

John D. Rockefeller IV
Governor



L. Clark Hansbarger, M.D.
Director

State of West Virginia

DEPARTMENT OF HEALTH


CHARLESTON 25305

NOTICE OF PUBLIC HEARING

Pursuant to Section five, Article three, Chapter twenty-nine-A of the Code of West Virginia, one thousand nine hundred thirty-one, as amended, the Regulatory Services Division of the West Virginia Department of Health shall convene a public hearing at 1:00 p.m., Thursday, September 30, 1982, in the Capitol Conference Center, Rooms A & B, Charleston, West Virginia for the purpose of taking evidence pertaining to the filing of proposed Sewage System Regulations, Chapter 16-1, Series IX, (1981) Legislative Rule.

Any citizen or other interested party may appear in person to present evidence. Any citizen or other interested party may submit written evidence to the West Virginia Department of Health, Regulatory Services Division, Room 416, 1800 Washington Street, East, Charleston, West Virginia 25305 not later than 5:00 p.m., Thursday, September 30, 1982.

The issues to be heard shall be limited to the actual information contained in the proposed and abovementioned regulations. Copies of the regulations may be obtained from the Regulatory Services Division, address heretofore appearing or by telephoning 304-348-2411.


L. Clark Hansbarger, M.D.
Director

Entered

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 8/20/82
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State of West Virginia

DEPARTMENT OF HEALTH
CHARLESTON 25305

IMMEDIATE RELEASE

Charleston - L. Clark Hansbarger, M.D. Director of the West Virginia Department of Health today announced that a public hearing will be held on Thursday, September 30, 1982, in the Capitol Conference Center, Rooms A & B, Charleston, West Virginia for the purpose of taking evidence pertaining to the filing of the Sewage System Regulations, Chapter 16-1, Series IX, (1981) Legislative Rule.

All persons having evidence or testimony to present should be present or they may submit such evidence in writing to the Regulatory Services Division, Room 416, 1800 Washington Street, East, Charleston, West Virginia 25305 not later than 5:00 p.m., Thursday, September 30, 1982.

Doctor Hansbarger stated that copies of the proposed regulations may be obtained by writing or telephoning the Regulatory Services Program at (304-348-2411).

-30-

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 8/20/82
Administrative Law Division

FISCAL NOTE FOR PROPOSED RULES

Rule No. Health Department Subject Sewage System Rules

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency 16-1, Series IX Address 1800 Washington Street, East
Charleston, WV 25305

Authorized Representative Robert Wheeler Phone 348-2970

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Others					

2. Explanation of above estimates.

Rules will be enforced with present staff and equipment.

3. Date 8-20-82 Agency Health Department

Signature of Agency Head

L. Clark Hansbarger
L. Clark Hansbarger, M. D.
Director

Signature of Authorized Representative

Robert P. Wheeler

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 8/20/82
Administrative Law Division

STATEMENT OF ECONOMIC IMPACT OF PROPOSED RULES OR REGULATIONS

Agency Health Department

Rule No. 16-1, Series IX

Subject Sewage Systems Rules

1. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

In some instances initial first cost may be increased. There would however be a decrease in maintenance, operation and repair costs of sewage facilities.

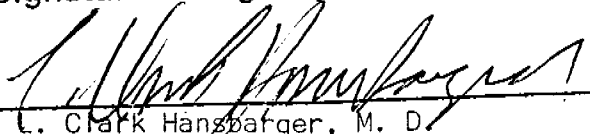
C. Economic Impact on Citizens/Public at Large.

In some instances initial first cost may be increased. There would however be a decrease in maintenance, operation and repair costs of sewage facilities. The result would be an overall savings to the public at large through reduced maintenance, operation and repair costs. This would be in addition to reduced costs of enforcement resulting from better constructed and operated sewage facilities.


