

# Section 1

## Local Subsurface Wastewater Treatment Regulations

### PURPOSE OF REGULATIONS

The Board of Health of Pondera County recognizes the importance of proper treatment and disposal of wastewater to prevent disease transmission from bacteria, viruses and parasites. Safe treatment and disposal of all wastewater is necessary to protect public health and the environment, and to prevent the occurrences of public health nuisances. To insure satisfactory results, wastewater must be treated and disposed of so that it does not:

1. Contaminate any actual or potential drinking water supply;
2. Cause a public health hazard as a result of access to insects, rodents, or other possible carriers of disease to humans;
3. Cause a public health hazard by being accessible to persons or animals;
4. Violate any law or regulation governing water pollution or wastewater treatment and disposal, including the rules contained in this subchapter;
5. Pollute or contaminate state waters, in violation of 75-5-605, MCA;
6. Degrade state waters unless authorized pursuant to 75-5-303, MCA; or
7. Cause a nuisance due to odor, unsightly appearance, or other aesthetic consideration.

It is with these criteria in mind that the Pondera County Board of Health has developed the following regulations. The basic principles and standards on the siting, design, construction, installation, and maintenance of wastewater treatment systems are adopted to insure the proper treatment and disposal of wastewater and to alleviate potential public health hazards.

### **I. SCOPE AND AUTHORITY**

- A. These rules are intended to protect the public health, safety, and welfare by setting forth minimum standards for the construction, alteration, or extension of subsurface wastewater treatment systems within Pondera County (excluding any property within the boundaries of the Blackfeet Reservation) and promulgated under the authority of 50-2-116 MCA and 50-2-118 MCA.

- B. Pursuant to 50-2-116, MCA, local Boards of Health must adopt regulations no less stringent than those in Title 17, Chapter 36, Sub-Chapter 9 of the Administrative Rules of Montana (A.R.M.).
- C. Local Boards may adopt stricter requirements or specification than those found in ARM Title 17 chapter 36, subchapter 9, as provided on 50-2-116 and 50-2-130 MCA.
- D. The regulations must describe standards for granting variances from the minimum requirements that are identical to standards promulgated by the Board of Environmental Review and must provide for appeal of variance decisions to the Department of Environmental Quality as required by 75-5-305.
- E. Construction or alteration of onsite wastewater treatment systems must conform to ARM Title 17 chapter 36, subchapter 9, and Circular DEQ 4, Section 2 and Section 3 of these regulations respectively.
- F. Failure to obtain a permit, comply with these regulations, or correct noted deficiencies will result in action taken under the authority of Section 50-2-124, MCA.
- G. Severability: If any regulation adopted hereunder, or its application to any person or circumstance is held invalid, unconstitutional, void or inoperative, such holding shall not affect other provisions or applications of the regulations adopted hereunder. The Board of Health hereby declares that in these regards, the regulations adopted hereunder are severable and that the Board of Health would have adopted the remaining regulations hereof, notwithstanding such holding.
- H. Saving Clause: The appeal of any section of this regulation adopted hereunder shall not deny any right, action, or cause of action, which arose under existing regulations.
- I. Effective Date: These regulations shall become effective on June 7, 2017.

## **II. DEFINITIONS (includes definitions from ARM 17.36.901 et seq. and Circular DEQ-4)**

**Abandoned System** A system is considered to be abandoned when it meets one of the following criteria:

- A. The system has not been used for two (2) years, or
- B. The use of the system has been discontinued because of connection to an improved, on-site system or a public sewer system. Systems for recreational cabins or dwellings used regularly, but infrequently, shall not be considered abandoned.
- C. For purposes of calculating compliance with the nondegradation requirements the previous wastewater flow to the abandoned system can be considered.

**Absorption area** means that area determined by multiplying the length and width of the bottom area of the disposal trench.

**Absorption bed** means an absorption system that consists of excavations greater than 3 feet in width where the distribution system is laid for the purpose of distributing pretreated waste effluent into the ground.

**Absorption system** means any secondary treatment system including absorption trenches, elevated sand mounds, evapotranspiration absorption (ETA) gray water irrigation and subsurface drip systems used for subsurface disposal of pretreated waste effluent.

**Absorption trench** means an absorption system that consists of excavations less than or equal to three feet in width where the distribution system is laid for the purpose of distributing pretreated waste effluent into the ground.

**Accessory building** means a subordinate building or structure on the same lot as the main building, which is under the same ownership as the main building, and which is devoted exclusively to an accessory use such as a garage, workshop, art studio, guest house, or church rectory.

**Advanced treatment** means a treatment process that provides effluent quality in excess of primary treatment.

**Aerobic wastewater treatment unit** means a wastewater treatment plant that incorporates a means of introducing air and oxygen into the wastewater so as to provide aerobic biochemical stabilization during detention period. Aerobic wastewater treatment facilities may include anaerobic processes as part of the treatment system.

