

APPENDIX D

Process for Requesting Waivers/Variations

The following process shall be used when requesting a waiver or a variance from a requirement contained in this manual. Other DOD Components must submit their requests through their chain of command.

1. Official requests for waivers or variances and all responses shall be in writing.
2. Waiver/variance request package shall be complete and shall include the following:
 - a. Specific identity of the requirement for which relief is being sought, providing exact citation and quoting the requirement;
 - b. Statement as to whether a waiver (total elimination of the requirement) or a variance (retaining the basic requirement, but doing it differently) is being sought;
 - c. Details as to why it is not possible or practical to comply with the requirement;
 - d. All the information (maps, drawings, references, calculations, change analysis or impact, etc.) necessary to make an informed decision. The burden of proof rests with the requester. Failure to provide the necessary information may be justification for denial of the request. It is up to the requester to make the case as to why the requirement should be waived or varied;
 - e. Identification of specific time period and operation for which the request is being made. A waiver/variance will be granted for specific time periods and operations and may not be used as a defense for failure to comply with a requirement at another time or on another project;
 - f. Explanation of method they plan to use in lieu of the requirement and how it provides protection equal to or greater than the requirement being challenged;
 - g. A detailed AHA addressing the alternate procedure. Risk assessment should be a part of the AHA process;

EM 385-1-1
30 Nov 14

h. Provision of any other requirements or standards addressing the requirement in question. It is incumbent upon the requester to research the literature to determine if any other requirement or standard exists addressing the requirement from which relief is being sought. If there is another standard(s), the requester must identify it and provide a copy. Requests for waivers/variances will not be processed until this requirement has been met; and

i. A cover letter.

3. Requester shall work the action with the local USACE Safety and Occupational Health Office (SOHO) who shall cover package with their official signed memorandum requesting consideration and including their concurrence or non-concurrence with the request. Package is then sent via mail in hard copy or via e-mail with attached PDF file to HQ USACE-SO with a copy furnished to Division SOH Manager for concurrence or non-concurrence.

4. HQ USACE-SO will then coordinate with Division SOH Manager to evaluate the request. USACE-SO shall have at least 10 working days from date of receipt to consider the request and to render a written decision.

5. A waiver or variance will not be carried over to other operations unless the evaluator extends the scope to include other times and operations. If warranted, HQ USACE-SO may issue a global variance based on an individual request, however a global variance/waiver normally indicates a flawed requirement and hence, the actual requirement may be in need of correction/change.

THIS PAGE INTENTIONALLY LEFT BLANK