
 - c. the reason why the variance/waiver would serve the purpose of the underlying statute.
 - 5. Program's Recommendation. The Program/Section can either recommend granting the variance/waiver with or without conditions, or it can recommend denial. An explanation of the recommendation must be included. If the Program/Section recommends granting the petition, the following information must be included:



- a. Recommend Conditions if Variance/Waiver is Granted
- b. Recommend Length of Time for Variance/Waiver

6. Attach the petition

IV. Variance and Waiver Person

The Department Attorney has been designated to decide whether to grant or deny petitions for variances/waivers.

- A. The Attorney will review the request, the recommendation of the program, and all supporting documents before making a decision to grant or deny the request.
- B. The Attorney will notify the program of its decision within 20 calendar days from receipt of the program's recommendation. The decision to grant or deny the request shall be in writing and shall contain a statement of the relevant facts and the reasons supporting the agency's action.
- C. The program will notify the petitioner of the decision. If the request is denied, the program will notify the petitioner as to any further opportunity for review.

V. Review by Department Director

- A. The request for a review by the Department Director must be received by the Director within 10 days after the petitioner has received notice of the denial.
- B. The Department Director shall review the request and all supporting documents and shall issue a final decision no more than 60 days after the receipt of the initial request. If the petitioner's request for a variance or waiver is denied, the petitioner shall be informed of the right to judicial review of the decision.
- C. The Director's decision to grant or deny the petition shall be in writing and shall contain a statement of the relevant facts and the reasons supporting the agency's actions.

VI. Posting on the Georgia Net

The decision by the agency to approve or deny a variance or waiver must be posted on the Georgia Net. The Department Attorney will post the decision.

VII. No variance or waiver shall be sought or authorized when:

- A. Any agency rule or regulation has been adopted to implement or promote a federally delegated program; or
- B. The granting of a waiver or variance would be harmful to the public health, safety, or welfare.