



ROUTT COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA COMMUNICATION FORM

ITEM DATE: 4/4/2022	ITEM TIME:
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FROM:	Scott Cowman
TODAY'S DATE:	3/24/2022
AGENDA TITLE:	ADOPTION OF VARIANCE PROCEDURES FROM REGULATION 43 FOR ONSITE WASTEWATER TREATMENT SYSTEMS

CHECK ONE THAT APPLIES TO YOUR ITEM:	
<input type="checkbox"/> ACTION ITEM	
<input checked="" type="checkbox"/> DIRECTION	
<input checked="" type="checkbox"/> INFORMATION	

I. DESCRIBE THE REQUEST OR ISSUE:
Explanation of Regulation 43 variance process and future consideration for the Board of Health to consider adopting variance procedures into the local regulations for onsite wastewater treatment systems.

II. RECOMMENDED ACTION (<i>motion</i>):
Information and direction for adopting state approved procedures for variances to Regulation 43 for OWTS.

III. DESCRIBE FISCAL IMPACTS (VARIATION TO BUDGET):
PROPOSED REVENUE (<i>if applicable</i>): Potential to implement additional fee (\$500)
CURRENT BUDGETED AMOUNT:
PROPOSED EXPENDITURE: N/A
FUNDING SOURCE:
SUPPLEMENTAL BUDGET NEEDED: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>

IV. IMPACTS OF A REGIONAL NATURE OR ON OTHER JURISDICTIONS (IDENTIFY ANY COMMUNICATIONS ON THIS ITEM):
None



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V. BACKGROUND INFORMATION:



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The purpose of Regulation 43 is to establish minimum standards for the location, design, construction, performance, installation, alteration and use of OWTS and establish the minimum requirements for regulations adopted by local boards of health. Local jurisdictions may opt in to certain portions of Regulations 43 including adoption of variance procedures. Variances may only be included in permits issued by those local public health agencies which formally adopt and implement a state approved variance procedure.

- Procedures for updating local regulations are specified in Section 43.4.3 (pg. 14).
- Section 43.4.N (pg. 23) details variance procedures that can be adopted by local jurisdictions.

Research shows that Routt County is one of just a few Counties in the State that has not adopted variance procedures from Regulation 43. Although situations where a variance may have been applied have been few and far between, it is the belief of this Department that the public should be allowed the option, similar to most other counties in the State.

The local board of health may set fees for processing an OWTS permit with a variance in accordance with section 25-10-107, C.R.S. This permit fee may be the standard OWTS permit fee or may be a separate fee based upon the cost of processing a permit with a variance. Based on research of other jurisdictions that have adopted variance procedures, a \$500 fee is being recommended. Hours will be tracked for the amount of staff time needed to process variance requests and the fee will be adjusted accordingly.

Addition of variance procedures has also presented the opportunity to make minor edits/corrections to existing local regulations (please refer to attached DRAFT Local Regulations).

The process for adopting variance procedures into the local regulations are as follows:

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.



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VI. LEGAL ISSUES:

Initial updates to local regulations have been reviewed by Routt County Attorney's.

VII. CONFLICTS OR ENVIRONMENTAL ISSUES:

The applicant has the burden of proof to demonstrate a variance is justified and will pose no greater risk to public health and the environment than would a system meeting the regulations.

VIII. SUMMARY AND OTHER OPTIONS:

Continue to opt out of adoption of variance procedures from Regulation 43 for OWTS

IX. LIST OF ATTACHMENTS:

- Agenda Communication Form
- Regulation 43 for Onsite Wastewater Treatment Systems (refer to Section 43.4.3 (pg. 14) and Section 43.4.N (pgs. 23 to 25))
- Draft copy of updated/edited Local Regulations
- CDPHE submittal form for updating local regulations
- Presentation