

CHAPTER 804

Point of Sale Inspections

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CROSS REFERENCES

- Lien for unpaid sewage disposal system permit or inspection fee – ORC 3709.091
- Minimum and optimal achievable standards; sewage disposal – OAC 3701-36-13
- Point of sale fees – EHC 101
- Orders and regulations of board of general health district – ORC 3709.21
- Powers of board; abatement of nuisances – ORC 3707.01
- Uniform system of fees; public health council rules – ORC 3709.09
- Private Water System Rules – OAC-3701-28

EHC Environmental Health Code **ORC** Ohio Revised Code **OAC** Ohio Administrative Code

804.01 DEFINITIONS

The following words and terms used in this Regulation, unless otherwise expressly stated, shall have the following meaning:

- (A) “Conveyance” means the transfer of property from one person to another.
- (B) “Failure” is defined as follows:
 - (1) For a Private Water System (PWS):
 - (a) Unsafe water sample, as determined by Ohio Department of Health (ODH) and Summit County Health District (SCHD) standards;
 - (b) The PWS is not within substantial conformance with water well construction requirements;
 - (c) The PWS is not within substantial conformance with water well isolation from contamination source requirements.

- (2) For a Sewage Treatment System (STS):

- (a) Prohibited discharge of effluent onto the ground surface, into a storm drain or ditch, or discharge into any stream or other body of water when the final water quality does not meet health or environmental standards set by the Ohio EPA NPDES requirements or, in the absence of NPDES requirements, the Board of Health requirements;
- (b) The backup of sewage into a structure;
- (c) Liquid level in the septic tank above the outlet invert;
- (d) Structural failure of a septic tank or other components;
- (e) Or other conditions where the STS is determined not to be in substantial conformance with the STS requirements and is deemed unsafe or unsanitary by the SCHD.

(C) "Household sewage treatment system" (HSTS) means any sewage treatment system, or part of such a system, that receives sewage from a single-family, two-family, or three-family dwelling and residential dwellings or appurtenances including but not limited to:

- (1) A bed and breakfast, residential facility, or other residence as described in the Revised Code 3717.42 (B)(2), (B)(4), and (B)(13).
- (2) An ancillary restroom associated with a dwelling in a location such as a barn or personal garage that is not used as an additional dwelling, sleeping area, or business and the users of the ancillary restroom are the same users of the dwelling. An ancillary restroom shall not be available for public use.
- (3) Vacation rental cabins provided there is a separate HSTS for each cabin.
- (4) A dwelling with a home business having no access for the general public and does not generate additional sewage as part of its operation.

(D) "Owner" means any person or entity which has legal title to any premises.

(E) "Person" means any individual, firm, partnership, party, corporation, company, society, association, or other legal entity.

(F) "Premises" means any tract of land, or portion thereof, or combination of tracts of land under single or common ownership, operation or control, that contains any type of structure that is, was or will be inhabited either permanently or transiently, water well or septic tank, drains, drain field, underground tank or pipes or similar appurtenances containing sewage or other contaminants or combination thereof.

(G) "Private Water System" (PWS) means any water system, other than a public water supply system, for the provision of water for human consumption, if the system has fewer than fifteen service connections and does not regularly serve an average of at least twenty-five individuals daily at least sixty days each year. A private water system includes any well, spring, cistern, pond, or hauled water and any equipment for the collection, distribution, transportation, filtration, disinfection, treatment, or storage of water extending from and including the source of the water to the point of discharge from any pressure tank or other storage vessel; to the point of discharge from the water pump where no pressure tank or other storage vessel is present; to where the pressure tank is outside of the building or dwelling; or, in the case of multiple service connections serving more than one dwelling, to the point of discharge from each service connection where the service connection enters the foundation of the dwelling. A private water system does not include the water service line extending from the point of discharge to a structure. (OAC 3701-28-01(ZZ))

(H) “Service Provider” means any person who services, but does not install or alter, a sewage treatment system.

(I) “Sewage Treatment System” (STS) means an HSTS, a small flow on-site sewage treatment system, or both as applicable.

