



Ohio Administrative Code

Rule 3701-28-18 Registration and bonding of private water systems contractors.

Effective: January 1, 2020

(A) As a condition of doing business in this state, private water systems contractors shall annually register with the department and comply with the surety bonding requirements of section 3701.344 of the Revised Code and the requirements of this rule.

(1) Only registered contractors may construct, alter, develop, service, repair, install pumping equipment for a private water system, seal private water systems, drill water wells, install pitless adapters, perform service, maintenance or other repairs to private water system treatment systems, or perform inspections, evaluations, or sampling for hire of private water systems.

(2) With the exception of paragraph (A)(1) of this rule, registration is not required of:

(a) Any person who performs labor or services as an employee under the direct supervision of a registered contractor.

(b) Any private water system owner who performs repair, maintenance, or service work which does not require a permit on the private water system serving his dwelling house, or any person who aids the owner with this work without compensation.

(c) Persons exempt from registration under this paragraph shall comply with all applicable rules of this chapter.

(3) With the exception of drilling a well or property rentals in which they do not reside, owners of a primary or secondary property constructing a hauled water storage tank, spring, or pond, constructing any or all parts of a private water system pumping or distribution system, installing point of entry private water system disinfection or treatment system, altering a private water system, or sealing private water systems for their dwelling house shall obtain a registration to perform work, but are exempt from the bonding and business liability insurance requirements established in paragraph (B) of this rule, and may only perform work on residences they own.



(4) Owners of property rentals in which they do not reside, or owners drilling a well for construction or alteration purposes shall obtain a registration to perform work, but are exempt from the business liability insurance requirements established in paragraph (B) of this rule, and may only perform work on residences they own.

(5) For purposes of this rule "direct supervision" means that a registered private water systems contractor instructs and controls the person claimed to be supervised, that the person is an employee of the registered private water systems contractor, and that the registered private water systems contractor is responsible for the actions of that person and is reasonably available to that person if and when needed, even though such registered private water systems contractor may not be physically present at the work site.

(6) Any person who is performing work on a private water system that is not subject to paragraphs (A)(1) to (A)(5) of this rule, shall immediately cease work on the private water system at the order of the board of health or the department.

(7) Subcontractors who perform electrical, welding, or excavation work under contract for a registered private water systems contractor are not required to obtain a registration as a private water systems contractor.

(8) A registered sanitarian or sanitarian in training employed by the board of health having jurisdiction where the private water system is, or will be, located and is performing inspections and collecting samples on behalf of the board of health is not required to obtain registration as a private water systems contractor.

(9) Additionally, registration as a private water systems contractor is not required for water sample collection without interpretation of the results when performed by one of the following:

(a) A person holding a current Class A, I, II, III, or IV public water systems operator certification from the Ohio environmental protection agency (EPA), as authorized under Chapter 3745-7 of the Administrative Code; or



(b) A person employed by a laboratory holding a current drinking water laboratory certification from Ohio EPA, as authorized under Chapter 3745-89 of the Administrative Code, or an equivalent national certification for the analysis of drinking water.

(B) Requirements for registration.

(1) Application for annual registration as a private water systems contractor shall be made to the director on forms prescribed and provided by the department of health. A complete application shall include:

(a) For registrations submitted prior to the work that requires registration, a two hundred fifty dollar nonrefundable registration fee made payable by check or money order to "Treasurer, State of Ohio," or by other payment method approved by the department.

(b) For registrations submitted after the work that requires registration has already been performed or a private water system has been constructed, a five hundred dollar nonrefundable registration fee made payable by check or money order to "Treasurer, State of Ohio," or by another payment method approved by the department.

(c) For registrations submitted by property owners registering to perform work only on the private water system serving their property, a sixty-five dollar nonrefundable registration fee made payable by check or money order to "Treasurer, State of Ohio," or by another payment method approved by the department.

(d) An annual registration bond, complying with paragraph (D) of this rule, executed by the applicant as principal, and a surety company authorized to do business in the state as surety, in the sum of ten thousand dollars available for each calendar year coinciding with the applicant's registration.