Date 8-20-82

Agency Health Department

Signature of Agency Head


L. Clark Hansbarger, M. D.
Director

Signature of Authorized Representative



WEST VIRGINIA BOARD OF HEALTH
RULE ABSTRACT

TITLE: Sewage System Rules

TYPE: Legislative Rule

AUTHORITY AND RELATED CODE: 16-1-7 and related to 16-1-9

NUMBER: 16-1, Series IX

SCOPE: Establish minimum requirements for sewage systems

APPLICATION: Owners and operators of all sewage systems

COMMENTS: This rule supersedes and repeals the small sewage and disposal regulations which became effective February 1, 1975 and is in need of updating due to state-of-the-art changes and in state law in 1979. The proposed changes cover all types of sewer systems, allow development of a subdivision with either a central system or on-site system, revise lot size to comply with the 1979 new state law (§16-1-7) and specify two classes of installers due to increasing complexity of alternate on-site systems.

CONTACT PERSON IN REGULATORY SERVICES DIVISION: Rich O. Hartman, Staff Assistant, Regulatory Services Division 348-2411

RESPONSIBLE OFFICE, DIVISION AND CONTACT PERSON: Environmental Health Services, Sewage Disposal Division, Bill Bradford, Chief 348-0578

PROPOSED

WEST VIRGINIA LEGISLATIVE RULES
BOARD OF HEALTH

SEWAGE SYSTEM REGULATIONS

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 8/20/82
Administrative Law Division

August 13, 1982

WEST VIRGINIA LEGISLATIVE RULES
BOARD OF HEALTH

Sewage System Regulations

Chapter 16-1
Series IX
(1981)

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WEST VIRGINIA LEGISLATIVE RULES
BOARD OF HEALTH

Chapter 16-1
Series IX
(1981)

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 8/20/82
Administrative Law Division

Subject: Sewage System Rules

Section 1. General

1.1. Scope - These legislative rules establish minimum requirements for sewage systems.

1.2. Authority - These legislative rules are issued under the authority of Chapter 16, Article 1, Section 7, and are related to Chapter 16, Article 1, Section 9 of the West Virginia Code of 1931, as amended.

1.3. Filing Date - These legislative rules were promulgated on the _____ day of _____ 19 __, and are filed on the _____ day of _____ 19 __, in the Secretary of State's office.

1.4. Effective Date - These legislative rules became effective on the _____ day of _____, 19 __.

Section 2. Supersession and Repeal of Former Regulations - These regulations supersede and repeal West Virginia Board of Health Regulations Chapter 1, Article 10 "Small Sewage and Excreta Disposal System Regulations"; and Chapter 1, Article 11 "Sewage Regulations."

Section 3. Application and Enforcement

3.1. Application - These legislative rules apply to all sewage systems in West Virginia.

3.2. Enforcement - Enforcement of these legislative rules is vested with the director of the West Virginia department of health or his lawful designee.

Section 4. Definitions

4.1. Acceptable Application - Application forms, plans, specifications, fee, if required, and other data as specified by the Design Standards or by instructions issued by the director.

4.2. Accessible - Sewers are considered accessible when a public sewer system is located adjacent to, or available by right-of-way, to a particular lot, and sewage can discharge thereto by gravity or other means approved by the director.

4.3. Approved - A procedure of operation or construction which is in accordance with design standards, specifications and instructions promulgated by the state board of health or instructions issued by the director.

4.4. Chief, Division of Water Resources - The Chief, Division of Water Resources, Department of Natural Resources.

4.5. Design Standards - Application procedures, design requirements, specifications and construction standards promulgated by the state board of health.

4.6. Director - Director of the state department of health or his authorized representative, delegated appointee, assistant or employee.

4.7. Dwelling - A building, structure or place used or intended to be used for human occupancy as a single family or multi-family residence. The term "dwelling" shall be construed to mean and include the terms "house and housing". This definition also includes, but is not limited to, mobile homes, vacation homes and cabins.

4.8. Effluent - Liquid discharge from a sewage treatment or disposal system.

4.9. Establishment - Any building, structure or place used or intended to be used for multiple dwelling units, or for manufacturing, commercial, religious, institutional, educational or recreational purposes.

4.10. Individual Sewer System - A system serving a single dwelling or establishment for the collection, treatment and disposal of sewage.

