

1 Tuscarawas County General Health District Point of Sale Evaluation

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3 **Regulation Number 25**

4  
5 A regulation governing the sale, transfer, or conveyance of any parcel within the Tuscarawas  
6 County General Health District (TCHD) served by a private water supply and/or sewage treatment  
7 system until a transfer evaluation has been completed and approved by the Tuscarawas County  
8 General Health District.

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26 **CROSS REFERENCES**

- 27
- 28 Lien for unpaid sewage disposal system permit or inspection fee – ORC 3709.091
- 29 Minimum and optimal achievable standards; sewage disposal – OAC 3701-36-13
- 30 Orders and regulations of board of general health district – ORC 3709.21
- 31 Powers of board; abatement of nuisances – ORC 3707.01
- 32 Uniform system of fees; public health council rules – ORC 3709.09
- 33 Private Water System Rules – OAC-3701-28
- 34 Tuscarawas County, Ohio, General Health District Sewage Disposal Regulation Number 15

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36 ORC Ohio Revised Code      OAC Ohio Administrative Code

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39 **Section 01.    Definitions**

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

43  
44 (A) “Conveyance” means the transfer of property from one person to another.

45  
46 (B) “Failure” is defined as follows:

47  
48 (1) For a Private Water System (PWS):

- 49 (a) Unsafe water sample, as determined by Ohio Department of Health
- 50 (ODH) and Tuscarawas County General Health District (TCHD)
- 51 standards;
- 52
- 53 (b) The PWS is not within substantial conformance with water well
- 54 construction requirements;
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- 56 (c) The PWS is not within substantial conformance with water well
- 57 isolation from contamination source requirements.
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(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 as outlined in TCHD regulation number 15;
- (b) The backup of sewage into a structure;
- (c) Structural failure of a septic tank or other components;
- (d) 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 TCHD.

(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

115 where the pressure tank is outside of the building or dwelling; or , in the case of  
116 multiple service connections serving more than one dwelling, to the point of  
117 discharge from each service connection where the service connection enters the  
118 foundation of the dwelling. A private water system does not include the water service  
119 line extending from the point of discharge to a structure. (OAC 3701-28-01(ZZ))  
120  
121 (H) "Sewage Treatment System" (STS) means a home sewage treatment system, a small  
122 flow on-site sewage treatment system, or both as applicable.  
123  
124 (I) "Sewage Treatment System Evaluator" means a person who inspects sewage  
125 treatment systems for the purpose of providing all interested parties, which are  
126 involved with the sale of a home, information about the functional status of the  
127 system and is registered as a TCHD installer or TCHD septic cleaner.  
128  
129 (J) "Small flow on-site sewage treatment system (SFOSTS)" means a system, other than  
130 a household sewage disposal system, that treats not more than one thousand gallons  
131 of sewage per day and that does not require a national pollutant discharge elimination  
132 system permit issued under section 6111.03 of the Revised Code or an injection well  
133 drilling or operating permit issued under section 6111.043 of the Revised Code. A  
134 structure or structures served by a SFOSTS shall include but is not limited to:  
  
135 (1) Vacation rental cabins with multiple cabins served by an SFOSTS.  
  
136 (2) A dwelling and an ancillary building both served by an SFOSTS where the  
137 ancillary building may be open to the public and is used by more than the  
138 residents of the dwelling.  
  
139 (3) Two dwellings, including arrangements such as a dwelling and a detached  
140 garage with living space.  
  
141 (4) A dwelling with a home business that may be open to the public, generates  
142 sewage in excess of the daily design flow or waste strength for an HSTS, and  
143 has no wastewater going to the SFOSTS other than sewage as defined in this  
144 rule.  
  
