

CHAPTER 23.1-07.1

ONSITE WASTEWATER TREATMENT SYSTEMS

23.1-07.1-01. Definitions.

For the purposes of this chapter:

1. "Department" means the department of environmental quality.
2. "Install" means to place or replace a part of an onsite wastewater treatment system, whether new or existing, to make it ready for use.
3. "License" means authorization by the department for an individual to engage in the business of installing an onsite wastewater treatment system.
4. "Onsite wastewater treatment system" means a wastewater treatment system or part thereof, serving a dwelling or building, or group thereof, which uses soil treatment and disposal. The term commonly may be known as a septic system.
5. "Permit" means authorization from a local public health unit or other political subdivision to install an onsite wastewater treatment system, in accordance with the specific site and rules adopted under this title.

23.1-07.1-02. Septic systems - Authority.

1. Except as otherwise provided by law, the department has the exclusive authority to adopt rules regarding licensing, permitting, and inspections of onsite wastewater treatment systems.
2. The department shall provide technical assistance and guidance to municipalities and local public health units on all matters related to onsite wastewater treatment systems.
3. An ordinance enacted or adopted by a county or city in accordance with a home rule charter, or an ordinance enacted or adopted by any other political subdivision, in conflict with a rule adopted under this section is void.

23.1-07.1-03. Licensing.

1. An individual may not engage in the business of installing an onsite wastewater treatment system unless the individual is licensed. To remain licensed in good standing, a licensee shall comply with this chapter and any rules adopted under this title.
2. An individual is exempt from the licensing requirements of this chapter if the individual is installing an onsite wastewater sewage treatment system on the individual's premises for the individual's use.
3. The department shall establish rules for the issuance, expiration, and renewal of licenses.
4. The department may revoke or suspend a license issued under this chapter if:
 - a. The licensee practices fraud or deception in obtaining the license or in the individual's performance of a licensed activity;
 - b. Reasonable care, judgment, or the application of the licensee's knowledge or ability is not used in the performance of the licensee's duties; or
 - c. The licensee violates a state or federal environmental law, rule, standard, or permit when performing a licensed activity.
5. A license may not be revoked or suspended except after a hearing before the director of the department, or the director's designated representative. If a license is suspended or revoked, a new application for licensure may be considered by the department only after the conditions causing the suspension or revocation have been corrected, and evidence of this fact is submitted to the satisfaction of the department.

23.1-07.1-04. Standards for onsite wastewater treatment systems - Installation - Inspection.

1. The department shall establish rules relating to permitting onsite wastewater treatment systems.

2. The department may prescribe by rule a process for obtaining variances for existing nonconforming or nonfunctional onsite wastewater treatment systems. The process shall consider the:
 - a. Environmental impact;
 - b. Impact to public health;
 - c. Cost of compliance; and
 - d. Least restrictive means.
3. Onsite wastewater sewage treatment system installation and inspections must comply with the rules adopted in accordance with this title.

23.1-07.1-05. Appeal to the department.

1. An action of a political subdivision denying, modifying, or revoking a permit to install an onsite wastewater treatment system may be appealed to the department by petition for review. The appeal must be filed with the department within ten days of receiving notice of the denial, modification, or revocation.
2. Upon receipt of the petition, the department shall review the appealed decision and the petition to determine whether the denial, modification, or revocation was made in accordance with the provisions of this title and rules. The department shall provide its findings and recommendation to the political subdivision, the licensed installer, and the owner of the property where the proposed onsite wastewater treatment system is located.

23.1-07.1-06. Fees.

The department may provide for the payment and collection of reasonable fees for the issuance of licenses for onsite wastewater system installers by rule. The license fees must be based on the anticipated cost of filing and processing the application, taking action on the requested license, and conducting an oversight program to determine compliance or noncompliance with the license. Any moneys collected for licensing fees must be deposited in the department operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly.

23.1-07.1-07. Enforcement.

1. An individual who violates a provision of this chapter or any rule, standard, order, or permit condition adopted in accordance with this chapter is subject to a civil penalty not to exceed twelve thousand five hundred dollars per violation.
2. An individual who willfully makes a false statement, false representation, or false certification in an application, record, report, plan, or other applicable requirement implementing this chapter or that falsifies, tampers with, or willfully renders inaccurate any monitoring device or sample, is subject to a civil penalty not to exceed five thousand dollars per violation.

23.1-07.1-08. Administrative procedure and judicial review.

1. A proceeding under this chapter to adopt or modify rules relating to licensing individuals for the installation or servicing of onsite wastewater treatment systems, or for determining compliance with rules of the department, must be conducted in accordance with the provisions of chapter 28-32.
2. An appeal of a decision issued under subsection 1, must be conducted in accordance with the provisions of chapter 28-32.