4.11. Individual Sewer System Installer - Any person engaging in the construction, installation, extension, alteration and location of an individual sewer system, an excreta disposal system or modification thereof, excepting an individual installing, extending, or altering a system for his own use.

4.12. Lot - A tract or parcel of land or part of a subdivision used as or intended to be used as a site for a dwelling or establishment, whether immediate or future.

4.13. Municipal Sewer System - A system or group of systems which, as a whole, receives sewage from more than one dwelling or establishment and is operated and maintained by an incorporated municipality, or Public Service District, or Sanitary Board.

4.14. Percolation Test - A test described in the design standards, by which the soils in a particular area are evaluated for subsurface effluent disposal.

4.15. Permit - A written document issued by the director giving the holder permission to construct, install, extend, alter or operate an approved sewer system, or method of sewage disposal or to collect, remove, transport or dispose of sewage.

4.16. Person - Individual, partnership, association, syndicate,

company, firm, trust, corporation, government corporation, institution, department, division, bureau, agency, or any entity recognized by law.

4.17. Public Sewer System - A sewage collection system or systems with or without treatment facilities and serving more than one dwelling or establishment. Ownership of the system is held by and maintenance performed by a single entity. This definition includes municipal sewer systems.

4.18. Sewage - Any excreta or liquid waste containing animal, vegetable, and/or mineral matter in suspension or solution including, but not limited to, waste from water closets, urinals, lavatories, bathtubs, laundry tubs, washing machines, drinking fountains, sinks, kitchen equipment, and other sanitary fixtures or facilities.

4.19. Sewer System - A system whether publicly or privately owned which receives and treats sewage and provides for the disposal of effluent and sludge therefrom. Included in this definition are individual sewer systems and public sewer systems.

4.20. Sewage Tank - A water-tight receptacle designed and constructed to receive and retain sewage solids. Sewage tanks shall include, but not be limited to, septic tanks, aeration type sewage treatment systems, privy pits and vaults, holding tanks or receptacles and self-contained excreta disposal facilities.

4.21. Sewage Tank Cleaner - Any person engaged in the collection, removal, transportation or disposal of sewage.

4.22. Subdivider - Any person who divides a tract or parcel of land into two (2) or more lots.

4.23. Subdivision - The partition or division of land into two or

more lots, tracts, parcels, plats, sites, areas, units, interests or other division, any of which are less than two (2) acres in size with an average frontage of less than 150 feet for the purpose of dwelling or establishment development and including the division of land by deed, metes and bounds description, lease, map, plat or other instrument, or by act of construction.

4.24. Wastewater - The spent water exclusive of industrial wastes from one or more dwellings or establishments.

4.25. Well - An artificial excavation that derives water from the gaps or intervals of the rocks or soil which it penetrates.

Section 5. General Requirements

5.1. Every dwelling or establishment whether publicly or privately owned, where persons reside, assemble, or are employed, shall be provided with toilet facilities, and a sewer system as set forth in the an approved plan.

5.2. It shall be the duty of the owner of such dwelling or establishment to provide toilet facilities and a sewer system constructed and installed in compliance with an approved plan.

5.3 When, upon investigation, the director finds a person is constructing, installing, extending, altering, maintaining or operating a toilet facility or sewer system which does not comply with applicable provisions of these regulations, said person shall be notified of the fact in writing, and if said person shall fail to abate or correct the condition within a period of time not to exceed thirty (30) days after the receipt of the written notice, said person shall be guilty of a misdemeanor and, upon

conviction thereof, shall be punished according to the penalty set forth.

5.4. All sewer systems shall be designed, constructed, installed, maintained and operated in such a manner that excreta or sewage contained therein or effluent discharged therefrom:

5.4.1. Shall not create a health hazard affecting the public.

5.4.2. Shall not endanger or contaminate any surface or subterranean body of water which is used as an individual or public water supply or for recreational purposes.