(J) “Sewage Treatment System Evaluator” means a person who inspects sewage treatment systems for the purpose of providing all interested parties, which are involved with the sale of a home, information about the functional status of the system and is registered as a service provider.

(K) “Substantial Conformance” means there is a minimal likelihood of contamination of the PWS or surrounding PWSs posed by the improper construction or location of a PWS. Or, for a STS there is minimal likelihood of degradation of groundwater and surface water, or risk to public health caused by improper construction or location of an STS, or a malfunctioning STS.

(L) “Water System Contractor” means a person who constructs or develops a well for use as or as part of a private water system or otherwise constructs a private water system, installs pumping equipment for a private water system, alters a private water system, repairs a private water system, seals a private water system, or performs any combination of those activities for hire; or, who inspects or evaluates private water systems for hire. (OAC 3701-28-01(OOO))

(M) “Water System Evaluator” means a person who inspects private water systems for the purpose of providing all interested parties, which are involved with the sale of a home, information about the functional status of the system and is registered as a water system contractor with the Ohio Department of Health.

804.02 Limitations on Sale, Transfer, or Conveyance of Property

There shall be no sale, transfer, or conveyance of any parcel within the Summit County Combined General Health District (SCHD) served by a PWS and/or STS until the following are met:

- (1) The seller obtains a PWS evaluation report by the SCHD or files with SCHD a PWS evaluation report by a registered water system contractor;
- (2) The seller obtains a STS evaluation report by the SCHD or files with SCHD a STS evaluation report by a qualified registered STS Evaluator;
- (3) The seller provides a copy of the completed State of Ohio Department of Commerce Residential Property Disclosure Form:

804.03 Evaluations

Each PWS or STS in the SCHD shall be inspected and evaluated prior to the sale, transfer, or conveyance of any property upon which a PWS or STS is located. Transfers exempt from inspections include those transfers which are exempt from the Summit County Fiscal Office’s conveyance fee (see the Summit County Fiscal Office form DTE 100 EX for a list of exemptions;) and/or structures that have had a new or replacement PWS and/or, STS approved by the SCHD submitted within twenty-four (24) months preceding the date of property transfer; or had a point of sale evaluation conducted by SCHD or an approved water system evaluator or sewage treatment system evaluator that submitted the evaluation form to SCHD within twenty-four (24) months preceding the date of property transfer. The property owner

must show proof of exemption in order for SCHD to wave a PWS and/or STS transfer evaluation. An exemption application shall be completed and submitted to SCHD prior to closing.

The owner of a premise containing a PWS shall have the system evaluated by a representative of the Health Commissioner or a water system evaluator meeting the standards in section 804.05 of this article. The owner of a premise containing a STS shall have the system evaluated by a representative of the Health Commissioner or a registered STS Evaluator meeting the standards in section 804.06 of this article. When a system is inspected by a PWS contractor or a STS Evaluator, a report on an approved form shall be submitted to SCHD within three (3) business days of completion of inspection with the required review fee. After the report is evaluated, the SCHD shall review the report and issue a certificate of transfer review to the evaluator which may be presented to the buyer and seller.

A copy of the private inspectors' evaluation report of a PWS and/or STS shall be provided to the buyer and seller in addition to filing a copy with the SCHD.

804.04 Performance Standards

The evaluation shall determine whether the system(s) adversely affects the public health and the environment or violates any other applicable rules or regulations.

The evaluation shall determine whether the PWS and/or STS structure and its operational status are in substantial conformance with the standards of this regulation and the STS and PWS regulations.

Water samples that are collected shall be analyzed at a laboratory certified by the Ohio Environmental Protection Agency (OEPA) to determine the presence of coliform bacteria, nitrates, or other contaminants as determined by the SCHD, or requested by any person involved with the purchase or sale of the property. The process used for collection of potable water samples shall comply with Ohio Department of Health (ODH) rules and regulations. The process used for collection of non-potable water samples shall comply with ODH rules and regulations and/or SCHD regulations.

804.05 Registration of Water System Evaluators

All private inspectors performing evaluations of PWSs under this regulation must be registered with the Ohio Department of Health as a Water Systems Contractor. (OAC 3701-28-20)

804.06 Registration of Sewage Treatment System Evaluators

All private inspectors performing evaluations on STSs under this regulation must be registered as an STS Service Provider with the SCHD and receive training by SCHD before undertaking any evaluations.