**Alter** means physically changing an on-site wastewater treatment system by adding, repairing, replacing, or deleting any component of the system, or increasing flow into the system above design, such as adding more bedrooms. This can also be a change in use of the structure which would result in a chemical or biological change in the wastewater stream.

**Applicant** means the owner, or their legal representative, of the property on which the subsurface wastewater treatment system is to be installed.

**Application** means the required written information submitted to the Health Authority for the purpose of evaluating the proposed subsurface wastewater treatment.

**Approval** means the official consent given in writing by the County Board of Health and/or the Health Officer and/or his/her representative.

- A. Application Approval means issuance of a septic permit to construct a system as per the approved plans and any permit conditions.
- B. Final Installation Approval means approval upon inspection and certification by the responsible party and given compilation of all measurements and field notes, permission given to backfill the system. For certified installers who are given approval to complete the systems without an inspection, final approval is granted upon review and acceptance of the system certification and as-built drawing.

**Approved Subdivision** means a subdivision of land, which has received approval from MT Department of Environmental Quality (MDEQ) and has a Release of Sanitary Restrictions or Certificate of Subdivision

Plat Approval Statement filed in the Clerk & Recorder.

**As-built** (also known as an installer report form) means a post-construction drawing, which accurately depicts the location and configuration of all septic system components and other on-site features as required in Section V. Permits I, and requirements specified on the permit. The as-built drawing and system certification form are required by the Environmental Health Division as certification of the system installation.

**Backfill** means soil used to cover underground portions of a septic system.

**Bedrock** means material that cannot be readily excavated by hand tools, or material that does not allow water to pass through or that has insufficient quantities of fines to provide for the adequate treatment and disposal of wastewater. The term does not include gravel and other rock fragments as defined in Department Circular DEQ-4, Appendix B.

**Bedroom** means any room that is or may be used for sleeping. An unfinished basement must be considered as an additional bedroom.

**Blackwater** means any wastewater that includes waste from toilets.

**Board of Health** means the legally designated County Board of Health, Pondera County, Montana.

**BOD-5** (five-day biochemical oxygen demand) means the quantity of oxygen used in the biochemical oxidation of organic matter in 5 days at 20 degrees centigrade under specified conditions and reported as milligrams per liter (mg/L).

**Building drain** means the pipe extending from the interior plumbing to a point 2 feet outside the foundation wall.

**Building sewer** means the pipe connecting the house or building drain to the public sewer or private sewer.

**Certificate** means a document attesting that an individual has fulfilled the requirements necessary to become a certified on-site wastewater treatment system installer and is granted the privileges associated with the certificate.

**Certified Installer** means any person who has fulfilled the requirements for, and received a certificate for, the installation of an on-site wastewater treatment system in Pondera County.

**Cesspool** means a seepage pit without a septic tank to pretreat the wastewater.

**Cleanout** means an access to a sewer line extending from the sewer line to the ground surface, used for access to clean a sewer line.

**Commercial unit** means the area under one roof occupied by a business or other nonresidential use. A building housing two businesses under one roof is considered two commercial units.

**Composting toilet** means a system consisting of a compartment or a vault that contains or will receive

composting materials sufficient to reduce human waste by aerobic decomposition.

**Connection** means a line that provides water or sewer service to a single building or main building with accessory buildings. The term is synonymous with “service connection”.

**Department** means the Montana Department of Environmental Quality

**Design flow** means the flow used for sizing hydraulic facilities, such as pumps, piping, storage, and absorption systems.

**Distribution box** means a watertight receptacle that receives septic tank effluent and distributes it equally into two or more pipes leading to the absorption area.

**Distribution pipe** means a perforated pipe used in the dispersion of septic tank or other treatment facility effluent into a subsurface wastewater treatment system.

**Dosed system** means any system that utilizes a pump or actuated valves to deliver treated effluent to a subsurface absorption area.

**Dosing frequency** means the number of times per day that effluent is applied to an absorption system or sand filter, or sand mound.

**Dosing tank** means a watertight receptacle receiving effluent from the septic tank or another treatment device equipped, equipped with a siphon or a pump designed to discharge effluent.

**Dosing volume** means the volume of effluent (in gallons) applied to an absorption system or sand filter each time a pump is activated.

**Drainage way** means a course or channel along which storm water moves in draining an area.

**Drain rock** means the rock used in an absorption system or sand filter. Drain rock must be washed and be a maximum of 2-1/2 inches in diameter and larger than the orifice size unless shielding is provided to protect the orifice, and contain no more than 2 percent passing the #8 sieve. The material must be of sufficient competency to resist slaking or dissolution. Gravels of shale, sandstone, or limestone may degrade and may not be used.

**Drop Box** means a watertight receptacle for collecting and distributing effluent in a successive failure or sloped absorption system.

**Effective size** means the sieve size in millimeters (mm) allowing only 10 percent of the material to pass as determined by wet-test sieve analysis method ASTM C117-95.

**Effluent** means partially treated sewage from a primary, advanced or other treatment facility.

**Effluent filter** means an effluent treatment device installed on the outlet of a septic tank designed to prevent the passage of suspended matter larger than 1/8 inch in size.

