

Section 20 – Enforcement Procedures

1. Primary Enforcement Responsibility

- a. The primary responsibility for enforcement of the provisions of the OWTS Act and these Regulations shall lie with the Department and Board of Health.
- b. In the event that the Clear Creek Environmental Health Department fails to administer and enforce the provisions of the regulations adopted under the OWTS Act, the Division may assume such functions of the Department as may be necessary to protect the public health and environment pursuant to §25-10-110, C.R.S.

2. Notice of Violation

- a. Whenever the Department determines there has been a violation of any pertinent provision of these Regulations, the Department will give written notice of such violation to the property owner. Such Notice of Violation will specify the violation(s), provide a reasonable time for correction, not exceed 30 days, and be addressed to the owner of the property concerned.
- b. The written Notice of Violation will be given to the property owner by personal service or registered or certified mail, return receipt requested. Service will be complete as to the date of the certificate of mailing or hand delivery.
- c. If service is made by posting the Notice of Violation in a conspicuous place, the Department must include in the record a statement as to why the posting was necessary.
- d. If it is determined by the Department that the system is failing, the property owner shall apply for a permit to repair the system within two business days of receipt of the Notice of Violation or the Department may proceed with a cease and desist order.
- e. If all documentation pursuant to Section 4 has not been submitted to the Department within seven days of the submission of the application, the Department may proceed with a cease and desist order.
- f. Upon receipt of a Notice of Violation for a malfunctioning system, the property owner shall pump the septic tank and provide documentation of the pumping to the Department within seven days of the pumping. Additional pumping of the septic tank may be required during the repair process if the Department determines that the malfunction continues to constitute a nuisance or hazard to public health.

3. Stop Work Notice

- a. If work is done without a permit issued by the Department, the Department must post a stop work notice on the property and issue a Notice of Violation. Work cannot continue until the Department issues the appropriate permit. Failure to cease work will result in a cease and desist and suspension or revocation of the System Installer's license.

4. Cease and Desist Orders

- a. The Department may request that the Board of Health issue an order to cease and desist from the use of any OWTS or sewage treatment works which is found by the Department not to be in compliance with these Regulations or the OWTS Act or is found to constitute a hazard to public health or has not otherwise received timely repairs under the provisions of section 25-10-106 (1) (j), C.R.S.
- b. Such an order may be issued only after a hearing which will be conducted by the Clear Creek County Board of Health not less than 48 hours after written notice thereof is given to the owner of the property on which the system is located. The order shall require that the owner bring the system into compliance or eliminate the health hazard within a reasonable period of time, not to exceed 30 days, or thereafter cease and desist from the use of the system.
- c. After the Department verifies the OWTS or sewage treatment works is in compliance with these Regulations or the hazard to public health has been eliminated, the Department will schedule a hearing with the Board of Health to lift the cease and desist order. The Department may issue a letter allowing temporary use of the OWTS or sewage treatment works while the Board of Health hearing to lift the order is pending
- d. A cease and desist order issued by the Board of Health shall be reviewable in the district court for the county wherein the system is located and upon a petition filed not later than ten days after the order is issued.

5. Penalties and Fines

- a. Any person who commits any of the following acts or violates any of the provisions of this section commits a Class 1 petty offense as defined in §18-1.3-503, C.R.S.
 - i. Constructs, alters, repairs, installs, or permits the use of any OWTS without first having applied for and received a permit pursuant to Section 4 of these Regulations and § 25-10-106, C.R.S.;
 - ii. Constructs, alters, or installs an OWTS in a manner which involves a knowing and material variation from the terms or specifications contained in the application, permit or variance;
 - iii. Violates the terms of a cease and desist order that has become final under the terms of Section 21.4, above, and §25-10-106 (1) (k), C.R.S.;
 - iv. Conducts a business as a Systems Installer without having obtained the license provided for in Section 18 of these Regulations and § 25-10-109 (1), C.R.S.;
 - v. Conducts a business as a Systems Cleaner without having obtained the license provided for in Section 19 of these Regulations and § 25-10-109 (2), C.R.S.;
 - vi. Falsifies or maintains improper records concerning system cleaning activities not performed or performed improperly; or
 - vii. Willfully fails to submit proof of proper maintenance and cleaning of a system as required by these Regulations

- b. Upon a finding by the Clear Creek County Board of Health that a person is in violation of this regulation, the Board 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.
 - i. A person subject to a penalty assessed, may appeal the penalty to the Clear Creek County Board of Health by requesting a hearing before the appropriate body. The request must be filed within thirty days after the penalty assessment is issued. The local board of health shall conduct a hearing upon the request in accordance with section 24-4-105, C.R.S.