5.4.3. Shall not cause an odor or unsightly appearance.

5.4.4. Shall not violate any federal, state or local laws or regulations governing water pollution or sewage disposal.

5.5. The owner or operator of a sewer system to be abandoned shall abandon such system in the following manner:

5.5.1. General - The contents of the sewage tank shall be removed by a licensed septic tank cleaner, or by means approved by the director, the tank filled with earth or a similar inert material, and the excavation, if any, filled to eliminate any physical hazard. If the tank is in useable condition it may be removed and the excavation filled to eliminate any physical hazard;

5.5.2. Electrical Service - Any electrical service to the system shall be terminated, and electrical service boxes, switches, meters, and similar equipment, removed or rendered harmless;

5.5.3. Water Service - Any water service to the system shall be disconnected;

5.5.4. Hazardous Equipment - Any other potentially hazardous equip-

ment associated with the system shall be removed or rendered harmless.

5.6. The owner and any person or persons installing or modifying a sewer system shall be jointly responsible for compliance with all applicable provisions of these regulations.

5.7. Off lot disposal of sewage or effluent requiring the use of or crossing of adjacent property shall require a recorded easement or authorization for said purposes. Such rights to be binding to the heirs and assigns of the properties involved.

Section 6. Permits

6.1. In accordance with Chapter 16, Article 1, Section 9, of the West Virginia Code of 1931, as amended no system or method of sewage or excreta disposal shall be installed or established without first obtaining a written permit from the director.

6.2. Individual and public sewer systems shall be permitted and constructed only after an acceptable application for, and plans and specifications of, the proposed system, as prepared in accordance with the Design Standards, have been reviewed and approved by the director. Where applicable, a discharge permit must be obtained from the Chief, Division of Water Resources in conformance with Chapter 20, Article 5A of the West Virginia Code of 1931, as amended, prior to construction.

6.3. An acceptable application to construct, install or modify an individual sewer system shall be made in writing to the director. A permit to construct, install or modify shall be obtained prior to such construction or installation.

6.4. An acceptable application for a permit to construct or install

a sewage system shall be made in writing to the director prior to the intended construction or installation of such facility. The director shall approve or deny any application for a permit to construct a public sewer system or an individual sewer system discharging into the surface water of the state within a period of sixty (60) days from the date an application is received. The director shall approve or deny an application for an individual onsite sewage system within a period of twenty-one (21) days from the date an application is received. Any application found to be incomplete shall be denied.

6.5. For all applications for projects which include more than 1,000 linear feet of sewer line, or a pump station serving more than one single family dwelling, or sewage treatment facilities having an average daily design flow greater than 4,200 GPD, project plans bearing the seal and signature of a registered professional engineer will be required. Upon completion of construction of such projects, as-built plans of the project bearing the seal and signature of a registered professional engineer shall be submitted to the director.

6.6. A person engaging in the business of sewage tank cleaning shall receive a permit only after application has been made on a form prescribed by the director and the director has inspected, or caused to be inspected, all sewage tank cleaning equipment, containers, or other devices used in the collection, removal, transportation or disposal of sewage tank contents to ascertain that said items are used, maintained and operated in compliance with all applicable provisions of these regulations. A sewage tank cleaning permit shall expire five (5) years from the date of issuance and the permit

holder shall apply to the director for renewal of the permit prior to the expiration date.

6.7. Any person operating a sewage facility generating sewage sludge shall follow the requirements set forth in the Hazardous Waste with Infectious Characteristics Rules promulgated by the state board of health.

6.8. The director shall deny a permit if the information on the application form is incomplete, inaccurate, false, or misleading, or indicates the applicable provisions of these regulations cannot be met.

6.9. A permit shall be suspended or revoked by the director for failure to comply with the provisions of the permit, improper construction or operation of the sewer system, where false or misleading information was utilized in obtaining the permit; or for failure to comply with a lawful order of the director.

6.10. When a sewage tank cleaning permit has been suspended, or revoked, the person thereby affected shall immediately discontinue engaging in the business of collecting, "removing", transporting or disposing of the contents of sewage tanks.

6.11. Any person whose application for a permit has been denied or whose permit has been suspended or revoked may request a hearing. A written request must be made within thirty (30) days of the date of denial of the permit and a hearing date shall be established within twenty (20) days of the director's receipt of the written request. Said hearing shall be held within a period of forty-five (45) days after receipt of the written request for such hearing.

