

WEST VIRGINIA STATE

BOARD OF HEALTH

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 11-2-79

Sewage System

Regulations

WEST VIRGINIA STATE BOARD OF HEALTH

CHAPTER 1, ARTICLE 10

SEWERAGE SYSTEMS REGULATIONS

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WEST VIRGINIA STATE BOARD OF HEALTH

CHAPTER 1, ARTICLE 5

SEWERAGE SYSTEM REGULATIONS

SECTION 1.0 GENERAL

1.1 Scope

These regulations amend and readopt Chapter 1, Article 10, Small Sewage and Excreta Disposal Systems Regulations, of the West Virginia State Board of Health.

1.2 Authority

Pursuant to the authority conferred upon the State Board of Health by Chapter 16, Article 1, Public Health Laws, Code of West Virginia, the State Board of Health hereby establishes these regulations as the minimum requirements for sewerage systems.

1.3 Initial Filing Date - On _____, as prescribed by Section 8, Article 3, Chapter 29A, of the Code, these regulations were filed with the Secretary of State, with an attached notice of time, date, and place for opportunity to submit data.

- 1.4 Notification of Opportunity to Submit Data - On _____, at _____ in Rooms A and B, Building Number Seven, State Capitol Complex, Charleston, West Virginia 25305, interested parties were given an opportunity to submit data, objections, suggested amendments, views, evidence, and arguments, orally, or in writing, as prescribed by Section 8, Article 3, Chapter 29A of the Code.
- 1.5 Final Adoption - On _____, the regulations were adopted by the State Board of Health as prescribed by Section 10, Article 3, Chapter 29A, of the Code.
- 1.6 Final Filing - On _____, the final version of the regulations, as adopted by the State Board of Health, with proposed effective date were filed in the state register, pursuant to Section 10, Article 3, Chapter 29A of the Code.
- 1.7 Governor's Filing - On _____, as prescribed by Section 7, Article 3, Chapter 29A, of the Code, the regulations were filed with the Governor.
- 1.8 Legislative Rule Making Review Committee - On _____, as prescribed by Section 7, Article 3, Chapter 29A of the Code, these regulations were filed with the Legislative Rule Making Review Committee, to implement a federally assisted program.

1.9 Temporary Regulations - On _____, these regulations became effective for a 90-day period, as prescribed by Section 14, Article 3, Chapter 29A, of the Code.

1.10 Effective Date - On _____, these regulations became effective, as approved by the Legislative Rule Making Committee.

SECTION 2.0 DEFINITIONS

- 2.1 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.
- 2.2 Approved - A procedure of operation or construction which is in accordance with design standards, specifications and instructions established by the Director.
- 2.3 Chief, Division of Water Resources - The Chief, Division of Water Resources, Department of Natural Resources.
- 2.4 Complete Application - Application forms, plans, specifications, fee, if required, and other data as set forth in the design standards.
- 2.5 Design Standards - Application procedures, design requirements, specifications and construction standards issued by the Director.
- 2.6 Director - Director of the State Department of Health or his delegated appointee, assistant or employee.
- 2.7 Dwelling - A building, structure or place used or intended to be used for human occupancy as a single family or multi-family res-

idence. 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.

- 2.8 Effluent - Liquid discharge from a sewage treatment or disposal system.
- 2.9 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.
- 2.10 Individual Sewer System - A system serving a single dwelling or establishment for the collection, treatment and disposal of sewage.
- 2.11 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.
- 2.12 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.

- 2.13 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.
- 2.14 Percolation Test - A test described in the design standards, by which the soils in a particular area are evaluated for subsurface effluent disposal.
- 2.15 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.
- 2.16 Person - Individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, institution, department, division, bureau, agency, or any entity recognized by law.
- 2.17 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.

- 2.18 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.
- 2.19 Sewer System - A system whether publicly or privately owned which receives, or receives and treats sewage and provides for the disposal of effluent and sludge therefrom. Included in this definition are individual sewer systems, public sewer systems, and sewage disposal systems.
- 2.20 Sewage Tank - A water-tight receptacle designed and constructed to receive and retain sewage. 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 sewage.
- 2.22 Subdivider - Any person who divides a tract or parcel of land into two (2) or more lots.
- 2.23 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.

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

2.25 Well - An artificial excavation that derives water from the gaps or

intervals of the rocks or soil which it penetrates.

SECTION 3.0 GENERAL REQUIREMENTS

- 3.1 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 design standards approved by the Director.
- 3.2 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 the design standards.
- 3.3 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.

3.4 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:

3.4.1 Shall not create a health hazard affecting the public.

3.4.2 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.

