

## CHAPTER 137

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**HEALTH AND ENVIRONMENT**

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## HOUSE BILL 12-1126

BY REPRESENTATIVE(S) Gerou, Fischer, Kerr J., Wilson;  
also SENATOR(S) Roberts, Boyd, Newell, Nicholson.

**AN ACT**

**CONCERNING ON-SITE WASTEWATER TREATMENT SYSTEMS, AND, IN CONNECTION THEREWITH,  
MAKING AN APPROPRIATION.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **amend** article 10 of title 25 as follows:

**ARTICLE 10****On-site Wastewater Treatment Systems Act**

**25-10-101. Short title.** This article shall be known and may be cited as the ~~"Individual Sewage Disposal~~ "ON-SITE WASTEWATER TREATMENT Systems Act".

**25-10-102. Legislative declaration.** (1) THE GENERAL ASSEMBLY DECLARES IT TO BE IN THE PUBLIC INTEREST TO ESTABLISH MINIMUM STANDARDS AND RULES FOR ON-SITE WASTEWATER TREATMENT SYSTEMS IN THE STATE AND TO PROVIDE THE AUTHORITY FOR THE ADMINISTRATION AND ENFORCEMENT OF THOSE MINIMUM STANDARDS AND RULES:

(a) ~~in order~~ To preserve the environment and protect the public health and water quality;

(b) To eliminate and control causes of disease, infection, and aerosol contamination; and

(c) To reduce and control the pollution of the air, land, and water. ~~it is declared to be in the public interest to establish minimum standards and rules for individual sewage disposal systems in the state of Colorado and to provide the authority for the~~

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

~~administration and enforcement of such minimum standards and rules:~~

**25-10-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Absorption system" means a leaching field and adjacent soils or other system for the treatment of sewage in an ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT system by means of absorption into the ground.

(2) "Applicant" means ~~any~~ A person who submits an application for a permit for an ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT system.

(3) "CESSPOOL" MEANS AN UNLINED OR PARTIALLY LINED UNDERGROUND PIT OR UNDERGROUND PERFORATED RECEPTACLE INTO WHICH RAW HOUSEHOLD WASTEWATER IS DISCHARGED AND FROM WHICH THE LIQUID SEEPS INTO THE SURROUNDING SOIL. "CESSPOOL" DOES NOT INCLUDE A SEPTIC TANK.

~~(2.5)~~ (4) "Commission" means the water quality control commission created by section 25-8-201.

~~(3)~~ (5) "Department" means the department of public health and environment ~~of the state of Colorado~~ created by section 25-1-102.

~~(4)~~ "Dispersal system" means a system for the disposal of effluent, after final treatment in an individual sewage disposal system, by a method that does not depend upon or utilize the treatment capability of the soil.

~~(5)~~ (6) "Division" means the division of administration of the department.

~~(6)~~ (7) "Effluent" means the liquid ~~waste discharge from~~ FLOWING OUT OF A COMPONENT OR DEVICE OF an ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT system.

~~(7)~~ (8) "Environmental health specialist" means a person ~~who is~~ trained in physical, biological, or sanitary science to carry out educational and inspectional duties in the field of environmental health.

~~(8)~~ "Guidelines for rules" means ~~guidelines for individual sewage disposal systems adopted and revised by the commission pursuant to the authority granted to the commission under this article:~~

(9) "Health officer" means the chief administrative and executive officer of a local PUBLIC health ~~department~~ AGENCY, or the appointed health officer of the local board of health. "HEALTH OFFICER" INCLUDES A DIRECTOR OF A LOCAL PUBLIC HEALTH AGENCY.

(10) "Individual sewage disposal system" or "ISDS" and the term "system" where the context so indicates mean an absorption system of any size or flow or a system or facility for treating, neutralizing, stabilizing, or disposing of sewage that is not a part of or connected to a sewage treatment works.

~~(11)~~ (10) "Local board of health" means any local, county, or district board of health.

~~(12)~~ (11) "Local PUBLIC health ~~department or agency~~" means any county, district, or municipal public health agency and may include a county, district, or municipal board of health or local agency delegated by a county, district, or municipal board of health to oversee ~~ISDS~~ OWTS permitting and inspection or an ~~ISDS~~ OWTS program.

(12) "ON-SITE WASTEWATER TREATMENT SYSTEM" OR "OWTS" AND, WHERE THE CONTEXT SO INDICATES, THE TERM "SYSTEM", MEANS AN ABSORPTION SYSTEM OF ANY SIZE OR FLOW OR A SYSTEM OR FACILITY FOR TREATING, NEUTRALIZING, STABILIZING, OR DISPERSING SEWAGE GENERATED IN THE VICINITY, WHICH SYSTEM IS NOT A PART OF OR CONNECTED TO A SEWAGE TREATMENT WORKS.

(13) "Percolation test" means a subsurface soil test at the depth of a proposed absorption system or similar component of an ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT system to determine the water absorption capability of the soil, the results of which are normally expressed as the rate at which one inch of water is absorbed.

(14) "Permit" means a permit for the construction or alteration, installation, and use or for the repair of an ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT system.

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

(16) "Professional engineer" means an engineer licensed in accordance with part 1 of article 25 of title 12, C.R.S.

~~(17) "Sanitarian" means a person who is trained in physical, biological, and sanitary sciences to carry out inspectional and educational duties in the field of environmental sanitation.~~

~~(18)~~ (17) "Septage" means a liquid or semisolid that includes normal household wastes, human excreta, and animal or vegetable matter in suspension or solution generated from a residential septic tank system. "Septage" may include such material issued from a commercial establishment if the commercial establishment can demonstrate to the department that ~~such~~ THE material meets the definition for septage set forth in this subsection ~~(18)~~ (17). "Septage" does not include chemical toilet residuals.