145 (K) "Substantial Conformance" means there is a minimal likelihood of contamination of  
146 the PWS or surrounding PWS's posed by the improper construction or location of a  
147 PWS. Or, for a STS there is minimal likelihood of degradation of groundwater and  
148 surface water, or risk to public health caused by improper construction or location of  
149 an STS, or a malfunctioning STS.  
150  
151 (L) "Water System Contractor" means a person who constructs or develops a well for use  
152 as or as part of a private water system or otherwise constructs a private water  
153 system, installs pumping equipment for a private water system, alters a private water  
154 system, repairs a private water system, seals a private water system, or performs any  
155 combination of those activities for hire; or, who inspects or evaluates private water  
156 systems for hire. (OAC 3701-28-01(OOO))  
157  
158 (M) "Water System Evaluator" means a person who inspects private water systems for  
159 the purpose of providing all interested parties, which are involved with the sale of a  
160 home, information about the functional status of the system and is registered as a  
161 water system contractor with the Ohio Department of Health.  
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164 **Section 02. Limitations on Sale, Transfer, or Conveyance of Property**

165 *Prior to the* ~~There shall be no~~ sale, transfer, or conveyance of any parcel within the  
166 Tuscarawas County General Health District (TCHD) served by a PWS and/or STS until  
167 the following are met:  
168

169 (A) *The seller owner, agent, and/or other responsible party obtains* and files with the  
170 TCHD, a PWS evaluation report by:

171 (1) The TCHD,

172 (2) A registered water system ~~contractor~~ *evaluator*;

173 (B) *The seller owner, agent, and/or other responsible party obtains* and files with the  
174 TCHD, a STS evaluation report by:

175 (1) The TCHD,

176 (2) A ~~qualified~~ registered STS Evaluator;

177 (C) ~~The seller provides a copy of the completed State of Ohio Department of~~  
178 ~~Commerce Residential Property Disclosure Form.~~  
179

186 **Section 03. Evaluations**

187 Each PWS *and/or* STS in the TCHD shall be inspected and evaluated prior to the sale,  
188 transfer, or conveyance of any property upon which a PWS *and/or* STS is located.  
189

190 (A) Transfers exempt from inspections include:

191 (1) Structures that have had a new or replacement PWS and/or STS  
192 approved by the TCHD ~~submitted within twenty-four (24) sixty (60)~~  
193 months preceding the date of property transfer;

194 (2) Had a point of sale evaluation conducted by *the* TCHD, an approved  
195 water system evaluator, or sewage treatment system evaluator that  
196 submitted the evaluation form to *the* TCHD within ~~twenty-four (24) sixty~~  
197 (60) months preceding the date of property transfer.

198 ~~(3) Transfers in which property ownership does not change~~

199 ~~(4) Minor Subdivisions in which a new vacant lot(s) is/are created from a~~  
200 ~~parcel with an existing PWS and/or STS,~~

201 ~~(5) Transfers ordered by the court as authorized by the Tuscarawas~~  
202 ~~County Sherriff's Office.~~

203 ~~(6) Any property transfer waived as determined by the Board of~~  
204 ~~Health or it's authorized agent.~~

205 (B) ~~The property owner must show proof of exemption in order for TCHD to~~  
206 ~~waive a PWS and/or STS transfer evaluation. An exemption application shall~~  
207 ~~be completed and submitted to TCHD prior to closing.~~  
208

218 (G) (B) The owner, *agent, and/or other responsible party* of a premise containing  
219 a PWS shall have the system evaluated by either:

220  
221 (1) An authorized representative of the Tuscarawas County General  
222 Health District

223  
224 (2) A water system evaluator meeting the standards in section 05 of this  
225 article.

226 (D) (C) The owner, *agent, and/or other responsible party* of a premise containing  
227 a STS shall have the system evaluated by either:

228  
229 (1) An authorized representative of the Tuscarawas County General  
230 Health District

231  
232 (2) A registered STS Evaluator meeting the standards in section 06 of this  
233 article.

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236 (D) *During inclement weather or other unforeseen circumstances an onsite*  
237 *evaluation may not be conducted and office records will be used to determine*  
238 *compliance.*

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240 (E) When a system is inspected by a PWS contractor or a STS Evaluator, a  
241 report on an approved form shall be submitted to *the* TCHD within three (3)  
242 business days of completion of inspection with the required review fee.