3.4.3 Shall not cause an odor or unsightly appearance.

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

- 3.5 Whenever a municipal sewer system is, or becomes accessible to and can adequately serve a property, all other sewer systems existing on or serving the property shall be abandoned and the sewage disposed of through the municipal sewer system.
- 3.6 The owner or operator of a sewer system to be abandoned shall abandon such system in a manner set forth in design standards approved by the Director.
- 3.7 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.
- 3.8 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 4.0 PERMITS

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

4.2 Individual and public sewer systems shall be permitted and constructed only after a complete 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, and where applicable, a discharge permit has been issued by the Chief, division of Water Resources in conformance with Chapter 20, Article 5A of the Code of West Virginia.

4.3 A complete 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.

4.4 A complete application for a permit to construct or install either a public sewer system or an individual sewer system discharging into the surface waters of the state shall be made in writing to the Director at least fifty (50) days prior to the intended construction or installation of such facility. A permit to construct or install shall be obtained prior to such construction or installation.

4.5 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

receipt of the written request for such hearing.

- 4.10 A permit to construct an individual sewer system shall be valid for a period of one (1) year from the date of issuance. A permit to construct a public sewer system shall be valid for a period of one (1) year from the date of issuance.
- 4.11 Permits to construct and other permits shall not be transferable or assignable and shall automatically become invalid upon a change in ownership. Permits to construct shall be issued to the property owner.

SECTION 5.0 CONSTRUCTION AND INSTALLATION REQUIREMENTS

5.1 General

- 5.1.1 The construction and installation or modification of all sewer systems shall be in accordance with the design standards, (Design standards may be obtained from the central office, district offices or local health department offices. Addresses of the central office and district offices are listed in the appendices) and approved plans and specifications of the construction permit issued by the Director. No manufacturer, installer, or contractor, shall deliver package sewage treatment plant or other sewage treatment system unless there is an existing permit for such system issued by the

Director. Prior to construction and/or installation of said sewage system, the contractor and 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, Code of West Virginia, and Section 4.0 of these regulations.

- 5.2 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.
- 5.3 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 latest 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.

SECTION 6.0 INSPECTIONS

- 6.1 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.

- 6.2 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.
- 6.3 No system shall be used or placed into operation until the system has been inspected and approved in writing by the Director.
- 6.4 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.
- 6.5 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.
- 6.6 If the Director shall find that the construction, installation, or modification 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 effective immediately. An order revoking a construction permit may be appealed in accordance with the procedure set forth in Section 4.7 of these regulations.

SECTION 7.0 MAINTENANCE AND OPERATION

- 7.1 All sewer systems shall be maintained and operated so as to be in compliance with Chapter 16 of the Code of West Virginia and the provisions of these regulations.
- 7.2 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 the Code of West Virginia, Article 11 and these regulations.

SECTION 8.0 SUBDIVISIONS

- 8.1 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.
- 8.2 In the event it is proposed that a subdivision be served by a public sewer system, a permit to construct said system must be obtained from the Director in compliance with the provisions of Section 4.0 of these regulations.

8.3 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 and the procedures set forth in the design standards. In addition, a permit to construct each individual sewer system within the subdivision shall be obtained in compliance with Section 4.0 of these regulations.

8.4 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.

8.5 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.

8.6 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 was laid out, described and designated on a map of a subdivision, which map was recorded prior to July 1, 1970, and:

8.6.1 Where an approved public water supply system is available, but an approved 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.

8.6.2 Where neither an approved public sewer system nor an approved 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.

8.7 The Director may waive the square footage requirements stipulated in Section 8.6 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.

8.8 Regarding Section 8.6, the minimum sizes of lots as set forth in this section does not apply to subdivisions originating after July 1, 1970. Lot sizes originating after July 1, 1970, must comply with the design standards.

SECTION 9.0 CORRECTION OF HEALTH HAZARDS

9.1 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 non-standard sewer system upon written petition for such system.

9.2 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.

9.3 If after presentation of the petition at an informal hearing the Director determines that a potential public health hazard exists, he may issue a declaratory ruling authorizing installation of the system desired. The declaratory ruling shall apply only to the petitioner and the facts presented at the informal hearing.

SECTION 10.0 SEWAGE TANK CLEANING

10.1 No person shall engage in the business of collecting, removing, transporting, or disposing of the contents of a sewage tank without first obtaining a permit for such activity from the Director, in accordance with SECTION 4.0 of these regulations.

10.2 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 current design standards, information, and specifications issued by the Director.

SECTION 11.0 INDIVIDUAL SEWER SYSTEMS INSTALLERS CERTIFICATION

11.1 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, 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.

11.2 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.

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

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

11.3.2 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 approved for installation by the Director.

