**Energy, Mines and Petroleum Resources**  
**Mines and Mineral Resources Division**  
**Variance Process Policy**

<table>
<thead>
<tr>
<th>Policy Type</th>
<th>Examples</th>
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<tr>
<td>Operational</td>
<td>Health and Safety</td>
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**Approved:** Approved by CIM/ADM and MMRD Executive  
**Effective Date:** December 11, 2018  
**Relationship to Previous Policy:** No previous policy has been established

**Name of Program or Business Area:** Health, Safety and Permitting Branch  
**Name of Policy:** Variance Process (Receiving, tracking and completion)

**Purpose**  
To set out the procedure for receiving, tracking and completing variance requests from Mines in British Columbia as per Section 13 of the Act. (Health, Safety and Reclamation Code for Mines in BC.)

**Scope**  
This policy applies to all EMPR inspectorate staff members and is to ensure process follows the Health, Safety and Reclamation Code requirements.

**Definitions**  
Variance - a written request from a mine manager, OHSC and/or union or labour representative requesting an alteration to an existing section of the Health, Safety and Reclamation Code. A variance may be granted upon review by the Chief Inspector of Mines as per Section 13 of the Act and Sections 1.2.1, 1.2.2, 1.2.3 and 1.2.4. of the Code.

**Policy**  
EMPR Inspectorate will follow the process for completion of variances, ensuring tracking, completion and recording according to the Mines Act.

**Background:**

In recent years, variance requests have been shared with the Chief Inspector and Senior and/or Mine Inspectors directly through email. Due to the number of the inspectors and types of variances, this has created a complex environment for tracking of the variance procedures.
The completion of these variances and process of completion should to be defined for staff, a defined process, to ensure the Regional Inspector is notified before variances expire.

**Procedure:**

**For incoming and completion of variances**

*(See Flow Chart at the end of this policy document):*

1. All incoming requests for variances, materials received and outgoing response letters must be tracked and entered into the MMS system. A Mine Manager may ascertain the mine is out of compliance with the Code. This can also come from an observation by an Inspector, OHSC or local union. The request for a variance must be safe or safer that the existing Code requirement. (See template letter for variance application)

2. When a request for a variance is received, Inspector(s) will counsel the mine manager and send the request to the Chief Inspector (Al Hoffman) and Branch Coordinator (Margo Brody) to ensure it will be tracked and entered into MMS.

3. Chief Inspector assigns the variance to an Inspector(s) for review and to complete the draft response. Once the response draft is completed with advice from Regional Specialists and Inspectors, the letter is sent to the Chief Inspector and Branch Coordinator for review and formatting. Once approved or denied, Branch Coordinator obtains CIM signature, emails response letter to the Mine Manager with cc’s to all involved and completes the entry into MMS for future tracking.

4. Inspector who was assigned the variance checks to ensure that information has been entered into MMS.

5. Branch Coordinator (BC) to generate a monthly report from MMS as to which variances are coming due (usually 5 years) or in need of review. Branch Coordinator sends to all the Regional offices directly to Sr. Inspector or Inspectors of that Region.
Related Guidance/Considerations

(Code) as per section 13 of the Act

(1) On receiving a written application from the manager, the occupational health and safety committee or the local union requesting the suspension or variance of a provision of the regulations or of the code, the chief inspector may suspend or vary the provision if the chief inspector is of the opinion that the provision does not operate in the best interest of, or is not necessary to, health and safety in an individual mine.

(2) The chief inspector must ensure that the parties affected by the application are advised of the application for, and the subsequent decision respecting, a variance.

(3) The chief inspector must maintain a register of all variances.

(4) At least once every 5 years, the chief inspector

   (a) must review each variance and advise the mine manager, occupational health and safety committee and local union that the chief inspector intends to review the variance, and after reviewing any submissions, must advise them whether or not the variance is to continue.

   (b) after reviewing any submissions, must advise them whether or not the variance is to continue.

Application of Code and General Rules

Variance of Code Provision

1.2.1 On application, the chief inspector may, by order, authorize a variance from a provision of the code for a particular mine.

1.2.2 A variance may only be made if the chief inspector has considered any comments subject to 1.2.3(3), and is satisfied that the variance

   (a) affords protection for the workers equal to or greater than the protection established by the provision being varied, or

   (c) has substantially the same purpose and effect as the provision being varied.
1.2.3 The manager, the OHSC, or the local union or worker representative if there is no union, at an individual mine may

(1) submit a written request to the chief inspector for a variance of a provision of the code,
(2) shall, when submitting a request for a variance, provide the other two parties at the mine site with copies of the submission, and
(3) may within 30 days of receiving a copy of the request for a variance submit to the chief inspector written comments on the request and provide a copy to the other two parties.

**Postings**

1.2.4 The manager shall ensure that a legible copy of each variance granted is posted and maintained on conspicuously located bulletin boards at the mine.

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**APPROVED AMENDMENTS:**

<table>
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<tr>
<th>Effective Date:</th>
<th>Summary of Changes:</th>
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<tbody>
<tr>
<td>2018-12-11</td>
<td>Initiation of policy</td>
</tr>
<tr>
<td></td>
<td>Policy Created and drafted by Margo Brody, Branch Coordinator HSP Branch 2018</td>
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</table>
**Standard Operating Procedures for Variances**

**Purpose:** To establish the procedure for receiving, tracking and completing Variances for Mines

**Responsibilities:** Chief Inspector, Deputy Chief Inspector of Mines Health and Safety and Applicable Inspectors as pursuant to Mines Act Section 13 (3) of the Code.

**Policy:** as defined in the Health Safety and Permitting Code (*Code*) Revised June 2017

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**Key:**
- Inspectorate
- Chief/Deputy Chief Inspector of Mines (CIM/DCIM), H&S
- Branch Coordinator, H&S (BC)

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**Non-Compliance found by Inspector or Variance Application from Mine Manager-OHSC or Union forward to CIM/DCIM (s. 1.2.3 Code)**

**May require meeting with inspectorate or further supporting materials**

**Meeting occurs, Lead Inspector drafts variance letter**

**Inspector does final check to ensure all info has been entered into MMS**

**CIM, DCIM Health and Safety receives and forwards to BC (s. 1.2.1, 1.2.2 Code)**

**CIM/DCIM HS assigns to inspectorate or individual inspector(s)**

**Draft is reviewed, approved or denied by CIM, DCIM HS**

**Approved – BC emails letter signed by CIM to Mine Manager who then posts as per Code Section 1.2.4; variance is reviewed again in 5 years (as per Section 13.4 of Mines Act).**

**Denied – BC emails CIM letter to MM, OHSC, Union advised. Revision may be needed, or variance is denied.**

**Branch Coordinator – enters/creates folder incoming into MMS for tracking (as per Section 13.3 Mines Act)**

**Branch Coordinator receives letter, supporting materials and formats draft**

**Branch Coordinator enters variance into MMS and tracks (s. 13.3 Mines Act)**

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