

Sec. 22a-209-11. Variances

(a) An owner or operator of a solid waste facility may apply to the Commissioner for a variance from one or more of the provisions of these regulations. Specifically, a variance may be sought for (1) design of facility, (2) operating requirements, and (3) temporary operations. For any variance which is not a minor permit amendment pursuant to Section 22a-209-4 (f) of these regulations, the Commissioner shall publish notice of the request for variance and accept public comments thereon, oral, or written, in the same manner as specified in Section 22a-209-4 (b) (3) for permit applications.

(b) Requests for variance shall be in writing and shall supply such information as the Commissioner reasonably requires, including but not limited to:

- (1) the nature and location of the solid waste facility,
- (2) the reasons for which the variance is requested, including the economic, technological and environmental justification for a variance,
- (3) a description of interim control measures to be taken by the facility in lieu of compliance and any possible danger to the environment or to persons or property resulting therefrom,

(4) if the Commissioner deems it necessary, a specific schedule of measures to be taken to bring the facility into eventual compliance with the regulation from which the variance is sought,

(5) the period for which the variance is sought, and the justification for such time period, and

(6) other information deemed reasonably necessary by the Commissioner.

(c) No variance shall be granted unless the applicant establishes to the Commissioner's satisfaction that:

(1) Conditions occurring during the period of variance will protect property, the public health and safety, and the natural resources and environment of the State, and

(2) Compliance with the regulation would produce undue hardship without equal or greater benefit to the public.

(d) In making a determination regarding a variance, the Commissioner shall consider:

(1) the character and degree of injury to or interference with the reasonable use of property, the public health and safety, and the natural resources and environment of the State which is caused or threatened to be caused,

(2) the social and economic value of the activity for which the variance is sought,

(3) the suitability or unsuitability of the activity to the area in which it is located, and

(4) the impracticability, both scientific and economic, of complying with the regulation from which the variance is sought.

(e) A variance shall not be granted solely or principally on the grounds of economic hardship.

(f) The Commissioner shall specify in writing the period for which the variance will be valid.

(g) Unless and until a variance is granted, the owner or operator of a solid waste facility must comply with applicable statutes, regulations, and permit conditions.

(h) The Commissioner may revoke or suspend a variance in accordance with Section 4-182 of the Connecticut General Statutes and the Rules of Practice of the Department, as

Regulations of Connecticut State Agencies

amended.

(Effective February 21, 1985)