(18) "SEPTIC TANK" MEANS A WATERTIGHT, ACCESSIBLE, COVERED RECEPTACLE DESIGNED AND CONSTRUCTED TO RECEIVE SEWAGE FROM A BUILDING SEWER, SETTLE SOLIDS FROM THE LIQUID, DIGEST ORGANIC MATTER, STORE DIGESTED SOLIDS THROUGH A PERIOD OF RETENTION, AND ALLOW THE CLARIFIED LIQUIDS TO DISCHARGE TO OTHER TREATMENT UNITS FOR FINAL DISPOSAL.

(19) "Sewage" means a combination of liquid wastes that may include chemicals,

house wastes, human excreta, animal or vegetable matter in suspension or solution, and other solids in suspension or solution, and that is discharged from a dwelling, building, or other establishment.

~~(20) "Sewage treatment works" means a system or facility for treating, neutralizing, stabilizing, or disposing of sewage, which system or facility has a designed capacity to receive more than two thousand gallons of sewage per day. The term "sewage treatment works" includes appurtenances such as interceptors, collection lines, outfall and outlet sewers, pumping stations, and related equipment HAS THE SAME MEANING AS "DOMESTIC WASTEWATER TREATMENT WORKS" UNDER SECTION 25-8-103.~~

~~(21) (Deleted by amendment, L. 2006, p. 1129, § 6, effective July 1, 2006.)~~

(21) "SOIL EVALUATION" MEANS A PERCOLATION TEST, SOIL PROFILE, OR OTHER SUBSURFACE SOIL ANALYSIS AT THE DEPTH OF A PROPOSED SOIL TREATMENT AREA OR SIMILAR COMPONENT OR SYSTEM TO DETERMINE THE WATER ABSORPTION CAPABILITY OF THE SOIL, THE RESULTS OF WHICH ARE NORMALLY EXPRESSED AS THE RATE AT WHICH ONE INCH OF WATER IS ABSORBED OR AS AN APPLICATION RATE OF GALLONS PER SQUARE FOOT PER DAY.

(22) "SOIL TREATMENT AREA" MEANS THE PHYSICAL LOCATION WHERE FINAL TREATMENT AND DISPERSAL OF EFFLUENT OCCURS. "SOIL TREATMENT AREA" INCLUDES DRAINFIELDS AND DRIP FIELDS.

~~(22) (23) "State waters" means any and all surface and subsurface waters that are contained in or flow in or through this state, except waters in sewerage systems, waters in treatment works of disposal systems, waters in potable water distribution systems, and all waters withdrawn for use, until all uses and treatment have been completed HAS THE MEANING SET FORTH UNDER SECTION 25-8-103.~~

~~(23) (24) "Systems cleaner" means a person engaged in and who holds himself or herself out as a specialist in the cleaning and pumping of sewage disposal ON-SITE WASTEWATER TREATMENT systems and removal of the residues deposited in the operation thereof.~~

~~(24) (25) "Systems contractor" means a person engaged in and who holds himself or herself out as a specialist in the installation, renovation, and repair of sewage disposal ON-SITE WASTEWATER TREATMENT systems.~~

**25-10-104. Regulation of on-site wastewater treatment systems - state and local rules.** (1) The division shall develop, and RECOMMEND TO the commission ~~shall adopt guidelines~~ for ADOPTION, rules ~~providing~~ SETTING FORTH minimum standards for the location, DESIGN, construction, performance, installation, alteration, and use of ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT systems within the state of Colorado. The commission may establish criteria for issuing variances in such guidelines. Such guidelines shall comply with section 25-10-105, and shall be the basis for the adoption of detailed rules by local boards of health pursuant to subsection (2) of this section THE RULES.

(2) Every local board of health in the state shall develop and adopt DETAILED

rules for ~~individual sewage disposal systems~~ ON-SITE WASTEWATER TREATMENT SYSTEMS within ~~their respective areas~~ ITS AREA of jurisdiction. ~~Such~~ THE rules ~~shall~~ MUST comply with the ~~guidelines~~ RULES adopted by the commission pursuant to subsection (1) of this section and with ~~the minimum requirements set forth in~~ sections 25-10-105 and 25-10-106. Before finally adopting such rules or any amendment ~~thereto~~ TO THE RULES, the local board of health shall hold a public hearing on the proposed rules or amendments. ~~thereto~~: THE LOCAL BOARD OF HEALTH SHALL GIVE notice of the time and place of ~~such~~ THE hearing ~~shall be given~~ at least once, at least twenty days ~~in advance thereof~~ BEFORE THE HEARING, in a newspaper of general circulation within its area of jurisdiction. ~~The local board of health may make changes or revisions in the proposed rules or amendments thereto;~~ After the public hearing and ~~prior to~~ BEFORE final adoption, THE LOCAL BOARD OF HEALTH MAY MAKE CHANGES OR REVISIONS TO THE PROPOSED RULES OR AMENDMENTS, and no further public hearing ~~shall be~~ IS required regarding ~~such~~ THE changes or revisions. All rules and amendments ~~thereto shall~~ MUST be transmitted to the department ~~not~~ NO later than five days after final adoption and ~~shall~~ become effective forty-five days after final adoption unless the department ~~has sooner notified~~ NOTIFIES the local board of health BEFORE THE FORTY-FIFTH DAY that the rules or amendments ~~thereto~~ are not in compliance with ~~sections~~ THIS SECTION OR SECTION 25-10-105 ~~and~~ OR 25-10-106.

