

**To:** Board of Health

**Through:** Jennifer Ludwig, Public Health Director, Public Health

**Prepared By:**

..prepared

Steven Chevalier, Environmental Health Manager, Health Protection and Response

..end

..presenter

**Presenter:** Steven Chevalier, Environmental Health Manager, Health Protection and Response

..end

**Subject:**

..title

Proposed Revisions to the Arapahoe County On-Site Wastewater Treatment System (OWTS) Regulations– Study Session

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**Purpose and Request:**

..recommended action

This study session is intended to provide the Arapahoe County Board of Health with an overview of proposed updates to the Arapahoe County On-Site Wastewater Treatment System (OWTS) Regulations. The updates are required to align local regulations with revisions adopted by the Colorado Department of Public Health and Environment (CDPHE) to Regulation 43 in June 2025. The study session is intended to familiarize the Board with mandatory state changes, local opt-in decisions, proposed regulatory clarifications, the stakeholder engagement opportunities, and the adoption timeline prior to a formal public hearing.

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**Background and Discussion:** The Arapahoe County Board of Health has authority to adopt and revise local On-Site Wastewater Treatment System (OWTS) regulations pursuant to the Colorado On-Site Wastewater Treatment System Act, C.R.S. §§ 25-10-101 et seq. This Act authorizes local public health agencies to promulgate regulations that establish minimum standards for the permitting, siting, installation, inspection, operation, maintenance, and use of OWTS, provided those regulations are at least as stringent as state requirements.

In June 2025, the Colorado Department of Public Health and Environment (CDPHE) adopted revisions to Regulation 43, which establishes statewide minimum standards for OWTS. Regulation 43 requires local public health agencies to adopt updated local regulations consistent with the revised state requirements by June 15, 2026. Failure to adopt compliant local regulations may result in CDPHE assuming permitting and oversight responsibilities within the jurisdiction.

ACPH is proposing a comprehensive update to its OWTS Regulations to incorporate mandatory state changes, continue select local opt-ins currently in effect, and adopt additional provisions

allowed under Regulation 43 that are intended to improve clarity, consistency, public health protection, and administrative efficiency. This study session is intended to provide the Board of Health with background on the regulatory framework and proposed approach in advance of formal rulemaking and a public hearing.

**Fiscal Impact:** ACPH anticipates that the proposed regulation updates will largely be implemented within existing program structure and staffing. Mandatory state changes under Regulation 43 primarily involve updated technical standards, inspection requirements, and administrative procedures rather than new program areas. Continued and proposed local opt-ins may affect staff review time, inspection complexity, and ongoing oversight responsibilities. Those impacts will be captured in subsequent fee calculations and revisions that will be presented to the Board at a later date.

**Alternatives:** Although no Board action is requested as part of this study session, several regulatory approaches are available to the Board of Health in addition to those presented in the Background section, as ACPH moves toward formal adoption of updated OWTS Regulations.

One alternative is to adopt only those changes that are mandatory under CDPHE Regulation 43 and make no additional local opt-in decisions. This approach would ensure minimum compliance with state law but would eliminate several existing local provisions that ACPH is currently using to address site-specific conditions, oversight needs, and administrative efficiency.

A second alternative is to adopt the mandatory state changes, continue existing local opt-ins currently in effect, while not adopting the 2026 proposed opt-ins. This approach would maintain regulatory continuity for homeowners, designers, installers, and staff while preserving established local oversight; however, it would not incorporate additional provisions intended to address emerging system types, updated technical practices, or identified gaps in clarity and enforceability.

**Staff Recommendation:** No action is requested at this time. ACPH staff recommend that the Board of Health receive this information, provide feedback as appropriate, and allow staff to proceed with the preparation of revised OWTS Regulations for formal consideration at a future public hearing in March.

**Motion(s):** N/A