

WEST VIRGINIA LEGISLATIVE RULES
BOARD OF HEALTH

Small Sewage and Excreta Disposal Systems

Chapter 16-1
Series IX
(1983)

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INDEX

	Page
Section 1. General	1
Section 2. Definitions	1
Section 3. Sewage and Excreta Disposal Requirements	6
Section 4. Permits	9
Section 5. Inspections	14
Section 6. Construction and Installation Requirements	15
Section 7. Subdivisions and Housing Developments	23
Section 8. Design, Construction, Installation and Operation of Small Sewage and Excreta Disposal Systems	26
Section 9. Sewage Tank Cleaners	27
Section 10. Septic Tank Contractors and Installers Certification	30
Section 11. Repeal of Former Regulations	32
Section 12. Severability	32
Section 13. Penalties for Violating Provisions of Regulations	33

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Subject: Small Sewage and Excreta Disposal Systems

Section 1. General

1.1. Scope - These legislative rules establish the minimum requirements for small sewage and excreta disposal 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 filed on the 2nd day of January 1975 in the Secretary of State's office.

1.4. Effective Date - These legislative rules became effective on the 1st day of February 1975.

1.5. Refiling Date - These legislative rules were refiled pursuant to Chapter 29A, Article 2, Section 5 of the West Virginia Code of 1931, as amended on the 30th day of December 1982, in the Secretary of State's office.

Section 2. Definitions

2.1. Aeration Type Sewage Treatment System - A system which utilizes the principle of oxidation in the decomposition of sewage by introduction of air into the sewage or by surface absorption of air for a sufficient period of time to affect approved treatment.

2.2. Approved - A procedure of operation or construction which is in accordance with the design standards, specifications and instructions established by the state department of health.

2.3. Cesspool - A lined or unlined and covered excavation in the ground which receives the discharge of sewage from a drainage system and so designed to retain the organic matter and solids but permitting the liquids to seep through the bottom and sides into the surrounding soil.

2.4. Chief, Division of Water Resources - The chief, division of water resources, department of natural resources.

2.5. 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".

2.6. Effluent - Liquid discharged from a sewage disposal system.

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

2.8. Excreta Disposal System - An excreta disposal system which receives human excreta from one or more dwellings or establishments. Included within the scope of this definition are privies, self-contained excreta disposal systems and such other types as prescribed or determined by the state department of health.

2.9. Home Aeration Units - A water-tight covered receptacle designed and constructed to receive the discharge of sewage from an individual home, or establishment, treat the sewage by means of mechanically induced air and allow the liquids to discharge for final disposal.

2.10. Individual Sewage System - A sewage system which receives human excreta, sewage or both from one or more dwellings or establish-

ments. Included within the scope of this definition are septic tanks, home aeration units, soil-absorption systems, holding tanks, water-carried small sewage disposal systems and such other types as may be prescribed and determined by the state department of health not exceeding 2,500 gallons in size with an absorption field not greater than 1,500 square feet in size when utilizing the soil for sub-surface absorption.

2.11. Percolation Test - The determination of the suitability of an area for subsurface sewage effluent disposal by testing the rate at which the undisturbed soil in an excavated pit or hole of standard size will absorb liquid per unit of surface area.

2.12. Permit - A written document issued by the state director of health giving the permit holder permission to construct, install, extend, alter or operate an approved small sewage or excreta disposal system on a particular tract or parcel of land.

2.13. Person - Individual, partnership, association, syndicate, company, firm, trust corporation, government corporation, institution, department, division, bureau, agency or any entity recognized by law.

2.14. Privy - A superstructure and a pit, vault, or other receptacle used for the disposal of human excrement.

2.15. Public Sewer System - A system of sewers and appurtenances for the collection, transportation and treatment of sewage and operated as a community project by a governmental agency, community residents or as a commercial enterprise.

2.16. Self-Contained Excreta Disposal System - A water-tight covered tank or receptacle and appurtenances that may or may not be operated

independently of a direct connection to a sewer, water and/or electrical system.

2.17. Septic Tank - A water-tight covered receptacle designed and constructed to receive the discharge of sewage, separate the solids from the liquids, store solids through a period of detention and allow the liquids to discharge for final disposal.

2.18. Septic Tank Installer - Any person engaging in the construction, installation, extension, alteration and location of individual sewage systems, excreta disposal systems or modification thereof excepting an individual installing, extending or altering a system for his own use.

2.19. Sewage - Any 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.

2.20. 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.