Applicants for a private water systems contractor registration that have not previously held a valid registration, or applicants whose registration has been suspended, shall submit a registration bond in the sum of twenty thousand dollars for a period of three registration years. Applicants with a valid bond claim in the prior registration year shall also submit a registration bond for twenty thousand dollars for a period of three registration years. Upon the third registration year with no valid bond claim, new or previously suspended applicants, or applicants with prior valid bond claims, may submit



a bond of ten thousand dollars the following registration year. For the purposes of this rule, any registered private water systems contractor who allows their registration to lapse for a period greater than twelve months shall be considered a new registrant;

(e) The surety bond shall run to the state as obligee and shall be for the benefit of any aggrieved party for damages incurred as a result of a violation of this chapter. The bond shall provide that the aggregate liability of the surety for any and all breaches of the conditions of the bond shall in no event exceed the penal sum of the bond for the year of registration;

(f) Proof of not less than five hundred thousand dollars of general business liability insurance;

(g) Starting with the first full registration year after the effective date of these rules or a new private water systems contractor registration, any renewing private water systems contractor must submit proof of completion of at least six continuing education hours during the previous calendar year through educational programs approved by the department of health or demonstration of competency obtained through one of the following mechanisms:

(i) Provide proof of holding a current Class A, I, II, III, or IV public water systems operator certification from Ohio EPA as authorized under Chapter 3745-7 of the Administrative Code;

(ii) Provide proof of current status as a water quality association certified water specialist (CWS), certified installer (CI), certified service technician (CST), master water specialist (MWS), or master service technician (MST);

(iii) Provide proof of current status as a national groundwater association certified well driller (CWD), certified pump installer (CPI), or master groundwater contractor (MGWC); or

(iv) Other continuing education programs as approved by the director.

(h) Any other information as required by the director.

(2) An applicant which is a partnership, corporation or other business association, shall designate one partner, officer, or director who shall be the company's representative to register on the company's



behalf, and who shall be responsible to ensure compliance with this chapter.

(3) An applicant or owner in the case of a partnership, corporation or other business association may submit with their applications, proof that they are a service member or veteran, or the spouse or surviving spouse of a service member or veteran to receive priority expedited licensure processing. The applications will be reviewed within five business days of receipt and before all other applications for licensure.

(a) The acceptable proof of service member/veteran status documents are:

(i) Department of defense identification card (active, retired, temporary disability retirement list (TDRL));

(ii) DD214 military discharge certificate indicating disposition of discharge;

(iii) Report of separation from the national archives national personnel records center in St. Louis, Missouri; or

(iv) Veterans identification card from the department of veterans affairs.

(b) All acceptable proof documents, except veterans identification card, must show the veteran status as honorable, general, general under honorable conditions, or discharged or released under conditions other than dishonorable.

(4) The applicant for a registration shall provide to the director within thirty days of the receipt of the request, all additional requested information. If the director does not receive the requested information within thirty days, the director may consider the application abandoned. Any further consideration for a new or renewal registration shall be pursuant to another application accompanied by another nonrefundable registration fee.

(C) Registration issuance and renewal.

(1) A private water systems contractor shall submit its application for the renewal of its private water



systems contractor registration, along with the fees and information required under paragraph (B) of this rule, by the last day of December of each calendar year. Upon receipt of an application form for registration and the information and fees required under paragraph (B) of this rule, the department shall conduct a review to determine if the information is accurate and complete, and that the private water systems contractor has no unresolved bond claims or outstanding violations of this chapter.

(a) Upon determination that the application and information is accurate and complete, the director shall furnish the registrant with documentation of a valid and current registration containing the name of the registrant, the name of the registrant's representative, if applicable, the registrant's registration number, and the registration's expiration date;

(b) Upon determination that the application and information is incomplete, the department shall notify the applicant of the information that is required and shall not issue a registration until all required materials are received; or

(c) Upon determination that the applicant has unresolved bond claims or violations of this chapter outstanding longer than six months with no corrective action plan submitted to the department by the applicant, the director shall deny the private water systems contractor registration.

(d) The private water systems registration becomes valid upon issuance by the director.

(2) In the case of an applicant subject to paragraph (B)(2) of this rule, the partnership, corporation, or other business association and not the representative designated in accordance with paragraph (B)(2) of this rule shall be the registrant. When the representative is no longer associated with the registrant, the registrant shall so inform the department of health in writing within thirty days and give the name of another representative, in accordance with paragraph (B)(2) of this rule.

(3) The initial and renewal registration shall not be transferable and expires annually on the last day of December, unless earlier revoked. A registration may be renewed for an ensuing year by making application to the director in accordance with paragraph (B) of this rule. If a renewal application has been received on or prior to the last day of December, such application shall extend the period of validity of the current registration until a new complete registration is issued or the director denies a new registration under the provisions of division (B)(3) of section 3701.344 of the Revised Code,



this chapter, and Chapter 119. of the Revised Code.

(D) Registration bonds.