**Effluent pump** means a pump used to convey wastewater that has been partially treated from a septic

tank or other treatment facility. This wastewater has had settleable or floatable solids removed.

**Ejector pump** means a pump that transports raw sewage.

**Emitter** means orifices that discharge effluent at controlled rates, usually specified in gallons per hour (gph). Emitters are typically found in subsurface drip irrigation systems.

**Existing system** means a wastewater disposal system in a proposed subdivision which was installed prior to the submittal of a subdivision application, or, a wastewater disposal system that exists with or without a septic permit (if installed prior to septic permitting) that is not part of a proposed subdivision.

**Experimental System** means a wastewater treatment system for which specific design standards are not provided in Department Circular DEQ-4, DEQ-2, or ARM 17.36, subchapter 9.

**Failed System** means a wastewater treatment and/or disposal system, which no longer provides the treatment and/or disposal for which it was intended, or violates any requirements of ARM 17.36.914. **Fats, oil, grease (FOG)** means a component of sewage typically originating from food stuffs (animal fats or vegetable oils) or consisting of compounds of alcohol or glycerol with fatty acids (soaps and lotions).

**Fill** means artificially placed soil.

**Floodplain** means the area adjoining the watercourse or drainway that would be covered by a flood that is expected to recur on the average of once every 100 years or by a flood that has a one percent chance of occurring in and given year. The floodplain consists of the floodway and the flood fringe, as defined in ARM Title 36 Chapter 15.

**GP Systems** means a grinder pump is used in the wastewater collection system.

**Gravity dose** means a known volume (dose) of effluent that is delivered to an absorption system in a specific time interval. The effluent is delivered either by a siphon or by a pump to a drop box, distribution box, or manifold. The drop box, distribution box, or manifold then distributes effluent into a non-pressurized absorption system.

**Gray water** means wastewater that is collected separately from a sewage flow and that does not contain industrial chemicals, hazardous wastes, or wastewater from toilets.

**Grease trap** means a device designed to separate fats, grease, and oils from the effluent.

**Grinder pump** means a pump that shreds solids and conveys wastewater through a sewer to primary or advanced treatment.

**Ground water observation well** means a well installed for the purpose of measuring the depth from the natural ground surface to the seasonally high groundwater in accordance with Appendix C of Circular DEQ 4.

**Health Authority** means the legally designated Health Officer of the County Health Department or authorized representatives.

**High-strength** waste means effluent from a septic tank or other treatment device that has BOD5 greater than 300 mg/L, TSS greater than 150 mg/L or fats, oils, and grease greater than 25 mg/L.

**Holding Tank** means a watertight receptacle that receives wastewater for retention and does not as part of its normal operation dispose of or treat the wastewater. The term does not include surge tanks used in a gray water irrigation system if the system meets the requirements of ARM 17.36.919.

**Horizon** means a layer in a soil profile that can be distinguished from each of the layers directly above and beneath it by having distinctly different soil physical, chemical, and/or biological characteristics.

**Impervious layer** means any layer of material in the soil profile that has a percolation rate slower than 240 minutes per inch.

**Incinerating toilet** means a self-contained unit consisting of a holding tank and an adequate heating system to incinerate waste products deposited in the holding tank. The incineration by-products are primarily water and a fine ash.

**Increased Use** means the enlargement or change in use of a structure served by a wastewater treatment system where the enlargement or change in use is likely to increase the effluent flow and/or wastewater strength from the structure. This includes but is not limited to the addition to a residence of one or more spaces that can be used as bedrooms.

**Individual water system** means any water system that serves one living unit or commercial unit. The term does not include a public water supply system as defined in 75-6-102, MCA.

**Individual wastewater system** means a wastewater system that serves one living unit or commercial unit. The term does not include a public sewage system as defined in 75-6-102, MCA.

**Industrial wastewater** means any waste from the process of business or industry or from the development of any natural resource, together with any sewage that may be present.

**Infiltrative surface** means the soil interface that receives the effluent wastewater below the drain rock or sand.

**Influent** means the wastewater flow stream prior to any treatment.

**Irrigation** means those systems that provide subsurface application of wastewater to any planted material by means of a piping system.

**Key** means to hollow out in the form of a groove.

**Limiting layer** means bedrock, an impervious layer, or seasonally high groundwater.

**Living unit** means the area under one roof that can be used for one residential unit, and which has facilities for sleeping, cooking, and sanitation. For example, a duplex is considered two living units.

**Main** means any line providing water or sewer to multiple service connections, any line serving a water hydrant that is designed for firefighting purposes, or any line that is designed to water or sewer main specifications.

**Manhole** means an access to a sewer line for cleaning or repair.

**Manifold** means a solid (non-perforated) main wastewater line that distributes effluent to individual distribution pipes.

**Mottling or redoximorphic** features means soil properties associated with wetness that result from the reduction and oxidation of iron and manganese compounds in the soil after saturation and desaturation with water.

