

## Onsite Wastewater Treatment System Property Transfer

### Section 7. Property Transfer Inspections

#### 7.1 Applicability

A. Prior to the sale or transfer of a property served by an OWTS, the new property owners must obtain, or have in their possession, a property transfer of title certificate (i.e. property transfer certificate) for the OWTS unless they have been exempted or waived per Section 7.4.

B. The purpose of a property transfer inspection is to verify the adequacy of the existing OWTS at the time of property transfer (i.e. sale of property), that the OWTS was previously approved and permit-tered or to assure that an unapproved OWTS will be permitted and approved in compliance with these regulations, and to demonstrate that the system is functioning according to design and approved permit.

#### 7.2 Additional Requirements for Commercial Systems

A. The owners of commercial systems must complete a title transfer inspection for all OWTS on the property and submit engineer evaluation that the approved OWTS capacity is able to support the wastewater flow for continued operation or change in use. The engineer evaluation must include:

1. Calculated design flow of proposed business use.
2. Determination that the system is adequately sized for the calculated design flow using previous soils evaluation data from the approved permit.
3. A signed affidavit if the business operation is to remain the same (i.e. existing tenant will continue to operate and has a current permit approved for that use).
4. Statement that all U.S. Environmental Protection Agency (EPA) Class V injection well requirements have been met.
5. Overview of the business operation, including but not limited to:
  - a) Number of employees.
  - b) Business type.
  - c) Anticipated number of non-employee visits, if applicable.
  - d) Biochemical oxygen demand (BOD), where applicable.

B. Undocumented commercial OWTS are subject to the same title transfer requirements as all other undocumented systems.

### 7.3 Property Transfer Requirements

A. When a property with an approved OWTS is transferred (e.g. sold) , the OWTS must pass a new property transfer inspection to confirm that the OWTS is continuing to operate appropriately. If the OWTS does not pass the inspection, the property owner must obtain an OWTS repair permit and correct the deficiencies, or the new property owners must submit a notarized agreement, using the current BCPH form, to acknowledge that they have accepted responsibility for repairing the identified deficiencies.

B. BCPH will issue a property transfer certificate when the property owner submits a property transfer inspection report with required documents that verify the OWTS is functioning in compliance with applicable OWTS regulations and permit requirements and according to design.

C. All properties must have an existing approved OWTS permit from BCPH; therefore, property owners without a current permitted and approved OWTS must apply for an OWTS repair permit or obtain a conditional property transfer certificate.

D. Property owners that have an OWTS permit but haven't received final approval from BCPH must contact BCPH to determine the necessary steps for obtaining OWTS approval.

### 7.4 Exemptions from Property Transfer Requirements

A. A property transfer certificate will not be required under the following circumstances:

1. The entire OWTS serving the dwelling or structure was installed and given final BCPH approval less than five years before the property sale closing date. An inspection will be required if any part of the OWTS is more than five years old (building sewer line is excluded).
2. The change in property ownership is solely to include or exclude a spouse.
3. The property transfer is creating or ending a joint ownership if at least one person is an original owner of the property and/or the spouse of an original property owner.
4. The property transfer contains a building or buildings connected to an OWTS that will be demolished (or already has been), and the building/buildings will not be occupied after the property transfer occurs.
5. The property transfer is being made to a trust that is in the same name as the property owner.
6. The property transfer is to affect the foreclosure or forfeiture of real property.
7. The property owner or person acquiring the title has signed an enforceable agreement with BCPH to repair the OWTS.
8. The property owner will connect the dwelling or occupied building to a sanitary sewer or shared wastewater treatment system within two years following transfer of title, provided that such agreement has been disclosed to and is binding on the subsequent owner(s).
9. The property owner is part of a community plan or management district for which their OWTS has received written approval from BCPH, and the OWTS's been inspected, per plan requirements.

B. If the OWTS is not functioning according to design, the system must be repaired so it is functioning appropriately. Photo documentation of all malfunctions and failures must be submitted to BCPH with the applicable inspection report.

### 7.5 Property Transfer Certificate Application Requirements

A. Applications for property transfer certificates must be submitted following the application requirements and BCPH property transfer inspection report form, which include:

1. Name, address, and phone number of current owner.
2. Property street address.
3. Property legal description.
4. Property size in acres, rounded to the nearest tenth (1/10) acre.
5. All water supply types, including irrigation wells, and their location on the property.
6. Type(s) of all existing buildings or structures; if commercial, list all uses or tenants.
7. Inspection date and time.
8. Number of bedrooms in the dwelling(s).

