REGULATIONS OF THE EL PASO COUNTY BOARD OF HEALTH EL PASO COUNTY, COLORADO

Chapter 8

ON-SITE WASTEWATER TREATMENT SYSTEMS (OWTS) REGULATIONS

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8.1 Authority

This regulation is promulgated pursuant to the On-site Wastewater Treatment System Act, 25-10-101, et seq. C.R.S. (OWTS Act); and, Colorado Water Quality Control Commission On-Site Wastewater Treatment System Regulation Number 43, 5 CCR 1002-43 (Regulation 43).

8.2 Scope and Purpose

A. Declaration

1. In order to preserve the environment and protect the public health and water quality; to eliminate and control causes of disease, infection, and aerosol contamination; and to reduce and control the pollution of the air, land and water, it is declared to be in the public interest to establish minimum standards and regulations for On-site Wastewater Treatment Systems (OWTS) in the state of Colorado and to provide the authority for the administration and enforcement of such minimum standards and regulations.

2. This regulation will apply to On-site Wastewater Treatment Systems as defined in section 25-10-103(12), C.R.S.

B. Purpose

1. The purpose of this regulation as authorized by the OWTS Act is to establish minimum standards for the location, design, construction, performance, installation, alteration and use of OWTS within El Paso County, Colorado, and establish the minimum requirements for permit applications; transfer of title requirements; requirements for issuing permits; the inspection, testing, and supervision of installed systems; the operation, maintenance and cleaning of systems; the disposal of waste material; and, the issuance of cease and desist orders.

C. Effluent Discharged to Surface Waters

1. Any system that will discharge into surface waters must be designed by a professional engineer. The discharge permit application must be submitted for preliminary approval to the EPCBoH. Once approved by the EPCBoH, the application must be submitted to the Water Quality Control Division for review in accordance with the Water Quality Control Act, 25-8-101, et seq .C.R.S, and all applicable regulations of the Water Quality Control Commission. Compliance with such a permit will be deemed full compliance with this regulation.

D. Jurisdiction of EPCBoH and El Paso County Public Health (EPCPH)

1. The jurisdiction of any EPCBoH and EPCPH extends over all unincorporated areas and over all municipal corporations within the territorial limits of El Paso County, Colorado, but not over the territory of any municipal corporation that maintains its own public health agency.

8.3 Definitions

1. "Absorption system" means a leaching field and adjacent soils or other system for the treatment of sewage in an On-site Wastewater Treatment System by means of absorption into the ground. See Soil treatment area.

2. “Accessible” means easily reached, attained or entered by the necessary equipment or maintenance provider.

3. “Alteration” (Alter) ~~means to change in character or composition of the OWTS. This includes any~~ modification to the OWTS ~~change to an issued but not yet completed OWTS permit~~ ~~resulting in a small yet significant difference~~. See Modification

4. “Alteration permit” means a permit issued when a small but significant change is required for a proposed OWTS system for which a permit has already been issued but the system has not yet received final approval.

5. "Applicant" means a person who submits an application for a permit for an On-site Wastewater Treatment System. The applicant must either be a licensed system contractor or property owner associated with the title of the property.

6. Auxiliary building” means a non-residential structure, located on the same lot or parcel as the principal structure, and for an incidental use to the principal structure.

7. “Basal Area” means the effective surface area available to transmit the treated effluent from the filter media in a mound system into the in-situ receiving soils. The perimeter is measured at the interface of the imported fill material and in-situ soil. On sloping sites, only the area down-gradient from the up-slope edge of the distribution media may be included in this calculation.

8. "Bed" means a below-grade soil treatment area with a level sub-base, consisting of a shallow excavation greater than three feet wide containing distribution media and more than one lateral.

9. "Bedrock" means continuous rock that underlies the soil or is exposed at the surface. Bedrock is generally considered impervious, but if fractured or deteriorated, it may allow effluent to pass through without adequate treatment.

10. “Bedroom” means a room with an egress window, that has a closet, and a heat source, and/or is intended for sleeping purposes; or, a room designated by the local building code as a bedroom.

11. "Biochemical Oxygen Demand, Five-Day" (BOD_5) means quantitative measure of the amount of oxygen consumed by bacteria while stabilizing, digesting, or treating biodegradable organic matter under aerobic conditions over a five-day incubation period; expressed in milligrams per liter (mg/L).

12. "Biochemical Oxygen Demand, Carbonaceous Five Day" ($CBOD_5$) means quantitative measure of the amount of oxygen consumed by bacteria while stabilizing, digesting, or treating the organic matter under aerobic conditions over a five-day incubation period while in the presence of a chemical inhibitor to block nitrification; expressed in milligrams per liter (mg/L).

13. "Building sewer" means piping that conveys wastewater to the first system component or the sewer main.

14. "Carbonaceous Biochemical Oxygen Demand" See Biochemical Oxygen Demand, Carbonaceous.

15. “Certified Inspector” means a person engaged in and certified by the National Association of Wastewater Technicians, or an equivalent program approved by EPCPH to conduct evaluations and observations of an existing OWTS serving a structure proposed for property sale ~~perform~~ Transfer of Title inspections to assess if the system is functioning as intended. ~~And OWTS repairs not requiring a permit~~

16. “Certified Operation and Maintenance (O & M) Specialist” means a person certified by the National Association of Wastewater Technicians, or an equivalent program approved by EPCPH to perform operation and maintenance inspections and service for OWTS.,

17. "Cesspool" means an open unlined or partially lined underground pit or underground-perforated receptacle into which raw household wastewater is discharged and from which the liquid seeps into the surrounding soil. Cesspool does not include a septic tank.

18. "Chamber" means an ~~open~~ arch-shaped structure providing an open-bottom soil interface with permeable sidewalls used for distribution of effluent in a soil absorption system. Also is often called a gravel less chamber.

19. “Cistern” means an ~~underground~~ enclosed unpressurized reservoir or tank for storing water as part of a potable water supply system.

20. "Cleaning" means the act of removing septage or other wastes from a wastewater treatment system component or grease/waste from a grease interceptor.

21. "Colorado Plumbing Code" means Rules and Regulations of the Colorado State Plumbing Board (3 CCR 720-1).

22. "Commission" means the Water Quality Control Commission created by section 25-8-201, C.R.S.

23. "Competent technician" means a person designated by EPCPH who has the appropriate expertise and is able to conduct and accurately interpret the results of soil profile test pit excavations, profile holes, percolation tests, and site evaluations. This individual has also met the required

competencies for a “Competent Technician” as defined in section 8.5.I.

24. "Component" means a subsection of an On-site Wastewater Treatment System; a component may include multiple devices.

25. 'Composting toilet," means a self-contained waterless toilet designed to decompose non-water-carried human wastes through microbial action and to store the resulting matter for disposal.

26. "Consistence" means the degree and kind of cohesion and adhesion that soil exhibits and/or the resistance of soil to deformation or rupture under an applied stress to an extent that the soil density would restrict permeability. Aspects of consistence are used to determine if the horizon will have permeability lower than that of the defined soil type. Additional insight to consistence can be found in the U~~DSSD~~A-NRCS Field book for Describing and Sampling Soils; Version 3.0, Sept. 2012.

27. "Crest" means the highest point on the side of a dry gulch or cut bank.

28. “Cut-bank” means a nearly vertical slope caused by erosion or construction that has exposed historic soil strata.

29. "Deep gravel system" means a soil treatment area for repairs only where the trenches utilize a depth of gravel greater than 6 inches below the distribution pipe and sidewall area is allowed according to a formula specified in this regulation.

30. “Deficiency” See Malfunction.

31. "Department" means the Department of Public Health and Environment created by section 25-1-102, C.R.S.

32. "Design" means 1. the process of selecting, sizing, locating, specifying, and configuring treatment components that match site characteristics and facility use as well as creating the associated written documentation; and 2. written documentation of size, location, specification and configuration of a system.

33. "Design capacity" See Flow, Design.

34. "Design flow" See Flow, Design.

35. "Designer, on-site wastewater treatment system" means a practitioner certified by the National Association of Wastewater Technicians for both OWTS design and soils proficiency, or an equivalent program approved by EPCPH. ~~w~~Who utilizes site evaluation and investigation information to select an appropriate OWTS and prepares a design document in conformance with this regulation.

36. “Disinfection”, means the process of destroying pathogenic microorganisms in sewage through the application of ultraviolet light, chlorination, or ozonation.

37. "Distribution" means the process of ~~conveying wastewater~~ dispersing wastewater or effluent to one or more components, devices, or throughout a soil treatment area.

38. "Distribution box" means a watertight component that receives effluent from a septic tank or other treatment unit and distributes effluent via gravity in approximately equal portions to two or more distribution laterals in the soil treatment area.

39. "Division" means the division of administration of the department of which the Water Quality Control Division is a part.

40. "Domestic wastewater" See Wastewater, domestic.

41. "Domestic Wastewater Treatment Works" means a system or facility for treating, neutralizing, stabilizing, or disposing of domestic wastewater which system or facility has a designed capacity to receive more than 2,000 gallons of domestic wastewater per day. The term "domestic wastewater treatment works" also includes appurtenances to such system or facility such as outfall sewers and pumping stations and to equipment related to such appurtenances. The term "domestic wastewater treatment works" does not include industrial wastewater treatment plants or complexes whose primary function is the treatment of industrial wastes, notwithstanding the fact that human wastes generated incidentally to the industrial process are treated therein. 25-8-103 (5), C.R.S.

42. "Dosing" means a high rate periodic discharge into a soil treatment area.

43. "Dosing, demand" means configuration in which a specific volume of effluent is delivered to a component based upon patterns of wastewater generation from the source.

44. "Dosing, pressure" means a uniform application of wastewater throughout the intended portion of the soil treatment area through small diameter pipes and orifices, under pressure. For this definition, the term pressure indicates that the system is capable of creating upward movement of effluent out of the distribution system piping.