6.12. A permittee who wishes to dispute the conditions and restric-

tions of the permit may request a hearing in order to appeal its provisions. A written request must be made within thirty (30) days of the date of issuance of the permit and a hearing date shall be established within twenty (20) days of the director's receipt of the written request. Said hearing shall be held within a period of forty-five (45) days after receipt of the written request for such hearing.

6.13. A permit for an individual sewer system or for a public sewer system, construction of which has not begun within one (1) year from the date of issuance, shall be invalid.

6.14. Permits shall not be transferable or assignable and shall automatically become invalid upon a change in ownership, except when application for transfer or assignment is made to, and such transfer or assignment is approved by, the director. Permits shall be issued to the property owner.

6.15. The permit or a copy of the permit shall be prominently displayed at the construction site.

Section 7. Construction and Installation Requirements

7.1. General

7.1.1. The construction and installation or modification of all sewer systems shall be in accordance with the Design Standards or otherwise approved plans and specifications for which a permit has been issued by the director. Design Standards may be obtained from the central office, district offices or local health department offices.

7.1.2. Upon the sale of sewage treatment plants and equipment, or package treatment systems, including, but not limited to, recycle systems,

composting toilets, home aeration units, and extended aeration treatment plants, the manufacturer or party selling the plant or equipment shall notify the director in writing of the name and address of the purchaser of these products and the location where the products are to be installed.

7.1.3. Prior to construction or installation of said sewage system, the contractor or manufacturer or installer installing same shall assure himself that permits have been obtained in accordance with Chapter 16, Article 1, Section 9; Chapter 20, Article 5A, Section 5, of the West Virginia Code of 1931, as amended and Section 6 of these regulations.

7.02. Diversion drains, ditches and curtain drains shall be installed when storm water, surface or ground water will affect the satisfactory operation of a sewer system. No foundation drains or downspouts shall be connected to the sanitary sewer system.

7.3. Percolation tests and other tests, as may be required for installation of an individual sewer system, shall be performed by persons whose qualifications are acceptable to the director and such tests shall be conducted in accordance with the Design Standards. The person conducting the tests shall certify as to the accuracy of the results of such tests and such information shall be submitted in a form acceptable to the director.

7.4. Subsurface absorption systems shall be constructed at the site where percolation and other tests have been performed. In the event the location of the subsurface absorption system must be changed, additional testing will be required at the proposed new location.

7.5. The holder of a permit shall notify the director when construction or installation is to begin.

Section 8. Inspections

8.1. The director shall make, or cause to be made, as many inspections as he deems necessary during the construction, installation, modification, or operation of sewer systems to determine compliance with the applicable provisions of these regulations.

8.2. The owner or occupant of a dwelling, establishment, or land shall provide the director access to all parts of the property for the purpose of making such inspection.

8.3. No individual system shall be used or placed into operation until the system has been inspected and approved in writing by the director.

8.4. No part of any individual sewer system utilizing soil absorption disposal of effluent shall be covered until said system has been inspected and approved in writing by the director. Any part of such system that is covered prior to such approval shall be uncovered upon oral or written order of the director.

8.5. In addition to making inspections or causing inspections to be made of a sewer system, the director may collect or cause to be collected samples of sewage and effluent from the system, or conduct or cause to be conducted, such tests as he deems necessary and proper to insure that the system is in compliance with all applicable provisions of these regulations.

8.6. If the director shall find that the construction, installation, extension, alteration or operation of a sewer system is not in compliance with the applicable requirements of these regulations, the director may issue an order revoking the construction permit. The order shall be issued in writing to the owner of the sewer system and such order shall be effect-

ive immediately. An order revoking a permit may be appealed in accordance with the procedure set forth in Section 6.11 of these regulations.

Section 9. Maintenance and Operation

9.1. All sewer systems shall be maintained and operated so as to be in compliance with Chapter 16 of the West Virginia Code of 1931, as amended and the provisions of these regulations.

