

MONTEZUMA COUNTY PUBLIC HEALTH DEPARTMENT ON-SITE WASTEWATER TREATMENT SYSTEM REGULATION 43

1.1 Title and Authority

These requirements will be known as the Montezuma County Public Health Department (MCPHD) On-site Wastewater Treatment Systems (OWTS) Regulations.

These requirements have been adopted by the Montezuma County Board of County Commissioners acting as a Board of Health pursuant to and under authority contained in the On-Site Wastewater Treatment System Act, 25-10-101, et seq. C.R.S. and has designated the Montezuma County Public Health Department to implement these OWTS Regulations on behalf of the Board of Health.

1.2 Scope and Purpose

A. Declaration

1. This regulation applies to On-site Wastewater Treatment Systems as defined in section 25-10-103(12), C.R.S.

B. Purpose

1. The purpose of these Montezuma County On-Site Wastewater Treatment Systems Regulations is to establish the minimum standards for the location, design, construction, performance, installation, alteration and use of OWTS with a design capacity less than or equal to 2,000 gallons per day within Montezuma County.

C. Jurisdiction

1. These Montezuma County On-Site Wastewater Treatment Systems Regulations apply to all OWTS in the unincorporated areas of the county and over all municipal corporations within the territorial limits of Montezuma County but not over the territory of any municipal corporation that maintains its own public health agency.

D. Prohibition of OWTS Where Public Sewer Service is Available and Feasible

1. An OWTS permit must not be issued to any person when the subject property is located within a municipality or special district that provides public sewer service, except where such sewer service to the property is not feasible in the determination of the municipality or special district, or the permit is otherwise authorized by the municipality or special district. [43.4(B)(11)]

E. Severability

1. Should any section, clause, or provision of these Regulations be declared by a court of competent jurisdiction to be invalid, such decision will not affect the validity of these Regulations as a whole, or any part thereof other than the part declared to be invalid.

1.3 Definitions

- A. Major Repair- The expansion or alteration of soil treatment area, additional septic tanks, or additional flows to an existing system. A newly engineered system does not constitute a major repair.
- B. Minor Repair- The repair or replacement of any portion of the system including a tank replacement. A newly engineered system does not constitute a minor repair.

1.4 Incorporation of Regulation 43

A. Included By Reference

1. The requirements of the Colorado Water Quality Control Commission's "On-site Wastewater Treatment System Regulation, Regulation 43, 5 CCR 1002-43, Effective date, June, 30, 2017", are made a part of these Montezuma County On-Site Wastewater Treatment Systems Regulations and will apply except where identified as an option of the

local public health agency or where these regulations are more stringent than Regulation 43, 5 CCR 1002-43, and included in these Montezuma County On-Site Wastewater Treatment Systems Regulations. All aspects of an On-site Wastewater Treatment System including, but not limited to, permits, design, performance, location, construction, alteration, inspection, maintenance and use must be as provided in Regulation 43 and any additional requirements contained in these Regulations.

2. Allowable local options identified in Regulation 43 but not identified in this text and the designated decisions for these Montezuma County On-Site Wastewater Treatment Systems Regulations are identified in the attached "Appendix A to OWTS Regulations for Montezuma County. Appendix A is made a part of these Montezuma County On-Site Wastewater Treatment Systems Regulations.

1.5 Permits and Fees

A. Permits [43.4(B)]

1. Prior to installing, altering, expanding or repairing an OWTS, the applicant must obtain a permit from MCPHD.
2. The permit application must include information identified in section 43.4(B)(3) of Regulation 43. An applicant must submit a complete application, a set of engineered plans, and have road impact fees paid, if required, prior to installing, altering or repairing a system.
3. An OWTS permit and engineered plans expire one year after the date of issuance if construction has not commenced. After expiration, a new application and new plans may be required unless approved by the designing engineer or MCPHD. The plans must be in compliance with the current OWTS Regulations.
4. Any change in plans or specifications of the OWTS after the permit has been issued invalidates the permit unless the permittee receives written approval from the MCPHD. After a permit is invalidated, a new application and subsequent permit is required to begin construction.
5. Repair permits must identify a reasonable period of time in which the owner must make repairs prior to expiration of the permit.
6. Application for a product development permit may be approved by the MCPHD consistent with requirements of section 43.4(I) of Regulation 43.
7. A change in use of the property, where flow or wastewater strength will be increased, may require a new application for a permit. The change in use will be determined by the Planning Department. Other fees may be applicable.

