

#### **15A NCAC 02C .0241 VARIANCE**

(a) The Secretary, through the Director, may grant a variance from any construction or operation standards under the rules of this Section. Any request for a variance shall be made using the form set forth in Rule .0118(b) of the Subchapter by the person responsible for construction of the well for which the variance is sought pursuant to Rule .0118(b) of this Subchapter. The Director shall grant the variance if:

- (1) the use of the well will not endanger human health and welfare or the groundwater; and
- (2) construction or operation in accordance with the standards is not technically feasible or the proposed construction provides equal or better protection of the groundwater.

(b) The Secretary, through the Director, may require the variance applicant to submit such information necessary to make a decision to grant or deny the variance. The Director may impose such conditions on a variance or the use of a well for which a variance is granted and is necessary to ensure compliance with G.S. 87-84. The facts supporting any variance under this Rule shall be in writing and made part of the variance.

(c) The Secretary, through the Director, shall respond in writing to a request for a variance within 30 days after receipt of the variance request.

(d) For variances requested as a part of a permit application, the Director may include approval as a permit condition.

(e) A variance applicant who is dissatisfied with the decision of the Director may commence a contested case by filing a petition under G.S. 150B-23 within 60 days after receipt of the decision.

*History Note:* Authority G.S. 87-87(4); 87-88; 143-215.1A; 143-215.3(a)(4);  
Eff. May 1, 2012;  
Readopted Eff. September 1, 2019.