



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Title 5 Permitting

## BRP WP 59b

# MassDEP Approval of Variance Granted by Board of Health

## Instructions and Supporting Materials

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### Introduction

MassDEP *Permit Applications*, as well as *Instructions & Support Materials*, are available for download from the MassDEP Web site at [mass.gov/dep](http://mass.gov/dep) in two file formats: Microsoft Word™ and Adobe Acrobat PDF™. Either format allows documents to be printed.

*Instructions & Support Materials* files in Microsoft Word™ format contain a series of documents that provide guidance on how to prepare a permit application. Although we recommend that you print out the entire package, you may choose to print specific documents by selecting the appropriate page numbers for printing.

*Permit Applications* in Microsoft Word™ format must be downloaded separately. Users with Microsoft Word™ 97 or later may complete these forms electronically.

Permitting packages in Adobe Acrobat PDF™ format combine *Permit Applications* and *Instructions & Support Materials* in a single document. Adobe Acrobat PDF™ files may only be viewed and printed without alteration. *Permit Applications* in this format may not be completed electronically.



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# DEP Approval of Variance Granted by Board of Health Permit Fact Sheet

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Note: When completing the MassDEP Transmittal Form (<http://mass.gov/dep/service/online/trasmfrm.shtml>), write the "b" immediately after the space provided for the seven digit character code at the top of the Form.

### 1. What is the purpose of MassDEP approval or issuance of a Title 5 variance?

MassDEP approval or issuance of variances is necessary to ensure, generally, that the applicant has demonstrated that the proposed system for disposal of sanitary sewage can maintain a level of environmental protection at least equivalent to the requirements of Title 5, without strict application of the specific provision(s) from which a variance is sought, and that enforcement of the provision would be manifestly unjust.

This application is for review and approval of Title 5 variance requests only, and does not apply to any local bylaws. BRP WP 59b is to be used for applications in which variance approval by the local approving authority is required prior to submittal to MassDEP, with the exception of a variance for increased flow to an existing system. BRP WP 59c is to be used for applications for increased flow to an existing system.

You must obtain approval from MassDEP for these activities:

- Variances granted by the Board of Health pursuant to 310 CMR 15.000, with the exception of those listed in 3210 CMR 15.412(4), for which no MassDEP approval is required.
- Variance from a provision of Title 5 which only MassDEP may grant pursuant to 310 CMR 15.414.
- Variance for increased flow to large systems or to systems which, with the increase in flow, will have a design flow of 10,000 - 14,999 gallons per day, pursuant to 310 CMR 15.006 and 15.414.

### 2. Who must apply?

Anyone proposing to obtain a variance(s) from 310 CMR 15.000, other than for increased flow, a variance listed in 310 CMR 15.412(4), a variance for schools pursuant to 310 CMR 15.416, or a variance from percolation rate pursuant to 310 CMR 15.417, must apply for BRP WP 59b.

Note that anyone proposing to obtain a variance under 310 CMR 15.414 for increased flow to an existing system must use a different form: BRP WP 59c.

If these categories do not apply to you, please be advised these are not the only permit or variance categories for Title 5 on-site sewage disposal systems. Please review the Timely Action Schedule and Fee Provisions, 310 CMR 4.00 and Title 5 of the State Environmental Code, 310 CMR 15.000 to determine whether another category may apply to you.

### 3. What other requirements should be considered when applying for a variance?

- Variances to Title 5 for schools, reviewed and approved by the Department pursuant to 310 CMR 15.416, require an application under BRP WP 60. Do not use the BRP WP 59b application form for such variance requests.



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- Variances for increased flow to a large system or to a system that would result in a design flow of 10,000 gpd or greater do not require prior written approval by the Board of Health under Title 5.

#### 4. What is the application fee?

The application fee is \$285.00.

#### 5. What is the Primary Permit Location? What is the Reserve Copy Location?

*Primary Permit Locations:*

Department of Environmental  
\_\_\_\_\_ \* Regional Office  
Title Permitting Program

\* Find your region: <http://mass.gov/dep/about/region/findyour.htm>

*There are no Reserve Copy Locations for these permits.*

#### 6. Where can I get a copy of the timelines?

The timelines are available on the MassDEP Website: [www.mass.gov/dep/service/online/fees.htm](http://www.mass.gov/dep/service/online/fees.htm)

#### 7. What is the annual compliance fee?

There is no annual compliance fee for this category.