45. "Dosing, timed" means a configuration in which a specific volume of effluent is delivered to a component based upon a prescribed interval, regardless of facility water use.

46. "Dosing siphon" means a device used for demand dosing effluent; which stores a predetermined volume of water and discharges it at a rapid rate, from a tank at a given elevation to a component at a lower elevation, accomplished by means of atmospheric pressure and the suction created by the weight of the liquid in the conveying pipe.

47. "Dosing tank" means a tank, compartment or basin that provides for storage of effluent from a septic tank or other treatment unit intended to be delivered to a soil treatment area at a high rate periodic discharge.

48. "Drainfield" See Soil treatment area.

49. "Drop box" means a device used for ~~serial or~~ sequential distribution of effluent by gravity flow to a lateral of a soil treatment area.

50. "Dry gulch" See Gulch, dry.

51. "Drywell" means an unlined or partially lined underground pit (regardless of geometry) into which drainage from roofs, basement floors, water softeners or other non-wastewater sources is discharged and from which the liquid seeps into the surrounding soil.

52. "Effective Size" means the size of granular media such that 10 percent by weight of the media is finer than the size specified.

53. "Effluent" means the liquid flowing out of a component or device of an On-site Wastewater Treatment System.

54. "Effluent filter" means a removable, cleanable (or disposable) device installed on the outlet piping of a septic tank for the purpose of retaining solids larger than one-eighth inch and/or modulating effluent flow rate. An effluent filter may be a component of a pump installation. An effluent filter may also be installed following the septic tank but before higher level treatment components or a soil treatment area. ~~see effluent screen~~

55. "Effluent pipe" means non-perforated pipe that conveys effluent from one On-site Wastewater Treatment System component to the next.

56. ~~"Effluent Screen" means a removable, cleanable (or disposable) device installed on the outlet piping of a septic tank for the purpose of retaining solids larger than one-eighth inch and/or modulating effluent flow rate. An effluent filter may be a component of a pump installation. An effluent filter may also be installed following the septic tank but before higher level treatment components or a soil treatment area.~~

57. "Environmental health specialist" means a person trained in physical, biological, or sanitary science to carry out educational, enforcement and inspectional duties in the field of environmental health.

58. "Evapotranspiration/absorption system" means an unlined On-site Wastewater Treatment component that uses evaporation, transpiration, and absorption for dispersal of effluent.

59. "Evapotranspiration system" means an On-site Wastewater Treatment component with a continuous, impermeable liner that uses evapotranspiration and transpiration for dispersal of effluent.

60. "Failure" means a condition existing within any component of an OWTS which prevents the system from functioning as intended, and which results in the discharge of untreated or partially treated wastewater onto the ground surface, into surface water or ground water, or which results in the back-up of sewage into the building sewer. Other conditions within an OWTS component that are deemed by EPCPH to be a threat to public health and/or safety may also be deemed a failure.

61. "Field performance testing" means data gathering on a system in actual use that is being proposed for EPCPH acceptance.

62. "Floodplain (100-year)" means an area adjacent to a stream which is subject to flooding as the result of the occurrence of a one hundred (100) year flood, and is so adverse to past, current or foreseeable construction or land use as to constitute a significant hazard to public or environmental health and safety or to property or is designated by the Federal Emergency Management Agency (FEMA) or National Flood Insurance Program (NFIP). In the absence of FEMA/NFIP maps, a professional engineer must certify the flood plain elevations.

63. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot or as designated by the Federal Emergency Management Agency or National Flood Insurance Program. In the absence of FEMA/NFIP maps, a professional engineer must certify the floodway elevation and location.

64. "Flow, daily" means the measured volume of wastewater generated from a facility in a 24-hour period expressed as gallons per day.

65. "Flow, design" means the estimated volume of wastewater per unit of time for which a component or system is designed. Design flow may be given in the estimated volume per unit such as person per unit time that must be multiplied by the maximum number of units that a facility can accommodate over that time.

66. "Flow equalization" means a system configuration that includes sufficient effluent storage capacity to allow for regulated flow on a daily or multi-day basis to a subsequent component despite variable flow from the source.

67. "Flow equalizer" means an adjustment device to evenly distribute flow between outlets in a distribution box or other device that may be out of level.

68. "Grease interceptor tank" means a watertight device located outside a facility designed to intercept, congeal, and retain or remove fats, oils, and grease from sources such as commercial food-service that will generate high levels of fats, oils and greases.

69. "Ground water" means that part of the subsurface water that is at or below the saturated zone.

70. “Groundwater condition” means a condition in the soil profile where a seasonal or current ground water surface has been identified, thus creating a vertical separation requirement to the infiltrative surface of a soil treatment area.

71. "Ground water surface" means the uppermost limit of an unconfined aquifer at atmospheric pressure.

72. "Guidelines" means State Board of Health Guidelines on Individual Sewage Disposal Systems, 5 CCR 1003-6 – predecessor of Regulation 43, On-site Wastewater Treatment System Regulation, 5 CCR 1002-43.

73. "Gulch, dry" means a deep, narrow ravine marking the course of an intermittent or ephemeral stream that receives discontinuous storm influenced flows, for a short duration, in direct response to a rain event and is not interconnected to a groundwater source.

74. "Health officer" means the Public Health Director and the Medical Director for EPCPH.

75. "Higher level treatment" means designated treatment levels other than treatment level 1.

76. “Holding tank” See Vault.

77. "Individual Sewage Disposal System" means a term used for On-site Wastewater Treatment System in Colorado regulations from 1973 until 2013.

78. "Infiltrative surface" means designated interface where effluent moves from distribution media or a distribution product into treatment media or original soil. In standard trench or bed systems this will be the interface of the distribution media or product and in-situ soil. Two separate infiltrative surfaces will exist in a mound system and an unlined sand filter, one at the interface of the distribution media and fill sand, the other at the interface of the fill sand and in-situ soil.

79. "Inspection port" means an access point in a system component that enables inspection, operation and/or maintenance.

80. "Invert" means elevation of the bottom of the inside pipe wall or fitting.

81. "Lateral" means a pipe, chamber or other ~~conveyance~~ component used to ~~carry~~ transport and distribute effluent.

82. "Leach field" See Soil treatment area.

83. "Limiting layer" means a horizon or condition in the soil profile ~~or underlying strata that limits the treatment~~ that exhibits a limited capability for treatment but will readily accept the effluent. Generally, speaking, this includes fractured bedrock, and type R-0 soils (see table 10-1A). ~~capability of the soil or severely restricts the movement of fluids. This may include soils with low or high permeability, impervious, or fractured, or a seasonal or current ground water surface.~~

84. "Liner" means an impermeable synthetic or natural material used to prevent or restrict infiltration and/or exfiltration. For the purposes of this regulation, the minimum thickness of a liner must be 30 ml.

85. “Linear loading rate” means the amount of effluent applied per linear foot along the contour (gpd/linear ft.).

86. "Long-term acceptance rate" (LTAR) means design parameter expressing the rate that effluent enters the infiltrative surface of the soil treatment area at equilibrium, measured in volume per area per time, e.g. gallons per square foot per day (gal/ ft^2 /day).

87. “Lot” means an area of land which is platted for development as part of a subdivision, the plat of which has been legally approved by the El Paso County Board of County Commissioners and recorded in the office of the El Paso County Clerk and Recorder, and, in exceptional circumstances as determined by EPCPH, an additional area of land or easement necessary for the construction or operation of an OWTS to serve the lot, and which area of land or easement is permanently servient to the lot for such purposes.

88. “Major Repair” means the repair, alteration or addition to the soil treatment area due to a malfunction or failure.

89. "Malfunction" means the condition in which a component is not performing as designed or installed and is in need of repair or modification in order to function as originally intended.

90. "Manufactured media" See Media, other manufactured.

91. "Media" means solid material that can be described by shape, dimensions, surface area, void space, and application.

92. “Media, enhanced manufactured” means an accepted proprietary manufactured distribution product, that includes synthetic media contained within one or more external permeable outer layers which promote the movement of the effluent, and is ~~wrapped in specific fabric, and~~ placed on a specified sand base or media that does not mask the infiltrative surface of the in-situ soil.

93. "Media, other manufactured" means an accepted proprietary manufactured distribution product made of synthetic media for distribution of effluent that is placed directly on the in-situ soil.

94. "Media, treatment" means non-or slowly-degradable media used for physical, chemical, and/or biological treatment in an On-site Wastewater Treatment System component.

95. “Minor Repair” means the repair or replacement of any portion of the system between the

structure to the soil treatment area with the exception of a repair or replacement of the tank baffles and collapsed building sewer and effluent lines as depicted in the record drawing on record at EPCPH.

96. “Modification” means to change in character or composition of the OWTS ~~alter an onsite wastewater treatment system.~~ that is currently functioning as designed. This includes any change resulting in a small yet significant difference including but not limited to, ~~or~~ any component thereof due to relocation of the system, or an increase in the size of the system due to an increase in bedroom(s). Not a “Repair”.

97. "Mound" means a soil treatment area whereby the infiltrative surface is at or above original grade at any point.

98. "Nitrogen reduction" means a minimum 50 percent reduction of influent nitrogen strength, which is the minimum objective of NSF/ANSI Standard 245 - Wastewater Treatment Systems - Nitrogen Reduction (2023 version).

99. "On-Site Wastewater Treatment System" or "OWTS" and, where the context so indicates, the term "system" means an absorption system of any size or flow or a system or facility for treating, neutralizing, stabilizing, or dispersing sewage generated in the vicinity, which system is not a part of or connected to a sewage treatment works.

100. “Owner” means the person who is the owner of record of the land on which an onsite wastewater treatment system is to be designed, constructed, installed, repaired, modified, extended, or used.

101. "OWTS Act" means the On-site Wastewater Treatment System Act, 25-10-101, et seq. C.R.S.

