

LIQUID WASTE DISPOSAL & TREATMENT REGULATIONS VARIANCE APPLICATION PROCEDURE

If the proposed liquid waste disposal system does not meet a specific requirement of the Liquid Waste Disposal and Treatment Regulations but the applicant believes the proposed liquid waste system will provide equal or better protection for public health and will not degrade any body of water, the applicant may apply for a variance to the specific requirement. Below is the procedure to follow in requesting a variance.

1. Complete a Liquid Waste Disposal & Treatment Permit Application.
2. Determine what section(s) of the Liquid Waste Disposal Regulations the proposed system does not meet.
3. Complete a Variance Application.
4. Document why or how the proposed system provides equal or better protection than what the regulations require. Applicants must provide clear and convincing evidence that:
 - a. The proposed Liquid Waste system will, by itself, or in combination with other sources, neither cause a hazard to public health nor degrade any body of water, and
 - b. granting the variance will result in public health and environmental protection equal to, or greater, than the minimum protection provided by the specific requirement of the regulations.
5. Notify all adjacent property owners sharing a common property line within 1,000 feet of the proposed liquid waste system of your intentions to apply for a variance. Also notify property owners sharing a common right of way if their property is within 100 feet of the proposed liquid waste system. Notification may be by Certified Mail with Return Receipt requested or by Hand-Delivered Notification.
6. The notification must include the following:
 - a. The nature of the request (section of the Liquid Waste Disposal & Treatment Regulations from which the variance is requested and the specifics of that requirement);
 - b. The address of the Department Office where the application will be submitted;
 - c. The time frames for NMED action, and;
 - d. The proposed date the variance application will be submitted to the NMED field office.
7. Submit completed variance package to the appropriate NMED office (the one specified in the variance notification). The package must include:
 - a. The completed Permit Application;
 - b. The completed Variance application (signed and dated);
 - c. Clear and convincing documentation and evidence showing why the variance should be granted;
 - d. Documentation showing that if the variance is granted how the requirements of Number 4 above are met;
 - e. Documentation that the adjacent property owners have been notified. Acceptable documentation are:
 - 1) The return receipts (originals or copies) of the certified letters mailed to the property owners.

2) Sheets signed by the property owners that they received the hand-delivered letters.

For either the mailed or the hand-delivered letters, attach a map or drawing indicating who owns which adjacent lot.

NMED will not evaluate the variance application until all forms are complete and documentation provided.

NMED will act on the variance application a minimum of 10 days after, but within 20 working days following submission of a completed package.

Applicants dissatisfied with NMED's action may request a hearing by following the procedure in Section 406, Liquid Waste Disposal & Treatment Regulations. The hearing request must be in writing and submitted within 15 days of the written notice on the variance application.