#### 8. How long is the variance in effect?

This approval remains in effect as long as the system and facility served remain unchanged or until the approval is revoked or modified.

#### 9. How can I avoid the most common mistakes made in applying for a variance?

- a. Review the application for completeness to be sure all questions are answered correctly.
- b. Make sure the adequate number of copies of plans and specifications are complete and signed and stamped by a Massachusetts Registered Sanitarian or Professional Engineer, whichever is appropriate.
- c. Attach a copy of the written variance granted by the Board of Health.
- d. Submit fee and a copy of the MassDEP Transmittal Form (<http://mass.gov/dep/service/online/trasmfrm.shtml>)  
to: Department of Environmental Protection, P. O. Box 4062, Boston, MA 02211.



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### **10. What are the regulations that apply to variances? Where can I get copies?**

These regulations include, but are not limited to:

- a. Title 5 Regulations, 310 CMR 15.000.
- b. Timely Action Schedule and Fee Provisions, 310 CMR 4.00.

These may be purchased at:

State House Bookstore  
Room 116  
Boston, MA 02133  
617-727-2834

State Bookstore  
436 Dwight Street, Room 102  
Springfield, MA 01103  
413-784-1376

MassDEP Regulations also may be obtained from MassDEP's web site at [www.mass.gov/dep](http://www.mass.gov/dep).



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## BRP WP 59b

# MassDEP Approval of Variance Granted by Board of Health

### Application Completeness Checklist

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**To submit a BRP WP 59b Application, complete the steps outlined below:**

1.  The MassDEP Transmittal Form is completed: <http://mass.gov/dep/service/online/trasmfrm.shtml>  
When completing the Transmittal Form, write the "b" immediately after the space provided for the seven-digit character code at the top of the Form.
2.  A MassDEP application form has been completed. The following information has been provided:
3.  Name and address of applicant and system/facility owner.
4.  Location (address) of facility and system.
5.  Name, address and telephone number of design engineer or sanitarian.
6.  Two (2) complete sets of plans and specifications (4 for Springfield office filings) have been properly signed and stamped by a Massachusetts Registered Professional Engineer or Massachusetts Registered Sanitarian, whichever is appropriate.
7.  A copy of a signed letter from the Board of Health granting the requested variance(s), if applicable.
8.  Copy and proof of notification to abutters if required by 310 CMR 15.411 is included.

**To submit the application package:**

- Checklist items have been completed.
- Send two (2) copies of the application along with the *original* MassDEP Transmittal Form to:  
Department of Environmental Protection  
\_\_\_\_\_ \* Regional Office  
Title 5 Permitting Program  
\*Find your region: <http://mass.gov/dep/about/region/findyour.htm>
- Send fee of \$285 in the form of a check or money order made payable to *Commonwealth of Massachusetts*, along with a **copy** of the MassDEP Transmittal Form to:  
Department of Environmental Protection  
P.O. Box 4062  
Boston, MA 02211



Transmittal # \_\_\_\_\_

# BRP WP 59b

Facility ID (if known) \_\_\_\_\_

# MassDEP Approval of Variance Granted by Board of Health

Please read the Instructions and Supporting Materials before filling out this form.

This permit application is necessary for all variances granted by Board of Health, except variances for increased flow to existing systems.

