



Ohio Administrative Code

Rule 3701-28-03 Permits, system approval and sampling requirements.

Effective: January 1, 2020

(A) No person shall construct, alter or seal a private water system, test well or part thereof, unless a valid permit for the system has been issued by the board of health pursuant to this rule.

(1) Any person intending to construct a private water system, convert a well to a private water system, alter a private water system or install a test well or component thereof, shall, either in person or through a designated agent, make application to the board of health for a permit. Permits may be completed in person, sent by mail, or submitted by fax or electronically where the board of health accepts electronic payment. Except as provided in paragraphs (A)(2) and (J) of this rule, no work shall commence until a valid permit has been issued and approved. Each application shall be accompanied by the appropriate permit fee established under this chapter, all information required under this rule, and the fee for at least one water sample for any private water system alteration, conversion, or new construction permit. The applicant shall sign the application form, and shall indicate the name of any registered contractor intending to do the work, if known. An application becomes a permit upon validation by the local health district.

(2) Any person intending to seal a well, or decommission any other type of private water system that is not being sealed or decommissioned due to the replacement of an existing well or other private water system, shall apply for a permit not later than five business days after the well or other private water system has been sealed or decommissioned.

(3) If a plan is not required to be submitted under paragraph (F) of this rule the board of health shall determine whether the proposed construction, alteration, sealing, or decommissioning is in compliance with the provisions of this chapter within ten business days of receipt of a complete application and the appropriate fee. If a plan is required to be submitted under paragraph (F) of this rule the board of health shall determine whether the proposed work is in compliance with the provisions of this chapter within fifteen business days of receipt of a complete application and the appropriate fee.



- (a) Except for emergency work conducted under paragraph (J) of this rule, the board of health shall work with the applicant and the private water systems contractor to review the site conditions to ensure that all isolation distances are met in accordance with rule 3701-28-07 of the Administrative Code prior to the construction or alteration of the private water system.
- (b) If the board of health determines that the proposed construction, alteration, decommissioning, or sealing of a private water system or test hole is in compliance with this chapter, the board of health shall issue a permit to the applicant. If a registered contractor was not indicated at the time of application, the applicant shall notify the board of health prior to the commencement of work on the private water system of the name of any registered contractor who intends to do the work.
- (c) If the board of health determines that the proposed construction, alteration, decommissioning, or sealing does not comply with this chapter, the board of health shall deny the application. The applicant and the registered contractor, if known, shall be notified of the denial in writing by the board of health.
- (d) Within thirty days after the denial of an application to construct, alter, decommission, or seal a private water system, the property owner or his designated agent shall be provided with an opportunity to appeal the decision and a hearing shall be provided if requested.
- (B) Each application to construct a private water system shall contain information about the location, design, construction, installation and development of the private water system or installation of test holes. The application shall include a site plan designating the location or area of the proposed or existing private water system or test hole, and distances from roadways, road rights-of-way, buildings, driveways, sewage treatment systems, sewers, existing or properly sealed water supply wells, oil and gas wells, above ground or underground fuel oil, liquid petroleum, chemical or gasoline storage tanks, streams, lakes, ponds, ditches, leaching pits, privies, manure ponds, manure lagoons, manure piles, lot lines, easements and any other information required by the department or board of health.
- (C) Each application for the alteration of a private water system shall contain all pertinent information required by the department or board of health about the alteration of the private water system.



(D) Each application for a permit to seal or decommission a private water system shall contain all information required by the department or board of health about the sealing or decommissioning of the private water system.

(1) A person intending to seal or decommission a private water system and construct a new private water system on the same premises to replace the sealed or decommissioned private water system shall only be required to obtain a construction permit.

(2) Only one sealing permit is required per property for sealing or decommissioning multiple private water systems.

(E) An alteration permit can be converted into a new construction permit, if during the commencement of an alteration it is determined by a registered contractor or the board of health that the construction of a new water source will be required.

(1) A contractor shall immediately notify the board of health of a request to change the alteration permit into a new replacement private water system construction permit and submit all necessary site plans and detailed plans, as required, for new construction;

(2) A contractor shall immediately cease work on the private water system until the board of health has performed a site review and approved the request to modify the permit; and

(3) The board of health shall collect the additional state portion of the fee and may collect any difference in the amount between an alteration permit fee and a new construction permit fee.

