§ 30. Variations. 1. If there shall be practical difficulties or unnecessary hardship in carrying out the provisions of this chapter relating to safety or health standards, or an order requiring compliance with such provisions of this chapter, or in carrying out an order of the commissioner requiring compliance with the state building construction code, the commissioner may make a variation from such requirements or order if the spirit of the provision, rule or code shall be observed and public safety secured. Applications for permanent variations shall be accompanied by a non-refundable fee of three hundred fifty dollars payable to the commissioner.

2. Any person affected by such provision, rule, code, or order, or his agent, may petition the commissioner, in accordance with such rules as he shall prescribe, for such variation stating the grounds therefor. If a petition relates to an order requiring compliance with the state building construction code, the commissioner shall give prompt notice of the filing of such petition to the state building code council. If, in the opinion of the council, it is necessary or desirable that it intervene in any proceeding in connection therewith, it shall be permitted to do so as a matter of right. The commissioner shall fix a day for a hearing on such petition and give notice thereof to the petitioner and to such other persons as he may determine. If the commissioner shall permit a variation he may impose such conditions as he may deem necessary or advisable to assure public safety. The variation shall apply to the petitioner and shall recite the conditions under which the variation shall be permitted.

3. Except for variations concerning provisions, rules, codes, orders or any other matter affecting asbestos projects, mold projects or safety and health standards for public employees, including but not limited to projects covered by article thirty and section twenty-seven-a and subdivision ten of section two hundred forty-one of this chapter;

a. any person who petitions the commissioner for a variation as provided by this section shall:

(1) post a copy of the petition at the site to be affected by the variation in a location that is reasonably accessible to the public and

the employees at the site;

(2) provide a listing, in the petition, of the designated representatives (if any) of all employee organizations recognized or certified pursuant to the national labor relations act (29 U.S.C. sections 151 et. seq.), article fourteen of the civil service law or article twenty of this chapter to represent employees at the site affected by the variation; such listing shall provide the names and addresses of all such representatives;

(3) mail by certified mail, return receipt requested, a copy of the petition to the designated representatives listed as required by subparagraph two of this paragraph within three days of sending the petition to the commissioner; and

(4) affirm in the petition that the petition has been posted as required by subparagraph one of this paragraph or that it will be posted within one week of sending the petition to the commissioner and that the petitioner has mailed by certified mail, return receipt requested, a copy of the petition to all designated representatives, as required by subparagraph three of this paragraph.

b. The commissioner shall send a copy of his or her determination on the petition to the petitioner and any designated representatives listed on the petition pursuant to subparagraph two of paragraph a of this subdivision.

4. Whenever a petition is filed for a variation, except for a variation relating to an order requiring compliance with the state building construction code, or upon the commissioner's own motion, the commissioner may make a general variation which shall apply to all buildings, installations, or conditions where the facts are substantially the same as those set forth in the resolution, by whomever the same may be owned, possessed or controlled and wherever the same may be or will thereafter be found within the state of New York with the same force and effect as if a variation were duly granted upon separate petition and for the use and benefit of every person affected by the statutory provision or code rule from which the said general variation was made.

5. Any variation may be amended or terminated by the commissioner for any of the following reasons:

a. The variation or any of its conditions was or is not wholly complied with;

b. The variation does not continue to secure public safety;

c. The difficulties or hardship prevailing at the time of the making of the variation have ceased to exist;

d. The labor law provision or rule from which the variation was made has been amended, or a new rule governing the subject has been adopted; or

e. A finding by the commissioner that other substantial grounds exist warranting the amendment or termination of the variation.

6. The commissioner may publish such variations as he may deem necessary. A properly indexed record of all variations shall be kept in the office of the department and open to public inspection.

7. Notwithstanding any other law, rule or regulation to the contrary, as of the effective date of sections two hundred ninety-one through two hundred ninety-four of chapter one hundred ninety of the laws of nineteen hundred ninety, the fee requirements set forth in this section and article thirty of this chapter shall continue to apply to all public and private entities, including, but not limited to, the state, any subdivision of the state, any government agency or instrumentality thereof, including any entity created by one or more states or subdivisions thereof, any public authority, any public or private corporation, any person, company, unincorporated association, firm, or partnership and any owner or operator thereof.