



Ohio Administrative Code Rule 3701-28-05 Approval to enforce.

Effective: January 1, 2020

(A) The director of health shall survey each private water systems program of the city and general health districts, or the authorities having the same duties as a board under section 3709.05 of the Revised Code, at least once every three years to determine their adequacies for carrying out the provisions of this chapter. The health district or authority shall provide the director with all requested information to complete the survey.

(B) A survey methodology shall be developed by the director and provided to each health district or authority and shall include:

(1) A review of any regulations for consistency with this chapter, the administrative aspects of the private water systems program including application and permitting, staff resources and knowledge of the technical aspects of the program, cost analysis and fee adoption, plan review, inspections and reports, sampling, investigations, and enforcement; and

(2) A field review of the inspection of private water systems during construction and after completion to evaluate overall compliance with the private water systems construction, sampling, alteration and sealing requirements set forth under this chapter.

(C) The director shall survey the private water systems program in accordance with the survey methodology and shall determine whether the health district or authority is qualified to administer and enforce this chapter. After the survey is complete, the director shall classify the health district or authority as either approved, provisional or disapproved, and shall provide a survey report to the health district or board. If the health district or authority is classified as provisional, the director shall provide:

(1) A set time frame for correcting the deficiencies;

(2) Procedures for program disapproval that the department will pursue if the health district or



authority fails to correct the major deficiencies revealed by the survey; and

(3) An opportunity to request a meeting with a representative of the director to discuss the deficiencies.

(D) The health district or authority may request an informal hearing on the director's proposed determination if a written request is received by the director no later than fifteen days after the date of mailing the proposed determination. The informal hearing shall be conducted before the director or the director's authorized representative no later than thirty days after the director of health received the request for hearing. At the hearing, a representative of the health district or authority may present information orally and in writing. The director shall issue a written decision no later than thirty days after the conclusion of the informal hearing.

(E) The department shall reevaluate a health district or authority's provisional private water systems program in the established time frame to determine if the program is in compliance. If in compliance, the director shall classify the health district or authority as approved. If the deficiencies have not been corrected, the director shall propose to disapprove the health district or authority, or shall propose to revoke the approval, whichever is appropriate.

(F) The director may reinstate a health district or authority as approved to administer and enforce the private water systems program if the health district or authority can demonstrate to the satisfaction of the director an ability to adequately administer and enforce the provisions of this chapter.

(G) Upon determining that a health district or authority is so qualified, the director shall approve the district or authority. The director may resurvey any approved district or authority when, in the opinion of the director, such resurvey is necessary to determine whether the district or authority can adequately carry out the provisions of this chapter.

(H) If after a survey as provided for in this rule, the director determines that a health district or authority is not qualified to, or cannot adequately carry out the provisions of this chapter, the director shall certify that fact to the board of health and disapprove the health district or authority to administer and enforce the private water systems program. If a health district or authority is not eligible to administer and enforce this chapter, the director may designate another qualified health



district or authority as the department in such health district or shall administer and enforce this chapter in such health district.

(I) If a health district is disapproved, the board of health shall pay to the director or to the board of health designated by the director to serve as the department in such health districts, all fees previously paid to the board under this chapter that have not been expended or encumbered. All fees paid to the director or to the designated board of health shall be used as specified in rule 3701-28-06 of the Administrative Code.