

3701-28-02 **Scope, responsibility for compliance, and applicability of rules.**

- (A) The definition of private water system as stated in paragraph (QQQ) of rule 3701-28-01 of the Administrative Code shall apply to all systems regardless of the date of construction, development, installation, or alteration. All private water systems constructed prior to the effective date of this rule shall comply with the rules in effect at the time of construction, unless otherwise required by this chapter regardless if the water system is converted to uses other than a private water system.
- (B) Chapter 3701-28 of the Administrative Code shall apply to the following:
 - (1) All private water systems, constructed, after the effective date of this rule; and,
 - (2) Except as provided in paragraphs (D), (E), (F), (G), and (I) of this rule, all private water systems constructed prior to the effective date of this rule when altered.
- (C) Wells used as private water systems, constructed prior to the effective date of this rule that have deteriorated to a condition that poses a public health risk to the users or the ground water, and are in violation of any of the requirements of rule 3701-28-10 of the Administrative Code shall be improved to meet the requirements of paragraphs (P) to (W) of rule 3701-28-10 of the Administrative Code if repaired or one of the following conditions occur:
 - (1) If the top of the casing is buried, when excavation is done to expose the top of the casing for purposes other than the performance of an alteration, or
 - (2) Whenever a drilling rig is placed over the well for purposes other than the performance of an alteration.
 - (3) When a well is in a pit and is being altered to bring the casing above grade.
- (D) Paragraph (W) of rule 3701-28-10 of the Administrative Code and rule 3701-28--17 of the Administrative Code shall apply to all private water systems, regardless of the date of construction.
- (E) Wells constructed prior to the effective date of this rule that have one or more of the following conditions shall be exempt from the construction and isolation distance requirements in paragraph (F) of this rule when altered or repaired.
 - (1) Wells located within a foundation of a building such as in a basement, basement offset, or in a garage;
 - (2) Wells that have four inch or smaller diameter casing;
 - (3) Wells that have casing of unknown manufacturing standard;
 - (4) Wells that are within ten feet of a foundation wall or a property line;

- (5) Wells that have unknown annular grout placement.
- (F) Wells described in paragraph (E) of this rule will not be required to meet the isolation distance from a property line, road right-of-way, and foundation walls unless determined to be critical by the board of health in accordance with paragraph (K) of rule 3701-28-07 of the Administrative Code; meet the casing material requirements in paragraph (B) of rule 3701-28-09 of the Administrative Code; and meet the casing diameter, and grout placement requirements of rule 3701-28-10 of the Administrative Code if the property owner can demonstrate to the board of health that:
- (1) The surface condition of the well casing is undamaged, not deteriorated, and in good condition,
 - (2) There is no direct infiltration of surface water,
 - (3) The well is capable of meeting the bacterial water quality standards in paragraph (J) of rule 3701-28-04 of the Administrative Code.
- (G) Wells constructed prior to the effective date of this rule with casing that terminates at least eight inches above grade need not be extended to twelve inches above grade.
- (H) Ponds in use as a private water system prior to 1984 shall not be required to comply with the pond volume standards and watershed area requirements of paragraph (C)(1) of rule 3701-28-14 of the Administrative Code.
- (I) Pitless adapters and pitless units installed in wells prior to the effective date of this rule need not be replaced, provided the pitless adapter remains functional and has not deteriorated.
- (J) Cistern and hauled water storage tanks constructed prior to 1981 and located within the foundation of a building will not be required to be relocated provided that the tank does not leak, is in good structural condition, is acceptable with the local building code or, where no building codes are applicable, as determined by the board of health or a professional engineer and is otherwise in compliance with the requirements of these rules pertaining to the operation of cisterns and hauled water storage tanks. Manhole risers shall be added so that no materials stored in the building can contaminate the water supply.
- (K) When the average number of individuals regularly served by a private water system cannot be readily determined, a determination for the purpose of applying these rules shall be made as follows:
- (1) 3.14 individuals per dwelling unit served by the water system. For purposes of this rule dwelling unit includes a lot in a manufactured home park, as defined in rule 3701-27-01 of the Administrative Code, and a campsite in a park or camp as defined in paragraph (I) of rule 3701-25-51 of the Administrative Code.
 - (2) In the case of a building as defined by section 3781.06 of the Revised Code, the number of individuals as determined by the certificate of occupancy.

(L) Unless otherwise specified in a rule, the responsibility for compliance with these rules shall be as follows:

- (1) In the design, construction, installation, or in allowing access for inspection for final approval of a new private water system or the alteration of an existing system, the property owner and any contractor performing the services will be responsible for compliance with the applicable rules and the terms of the permit, jointly and individually, and compliance shall be by either party or both. The board of health shall enforce the applicable rules against the property owner or any contractor who performed the services or both.
- (2) In the repair of an existing system, or the sealing of a test hole or private water system, the property owner and any contractor performing the services will be responsible for the compliance with the applicable rules, jointly and individually, and compliance may be by either party or both. The board of health shall enforce the applicable rules against either the property owner or any contractor who performed the services or both.
- (3) In the operation and maintenance of a private water system, the property owner and any person in control of the property will be responsible for the compliance with the applicable rules, jointly and individually, and compliance may be by either party or both. The board of health may enforce the applicable rules against either the property owner or the any person in control of the property or both.
- (4) Where any requirement in these rules is not within paragraph (L)(1), (L)(2), or (L)(3) of this rule, the property owner and any person in control of the property shall be responsible for compliance jointly or individually.

Effective: 04/01/2011

R.C. 119.032 review dates: 10/18/2010 and 04/01/2016

CERTIFIED ELECTRONICALLY

01/20/2011
Date

Promulgated Under: 119.03
Statutory Authority: 3701.344
Rule Amplifies: 3701.344
Prior Effective Dates: 1/1/1981, 1/1/84, 1/1/00