(1) Registration bonds shall be executed in the name of the applicant, as principal, on a bond agreement form provided by the department and shall include a certificate from the superintendent of insurance demonstrating that the surety company is authorized to operate a surety business in this state.

(2) If the registration bond supporting the registration is canceled, the registrant shall submit a new registration bond to the department within ten days, in accordance with the requirements of this rule. The surety company shall give ninety days written notice to the department of health prior to the effective date of cancellation.

(3) No private water systems contractor shall perform work on a private water system without a valid registration bond. In the event that the registration bond is canceled, the private water systems contractor shall not perform work on a private water system until a valid replacement bond has been provided to the department.

(4) For the purposes of this rule "aggrieved party" means the private water system owner or their authorized agent who contracts for a private water system and brings a claim against a private water systems contractor that the system is not installed, altered, repaired, serviced, or abandoned in substantial compliance with the provisions of this chapter.

(5) As a condition precedent to making a claim on a registration bond when an aggrieved party alleges that violations of this chapter exist for a private water system:

(a) The aggrieved party shall make written contact with the private water systems contractor who performed the work on the private water system and the board of health having jurisdiction in the health district where the private water system is located regarding the nature of the alleged violation and intention to file a bond claim if the violations are not corrected.

(b) The board of health having jurisdiction shall investigate the complaint and determine if a violation



of this chapter has occurred. The findings of this investigation shall be communicated in writing to the aggrieved party and the private water systems contractor.

(c) If the board of health determines that no violation of this chapter has occurred and the aggrieved party disagrees, the aggrieved party shall submit in writing to the director a narrative of the alleged violations of Chapter 3701-28 of the Administrative Code upon which the person desires to make a bond claim and shall include a copy of the investigative findings by the board of health.

(d) If the board of health determines a violation of this chapter has occurred, the board of health shall consult with the aggrieved party and the private water systems contractor on the corrective actions necessary to resolve the violation. After consultation with the board of health and the private water systems contractor on the plan for correction of the violation, the aggrieved party shall provide the private water systems contractor an opportunity to correct the alleged violation, unless otherwise authorized by the director. If the violation identified by the board of health is not corrected by the private water systems contractor, the aggrieved party shall give written notification to the director stating their intention to file a bond claim, the alleged violation(s) of Chapter 3701-28 of the Administrative Code and shall include a copy of the investigative findings and orders to correct by the board of health.

(e) If the board of health identifies a violation and the private water systems contractor has agreed to perform the corrective actions required to correct the alleged violation, but the aggrieved party denies the private water systems contractor access to the private water system the board of health or the private water systems contractor or both shall notify the director of the denial of access in writing, and shall include documentation of the investigation, corrective actions planned, and the denial of access.

(f) When the director receives written notification regarding an aggrieved party denying a private water systems contractor access to the private water system to perform the actions necessary to correct the alleged violation(s), the director shall send a copy of the written notification to the aggrieved party, the board of health, and the private water systems contractor. The aggrieved party shall have thirty days to allow the contractor access to correct the alleged violation. The rights of the aggrieved party to the bond shall be forfeited if the aggrieved party denies the private water systems contractor access to the private water system to perform actions necessary to correct violation(s).



(6) Making a claim on a registration bond:

(a) If the board of health determines that no violation of this chapter has occurred and the aggrieved party disagrees, or if the private water systems contractor fails to correct the violations within thirty days, the aggrieved party shall submit, in writing, to the director, a narrative of the alleged violations of Chapter 3701-28 of the Administrative Code upon which the person desires to make a bond claim and shall include a copy of the investigative findings and any notices of violation issued by the board of health.

(b) A copy of the narrative and supporting documents required in paragraph (D)(6)(a) of this rule shall be sent to the board of health and private water systems contractor by the director.

(c) The director, with the assistance of the board of health, shall investigate the validity of the allegation and review any written submission by any of the parties, and may consult with the aggrieved party, board of health, and the private water systems contractor. The director may request additional evidence from the aggrieved party, contractor, or board of health. Upon a party's request, and at the director's discretion, an informal meeting may be held with the director's designee, the aggrieved party, the private water systems contractor, other technical experts, or the board of health to further the investigation, work towards resolution, and correct the violation.

(d) If the director concludes that no rule violation exists, he shall so notify the aggrieved party, the board of health, and the private water systems contractor in writing. The director, if satisfied of the existence of a rule violation, shall notify in writing the aggrieved party and board of health of the rule violation and issue a notice of violation to the private water systems contractor and shall send a copy of this notice to the aggrieved party, board of health, and the surety company that sets forth the following:

(i) The nature of the violation;

(ii) The action required to correct the violation;

(iii) The date for completion of the corrective action; and



(iv) The date by which the private water systems contractor must respond with a corrective action plan.