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

2.22. Small Sewage or Excreta Disposal System - A sewage or excreta disposal system which receives either human excreta or sewage, or both from one or more dwellings or establishments. Included within the

scope of this definition are individual sewage systems, small sewage systems, excreta disposal systems and such other types as may be prescribed or determined by the state department of health.

2.23. Small Sewage System - A sewage system which receives human excreta, sewage, or both, from one or more dwellings or establishments. Included within the scope of this definition are aeration type sewage treatment systems, sewage stabilization ponds and such other types as may be prescribed or determined by the state department of health, serving a population equivalent of 400 persons or less or those systems of 40,000 gallons or less in size.

2.24. Soil-Absorption System - Any system that utilizes the soil for subsequent subsurface absorption of sewage effluent or modification thereof.

2.25. Stabilization Pond - A basin constructed by excavation of the ground and diking for the purpose of treating raw, settled, intermediate or secondary sewage effluent sedimentation and accompanying bacteriological reduction.

2.26. State Department of Health - Where noted in the regulations the term "state department of health" requires action by the central office of said state department of health, wastewater division.

2.27. State Director of Health - The administrative head and chief executive officer of the state department of health or his duly authorized representative.

2.28. Subdivision or Housing Development - Any tract or parcel of land divided into two or more lots for immediate or future use for housing or building development.

Section 3. Sewage and Excreta Disposal Requirements

3.1. On and after February 1, 1975, the date these regulations become effective, every dwelling or establishment whether publicly or privately owned where persons reside, assemble, or are employed, shall be provided with toilet facilities and a sanitary system of sewage or excreta disposal.

3.2. It shall be the duty of the owner of such dwelling or establishment to provide toilet facilities of such form and number as prescribed by the state department of health and a sanitary system of sewage or excreta disposal that is in compliance with these regulations and with the design standards, specifications and instructions pertaining to same as prescribed and approved by the state department of health.

3.3. A toilet facility or small sewage or excreta disposal system shall be considered to be sanitary when such facility or system has been constructed or installed and is being maintained or operated in accordance with the rules and regulations of the state board of health and the design standards, specifications and instructions governing such facilities or systems as prescribed and approved by the state department of health.

3.4. Failure to provide approved toilet facilities or failure to provide and properly maintain or operate a small sewage or excreta disposal system, or to discharge all sewage or excreta from a dwelling or establishment into an approved small sewage or excreta disposal system shall be prima facie evidence of an insanitary condition and a violation of these regulations.

3.5. When upon investigation made by the state director of health it is found that any person is constructing, installing, maintaining, or oper-

ating a toilet facility or a small sewage or excreta disposal system which does not comply with all applicable provisions of these regulations, it shall be the duty of the state director of health to notify said person 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 under Section 13. of these regulations.

3.6. All small sewage and excreta disposal systems shall be designed, constructed, installed, maintained, and operated in such a manner that excreta, sewage or effluent contained therein, or discharged from such facility:

3.6.1 Is not accessible to flies, mosquitos, rats or other wild or domestic animals.

3.6.2. Does not endanger or contaminate any surface or subterranean body of water that is used as an individual or public water supply or for recreational purposes.

3.6.3. Does not give rise to a nuisance due to odor or unsightly appearance.

3.6.4. Will not violate any other laws or regulations governing water pollution, sewage or excreta disposal.

3.7. No person shall discharge or permit or cause to be discharged, treated or untreated sewage, effluent, excreta or other putrescible or offensive wastes onto the surface of the ground or into any street, road, alley, open excavation, storm water sewer, land drain ditch, adjoining

property, mineshaft, surface or subterranean body of water, or into an unused or abandoned well, spring, cistern, sink hole, crevice or other opening extending into a water table, or into limestone, sandstone, or other rock or shale formation except under such circumstances as prescribed by and with the written approval of the state department of health.

3.8. No small sewage or excreta disposal system shall be constructed, installed, maintained or operated on property accessible and capable of being served by an approved public sewer system.

3.9. Whenever an approved public sewer system is accessible to the property, all small sewage or excreta disposal systems shall be abandoned and the sewage disposed of through the public sewer system.

3.10. The owner or operator of a small sewage or excreta disposal system or other device or equipment for the disposal of sewage that is to be abandoned or has been abandoned shall have the sewage tank, device, or equipment cleaned out in an approved manner; or the sewage tank, device, or equipment shall be removed and the excavation, if any, properly filled in; or the sewage tank, device or equipment cleaned out and filled with stone, dirt or similar material in a manner acceptable to the state director of health.

3.11. Privies, self-contained excreta disposal facilities, and similar installations utilized for excreta disposal shall be permitted only in those areas not served by an approved public sewer, or in those areas in which the state director of health deems it impractical to require the installation of an approved small sewage system.