**Multiple user wastewater system** means wastewater system that serves, or is intended to serve more than two living units or commercial units or a combination, but which is not a public sewage system as defined in 75-6-102, MCA. The total number of people served may not exceed 24. In estimating the population that will be served by a proposed residential system, the reviewing authority shall multiply the number of living units times 2.5.

**Municipal** means pertaining to an incorporated city or town.

**Natural soil** means soil that has developed in place through natural processes, and to which no fill material has been added.

**Orifice** means an opening or hole through which wastewater can exit the distribution pipe.

**Owner** means the person, or their legal representative, who is the legal titleholder of a particular parcel of land.

**Parcel** means a part of land which is created by a division of land. The term is synonymous with “tract” and “lot”.

**Percolation test** means a standardized test used to assess the infiltration rate of soils performed in accordance with Appendix A in Department Circular DEQ-4.

**Permit** means a written document issued by the Health Authority authorizing construction and use of an on-site wastewater treatment system in accordance with these regulations and conditions of this permit.

**Piped water supply** means a plumbing system that conveys water into a structure from any source including, but not limited to, wells, cisterns, springs, or surface water.

**Pit privy** means a pit that receives undiluted, non-water-carried toilet wastes.

**Pressure distribution** means an effluent distribution system where all pipes are pressurized, and the effluent is pumped (or delivered by siphon) to the next portion of the treatment system in a specific time interval or volume.

**Pretreatment** means the wastewater treatment that takes place prior to discharging to any component of an on-site sewage treatment and disposal system, including but, not limited to, pH adjustment, oil and grease removal, BOD5 and TSS reduction, screening, and detoxification.

**Primary treatment** means a treatment system, such as a septic tank, that provides sufficient retention time to settle the solids in raw sewage and that retains scum within the system.

**Private sewer** means a sewer receiving the discharge from one building sewer and conveying it to a public sewer system or an on-site sewage treatment system.

**Professional engineer** means an engineer licensed or otherwise authorized to practice engineering in Montana pursuant to Title 37, Chapter 67, MCA.

**Proprietary system** means a wastewater treatment method holding a patent, or trademark.

**Public wastewater system** means a system for collection, transportation, treatment, or disposal of wastewater that serves 15 or more families or 25 or more persons daily for any 60 days or more in a calendar year. In estimating the population that will be served by a proposed residential system, the reviewing authority shall multiply the number of living units times 2.5 people per living unit, so that 10 or more proposed residential connections will be considered a public system.

**Qualified site evaluator** means a soils scientist, professional engineer, registered sanitarian, hydro geologist or geologist who has experience and knowledge of soil morphology. Other individuals will be considered qualified after providing to the reviewing authority evidence of experience describing soils or experience conducting necessary test procedures.

**Raw wastewater** means wastewater that has not had settleable solids removed through primary treatment or other approved methods.

**Recreational camping vehicle (RV)** means a vehicular unit designed primarily as temporary living quarters for recreation, camping, travel, or seasonal use, and that either has its own power or is mounted on, or towed by, another vehicle. The basic types of RVs are camping trailer, fifth wheel trailer, motor home, park trailer, travel trailer, and truck camper

**Redoximorphic or mottling features** means soil properties associated with wetness that result from the reduction and oxidation of iron and manganese compounds in the soil after saturation and desaturation with water.

**Repair** means repairing or replacing any component of a septic system. Repairs are considered major when any part of the septic system is moved from its original permitted location or when repairs are made to accommodate additional flows. Minor repairs do not result in the relocation of any component of a septic system or are not made as a result of additional flows. Minor repairs do not need a new permit but all such repairs should be noted on the original permit. The replacement of a septic tank is not considered a minor repair. The Health Authority shall make the determination if a repair is major or minor.

**Replacement Absorption Area** means an area set aside for a 100% replacement of the primary absorption area in the event of a failure or when upgrading a wastewater treatment system into compliance with current regulations. Setback, soil and siting requirements apply equally to both primary and replacement systems.

**Replacement System** means a wastewater treatment system proposed to replace a failed, failing, or contaminating system.

**Residential strength** wastewater means effluent from a septic tank or other treatment device with a

BOD5 less than or equal to 300 mg/L, TSS less than or equal to 150 mg/L, and fats, oil, and grease less than or equal to 25 mg/L.

**Reviewing authority** means the Department of Environmental Quality, a local department or board of health certified to conduct reviews under 76-4-104, MCA, a division of local government delegated to review public wastewater systems pursuant to ARM 17.38.102, a local unit of government that has adopted these standards pursuant to 76-3-504, MCA, or a local board of health that has adopted these standards pursuant to 50-2-116, MCA.

**Revocation** means the recalling or voiding of a certified installer's certificate due to serious and/or repeated violations of these regulations.

**Scarify** means to make shallow cuts in order to break the surface.

**Sealed pit privy** means an enclosed receptacle designed to receive non-water-carried toilet wastes into a watertight vault.

