



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

BRP WP 59b

DEP Approval of Variance Granted by Board of Health

Instructions and Supporting Materials

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Introduction

DEP *Permit Applications*, as well as *Instructions & Support Materials*, are available for download from the DEP Web site at 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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Note: When completing the DEP Transmittal Form, 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 DEP approval or issuance of a Title 5 variance?

DEP 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 DEP, 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 DEP 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 DEP approval is required.
- Variance from a provision of Title 5 which only DEP 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.

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

Primary Permit Locations:

**Department of Environmental
_____ * Regional Office
Title Permitting Program**

*See the list of addresses for DEP Regional Offices.
There are no Reserve Copy Locations for these permits.

6. What are the timelines?

	AC	T1	T2*
BRP WP 59b	N/A	30	30

*(A second technical review will be conducted only if necessary).
There is no public comment review period as part of the Department's application process for these categories.

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?

- Review the application for completeness to be sure all questions are answered correctly.
- 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.
- Attach a copy of the written variance granted by the Board of Health.
- Submit fee and a copy of the DEP 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

DEP Regulations also may be obtained from DEP's web site at www.mass.gov/dep.



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Application Completeness Checklist

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

1. The DEP Transmittal Form is completed. 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 DEP 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* DEP Transmittal Form to:

Department of Environmental Protection
_____ * Regional Office
Title 5 Permitting Program
*See list of addresses for DEP Regional Offices.
- 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 DEP Transmittal Form to:

Department of Environmental Protection
P.O. Box 4062
Boston, MA 02211



Addresses and Phone Numbers

DEP Boston
One Winter Street
Boston, MA 02108
Telephone: (617) 292-5500
Fax: (617) 556-1049
TDD: (617) 574-6868

William X. Wall Experiment Station
37 Shattuck Street
Lawrence, MA 01843
Fax: (978) 688-0352
Division of Environmental Analysis
Telephone: (978) 682-5237
Air Quality Surveillance
Telephone: (978) 975-1138

Division of Watershed Management
627 Main Street
Worcester, MA 01608
Telephone: (508) 792-7470
Fax: (508) 791-4131

DEP Western Region
436 Dwight Street
Suite 402
Springfield, MA 01103
Phone: (413) 784-1100
Fax: (413) 784-1149

Adams	Colrain	Hampden	Monroe	Pittsfield	Tyringham
Agawam	Conway	Hancock	Montague	Plainfield	Wales
Alford	Cummington	Hatfield	Monterey	Richmond	Ware
Amherst	Dalton	Hawley	Montgomery	Rowe	Warwick
Ashfield	Deerfield	Heath	Monson	Russell	Washington
Becket	Easthampton	Hinsdale	Mount Washington	Sandisfield	Wendell
Belchertown	East Longmeadow	Holland	New Ashford	Savoy	Westfield
Bernardston	Egremont	Holyoke	New Marlborough	Sheffield	Westhampton
Blandford	Erving	Huntington	New Salem	Shelburne	West Springfield
Brimfield	Florida	Lanesborough	North Adams	Shutesbury	West Stockbridge
Buckland	Gill	Lee	Northampton	Southampton	Whately
Charlemont	Goshen	Lenox	Northfield	South Hadley	Wilbraham
Cheshire	Granby	Leverett	Orange	Springwick	Williamstown
Chester	Granville	Leyden	Otis	Springfield	Williamstown
Chesterfield	Great Barrington	Longmeadow	Palmer	Stockbridge	Windsor
Chicopee	Greenfield	Ludlow	Pelham	Sunderland	Worthington
Clarksburg	Hadley	Middlefield	Peru	Tolland	



DEP Central Region
627 Main Street
Worcester, MA 01608
Phone: (508) 792-7650
Fax: (508) 792-7621
TDD: (508) 767-2788

Acton	Chanton	Hopkinton	Millbury	Rutland	Uxbridge
Ashburnham	Clinton	Hubbardston	Millville	Shirley	Warren
Ashby	Douglas	Hudson	New Braintree	Shrewsbury	Webster
Athol	Dudley	Holliston	Northborough	Southborough	Westborough
Auburn	Dunstable	Lancaster	Northbridge	Southwick	West Boylston
Ayer	East Brookfield	Leicester	North Brookfield	Spencer	West Brookfield
Barre	Fitchburg	Leominster	Oakham	Sterling	Westford
Bellingham	Gardner	Littleton	Oxford	Stow	Westminster
Berlin	Grafton	Lunenburg	Paxton	Sturbridge	Winchendon
Blackstone	Groton	Marlborough	Pepperell	Sutton	Worcester
Bolton	Harvard	Maynard	Petersham	Templeton	
Boxborough	Hardwick	Medway	Phillipston	Townsend	
Boylston	Holden	Mendon	Princeton	Tyngsborough	
Brookfield	Hopedale	Milford	Royalston	Upton	



DEP Southeast Region
20 Riverside Drive
Lakeville, MA 02347
Phone: (508) 946-2700
Fax: (508) 947-6557
TDD: (508) 946-2795

Ablington	Dartmouth	Freetown	Mattapoisett	Provincetown	Tisbury
Acushnet	Dennis	Gay Head	Middleborough	Raynham	Truro
Attleboro	Dighton	Gosnold	Nantucket	Rehoboth	Wareham
Avon	Duxbury	Halifax	New Bedford	Rochester	Wellfleet
Barnstable	Eastham	Hanover	North Attleborough	Rockland	West Bridgewater
Berkley	East Bridgewater	Hanson	Norton	Sandwich	Westport
Bourne	Easton	Hanwich	Norwell	Scituate	West Tisbury
Brewster	Edgartown	Kingston	Oak Bluffs	Seekonk	Whitman
Bridgewater	Fairhaven	Lakeville	Orleans	Sharon	Wrentham
Brockton	Fall River	Mansfield	Pembroke	Somerset	Yarmouth
Carver	Falmouth	Marion	Plainville	Stoughton	
Chatham	Foxborough	Marshfield	Plymouth	Swansea	
Chilmark	Franklin	Mashpee	Plympton	Taunton	



DEP Northeast Region
205b Lowell Street
Wilmington, MA 01887
Telephone: (978) 694-3200
Fax: (978) 694-3499

Amesbury	Chelmsford	Hingham	Merrimac	Quincy	Wakefield
Andover	Chelsea	Holbrook	Methuen	Randolph	Walpole
Arlington	Cohasset	Hull	Middleton	Reading	Waltham
Ashland	Concord	Ipswich	Millis	Revere	Watertown
Bedford	Danvers	Lawrence	Milton	Rockport	Wayland
Belmont	Dedham	Lexington	Nahant	Rowley	Wellesley
Beverly	Dover	Lincoln	Natick	Salem	Wenham
Billerica	Dracut	Lowell	Needham	Salisbury	West Newbury
Boston	Essex	Lynn	Newbury	Saugus	Weston
Boxford	Everett	Lynnfield	Newburyport	Sherborn	Westwood
Braintree	Framingham	Malden	Newton	Somerville	Weymouth
Brookline	Georgetown	Manchester-By-The-Sea	Norfolk	Stoneham	Wilmington
Burlington	Gloucester	Marblehead	North Andover	Sudbury	Winchester
Cambridge	Groveland	Medfield	North Reading	Swampscott	Winthrop
Canton	Hamilton	Medford	Norwood	Tewksbury	Woburn
Carlisle	Haverhill	Melrose	Peabody	Topsfield	





Transmittal # _____

BRP WP 59b

Facility ID (if known) _____

DEP 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 # _____

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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



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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):



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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