B. Board of Health Review [43.4(B)(9)]

1. When an application is denied by Montezuma County Public Health Department, an applicant may request review by the Board of Health. Appeals to the Board of Health must be in writing and submitted within thirty (30) days from the date of the denial. The appeal must be submitted to MCPHD.

C. Fees [43.4(B)(4)]

1. Permit fees and fees for other services and tests associated with OWTS will be set by the Board of Health, in conformance with section 43.4(B)(4) and (5) of Regulation 43 and 25-10-107, C.R.S.

D. Surcharge [43.4(B)(5)]

1. A surcharge of \$23.00 will be collected for each permit issued by MCPHD. Of that fee, MCPHD will retain three dollars to cover administrative costs and twenty dollars must be transmitted to the Colorado Department of Public Health and Environment (CDPHE) for the use and funding of the OWTS program.

E. Road Impact

1. Montezuma County requires road impact fees for the applicants filing an On-Site Wastewater permit. This fee is on any new residential or commercial structure on the property. Applicants must consult with the Planning Department to identify if road impact fees are required.

1.6 Inspections [43.4(E)]

A. Septic Tank [43.9(B)(3)(c)], Soil Treatment Area and Related Components[43.10(F)]

1. The applicant, their agent, a system contractor or a professional engineer must notify MCPHD at least 24 hours prior to the time of requested inspection. The septic tank and soil treatment area installation shall be substantially complete prior to the requested inspection prior to backfill of the system. MCPHD may, at its own initiative, perform an inspection at any time during the construction process.

1.7 System Design

A. Engineered Systems

1. All systems in Montezuma County will be designed by a currently certified Colorado Registered Engineer.

1.8 Variances [43.4(N)]

A. Variances are not allowed.

1.9 Transfer of Title Inspections [43.4.L] Effective date January 1, 2019

A. Systems that require an inspection.

1. Residential or commercial structures located on properties since 1974, that do not currently have an On-Site Wastewater System Permit.
2. Property has a permit issued 20 years or older.
3. Property has a higher level treatment system. (TL2, TL2N, TL3, TL3N)
4. Property's OWTS had a previous failure.
5. The property has a valid permit, but the property has no structure.

B. Applications for the transfer of title shall be made on the appropriate form furnished by Montezuma County Public Health Department and must include:

1. All information required by section 43.4(L)(3) of Regulation 43.
2. When required, a copy of a maintenance contract and inspection report dated not more than ninety (90) days prior to the date of application of the system contains any mechanical components, such as an aeration or secondary treatment system, and an inspection report from the service provider.
3. A report from an inspector who has been certified under the National Association of Wastewater Technicians (NAWT) Onsite Wastewater Inspector Program. The form cannot be dated more than twelve (12) months prior to the date of the transfer of title application and must contain the following:
 - A. A record drawing showing the location of the dwelling(s) or structure(s) with the location of the septic tank lid(s) and soil treatment area. This requirement may be waived if such a drawing or data is already on file with MCPHD.