**Seasonally high groundwater** means the depth from the natural ground surface to the upper surface of the zone of saturation, as measured in an unlined hole or perforated monitoring well during the time of the year when the water table is the highest. The term includes the upper surface of a perched water table.

**Seepage pit** means a covered underground receptacle that receives wastewater after primary treatment and allows the wastewater to seep into the surrounding soil.

**Septic tank** means a wastewater settling tank in which settled sludge is in immediate contact with the wastewater flowing through the tank while the organic solids are decomposed by anaerobic action.

**Service Connection** means a means a line that provides water or sewer service to a single building or main building with accessory buildings. The term is synonymous with "connection".

**Sewage** is synonymous with "wastewater" for purposes of these regulations and Circular DEQ 4. Sewer invert means inside bottom (or flow line) of a sewer pipe.

**Shared wastewater system** means a wastewater system that serves or is intended to serve two living units or commercial units or a combination of both. The term does not include a public sewage system as defined in 75-6-102, MCA.

**Siphon** means a pipe fashioned in an inverted U shape and filled until atmospheric pressure is sufficient to force a liquid from a reservoir in one end of the pipe over a barrier and out the other end. Siphons are sometimes used to gravity-dose a drainfield from a dosing tank or chamber.

**Site evaluation** means an evaluation to determine if a site is suitable for the installation of a subsurface wastewater treatment system.

**Slope** means the rate that a ground surface declines in feet per 100 feet. It is expressed as percent of grade.

**Soil consistence** means attributes of soil material as expressed in degree of cohesion and adhesion or in

resistance to deformation or rupture. For the purposes of this Circular consistence includes: resistance of soil material to rupture, resistance to penetration, plasticity, toughness, and stickiness of puddled soil material, and the manner in which the soil material behaves when subject to compression. Although several tests are described, only those should be applied which may be useful.

**Soil profile** means a description of the soil strata to a depth of eight feet using the United States Department of Agriculture (USDA) soil classification system method in Appendix B, Department Circular DEQ-4 .

**Soil texture** means the amount of sand, silt, or clay, measured separately in a soil mixture.

**Subsurface wastewater treatment system** means the process of wastewater treatment in which the effluent is applies below the soil surface or into a mound by an approved distribution system.

**Surge Tank** means a watertight structure or container that is used to buffer flows.

**Synthetic drainage fabric** means a nonwoven drainage fabric with a minimum weight per square yard of 4 ounces, a water flow rate of 100 to 200 gallons per minute per square foot, and an apparent opening size equivalent to a #50 to #110 sieve.

**TSS (Total Suspended Solids)** means solids in sewage that can be removed readily by standard filtering procedures in a laboratory and reported as milligrams per liter (mg/L).

**Transport pipe** means the pipe leading from the septic tank or dose tank to the distribution box or manifold.

**Uniformity coefficient (UC)** means the sieve size in millimeters (mm) that allows 60 percent of the material to pass (D60), divided by the sieve size in mm allowing 10 percent of the material to pass (D10), as determined by ASTM C117-95 ( $UC=D60/D10$ ).

**Uniform distribution** is a means to distribute effluent into a pressure dosed absorption system or sand filter such that the difference in flow (measured in gallons per day per square foot) throughout the treatment system is less than 10 percent.

**Variance** means the grant, pursuant to 17.36.922, by the reviewing authority of an exception to the minimum requirements set out in these regulations or Department Circular DEQ-4.

**Waste segregation** means a system for the waste segregation systems consist of dry disposal of human toilet waste by a method such as composting, chemical, dehydrating, or incinerator treatment, with a separate disposal method for gray water.

**Wastewater** means water-carried wastes. For the purposes of these regulations, wastewater does not include storm water. The term includes, but is not limited to the following:

- A. household, commercial, or industrial wastes;
- B. chemicals;
- C. human excreta; or
- D. animal and vegetable matter in suspension or solution.

**Wastewater treatment system or wastewater disposal system** means a system that receives wastewater for purposes of treatment, storage, or disposal. The term includes, but is not limited to all disposal methods described in Department Circular DEQ-4.

**Well isolation zone** means the area within a 100-foot radius of a water well.

**Wet well** means a chamber in a pumping station, including a submersible pump station, where wastewater collects.

### III. GENERAL REQUIREMENTS

- A. Pursuant to ARM 17.36.913, no person may construct, alter, extend, or utilize a subsurface wastewater treatment or disposal system that may:
  - 1. Contaminate any actual or potential drinking water supply;
  - 2. Cause a public health hazard as a result of access to insects, rodents, or other possible carriers of disease to humans;
  - 3. Cause a public health hazard by being accessible to persons or animals;
  - 4. Violate any law or regulation governing water pollution or wastewater treatment and disposal, including the rules contained in this subchapter;
  - 5. Pollute or contaminate state waters, in violation of 75-5-605, MCA;
  - 6. Degrade state waters unless authorized pursuant to 75-5-303, MCA; or
  - 7. Cause a nuisance due to odor, unsightly appearance, or other aesthetic consideration.
- B. If a Department of Environmental Quality approved public collection and treatment system is readily available for connection to a new source of wastewater or as a replacement for a failed treatment system, and the owner of the public collection and treatment system approves the connection, wastewater must be discharged to the system pursuant to 17.36.914 (6).