(3) If a local board of health has not adopted rules in compliance with this section and submitted them to the commission, the commission shall ~~then~~ promulgate rules for ~~such~~ THE areas of the state for which no complying rules have been adopted, except for ~~such~~ areas ~~as are~~ serviced exclusively by a sewage treatment works. Rules FOR SUCH AREAS OF THE STATE promulgated by the commission ~~shall~~ MUST comply with the ~~guidelines~~ RULES ADOPTED UNDER SUBSECTION (1) OF THIS SECTION and ~~minimum requirements set forth in~~ sections 25-10-105 and 25-10-106. ~~and shall~~ THE RULES MUST be the same for all the areas of the state for which the commission promulgates such rules, except as may be appropriate to provide for differing geologic conditions.

(4) ~~Rules may be adopted by~~ A local board of health MAY ADOPT RULES after action by the commission under subsection (3) of this section, if ~~such~~ THE rules ~~are~~ adopted in compliance COMPLY with the procedural requirements of subsection (2) of this section and are no less stringent than those promulgated by the commission. Rules of the local board so adopted ~~shall then~~ become effective only after they are transmitted to the division and ~~are found to be in compliance~~ THE DIVISION DETERMINES THAT THEY COMPLY with ~~the provisions of this subsection~~ (4) SECTION and ~~of~~ sections 25-10-105 and 25-10-106.

(5) ~~(Deleted by amendment, L. 97, p. 124, § 1, effective July 1, 1997.)~~ IN PROMULGATING RULES UNDER THIS ARTICLE, THE COMMISSION AND LOCAL BOARDS OF HEALTH SHALL GIVE CONSIDERATION TO THE PROTECTION OF PUBLIC HEALTH AND WATER QUALITY.

~~(6) Fees authorized in this article shall be set at such amounts as are deemed necessary to cover the actual and direct costs of the operation of the ISDS program.~~

**25-10-105. Minimum standards - variances.** (1) Rules adopted by local boards of health under section 25-10-104 (2) or (4) or promulgated by the department under

section 25-10-104 ~~(3)~~ shall (1) govern all aspects of the ~~performance~~; location, DESIGN, construction, PERFORMANCE, alteration, installation, and use of ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT systems and ~~shall~~ MUST include ~~as a minimum provisions regarding the following matters:~~ STANDARDS ESTABLISHED BY THE COMMISSION.

~~(a) Performance of soil percolation tests or other soil evaluation;~~

~~(b) Methods for calculating the maximum daily sewage flow, which shall not exceed the capacity for which the system is designed;~~

~~(c) Design criteria, including, where applicable, minimum capacities based on daily sewage flow, and construction standards for septic tanks, other types of holding or pretreatment tanks, building sewers and sewer lines, grease traps, distribution boxes, and serial distribution systems;~~

~~(d) Minimum distances from the various components of a system to pertinent features, including: Streams, lakes, watercourses, springs, wells, subsoil drains, cisterns, water lines, suction lines, gulches, dwellings, other occupied buildings, property lines, groundwater, and bedrock;~~

~~(e) For systems treating and disposing of effluent through an absorption system: Methods for calculating minimum absorption area for various types of individual sewage disposal systems and design criteria and construction standards for such systems;~~

~~(f) Provisions indicating when an individual sewage disposal system must be designed by a professional engineer and approved by the local health department;~~

~~(g) For systems disposing of effluent into state waters: Procedures for obtaining site location approval and discharge permits; general design criteria; adoption of effluent standards; requirement of design by a professional engineer; and mandatory review by the local health department of each application for such a system;~~

~~(h) For systems disposing of effluent by discharge upon the surface of the ground: Specific performance criteria to ensure that such surface discharge does not drain from the property on which the system is located, except by permit from the local board of health, and does not otherwise create a hazard to public health or water quality or constitute a nuisance or undue risk of pollution; requirement of design by a professional engineer; and mandatory review by the local health department of each application for such a system;~~

~~(i) Design criteria and construction standards for vaults; for privies and slit trenches, either of which may be prohibited at the option of the local health department; for incineration toilets, and chemical toilets; and for graywater limited to disposal of wastewater from sinks, lavatories, tubs, and showers;~~

~~(j) Performance criteria and construction standards for evapotranspiration systems that dispose of effluent into the air by evaporation from a soil surface or transpiration of plants;~~

~~(k) Performance criteria and construction standards for systems that dispose of effluent by means of dispersal systems;~~

~~(l) Performance criteria and construction standards for systems that service commercial, business, institutional, or industrial property or multifamily dwellings; requirement of design by a professional engineer; and mandatory review by the local health department of each application for such a system;~~

~~(m) If a local board of health is a separate governmental entity from any general purpose government, a provision:~~

~~(f) Requiring the local board of health to notify the local general purpose government responsible for issuing building permits whenever the local board of health intends to approve an application for an individual sewage disposal system; and~~

~~(H) Requiring the local board of health to provide an opportunity for comment by such local general purpose government.~~

(2) (a) A local board of health ~~shall have authority to~~ MAY grant variances to ISDS OWTS rules in accordance with the ~~guidelines for rules~~ CRITERIA adopted ~~and revised~~ by the commission pursuant to the ~~authority granted to the commission~~ under this article.

(b) Applicants for a variance from the ~~provisions of ISDS OWTS rules~~ shall have the burden of supplying the ~~agency~~ LOCAL BOARD OF HEALTH with information demonstrating that conditions exist that warrant the granting of ~~a~~ THE variance.