9.2. Upon written request by the director, the permit holder shall submit operational data such as influent, effluent, flow data, or any operational data necessary to ascertain compliance with Section 9.3.

9.3. The Control Tests and Operating Records of Sewage Treatment Plants Serving Public Sewage Systems.

9.3.1. Every sewage treatment or disposal plant serving a public sewage system shall be equipped with testing apparatus for making the physical, chemical, and bacteriological control tests which are considered necessary by the state department of health for the safe, proper, and efficient operation of the plant. The state department of health, upon written request, shall furnish a statement of the control tests necessary for a particular plant.

9.3.2. There shall be regularly made at each sewage treatment or disposal plant such physical, chemical, and bacteriological control tests which are considered necessary by the state department of health for the proper and safe operation of the plant.

9.3.3. The frequency of making such physical, chemical, and bacteriological control tests shall be determined by the state department of health.

9.3.4. The results of the control tests together with the record of sewage treatment plant operation shall be entered upon a permanent record form or ledger and maintained at the plant.

9.3.5. Each month or as otherwise directed by the state department of health the operator of the sewage treatment or disposal plant shall furnish a summary of operation and control data to the state department of health. The data shall be submitted on a standard form or another form acceptable to the state department of health.

9.3.6. The state department of health, by specific written direction, may waive the submission of operating reports from sewage treatment or disposal plants serving 500 or less persons.

Section 10. Subdivisions

10.1. All subdivisions or housing developments originating after July 1, 1970, the effective date of the original regulations, shall be served by a method of sewage disposal approved by the director.

10.2. In the event it is proposed that a subdivision be served by a public sewer system, a permit for said system must be obtained from the director in compliance with the provisions of Section 6 of these regulations.

10.3. In the event individual sewer systems are proposed as the desired method of sewage disposal for a subdivision, written approval shall be obtained from the director in compliance with the provisions of these regulations; Chapter 16, Article 1, Section 7 of the West Virginia Code of 1931, as amended and the procedures set forth in the Design Standards. In addition, a permit for each individual sewer system within the subdivision

shall be obtained in compliance with Section 6 of these regulations.

10.4. The replatting of a prior recorded plat or of a subdivision which originated prior to July 1, 1970, the effective date of the previous regulations, shall not be exempt from the provisions of these regulations. The prior platting of a portion of a larger tract prior to July 1, 1970, shall not exempt the remainder of the tract from the provisions of these regulations.

10.5. The division of land through public or private auction sale or through the terms of a will shall constitute a subdivision under the provisions of these regulations. It shall be the responsibility of the owner of such land or executor of the will to meet all requirements of these regulations.

10.6. In those instances where a lot was purchased or acquired for dwelling construction, and either its deed was recorded prior to July 1, 1970, or the lot was laid out, described and designated on a map of a subdivision, which map was recorded prior to July 1, 1970, and:

10.6.1. Where a public water supply system is available, but a public sewer system is not available, no individual sewer system shall be permitted on any lot, site or area containing less than 10,000 square feet.

10.6.2. Where neither a public sewer system nor a public water supply system is available, no individual sewer system shall be permitted on any lot, site or area containing less than 20,000 square feet.

10.7. The director may waive the square footage requirements stipulated in Section 10.6 provided he has been petitioned and has ascertained through a hearing, an on-site inspection, percolation tests and

other requirements of these regulations that an individual sewer system can be expected to function satisfactorily on a lot, site, or area containing less than the minimum prescribed number of square feet.

10.8. For subdivisions and lots originating after July 1, 1970, the minimum sizes as set forth in Section 10.6 do not apply. All lots originating after July 1, 1970 must comply with Section 10.9 or Section 10.10.

10.9. If a central sewage collection and treatment system is proposed to serve a subdivision, it shall be designed in accordance with Sections II and III of the "Design Standards for Sewage Collection and Treatment Systems." A permit shall be obtained prior to construction of the sewage system in accordance with Chapter 16, Article 1, Section 9 of the West Virginia Code of 1931, as amended and Section 6 of these regulations. Application for the permit shall be made in accordance with the procedures outlined in the Design Standards. There are no limitations relative to lot size for subdivisions served by a central sewage collection and treatment system.

