

ENVIRONMENTAL QUALITY

CHAPTER 50

SOLID WASTE MANAGEMENT

Sub-Chapter 6

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## Sub-Chapter 6

## Procedure for Variances

Rule 17.50.601 reserved

17.50.602 INITIAL APPLICATION (1) A person may apply for a variance from solid waste management rules contained in ARM Title 17, chapter 50, subchapter 5, on forms obtained from the department. Such forms must contain at least the following information:

- (a) Name and business address of applicant.
- (b) Legal and general description of the location of the solid waste management system for which the variance is being requested including documentation of ownership, lease or rental agreement.
- (c) Population served by the system.
- (d) Citation of administrative rule from which a variance is requested.
- (e) Documentation of liability insurance coverage.
- (f) Financial statements of the operation costs of the solid waste management system including sources of revenues and the proposed costs to operate the system in compliance with the rule from which a variance is sought.
- (g) Copy of a return receipt of a certified letter sent to each owner of real property which is contiguous to the real property on which the solid waste management system is located and to the owner, if other than the applicant, of the real property on which the solid waste management system is located.
- (i) The certified letter required in (g) of this rule must state: "I, (name of applicant), intend to apply to the Board of Environmental Review of the State of Montana for a variance from (citation of rule from which variance is sought), which states: (text of rule). A hearing will be scheduled before the Board on the variance application. For further information, you may contact the Department of Environmental Quality, PO Box 200901, Helena, MT 59620-0901, (406)444-1430."
- (h) A compliance plan indicating the dates by which improvements will be implemented at the solid waste management system to bring it into compliance with the rule from which a variance is sought.

(2) An application for a variance is not considered filed until the applicant has submitted all information and completed all application forms required by (1) of this rule. (History: 75-10-204, MCA; IMP, 75-10-206, MCA; NEW, 1981 MAR p. 1190, Eff. 10/16/81; TRANS, from DHES, 1995 MAR p. 2253.)

17.50.603 NOTICE (1) Upon notification by the department that the variance application is complete, the applicant must publish the notice provided to him by the department once in a newspaper of general circulation in the geographical area within which the solid waste management system is located. This notice must be published not less than 45 days before the date of the hearing on the variance application before the board.

(2) The contents of the public notice must include at least the following:

- (a) Name and address of the applicant;
- (b) Citation and text of the administrative rule from which a variance is sought;
- (c) Time, location and brief description of the purpose of the hearing;
- (d) Address and phone number of the office at which interested persons may obtain further information, and inspect or obtain a copy of the application;
- (e) The deadline as established by the hearing examiner for making a request to participate in the hearing; and
- (f) Name and address of the hearing examiner to whom a request to participate is made.

(3) The applicant shall provide to the department a certification from the newspaper indicating the notice was published as required or a copy of the publication. The certification must be received by the department not less than 20 days prior to the board hearing. Failure of the applicant to provide certification at least 20 days prior to the hearing renders the application incomplete and causes cancellation of the scheduled hearing. (History: 75-10-204, MCA; IMP, 75-10-206, MCA; NEW, 1981 MAR p. 1191, Eff. 10/16/81; TRANS, from DHES, 1995 MAR p. 2253.)

Rule 17.50.604 reserved

17.50.605 PARTICIPATION IN HEARING (1) A person who wishes to participate in the hearing on the variance application shall submit a request to be a party within the deadline stated in the public notice required by ARM 17.50.603. A request to be a party must be directed to the hearing examiner named in the public notice and must state:

- (a) Name and address of the person making the request;
- (b) Identification of any person or group requestor represents; and
- (c) Requestor's position, whether for or against, the application for a variance. (History: 75-10-204, MCA; IMP, 75-10-206, MCA; NEW, 1981 MAR p. 1191, Eff. 10/16/81; TRANS, from DHES, 1995 MAR p. 2253.)

17.50.606 CONDUCT OF HEARINGS (1) All hearings held under the provisions of this subchapter must be conducted in accordance with the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, of the Montana Code Annotated and rules implementing that part. (History: 75-10-204, MCA; IMP, 75-10-206, MCA; NEW, 1981 MAR p. 1191, Eff. 10/16/81; TRANS, from DHES, 1995 MAR p. 2253.)

Rules 17.50.607 and 17.50.608 reserved

17.50.609 DURATION OF VARIANCE (1) A variance may be granted by the board for a period of time not to exceed 3 years from the date granted, except the board may modify or revoke the variance as provided in ARM 17.50.610. (History: 75-10-204, MCA; IMP, 75-10-206, MCA; NEW, 1981 MAR p. 1191, Eff. 10/16/81; TRANS, from DHES, 1995 MAR p. 2253.)

17.50.610 VARIANCE REVIEW HEARING -- REVOCATION -- MODIFICATION (1) A variance review hearing to modify or revoke a variance may be held before the board at the request of the department during the term of a variance if:

(a) a violation of a condition of the variance occurs; or  
(b) a complaint is received by the department from a property owner or a resident affected by the solid waste management system operating under the variance.

(2) The board may revoke or modify a variance if it finds a condition of the variance has been violated or if it finds a complaint received by the department warrants revocation or modification. (History: 75-10-204, MCA; IMP, 75-10-206, MCA; NEW, 1981 MAR p. 1191, Eff. 10/16/81; TRANS, from DHES, 1995 MAR p. 2253.)

17.50.611 RENEWAL OF A VARIANCE (1) No renewal of a variance may be granted except on application, submitted on a form designated "Application for Renewal of a Variance" obtained from the department.

(2) After the department determines that the application for renewal of a variance is complete, the requirements for public notice, participation in hearings, conduct of hearings, duration of variance renewal, and variance renewal review hearings are the same as provided in ARM 17.50.603 through 17.50.610 respectively. (History: 75-10-204, MCA; IMP, 75-10-206, MCA; NEW, 1981 MAR p. 1191, Eff. 10/16/81; TRANS, from DHES, 1995 MAR p. 2253.)