243  
244 (1) (F) After the report is evaluated, the TCHD shall review the report. *The*  
245 *TCHD will stamp the evaluation as approved if it meets all requirements*  
246 *set forth in this rule. issue a certificate of transfer review to the evaluator*  
247 *which may shall be presented to the buyer and seller seller owner,-*  
248 *agent, and/or other responsible party.* A copy of the private inspectors'  
249 evaluation report of a PWS and/or STS shall be provided to the *buyer*  
250 *and seller seller owner, agent, and/or other responsible party* in addition  
251 to filing a copy with the TCHD.

252  
253 (F) *All PWS and/or STS that meet requirements as set forth in this article will be*  
254 *issued a certificate of transfer. The TCHD will supply the certificate of transfer*  
255 *to the current property owner, agent, and/or other responsible party.*

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257 **Section 04. Performance Standards**

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259 The evaluation shall determine whether the system(s) adversely affect(s) the public  
260 health or violates any other applicable rules or regulations.

261  
262 (A) The evaluation shall determine whether the PWS and/or STS structure and its  
263 operational status are in substantial conformance with the standards of this  
264 regulation, ~~and~~ Tuscarawas County General Health District Regulation 15, ~~and~~  
265 OAC 3701-28.

266  
267 (B) Water samples that are collected shall be analyzed at a laboratory certified by  
268 the Ohio Environmental Protection Agency (OEPA) to determine the presence of:

269  
270 (1) Coliform bacteria,

271  
272 (C) *Water samples shall be screened for:*

- 273  
274 (1) pH,  
275  
276 (2) Nitrates,  
277  
278 (3) Other contaminants as determined by the TCHD, if needed,  
279  
280 ~~(G)~~ (D) The process used for collection of potable water samples shall comply  
281 with Ohio Department of Health (ODH) rules and regulations as outlined in OAC  
282 3701-28-04 (E).

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284 **Section 05. Registration of Water System Evaluators**

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286 All private inspectors performing evaluations of PWSs under this regulation must be  
287 registered with the Ohio Department of Health as a Water Systems Contractor (OAC  
288 3701-28-20) or a *State of Ohio Registered Sanitarian*.

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291 **Section 06. Registration of Sewage Treatment System Evaluators**

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293 All private inspectors performing evaluations on STSs under this regulation must be  
294 registered as a TCHD installer, TCHD septic cleaner, *State of Ohio Registered*  
295 *Sanitarian, or Accredited Onsite Wastewater Inspector by the National Sanitation*  
296 *Foundation (NSF)*.

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299 **Section 07. Fees**

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301 Fees adopted by the TCHD shall be paid prior to the compliance evaluation by the  
302 TCHD. When the inspection has been performed by a private evaluator, the review fee  
303 shall be paid when inspection reports are filed with the TCHD.

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306 **Section 08. Nuisance (Failure)**

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308 The system will fail if the PWS and/or STS meets any requirements as set forth in  
309 Section 01(B)  
310  
311 *If, after conducting the inspection, or receiving a private evaluator's inspection report, the*  
312 *TCHD determines that the PWS and/or STS is/are not in substantial conformance as*  
313 *defined,*

314  
315 (A) ~~The TCHD shall notify in writing the owner and/or purchaser or transferee~~  
316 ~~and/or other person with a legally recognizable interest in the property.~~

317  
318 ~~(A)~~ (B) When a PWS and/or STS fails, *after notification*, the owner, agent or other  
319 responsible party shall:

320  
321 ~~(1) Contact the TCHD~~

322  
323 ~~(2)~~ (1) Apply for any applicable Site and Soil Evaluations and/or  
324 Installation Permits,

325  
326 ~~(3)~~ (2) Shall complete all repairs *to the existing system or system*  
327 *replacement* as required by the TCHD.

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329 (3) If repairs to the existing system cannot be made a replacement  
330 system will be required.

331  
332 (B) (C) If repairs cannot be completed prior to the date of the property transfer:

333 (4) The TCHD will issue orders for correction to the owner of record for  
334 repairs to be completed within a reasonable time frame.

