

567—72.31(455B) Variance.

72.31(1) *In general.* Where evidence is presented that additional private or significant public damage will not result from flood plain or floodway construction (other than channel changes) subject to regulation under 567—Chapters 70 to 72, the department may permit variance to the criteria stated in Chapter 72.

72.31(2) *Channel change variances.* The department may grant variances to the criteria stated in this chapter for channel changes (other than channel changes on protected streams) only in the following instances: (a) For comprehensive flood control projects in urban areas where channelization is the best alternative available; (b) for public projects such as roads or road grade protection where a channel change is the only reasonable and practicable alternative; (c) in cases whereby natural channel erosion has significant probability of eroding the structural stability of a building or other structure and bank erosion control measures are not feasible or practical under the circumstances; (d) in other cases where the applicant can clearly show that there are no adverse effects on the public interest.

72.31(3) *Protected stream channel change variance.* The department may grant variances to the prohibition of channel changes on protected streams for those cases listed in 72.31(2) “b,” “c,” and “d,” but such variances will be with provisions for mitigation of environmental damage.