## A. General Information

**Important:**  
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Applicant:

Name \_\_\_\_\_

Street Address \_\_\_\_\_

City/Town \_\_\_\_\_

State \_\_\_\_\_

Zip Code \_\_\_\_\_

Telephone \_\_\_\_\_

2. Facility/Proposed System Address (if different from Applicant):

Address \_\_\_\_\_

City/Town \_\_\_\_\_

State \_\_\_\_\_

Zip Code \_\_\_\_\_

3. System Designer Information (Registered Sanitarian (RS) or Professional Engineer (PE) for systems under 2,000 gallons per day; PE for systems 2,000 gallons or more per day):

Name \_\_\_\_\_

Name of Company \_\_\_\_\_

Address \_\_\_\_\_

City/Town \_\_\_\_\_

State \_\_\_\_\_

Zip Code \_\_\_\_\_

Telephone \_\_\_\_\_

4. Registration:

Massachusetts Registered P.E. \_\_\_\_\_

Massachusetts Registered Sanitarian \_\_\_\_\_

Registration Number \_\_\_\_\_



Transmittal # \_\_\_\_\_

# BRP WP 59b

Facility ID (if known) \_\_\_\_\_

## MassDEP Approval of Variance Granted by Board of Health

### A. General Information (cont.)

5. Is the proposed system part of a project requiring a filing under 301 CMR 11.00, the Massachusetts Environmental Policy Act?  Yes  No
- If yes, has a filing been made?  Yes  No

\_\_\_\_\_  
If yes, EOE File #

6. The legal entity that owns or will own this facility is:

- Individual       Municipality       Private Partnership
- Federal       State/Country       Corporation
- Other

Specify

Name

Address

Telephone

7. Two complete sets of plans and specifications, (four for submittals to the Springfield Office), including a locus map, properly stamped and signed by a Massachusetts Registered Professional Engineer or Massachusetts Registered Sanitarian, must accompany the application.

Are plans and specifications attached?  Yes  No

8.  Variance(s) from the following Title 5 provision(s) is/are being sought:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

9. A letter of approval for the variance, issued by the Board of Health having jurisdiction over the system, must be attached.

Is the approval letter attached?  Yes  No



Transmittal # \_\_\_\_\_

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## MassDEP Approval of Variance Granted by Board of Health

### A. General Information (cont.)

10. If applying for approval of a variance that requires notification of abutters under 310 CMR 15.411, a copy of the notification sent to the abutters and proof of notice must accompany this application.

Is a copy and proof of the notification attached?     Yes     No

11. In accordance with 310 CMR 15.410, the applicant must establish that the strict enforcement of the provision of the Code for which the variance is being sought would be manifestly unjust and that a level of environmental protection that is at least equivalent to that provided under the Code can be achieved without strict application of the particular provision.

Is documentation in support of meeting these requirements attached?

Yes     No

You must complete the following:

a) I have established that enforcement of the provision from which a variance is sought would be manifestly unjust, considering all of the relevant facts and circumstance of this case, as follows (attach additional sheets if necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b) I have established that a level of environmental protection that is at least equivalent to that provided under 310 CMR 15.000 can be achieved without strict application of the provision(s) from which I am seeking a variance, as follows (attach additional sheets if necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Transmittal # \_\_\_\_\_

# BRP WP 59b

Facility ID (if known) \_\_\_\_\_

## MassDEP Approval of Variance Granted by Board of Health

### A. General Information (cont.)

12. Is the variance requested for new construction as "new construction" is defined in 310 CMR 15.002?

Yes     No

If yes, you must complete the following:

I have established that enforcement of the provision from which a variance is sought would deprive me of substantially all beneficial use of the subject property as follows (attach additional

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. Is a copy of the complete application that was submitted to the Board of Health attached?

Yes     No

### B. Certification

"I certify under penalty of law that this document and all attachments, to the best of my knowledge and belief, are true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

\_\_\_\_\_  
Applicant's signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Name of Preparer

\_\_\_\_\_  
Date



Transmittal # \_\_\_\_\_

# BRP WP 59b

Facility ID (if known) \_\_\_\_\_

# DEP Approval of Variance Granted by Board of Health

## A. General Information (cont.)

12. Is the variance requested for new construction as "new construction" is defined in 310 CMR 15.002?

Yes     No

If yes, you must complete the following:

I have established that enforcement of the provision from which a variance is sought would deprive me of substantially all beneficial use of the subject property as follows (attach additional

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. Is a copy of the complete application that was submitted to the Board of Health attached?

Yes     No

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Applicant's signature

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Print Name

\_\_\_\_\_  
Name of Preparer

\_\_\_\_\_  
Date