- 11.3.3 Within one year after the date these regulations become effective, all installers of alternative and innovative systems shall be certified for this activity.
- 11.4 An application for certification to install individual systems shall be made in writing to the Director on a form prescribed by the Director.
- 11.5 The Director may deny certification if the information on the application form is incomplete, inaccurate, false or misleading.
- 11.6 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 applicable design standards.
- 11.7 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.

- 11.8 Certification shall not be transferable or assignable and shall automatically become invalid upon suspension or revocation.
- 11.9 Certification shall expire five (5) years from date of issuance and must be renewed before such expiration date.
- 11.10 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 thirty (30) days by the Director. Two such violations shall be sufficient grounds for revocation of certification.
- 11.11 Any person whose application or certification has been denied or whose certification has been suspended or revoked may request a hearing and a hearing date shall be established within ten (10) days after the Director has received a written request for such a hearing.

SECTION 12.0 REPEAL OF FORMER REGULATIONS

- 12.1 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 13.0 SEVERABILITY

- 13.1 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 14.0 PENALTIES FOR VIOLATING PROVISIONS OF REGULATIONS

14.1 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.

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

SECTION 15 CERTIFICATION AND FILING OF THE REGULATION

I hereby certify that the foregoing regulations constitute the official regulations promulgated by the State Board of Health on _____, and filed pursuant to law in the Office of Secretary of State.

George E. Pickett, M.D.
Secretary
State Board of Health

Acknowledgement, that the above regulations were filed with the Office of Secretary of State on _____

A. James Manchin
Secretary of State

WEST VIRGINIA STATE

BOARD OF HEALTH

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from one or more dwellings or establishments.

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SECTION 3.0 GENERAL REQUIREMENTS

- 3.1 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 design standards approved by the Director.
- 3.2 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 the design standards.
- 3.3 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.

3.4 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:

3.4.1 Shall not create a health hazard affecting the public.

3.4.2 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.

3.4.3 Shall not cause an odor or unsightly appearance.

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

- 3.5 Whenever a municipal sewer system is, or becomes accessible to and can adequately serve a property, all other sewer systems existing on or serving the property shall be abandoned and the sewage disposed of through the municipal sewer system.
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- 3.7 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.
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SECTION 4.0 PERMITS

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

- 4.2 Individual and public sewer systems shall be permitted and constructed only after a complete 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, and where applicable, a discharge permit has been issued by the Chief, division of Water Resources in conformance with Chapter 20, Article 5A of the Code of West Virginia.
- 4.3 A complete 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.
- 4.4 A complete application for a permit to construct or install either a public sewer system or an individual sewer system discharging into the surface waters of the state shall be made in writing to the Director at least fifty (50) days prior to the intended construction or installation of such facility. A permit to construct or install shall be obtained prior to such construction or installation.
- 4.5 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.

- 4.6 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 or the design standards cannot be met.
- 4.7 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 a sewer system, where false misleading information was utilized in obtaining the permit; or for failure to comply with a lawful order of the Director.
- 4.8 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.
- 4.9 Any person whose application for a permit has been denied or whose permit has been suspended or revoked may request a hearing and a hearing date shall be established within ten (10) days after the Director has received a written request for such hearing. Said hearing shall be held within a period of forty-five (45) days after

receipt of the written request for such hearing.

4.10 A permit to construct an individual sewer system shall be valid for a period of one (1) year from the date of issuance. A permit to construct a public sewer system shall be valid for a period of one (1) year from the date of issuance.

4.11 Permits to construct and other permits shall not be transferable or assignable and shall automatically become invalid upon a change in ownership. Permits to construct shall be issued to the property owner.

SECTION 5.0 CONSTRUCTION AND INSTALLATION REQUIREMENTS

5.1 General

5.1.1 The construction and installation or modification of all sewer systems shall be in accordance with the design standards, (Design standards may be obtained from the central office, district offices or local health department offices. Addresses of the central office and district offices are listed in the appendices) and approved plans and specifications of the construction permit issued by the Director. No manufacturer, installer, or contractor, shall deliver package sewage treatment plant or other sewage treatment system unless there is an existing permit for such system issued by the

Director. Prior to construction and/or installation of said sewage system, the contractor and 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, Code of West Virginia, and Section 4.0 of these regulations.

- 5.2 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.
- 5.3 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 latest 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.

SECTION 6.0 INSPECTIONS

- 6.1 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.

- 6.2 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.
- 6.3 No system shall be used or placed into operation until the system has been inspected and approved in writing by the Director.
- 6.4 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.
- 6.5 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.
- 6.6 If the Director shall find that the construction, installation, or modification 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 effective immediately. An order revoking a construction permit may be appealed in accordance with the procedure set forth in Section 4.7 of these regulations.