102. "Percolation test" means a subsurface soil test at the depth of a proposed absorption system or similar component of an OWTS to determine the water absorption capability of the soil, the results of which are normally expressed as the rate at which one inch of water is absorbed. The rate is expressed in minutes per inch.

103. "Performance standard" means minimum performance criteria for water quality and operation and maintenance established by the regulatory authority to ensure compliance with the public health and environmental goals of the State or EPCPH.

104. "Permeability" means the property of a material which permits movement of water through the material.

105. "Permit" means a permit for the construction or alteration, installation, and use or for the repair of an On-site Wastewater Treatment System.

106. "Person" means an individual, partnership, firm, corporation, association, or other legal entity and also the state, any political subdivision thereof, or other governmental entity.

107. "Pressure distribution" See Dosing, pressure.

108. "Privy" means an above grade structure allowing for the disposal of excreta not transported by a sewer and which provides privacy and shelter and prevents access to the excreta by flies, rodents, or other vectors.

a. Pit privy – privy over an unlined excavation.

b. Vault privy – privy over a vault.

109. "Professional engineer" means an engineer licensed in Colorado, in accordance with section ~~12-25~~ 12-120-201, et.seq., C.R.S. and practicing within their areas of expertise, consistent with 4 CCR 730-1.

110. "Professional geologist" means a person who is a graduate of an institution of higher education which is accredited by a regional or national accrediting agency, with a minimum of thirty semester (forty-five quarter) hours of undergraduate or graduate work in a field of geology and whose post-baccalaureate training has been in the field of geology with a specific record of an additional five years of geological experience to include no more than two years of graduate work. 23-41-208, C.R.S.. ~~and 34-1-201, CRS.~~

111. "Proprietary product" means a manufactured component or other product that is produced by a private person. It may be protected by patent, trademark or copyright.

112. "Public domain technology" means a system that is assembled on location from readily available components and is based on well-established design criteria and is not protected by patent, trademark or copyright.

113. “Record drawing” means construction drawings provided to illustrate the progress or completion of the installation of an OWTS, or components of the OWTS; typically based on field inspections by the designer or EPCPH.

114. "Redoximorphic" means a soil property that results from the reduction and oxidation of iron and manganese compounds in the soil after saturation with water and subsequent desaturation.

115. "Remediation system" means a treatment system, chemical/biological additive or physical process that is proposed to restore the soil treatment area of an OWTS to intended performance.

116. “Repair” means restoration of functionality and/or treatment by reconstruction, relocation, or replacement of an On-Site Wastewater Treatment System or any component thereof in order to allow the system to function as intended. See also “Minor Repair” and “Major Repair”.

117. “Replacement system” See Repair.

118. "Riser" means a watertight vertical cylinder and lid allowing access to an OWTS component for inspection, cleaning, maintenance, or sampling.

119. “Restrictive layer” means a condition in the soil profile that restricts the vertical movement of the effluent. This may include impervious bedrock, glacial till, platy soils, sodic soils, or soils with a cementation class of “strongly cemented” or greater.

120. "Rock-plant filter" means a designed system which utilizes treatment media and various wetland plants to provide treatment of wastewater through biological, physical, and chemical processes. Also called a constructed wetland.

121. "Sand filter" means an engineer designed OWTS that utilizes a layer of specified sand as filter and treatment media and incorporates pressure distribution.

122. "Sand filter, lined" means an engineer designed OWTS that has an impervious liner and under-drain below the specified sand media. Lined sand filters may be intermittent / single pass where the effluent is distributed over the sand bed a single time before distribution to a soil treatment

area, or re-circulating where part of the effluent is returned to an earlier component for additional treatment before distribution to a soil treatment area.

123. "Sand filter, unlined" means an engineer designed OWTS that includes a layer of specified sand used as a treatment media without a liner between the sand and the existing soil on which it is placed.

124. ~~"Scaled Drawing" means a drawing with dimensions at a specific ratio relative to the actual size of object drawn. Only standard engineering scales will be accepted such as 1"=10', 1"=20' 1"=30' 1"=40' 1"=50' 1"=60' 1"=100'.~~

125. "Seepage pit" means an excavation deeper than it is wide that receives septic tank effluent and from which the effluent seeps from a structural internal void into the surrounding soil through the bottom and openings in the side of the pit.

126. "Septage" means a liquid or semisolid that includes normal household wastes, human excreta, and animal or vegetable matter in suspension or solution generated from a residential septic tank system. Septage may include such material issued from a commercial establishment if the commercial establishment can demonstrate to the EPCPH that the material meets the definition for septage set forth in this subsection. Septage does not include chemical toilet residuals.

127. "Septic tank" means a watertight, accessible, covered receptacle designed and constructed to receive sewage from a building sewer, settle solids from the liquid, digest organic matter, store digested solids through a period of retention, and allow the clarified liquids to discharge to other treatment units for final disposal.

128. "Sequential distribution" means a distribution method in which effluent is loaded into one trench and fills it to a predetermined level before overflowing ~~passing through a relief pipe or device~~ to the succeeding trench through a drop box. ~~The~~ eEffluent does not pass through the distribution media before it enters any succeeding trenches. The effluent is dispersed through a drop box at the proximal end of the system, allowing for portions of the absorption area to be isolated.

129. "Serial distribution" means a distribution method in which effluent is dispersed into one trench and fills it to a predetermined level before passing through a relief pipe or device to the succeeding trench. The effluent passes through the distribution media before entering succeeding trenches which may be connected to provide a single uninterrupted flow path.

130. "Sewage" means a combination of liquid wastes that may include chemicals, house wastes, human excreta, animal or vegetable matter in suspension or solution, and other solids in suspension or solution, and that is discharged from a dwelling, building, or other establishment. See also Wastewater.

131. "Sewage treatment works" has the same meaning as "domestic wastewater treatment works" under section 25-8-103, C.R.S.

132. "Site evaluation" means a comprehensive analysis of soil and site conditions for an OWTS.

133. "Site evaluator" means a practitioner who conducts preconstruction site evaluations, including visiting a site and performing soil analysis, a site survey, or other activities necessary to determine the suitability of a site for an OWTS.

134. "Slit trench latrine" means a temporary shallow trench for use as disposal of non-water-carried

human waste.

135. "Soil" means 1. unconsolidated mineral and/or organic material on the immediate surface of the earth that serves as a medium for the growth of plants and can potentially treat wastewater effluent; 2. unconsolidated mineral or organic matter on the surface of the earth that has been subjected to and shows effects of: a) pedogenic and environmental factors of climate (including water and temperature effects) and b) macro and microorganisms, conditioned by relief, acting on parent material over a period of time.

136. "Soil evaluation" means a percolation test, soil profile, or other subsurface soil analysis at the depth of a proposed soil treatment area or similar component or system to determine the water absorption capability of the soil, the results of which are normally expressed as the rate at which one inch of water is absorbed or as an application rate of gallons per square foot per day.

137. "Soil horizon" means layers in the soil column differentiated by changes in texture, color, redoximorphic features, bedrock, structure, consistence, and any other characteristic that affects water movement or treatment of effluent.

138. "Soil morphology" means 1. physical constitution of a soil profile as exhibited by the kinds, thickness, and arrangement of the horizons in the profile; and by the texture, structure, consistence, and porosity of each horizon; and 2. visible characteristics of the soil or any of its parts.

139. "Soil profile test pit excavation" means a trench or other excavation used for access to evaluate the soil horizons for properties influencing effluent movement, bedrock, evidence of seasonal high ground water, and other information to be used in locating and designing an On-site Wastewater Treatment System.

140. "Soil structure" means the naturally occurring combination or arrangement of primary soil particles into secondary units or peds; secondary units are characterized on the basis of type, size class, and grade (degree of distinctness).

141. "Soil texture" means proportion by weight of sand, silt, and clay in a soil.

142. "Soil treatment area" means the physical location where final treatment and dispersal of effluent occurs. Soil treatment area includes drain fields, mounds and drip fields.

143. "Soil treatment area, alternating" means final treatment and distribution component that is composed of two soil treatment areas that are independently dosed.

144. "Soil treatment area, sequencing" means a soil treatment area having more than two sections that are dosed on a frequent rotating basis.

145. "State Waters" has the meaning set forth under section 25-8-103. C.R.S.

146. "Strength, wastewater" means the concentration of constituents of wastewater or effluent; usually expressed in mg/L.

147. "Suitable soil" means a soil which will effectively treat and filter effluent by removal of organisms and suspended solids, which meets long-term acceptance rate requirements as defined in Table 10-1, and has the required vertical thickness below the infiltrative surface and above a limiting layer.

148. "Systems cleaner" means a person engaged in and who holds ~~himself or herself~~ themselves out as a specialist in the cleaning and pumping of On-site Wastewater Treatment Systems and removal of the residues deposited in the operation thereof.

149. "Systems contractor" means a person engaged in and who holds ~~himself or herself~~ themselves out as a specialist in the installation, renovation, and repair of On-site Wastewater Treatment Systems.

150. “Systems maintenance provider” ~~means a person engaged in and who holds themselves out as a specialist in routine or periodic actions taken to assure that the On-site Wastewater Treatment System is functioning as intended, and/or that the On-site Wastewater Treatment System is meeting performance requirements.~~ See Certified Operation and Maintenance (O&M) Specialist

151. "System Verification" means the process in which a system is assessed for capacity and sufficiency to support existing, additional, or a change in design flow from a structure for a given purpose. System verification may require a profile pit evaluation consistent with Section 8.5.D., assessment by a Colorado professional engineer, and additional information as determined by EPCPH.

152. “Tiny home” means a structure (a non-recreational vehicle) that has only one bedroom and has 400 sq.ft. or less of livable space, including lofts. In this instance, the OWTS may be sized for only one bedroom.

153. "Total suspended solids" means measure of all suspended solids in a liquid; typically expressed in mg/L.

