



Missouri Department of Health and Senior Services

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Informational Release Number OWP 23-02

TO: Local Public Health Agencies and other local Onsite Wastewater Regulatory Agencies

THROUGH: Dusty Johnson, Chief 
Bureau of Environmental Health Services

FROM: Eric C. Folks, Manager 
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SUBJECT: Annual Inspections of Onsite Wastewater Treatment Systems Serving Child Care Facilities

DATE: June 30, 2023

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This informational release will replace Informational Release #S-17 dated 6/4/1996 "DoH or DNR Jurisdiction for Sewage Systems in Child Care Facilities" due to updated regulations.

The Department of Health and Senior Services (DHSS) has received several inquiries regarding Environmental Child Care (ECC) inspections of Onsite Wastewater Treatment Systems (OWTS) for Child Care Facilities. Daily flows of $\leq 3,000$ gallons per day from any child care facility that is served by a subsurface OWTS remains under the jurisdiction of DHSS. However, jurisdictional boundaries between DHSS and the Missouri Department of Natural Resources (DNR) for lagoons serving these facilities can cause confusion during ECC inspections.

Single-family residence lagoons are under the authority of DHSS. All other lagoons fall under DNR's jurisdiction. However, when small day care facilities are operated in the home, the jurisdictional lines can become blurred. Based on previous discussions and agreements between DHSS and DNR, the following shall apply:

Family Homes (6-10 children)

- Will be considered by DNR and DHSS as a single family residence. This is based on the daily flow for the lagoon receiving more than 50% from the residence's occupants.
- Construction or major modification of an OWTS will require a construction permit from the administrative authority. This applies to all facilities. No acreage exemptions are allowed since the residence is also operating as a business.

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Group Homes (11–20 children); Child Care Centers (over 20 children); and License Exempt Facilities

- Will not be considered by DNR and DHSS as a single-family residence. This is based on the daily flow for the lagoon receiving less than 50% from the residence's occupants.
- Construction and operation of any lagoon (regardless of discharge or non-discharge), and any other system that discharges to the surface, regardless of daily volume of wastewater, will be under the jurisdiction of DNR.
- Construction and operation of any subsurface system will be under the jurisdiction of DHSS.
- Construction and operation of any wastewater system receiving greater than 3,000 gallons per day will require a construction permit and operating permit from DNR.

ECC inspections are intended to provide the Department of Elementary and Secondary Education (DESE) with adequate information for child care providers to maintain their licensing. It is the inspector's responsibility to document if the OWTS is causing a health hazard or nuisance per 701.025(7) RSMo. Simply put, lagoons must be fenced, maintained and free from leaking while subsurface system must not discharge to the surface. It is important to note that when an ECC form is marked as non-compliant, the child care provider will have to adhere to the current standards before the ECC form can be marked compliant. If the child care provider chooses not to comply with bringing the OWTS up to current standards, DESE could revoke their license. The following are examples with responses to help clarify jurisdictional boundaries as well as appropriate actions that can be taken by the administrative authority.

1. A single family residence utilizes an existing lagoon to serve its wastewater disposal needs. Later, the homeowner decides to apply for a child care license for a Family Home. How is the OWTS addressed?

The occupancy use of the property has changed. As previously mentioned, wastewater lagoons serving Family Homes will be treated by DNR and DHSS the same as a single-family residence. This lagoon will be recognized by DHSS as an existing OWTS for this purpose. If there are no major deficiencies, the inspector can accept the OWTS. However, the inspector must advise the owner in writing that the extra daily flow on the OWTS may cause it to fail. If there are major deficiencies that can be corrected without major repairs or modifications (ex. need to mow berms), the inspector can require the correction and mark the ECC form as non-compliant until the issue(s) are corrected. If there are major deficiencies that require a major repair or modification (ex. leaking lagoon), the inspector will mark the ECC form as non-compliant. An OWTS construction permit will be required to make repairs or replace the OWTS because the three (3) acreage exemption does not apply for businesses.

2. The homeowner of a single-family residence with an existing OWTS wishes to open a Family Home, but not in their residence. A separate building is constructed.

If they connect to the existing OWTS serving the residence, the additional building is viewed the same as a room addition. No OWTS construction permit is required.

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However, the inspector must advise the owner in writing that the extra daily flow on the OWTS may cause it to fail. Any major repairs or modifications to the existing OWTS, or construction of a separate OWTS for the new building will require an OWTS construction permit.

3. A child care facility has an existing subsurface system allowing the discharge of sewage to the ground surface. (The system is failing.)

The inspector will mark the ECC form as non-compliant. DESE may revoke their license without an approved inspection. If the facility wants to retain their license, they must bring the OWTS up to current standards.

Violation Notices are not to be issued based on the outcome of the ECC inspection. Complaints must be derived from an aggrieved party or neighboring property owner for a violation notice to be issued per 701.038 RSMo.

If the surface discharge is entering the "waters of the state", contact the DHSS district supervisor for assistance. A meeting may be needed between the county, DHSS and DNR regarding the enforcement of the water pollution laws.

4. A child care facility is served by a wastewater lagoon under DNR's jurisdiction.

Due to the fact that DNR allows some wastewater lagoons to have an "exempt" status, it is difficult to know what requirements are needed. The wastewater lagoon should still be fenced, maintained and free from leaking. If this is the case, the ECC form can be marked as compliant. If the lagoon is not fenced, maintained, or is leaking, mark the ECC form as non-compliant.

A permit is not required to clean or remove excessive vegetation around the lagoon provided the size of the lagoon is not changed. A permit is also not required to install a fence, but the fence must be designed to discourage the entrance of unauthorized persons and animals per 10 CSR 20-8.140(8). Any fence installed in accordance with established DHSS wastewater regulations will meet the requirements.

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