3.12. The use of a cesspool as a means of sewage disposal is prohibited.

3.13. Building contractors, sewage system contractors, plumbers, or any other persons constructing, installing, extending or altering a small sewage or excreta disposal system for another person shall be jointly and severally responsible for compliance with all applicable provisions of these regulations as well as any person for whom such construction, installation, extension, or alteration is being made.

Section 4. Permits

4.1. Construction and Installation Permits

4.1.1. On and after February 1, 1975, the date these regulations become effective, except for minor repairs, no person shall construct or install a small sewage or excreta disposal system in the state of West Virginia unless he possesses a permit from the state director of health in the name of such person for such specific construction or installation. For the purpose of interpretation of this subsection, applications for construction or installation of individual sewage systems or excreta disposal systems shall be made to the local health officer and applications for small sewage systems shall be made through the state department of health as required by Section 6.3 of these regulations. The terms construct and install shall be construed to mean and include the terms extend and alter.

4.1.2 An application for a permit shall be made in writing to the state director of health on a form prescribed by the state department of health and shall contain all pertinent information relative to location, construction and installation of the small sewage or excreta disposal system and such other information as may be deemed necessary by the state director of health. Said application for a permit for construction and installation of an

individual sewage system or excreta disposal system shall also be signed by the certified septic tank installer who will be performing the construction, installation or modification applied for.

4.1.3. Percolation test results, detailed plans and specifications and such other substantiating data as may be deemed necessary by the state director of health attesting that the proposed small sewage or excreta disposal system will be in compliance with all applicable parts of these regulations shall be made a part of the application for a permit.

4.1.4. When upon review of the application the state director of health is satisfied that the proposed design of the small sewage or excreta disposal system is satisfactory, a written permit to proceed with the construction or installation of the system shall be issued.

4.1.5. When upon review of the application the state director of health is convinced that the proposed small sewage or excreta disposal system is unsatisfactory or that soil and geological conditions are such as to preclude the proper construction, installation or operation of the system, a permit shall be denied.

4.1.6. When an applicant's permit has been denied, no small sewage or excreta disposal system shall be constructed or installed on the site.

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

4.1.8. When a permit has been suspended or revoked, any construction or installation of the affected small sewage or excreta disposal system shall immediately cease.

4.1.9. Permits shall not be transferable or assignable and shall automatically become invalid upon a change of ownership or upon suspension or revocation.

4.1.10. Only a person who complies with all the applicable provisions of these regulations shall be entitled to receive and retain a permit.

4.1.11. If the small sewage or excreta disposal system has not been constructed or installed within six months from the date of issuance of the permit, said permit shall automatically expire.

4.1.12. Any person whose application for a permit has been denied or whose permit has been suspended or revoked may request and shall be granted a hearing date on the matter within ten (10) days after the state director of health has received a written request for such hearing.

4.2. Operational Permit

4.2.1. On and after February 1, 1975, the date these regulations become effective, no person shall in any manner discharge or cause to be discharged any sewage or effluent from a small sewage or excreta disposal system serving his property, or discharge any other putrescible or offensive waste, onto another property unless said person has in his possession a valid operational permit issued by the state department of health, wastewater division.

4.2.2. If deemed necessary by the state department of health, wastewater division, that on-site disposal of sewage or sewage effluent from a water-carried small sewage disposal system is impractical, that agency may permit the sewage or effluent to be discharged off the property if the final disposal site and facilities are satisfactory to the agency and are in com-

pliance with all applicable provisions of these regulations. Should such system be located on property owned or controlled by a different party, a copy of the legal instruments relating to the disposal facilities and their maintenance and operation shall be made a part of the application for a permit and filed with the state department of health.

4.2.3. An application for an operational permit shall be made in writing to the state department of health on a form prescribed by that agency.

4.2.4. The state department of health shall deny an operational permit if the information on the application form is incomplete, inaccurate, false or misleading, or indicates that the applicable provisions of these regulations cannot be met.

4.2.5. Permits shall not be transferable or assignable and shall automatically become invalid upon a change of ownership or upon suspension or revocation.

4.2.6. Only a person who complies with all the applicable provisions of these regulations shall be entitled to receive and retain a permit.

4.2.7. When deemed necessary the state department of health may require the operational permit holder to be certified or registered as a sewage treatment plant operator.

4.2.8. Any person whose application for a permit has been denied or whose permit has been suspended or revoked may request and shall be granted a hearing date on the matter within ten (10) days after the state department of health has received a written request for such hearing.