154. "Transfer of Title" means sale of a property or change of ownership of a property where the property has OWTS system(s).

155. “Transfer of Title Inspector” ~~means a person engaged in and who holds themselves out as a specialist in conducting evaluations and observations of an existing On-site Wastewater Treatment System serving a structure that is proposed for property transfer, to assess if the system is functioning as intended.~~ See Certified Inspector

156. "Treatment level" means defined concentrations of pollutants to be achieved by a component or series of components of an OWTS.148. "Treatment media" See Media, treatment.

149. "Treatment unit" means a component or series of components where solids or pollutants are removed from wastewater or effluent from a preceding component.

150. "Trench" means 1. below-grade soil treatment area consisting of a shallow excavation with a width of 3 feet or less containing distribution media and one lateral; and 2. excavation for placement of piping or installation of electrical wire or conduit.

151. "Uniformity coefficient" means a value which is the ratio of D60 to D10 where D60 is the soil diameter of which 60 percent of the soil weight is finer and D10 is the corresponding value at 10 percent finer. (A soil having a uniformity coefficient smaller than 4 would be considered "uniform" for purposes of this regulation.)

152. "Vault" means a watertight, covered receptacle, which is designed to receive and store excreta or wastes either from a building sewer or from a privy and is accessible for the periodic removal of its contents. If the vault is intended to serve a structure or structures that are projected to generate a

domestic wastewater flow of greater than two thousand gallons per day ~~or more~~ at full occupancy, the vault would be considered ~~is~~ a domestic wastewater treatment works. Vaults are On-site Wastewater Treatment Systems.

153. "Visual and tactile evaluation of soil" means determining the properties of soil by standardized tests of appearance and manipulation in the hand.

154. "Volume, effective" means the amount of effluent contained in a tank under normal operating conditions; for a septic tank, effective volume is determined relative to the invert of the outlet. For a dosing tank, the effective volume under normal conditions is determined relative to the invert of the inlet and the control off level.

155. "Wastewater, domestic" means combination of liquid wastes (sewage) which may include chemicals, household wastes, human excreta, animal or vegetable matter in suspension or solution, or other solids in suspension or solution which are discharged from a dwelling, building or other structure.

156. "Wastewater, high strength" means 1. wastewater from a structure having BOD_5 greater than 300 mg/L; and/or TSS greater than 200 mg/L; and/or fats, oils, and grease greater than 50 mg/L; or, 2. effluent from a septic tank or other pretreatment component (as defined by NSF/ANSI Standard 40 testing protocol) that has BOD_5 greater than 180 mg/L; and/or TSS greater than 80 mg/L; and/or fats, oils, and grease greater than 25 mg/L and is applied to an infiltrative surface.

157. "Wastewater pond" means a designed pond which receives exclusively domestic wastewater from a septic tank and which provides an additional degree of treatment.

158. “Watercourse” means a natural or artificial channel through which water flows, either continuously or intermittently, and exhibits a connection to an actual or elevated groundwater table. A watercourse includes the bed of a channel that flows only seasonally (e.g., creek, stream, irrigation ditch). Hollows, ravines, or roadside itches that are normally dry are not considered a watercourse.

159. "Water Quality Control Commission" See Commission.

160. "Water Quality Control Division" See Division.

161. "Wetland, constructed" See Rock-plant filter.

162. “Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

Table 3-1 Abbreviations and Acronyms

AASHTO	American Association of State Highway and Transportation Officials
ANSI	American National Standards Institute
ASTM	American Society for Testing and Materials
BOD	Biochemical Oxygen Demand

C.R.S.	Colorado Revised Statutes
CBOD	Carbonaceous Biochemical Oxygen Demand
CSA	Canadian Standards Association
gpd	gallons per day
IAPMO	International Association of Plumbing and Mechanical Officials
ISDS	Individual Sewage Disposal System
LTAR	Long-term Acceptance Rate
mg/L	milligrams per Liter
MPI	Minutes Per Inch
NAWT	National Association of Wastewater Technicians
NDDS	Non-pressurized Drip Dispersal System
NPCA	National Precast Concrete Association
NSF	NSF International
OWTS	On-site Wastewater Treatment System(s)
STA	Soil Treatment Area
TL	Treatment Level
TN	Total Nitrogen
TSS	Total Suspended Solids
UL	Underwriters' Laboratories

8.4 Applicability

A. Regulations Adopted Bby the EPCBoH

1. Regulation Coverage

a. An OWTS with design capacity less than or equal to 2,000 gpd must comply with regulations adopted by EPCBoH pursuant to this regulation and the OWTS Act. Within the jurisdiction of EPCBoH and EPCPH, the regulations promulgated by the EPCBoH govern all aspects of OWTS permits, performance, location, construction, alteration, installation, and use.

b. An OWTS with design capacity greater than 2,000 gpd must comply with this regulation, site location and design approval in section 25-8-702, C.R.S., and the discharge permit requirements in the Water Quality Control Act, 25-8-501, et seq. C.R.S.

(1) Applicable Commission regulations include, but are not limited to, the following:

(i) Regulation 22 - Site Location and Design Approval Regulations for Domestic Wastewater Treatment Works (5 CCR 1002-22); and associated policies; and associated policies.

(ii) Regulation 41 - The Basic Standards for Ground Water (5 CCR 1002-41).

(iii) Regulation 42 - Site-Specific Water Quality Classifications and Standards for Ground Water (5 CCR 1002-42).

(iv) Regulation 61 - Colorado Discharge Permit System Regulations (5 CCR 1002-61).

(v) Regulation 62 - Regulations for Effluent Limitations (5 CCR 1002-62).

(2) For systems greater than 2,000 gpd, the Division is also authorized to determine those parts of this regulation identified as the prerogative of EPCBoH and EPCPH.

(3) The requirements for maintenance and standards of performance for systems greater than 2,000 gpd shall be determined by the site application approval and discharge permit.

(4) In the interest of facilitating communication of EPCPH concerns regarding a design being reviewed by the Division, EPCPH can provide comments to the Division for consideration during the Division's review of the proposed design and discharge permit application. Under such a coordinated process, the Division retains final authority for approval or denial of each domestic wastewater treatment works that is regulated under the site location approval and Colorado Discharge Permit System regulations. Prior to approval or denial of each OWTS domestic wastewater treatment works, the Division must acknowledge and consider EPCBoH OWTS regulations when they are more stringent and restrictive than this regulation.

2. Procedures to Adopt or Revise Regulations by the EPCBoH:

a. The EPCBoH must submit its proposed regulations to the Division for preliminary review at least 30 days prior to a public hearing before the EPCBoH.

b. The EPCBoH will hold a public hearing on the proposed regulations before adopting final regulations.

c. The EPCBoH will give notice of the time and place of the public hearing at least once and at least 20 days in advance in a newspaper of general circulation within its area of jurisdiction.

d. The EPCBoH may make changes or revisions to the proposed regulations after the public hearing and prior to final adoption, and no further public hearing is required regarding the changes or revisions.

e. All EPCBoH OWTS regulations must be transmitted to the Division no later than five days after final adoption and become effective 45 days after final adoption unless the Division notifies the EPCBoH before the forty-fifth day that the regulations or any portions of the EPCBoH regulations determined by the Division are not as stringent as the OWTS Act or with this regulation. Any portions of the EPCBoH OWST regulations determined by the Division not to be in compliance with the OWTS Act and Regulation 43 will not take effect or be published as regulations of the EPCBoH. For those portions of its regulations that do not comply, the EPCBoH may submit revisions to the Division. Only after the Division has determined that the EPCBoH's revised regulations comply with the OWTS Act and Regulation 43 may the EPCBoH's revised regulations take effect and be published. Until the Division makes this determination, Regulation 43 controls the unapproved portions of the EPCBoH OWTS regulations.

B. Permit Application Requirements and Procedures

1. Prior to installing, altering, or repairing a system, the applicant must obtain a permit from EPCPH.

a. Any permit application for a system with higher level treatment (as defined in 8.3.72) must include and going forward comply with provisions for operation and maintenance for the life of the system, as described in section 8.14.

2. An applicant must submit a complete application that is consistent with section 8.4.B.3. to EPCPH prior to installing, altering or repairing a system.

3. Minimum Permit Application Requirements:

a. Owner name and contact information;

b. Property address;

c. Tax schedule number;

d. Property legal description;

e. Type of permit;

f. Report from Site and Soil Evaluation (section 8.5);

g. System design with a legible, accurate site plan which shows pertinent physical features on subject property, and on adjacent properties, as noted in Table 7-1; and

h. Other information, data, plans, specifications and tests as required by EPCPH.

(1) When specific evidence suggests undesirable soil conditions exist, additional hydrological, geological, engineering or other information provided by a professional engineer or geologist may be required to be submitted by the applicant. This requirement will not prejudice the right of EPCPH to develop its own information from its own source at its own expense.

4. Permit Fees

a. The EPCBoH may set fees for permits. The permit fees may be no greater than required to offset the actual indirect and direct costs of EPCPH. Section 25-10-107, C.R.S.

b. ~~Permit application fees must not exceed the maximum fees established in section 25-10-107, CRS.~~ Permit application fees must be submitted by an applicant with the permit application, and are due and payable upon receipt of the permit application.

c. EPCPH may, for good cause, waive any local permit fee or a portion thereof normally required for an OWTS.

