

**Central District Health
Petition for Variance to the Regulations
for Individual and Sewage Disposal Systems**

1. Petitioner: _____

2. Mailing Address: _____ Phone: _____

3. Property Address: _____

4. Legal Description of Property: _____

5. Directions to Property: _____

6. Include the following as attachments to this petition:

- a. A concise statement of the facts upon which the variance is requested including a description of the intended use of the property, the estimates of the quantity of black-waste or waste-water to be discharged, and a description of the existing site conditions (soils, topography, lot size, land use, etc.).
- b. A concise statement of why the petitioner believes that compliance with the provision from which variance is sought would impose an arbitrary or unreasonable hardship and of the injury that the grant of the variance would impose on the public.
- c. A clear statement of the precise extent of the relief sought.

7. Public Notice. At the time of filing a petition evidence shall also be submitted that:

- a. A notice has appeared in the local newspaper advising the public of the request for variance.
- b. All property owners within three hundred (300) feet of the affected site have been notified.
- c. Such notices to the public have been made fifteen (15) days prior to the filing of the petition.

Failure to adhere and complete this form entirely could negate variance.

(Signature) (Date)

(Print name)

**Central District Health
Notice of Request for Variance
(Sample form for legal notice)**

NOTICE IS HEREBY GIVEN that the undersigned _____
(Name)
has filed a petition for variance from the Regulations for Individual and Subsurface Sewage
Disposal Systems with the Central District Health, 707 N. Armstrong Place, Boise,
Idaho, 83704, requesting _____

in _____
(Legal description)
County, Idaho, for the reason and on the grounds set forth in said petition, a copy of which will
be submitted to the District Health Department on _____
(Date).

NOTICE IS FURTHER GIVEN that any interested parties or interested person may file with
the District Health Department, within twenty-one (21) days after the filing of the petition, a
written objection to the grant of the variance.

DATED this _____ day of _____, 20_____.

(Name)

(Address)

**Central District Health
Petition for Variance
Additional Points of Consideration**

1. Objections to Petition. Any person may file with the Department, within twenty-one (21) days after the filing of the petition, a written objection to the grant of the variance. A copy of such objection shall be provided by the Department to the petitioner.

2. Investigation and Decision. After investigating the variance petition and considering the views of persons who might be adversely affected by the grant of the variance, the Director shall, within sixty (60) days after the filing of the petition, make a decision as to the disposition of the petition. The decision, a copy of which shall be served on the petitioner, shall include:
 - a. A description of the efforts made by the Director to investigate the facts as alleged and to ascertain the views of persons who might be affected, and a summary of the views so ascertained;
 - b. A statement of the degree to which, if at all, the Director disagrees with the facts as alleged in the petition;
 - c. Allegations of any other facts believed relevant to the disposition of the petition;
 - d. The Director's decision.

3. Limitations on Decision. No technical allowance or variance shall be granted unless:
 - a. Adequate proof is shown by the petitioner that compliance would impose an arbitrary or unreasonable hardship;
 - b. The technical allowance or variance rendered is consistent with the recommendations of the Technical Guidance Committee or the Technical Guidance Manual in use at the time of the petitions;
 - c. The Director has determined that the approval of the technical allowance or variance will not have an adverse impact on the public health or the environment.

CENTRAL DISTRICT HEALTH
707 NORTH ARMSTRONG PLACE
BOISE, ID 83704

VARIANCE PROCEDURE FOR SEWAGE REGULATIONS

1. The field Environmental Health Specialist (EHS) receives either a request for a sewage permit (written application) or a site evaluation request.
2. After completing the application or site review, the field EHS makes a determination as to whether an approval should be granted, whether a technical allowance should be allowed, or whether the application/request should be denied. They may render a decision immediately or request a second opinion from technical people or other staff prior to making the decision. In either case, once the decision is made, it is to be submitted to the applicant in writing along with the data and/or justification for that decision. The permit application form, site evaluation form, or written correspondence is to be used for the written decision.
3. As noted in (2) above, a second opinion may be requested prior to making a decision. The second opinion would be limited to the question of whether or not the request, in fact, falls within the allowances of the regulation or Technical Guidance Manual and *not* the merits of any future variance request. The second opinion would be precipitated upon:
 - a. The applicant requesting a second opinion, or
 - b. In their professional judgment, the EHS determines it would be best to have a second opinion, or
 - c. There being a high potential for a variance request.