4.3. Sewage Tank Cleaning Permit

4.3.1. On and after February 1, 1975, the date these regulations become effective, no person shall engage in the collection, removal, transportation, or disposal of the contents of a sewage tank without first obtaining a permit for such activity from the state director of health. Provided, that the permit requirements shall not apply to an individual who cleans his own sewage tank and collects, removes, and transports the sewage tank contents in a sanitary manner and disposes of the tank content in compliance with the applicable provisions of Section 9. of these regulations, or as otherwise prescribed by the state director of health.

4.3.2. An application for a permit shall be made in writing to the state director of health on a form prescribed by the state department of health.

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

4.3.4. Permits shall not be transferable or assignable and shall automatically become invalid upon a change of ownership or upon suspension or revocation.

4.3.5. Permits shall expire on the 31st day of December following the date of issuance.

4.3.6. Only a person who complies with all the applicable provisions to these regulations shall be entitled to receive and retain a permit.

4.3.7. When a permit has been denied, suspended, or revoked the person thereby affected shall immediately discontinue engaging in the busi-

ness of collecting, removing, transporting or disposing of the contents of sewage tanks.

4.4. Any person whose application for a permit has been denied or whose permit has been suspended or revoked may request and shall be granted a hearing date on the matter within ten (10) days after the state director of health has received a written request for such hearing.

Section 5. Inspections

5.1. The state director of health shall make or cause to be made as many inspections as he deems necessary during the construction, installation, or operation of a small sewage or excreta disposal system to determine compliance with the applicable provisions of these regulations.

5.2. It shall be the duty of the owner or occupant of a dwelling or establishment to provide the state director of health free access to all parts of the property for the purpose of making such inspections.

5.3. No small sewage or excreta disposal system shall be used or placed into operation until the system has been inspected and approved in writing by the state director of health.

5.4. No part of any water-carried small sewage disposal system utilizing a septic tank or a soil-absorption system shall be covered until said system has been inspected and approved in writing by the state director of health.

5.5. Any part of such system that is covered prior to written approval shall be uncovered upon oral or written order by the state director of health.

5.6. Final written approval shall not be given for any small sewage

or excreta disposal system until the state director of health is satisfied that all pertinent data on such system has been submitted and reviewed, the system inspected, and said system is in compliance with the applicable provisions of these regulations.

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

Section 6. Construction and Installation Requirements

6.1. General Requirements

6.1.1. All small sewage or excreta disposal systems shall be located at that point on the premises consistent with the general layout, topography, and surroundings, including adjacent lots.

6.1.2. No part of a small sewage or excreta disposal system shall be located in swampy or filled areas, or in any area where ponding or flooding is likely to occur, without the prior written approval of the state director of health.

6.1.3. Sewage tanks shall be water-tight and constructed of materials not subject to excessive corrosion or deterioration.

6.1.4. No septic tank or a soil-absorption system shall be located within ten feet of a building foundation or property line.

6.1.5. No water-carried small sewage disposal system shall be located within 50 feet and no excreta disposal system shall be located within 100

feet of any well, cistern, spring, or other source of water supply without the written approval of the state director of health.

6.1.6. No water-carried small sewage disposal system utilizing a soil-absorption system shall have the soil-absorption system located within 100 feet of any well, spring, cistern or other source of water supply without the written approval of the state director of health.

6.1.7. No part of the small sewage or excreta disposal system shall be located within ten feet of a water service line without the written approval of the state director of health.

6.1.8. Where a water service line must cross a sewer line the bottom of the water service line, within ten feet of the point of crossing, shall be at least 18 inches above the top of the sewer line.

6.1.9. The sewer line shall be cast iron with mechanical joints for a distance of ten feet on either side of the area in which the water service line crosses said sewer line. Equivalent piping and joints may be used upon written approval by the state director of health.

6.1.10. A sewer line shall not be installed in the same trench with a water service line.

6.1.11. Roof drains, foundation drains, and surface or similar drainage shall not be discharged into a small sewage or excreta disposal system.

6.1.12. The state director of health may require that a grease interceptor or grease trap be installed on a water-carried small sewage disposal system serving dwellings or establishments discharging a large quantity of grease.

6.1.13. Sewage tanks shall have the contents removed in an approved

manner as often as necessary to prevent creating a nuisance or insanitary condition. The removal and disposal of sewage tank contents shall be conducted in accordance with all applicable provisions contained in Section 9. of these regulations.

6.2. Septic Tanks and Soil-Absorption Systems

6.2.1. In addition to meeting all applicable provisions of these regulations, all septic tanks and soil-absorption systems shall be in strict compliance with the latest design standards, specifications, and instructions issued by the state department of health.