**25-10-106. Basic rules for local administration.** (1) ~~Rules adopted by~~ Local boards of health ~~under section 25-10-104 (2) or (4) or promulgated by the department under section 25-10-104 (3)~~ COMMISSION, AS APPROPRIATE, shall ~~govern~~ ADOPT RULES UNDER SECTION 25-10-104 THAT GOVERN all aspects of the application for and issuance of permits, the inspection ~~testing~~, and supervision of installed systems, the issuance of cease-and-desist orders, the maintenance and cleaning of systems, and the disposal of waste material. ~~and shall as~~ THE RULES MUST, AT a minimum, include provisions regarding: ~~the following matters:~~

(a) Procedures by which ~~application~~ A PERSON may ~~be made~~ APPLY for ~~the issuance of~~ a permit for an ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT system. The PERMIT application for a permit ~~shall~~ MUST be in writing and ~~shall~~ MUST include ~~such~~ ANY information, data, plans, specifications, statements, and commitments as ~~may be~~ required by the local board of health ~~in order~~ to carry out the purposes of this article.

(b) Review of the application and inspection of the proposed site by the local PUBLIC health ~~department~~ AGENCY;

~~(c) Specification of mandatory tests to be performed by the local health department or under the supervision of a professional engineer, including percolation tests unless excused or previously performed by a professional engineer;~~

~~(d)~~ (c) Specification of ~~additional tests~~ STUDIES to be performed and reports to be made by the applicant and the circumstances under which ~~such tests~~ THE STUDIES or reports may be required by the local PUBLIC health ~~department~~ AGENCY;

~~(e)~~ (d) Determination on behalf of the local PUBLIC health ~~department~~ AGENCY by a ~~sanitarian~~, an environmental health specialist or a professional engineer after review of the application, site inspection, test results, and other required information, whether the proposed system ~~is in compliance~~ COMPLIES with the requirements of THIS ARTICLE and the rules adopted under this article; ~~and the~~

(e) Issuance of a permit by the health officer or the health officer's designated representative if the proposed system is determined to be in compliance with ~~the requirements of~~ this article and the rules adopted under this article;

(f) Review by the local board of health, upon request of an applicant, of applications denied by the local PUBLIC health ~~department or agency~~;

(g) The circumstances under which all applications ~~shall be~~ ARE subject to mandatory review by the local PUBLIC health ~~department~~ AGENCY to determine whether a permit shall issue;

(h) Final inspection of a system to be made by the local PUBLIC health ~~department~~ AGENCY or its designated professional engineer after construction, installation, alteration, or repair work under a permit has been completed, but before the system is placed in use, to determine that the work has been performed in accordance with the permit and that the system is in compliance with this article and the rules adopted under this article;

(i) Inspection of operating systems at reasonable times, and upon reasonable notice to the occupant of the property, to determine if the system is functioning in compliance with this article and the rules adopted under this article. Officials of the local PUBLIC health ~~department shall be~~ AGENCY ARE permitted to enter upon private property for purposes of conducting such inspections.

(j) Issuance of a repair permit ~~and an emergency use permit~~ to the owner or occupant of property on which a system is not in compliance. ~~Application for a repair permit shall be made by such~~ AN owner or occupant SHALL APPLY to the local PUBLIC health ~~department~~ AGENCY FOR A REPAIR PERMIT within two business days after receiving notice from the local PUBLIC health ~~department~~ AGENCY that the system is not functioning in compliance with this article or the rules adopted under this article or otherwise constitutes a nuisance or hazard to public health or water quality. The permit shall provide for a reasonable period of time within which THE OWNER OR OCCUPANT MUST MAKE repairs, ~~shall be made~~, at the end of which period the ~~system shall be inspected by the~~ local PUBLIC health ~~department~~ AGENCY SHALL INSPECT THE SYSTEM to ~~insure~~ ENSURE that it is functioning properly. Concurrently with the issuance of a repair permit, the local PUBLIC health ~~department~~ AGENCY may ~~issue an emergency use permit authorizing~~ AUTHORIZE THE continued use of a malfunctioning system on an emergency basis for a period not to exceed the period stated in the repair permit. ~~Such an~~ THE PERIOD OF emergency use ~~permit~~ may be extended, for good cause shown, ~~in the event~~ IF, THROUGH NO FAULT OF THE OWNER OR OCCUPANT, repairs may not be completed in the period stated in the

repair permit ~~through no fault of the owner or occupant~~ AND ONLY IF THE OWNER OR OCCUPANT WILL CONTINUE TO MAKE REPAIRS TO THE SYSTEM.

(k) (I) Issuance of an order to cease and desist from the use of any ON-SITE WASTEWATER TREATMENT system or sewage treatment works that is found by the health officer not to be in compliance with this article or the rules adopted under this article or ~~THAT otherwise to constitute~~ CONSTITUTES a nuisance or a hazard to public health or water quality. Such an order may be issued only after a hearing ~~that shall be~~ IS conducted by the health officer not less than forty-eight hours after written notice ~~thereof~~ OF THE HEARING is given to the owner or occupant of the property on which the system is located and at which the owner ~~and~~ OR occupant may be present, with counsel, and be heard. The order ~~shall~~ MUST require that the owner or occupant bring the system into compliance or eliminate the nuisance or hazard within a reasonable period of time, not to exceed thirty days, or thereafter cease and desist from the use of the system. A cease-and-desist order issued by the health officer ~~shall be~~ IS reviewable in the district court for the county ~~wherein~~ IN WHICH the system is located and upon a petition filed ~~not~~ NO later than ten days after the order is issued.

(II) For the purposes of this paragraph (k), any system or sewage treatment works that does not comply with any statute or rule of this title ~~shall constitute~~ CONSTITUTES a nuisance.

(III) For the purposes of this paragraph (k), A sewage treatment works ~~shall~~ DOES not include any sewage treatment facility with a discharge permit issued pursuant to section 25-8-501.

