



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

## BRP WP 59c

# MassDEP Approval or Issuance of Variance for Increased Flow 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.



## BRP WP 59c

# MassDEP Approval or Issuance of Variance for Increased Flow Permit Fact Sheet

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

### 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 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 under 310 CMR 15.414 for increased flow to an existing system must apply for BRP WP 59c.

Note that 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 use a different form: BRP WP 59b.

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 59 application form for such variance requests.
- 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.



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#### **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:*

**For BRP WP 59b and 59c:  
Department of Environmental Protection  
\_\_\_\_\_ \* 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 a 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 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 59c

### MassDEP Approval or Issuance of Variance for Increased Flow Application Completeness Checklist

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**To submit a BRP WP 59c 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 "c" immediately after the space provided for the seven-digit character code at the top of the Form.
2.  A MassDEP application form for the appropriate permit category 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 \$230 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 59c

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

## MassDEP Approval or Issuance of Variance for Increased Flow

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

### 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 \_\_\_\_\_

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

Address \_\_\_\_\_

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

State \_\_\_\_\_

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

4. 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 \_\_\_\_\_

5. Registration:

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

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

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

6. Does this project require 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 #



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## MassDEP Approval or Issuance of Variance for Increased Flow

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

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

### A. General Information (cont.)

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

Individual       Municipality       Private Partnership

Federal       State/Country       Corporation

Other:

Specify \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

8. 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 the plans and specifications attached?       Yes       No

9. If applying for DEP approval of a variance granted by a Board of Health, a copy of the approval issued by the Board of Health having jurisdiction over the system must accompany this application.

Is the approval letter attached?       Yes       No

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

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



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

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

## MassDEP Approval or Issuance of Variance for Increased Flow

### A. General Information (cont.)

11. You must complete the following:

- a) I have established that enforcement of the provision(s) from which a variance is sought would be manifestly unjust, considering all of the relevant facts and circumstances of this case, as follows:
- 1) I have attached a comparison of the costs of full compliance with the requirements applicable to new construction to the costs of compliance with the requested variance.  
 Yes       No
  - 2) I have attached documentation demonstrating that an upgrade in full compliance with 310 CMR 15.000 is feasible without the proposed increased flow.  
 Yes       No
- b) I have attached documentation demonstrating that the system, with the increased flow, cannot be brought into full compliance through any of the following:
- an upgraded system which is in full compliance with 310 CMR 15.100 through 15.293;
  - an alternative system which has been approved for such use pursuant to 310 CMR 15.284 (remedial use), 15.285 (piloting), 15.286 (provisional approval), or 15.288 (certification for general use).
  - a shared system which has been approved for such use pursuant to 310 CMR 15.290 and 15.291; or connection to a sewer system.
- 
- Yes
- 
- No
- c) I have attached documentation demonstrating that the upgraded system with the increased flow will provide better protection of public health and safety and the environment than the existing system with no increase in flow.  
 Yes       No

12) Is a copy of the complete application that was submitted to the Board of Health attached?

- Yes       No       Application to Board of Health not required

### 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