10.10. If individual sewage systems are proposed to serve a subdivision design of the subdivision utilizing individual sewage disposal systems shall follow the procedures and requirements outlined below. Written approval of the proposed subdivision shall be obtained prior to initiation of construction in accordance with Section 6 of these regulations.

10.10.1. All lots shall contain a minimum on-site disposal area of 10,000 square feet, which shall be set aside for the installation of septic

tank-soil absorption system(s). Each such area shall have a minimum width of 80 feet, and no development or structures shall be permitted on this on-site disposal area other than those comprising the septic tank-soil absorption system(s).

10.10.2. Area consisting of land sloping in excess of 25%, land in an existing or proposed public road, or land within a 25 year flood plain shall not be utilized in establishing the minimum area for lots in accordance with the requirements of Subsection 10.10.1.

10.10.3. Area consisting of land containing rock strata or seasonal high water table within five feet of the ground surface shall not be utilized in establishing the minimum area for lots in accordance with the requirements of Subsection 10.10.1. Area consisting of land not in compliance with the minimum separation distances listed in the Design Standards shall not be utilized in establishing the minimum area for lots in accordance with the requirements of Subsection 10.10.1.

10.10.5. Area consisting of land which has been determined through testing to have a percolation rate slower than 60 minutes per inch shall not be utilized in establishing the minimum area for lots in accordance with the requirements of Subsection 10.10.1.

Section 11. Correction of Health Hazards

11.1. To correct or abate public health hazards resulting from the malfunctioning of individual sewer systems, which hazards are not correctable by methods set forth in the Design Standards, the director may permit the installation of an experimental or nonstandard sewer system upon written petition for such system.

11.2. The petition shall request the director to authorize installation of the system desired and shall contain information as to the location, reasons why a conventional system cannot be installed, information concerning the malfunctioning system, and information concerning the system desired. The director may request additional information which may include a meeting with the petitioner.

11.3. If the director determines that a potential public health hazard exists, he may issue a written approval authorizing installation of the system desired. The written approval shall apply only to the petitioner and the facts presented at the meeting.

Section 12. Sewage Tank Cleaning

12.1. No person shall engage in the business of collecting, removing, transporting, or disposing of the contents of a sewage tank without first obtaining a state-wide permit for such activity from the director, in accordance with Section 6 of these regulations.

12.2. Equipment, containers or other devices used in the collection, removal, transportation or disposal of the contents of sewage tanks shall be in compliance with the Design Standards and instructions issued by the director.

12.3. The cleaning of sewage tanks by bailing or dipping and emptying the bailing or dipping container into a carrier tank is prohibited.

12.4. Precaution shall be taken by the sewage tank cleaner to prevent the leaking, spilling, or dripping of the sewage tank contents during collection, removal, transportation and disposal.

12.4.1. Any leakage, spillage, or drippings shall be cleaned up immediately.

12.4.2. Provisions shall be made by the sewage tank cleaner to carry chlorinated lime or similar satisfactory disinfectant for immediately treating the areas where leakage, spillage, or dripping has occurred.

12.5. The contents of sewage tanks shall not be transported in an open bed motor carrier vehicle, or any other type vehicle, unless said sewage contents are contained within approved portable receptacles.

12.6. All facilities used for the cleaning of sewage tank cleaning equipment shall, prior to use, be inspected and approved by the director.

12.7. The contents of sewage tanks shall be disposed of in a manner that will prevent the spread of disease and avoid nuisance conditions, and said contents shall be disposed of by one or a combination of the following methods:

12.7.1. By incinerating in an approved high temperature incinerator.

12.7.2. By burial, provided prior written approval is received from the director regarding the manner and the conditions under which said burial of sewage tank contents can take place. Sewage tank contents shall not be buried on public or private property without the written permission of the property owner or his authorized agent.

12.7.3. By discharging the contents into a public sewer manhole or at an acceptable point in a sewage treatment plant, provided, the written approval of a responsible official of the governmental entity or other entity owning or operating the public sewer system or sewage treatment plant is received prior to the use of such disposal facilities.