(l) Reasonable periodic collection and testing by the local PUBLIC health ~~department~~ AGENCY of effluent samples from ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT systems for which monitoring of effluent is necessary in order to ~~insure~~ ENSURE compliance with ~~the provisions of~~ this article or the rules adopted under this article. ~~Such~~ THE sampling may be required not more than two times a year, except when required by the health officer in conjunction with action taken pursuant to paragraph (k) of this subsection (1). THE LOCAL PUBLIC HEALTH AGENCY MAY CHARGE a fee not to exceed actual costs, plus locally established mileage reimbursement rates for each mile traveled from the principal office of the local PUBLIC health ~~department~~ AGENCY to the site of the system and return, ~~may be charged by the local health department~~ for each sample collected and tested, and payment of such charges may be stated in the permit for the system as a condition for its continued use. Any owner or occupant of property on which an ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT system is located may request the local PUBLIC health ~~department~~ AGENCY to collect and test an effluent sample from the system. The local PUBLIC health ~~department~~ AGENCY may, at its option, perform such collection and testing services, and ~~it shall be~~ IS entitled to charge a fee not to exceed actual costs, plus locally established mileage reimbursement rates for each mile traveled from the principal office of the local PUBLIC health ~~department~~ AGENCY to the site of the system and return, for each ~~such~~ sample ~~so~~ collected and tested.

(m) At the option of the local board of health, maintenance and cleaning schedules and practices adequate to ~~insure~~ ENSURE proper functioning of various

types of ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT systems. The local board of health may additionally require proof of proper maintenance and cleaning, in compliance with the schedule and practices adopted under this subsection (1), to be submitted periodically to the local PUBLIC health ~~department~~ AGENCY by the owner of the system.

(n) Disposal of septage at a site and in a manner that does not create a hazard to the public health, a nuisance, or an undue risk of pollution.

**25-10-107. Fees.** (1) A local board of health may set fees for permits. The permit fees may be no greater than required to offset the actual INDIRECT and direct ~~cost~~ COSTS of the local PUBLIC health ~~department's~~ AGENCY'S services. With respect to any permit, the LOCAL BOARD OF HEALTH SHALL SET THE fee for ~~such~~ THE permit ~~shall be set~~ so as to recover, as nearly as can be practically established, the costs associated with that permit, ~~and may not~~ TO exceed one thousand dollars. A local board of health may also set fees for soil evaluation and other services as requested by the applicant. Such fees may be no greater than required to offset the actual INDIRECT and direct costs of such services.

(2) Local boards of health may set fees for percolation tests and other soil evaluation services that are performed by the local PUBLIC health ~~department~~ AGENCY. The fees may be no greater than required to offset the actual INDIRECT and direct ~~cost~~ COSTS of such services.

(3) ~~Effective July 1, 2007,~~ In addition to the fees established in this section, the division may assess a fee of twenty-three dollars for each ~~newly authorized individual sewage disposal~~ PERMIT AUTHORIZED FOR A NEW, REPAIRED, OR UPGRADED ON-SITE WASTEWATER TREATMENT system. ~~three dollars of which shall be retained by~~ OF THAT FEE, the county in which the ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT system is ~~to~~ OR WILL be ~~constructed~~ LOCATED SHALL RETAIN THREE DOLLARS to cover the county's administrative costs, and twenty dollars ~~of which~~ shall be transmitted to the state treasurer, who shall deposit ~~such~~ THAT sum in the water quality control fund created in section 25-8-502 (1) (c).

**25-10-108. Performance evaluation and approval of systems employing new technology.** (1) ~~Upon application by~~ A systems contractor, a professional engineer, or a manufacturer of ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT systems THAT EMPLOY NEW TECHNOLOGY MAY APPLY TO the division ~~may~~ FOR A DETERMINATION OF RELIABILITY OF THE SYSTEM. THE DIVISION MAY hold a public hearing to determine whether ~~a~~ THE particular design or type of system, based upon improvements or developments in the technology of sewage ~~disposal and not otherwise provided for in paragraphs (c) to (k) of subsection (1) of section 25-10-105~~ TREATMENT, has established a record of performance reliability that would justify approval of applications for such systems by the health officer without mandatory review by the local board of health. If the division determines, based upon reasonable performance standards and criteria, that ~~such~~ reliability has been established, the division shall so notify each local board of health, and applications for permits for ~~such~~ THE systems may thereafter be acted upon by the health officer, the health officer's designated representative, or the local board of health's designated representative, in the same manner as applications for systems described in section ~~25-10-105 (1) (e)~~ 25-10-106. The division shall not arbitrarily deny any

person the right to a hearing on an application for a determination of reliability under ~~the provisions of~~ this section.

(2) Except for designs or types of systems that have been approved by the division pursuant to subsection (1) of this section, the local PUBLIC health ~~department~~ AGENCY may approve an application for a type of system not otherwise provided for in ~~paragraphs (e) to (k) of subsection (1) of section 25-10-105~~ 25-10-106, only if the system has been designed by a professional engineer and only if the application provides for the installation of a backup system, of a type ~~described in said paragraphs or~~ previously approved by the division under subsection (1) of this section, in the event of failure of the primary system. A local PUBLIC health ~~department~~ AGENCY shall not arbitrarily deny any person the right to consideration of an application for such a system and shall apply reasonable performance standards in determining whether to approve ~~such~~ an application.

**25-10-109. Licensing of systems contractors and systems cleaners.** (1) The local board of health may adopt rules that provide for the licensing of systems contractors. THE LOCAL PUBLIC HEALTH AGENCY MAY CHARGE a fee, not to exceed actual costs, ~~may be charged by the local health department~~ for the initial license of a systems contractor ~~A fee not to exceed actual costs may be charged by the local health department~~ AND for a renewal of the license. Initial licensing and renewals thereof shall be for a period of not less than one year. The local board of health may revoke the license of a systems contractor for violation of ~~the applicable provisions of~~ this article or the rules adopted under this article or for other good cause shown, after a hearing conducted upon reasonable notice to the systems contractor and at which the systems contractor may be present, with counsel, and be heard.