### IV. TECHNICAL REQUIREMENTS

- A. Installation of subsurface wastewater treatment systems shall consist of a septic tank and disposal field and shall be designed to receive, dispose, and treat all wastewater (sewage and liquid wastes) from homes, businesses, and other facilities not served by public sewer systems. All subsurface wastewater treatment systems approved by the reviewing authority shall conform to the design criteria of these regulations and in accordance with applicable requirements in ARM 17.36.914.
- B. Additional technical requirements for systems not described in Chapters 6 and 7 of Circular DEQ 4 and prohibitions addressed in ARM 17.36.916 will apply.

#### **Specifically in Pondera County:**

- (1) No person may own or operate a failing sewage treatment system;
- (2) A person may not connect to, use, or maintain an abandoned system unless:
  - (a) The system meets current standards as determined by an inspection and the

- issuance of a permit by the health authority; or
- (b) The person has obtained a permit and has performed the permitted alterations prior to connection or use.
- (3) No person may install or alter a sewage treatment system without a valid permit or written Health Authority approval.
  - (4) It is a violation of these regulations to occupy or allow occupation of any dwelling unit or other structure served by a piped water supply unless the structure is connected to a wastewater treatment system that is in compliance with these regulations or to a district, municipal or publicly-owned sewage treatment system.
  - (5) Prior to the expansion of or the change of use of a living unit(s) or commercial unit with an undocumented existing wastewater treatment system, an evaluation of that system to determine compliance with Pondera County Regulations for Subsurface Wastewater Treatment Systems shall be required. This evaluation consists of, but is not limited to, having the septic tank pumped by a licensed septic tank pumper and the septic pumper will need to provide a statement of size and condition of the tank. The size and condition of the absorption area will need to be determined. A replacement area for the absorption area will need to be designated.
  - (6) A replacement system for a failed septic system which cannot meet all the requirements of the regulation will be considered if it is in accordance with the General Requirements in Section III. A. and allows for the best treatment practical. A replacement system may be subject to a variance procedure if General Requirements cannot be met.
  - (7) The Health Authority will require a wastewater treatment system be designed by a professional engineer when a condition listed below exists. Once the system is installed the record of drawings and the PE letter of certification will be provided to the local Health Authority.
    - (a) Has a specific public or environmental health concern.
    - (b) Is located on a parcel with challenging site conditions.
    - (c) Design incorporates a lined retaining wall greater than 24 inches in height.
    - (d) Is an experimental system.
    - (e) Serves a large commercial or industrial establishment.
    - (f) Has a design flow greater than 2500 gallons per day.
    - (g) Is a multi-user or public wastewater system.

## **V. PERMITS**

- A. Permits shall be administered in accordance with ARM 17.36.920.
- B. Inspections and Right-of-Entry. For the purpose of enforcing these regulations, the Health Authority is authorized to enter upon private property for the purpose of determining whether or not wastewater disposal facilities installed thereon are in compliance with these regulations. The owner or occupant of property having a subsurface wastewater treatment system shall give the Health Authority free access to the property for such survey or inspection. If access is denied, the Health Authority may bring legal action in accordance with Section 50-2-122, MCA

and/or 50-2-123, MCA.

- C. It shall be unlawful for any person to construct, alter, or repair a septic tank or subsurface wastewater treatment system within Pondera County, Montana unless that person makes application for and holds a valid permit issued by the Health Authority, in the name of such person, prior to the specific construction, alteration, or repair proposed. Information supplied on the application shall be used to determine issuance of the permit. It shall be the responsibility of the property owner to insure that the application information is correct and complete.
- D. No connection shall be made to an existing wastewater disposal system that will increase the design flow or load on that system unless approved by the Health Authority. Abandoned systems may not be reused unless approved by the Health Authority and may be subject to inspection and / or have the tank pumped by certified professionals. Existing systems without a record of a permit may also be required to have an inspection and/or have the tank pumped to assist with determining adequacy of the system for the proposed use. Copies of the reports are to be submitted to the health department.
- E. It shall be the responsibility of the Health Authority to insure that the proposed location of any new subsurface wastewater treatment system is in conformance with these regulations in order to prevent a public health hazard.
- F. It shall be the responsibility of the certified installer or non-certified installer to insure that the installation conforms to the requirements of these regulations.
- G. The following minor repairs and/or maintenance may be made to a wastewater treatment system without obtaining a County permit:
  - 1. Replacing a broken sewer line
  - 2. Pumping the septic tank
  - 3. Cleaning the effluent filter
  - 4. Replacement of the effluent pump with a pump of equal specifications
  - 5. Clearing of laterals
  - 6. Other action authorized by the Health Authority
- H. Permit Application Submittal Requirements:
  - 1. A proposed onsite wastewater treatment system permit application must be in writing and signed by the owner(s) or their authorized representative.
  - 2. A proposed onsite wastewater treatment system permit application and site evaluation must include the information listed in ARM 17.36.920 (Section 2 of these regulations):
    - a. the number of bedrooms in a living unit or number of people working /served by a commercial unit to be served by the system
    - b. depth to seasonally high groundwater and how this information was obtained;
    - c. percolation test results in the immediate vicinity of proposed drainfield(s) if required by the Health Authority;
    - d. soil description and how it was determined;
    - e. depth to bedrock;

