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To: [IDHS Variances](#)
Subject: Code Comments, Proposals and Advice
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Formstack Submission For: **4202**

Submitted at 08/28/20 8:00 AM

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Indiana Code You Are Commenting On:	675 IAC 12 Rule 5 - Emergency Rule Section 5
Comment or Proposal:	Proposal attached.
File:	View File

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675 IAC 12 Rule 5 Section 5 (d)

(d) A complete application for a variance ~~must~~ **shall** contain the following information:

(1) The name and address of the following:

(A) The applicant.

(B) The person submitting the application if not submitted by the applicant.

(2) The address and county of the premises or equipment for which the variance is being sought.

(3) If the variance request involves a project for which plans and specifications have been filed for a design release under 675 IAC 12-6, the project number for the design release.

(4) **Identification of all applicable rule(s) of the commission by specific cite (e.g. 675 IAC 13-2.6) for which the applicant is seeking variance(s).** ~~(by specific citation) of the rule of the commission from which the applicant requests a variance.~~

(5) A specific description of the rooms, equipment, items, and location affected ~~by the variance request.~~

(6) A copy of plans or drawings and supporting data that describe the area or equipment affected ~~by the requested variance.~~

(A) For boiler or pressure vessel variance requests, the drawings of the equipment ~~shall~~ **must** have all materials and dimensions identified in the English language and USA units of measurement.

(7) If the variance concerns a regulated boiler or pressure vessel, the applicant ~~must~~ **shall** ~~also~~ include the following:

(A) ASME B&PVC required calculations, including relief devices calculations where applicable, certified by a professional engineer licensed in Indiana.

(B) Data for substitute materials, if the variance request involves the use of non-ASME B&PVC approved materials.

(C) A data sheet, similar to an ASME B&PVC manufacturer's data report, signed by the designated representative after construction is complete.

(8) A statement of facts and supporting evidence detailing:

(A) the undue hardship that compliance with the rule(s) will impose on the applicant; or

(B) how compliance with the rule will prevent the preservation of an architecturally significant part of a building or other structure.

(9) A statement of facts and supporting evidence detailing:

(A) how noncompliance with the rule will not be adverse to the public health, safety, or welfare; or

(B) alternative actions that the applicant will undertake instead of compliance with the rule to ensure that the granting of the variance will not be adverse to the public health, safety, or welfare.

(10) A citation to any previously granted variances the applicant would like to be considered as part of their variance application.

(11) The email address of the local building official and local fire official.

(12) If filed on a paper application, a signed statement that the local building official and local fire official have been provided a copy of the completed variance application as of the date of its filing with the department. This statement shall include the method in which the application was served and the address to which it was served.

(13) **Written Documentation, If obtained from the local building official, local fire official or the Division prior to applicant submitting variance.** ~~application, a copy of all written~~

~~comments from the local building official, the local fire official, or any other interested party. These comments shall be submitted on the form mentioned in SECTION 7 of this document.~~

(14) If the requested variance involves a project for which plans and specifications have been, or ~~must~~ **will** be filed for a design release under 675 IAC 12-6, a signed statement by the design professional, **if design professional signed the application for construction design release** ~~(if there is one)~~ that the information contained in the application is accurate.

(15) Any other reasonable data ~~and~~ **or** information that the department or the commission may require to make an informed decision on the requested ~~for a~~ variance.

(16) If the application is submitted on the applicant's behalf, a signed statement by the applicant **stating** ~~of~~ the following **shall be provided**:

(A) That the applicant is aware of the variance request.

(B) That the application is being made on the applicant's behalf.

(17) A signed statement under penalty of perjury by the:

(A) person submitting the application; or

(B) the applicant;

that the information contained in the application is true, accurate, and complete.

REASON STATEMENT:

Changing “must” to “shall”. The word shall in the code world is mandatory language. The word “may” is permissive and is used in the code world. The word “must” has no meaning in the code world. If the word “must” is retained a definition would be needed.

Item 6. By make a subsection for set it apart that Boiler variance require additional information. The change will save o confusion.

Item 13, The documents issued by the local building official, fire official, or the division are provided to the owner prior to submitting the variance application. Item (d) above states: A complete application for a variance ~~must~~ **shall** contain the following information. If the documents in Section 6 are required to file the variance, the referenced form in Section 7 is not applicable as the from in Section 7 is to provide comment on variance before the department or commission.

Item 14. This change uses language that is consistent with Rule 6. A design professional may not be required by statute or rule, but the owner has elected to employee a Design Professional.