(F) In addition to the requirements of this rule,

(1) An owner or their designated agent proposing to construct, or alter a private water system that meets one of the following criteria shall submit plans relating to the construction, work and equipment of the water system to the board of health:

(a) A private water system servicing a building as defined in section 3781.06 of the Revised Code;



- (b) A private water system servicing other than one- two-, or three- family dwelling;
 - (c) A private water system that uses a cistern, spring or pond as a source of water;
 - (d) A well drilled in an area of known flowing well conditions as designated by the department or by the board of health at the time the initial permit application is reviewed;
 - (e) A private water system source that will be located within three hundred feet of a land application area as defined in paragraph (EEE) of rule 3701-28-01 of the Administrative Code;
 - (f) The installation of a drive point well;
 - (g) The installation of a buried pressure tank;
 - (h) The installation of a gasoline powered pump and pressurization system;
 - (i) The installation of a continuous disinfection and/or filtration system;
 - (j) The installation of a point of entry water treatment system intended to remove or reduce a contaminant to below a health based standard; or
- (2) When plans are not submitted electronically the board of health may require the plans be submitted in duplicate.
- (G) Plans required under paragraph (F) of this rule shall:
- (1) For a multi-family dwelling or building, include relevant information as to the number of individuals to be served;
 - (2) Be legible and accurately drawn with a north directional arrow;
 - (3) Include relevant elevations for ponds and springs;



(4) Show the locations, layout, and type of all water system equipment, including but not limited to any disinfection and filtration equipment and components required for compliance with this chapter. Plans shall include the make and model of devices, storage tank capacities, and any operation and maintenance requirements;

(5) Include a listing of all materials to be used in construction, installation, or alteration of the water system;

(6) For a drive point well, include relevant information to document to the board of health what geologic or site conditions exist at the property to preclude the use of or access to the property by conventional drilling equipment and methods;

(7) Show the layout of the water distribution piping from the source to the service connections; and

(8) Include any other information required by the department or board of health.

(H) Any modification or deviation from the approved permit site plan or additional detailed plans including, but not limited to, a change in the type of system, locations shown on the site plan, or changes in the location or the treatment equipment shown on the detailed plans must be reported to the board of health within three business days. The private water system's owner and contractor are not guaranteed approval of the system by the local board of health when changes are made to the approved permit site plan or additional detailed plans prior to board of health review and approval of the changes.

(I) The board of health shall not approve any plan that does not conform to the requirements of this chapter. No permit shall be issued until the plans have been approved by the board of health.

(J) When an emergency exists, work may be commenced on the construction or alteration of a private water system prior to obtaining a permit, provided the private water systems contractor notifies the board of health the next business day by phone or e-mail, and a permit is applied for within three business days after commencement of the construction or alteration. The private water system's owner and contractor are not guaranteed approval of the system by the board of health



under emergency construction.

(1) For purposes of this rule "emergency" means that the existing private water system fails to produce an adequate amount of potable water which poses an immediate threat to health and safety and no alternative potable water source exists, and the work will commence during non-business hours of operation of the board of health, or prior to the end of the board of health's ten business days to review the application.

(2) Emergency alteration or construction work shall not commence prior to application being made during open business hours of the board of health.

(3) Emergency alteration or construction shall not occur at locations where there are currently no existing or partially constructed structures, homes, or buildings.

(4) Except for a private water system servicing a multi-family dwelling or building, emergency alteration or construction shall not occur at locations which require additional plans in accordance with paragraph (F) of this rule.

(K) If a private water system is constructed or altered as an emergency under this rule and it is later determined by the board of health that no emergency existed as defined in paragraph (J)(1) of this rule, the private water system contractor shall be assessed the additional fee amount established in accordance with paragraph (E)(17) of rule 3701-28-06 of the Administrative Code.

(L) A temporary hauled water storage tank may be installed to address extreme situations such as construction dewatering, drought, or flood conditions under a temporary hauled water storage tank permit issued from the board of health and shall include the specified time restrictions for the operation and dismantling of the temporary hauled water storage tank. If a temporary hauled water storage tank is part of a permitted emergency construction, replacement construction or alteration of a private water system, a separate permit for the temporary hauled water storage tank shall not be required. The application for the construction or alteration permit shall contain the required information related to the temporary hauled water storage tank.

(1) Temporary plastic or fiberglass water storage tanks constructed of approved materials that meets



NSF 61-2016 and the specifications of paragraph (A) of rule 3701-28-12 of the Administrative Code may be installed above grade.

(2) Temporary plastic or fiberglass water storage tanks may be set at locations on a property that may not meet all of the distance requirements specified in rule 3701-28-07 of the Administrative Code, as allowed by the board of health.

(3) Temporary hauled water storage tanks that do not meet the minimum capacity specified in paragraph (C) of rule 3701-28-12 of the Administrative Code may be permitted.