(2) The local board of health may adopt rules that provide for the licensing of systems cleaners, pursuant to section ~~25-10-106 (1)~~ 25-10-104 (2). THE LOCAL PUBLIC HEALTH AGENCY MAY CHARGE a fee, not to exceed actual costs, ~~may be charged by the local health department~~ for the initial license of a systems cleaner ~~a fee not to exceed actual costs may be charged~~ AND for the renewal of the license. Initial licensing and renewals thereof shall be for a period of not less than one year. The local board of health may suspend or revoke the license of a systems cleaner for violation of ~~the applicable provisions of~~ this article or the rules adopted under this article or for other good cause shown after a hearing conducted upon reasonable notice to the systems cleaner and at which the systems cleaner may be present, with counsel, and be heard.

**25-10-110. Enforcement by local public health agencies and local boards of health.** The primary responsibility for the enforcement of ~~the provisions of~~ this article and the rules adopted under this article ~~shall lie~~ LIES with local PUBLIC health ~~departments~~ AGENCIES and local boards of health. ~~In the event that~~ IF a local PUBLIC health ~~department~~ AGENCY or local board of health substantially fails to administer and enforce ~~the provisions of~~ this article and the rules adopted under this article, the department may assume ~~such of the~~ ANY functions of the local PUBLIC health ~~department~~ AGENCY or board of health as may be necessary to protect the public health and water quality.

**25-10-111. Authority of local boards of health to deny permits for on-site wastewater treatment systems in unsuitable areas.** ~~The local board of health may~~

~~conduct a public hearing, after written notice to all affected property owners as shown in the records of the county assessor and publication of notice in a newspaper of general circulation, at least ten days prior to the hearing, to consider the prohibition of permits for individual sewage disposal systems in defined areas that contain or are subdivided for a density of more than two dwelling units per acre. The local board of health may order such prohibition upon a finding that the construction and use of additional individual sewage disposal systems in the defined area will constitute a hazard to the public health or water quality. In such a hearing, the local board of health may request affected property owners to submit engineering and geological reports concerning the defined area and to provide a study of the economic feasibility of constructing a sewage treatment works~~

NOTHING IN THIS ARTICLE PREEMPTS OR AFFECTS THE ABILITY OF A LOCAL BOARD OF HEALTH TO PROHIBIT ISSUANCE OF OWTS PERMITS, IN ACCORDANCE WITH APPLICABLE LAND USE LAWS AND PROCEDURES, FOR DEFINED AREAS IN WHICH THE LOCAL BOARD OF HEALTH DETERMINES THAT CONSTRUCTION AND USE OF ADDITIONAL ON-SITE WASTEWATER TREATMENT SYSTEMS MAY CONSTITUTE A HAZARD TO PUBLIC HEALTH OR WATER QUALITY.

**25-10-112. General prohibitions - rules.** (1) No city, county, or city and county shall issue to any person:

(a) A permit to construct or remodel a building or structure that is not serviced by a sewage treatment works until THE LOCAL PUBLIC HEALTH AGENCY HAS ISSUED a permit for an ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT system; ~~has been issued by the local health department.~~ OR

~~(2) (b) No~~ A city, county, or city and county occupancy permit ~~shall be issued to any person~~ for the use of a building that is not serviced by a sewage treatment works until THE LOCAL PUBLIC HEALTH AGENCY MAKES a final inspection of the ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT system, ~~has been made by the local health department,~~ as provided for in section 25-10-106 (1) (h), and the LOCAL PUBLIC HEALTH AGENCY APPROVES THE installation. ~~has received the approval of the local health department.~~

~~(3) No individual sewage disposal system presently in use that does not comply with the provisions of section 25-10-105 (1) (c) regarding minimum separation between the maximum seasonal level of the groundwater table and the bottom of an absorption system shall be permitted to remain in use without compliance with this article and the rules adopted under this article.~~

~~(4) (2) Construction of NEW cesspools defined as covered underground receptacles that receive untreated sewage from a building and permit the untreated sewage to seep into surrounding soil, is prohibited.~~

~~(5) (3) A PERSON SHALL not CONNECT more than one dwelling, commercial, business, institutional, or industrial unit shall be connected to the same individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT system unless such multiple connection was specified in the application submitted and in the permit issued for the system.

~~(6) (4) No person shall construct or maintain any dwelling or other occupied~~

structure that is not equipped with adequate facilities for the sanitary disposal of sewage. ~~without endangering the public health or water quality.~~

~~(7)~~(5) All persons shall dispose of septage removed from systems in the process of maintenance or cleaning at an approved site and in an approved manner under this article.

**25-10-113. Penalties.** (1) Any person who commits any of the following acts or violates ~~any of the provisions of~~ this article commits a class 1 petty offense ~~as defined~~ AND SHALL BE PUNISHED AS PROVIDED in section 18-1.3-503, C.R.S.:

(a) Constructs, alters, installs, or permits the use of any ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT system without first ~~having applied~~ APPLYING for and ~~received~~ RECEIVING a permit as ~~provided for in section 25-10-105 (1) (g) or section 25-10-106~~ REQUIRED UNDER THIS ARTICLE;

(b) Constructs, alters, or installs an ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT system in a manner that involves a knowing and material variation from the terms or specifications contained in the application, ~~or permit, OR~~ VARIANCE;

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

(d) Conducts a business as a systems contractor without having obtained the license provided for in section 25-10-109 (1) in areas in which the local board of health has adopted licensing regulations pursuant to ~~said~~ THAT section;

(e) Conducts a business as a systems cleaner without having obtained the license provided for in section 25-10-109 (2) in areas in which the local board of health has adopted licensing regulations pursuant to ~~said~~ THAT section;

(f) Falsifies or maintains improper record-keeping concerning system cleaning activities not performed or performed improperly; or

(g) Willfully fails to submit proof of proper maintenance and cleaning of a system as required by rules adopted pursuant to section 25-10-106.