5. Other Fees

a. The EPCBoH may set fees for inspections, ~~percolation tests~~, soil evaluations, and other services performed by the EPCPH. The fees must be no greater than required to offset the actual indirect and direct costs of the services, and must not exceed the maximum amounts specified in section 25-10-107, C.R.S.

b. Surcharge - EPCPH must collect a fee ~~of twenty three dollars~~ for each permit issued for a commercial, new, repaired, or upgraded OWTS. ~~Of that fee, EPCPH agency must retain three dollars to cover EPCPHs administrative costs and twenty dollars must be~~ and transmit funds to the Colorado Department of Public Health and Environment for use in funding the state's OWTS program, as identified in the On-site Wastewater Treatment System Act 25-10-107(3) C.R.S. until replaced by a fee(s) becoming effective in Regulation 102 adopted under Section 25-8-210(1)(a)(X) C.R.S. ~~state treasurer, who must deposit that sum in the water quality control fund created in section 25-8-502(1)(c), CRs.~~

6. Permit Term

a. An OWTS permit expires one year after the date of issuance if construction has not commenced or as specified by these regulations.

b. Any change in plans or specifications of the OWTS after the permit has been issued invalidates the permit unless the permittee receives written approval from EPCPH for such changes.

7. Repair Permit

a. The owner or occupant of a property on which an OWTS is not in compliance must obtain a repair permit from EPCPH. The applicant must apply for a repair permit within two business days after receiving notice from EPCPH that the

system is not functioning in compliance with the OWTS Act or applicable regulations, or otherwise constitutes a nuisance or a hazard to public health or water quality.

b. The repair permit must provide for a reasonable period of time within which the owner or occupant must make repairs. At the end of that period, EPCPH must inspect the system to ensure it is functioning properly. Concurrently with the issuance of a repair permit, EPCPH may issue an emergency use permit authorizing continued use of a malfunctioning system on an emergency basis for a period not to exceed the period stated in the repair permit. Such an emergency use permit may be extended, for good cause shown, in the event repairs may not be completed in the period stated in the repair permit through no fault of the owner or occupant and only if the owner or occupant will continue to make repairs to the system.

8. A permit must be required for a change of use, or the expanded use of an OWTS where it has been determined that the existing OWTS is not sized to accommodate the expected additional hydraulic or organic load. The OWTS must be replaced or modified to handle such an increase unless it is determined that the existing system is adequately designed and constructed. ~~For the higher design flow rate.~~

a. For full soil treatment area repairs, a new soils evaluation consistent with section 8.5.D. of these regulations is required. Where system modification is proposed, an existing profile pit evaluation may be used.

b. Engineer designed systems require an evaluation and determination, that the system meets the additional hydraulic or organic load needs, and must be completed by a Colorado Professional Engineer.

9. These regulations will include provisions for review by the EPCBoH of applications denied by EPCPH when requested by an applicant.

10. The issuance of a permit and specifications of terms and conditions therein will not constitute assumption of liability, nor create a presumption that EPCPH or its employees may be liable for the failure or malfunctioning of any system. Permit issuance will not constitute a certification that the system, the equipment used in the system, or any component used for system operation will ensure continuous compliance with the provision of the OWTS Act and Regulation 43, or any terms and conditions of a permit.

11. A permit to construct, alter, modify or repair an OWTS may be denied when the subject property is located within or immediately adjacent to ~~if~~ a municipality or special district that provides public sewer service

a. Except where:

(1) Such sewer service to the property is not feasible in the determination of the municipality or special district. ~~Agrees to provide sewer service.~~

(2) If, as a condition of service, an annexation of the property to a different political entity is required, connection to the community sewer is not required by EPCPH

b. EPCPH shall only approve an OWTS permit for a property that is subject to connection to sanitary sewer if all OWTS installation criteria can be satisfied, and the municipality or district agrees to the OWTS installation.

C. Determination

1. EPCPH must determine whether the information provided in the permit application, site and soil evaluations, assumptions, and calculations, and design of the proposed OWTS are in compliance with the requirements of the OWTS Act and regulations adopted pursuant thereto. If the submittal is determined to be in compliance, authorization to begin installation may be given.

D. Access to Site

1. For the purpose of inspecting and enforcing applicable regulations and the terms and conditions of any permit issued and investigating and responding to complaints, EPCPH is authorized to enter upon private property at reasonable times and upon reasonable notice for the purpose of determining whether or not an operating OWTS is functioning in compliance with the OWTS Act and Regulation 43, and the terms and conditions of any permit issued and to inspect and conduct tests in evaluating any permit application. The owner or occupant of every property having an OWTS must permit EPCPH access to the property to make inspections, conduct required tests, take samples, and monitor compliance.

E. Inspection Stages

1. Upon receipt of an application for a "commercial", "new", "modification", or "major repair" permit, EPCPH must conduct a site evaluation of the property. This evaluation must be conducted for the purpose of assuring that the site conditions and the design submitted concur with the intent of these regulations.

   a. An open profile pit inspection will be required along Highway 24 W when the proposed design does not account for high rock content design parameters.

2. Before a system is placed in use, the owner, the owner's agent or the systems contractor must provide EPCPH and the engineer, if engineer designed, with notice that the progress of the work has been sufficiently completed to allow inspections to determine if all work has been performed in accordance with the permit requirements and to determine compliance of the system with the OWTS Act and Regulation 43.3. Prior to placement of soil cover over any component, a final inspection of all permitted OWTS installations shall be conducted by EPCPH.

4. EPCPH may require additional inspections in order to determine compliance with the conditions of the permit. These additional inspections shall be included in the permit requirements.

5. When installation of an OWTS has been completed, the systems contractor or owner shall notify EPCPH. A representative of EPCPH shall make a final inspection within 2 business days of receipt of notification.

   a. In cases where inclement weather or other adverse conditions preclude an inspection within 2 business days, EPCPH may conduct a final inspection when it is determined safe to do so.

6. If a request for an inspection is made, and the installation has not been completed or the OWTS installation was found in non-compliance with these Regulations, a return trip fee

approved by the EPCBoH shall be charged to the owner or systems contractor that requested the inspection.

F. Final approval of the permit by EPCPH must include, but is not limited to:

1. Receipt of letter from the engineer certifying construction of the OWTS as per the approved design plan, if the OWTS was engineer designed. This letter must include any modifications to the permitted and approved design, general observations noted during the inspection(s), and the corresponding dates of all inspections.

   a. For designs that include a pressurized distribution system, a residual head test (squirt height), at the distal end of each lateral, must be conducted to determine the adequacy of system design and construction. Results from this inspection must be included within both the engineer's certification and the final permit acceptance documents.

2. Receipt of a record drawing which includes an as installed ~~scale~~ drawing showing all components of the OWTS including their location from known and findable points, dimensions, depths, sizes, manufacturers' names and models as available, and other information relative to locating and maintaining the OWTS components. When an engineered plan is required and submitted, the engineer will provide the "record" drawing. When an engineered plan is not required, EPCPH may complete the record drawing and may require that the licensed system contractor provide additional information to accurately complete said drawing. However, EPCPH may at its discretion, require that the licensed system contractor complete the record drawing;

3. Final inspection prior to backfilling the OWTS by EPCPH confirming that it was installed according to the permit requirements and regulations or variances to the regulations; and

4. Identification of system contractor.

5. Systems subject to the Operation and Maintenance requirements of section 8.14, as defined by section 8.3.72, must submit an active maintenance contract prior to final approval.

G. Notice of Denial or Disapproval

1. Notice of Denial or Disapproval: EPCPH shall provide written notification to the owner should it deny the owner's permit application, disapprove the owner's onsite wastewater treatment system plan, disapprove the owner's installed onsite wastewater treatment system, development plan, or take any other action to deny or disapprove any other request by the owner pursuant to these regulations. Such notice shall describe the deficiencies, and provide a reasonable time for correction, if appropriate. Service of such notice shall be provided by first class or certified mail, or by personal service. If the notice cannot be mailed or the mailed notice is returned, service may be made by posting the notice in a conspicuous place on or about the property in question.

2. Appeal: Any person who is affected by an order, decision, or notice issued by EPCPH in connection with its actions or enforcement of these regulations may appeal as provided in the EPCBoH Regulations, Chapter 4, Administrative Hearing Procedure. Any person requesting a variance from the OWTS design or siting requirements of these regulations shall use the variance procedure below.

H. EPCPH and Division Authority to Administer and Enforce

1. The owner of any property or structure where people live, work or congregate, or any property or structure designed or intended for those purposes, shall provide an adequate on-site wastewater treatment system in good working order and constructed, installed, and maintained in accordance with these regulations. Under no condition shall sewage contaminated material, sewage or effluent be permitted to be discharged upon the surface of the ground or into waters of the State, unless the sewage or effluent meets the 20 minimum requirements of these regulations, the Colorado Department of Public Health and Environment Regulation 43, or the water quality standards of the Colorado Water Quality Control Commission, whichever are applicable. Abatement of any nuisance conditions arising from a malfunctioning or defective on-site wastewater treatment system is the responsibility of the property owner.

2. Wherever the term EPCBoH or EPCPH is used in this regulation, said terms must also include the Division under its designated authority for the purposes of administering and enforcing the provisions of the OWTS Act and Regulation 43 where necessary to protect the public health and environment.

I. Primary Enforcement Responsibility

1. The primary responsibility for enforcement of the provisions of the OWTS Act Regulation 43 will lie with the EPCBoH in El Paso County, Colorado.

2. In the event that the EPCBoH fails to administer and enforce the OWTS Act or Regulation 43, the Division may assume such functions of EPCPH or EPCBoH as may be necessary to protect the public health and environment. Section 25-10-110, C.R.S.

J. Product Development Permit

1. For products that have not received Division acceptance under section 8.13.D, the manufacturer may apply to EPCPH for a product development permit. Requirements for proprietary treatment product acceptance are located in section 8.13.D of this regulation.

2. For products or types of systems which have not been otherwise accepted by the Division pursuant to section 8.13.D, the EPCBoH may approve an application for product development permit only if the system has been designed by a professional engineer, and only ~~if the application provides proof of the ability to install a replacement OWTS in compliance with all El Paso County requirements in a timely manner in the event of a failure or malfunction of the OWTS installed~~ the application meets all the requirements of sections 8.4.I, items 3 through 11.