- f. name of person(s) who prepared soil description, performed percolation tests, and applicable experience of that person;
  - g. USDA Soil Conservation Service soil survey for site, if available.
  - h. Compliance with the nondegradation requirements of the Montana Water Quality Act (75-5-101, et seq., MCA) must be demonstrated.
- I. A permit shall be issued when it has been assured that the minimum requirements of these regulations have been satisfied. Upon submittal of all required information, the Health Authority shall have fifteen (15) working days to approve or disapprove the application or require more information.
- J. The subsurface wastewater treatment system permit shall expire 1 year from the date of issue. Any unapproved change in plans or specifications after the permit has been issued invalidates the permit. A permit may be extended if the applicant applies in writing prior to the expiration date of the permit.
- K. The subsurface wastewater treatment system permit is issued based on the information provided in the application. The permit does not guarantee the operation or performance of the system. The sizing of the drainfield is based on soil profile and accepted average water usage per Montana Circular DEQ 4 based on number of people and/or number of bedrooms per dwelling. Individual family water usage, water treatment systems, household amenities etc. can vary amount of water used significantly from household to household.
- L. Final Installation Report Form
  - 1. The following information shall be provided on the Final Installation Report Form upon completion of the installation to serve as part of the approval of the system (Appendix H):
    - a. location, size, slope, and depth of building sewer
    - b. location of cleanouts
    - c. location of septic tank, drainfield, and 100% replacement area
    - d. location of proposed wells, existing wells, and water lines in the area of the proposed system and any lots adjacent to it.
    - e. lot boundaries
    - f. location of water courses, irrigation ditches, lakes, impoundments, including the 100 year floodplain in the immediate area
    - g. percent slope of ground surface and direction of slope
    - h. location of soil profile holes and any percolation test holes
    - i. north point and scale in feet

## **VI. INSPECTIONS**

- A. The Health Authority shall be notified when installation begins and forty eight (48) hours prior to completing the system. Systems installed by certified installers may be inspected at the option of the Health Authority.
- B. If, upon final inspection of the subsurface wastewater treatment system, the Health Authority finds it in compliance with these regulations; the Health Authority shall issue final approval for

the completed system. If the final inspection discloses any significant deviations from the permit and these regulations, final approval shall be withheld. When final approval has been withheld, a written notice of deficiencies and required corrective action shall be given to the applicant/installer. A re-inspection shall be made upon notification that the deficiencies have been corrected and the system brought into compliance with these regulations. If compliance is not obtained, the Health Authority shall provide such information in writing to the County Attorney for appropriate legal action. The final installation report form shall be available on-site so that it can be completed at the time of inspection.

- C. The Health Authority may issue final approval for the completed system without an inspection if the system was installed by a certified installer. Certified installers shall supply the Health Authority with complete system installation information on the appropriate Health Authority form within ten (10) working days following completion. The installation information includes the items listed in V. Permits. I. Final Installation Report Forms.

## **VII. ENFORCEMENT AND PENALTIES FOR VIOLATIONS**

- A. Under the authority of 50-2-116 MCA and 50-2-118 MCA, the Health Authority or designee, may act to protect the public from the introduction and spread of communicable diseases, other conditions which adversely affect public health, and may act in instances of public health importance.
- B. Violations of any of the provisions of these regulations are a misdemeanor and are punishable as provided for in Section 50-2-124, MCA.
- C. Alternatively, or in conjunction with criminal enforcement proceedings, these regulations may also be enforced through civil remedies and penalties as described herein.
- D. When the Health Authority has reason to believe a violation of these regulations has occurred, it may cause written notice and an order to take corrective action to be served personally or by certified mail on the alleged violator or the violator's agent. The notice must state:
  - 1. The section of the regulations violated;
  - 2. The facts constituting the violation;
  - 3. The specific nature of the corrective action that the department requires;
  - 4. The date the corrective action must be completed;
  - 5. That the alleged violator may request a hearing before the Pondera Co. Board of Health.
- E. The order becomes final 10 days after the notice is served unless the person named requests a hearing before the Health Authority.
  - 1. The request for a hearing must be filed with the Health Authority no later than 30 days after service of a notice and order under subsection D above.
  - 2. The hearing must be held within 30 days unless the alleged violator and the Health Authority agree to an extension.
  - 3. A record of the evidence presented at the hearing, including a recording of any oral testimony or argument, must be preserved for possible review by the District Court.
  - 4. At the hearing, the Health Department and the alleged violator must be allowed to present evidence and arguments orally or in writing. All testimony, whether oral or

written, shall be given under oath or affirmation.