6.2.2. The design size of the septic tank and the type and amount of soil-absorption system area needed shall be determined by the state director of health using the applicable design standards, information and specifications issued by the state department of health.

6.2.3. Percolation tests or such other tests as deemed necessary by the state director of health shall be conducted at the site on which the soil-absorption system is to be located to determine the acceptability of the site and to establish the design size of the soil-absorption system.

6.2.4. The state director of health may require as many percolation tests or other tests as he deems necessary to determine the suitability of the site, but in no case shall there be less than four separate percolation tests conducted for each site on which a soil-absorption system is to be installed.

6.2.5. Percolation and other tests shall be performed by persons whose qualifications are acceptable to the state director of health and such tests shall be conducted in accordance with the latest design standards,

information and specifications issued by the state department of health. The person conducting the tests shall certify the results of such tests and such information shall be immediately submitted to the state director of health.

6.2.6 Other types of soil-absorption tests or the use of soil maps and related information shall be used only with the written approval of the state director of health.

6.2.7. No septic tank or soil-absorption system shall be permitted where, upon review by the state director of health, the percolation tests or other test results indicate that the soil condition, geological formation or the topography is unsuitable for such systems.

6.2.8. No septic tank or soil-absorption system shall serve more than one dwelling or establishment unless prior written approval is received from the state director of health.

6.2.9. No soil-absorption system shall be permitted where the depth to normal ground water or rock strata is within four feet of the bottom of the proposed absorption system.

6.2.10. Lots, sites of other areas on which a septic tank or soil-absorption system is to be constructed or installed shall be of sufficient area and of suitable soil condition, topography, and geological formation to permit full compliance with all applicable provisions of these regulations.

6.2.10.1. Where an approved public water supply system is available but an approved public sewerage system is not available, no septic tank or soil-absorption system shall be permitted on any lot, site or area containing less than 10,000 square feet.

6.2.10.2. Where neither an approved public sewer system nor an approved public water supply system is available, no septic tank or soil-absorption system shall be permitted on any lot, site or area containing less than 20,000 square feet.

6.2.10.3. Regarding Subsection 6.2.10.1 and 6.2.10.2, the state director of health may require larger lots, sites or areas where the topography, drainage, soil condition, geological formations or other conditions indicate that an approved septic tank or soil-absorption system cannot be constructed or installed on a lot, site or area containing the minimum square footage stated under said subsections.

6.2.10.4. In those instances where a lot was purchased for dwelling construction and either its deed was recorded prior to July 1, 1970, or the lot is laid out, described and designated on a map of a subdivision, which map was recorded prior to July 1, 1970, the state director of health may waive the square footage requirements stipulated in 6.2.10.1 and 6.2.10.2 provided:

The state director of health has been petitioned and has ascertained through a hearing, an on-site inspection, confirmed soil-absorption tests, and other requirements of these regulations that a septic tank and soil-absorption system can be expected to function satisfactorily on a lot site or area containing less than the minimum prescribed number of square feet.

6.2.10.5. Regarding Subsections 6.2.10.1 and 6.2.10.2, the minimum sizes of lots as set forth in these subsections do not apply to subdivisions originating after the effective date of the regulations. Subdivisions originating after the effective date of the regulations must comply with the requirements of Section 7 of these regulations.

6.3. Small Sewage Systems

6.3.1. In addition to meeting all applicable provisions of these regulations, all small sewage systems shall be in strict compliance with the latest design standards, specifications and instructions issued by the state department of health.

6.3.2. Small sewage systems shall only be permitted after a complete application and detailed plans and specifications of the proposed systems have been reviewed and approved by the state department of health and a discharge permit issued by the chief, division of water resources, all in accordance with Chapter 20, Article 5A, Section 7, State Code.

6.3.3. A complete application for a permit to construct or install a small sewage system shall be made through the state department of health at least ninety days prior to the installation or construction of such facility.

6.3.4. The application for a permit shall be accompanied by such information as is required by the latest edition of Publication EG-6, Permit Procedure and Design Requirements for Small Sewage Systems, published by the West Virginia state department of health. Until all such required information is furnished, an application shall not be considered complete.

6.3.5. All such systems shall be fenced or otherwise protected in such a manner as to prevent the general public from having access to the immediate site on which such systems are located.

6.3.6. Small sewage systems shall be operated and maintained under the supervision of a certified waste water treatment plant operator of the classification required by the state board of health Waste Water Treatment Plant Operator Regulations. Supervision shall be as required in writing by

the state department of health for the type of treatment facility constructed.