3. Before a product development permit is issued, EPCPH must determine that the product to be tested qualifies for testing under the product development evaluation based on information submitted to EPCPH.

   a. Applicant must provide evidence of nationally accepted third-party testing of the product to be evaluated, or;

   b. Provide test data from multiple single-family homes under normal working conditions that meet the following criteria:

      (1) Test data must be provided from a minimum of four sites.

(2) Each system must be tested over a period of at least one year.

(3) Each system must be sampled at least three times during the year with at least one sample obtained during cold weather conditions.

(4) Laboratory results for all parameters for which acceptance is being requested must be submitted.

4. EPCBoH must not arbitrarily deny any person the right to consideration of an application for such a system and must apply reasonable performance standards in determining whether to approve such an application; 25-10-108 (2), C.R.S.

5. A completed application for a product development permit must be submitted to EPCPH at least 30 days in advance of installation of the product.

6. An application for a product development permit must include the following:

   a. Proof of the ability to install a replacement OWTS in compliance with all requirements in a timely manner in the event of a failure or malfunction of the system under testing;

   b. A description of the product under development including performance goals;

   c. Documentation signed by the owner of the proposed product development site allowing access to EPCPH and Division for inspection of the site; and

   d. Design documents as required in section 8.5.G of this regulation.

7. Other than the performance standards identified in section 8.4.I.(6) above, EPCPH may stipulate additional requirements for the product development permit necessary to ensure that the system performs as intended.

8. A product development permit is a site-specific permit. Product development testing at multiple sites requires a product development permit for each site.

9. During the term of the product development permit, all data collected is to be submitted to the Division and EPCPH.

10. EPCPH may revoke or amend a product development permit, if the continued operation or presence of the product under development:

    a. Presents a risk to the public health or environment;

    b. Causes adverse effects on the proper function of the OWTS on the site;

    c. Leaks or discharges effluent on the surface of the ground; or

    d. If the developer of the product fails to comply with any requirements stipulated on the permit by EPCPH or the Division.

11. If the product development permit is revoked, the product developer must install the replacement system within the time frame established by EPCPH.

12. Once the system is installed and approved, EPCPH must supply the Division with a copy of the completed OWTS permit.

K. Submission of Plans for Proposed El Paso County Subdivision/Development Projects

1. Development plans for proposed subdivisions and other development projects in El Paso County shall be submitted to EPCPH for the review of the proposed wastewater treatment service by a registered environmental health specialist, or a licensed professional engineer in accordance with requirements of these regulations. EPCPH may require the owner and/or the developer to submit additional engineering or geological reports or data, and to conduct a study of the economic feasibility of a sewage treatment works, or other on-site wastewater treatment systems prior to making its recommendations. No plan shall receive the approval of the El Paso County Board of County Commissioners unless EPCPH has made a favorable recommendation regarding the proposed method of sewage treatment for the project. The appeal of an unfavorable recommendation shall be in submitted in accordance with procedures set out Section 8.4.P.K.Prohibition of OWTS in Unsuitable Areas

2. The EPCBoH may prohibit issuance of OWTS permits in accordance with applicable land use laws and procedures for defined areas in which the EPCBoH determines that construction and use of additional OWTS may constitute a hazard to public health or water quality.

L. Licensing of Systems Contractors

1. No person shall install, or be hired to aid in the installation of, renovate or repair an onsite wastewater treatment system unless they hold a valid ~~EPCPH Tier 1 OR Tier 2~~ systems contractor license, with the exception of the property owner conducting his own installation in accordance with section 8.4.L.6.

   a. Employees of a valid licensed system contractor shall not be required to be licensed

2. ~~A fee not to exceed actual costs may be charged by~~ EPCPH may charge a fee, not to exceed actual cost, for the initial license and for a renewal of the license. ~~Of a systems contractor; a fee not to exceed actual costs may be charged by EPCPH for a renewal of the~~ licenses Licenses shall be valid for a period of two years and shall expire two years from the date of issuance.

   a. A license that lapses because of failure to renew or that is revoked shall be subject to the requirements ~~fee established~~ for new licenses, including the fee established upon reapplication.

3. Standard of Performance Required of all Licensed System Contractors:

   a. Applications for systems contractor licenses or renewals shall be made upon forms supplied by EPCPH.

   b. Prior to the issuance or renewal of a license, EPCPH shall require the applicant to demonstrate adequate knowledge as defined in Sections 8.4.L.4 ~~or 5~~

   c. Installation, renovation or repair of any onsite wastewater system shall be in compliance with these regulations and with the conditions set out in the OWTS

permit.

d. During excavation, if bedrock ~~or~~ groundwater, or other limiting conditions are encountered, all excavation must cease and EPCPH is to be contacted for an evaluation to determine if additional tests are required.

e. Notice of a requested inspection shall be given by the license holder in accordance with EPCPH Inspection Request Policy. ~~Not less than 48 hours before the inspection is to be made.~~

f. A license holder shall have in his possession the onsite wastewater system permit at the time construction begins and shall make the permit available at the time of final inspection.

g. Revocation or Suspension of a Systems Contractor License: A license may be revoked or suspended for failure to comply with these regulations or for other good cause shown. Revocation or suspension shall take place only after a hearing, which shall be conducted in accordance with Chapter 4: Administrative Hearing Procedure. ~~of these regulations~~

4. ~~Requirements of a Tier 1 Licensed System Contractor:~~

a. ~~Must pass the required Tier 1 Licensed Systems Contractor Exam.~~

b. ~~Can only install OWTS that have not been designed by a Professional Engineer (P.E); however in some cases EPCPH may approved Tier 1 Licensed Systems Contractor to install a P.E. designed system where the soil treatment area proposed would allow for a conventional OWTS INSTALLATION. (IE small gravity flow commercial system)~~

5. Requirements of a ~~Tier 2~~ Licensed Systems Contractor:

a. Must take and pass the required ~~Tier 2~~ Licensed Systems Contractor exam.

b. ~~May install any OWTS designed by a Professional Engineer or any conventional OWTS.~~

~~c. In order to install an Engineer Designed system, at least one (1) individual from the company shall be a Tier 2 Licensed Systems Contractor. This individual shall "oversee" the construction/installation of the designed system.~~

d. Proprietary certifications from the manufacturer for each treatment level 2 (TL2) or treatment level 3 (TL3) component ~~manufactures~~ will be required in order to install that specific treatment component. Licensed contractors shall supply manufactures certification to EPCPH. ~~The manufacture shall be responsible for providing EPCPH a list of certified installers.~~

e. Renewal of System Contractor License Requirement

(1) ~~Must c~~Completion of ~~10~~ 8 hours of EPCPH-approved continuing educational units (CEU's) every 24 months.

(2) ~~Tier 2 Licensed Systems Contractors~~ Submission of ~~that are certified by an EPCPH- approved~~ nationally recognized educational certification ~~program~~ will satisfy the noted CEU requirements.

(3) Attendance at an EPCPH meeting or training session, as provided (1 minimum / 24 months), is required.

(4) In place of submitting CEUs and attendance at an EPCPH meeting or training session the contractor can opt to retake the current exam per section 8.4.L.4.a.

6. Any homeowner that proposes to install their own OWTS shall

a. ~~d~~Demonstrate a defined level of competency as determined by EPCPH, which may include testing and/or a meeting with an Environmental Health Specialist prior to the OWTS installation.

(1) Must complete a pre-construction meeting with an EHS prior to installing the permitted system.

b. A homeowner may not install a system that is designed by a Colorado Professional Engineer. ~~Requires a Tier 2 System Contractor License.~~

c. Pay the fee established by the EPCBoH, ~~shall be assessed to each~~ for the homeowner who applies to install their own OWTS.

M. Certification of System Designers

1. Any person engaging in OWTS design practice is required to be approved by EPCPH for purposes of submitting OWTS designs as part of the permit application process.

a. For submission of conventional OWTS designs, those not requiring design by professional engineer, shall:

(1) Take and pass the National Association of Wastewater Technicians Design course or an equivalent approved program by EPCPH, or

(2) Be a Licensed Contractor, or

(3) Homeowners installing their own system may submit design documents as part of the homeowner affidavit requirement.

b. For submission of Engineered OWTS designs

(1) Designer must meet the definition of “Professional engineer” and

(2) Take and pass the National Association of Wastewater Technicians Design course or an equivalent approved program by EPCPH, and

(3) Take and pass the National Association of Wastewater Technicians soil course or an equivalent approved program by EPCPH.

c. Applications for systems System Designer certification or renewals shall be made upon forms supplied by EPCPH.

(1) A fee not to exceed actual costs may be charged by EPCPH for the initial certification and renewal of an approved designer.

d. Certifications shall be valid for a period of two years from the date of issuance.

(1) Renewals require the submission of updated design and soils certification document from the National Association of Wastewater Technicians Design.

e. EPCPH must provide and maintain a list of System Designers to the general public

N. Licensing of System Cleaners

1. No person shall engage in the cleaning of an OWTS, or the transportation of sewage to ~~an EPCPH approved~~ a disposal site unless he holds a valid EPCPH systems cleaner license. Employees of a licensed systems cleaner company are not required to be individually licensed.

2. A systems cleaner license and ~~an annual~~ license renewal is dependent upon

a. Submission of current certification by National Association of Wastewater Technicians (NAWT) or an equivalent program approved by EPCPH. ~~The annual inspection and approval of each pumper truck operated by the holder of thee system cleaner license.~~

b. Submission of a record of all current trucks operating within the fleet

~~c. The current EPCPHBoH fee for a pumper truck inspection shall be collected at the time of EPCPHS inspection of each pumper truck used for the purpose defined in these regulations. EPCPH approval of the pumper truck is valid for a period of one year from the date of each individual vehicle inspection. An EPCPH systems cleaner license that lapses because of failure to have all operating pumper trucks inspected and approved annually, or is revoked for other good cause, shall be subject to the current established license fee procedure. The failure to have an in use and operating individual pumper truck inspected annually as required will result in EPCPH prohibiting the use of that vehicle for the use as specified in this section.~~

d. EPCPH may charge a fee, not to exceed actual cost, for the initial license and for a renewal of the license. Licenses shall be valid for a period of two years and shall expire two years from the date of issuance.