804.07 Fees

Fees adopted in the Environmental Health Code of the SCHD shall be paid prior to the compliance evaluation by the SCHD. When the inspection has been performed by a private evaluator, the review fee shall be paid when inspection reports are filed with the SCHD. The fee rates are established as set forth in section 101 of the EHC.

804.08 Nuisance (Failure)

When a PWS and/or STS fails, as defined in section 804.01, the owner, agent or other responsible party shall contact the SCHD, apply for any applicable Site and Soil Evaluations and/or Installation Permits and shall complete all repairs or system replacement as required by the SCHD. If repairs cannot be completed prior to the date of the property transfer, the SCHD will issue orders for correction to the owner of record for repairs to be completed within a reasonable timeframe. If as a result of SCHD paper and/or on-site review of the transfer evaluation conducted by a PWS and/or STS Evaluator the SCHD finds that the PWS and/or STS is not in substantial conformance and/or is creating a nuisance, the SCHD will notify the Evaluator of its findings and order correction by the owner of record.

804.09 Inspection Notification

If, after conducting the inspection, or receiving a private evaluator's inspection report, the SCHD determines that the PWS and/or STS are/is not in substantial conformance as defined, then the property owner shall be subject to enforcement as provided by SCHD policy. The SCHD shall notify in writing the owner and/or purchaser or transferee or other person with a legally recognizable interest in the property. This written notice shall be sent after the determination is made or when the inspection report of the premises is filed and reviewed by the SCHD. Any party is considered notified if the notice is sent to that party's last known mailing address or to the property address if the party occupies the premises with the non-conforming PWS and/or STS.

804.10 Corrective Action

Upon receiving written notice from the SCHD of noncompliance with this Regulation, the owner, buyer or authorized agent shall, within sixty (60) days, submit appropriate SCHD applications and fees for alteration or replacement and a proposed corrective action and contract for services in order to bring the affected system into compliance with applicable laws. The SCHD shall review the proposed corrective action and amend it as required to conform to federal, state and local laws, rules and regulations. All necessary corrective action shall be completed within the time determined by SCHD. Once SCHD gives final approval of the completed corrective action, the system shall be deemed in substantial conformance with this Regulation and any affidavit previously filed with the Registrar of Deeds shall be discharged.

If a PWS or STS presents an immediate health hazard, the owner or other responsible party shall take such measures, in cooperation with the SCHD, which will immediately reduce or eliminate the impact of such failure until the full remediation plan can be implemented as described earlier in this section.

804.11 Enforcement and Compliance

If, after investigation, the SCHD believes that a person is violating these regulations, the SCHD shall attempt to enter a voluntary agreement with the property owner to resolve the violation. If a voluntary agreement cannot be reached, the SCHD may issue a violation notice to the owner.

If an owner, transferee or purchaser does not comply with the requirements of this regulation, a SCHD enforcement action will be pursued through the Board of Health, and if necessary and directed by the Board of Health, through prosecution.

804.12 Assessment against the Property

If an owner does not have his/her property evaluated as specified by this regulation, the SCHD shall cause an inspection to be performed and may charge all costs and fees for the evaluation to the owner of the premises.

If the owner or party violating this regulation refuses on demand to pay such expenses incurred by the SCHD to inspect, abate, correct or remove a violation, unsanitary condition or nuisance, the sum shall be assessed against the property and shall be collected and treated in the same manner as taxes assessed under the general tax laws of the State of Ohio, Ohio Revised Code Section 3709.091.

804.13 Severability

Each provision of this regulation must be interpreted in a way that is valid under Ohio law. If any provision is held invalid, the rest of the regulation shall remain in full effect.

804.99 Penalties

Whoever violates or fails to comply with any of the provisions of this Environmental Health Code shall be in violation of ORC 3707.48, 3709.20, 3709.21 or 3709.22, and subject to penalties provided in ORC 3707.99 and 3709.99.

(Resolution 67-08, approved May 8, 2008)

Effective Date: This Regulation shall become effective on September 1, 2008.