6.3.7. Prior to construction of said small sewage system, the contractor or manufacturer installing same shall assure himself that the owner is in possession of a valid permit to construct said system issued by the state department of health and a valid permit to discharge from said system issued by the chief, division of water resources. Installation of a system without a permit is in violation of Chapter 16, Article 1, Section 9 and Chapter 20, Article 5A, Section 5, State Code, and Section 4.11 of these regulations and subject to the penalties for violation thereof.

6.4. Excreta Disposal Systems Utilizing Privies

6.4.1. Where permitted by the state director of health, and in addition to meeting all applicable provisions of these regulations, privies shall be in compliance with the latest design standards, specifications and instructions issued by the state department of health.

6.4.2. All privies shall be provided with pits, water-tight vaults, or other water-tight receptacles. Provided, that a privy vault or pit may be constructed with an open or porous bottom if said vault or pit is located not less than 100 feet from any water supply used for drinking or domestic purposes, and is so located that any leaching therefrom is disposed of in a manner that does not create a nuisance or insanitary condition.

6.4.3. No privy shall be located within 20 feet of any dwelling or establishment or within 10 feet of any property line.

6.4.4. The construction and design of the privy superstructure, vault, pit, or other type receptacle shall be such as to prevent access to

the vault, pit, or receptacle and the contents thereof by flies, rats, and wild or domestic animals.

6.4.5. Privy vaults or pits shall not be permitted to be filled to within 12 inches of the top of said vault or pit.

6.4.6. Privy vaults, pits, or receptacles shall have the contents removed as often as necessary to prevent creating a nuisance or an insanitary condition.

6.4.7. The cleaning of a privy vault, pit, or receptacle and the removal and disposal of the contents thereof shall be in compliance with all applicable provisions of Section 9 of these regulations.

6.5. Self-Contained Excreta Disposal Systems

6.5.1. Where permitted by the state director of health, in addition to meeting all applicable provisions of these regulations, all self-contained excreta disposal systems shall be in compliance with the latest design standards, specifications and instructions issued by the state department of health.

6.5.2. Self-contained excreta disposal systems shall be designed so as to prevent flies, rats and wild or domestic animals from having access to the contents thereof.

6.5.3. All fixtures, tanks, or receptacles shall be constructed of impervious, easily cleanable material.

6.5.4. Tanks and receptacles shall be water-tight and shall be vented to the outside air above the roof line of the structure housing them.

6.5.5. Tanks and receptacles shall be constantly supplied with a sufficient amount of an approved chemical agent to process and deodorize the contents thereof.

6.5.6. Tanks and receptacles shall have the contents removed and the tank or receptacle thoroughly cleaned as often as necessary to prevent creating a nuisance or an insanitary condition.

6.5.7. The removal and disposal of the contents of self-contained excreta disposal systems, chemical commodes, portable toilets, and similar devices used as excreta disposal systems at construction jobs, circuses, fairs, carnivals, public gatherings or similar events, or for use in or on motor boats, houseboats, trains, buses, airlines, mobile homes, tent and travel trailers, and similar vehicles, crafts or devices shall be in compliance with the applicable provisions of Section 9 of these regulations or as otherwise directed and approved by the state director of health.

Section 7 Subdivisions and Housing Developments

7.1. All subdivisions or housing developments originating after July 1, 1970, the effective date of the previous regulations, shall be served by an approved public sewage system or by an approved water-carried sewage disposal system specifically designed to serve the entire subdivision or housing development.

7.2. Sewage disposal systems utilizing septic tank/home aeration units or soil-absorption systems or modifications thereof may be constructed or installed within a subdivision or housing development within which the individual tracts, lots or parcels equal or exceed (5) acres each in total surface area, and which tracts are sold, leased or utilized only as single family dwelling units. Further subdivision or development of such tract for any more intense or higher density occupancy than such single family dwelling unit shall meet the requirements of Section 7.1 of these regula-

tions. Individual tracts, lots or parcels which have been platted with an average frontage of less than three hundred (300) feet shall not be considered to meet the requirements of this section even though the total surface area of said tract, lot or parcel equals or exceeds five (5) acres in total surface area.

7.3. Individual sewage systems may be constructed or installed in a subdivision or housing development within which the individual tracts, lots or parcels are less than five (5) acres each in total surface area and which tracts are sold, leased or utilized only as single family dwelling units, when the state department of health declares it impractical due to distance, population, topography, geological formation or other pertinent factors for the subdivision or housing development to be served by an approved public water system or by an approved sewage system designed specifically to serve the entire subdivision or housing development.