(e) If a private water systems contractor fails to comply with the notice of violation issued pursuant to paragraph (D)(6)(d) of this rule within sixty days, the director shall notify the surety company, the aggrieved party, the board of health, and the private water systems contractor and shall:

(i) Set forth the violation; and

(ii) Inform the surety of its options in responding to the notice as set forth in paragraph (D)(6)(d) of this rule.

(f) Within thirty days from the date the surety company receives a notice under paragraph (D)(6)(d) of this rule the surety company shall notify the director that it will perform one of the following:

(i) Not correct the violation or violations resulting in the issuance of the order and shall make payment for the full amount of the bond to the aggrieved party;

(ii) Make payment to the aggrieved party in an amount equal to the purchase price of the private water system and any other activity necessary to bring the private water system into compliance with this chapter, including the sealing of a private water system, if necessary; or

(iii) Correct the violation(s), or pay the cost of correction within thirty days of receiving the notice and submit to the director a plan for performance of the work necessary to correct the violation(s). The rights of the aggrieved party to the bond shall be forfeited if the aggrieved party denies the bond company or its agents access to the private water system to perform actions necessary to correct the violation(s).

(g) The rights of the surety company to correct the violation(s) resulting in a notice issued under paragraph (D)(6)(f) of this rule shall be terminated and the director shall order the entire amount of the bond forfeited if the surety company fails to:



(i) Notify the director within thirty days of receipt of the notice that it will or will not correct the violation(s);

(ii) Submit a plan for completing the required work at the same time it notifies the director that it will perform or pay the cost of performing the required work; or

(iii) Commence, continue, or complete the required work in a manner and in accordance with this rule and the provisions of this chapter.

(7) The notification required in paragraph (D)(6)(a) of this rule must be made within two years from the date the work on the private water system, or the component thereof, is completed. The bond claim shall be withdrawn due to lack of response within sixty days from the aggrieved party after notification from the department, the private water systems contractor or the surety on the proposed corrections of the violation or violations.

(8) The surety company shall give written notice to the director within thirty days of payment on a claim against a registration bond. The notice shall specify the name of the registered contractor, the name of the aggrieved party, the amount of the claim, and the date and manner in which the claim was paid.

(E) Annually the director shall publish a list of the names and addresses of all persons holding registrations under this chapter and shall provide a copy of the list to any person upon request.

(F) Every registrant shall maintain and submit to the board of health and the department such complete and accurate records as may be required for determining compliance with all applicable rules of this chapter.

(G) Suspension, revocation, and denial of registration.

(1) The director may suspend, revoke, or deny any registration of a private water systems contractor for violation of the requirements of this chapter.

(2) Grounds for suspension, revocation, or denial of a private water systems contractor's registration



shall include, but not be limited to:

- (a) A material misstatement or falsification of facts in the private water systems contractor's application for a registration or obtaining a registration through fraud or misrepresentation;
 - (b) A material misstatement or falsification of facts on a private water systems permit, completion form, well log, or other form required by the department;
 - (c) A violation of the conditions of the private water systems contractor's registration;
 - (d) A failure to submit forms or well logs in accordance with rule 3701-28-03 of the Administrative Code;
 - (e) A violation of any applicable rule of this chapter;
 - (f) Failure to maintain a surety bond as required under this rule;
 - (g) Conviction in any criminal proceeding or failure to comply with a judgment or order that is issued by the court in any civil proceeding in connection with a private water system;
 - (h) Aiding or abetting an unregistered person to evade the requirements of division (B)(3) of section 3701.344 of the Revised Code and this rule, allowing one's registration to be used by an unregistered person, or acting as an agent, partner or associate of an unregistered person with the intent to evade the provisions of this chapter;
 - (i) A demonstrated incompetency to act in the business or businesses for which a registration is held;
or
 - (j) Having more than one bond claim within a three year period where the director determined that there were violations of this chapter as specified in the written notice of violation issued under paragraph (D)(4)(c) of this rule, and that damages did occur.
- (3) Procedures for the revocation, suspension, or denial of a registration by the director shall be in



accordance with Chapter 119. of the Revised Code. Pursuant to that chapter, the private water systems contractor is entitled to a hearing upon request made within thirty days of the mailing of notice of the action on the registration. The date set for the hearing shall be within fifteen days, but not earlier than seven days, after the private water systems contractor has requested a hearing, unless otherwise postponed by the agency.