3. Standard of Performance for Systems Cleaners:

a. A license holder, when pumping a septic tank(s). or wastewater component(s) shall remove the accumulated sludge and scum, from each compartment of the septic tank(s) or wastewater component(s) unless otherwise directed by the owner.

~~b. All vehicles used for the transport of sewage shall be inspected and approved by EPCPH prior to use.~~

c. The outlet tees or baffles shall be inspected for proper installation and/or damage as part of the pumping process. Missing or damaged tees or baffles on the outlet side of tanks shall be reported in writing to the owner and EPCPH.

d. All effluent screens shall be evaluated for proper installation and/or damage, and shall be cleaned, or repaired/replaced as needed.

e. A license holder shall maintain and operate their equipment to ensure that no spillage of sewage will occur during transportation. Hauling shall be accomplished by the use of an enclosed tank. The tank shall be equipped with an approved method for determining the liquid level content; hoses used for pumping shall be in good condition so as not to leak; tank manholes and all tank valves shall not leak. ~~EPCPH shall inspect each tank used in the transportation of sewage.~~ Operators of system cleaner trucks shall also be subject to random inspections to assure compliance with these regulations or at times EPCPH is notified of possible non-compliance.

f. A license holder shall dispose of the sewage only at a municipal sewage treatment plant or other site ~~approved by the EPCBoH~~, and shall comply with all other applicable codes and ordinances.

g. Prior to the issuance or renewal of a systems cleaner license, EPCPH may require the demonstration of knowledge of these regulations.

h. Pumping and disposal records shall be kept for a minimum of 12 months and shall be made available to EPCPH for review upon request.

i. Revocation or Suspension of a Systems Cleaner License: A license may be revoked or suspended for failure to comply with these regulations or for other good cause shown. Revocation or suspension shall take place only after a hearing, which shall be conducted in accordance with EPCBoH Regulations, Chapter 4: Administrative Hearing Procedure

O. Permit for the Continued Operation of an Onsite Wastewater Treatment System (Operating Permit)

1. An operational use permit shall be required for any system:

a. Upon final approval of an OWTS construction permit for higher-level treatment systems as defined in these regulations.

b. Seasonal residential use

c. Short-term rental properties

d. Change in commercial operation or tenant

e. Other conditions that EPCPH may deem necessary

2. Issuance of Operating Permit

a. For systems installed on or after DATE, EPCPH will issue an operating permit upon final approval that authorizes the use of the OWTS.

b. An operating permit shall be maintained and renewed until the system is

(1) Either abandoned or EPCPH authorizes decommissioning or removal of the higher-level treatment unit.

(i) Removal of higher-level treatment unit will not be authorized unless the OWTS would conform to the requirements for TL1 systems including minimum distance setbacks and vertical separation from the STA infiltrative surface to any limiting condition as set forth in these regulations.

(2) Until OWTS Failure, malfunction, or renewal is required per these regulations

c. The operating permit sets forth the following terms and conditions:

(1) Statement of size, type and capacity of the OWTS

(2) Type, make, model of component(s) requiring maintenance

(3) Service provider information including:

(i) Current contract provider

(ii) Length of contract

(iii) Reporting requirements

(iv) Required service intervals

(v) Sampling requirements if applicable

(4) Documentation of repair or remediation of past failures

(5) Other information deemed necessary by EPCPH

3. Operating Permit Application Requirements

a. Application for an operating permit shall be made on forms provided by EPCPH and include:

(1) Owner name and contact information

(2) Property address both physical and legal description

(3) Name of service provider

(4) Copy of operation and maintenance service contract of at least 1 year duration, and

(5) Fees as determined by EPCBoH

(i) EPCPH may charge a non-refundable fee, not to exceed actual cost, for issuance or renewal of the operating permit. The fees must be no greater than required to offset the actual indirect and direct costs of the services for this program; 25-10-107, C.R.S.

b. Upon expiration of operating permit, the owner shall submit an application to renew the permit

4. Operating Permit Revocation

a. A use permit may be revoked under the following circumstances:

(1) Failure to comply with the terms of the operating permit

(2) Failure to obtain a property sale acceptance document as outlined in these regulations

5. Operating Permit Penalties

a. Failure to obtain an operating permit for a covered condition, as outlined in these regulations, will subject the property owner who failed to obtain the required document to a penalty.

b. EPCPH will issue a notice of violation (NOV) to the property owner that provides the owner 30 days to comply with the NOV. If an operating permit has not been acquired after the 30 days have expired. The owner can be assessed a penalty of up to $50/day of violation. Assessment of the penalties will cease once the owner obtains a use permit, as required in these regulations.

6. Malfunctioning systems

a. OWTS found to be malfunctioning during inspection by service provider must be repaired in accordance with the terms of these regulations.

P. Property Sale Inspections for Transfer of Title ~~Inspections~~

1. EPCPH requires a property owner of a residence or other building/facility served by an OWTS to have an inspection of that system to demonstrate that the system is functioning according to design prior to the sale or transfer of title of the property.

a. EPCBoH must establish the fees to conduct and maintain the Property Sale Inspections for Transfer of Title ~~Inspection~~ program.

b. Property Sale Acceptance Document Application and fees must be provided to EPCPH along with the submission of the inspection report.

2. Exemptions from Transfer of Title Requirements

a. A property sale acceptance document will not be required under the following circumstances:

1. The entire OWTS serving the dwelling or structure was installed and given final EPCPH approval less than twelve months before the property sale closing date. An inspection will be required if any part of the OWTS is more than twelve months old.

2. The change in property ownership is solely to include or exclude a spouse.

3. The property transfer is creating or ending a joint ownership if at least one person is an original owner of the property and/or the spouse of an original property owner.

4. The property transfer contains a building or buildings connected to an OWTS that will be demolished (or already has been), and the building/buildings will not be occupied after the property transfer occurs.

5. The property transfer is being made to a trust that's in the same name as the property owner.

6. The property transfer is to affect the foreclosure or forfeiture of real property.

7. The property owner or person acquiring the title has obtained a temporary operating permit with noted conditions requiring repair.

3. The Acceptance Document Application must include, as appropriate:

a. Owner's name and contact information;

b. Physical address of property;

c. Legal description of property;

d. Name of Inspector, Inspector's NAWT or other applicable certification number;

e. Date and time of the inspection(s);

f. Inspection report completed within the previous 12 months; for any mechanical components such as pumps, alarms or higher level treatment systems, and a detailed report noting the condition of the soil treatment area.

(1) Photo documentation of all OWTS components must be submitted by the certified inspector with the applicable inspection report. Malfunctions must be clearly documented in photos.

4. Inspectors who conduct Property Sale Inspections for Transfer of Title ~~Inspections~~ must be certified by National Association of Wastewater Technicians (NAWT) or an equivalent

program approved by CDPHE and EPCPH.

a. Inspectors for higher level treatment systems must have training relevant to the specific system or certification by the equipment manufacturer.

b. EPCPH must provide and maintain a list of Certified Inspectors to the general public.

(1) A fee not exceed actual costs may be charged by EPCPH for the initial certification ~~license~~ of an approved inspector. A fee not to exceed the actual costs may be charged by EPCPH for a renewal of the certification.

(2) Certifications shall be valid for a period of two years from the date of issuance.

c. EPCPH may decertify any Certified Inspector under any of the following circumstances:

(1) The Certified Inspector submits false or misleading information.

(2) The Certified Inspector does not maintain the required certification as required by these regulations.

(3) Any situation that is determined by EPCPH which does not comply with the intent of this section.

d. Property Sale Inspection for Transfer of Title ~~Inspection~~ report submission

(1) Must be submitted by the Certified Inspector to EPCPH on the designated electronic reporting system.

(2) Inspection results must be submitted by the approved inspector within three working days from the inspection date.

(3) Any components that are found to be deficient must be noted and disclosed within the inspection report.

~~5. Transfer of Title inspection reports must be submitted by the Certified Inspector to EPCPH on the designated electronic reporting system. Inspection results must be submitted by the approved inspector within three working days from the inspection date.~~

~~6. Any components that are found to be deficient must be noted and disclosed within the inspection report.~~

5. The existing OWTS must meet, at a minimum, the following criteria and conditions:

a. All tanks must be structurally sound, watertight, in good working order and provided with approved structurally sound, safe and secure lids;

b. All internal devices and appurtenances such as tees, effluent filters ~~screens~~ and/or baffles ~~that were originally provided with the tank or added later~~ must be intact and in working order;

c. Alarms, control devices, and components necessary for the proper operation of the system are present and in good working order;

d. A soil treatment area, or other means of subsurface wastewater treatment, must be present and not in a state of failure;

e. Cesspools must be properly abandoned and a conforming OWTS must be installed. Where site conditions preclude the installation of a conforming OWTS, the criteria for repairs established within section 43.10.I must be followed.

f. There are no unapproved wastewater discharges from the OWTS or structures; and

g. Any items meeting the conditions of a "Failure", as defined in this regulation, have been corrected to the acceptance of the EPCPH.

6. If the OWTS, or any component within the OWTS, is determined to be malfunctioning, the system must be repaired so as to be conforming.

   a. All repairs must be completed or obtain an OWTS permit for repair within 90 days of the issuance of a Notice of Condition.

   b. If an eminent health hazard is determined to exist by EPCPH. Any identified eminent health hazard must be remediated or repaired within 30 days of the issuance of a Notice of Condition.

   c. Any identified need for record or documentation submission will be required to be submitted within 30 days of the issuance of a Notice of Condition.

7. The certified inspection report of an OWTS status is considered current for purposes of this subsection if it was completed within one (1) year of the date of sale or until the date of real estate closing.