7.4. A declaratory ruling exempting a subdivision or housing development from the provisions of this section of the regulations shall only be granted upon application to the state department of health for such declaratory ruling. Such application shall consist of a written request from the owner of the property or his authorized agent or representative for such declaratory ruling and shall be accompanied by documentation providing supporting evidence that a central sewage collection and treatment system is not feasible or practical for that particular subdivision or housing development together with other information necessary to support the request. This documentation shall be in the form of and consist of the information required by the state department of health. The fact that an individ-

ual sewage system may function within the subdivision shall not be considered as sufficient documentation in requesting a declaratory ruling. A favorable declaratory ruling granting a subdivision exemption from the provisions of Section 7.1 of these regulations merely determines that a central sewage collection and treatment system is impractical and does not declare that each lot in a subdivision is suitable for the installation of individual sewage systems. Each lot individually must meet all other applicable requirements of these regulations.

7.5. The replatting of a prior recorded plat 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.

7.6. The subdivision of land by public or private auction sale shall constitute a subdivision under the provisions of these regulations. It shall be the responsibility of the owner to meet all requirements of these regulations.

7.7. Small sewage systems shall only be constructed or installed in a subdivision or housing development upon application to, and by first obtaining a written permit to install such a system from, the state director of health (Chapter 16, Article 1, Section 9, as amended, of the West Virginia Code).

7.8. A complete application for a permit to construct or install a water-carried sewage disposal facility for a subdivision or housing development shall be made in accordance with Section 6.3 of these regulations.

7.9. When a public sewage disposal system is proposed for a subdivision or housing development and is to be operated by an entity, such as an individual, partnership, association, cooperative or a utility corporation, the operating entity shall comply with all applicable state laws, rules and regulations of the state board of health, and the rules, ordinances and regulations of any other applicable agency, board or commission, and such entity shall be held completely responsible for the operation and maintenance of the system. If the system is to be operated by other than a utility corporation, the operating entity shall first receive written approval from the state department of health before the start of any such construction, installation or operation. Further, the entity shall be registered with the Secretary of State and be otherwise legally constituted for the purpose intended.

7.10. In addition to all the provisions contained in Section 7 of these regulations, subdivisions and housing developments shall comply in full with all other applicable provisions of these regulations.

Section 8. Design, Construction, Installation and Operation of Small Sewage and Excreta Disposal Systems

8.1. The design, construction, installation, extension, alteration, location, maintenance and operation of such systems, including toilet facilities, individual sewage systems, sewage tanks, septic tanks, small sewage systems, other recognized types of sewage treatment systems, absorption trenches, sand filter trenches, seepage beds, seepage pits, soil-absorption systems, subsurface-absorption systems, subsurface sand filters, sewer lines, privies, self-contained excreta disposal systems, and any other

excreta or sewage collection or treatment system or part thereof shall comply with the provisions of these regulations and the minimum standards and engineering practices which are approved and acceptable to the state department of health.

Section 9. Sewage Tank Cleaners

9.1. Equipment, implements, containers or other devices used in the collection, removal, transportation or disposal of the contents of sewage tanks shall be in compliance with the latest design standards, information and specification issued by the state department of health.

9.2. Prior to the issuance of a permit, and as often as he deems necessary thereafter, the state director of health shall inspect, or cause to be inspected, all sewage tank cleaning equipment, implements, 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.

9.3. Equipment, implements, containers, or other devices utilized for the collection, removal, transporting or disposal of sewage tank contents shall be maintained and operated at all times so as to prevent creating insanitary or obnoxious conditions.

9.4. Sewage tank contents are prima facie considered to be dangerous to public health and such contents shall be collected, removed, transported and disposed of in a manner so as to prevent the spread of disease and avoid nuisance conditions.

9.5. All vehicles used in the collection, removal, transportation or

disposal of sewage tank contents shall carry in a conspicuous place the name and address of the firm under which the business is conducted.

9.6. Carrier tanks used for the collection, removal, transportation or disposal of sewage tank contents shall be fully enclosed, leak-proof, fly-proof, and so operated as to prevent spillage or leakage during collection, removal, transportation and disposal.

9.7. The carrier tank aboard the vehicle, and used for collecting, removing, and transporting the contents of sewage tanks, shall be conspicuously and permanently labeled "FOR SEWAGE ONLY" in letters at least two inches high at or near the outlet valve of said carrier tank. The use of this carrier tank for any other purpose is prohibited.

9.8. Facilities shall be available for the flushing, cleaning and deodorizing of sewage tanks, carrier tanks and sewage tank cleaning implements or equipment.

9.8.1. A direct connection to a water distribution system for such flushing and/or cleaning action shall only be used when the water distribution system is protected by one or more approved and properly located back-siphonage prevention devices.

