

**3701-29-02      Scope, responsibility for compliance, and applicability of rules.**

- (A) The scope of the rules includes the performance of sewage treatment systems, gray water recycling systems, and persons, agencies, and organizations as these relate to the effective management of these systems throughout the state, including the siting, design, installation, alteration, operation, monitoring, service and maintenance, repair, and abandonment of a STS or GWRS.
- (B) Unless otherwise specified, the rules apply to both HSTS and SFOSTS, referred to jointly as STS, and where applicable, GWRS.
- (C) In accordance with section 3718.012 of the Revised Code, a sewage treatment system that was in operation prior to the effective date of these rules shall not be required to be replaced with a new sewage treatment system, and shall be deemed approved if the system does not cause a public health nuisance, or if the system is causing a public health nuisance as provided in section 3718.011 of the Revised Code, repairs are made to the system that eliminate the public health nuisance as determined by the applicable board of health. Repairs must be completed in accordance with the requirements of this chapter. A board of health may require components, be added or exposed to determine compliance with this chapter. Nothing in this section prohibits the required upgrade of an existing STS when additional flows are being added or when substantial changes to the structure occur. Additionally, nothing in this section exempts a STS from compliance with the requirements specified in paragraph (E) of rule 3701-29-06 of the Administrative Code.
- (D) Chapter 3701-29 of the Administrative Code shall apply to all STS or GWRS installed, altered, or operated after the effective date of this chapter. All STS repairs shall be completed in compliance with this chapter.
- (E) In cases where a board of health has provided written approval for a HSTS design prior to the effective date of this chapter, the board of health shall permit the installation of the system at the applicant's request under the following conditions:
  - (1) There is written documentation that the HSTS design was approved by the board of health and the written approval has not expired;
  - (2) The HSTS shall not conflict with provisions of the NPDES program established in section 6111.03 of the Revised Code or rules adopted or permits issued pursuant to section 6111.03 of the Revised Code;
  - (3) Other than the siting and HSTS specifications previously approved by the board of health, the provisions of this chapter shall apply; and
  - (4) The installation permit for the HSTS is issued by the board of health prior to the first day of January 2017.
- (F) For purposes of this chapter and for the approval or denial of the installation, operation, or alteration of a sewage treatment system under this section, economic impact means all of the following, as applicable:
  - (1) The cost to the property owner for the installation of the proposed sewage

treatment system, including the cost of progressive or incremental installation of the system for STS repair or replacements;

- (2) The cost of an alternative system, including but not limited to the cost of progressive or incremental installation of the system for STS repair or replacements, that when installed and maintained properly, will not create a public health nuisance compared to the proposed sewage treatment system, and is in compliance with this chapter and Chapter 3718. of the Revised Code;
  - (3) The costs of repairing the sewage treatment system, including the cost of progressive or incremental repairs, as opposed to replacing the system with a new system; and
  - (4) The annual and long term cost of operation and maintenance of the system.
- (G) In accordance with division (B)(1) of section 3718.02 of the Revised Code, when a board of health proposes to adopt more stringent rules, economic impact must be considered to justify any potential increase in cost of a STS. For the purpose of this rule, economic impact means demonstration by the board of health of one or more of the following:
- (1) The presentation of quantitative data showing an identifiable concern with existing or future STS such that the proposed rule is necessary to mitigate or prevent the occurrence of public health nuisance conditions;
  - (2) The presentation of quantitative data showing that the proposed rule is necessary to meet effluent quality standards for discharging STS that have received coverage under the household general NPDES permit; or
  - (3) That the proposed rule is necessary to achieve a demonstrable change in established water quality standards for the area served by the health district.
- (H) A board of health may regulate the siting, design, installation, operation, monitoring, maintenance and/or abandonment of SFOSTS in accordance with section 3718.021 of the Revised Code. When the rules specifically address SFOSTS, the provisions apply to those SFOSTS that are under the jurisdiction of a board of health having met the following requirements:
- (1) The board of health has determined that all applicable provisions of the rules related to SFOSTS can be fully implemented under its authority.
  - (2) The board of health has sent a letter of notification to the director of health and the director of the Ohio environmental protection agency at least sixty days prior to the date when the board of health will assume authority for SFOSTS. The letter of notification shall include the intended date for transfer of jurisdiction and shall indicate compliance with paragraph (H)(1) of this rule.
- (I) Certain design standards contained in Chapter 3701-29 of the Administrative Code for SFOSTS differ from those standards for on-site systems regulated under Chapter 3745-42 of the Administrative Code due to affirmative maintenance requirements for SFOSTS under this chapter. Differences in design standards between these two chapters of the Administrative Code should not be construed as a conflict of law.
- (J) Unless otherwise specified in this chapter, the persons responsible for compliance with the rules, including but not limited to the siting, design, installation, alteration,

operation, monitoring, service and maintenance, repair and/or abandonment of a STS, shall be the owner and/or responsible management entity and/or any person performing a related service or activity, including but not limited to an installer, service provider, septage hauler, soil evaluator, or designer for the work they perform on the system. Enforcement action may be taken against the owner and/or any person who performs a related service or activity.

- (K) The department of health and the board of health are responsible for implementation of this chapter. The department of health shall provide written technical guidance and rule interpretation to the board of health upon request.

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Effective: 01/01/2015

Five Year Review (FYR Dates): 01/01/2020

CERTIFIED ELECTRONICALLY

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Certification

09/29/2014

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Date

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