8. Issuance of an Acceptance Document

   a. When the criteria set forth above have been met, EPCPH must issue an acceptance document, using terminology adopted by ~~the~~ EPCPH, setting forth the terms and conditions of approval; including, as appropriate:

   b. Statement of the size, type and capacity of the system and a record drawing, either from EPCPH records (verified by the Certified Inspector) or from the inspection reports;

   c. A copy of the inspection report(s) that was submitted to EPCPH

   d. Evidence of past OWTS failures as shown in EPCPH records;

   e. Circumstances or factors that may have affected the ability of the inspector to evaluate the system;

   f. Whether the system meets the permitting requirements of EPCPH; and

   g. Other information EPCPH may require.

h. EPCPH may withhold issuance of an Acceptance Document if it is determined that significant or necessary information has not been provided on the inspection report. In such cases, EPCPH will issue a Notice of Condition to obtain additional information. ~~Must notify the approved inspector of omissions within 2 business days. The approved inspector must then submit a revised report to EPCPH within 2 business days.~~

9. The acceptance document and certified inspection will remain valid until the date of real estate closing or for a maximum period of twelve months, whichever comes first.

10. Renewal of an Acceptance Document

    a. Provided it has not expired, an acceptance document may be renewed one time for a period of up to six (6) months upon completion of the appropriate form and payment of the required fee.

11. Waiver of an Acceptance Document

    a. If it is determined by EPCPH that an OWTS does not meet the requirements for issuance of an acceptance document, a Notice of Condition ~~conditional acceptance document may be~~ will be issued. ~~Provided the purchaser of the property agrees to obtain a permit and complete all necessary repairs to the system (or connect to a sanitation district, if appropriate) within the time frame established by the EPCPH.~~

        (1) This issued notice will require action to be taken within 30 or 90 days as determined by EPCPH to remediate the identified conditions. The purchaser of the property agrees to obtain a permit or complete all necessary repairs to the system.

12. Revocation of an Acceptance Document

    a. An acceptance document must be revoked if it is determined that the system is no longer functioning in accordance with this regulation or that false or misleading material statements were made on the application or inspection reports.

13. Penalties

    a. Failure to obtain an acceptance document for a covered transaction as provided by this regulation will subject the owner who failed to obtain the document to a penalty assessed under section 25-10-113, C.R.S.

Q. Variance Procedure

1. Variance Requests: Any person who receives a notification of denial or disapproval from EPCPH relating to design or siting requirements may request a variance from the EPCBoH, by submitting a written request to the Public Health Director, along with the current EPCBoH variance fee, within 10 days of notification of such denial or disapproval.

    a. The written request must include:

        (1). A statement from the owner requesting that the EPCBoH consider the variance request.

        (2). Identification of the property owner and property in question.

(3). The specific criteria from which a variance is being requested;

(4). Technical justification by a Colorado Licensed Professional Engineer indicating that the specific conditions which exist, and/or the measures which will be taken, will result in no greater threat to health or environmental degradation than that achieved by compliance with the applicable laws and regulations;

(5). A discussion of alternatives considered in lieu of the requested variance;

(6). Technical support for the selected alternative, which may include a testing program, which confirms that the variance does not increase the risk to public health and to the environment; and,

(7). A statement of the hardship which creates the necessity for the variance.

b. The EPCBoH shall hear such variances request as soon as practicable. In addition to other requirements of the hearing procedure, EPCPH shall notify all adjacent property owners of the public hearing by sending notice via certified mail a minimum of 20-days prior to the hearing.

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

d. The EPCBoH has the authority to deny the request or to impose appropriate requirements and conditions on any variance granted.

e. The applicant shall be notified, in writing, of the EPCBoH decision. A notice of denial of a variance shall include those reasons which form the basis for the denial. A notice of approval of a variance shall include requirements or any conditions of the approval. The variance, and any conditions thereof shall be recorded on the deed to the property and any expenses associated with that recording shall be the responsibility of the property owner.

2. Prohibitions on the Granting of Variance Requests:

a. No variance will be issued to mitigate an error in construction involving any element of property improvements.

b. No variance will be issued where the property can accommodate a conforming onsite wastewater treatment system.

c. No variance will be issued, which will result in setbacks to offsite physical features which do not conform to the minimum setbacks defined in Table 7-1 of these regulations.

d. 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.

e. No variance will be issued, which reduces the 4-foot separation to ground water, bedrock, or other restrictive soil layer, unless designed by a Colorado licensed

engineer, adheres to the appropriate sections of these regulations relative to higher level treatment and is approved by EPCPH.

f. No variance from the horizontal setback from a well shall be given which does not also meet the variance requirements of the Board of Examiners of Water Well Construction and Pump Installation Contractors.

g. No variance shall be allowed solely for economic gain.

3. Variances for Repair of Failing or Obsolete Systems:

a. When a proposed variance for a system repair or upgrade would result in encroachment on minimum distances to physical features on neighboring properties required by EPCPH, the hearing procedures in 8.4.P, Variance Procedure, must be followed.

b. For the repair of or upgrade to an approved existing system where the existing system does not meet the required separation distances and where the size of the lot precludes adherence to the required distances, a variance to the separation distances may be requested. The repairs or upgrade shall be no closer to features requiring setbacks than the existing facilities. Variances requesting setbacks no closer than existing setbacks do not have to provide technical justification from a professional engineer or professional geologist.

(1) When the distances are documented in an approved EPCPH record of the system the variance request does not have to be heard by the EPCBoH.

R. General Prohibitions; Section 25-10-112, C.R.S.

1. No city, county, or city and county shall issue to any person:

a. A permit to construct or remodel a building or structure which includes plumbing that is not serviced by a sewage treatment works until EPCPH has issued a permit for an OWTS.

b. An occupancy permit for the use of a building that is not serviced by a sewage treatment works until EPCPH makes a final inspection of the OWTS, provided for in section 25-10-106 (1) (h), C.R.S. and EPCPH approves the installation.

2. No person shall:

a. Construct or maintain any dwelling or other occupied structure which is not equipped with adequate facilities for the sanitary disposal of sewage. “Adequate facilities” do not include OWTS that are deemed to be failed, or any such condition that EPCPH determines to be a public health and/or safety concern.

b. Construct a new occupied structure that includes plumbing, without connecting to a domestic wastewater treatment works or obtaining an OWTS permit issued by EPCPH and installing a compliant OWTS.

3. The construction of new, or the repair of existing cesspools is prohibited. Where an existing cesspool is failing, a conforming OWTS must be installed. Where space is not

available for a conforming OWTS, the criteria for repairs established within section 8.10.I must be followed.

4. A person must not connect more than one dwelling, commercial, business, institutional or industrial unit to the same OWTS unless such multiple connection was specified in the application submitted and in the permit issued for the system.

5. An OWTS must receive only such biodegradable wastes for treatment and distribution as are compatible with those biological treatment processes that occur within the septic tank, any additional treatment unit and the soil treatment area. This does not include industrial, animal, or processed waste.

6. ~~No person shall construct or maintain any dwelling or other occupied structure which is not equipped with adequate facilities for the sanitary disposal of sewage.~~

7. All persons shall dispose of septage removed from systems in the process of maintenance or cleaning at an approved site and in an approved manner.

S. Cease and Desist Orders

1. EPCPH may issue an order to cease and desist from the use of any OWTS or sewage treatment works which is found by the health officer not to be functioning in compliance with the OWTS Act or with applicable regulations or is found to constitute a hazard to public health, or has not otherwise received timely repairs under the provisions of section 25-10-106 (1) (j), C.R.S. Such an order may be issued only after a hearing which shall be conducted by the health officer not less than 48 hours after written notice thereof is given to the owner or occupant of the property on which the system is located. The order shall require that the owner or occupant bring the system into compliance or eliminate the health hazard within a reasonable period of time or thereafter cease and desist from the use of the system. A cease and desist order issued by the health officer shall be reviewable in the district court for the 4th Judicial District Court of Colorado, upon a petition filed not later than ten days after the order is issued.

T. Penalties; Section 25-10-113, C.R.S.

1. Any person who commits any of the following acts or violates any of the provisions of this section commits a ~~Class 1 Petty Offense~~ civil infraction as defined in section 18-1.3-503, C.R.S.:

   a. Constructs, alters, installs, or permits the use of any OWTS without first ~~having applied~~ applying for and receiving a permit as provided for in section 25-10-106, C.R.S.;

   b. Constructs, alters, or installs an OWTS in a manner which involves a knowing and material variation from the terms or specifications contained in the application, permit or variance;

   c. Violates the terms of a cease and desist order that has become final under the terms of section 25-10-106 (1) (k), C.R.S.;

   d. Conducts a business as a systems contractor without having obtained the license

provided for in section 25-10-109 (1), C.R.S., in areas which the EPCBoH has adopted licensing regulations pursuant to that section;

e. Conducts a business as a systems cleaner without having obtained the license provided for in section 25-10-109 (2), C.R.S., in areas which the EPCBoH has adopted licensing regulations pursuant to that section;

f. Falsifies or maintains improper records concerning system cleaning activities not performed or performed improperly; or

g. Willfully fails to submit proof of proper maintenance and cleaning of a system as required by these regulations.

2. Upon a finding by the EPCPH that a person is in violation of this regulation, or of the rules adopted and promulgated to section 25-10-104 the EPCPH may assess a penalty of up to fifty dollars for each day of violation. In determining the amount of the penalty to be assessed, the EPCPH shall consider the seriousness of the danger to the health of the public caused by the violation, the duration of the violation, and whether the person has previously been determined to have committed a similar violation.

3. A person subject to a penalty assessed pursuant to section 8.4.S may appeal the penalty to the EPCBoH by requesting a hearing before the appropriate body. The request must be filed within thirty days after the penalty assessment is issued. The EPCBoH shall conduct a hearing upon the request in accordance with section 24-4-105, C.R.S.