(2) Upon a finding by the local board of health that a person is in violation of ~~the provisions of~~ this article or ~~the~~ OF rules adopted and promulgated pursuant to this article, the local board of health may assess a penalty of up to fifty dollars for each day of violation. In determining the amount of the penalty to be assessed, the local board of health shall consider the seriousness of the danger to the health of the public caused by the violation, the duration of the violation, and whether the person has previously been determined to have committed a similar violation.

(3) A person subject to a penalty assessed pursuant to subsection (2) of this section may appeal the penalty to the local board of health by requesting a hearing before the appropriate body. ~~Such a~~ THE request ~~shall~~ MUST be filed within thirty days after the penalty assessment is issued. ~~A hearing before~~ The local board of health ~~pursuant to this subsection (3) shall be conducted~~ SHALL CONDUCT A

HEARING UPON THE REQUEST in accordance with section 24-4-105, C.R.S.

**SECTION 2.** In Colorado Revised Statutes, 12-58-102, **amend** (5) (b) introductory portion and (5) (b) (III) as follows:

**12-58-102. Definitions.** As used in this article, unless the context otherwise requires:

(5) (b) Notwithstanding ~~the provisions of~~ paragraph (a) of this subsection (5), the following ~~shall~~ is not be included within the definition of "plumbing":

(III) Performance, location, construction, alteration, installation, and use of ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT systems pursuant to article 10 of title 25, C.R.S., which are located within a property line.

**SECTION 3.** In Colorado Revised Statutes, 25-8-103, **amend** (1.4) as follows:

**25-8-103. Definitions.** As used in this article, unless the context otherwise requires:

(1.4) "Biosolids" means the accumulated residual product resulting from a domestic wastewater treatment works or other domestic sources. "Biosolids" does not include grit or screenings from a wastewater treatment works or commercial and industrial septage or ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT systems as regulated by article 10 of this title.

**SECTION 4.** In Colorado Revised Statutes, 25-8-202, **amend** (1) (m) as follows:

**25-8-202. Duties of commission - rules.** (1) The commission shall develop and maintain a comprehensive and effective program for prevention, control, and abatement of water pollution and for water quality protection throughout the entire state and, to ensure provision of continuously safe drinking water by public water systems, and, in connection therewith, shall:

(m) Adopt ~~guidelines for~~ rules providing minimum standards for the location, construction, performance, installation, alteration, and use of ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT systems within the state of Colorado, in accordance with section 25-10-104;

**SECTION 5.** In Colorado Revised Statutes, 25-8-502, **amend** (1) (b.7) (I) and (1) (b.7) (II) as follows:

**25-8-502. Application - definitions - fees - water quality control fund - animal feeding operations fund - public participation - repeal.** (1) (b.7) Effective July 1, 2007, in accordance with section 25-8-702, the division may assess a fee upon a domestic wastewater treatment works, and all such fees shall be paid in advance of any work done in accordance with the following schedule:

(I) **Category 44 Wastewater site applications**

Ch. 137	Health and Environment		495
Subcategory 1	Wastewater treatment plants (less than 100,000 gallons per day)		
		new	\$ 7,738
		expansion	\$ 6,191
Subcategory 2	Wastewater treatment plants (100,000 gallons to 999,999 gallons per day)		
		new	\$ 15,477
		expansion	\$ 12,381
Subcategory 3	Wastewater treatment plants (1,000,000 gallons to 9,999,999 gallons per day)		
		new	\$ 23,215
		expansion	\$ 18,572
Subcategory 4	Wastewater treatment plants (10,000,000 gallons per day or more)		
		new	\$ 30,953
		expansion	\$ 24,763
Subcategory 5	Lift stations (less than 100,000 gallons per day)		
		new	\$ 1,935
		expansion	\$ 1,548
Subcategory 6	Lift stations (100,000 gallons to 999,999 gallons per day)		
		new	\$ 3,869
		expansion	\$ 3,095
Subcategory 7	Lift stations (1,000,000 gallons to 9,999,999 gallons per day)		
		new	\$ 5,804
		expansion	\$ 4,643
Subcategory 8	Lift stations (10,000,000 gallons per day or more)		
		new	\$ 7,738
		expansion	\$ 6,191
Subcategory 9	Amendments to site applications concerning a change from gas chlorination to liquid chlorination or from any form of chlorination		

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	to ultraviolet light disinfection (less than 100,000 gallons per day)	\$ 451
Subcategory 10	Amendments to site applications concerning a change from gas chlorination to liquid chlorination or from any form of chlorination to ultraviolet light disinfection (100,000 gallons to 999,999 gallons per day)	\$ 903
Subcategory 11	Amendments to site applications concerning a change from gas chlorination to liquid chlorination or from any form of chlorination to ultraviolet light disinfection (1,000,000 gallons to 9,999,999 gallons per day)	\$ 1,354
Subcategory 12	Amendments to site applications concerning a change from gas chlorination to liquid chlorination or from any form of chlorination to ultraviolet light disinfection (10,000,000 gallons per day or more)	\$ 1,806
Subcategory 13	Other amendments to site applications (less than 100,000 gallons per day)	\$ 645
Subcategory 14	Other amendments to site applications (100,000 gallons to 999,999 gallons per day)	\$ 1,290
Subcategory 15	Other amendments to site applications (1,000,000 gallons to 9,999,999 gallons per day)	\$ 1,935
Subcategory 16	Other amendments to site applications (10,000,000 gallons per day or more)	\$ 2,579
Subcategory 17	<del>Individual sewage disposal</del> ON-SITE WASTEWATER TREATMENT systems	\$ 4,500
Subcategory 18	Extension	\$ 650
Subcategory 19	Interceptors site applications	\$ 1,300