9. Statement from current property owner regarding the present OWTS operational status.
10. Non-refundable property transfer certificate fee, as established by BCPH.
11. Septic tank pumping receipt from a cleaner licensed by BCPH.
12. Where required, copy of current maintenance contract if the OWTS contains any mechanical components, such as an aeration or secondary treatment system, and an inspection report from the service provider.
13. Inspection report on current BCPH form; must be from an inspector licensed by BCPH, as outlined in Section 5.3. The inspection cannot be older than 12 months before the date on the property transfer certificate application and must contain the following:
  - a. Drawing that shows the location of the dwelling or structure with two-point triangulated distance measurements to the septic tank lid(s) or global positioning system (GPS) coordinates.
  - b. OWTS inspection report that states whether each component is in good repair and proper working order, and that the inspection conducted meets all BCPH requirements, as outlined in guidance provided by BCPH.
  - c. Any other information required by BCPH.
  - d. Statement of length of the vacancy if the property is unoccupied.
  - e. Inspector's NAWT or other applicable certification number, full name, company name, and contact information.

B. All reports must be submitted using a current BCPH OWTS property transfer inspection report form.

C. Any components found to be in a state of malfunction must be noted and disclosed in the inspection report.

### 7.6 Inspection Minimum Criteria

- A. The existing OWTS must meet the following criteria and conditions, at a minimum:
1. A primary (and secondary, where applicable) tank must be structurally sound, watertight, and in good working order and provided with safe and secure lids. Metal tanks will not be approved.
  2. The number of bedrooms in the house must be the same as listed on the permit.
  3. All internal devices and components (e.g. tees, effluent screens, and baffles) that were originally provided with the tank or added later must be intact and in good working order.
  4. Alarms, control devices, and components necessary for the operation of the OWTS must be present and in good working order.
  5. A soil treatment area or other means of subsurface wastewater treatment must be present and not in a state of failure.
  6. If the system utilizes mechanical components, operating permits and service contracts must be current.
  7. There cannot be any unapproved wastewater discharges from the OWTS, dwelling, or structure.
  8. The OWTS has not been significantly altered from its original design and configuration, as documented by BCPH.
  9. Any items meeting the conditions of a "failure," as defined in these regulations, have been corrected to the acceptance of BCPH.

### **7.7 Issuance and Term of Property Transfer Certificates**

A. Once the above criteria have been met, BCPH will issue a property transfer certificate using terminology adopted by BCPH, that sets forth the terms and conditions of OWTS approval, including the following, as appropriate:

1. Statement of the size, type, and capacity of the OWTS and a record drawing from the inspection report.
2. Evidence of past system failures, as documented in BCPH records.
3. Circumstances or factors that may have affected the ability of the inspector to evaluate the OWTS.
4. Whether the system meets BCPH's permitting requirements.
5. The existence of any OWTS permits in BCPH files.
6. Any other information deemed appropriate by BCPH.
7. A copy of the inspection report must be included with the certificate.

B. The property transfer certificate will remain valid until the date of real estate closing, or for a period of 12 months, whichever occurs first.

### **7.8 Issuance of Conditional Property Transfer Certificates**

A. If BCPH determines that an OWTS does not meet the requirements for the issuance of a property transfer certificate, a conditional property transfer certificate may be issued, provided that the purchaser of the property agrees to obtain an OWTS permit and complete all necessary repairs to the system within one year of occupancy of the structure. The property buyer must use the current BCPH form, sign the agreement, and have it notarized.

B. If conditions are such that they limit the property owner's ability to complete the necessary repairs within one year, BCPH may extend the OWTS repair agreement on a case-by-case basis if good cause is shown.

### **7.9 Revocation of Property Transfer Certificates**

A property transfer certificate will be revoked if BCPH determines that the OWTS is no longer functioning in accordance with applicable OWTS regulations permit requirements, or if false or misleading statements were made on any OWTS applications or inspection reports.

### **7.10 Penalties**

A. If a property owner fails to obtain a property transfer certificate, as required in this section, BCPH will issue a notice of violation (NOV) to the property owner of record that provides the owner 30 days to comply with the NOV. If a property transfer certificate has not been acquired after the 30 days have expired, a hearing will be convened per Section 4.16.

B. The owner can be assessed a penalty of up to \$50/day of violation.

C. Assessment of the penalties will cease once the owner obtains a property transfer certificate, as required in these regulations.