(4) A temporary hauled water tank shall not become a permanent private water system and shall be removed at the time specified on the installation permit. An additional alteration permit may be applied for to retain the existing temporary hauled water storage tank for an additional specified time period if the emergency conditions continue.

(M) If a permit has been issued for the construction of a well to be used for a new private water system, and the first attempt to drill the well is unsuccessful, then additional wells may be drilled within the area designated on the permit or the drilling site without obtaining additional permits, provided the original permit has not expired. The well sealing report or well log required by section 1521.05 of the Revised Code for each dry hole shall be filed with the Ohio department of natural resources, division of geological survey and the board of health. A copy of the report or log shall be provided to the private water system owner, and the registered contractor who performed the sealing shall retain a copy.

(1) All boreholes left without casing, a properly grouted annular space and a vermin proof well cap, all dry holes, and all test wells and test holes which are not to be converted to private water systems or geothermal wells within ten days of completion, shall be sealed in accordance with rule 3701-28-17 of the Administrative Code.

(2) If a dry hole, test well or test hole is going to be converted into a geothermal well, it shall be done in accordance with the requirements of paragraph (C) of rule 3701-28-17 of the Administrative Code.



(3) A completion form shall be submitted to the board of health for any dry hole, test well or test hole indicating that it is to be converted to a geothermal well instead of being sealed.

(4) An alteration permit shall be obtained for any approved test well or test hole that is to be converted into a private water system.

(N) An additional new construction permit is not required to be issued when there is a change in the type of private water system source.

(1) If the private water system type is changed, the application permit information which needs to be modified shall be submitted by the applicant to the board of health which shall record the changes to the permit. When required, additional plans must be submitted in accordance with paragraph (F) of this rule. Plans must be approved prior to any work being performed.

(2) If the permit category for the other private water system has a higher fee than the original permit fee, then the board of health may charge the difference between the fees for the same permit.

(O) Permit applications, permits and completion forms shall be on forms prescribed or approved by the department. The board of health shall specify within such permits the date upon which the permit expires and that the issuance of the permit is conditioned upon the right of the board of health or the department to enter upon the premises of the private water system identified in the permit at any reasonable time prior to, during, or after completion of the work specified in the permit for the purpose of determining compliance with this chapter.

(P) A permit shall be obtained for any non-potable well, agricultural well, public water system or geothermal system that is to be converted into a private water system and shall be regarded as a new construction. A non-potable well is a well where the water is not used for human consumption, or other potable uses. The converted system shall be reviewed by the board of health prior to issuance of the permit to ensure the well meets all requirements of this chapter. The board of health shall review a well log or downhole camera survey to ensure compliance, and may also review dye test, water sample data, or other information presented by the well owner or a private water systems contractor.



(Q) If the private water system has not been constructed, sealed or altered within one year from the date of permit issuance, the permit shall automatically expire. The board of health may extend the permit period for an additional six months. If a private water system is under orders by the board of health for correction of a construction violation, the permit may be reopened or extended beyond the six month extension for an additional period of time at the discretion of the board of health so that the required work can be performed.

(R) For purposes of this rule, "date of completion" means:

(1) The date on which the well, spring, pond, hauled water storage tank, or cistern is installed;

(2) The date on which the installation of the pump, pumping equipment, or other component of the private water system is completed;

(3) The date on which the other components of the private water system are completed if a pump or pumping equipment will be installed by a person other than the contractor identified on the permit;

(4) If no completion form is filed with the local health district, the date the well log is filed with the department of natural resources by the private water systems contractor;

(5) The date the disinfection, filtration or other treatment equipment to remove contaminants is installed;

(6) When more than one private water systems contractor performs work on a private water system, the date of completion for each private water systems contractor is the date that person completes their portion of the work on the private water system; or

(7) The date that a private water system is sealed or decommissioned.

(S) Within thirty days of the date of completing any portion of the work on a private water system as described in paragraph (R) of this rule, a complete and accurate completion form shall be submitted to the board of health by the person completing the work. Submission of the form may be done by walk-in, fax, electronically, or mail.



(T) Within thirty days of the drilling, alteration or sealing of a well, dry hole, or test hole, or the date of completion of a well, a copy of the well log or sealing report required to be filed with the Ohio department of natural resources, division of geological survey, as required under section 1521.05 of the Revised Code, shall also be submitted to the board of health, to the private water system owner, and the registered contractor shall retain a copy. Submission of the form may be done by walk-in, fax, electronically, or mail.

(U) Within thirty days of the date of completion of an alteration that does not require a well log to be filed under section 1521.05 of the Revised Code, the person who performs the alteration shall file a complete and accurate completion form with the board of health. Submission of the form may be done by walk-in, fax, electronically, or mail.