335  
336 (2) The owner, transferee or purchaser may voluntarily place funds into  
337 an escrow account with the lending institution for the repair and/or  
338 replacement of the sewage treatment system. The funds may be utilized  
339 for the correction of any and all faulty system components. The time  
340 frame for repairs will be determined by the TCHD.

341  
342 (G) (D) If as a result of TCHD paper and/or on-site review of the transfer  
343 evaluation conducted by a PWS and/or STS Evaluator the TCHD finds that  
344 the PWS and/or STS is not in substantial conformance and/or is creating a  
345 nuisance:

346  
347 (4) The TCHD will notify the Evaluator of its findings and order correction  
348 by the owner of record, as outlined in Section 08 of this article.

349  
350 (D) Any party is considered notified if the notice is sent to that party's last known  
351 mailing address or to the property address if the party occupies the premises  
352 with the non-conforming PWS and/or STS.

353  
354 **Section 09. — Inspection Notification**

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356 If, after conducting the inspection, or receiving a private evaluator's inspection report, the  
357 TCHD determines that the PWS and/or STS are/is not in substantial conformance as  
358 defined, then the property owner shall be subject to enforcement as provided by TCHD  
359 policy.

360  
361 (A) The TCHD shall notify in writing the owner and/or purchaser or transferee or  
362 other person with a legally recognizable interest in the property.

363  
364 (B) This written notice shall be sent after the determination is made or when the  
365 inspection report of the premises is filed and reviewed by the TCHD.

366  
367 (C) Any party is considered notified if the notice is sent to that party's last known  
368 mailing address or to the property address if the party occupies the premises  
369 with the non-conforming PWS and/or STS.

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371 **Section 10. — Corrective Action**

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373 All property owner, agent or other responsible party shall make all corrective action:

374  
375 (A) Upon receiving written notice from the TCHD of noncompliance with this  
376 Regulation, the owner, buyer or authorized agent shall within sixty (60) days,:

377  
378 (1) Schedule a site and soil evaluation with the TCHD  
379 (2) Submit appropriate TCHD applications and fees for alteration or  
380 replacement in order to bring the affected system into compliance.

381  
382 (3) All necessary corrective action shall be completed within the time  
383 determined by TCHD.

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~~(B) Once TCHD 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.~~

~~(C) If a PWS or STS presents an immediate health hazard, the owner or other responsible party shall take such measures, in cooperation with the TCHD, which will immediately reduce or eliminate the impact of such failure.~~

**Section 11-9. Enforcement and Compliance**

If, after investigation, the TCHD believes that a person is violating these regulations the TCHD shall:

(A) Attempt to enter a voluntary agreement with the property owner to resolve the violation.

~~(B) The owner, transferee or purchaser may voluntarily place funds into an escrow account with the lending institution for the repair and/or replacement of the sewage treatment system. The funds may be utilized for the correction of any and all faulty system components. The time frame for repairs will be determined by the TCHD.~~

~~(C)~~ (B) If a voluntary agreement cannot be reached; the TCHD may issue a violation notice to the owner.

~~(D)~~ (C) If an owner, transferee or purchaser does not comply with the requirements of this regulation, a TCHD enforcement action will be pursued through the Board of Health, and if necessary through prosecution.

**Section 12-10. Assessment against the Property**

If an owner does not have his/her property evaluated as specified by this regulation, the TCHD 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 TCHD 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.

**Section 13-11. 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.

**Section 14-12. Disclaimer**

The point of sale evaluation will be compiled from observation of the visible components of the water supply and sewage disposal system and if applicable, information from the owner/ realtor and Health department records. This opinion may be rendered without

441 knowledge of some individual components of the water supply or sewage disposal  
442 system and applies to only the date and time of evaluation and/or evaluation approval.  
443 Because of these factors the evaluation does not guarantee the future performance of  
444 either system.

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**Section 99. Penalties**

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Whoever violates or fails to comply with any of the provisions of Regulation 25 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.