SECTION 7.0 MAINTENANCE AND OPERATION

- 7.1 All sewer systems shall be maintained and operated so as to be in compliance with Chapter 16 of the Code of West Virginia and the provisions of these regulations.
- 7.2 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 the Code of West Virginia, Article 11 and these regulations.

SECTION 8.0 SUBDIVISIONS

- 8.1 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.
- 8.2 In the event it is proposed that a subdivision be served by a public sewer system, a permit to construct said system must be obtained from the Director in compliance with the provisions of Section 4.0 of these regulations.

8.3 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 and the procedures set forth in the design standards. In addition, a permit to construct each individual sewer system within the subdivision shall be obtained in compliance with Section 4.0 of these regulations.

8.4 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.

8.5 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.

8.6 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 was laid out, described and designated on a map of a subdivision, which map was recorded prior to July 1, 1970, and:

8.6.1 Where an approved public water supply system is available, but an approved 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.

8.6.2 Where neither an approved public sewer system nor an approved 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.

8.7 The Director may waive the square footage requirements stipulated in Section 8.6 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.

8.8 Regarding Section 8.6, the minimum sizes of lots as set forth in this section does not apply to subdivisions originating after July 1, 1970. Lot sizes originating after July 1, 1970, must comply with the design standards.

SECTION 9.0 CORRECTION OF HEALTH HAZARDS

9.1 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 non-standard sewer system upon written petition for such system.

9.2 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.

9.3 If after presentation of the petition at an informal hearing the Director determines that a potential public health hazard exists, he may issue a declaratory ruling authorizing installation of the system desired. The declaratory ruling shall apply only to the petitioner and the facts presented at the informal hearing.

SECTION 10.0 SEWAGE TANK CLEANING

10.1 No person shall engage in the business of collecting, removing, transporting, or disposing of the contents of a sewage tank without first obtaining a permit for such activity from the Director, in accordance with SECTION 4.0 of these regulations.

10.2 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 current design standards, information, and specifications issued by the Director.

SECTION 11.0 INDIVIDUAL SEWER SYSTEMS INSTALLERS CERTIFICATION

11.1 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, 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.

11.2 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.

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

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

11.3.2 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 approved for installation by the Director.

11.3.3 Within one year after the date these regulations become effective, all installers of alternative and innovative systems shall be certified for this activity.

11.4 An application for certification to install individual systems shall be made in writing to the Director on a form prescribed by the Director.

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

11.6 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 applicable design standards.

11.7 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.

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

11.9 Certification shall expire five (5) years from date of issuance and must be renewed before such expiration date.

11.10 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 thirty (30) days by the Director. Two such violations shall be sufficient grounds for revocation of certification.

11.11 Any person whose application or certification has been denied or whose certification has been suspended or revoked may request a hearing and a hearing date shall be established within ten (10) days after the Director has received a written request for such a hearing.

SECTION 12.0 REPEAL OF FORMER REGULATIONS

12.1 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 13.0 SEVERABILITY

13.1 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 14.0 PENALTIES FOR VIOLATING PROVISIONS OF REGULATIONS

14.1 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.

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

SECTION 15 CERTIFICATION AND FILING OF THE REGULATION

I hereby certify that the foregoing regulations constitute the official regulations promulgated by the State Board of Health on _____, and filed pursuant to law in the Office of Secretary of State.

George E. Pickett, M.D.
Secretary
State Board of Health

Acknowledgement, that the above regulations were filed with the Office of Secretary of State on _____

A. James Manchin
Secretary of State



STATE OF WEST VIRGINIA
OFFICE OF THE SECRETARY OF STATE
CHARLESTON 25305

A. JAMES MANCHIN
SECRETARY OF STATE

STATE REGISTER FILING

I, George E. Pickett, M.D., Director of Health,
Title or Position

Department of Health, hereby submit to record in
Department or Division

the State Register on 8 1/2 x 11" paper two (2) copies of

- () proposed rules and regulations concerning topics of material not covered by existing rules and regulations;
- (x) proposed rules and regulations superseding rules and regulations already on file;
- (x) notice of hearing;
- () findings and determinations;
- () rules and regulations; or
- () other - specify ()

FILE IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 11-2-79

This filing pertains to

Chapter _____
Article _____
Series _____
Section _____
Page No. _____

- (x) proposed rules and regulations are required to go to Legislative Rule Making Committee;
- () proposed rules and regulations are excluded from Legislative Rule Making Committee;

November 2, 1979
Date Submitted

George Pickett M.D.
Signature of Person Authorizing
this Filing