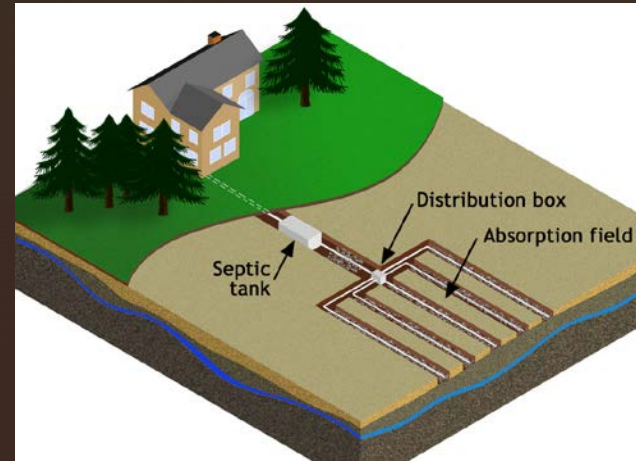




Adoption of Variance
Procedures from State
Regulation 43 for Onsite
Wastewater Treatment
Systems (OWTS)

Why Are We Here?

- Explanation of State/CDPHE process for updating local regulations for onsite wastewater treatment systems (OWTS)
- Discuss potential fee and permitting process
- Direction from the Board of Health to proceed



What Problem Are We Trying To Solve

- Currently no mechanism under current regulations to apply for a variance
- Flexibility - although it doesn't often come up, there are occasionally situations where issuing a variance could be considered
- Variances cannot be issued without the burden of proof to demonstrate it is justified and will pose no greater risk to public health and the environment than would a system meeting the regulations
- Routt, Pitkin, and Montezuma Counties are the only local jurisdictions in the State that have not adopted variance procedures into their local regulations

Regulation 43 for Onsite Wastewater Treatment Systems (OWTS)

- The purpose of Regulation 43 is to establish minimum standards for the use of OWTS and establish the minimum requirements for regulations adopted by local boards of health
- Regulations allow local jurisdictions to opt in to certain parts of the regulation including but not limited to variance procedures, licensing, vault & pit privies, effluent screens, title transfer, advanced treatment, etc...

Process for Updating Local Regulations

1. Department makes draft updates to existing local regulations✓
2. Initial attorney review of updated regulations✓
3. Work session (not public hearing) meeting set up with BOH to discuss:
 - a. Regulatory requirements for updating local regulations according to Regulation 43
 - b. Discussion on regulations for variances and need for adoption
 - c. Receive direction to proceed with adoption
4. Submit form and updated draft local regulations to CDHPE (Chuck Cousino) for review
 - a. This must be submitted for review at least 30 days prior to public hearing
5. Address deficiencies or make any changes based on review
6. Prepare public notice
7. Schedule public hearing at least 20 days in advance of public notice
8. Hold public hearing with BOH
 - a. BOH has option to reject, table, or adopt following consideration and public comment/input
 - i. BOH may incorporate changes/revisions
9. Submit final local regulations to CDPHE (C. Cousino)
 - a. This must be submitted no later than 5 days after adoption
10. Updated or new regulations become effective 45 days after final adoption by local BOH and a determination by CDPHE that adopted regulation meet requirements OWTS act.

Process for Applying for a Variance

- Variance requests must be provided to RCDEH through the established application and permitting process for a new OWTS
 - \$500 fee
- Designs for a new OWTS and associated variance request must be prepared by a professional engineer and submitted to RCDEH.
 - Once the request is deemed complete and sufficient the request will be scheduled for public hearing before the Board of Health
- The Board of Health must conduct a public hearing prior to rendering a decision on a variance request. The hearing must be the subject of a public notice and notice must be sent via certified mail to all adjacent property owners

Prohibitions for Variance Requests

- No variance shall be issued where the property can accommodate a conforming OWTS
- No variance shall be issued to mitigate an error in construction involving any element of property improvements
- No variance shall be allowed solely for economic gain
- No variance shall be issued, if it will result in a setback reduction to an offsite physical feature that does not conform to the minimum setbacks without the board of health considering any concerns of the owner of property containing said feature
- No variance shall be issued, if it reduces the separation to ground water or bedrock based on the level of treatment in Table 7-2
- No variance from the horizontal setback from a well shall be issued unless it also meets the variance requirements of the Board of Examiners of Water Well Construction and Pump Installation Contractors
- No variance shall be issued for the installation of a higher level treatment system based on sizing or separation reductions without the LPHA having a maintenance and oversight program as defined in section 43.14.D
- ***Variances for Repair of Failing Systems***
- ***Note that Variances may be granted for specialized commercial uses***



QUESTIONS &
DISCUSSION