9.8.2. Wastes resulting from the flushing and/or cleaning operation shall be disposed of in accordance with applicable provisions of Subsections 9.9 and 9.10 of these regulations.

9.8.3. Odor controlling substances may be left in the sewage tank, carrier tank or other sewage tank cleaning implement or equipment, but in no case shall such substances be used in lieu of proper cleaning.

9.9. 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:

9.9.1. By incinerating in an approved high temperature incinerator.

9.9.2. By burial, provided prior written approval is received from the state director of health 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.

9.9.3. 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 use of such disposal facilities.

9.10. Special written permission from the state director of health must be obtained for any method of disposal not specifically mentioned in these regulations.

9.11. Sewage tanks after being cleaned shall be restored to condition acceptable for use.

9.12. Sewage tank cleaners shall keep an accurate and up-to-date written record of each and every sewage tank cleaned and such record shall include the method used for sewage tank content disposal and disposal point location.

9.13. 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 10. Septic Tank Contractors and Installers Certification

10.1. Within one year after the date these amended and re-adopted regulations become effective, all septic tank installers shall be certified for such activity by the state department of health. Provided, that certification requirements shall not apply to an individual who constructs, installs, extends, alters, or locates his own septic tank/home aeration unit or soil-absorption system and said system is constructed under a permit obtained from the state director of health and such system is constructed and inspected in accordance with the provisions of these regulations. Certification is not required of an engineer, trucker delivering a part or parts of a system, a manufacturer who does not install a part or parts of a system or an employee or a contractor holding a certificate unless such employee is in responsible charge. Person in responsible charge shall be considered to be the person having the direct field supervision over the actual work.

10.2. An application for certification to install septic tank/home aeration units or soil-absorption systems shall be made in writing to the state department of health on a form prescribed by the state department of health.

10.3. The state department of health shall deny certification if the information on the application form is incomplete, inaccurate, false or misleading or indicates that the provisions of these regulations cannot be met.

10.4. Certification shall not be transferable or assignable and shall automatically become invalid upon suspension or revocation.

10.5. Certification shall expire five (5) years after date of issuance

and may be renewed before such expiration date. The holder of a certificate may be required to demonstrate his understanding of current regulations pertaining to septic tank/home aeration units or soil-absorption systems.

10.6. Only a person who complies with all applicable provisions of these regulations shall be entitled to receive and retain certification.

10.7. When certification has been denied, suspended or revoked, the person thereby affected shall immediately discontinue the installation of septic tank, soil-absorption small sewage disposal systems.

10.8. Any person whose application for certification has been denied or whose certification has been suspended or revoked may request and shall be granted a hearing date on the matter within ten (10) days after the state department of health has received a written request for such a hearing.

10.9. In addition to filing an application for becoming certified to install septic tank/home aeration units or soil-absorption systems, the applicant must pass a written examination to assure the state department of health that the applicant is thoroughly familiar with all requirements of the laws of the state of West Virginia, the Small Sewage and Excreta Disposal Systems Regulations and the Design Standards For Septic Tank/Home Aeration Units or Soil-Absorption Systems.

10.9.1. Written examinations shall be administered by personnel of the state department of health and shall be given in the city of Charleston, at state health department regional offices or at a site designated by the state department of health.

10.9.2. A passing grade of 70% must be obtained before becoming

certified. Any applicant who has failed an examination must wait thirty days before again taking the examination.

10.9.3. Upon obtaining a passing grade in the written examination for certification to install septic tank/home aeration units or soil-absorption systems, the person certified is entitled to display his certification.

10.10. When any septic tank/home aeration system or soil-absorption system or modification thereof is being constructed, installed, extended, altered or located, the person in responsible charge of such work shall hold a current certification as septic tank installer.

10.11. In the event any person certified is found to be willfully violating any of the applicable requirements of these regulations, his certification may be immediately suspended by the state department of health upon its own recognition or upon recommendation of the local health officer. Upon suspension the procedure outlined in the provisions of Section 10.8 shall be followed.

Section 11. Repeal of Former Regulations

11.1. All regulations previously adopted by the West Virginia state board of health which are in conflict with the provisions of these regulations are hereby repealed.

Section 12. Severability

12.1. If any provision of these regulations or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or applications of these regulations which can be given effect without the invalid provisions or application, and to this end the provisions of these regulations are declared to be severable.

Section 13. Penalties for Violating Provisions of Regulations

13.1. 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 less than twenty-five dollars not more than five hundred dollars as provided in Chapter 16, Article 1, Section 9 of the public health laws of West Virginia, Code of West Virginia.

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