(V) Upon receipt of all required forms, the board of health shall contact the applicant and/or owner to conduct an inspection and collect a water sample(s) in accordance with rule 3701-28-04 of the Administrative Code and the following requirements:

(1) The initial water sample shall be tested for nitrates, escherichia coli and a coliform CFU or MPN count. Repeat water samples collected for a system after the first sample shall be tested for escherichia coli and a coliform CFU or MPN count, or pathogenic microorganisms as applicable. Repeat sampling may include additional parameters, as required for an investigation.

(2) The board of health may prescreen the water sample for nitrates using test kits or strips capable of reading nitrate concentrations in water down to 1 milligram per liter.

(3) The board of health shall provide the water sample results, in writing, to the private water system owner, agent, applicant, and each private water systems contractor who has performed work on the private water system.

(4) The board of health shall report the findings of water tests which indicate a presence of escherichia coli, pathogenic microorganisms or nitrates in excess of maximum contaminant levels, as set forth in rule 3701-28-04 of the Administrative Code, to the department.



(W) If the sample obtained from the private water system exceeds the maximum contaminant levels for microbiological contaminants specified in paragraph (K) of rule 3701-28-04 of the Administrative Code, the private water system shall not be approved, unless effective remediation measures to reduce the total coliform, and eliminate any escherichia coli, or any primary pathogenic organism are implemented for the private water system. For a private water system well with casing that extends twenty-five feet or more below the ground surface which is exceeding maximum contaminant levels for microbiological contaminants, continuous disinfection of the system may be installed in accordance with rule 3701-28-15 of the Administrative Code only after:

(1) Enhanced disinfection of the entire private water system is performed by a registered private water systems contractor as specified in paragraph (H) of rule 3701-28-11 of the Administrative Code; and

(2) An investigation has been performed by the board of health as specified in paragraph (AA)(1) of this rule and upon determination by the board of health that the private water system well is constructed in compliance with this chapter.

(X) If the sample obtained from the private water system indicates that the maximum contaminant level for nitrates has been exceeded the board of health shall provide information to the private water system owner on the health risks of nitrates, and options for the treatment of the private water system to reduce the nitrates to acceptable levels. If additional sampling is performed on the private water systems for any of the contaminants referenced in paragraph (K) of rule 3701-28-04 of the Administrative Code and listed in Chapter 3745-81 of the Administrative Code, and levels exceeding the maximum contaminant level are identified in the water sample from the private water system, the board of health shall provide information to the private water systems owner on the health risks of that contaminant, and options for treatment of the private water system. The department shall also post health risk information and options for treatment on the departments website.

(Y) After the receipt of the results of the water samples, and upon the basis of the board of health's inspection(s) and review of all completion, job status, alteration or well log forms as applicable, the water sample results, and all other pertinent data relative to the private water system, the board of health shall approve the private water system if the system is in compliance with the provisions of



this chapter.

(1) A private water system shall not be approved that is not in compliance with this chapter and the board of health shall order the private water system into compliance for any construction and administrative violation of this chapter in accordance with paragraph (L) of rule 3701-28-02 and paragraph (F) of rule 3701-28-04 of the Administrative Code.

(2) The private water system shall not be used for human consumption until it has been approved by the board of health.

(Z) If repeated total coliform, escherichia coli or other primary pathogenic organisms are found in samples from the well that exceeds the maximum contaminant levels specified in paragraph (K) of rule 3701-28-04 of the Administrative Code after using the disinfection procedure in paragraph (H) of rule 3701-28-11 of the Administrative Code, the board of health shall notify the department and shall undertake a joint investigation with the private water systems contractor of the private water system to determine the source of contamination and approve possible remediation measures, including continuous disinfection as described in rule 3701-28-15 of the Administrative Code.

(1) The investigation may include, but not be limited to:

(a) A dye test;

(b) A down-hole camera recording of the constructed well;

(c) Tests appropriate for the site and system conditions.

(AA) A private water system shall not be approved unless a water sample from the private water system meets the standards specified in paragraph (K) of rule 3701-28-04 of the Administrative Code.

(BB) Once the board of health approves the private water system the permit is invalid unless the permit is reopened for corrections of construction violations due to a bond claim investigation or board of health orders in accordance with paragraph (Q) of this rule.



