**Section 1000.70 Variance and Appeal**

a) *OSFM or the Local Administrator shall have the authority to grant exceptions and variances from the literal requirements of applicable State codes, standards and regulations in cases in which variances would not jeopardize the public safety and welfare. OSFM has the right to review and object to any exceptions or variances granted by the Local Administrator. The Board has the authority to hear appeals of any denial by the Local Administrator or of any denial or objection by OSFM. The Board* will *hold hearings and* will *decide* the appeal *within 30 days* after *the appeal*. [225 ILCS 312/35(b)]

b) In order for a variance request submitted to OSFM to be reviewed, the request shall be submitted in writing by the owner or his/her designated representative and shall include:

1) Evidence that the proposed or existing conveyance is not in compliance with the code or regulation.

2) Evidence that strict compliance with the code or regulation would entail practical difficulty or unnecessary hardship or is otherwise unwarranted.

3) Evidence that any requested variance would not jeopardize the safety and health of those who would use the conveyance or work on the conveyance and that the methods, means, or practices proposed provide equal protection of the public's safety and health.

4) A processing fee of $300 is to be submitted to OSFM with the variance/exception request.

5) All variances shall indicate the specific code standard from which relief is granted.

c) The determination on the variance request shall be made in writing to the party making the request and shall advise the party of the appeal process contained in subsection (d). This determination shall be made no later than 30 days after the variance request is submitted.

d) To request an appeal, the owner or his/her designee shall submit a written appeal to the Board including:

1) Information in addition to that provided under subsection (b) that may assist the Board in its deliberation.

2) Evidence that this Part or a code or regulation has been incorrectly interpreted, the provisions of the code or regulation do not fully apply, or the decision is unreasonable or arbitrary as it applies to alternatives or new materials.

e) The request for appeal shall be submitted no later than 30 days after receiving the variance determination from OSFM or the Local Administrator. The filing of an appeal shall not relieve a person from complying with the Act or this Part during the pending review.

(Source: Amended at 36 Ill. Reg. 13131, effective October 1, 2012)