The EHS may also utilize outside technical resource personnel (e.g. U.S. Soil Conservation Service soil scientists) in this decision process.

4. At the time of rendering a decision, the applicant is advised of his right to request a variance. A variance package is provided to him that would include, but is not limited to:
 - a. A copy of the applicable regulations sections.
 - b. Departmental policy on the variance procedure.
 - c. An actual *Request For Variance* form.
 - d. A suggested form for newspaper notification by the applicant.
 - e. A suggested form for the applicant to notify all property owners within 300 feet of the property in question.
5. If the applicant decides to file a variance, a written variance request is submitted to the director of Central District Health (CDH) by the applicant. Preconditions to submittal would include:

- a. Proof that a notice by the applicant has appeared in the local newspaper advising the public of the request for variance at least fifteen (15) days prior to the filing of the petition. (IDAPA 58.01.03.010.03.c).
 - b. Proof (receipts of certified/return receipt mailing) that all property owners within 300 feet have been notified of the request (IDAPA 58.01.03.010.03.b.) by the applicant.
 - c. All the information and statements requested under IDAPA 58.01.03.010.02. Adequate technical justification to support the variance request shall also be included.
6. The director determines the completeness of the request and appoints a review committee:
- a. If incomplete, the Request For Variance is returned to the applicant with the reasons for incompleteness and/or additional instructions.
 - b. If complete, the appointment of a review committee of three (3) members which consists of any appropriate combination of Environmental Health Specialists from the CDH staff that would be best suited to review that particular request.
 - c. The director then provides all pertinent material to the committee:
 1. Applicant's request and accompanying material.
 2. The field EHS' decision and supporting data.
 3. Any other pertinent information.
 - d. Notice is sent to the applicant and any other interested parties as to when the review committee is to meet.
 - e. The director makes legal advertisement of the committee meeting (its time, place, and purpose) in the Idaho Statesman and the local newspaper.
7. Any person may file with the department, a written objection to the grant of the variance. This must be made within twenty-one (21) days after the filing of the petition. A copy of such objection shall be provided to the petitioner by CDH (IDAPA 58.01.03.010.04).
8. After twenty-one (21) days and on the date set by the director, the committee meets:
- a. They hear testimony of the applicant and any interested parties.
 - b. Testimony is heard from the field EHS and any other staff involved in the original decision.
 - c. The committee may go on the site and may also request additional expertise prior to making a decision.
 - d. The committee discusses the request separately (from the applicant and other parties) and makes a decision in writing. It shall include the items listed under a, b, and c of IDAPA 58.01.03.010.05.

9. The decision is sent to the director of CDH who acts upon the committee's recommendation:
 - a. The director of CDH may accept, reject, or modify the recommendation of the committee.
 - b. The director may send it back to the committee for additional consideration.
 - c. Once the director is satisfied as to the disposition of the petition, a final disposition is made.
 - d. The director notifies the applicant of the decision. All the items noted under IDAPA 58.01.03.010.05 shall be included with the written decision to the petitioner.
 - e. The director notifies the applicant of his right to appeal to the District Board of Health, IDAPA 41.08.01
 - f. The District Board of Health is notified of the request, recommendations and decision.
 - g. The director also notifies the applicant of his right to appeal to either the Idaho Department of Environmental Quality or the District Court (Idaho Code 39-418).

CENTRAL DISTRICT HEALTH ON-SITE VARIANCE FLOW CHART