(CC) Except for one-, two-, and three-family dwellings, all new and existing private water systems providing water for human consumption or potable uses shall have a water sample collected annually from the private water system by either the board of health, a person holding a current Class A, I, II, III, or IV public water systems operator certification from the Ohio environmental protection agency as authorized under Chapter 3745-7 of the Administrative Code, a person employed by a laboratory holding a current drinking water laboratory certification from the Ohio environmental protection agency as authorized under Chapter 3745-89 of the Administrative Code or equivalent national certification for the analysis of drinking water, or other certification programs developed or authorized by the director. Private water systems covered by this paragraph include, but are not limited to, those serving:

- (1) Foster homes as required under rule 5101:2-7-12 of the Administrative Code;
- (2) An residential facility as required by rule 5122-30-11 of the Administrative Code;
- (3) A licensed child care center as required by rule 5101:2-12-13 of the Administrative Code;
- (4) Residential facilities as required under rule 5101:2-9-04 of the Administrative Code;
- (5) A resident day camp as required by rule 3701-25-05 of the Administrative Code;
- (6) Children's residential centers, group homes, and residential parenting facilities as required under rule 5101:2-9-04 of the Administrative Code;
- (7) Licensed type A homes as required under rule 5101:2-13-12 of the Administrative Code;
- (8) A campground as defined in paragraph (C) of rule 3701-26-01 of the Administrative Code;
- (9) A manufactured home park as defined by division (D) of section 4781.01 of the Revised Code;
- (10) A food service operation or retail food establishment as required by rule 3717-1-05 of the Administrative Code;



(11) Private water systems used by registered private water systems contractors to provide water for drilling purposes;

(12) Private homes operated as a bed-and-breakfast that prepares and offers food and water to guests; and,

(13) A hotel, transient hotel, extended stay hotel or residential hotel as defined by section 3731.01 of the Revised Code.

(DD) The sample collected under paragraph (CC) of this rule shall be analyzed for the presence of total coliform, escherichia coli or other primary pathogenic organisms as specified in paragraph (K) of rule 3701-28-04 of the Administrative Code;

(1) The sample results shall be reported to the board of health, along with information about the number of individuals served by the private water system within one business day of the result being returned from the lab; and

(2) The board of health shall maintain these records.

(EE) If the water sample collected under paragraph (CC) of this rule exceeds the maximum contaminant level for bacterial or primary pathogenic organisms under paragraph (K) of rule 3701-28-04 of the Administrative Code, the private water system owner shall:

(1) Have a registered private water system contractor disinfect the private water system in accordance with rule 3701-28-11 of the Administrative Code.

(a) The private water system shall be re sampled after disinfection; and,

(b) The results shall be reported by the system owner or their agent to the board of health within one business day of the result being returned from the lab.

(2) If the water sample collected after disinfection exceeds the bacterial standard under paragraph



(K) of rule 3701-28-04 of the Administrative Code, the owner of the private water system shall:

(a) Notify all end users, in writing, of any restrictions of water usage as determined by the department and provided to the private water system owner by the board of health. A copy of this notice and the method of end user notification shall be provided to the board of health the same day of issuance to the end users; and

(b) Implement corrective actions, as needed, to obtain a bacteriologically safe water supply.

(3) If the corrective action implemented under this paragraph is the installation of a continuous disinfection water treatment system as required under rule 3701-28-15 of the Administrative Code, then in addition to the annual sampling, an annual operation and maintenance inspection shall be performed by a registered private water systems contractor and the results reported to the board of health to ensure the continued performance of the disinfection system.

(FF) Any private water system constructed, altered or sealed by a person who has not obtained a registration, as required under rule 3701-28-18 of the Administrative Code, or is not exempt from registration pursuant to paragraph (A)(2) of rule 3701-28-18 of the Administrative Code shall not be approved.

(1) If the entire portion of the system constructed by an unregistered contractor is reconstructed by a registered private water systems contractor, the board of health shall not require a variance to this rule, but shall evaluate the new construction for compliance with this chapter.

(2) The board of health shall not grant a variance to this rule unless the portion of the private water system constructed is assessed and deemed acceptable by a registered private water systems contractor.

(3) The unregistered contractor who performed work on the private water system may complete the work on the private water system provided that the following have occurred prior to additional work occurring:

(a) The property owner has obtained a variance from the board of health to paragraph (FF)(1) of this



rule and to rule 3701-28-18 of the Administrative Code for the work performed on the private water system by an unregistered contractor. If the surety bond does not cover the work performed, the variance shall require a notarized statement from the unregistered private water systems contractor that they assume financial liability for costs associated with corrective actions which may be required to bring portion(s) of the system constructed without surety bond coverage into compliance with this chapter; and

(b) The contractor makes application to the department for registration as a private water systems contractor in accordance with paragraph (B) of rule 3701-28-18 of the Administrative Code. This application shall include the five hundred dollar registration fee for registrations submitted after work which requires registration has been performed on a private water system; and

(c) The department places the contractor on the list of registered private water systems contractors.