Ch. 137	Health and Environment		497
Subcategory 20	Interceptor certifications		\$ 300
Subcategory 21	Outfall sewers		\$ 1,300
<b>(II) Category 45 Wastewater design review</b>			
Subcategory 1	Wastewater treatment plants (less than 100,000 gallons per day)		
		new	\$ 4,900
		expansion	\$ 3,900
Subcategory 2	Wastewater treatment plants (100,000 gallons to 999,999 gallons per day)		
		new	\$ 9,900
		expansion	\$ 7,900
Subcategory 3	Wastewater treatment plants (1,000,000 gallons to 9,999,999 gallons per day)		
		new	\$ 14,800
		expansion	\$ 11,800
Subcategory 4	Wastewater treatment plants (10,000,000 gallons per day or more)		
		new	\$ 19,700
		expansion	\$ 15,800
Subcategory 5	Lift stations (less than 100,000 gallons per day)		
		new	\$ 1,200
		expansion	\$ 1,000
Subcategory 6	Lift stations (100,000 gallons to 999,999 gallons per day)		
		new	\$ 2,500
		expansion	\$ 2,000
Subcategory 7	Lift stations (1,000,000 gallons to 9,999,999 gallons per day)		
		new	\$ 3,700
		expansion	\$ 3,000
Subcategory 8	Lift stations (10,000,000 gallons per day or more)		
		new	\$ 4,900
		expansion	\$ 3,900

Subcategory 9	Amendments to site applications concerning a change from gas chlorination to liquid chlorination or from any form of chlorination to ultraviolet light disinfection (less than 100,000 gallons per day)	\$ 500
Subcategory 10	Amendments to site applications concerning a change from gas chlorination to liquid chlorination or from any form of chlorination to ultraviolet light disinfection (100,000 gallons to 999,999 gallons per day)	\$ 1,000
Subcategory 11	Amendments to site applications concerning a change from gas chlorination to liquid chlorination or from any form of chlorination to ultraviolet light disinfection (1,000,000 gallons to 9,999,999 gallons per day)	\$ 1,500
Subcategory 12	Amendments to site applications concerning a change from gas chlorination to liquid chlorination or from any form of chlorination to ultraviolet light disinfection (10,000,000 gallons per day or more)	\$ 2,000
Subcategory 13	Other amendments to site applications (less than 100,000 gallons per day)	\$ 700
Subcategory 14	Other amendments to site applications (100,000 gallons to 999,999 gallons per day)	\$ 1,400
Subcategory 15	Other amendments to site applications (1,000,000 gallons to 9,999,999 gallons per day)	\$ 2,100
Subcategory 16	Other amendments to site applications (10,000,000 gallons per day or more)	\$ 2,800
Subcategory 17	<del>Individual sewage disposal</del> ON-SITE WASTEWATER TREATMENT	

Ch. 137	Health and Environment	499
	systems	\$ 3,000
Subcategory 18	Interceptors	\$ 1,400
Subcategory 19	Outfall sewers	\$ 1,400

**SECTION 6.** In Colorado Revised Statutes, 25-8.5-120, **amend** (2) introductory portion as follows:

**25-8.5-120. Exclusion of property.** (2) In order for such property to be excluded, the board ~~shall~~ MUST determine that the property ~~to be excluded~~ does not receive wastewater treatment services or have an ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT system located within the authority and either:

**SECTION 7.** In Colorado Revised Statutes, 25-9-102, **amend** (4.5) as follows:

**25-9-102. Definitions.** As used in this article, unless the context otherwise requires:

(4.5) "Domestic wastewater treatment facility" means any facility or group of units used for the treatment of domestic wastewater or for the reduction and handling of solids and gases removed from such wastes, whether or not ~~such~~ THE facility or group of units is discharging into state waters. "Domestic wastewater treatment facility" specifically excludes ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT systems.

**SECTION 8.** In Colorado Revised Statutes, 32-1-1006, **amend** (1) (a) (II) as follows:

**32-1-1006. Sanitation, water and sanitation, or water districts - additional powers - special provisions.** (1) In addition to the powers specified in section 32-1-1001, the board of any sanitation, water and sanitation, or water district has the following powers for and on behalf of such district:

(a) (II) Nothing in subparagraph (I) of this paragraph (a) ~~shall be construed as authorizing~~ AUTHORIZES the board of any sanitation, water and sanitation, or water district to compel any connection with the sewer, water and sewer, or water lines, as applicable, of such district, by any owner of premises located outside of such district who utilizes private or nongovernmental persons, services, systems, or facilities including ~~but not limited to,~~ an ~~individual sewage disposal~~ ON-SITE WASTEWATER TREATMENT system, for the provision of sewer, water and sewer, or water lines to such premises.

**SECTION 9. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the water quality control fund created in section 25-8-502 (1) (c), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for the fiscal year beginning July 1, 2012, the sum of \$8,530 and 0.1 FTE, or so much thereof as may be necessary, for allocation to the water quality control division for the water quality control commission related to the implementation of this act.

**SECTION 10. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2012 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 26, 2012