5. If after a hearing, the Health Authority finds that violations have occurred, the Health Authority shall issue an order for the corrective action.
  6. If after a hearing, the Health Authority finds that a violation has not occurred or is not occurring, the original order shall be rescinded.
- F. The alleged violator may appeal the decision of the Health Authority to the 9th Judicial District Court within 30 days of the Health Authority's order.
- G. At any time, the Health Authority may obtain the assistance of a sheriff, or other peace officer to enforce an order of the Health Authority.
- H. Instead of issuing an order or after issuing an order, the Health Authority may pursue a civil action in the name of Pondera County to restrain and enjoin acts in violation of these regulations.
- I. The Health Authority may pursue a civil action in the name of Pondera County to recover any expenses incurred from any person who refused or neglected to comply with an order of the Health Authority. This action may be filed together with the actions described hereinabove.
- J. The issuance of a permit does not constitute assumption by the Health Authority or their employees of liability for the failure of any wastewater disposal system. The certified installer or non-certified installer is responsible for system failures resulting from improper installation. The property owner is responsible for providing accurate and truthful information on the permit application as well as for proper maintenance of the system and for abatement of any nuisance arising from its failure.

### **VIII. VARIANCES**

- A. Local Board of Health Variance Procedures.
1. Notice of Denial. If an application for permit has been denied, written notice of the denial of permit shall be given to the applicant by personal service or certified mail.
  2. Appeal to the Board of Health. Any applicant who is denied a permit may request a variance in accordance with 17.36.922. Refer to Section 2 of these regulations.
- B. Variance Appeal to the Department of Environmental Quality
1. Upon receiving an appeal of a local board of health's variance decision under 75-5-305, MCA, the Department of Environmental Quality shall proceed in accordance with 17.36.924 (2). Refer to Section 2 of these regulations.

### **IX. GENERAL PROVISIONS FOR CERTIFIED INSTALLERS**

- A. A person may be certified as a subsurface wastewater treatment system installer in Pondera County provided the procedures outlined in these regulations are adhered to.
- B. Certification Procedure:

1. Certificate will be granted by the Health Authority when the following requirements are met:
  - a. A completed application has been submitted to the Health Authority.
  - b. Attending a primary training workshop and passing the required examination with a score of at least eighty five percent (85%). In addition, attending any training workshops, which are required by the Health Authority, for continuing education, and successfully completing any examination administered by the Health Authority with a score of at least eighty-five percent (85%).
  
2. Certificate Expiration and Renewal:
  - a. Certificates shall expire December 31st of each year.
  - b. Certificate renewal will be granted upon receipt of the renewal form.
  - c. Failure to renew the certificate by February 1st will require a new application and re- examination.
  - d. Renewal notices will be sent to each certified installer prior to renewal date.
  - e. Certificates are issued to the individuals and are not transferable.
  - f. Employees of the Certified Installer are not required to be certified. The Certified Installer is responsible for seeing that the permit is followed and the system is installed according to the permit/regulation.
  - g. An Installer already licensed or certified in another Montana county may be certified without examination if proof of licensure/certification in good standing is received and is acceptable to the Health Authority.
  
3. Certificate Suspension and Revocation: In addition to the penalties listed in Section VII above Certified Installers are also subject to certificate suspension or revocation.
  - i. Suspension: A certificate shall be suspended for a period not to exceed six (6) months when the certified installer has received two (2) notices of violation or fails to successfully complete any education examinations required by the Health Authority. Notices of Violation may be issued for any of the following:
    - ii. A septic system is installed, altered, or extended without a valid Health Authority permit.
    - iii. The Health Authority is not called for a final inspection.
    - iv. The certified installer offers false information with regard to a system installation or location.
    - v. The installer falsely uses his certification on the issuance of a septic permit but is not involved with the actual installation.
    - vi. The certified installer installs the system in violation of the Pondera County Regulations for Subsurface Wastewater Treatment Systems including failure to submit Installers Report Form within 10 days of system installation completion.
    - vii. The certified installer deviates from the submitted plans on the septic system application without prior Health Authority approval.
  - viii. Revocation: A certificate may be revoked based on serious or repeated violations after the certified installer has been duly notified in writing as to the intent of, and basis for, the Health Authority's revocation of said certificate, and provided a period of ten (10) days to make a written request for a hearing before the Health Officer or authorized representative. A certificate may be suspended for due cause prior to revocation.
  - ix. Certificate Appeal: Any person having a certificate suspended or revoked may

request and shall be granted a hearing before the Health Officer or authorized representative within thirty (30) days after the request.

4. Certificate: A numbered certificate shall be issued by the Health Authority to each installer upon completion of Pondera County Certification requirements. Satisfactory annual recertification will be documented and maintained on the annual Certified Installers List.
5. Mandatory workshops may periodically be given to all certified installers when deemed necessary by the Health Authority. An examination may be required following the workshop for the certified installers to successfully complete in order to demonstrate competency.