12.8. Special written permission from the director must be obtained for any method of disposal not specifically mentioned in the Design

Standards.

12.9. All sewage tank cleaners shall keep a written record of all jobs accomplished.

12.10. Such record shall contain, but not be limited to:

12.10.1. Name and address of the person for whom the sewage tank was cleaned;

12.10.2. Date and time the job was completed;

12.10.3. Size of sewage tank and the amount, in gallons, of the contents removed from said sewage tank;

12.10.4. Location and type disposal site utilized for the disposal of the sewage tank contents.

12.11. Said records shall be preserved for at least 12 months and upon request such records shall be readily available to the state director of health.

Section 13. Individual Sewer Systems Installers Certification

13.1. All individual sewer system installers shall be certified for such activity by the director. Provided, that certification requirements shall not apply to an individual who constructs, installs, extends, alters, operates or modifies his own individual sewer system pursuant to a permit obtained from the director and such system is constructed and inspected in accordance with the provisions of these regulations.

13.2. Certification is not required of a driver delivering a part or parts of a system, a manufacturer who does not install a part or parts of a system or an employee of a contractor holding a certificate, provided, that such employee is under the direct on-site surveillance of a certified installer.

13.3. Certificates shall be issued to qualified installers of individual sewer systems in two classifications.

13.3.1. A Class I certificate shall apply to the installation of conventional septic tank soil absorption systems and privies.

13.3.2. A Class II certificate shall apply to those individual sewer systems covered by the Class I certificate plus all alternative and innovative individual sewer systems as set forth within the Design Standards.

13.3.3. Within one year after the effective date of these regulations installers shall be certified for this activity.

13.4. An application for certification to install individual systems, or renewal of certification to install individual systems, shall be made in writing to the director on a form prescribed by the director.

13.5. The director may deny certification if the information on the application form is incomplete, inaccurate, false or misleading.

13.6. In addition to filing an application for certification to install individual sewer systems, the applicant must pass a written examination for each classification and may be required to demonstrate that he possesses adequate knowledge and skill in making installations in accordance with the Design Standards.

13.7. Written examinations shall be administered by the director at a site and on a date designated by the director. A passing grade of 70% must be obtained. Any applicant who has failed an examination must wait thirty (30) days before re-examination.

13.8. Certification shall not be transferable or assignable and shall

automatically become invalid upon suspension or revocation.

13.9. Certification shall expire five (5) years from date of issuance and the certificate holder shall apply to the director for renewal of the certificate prior to the expiration date. Renewal will be based upon:

13.9.1. Evidence of construction of at least one approved system within the preceding year.

13.9.2. Recommendation of the local health department.

13.10. In the event any person certified is found to be violating any of the applicable requirements of these regulations, his certification may be immediately suspended for a period of ten (10) days by the director. Two successive violations shall be sufficient grounds for revocation of certification.

Section 14. Severability - If any provisions of these rules or the application thereof to any person or circumstance shall be held invalid, such invalidity thereof shall not affect the provisions or application of these rules which can be given effect without the invalid provisions or application, and to this end the provisions of these rules are declared to be severable.

Section 15. Administrative Due Process - Those persons adversely affected by the enforcement of these legislative rules desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so in a manner prescribed in the West Virginia Procedural Rules, Board of Health, Chapter 16-1, Series I, 1981, Rules of Procedure for Contested Case Hearings and Declaratory Rulings. The aforementioned procedural rules are incorporated herein by reference.

Section 16. Penalties for Violating Provisions of Regulations

16.1. Any person who violates any provision of these regulations or any regulation adopted by the West Virginia State Board of Health pursuant to authority granted by these regulations shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not more than two hundred dollars (\$200) and/or thirty (30) days imprisonment as provided in Chapter 16, Article 1, Section 18 of the Public Health Laws of West Virginia, West Virginia Code of 1931, as amended.

16.2. Each day's failure to comply with any applicable provision of these regulations shall constitute a separate offense.