- B. An inspection report for the OWTS which states whether each component is in good repair and proper working order, and that the inspection was conducted to meet all of the MCPHD requirements.
 - C. If the property is unoccupied, a statement of when the vacancy occurred.
4. All components that are found to be in a state of malfunction must be noted and disclosed within the inspection report.
- C. Minimum Requirements 43.4(L)(5)
- 1. Minimum Criteria
 - a. Items noted in the inspection report that do not comply with the following criteria and conditions must be corrected along with necessary permits and inspections prior to the issuance of a final acceptance document. The existing system must meet, at a minimum, the following criteria and conditions set forth in 43.4(L)(5) of Regulation 43.
- D. Issuance of an Acceptance Document
- 1. When the criteria set forth above have been met, MCPHD must issue an acceptance document to include;
 - (a) Statement of the size, type and capacity of the system and a record drawing, either from MCPHD records (verified by a NAWT inspector) or from the inspection reports.
 - (b) Evidence of past system failures as shown in MCPHD records.
 - (c) Circumstances or factors that may have affected the ability of the NAWT inspector to evaluate the system.
 - (d) Whether the system meets the permitting requirements of MCPHD.
 - (e) Other information MCPHD may require.
 - 2. The acceptance document will remain valid until the date of real estate closing or for a maximum period of twelve months, whichever comes first. Upon expiration, if the transfer has not occurred, a new application will be required.
 - 3. Waiver of an Acceptance Document
 - A. If it is determined by MCPHD that an OWTS does not meet the requirements for issuance of an acceptance document, a conditional acceptance document may be issued, provided that the purchaser of the property agrees to obtain a permit and complete all necessary repairs to the system (or connect to a sanitation district, if appropriate) within 90 days of occupying the property. MCPHD may at its discretion, allow for repairs within a reasonable time if there are extenuating conditions.

4. Revocation of an Acceptance Document
 - A. An acceptance document must be revoked if it is determined that the system is no longer functioning in accordance with this regulation or that false or misleading material statements were made on the application or inspection reports.
5. Penalties
 - A. Failure to obtain an acceptance document for a covered transaction as provided by this regulation will subject the owner who failed to obtain the document to a penalty assessed under section 25-10-113, C.R.S.

2.0 Oversight program of inspections, maintenance, recordkeeping and enforcement for higher level treatment systems. [43.14(D)]

- A. The oversight of higher level treatment systems with size or setback reductions will be administered and enforced by MCPHD.
- B. An operating permit shall be maintained until the system is either abandoned or MCPHD authorizes the decommissioning or removal of the higher level treatment system.
- C. The Board of Health may adopt additional fees for the administration of this oversight program.
- D. Application Requirements
 1. Owner name and contact information.
 2. Property address and legal description.
 3. Location of OWTS specifying location of septic tank, higher level treatment system, soil treatment area and other components.
 4. Description of OWTS installed.
 5. Level of treatment to be provided.
 6. Type of higher level treatment system.
 7. Name of service provider.
 8. Copy of current operation and maintenance service contract of at least one year duration.
 9. Permit fee.
- E. Inspection, Maintenance and Reporting Requirements
 1. The property owner is responsible for having the OWTS containing a higher level treatment system inspected and maintained by a qualified service provider in accordance with the manufacturer's recommendations.
 2. For public domain systems, inspection and maintenance shall be as determined by the design engineer or the following requirements, whichever is more stringent. Not all requirements will apply to all types of higher level treatment systems.
 - a. Property owners shall maintain an active service contract with a qualified service provider at all times.
 - b. Each time his/her contract is renewed or replaced, the property owner shall submit a copy to MCPHD within 30 days of signing.

3. At a minimum, inspections and maintenance of higher level treatment systems shall require two inspections at six month intervals for the first of year of operation, followed by annual inspections for the life of the system. MCPHD may amend the operating permit to reduce or increase the maintenance.
 4. Service providers shall provide a copy of their inspection report and sampling results, if any, to the owner, and MCPHD.
 - a. Inspection reports must include, at a minimum, the information specified in Section 43.14(D)(4)(a)(7) of Regulation 43 and any information the manufacturer recommends at the time of the inspection.
 - b. Service providers must notify MCPHD when a service contract is terminated prior to the expiration date on the original contract kept on file by MCPHD. If termination occurs, a new application for an operating permit may be required.
 - c. Service providers must obtain appropriate training and/or certification for specific proprietary treatment products as provided by the manufacturer necessary to provide the required operation and maintenance for the relevant product.
- F. Monitoring and Sampling
1. For any system for which monitoring of effluent is required, the information specified in 43.14(E) shall be required by MCPHD. Collection of samples will be conducted by the service provider and reported to MCPHD.
- G. Enforcement
1. MCPHD may revoke an operating permit for non-compliance with the permit conditions or the requirements of these regulations.

Appendix A to OWTS Regulations for Montezuma County

Attached