

TOST FAQs

Q. What is the TOST program?

A. TOST stands for **T**ime **O**f **S**ale or **T**ransfer. The TOST program is a regulation in Barry and Eaton counties that is overseen by the Barry-Eaton District Health Department (BEDHD). It says that properties with on-site wells and/or on-site septic (sewage) systems need to be checked when the property is sold or transferred to a new owner. These checks are done to make sure that wells and septic systems are not failed and do not require important maintenance.

Q. Why is TOST necessary?

A. The purpose of the TOST program is to protect the health of our community, the quality of our water resources, and the natural environment. Through this program, the current condition and operation of wells and septic systems are evaluated. Wells or septic systems that are a potential public health or environmental health danger or that need maintenance are improved.

Q. What are my first steps to getting through TOST?

A. When you know that your property (with a well and/or septic system) is going to be sold or transferred to a new owner, determine what your situation is. Your path through TOST might be different depending on the kind of sale or transfer. Examples are listed below.

Most common situation: I'm selling my home to someone who is not related to me.

In this situation, you will hire a Registered Evaluator (RE) to evaluate your well and septic system. REs are persons in private business and are registered by BEDHD. After the RE's evaluation is done, the RE will submit a report to BEDHD for review. BEDHD will decide if your well and/or septic system fits into the *Action Required* category, the *Action Recommended* category, or the *No Action Required* category.

To get started, [see our list of Registered Evaluators](#).

Other less common situations:

Situation 1. I'm just refinancing an existing mortgage.

In this situation, your property is not changing owners or being sold, so TOST does not apply.

Scenario 2. I'm selling or transferring my home to an immediate family member.*

In this situation, you can apply for an exemption from TOST. You will still need an authorization letter from BEDHD to finish the sale or transfer. If authorization to transfer under an exemption is given, you are exempt from TOST *for this transfer only*. Future sales or transfers of the property would require a new evaluation or exemption.

(*“Immediate family members” include parents, grandparents, legal guardians, siblings, children, and grandchildren.)

Scenario 3. I just bought my home, and now I am trying to sell it. The property just went through TOST—do I have to go through the process again?

If the property has been through the TOST process within the last year and received a *Transfer Authorization*, you can request an exemption from TOST. The property must be sold or transferred again within one year of the date of the original TOST evaluation.

Related question: My one-year window is about to expire, but I am about to close on my home. What can I do?

A. In certain circumstances, BEDHD may grant an extension of the TOST authorization. If your TOST authorization is about to expire, you can request an extension from BEDHD. If an extension is granted, you will receive a new timeframe within which to complete your transfer.

Scenario 4. I’m selling or transferring my property, but I just put in a new well and/or septic system that was approved by BEDHD. Do I still need to have the new well or septic system evaluated?

If you installed a new system in the last three years and the system was approved by BEDHD, you can file for an exemption from TOST before the transfer or sale. If this exemption is granted, transfer authorization will be issued by BEDHD.

Scenario 5. I’m selling a house and the buyer is going to demolish it.

If you are not going to occupy the house and it is being demolished, you can file for a demolition exemption. Any well(s) must be properly plugged by a registered well driller, and the septic system must be properly pumped and filled in or “closed”. BEDHD monitors the status of your property while you are working to get all of the closure work finished and reported.

Q. What are the possible results of the TOST programs?

BEDHD will classify your property into one of the following categories:

- *No Action Required.* This decision means that no concerns have been identified that need to be fixed (no “corrective action” is needed). The property is authorized to be transferred as-is.
- *Action Recommended.* This decision means that BEDHD suggests that serious thought be given to making certain recommended changes. The property is still authorized to be transferred as-is.

- *Action Required.* This decision means that a public health risk or necessary maintenance item needs corrective action before the property is authorized for transfer.

More specific information on evaluation categories for septic systems can be found [here](#)) and for wells can be found [here](#).

[Evaluation results are posted online.](#)

Q. What is the typical timeline for the TOST process?

A. This depends based on several factors. BEDHD's work begins after it gets the evaluation report from your hired Registered Evaluator (RE). After the RE submits a complete report to BEDHD, our goal is to have a decision within five business days. At this point, BEDHD will categorize your property into one of the following categories: *No Action Required*, *Action Recommended*, or *Action Required* (see above).

When corrective action is required, the amount of time it takes depends on how much work needs to be done. Some actions may require you to get a permit from BEDHD, but many don't. (For example, having an old, unused well plugged by a registered well driller does not require a permit.) The *Notice of Action Required* letter from BEDHD will typically tell you if a permit is required. [Permit applications are available online.](#)

In either case, you will not receive a transfer authorization until the requested corrections are made or there is a BEDHD-approved plan for them to be made. (There may be additional options for obtaining transfer authorization before corrections are completed. You can call BEDHD and discuss this with the staff.) Once the work is completed, you or your representative will contact BEDHD and arrange for it to check that the corrections were made.

After the corrections are approved by BEDHD, a transfer authorization will typically be issued within five business days. Once issued, the letter is immediately available on the [TOST website](#).

Q. How much does TOST cost?

A. Since TOST evaluations are done by private parties (Registered Evaluators, or REs), the cost for your evaluation depends on your REs private business rates. Every RE pays BEDHD's review fee when the RE submits the evaluation. The current BEDHD Environmental Health fee schedule can be found [here](#).

Q. I would like to know the status of a property that has been through TOST. Where can I find this information?

A. This information is [publicly available online.](#)

Q. I received a *Notice of Action Required*, but I don't have enough time to get the work done before my closing. Do I have any options?

A. The first thing BEDHD recommends to everyone is that when you are considering selling or transferring your property, make sure to plan ahead. Give yourself time to complete all the steps necessary for TOST approval. However, sometimes the sale of your property moves quickly and/or the timing doesn't allow for TOST corrections to be done before the closing. There is a process that allows you to keep moving to a closing before corrections are done. This option involves some planning and, typically, putting money for the corrections(s) into an escrow account. After the closing and once the corrections have been verified or approved by BEDHD, the money within the escrow account is released either to the posting party or to the contractors who did the work.

To request a “**transfer authorization under escrow**”:

1. Complete and sign the *Request for Alternative Corrective Action Plan* form that comes with BEDHD's *Notice of Action Required* letter.
2. Obtain good-faith estimates (price quotes) from a qualified individual for the actions required.
3. Complete the BEDHD escrow agreement form and submit it to BEDHD along with the applicable fee. The buyer, seller, and escrow agent (typically a bank or title company) need to complete and sign the form. When transferring a property under escrow, 150 percent of the estimated cost of the required actions must be placed into an escrow account. After all corrections are made and approved or verified by BEDHD, BEDHD will issue an *Escrow Release Letter*. This letter lets the escrow agent give the posting party the remainder of the escrow funds.

Q. I have a proposal for a correction that is different from BEDHD's suggested correction. What is my next step?

A. There are typically a few different solutions to a given problem. When proposing a *Corrective Action Plan (CAP)*, BEDHD makes every effort to propose the simplest and most effective solution. However, anyone who receives a *Notice of Action Required* has three options for response. The first option is to agree to BEDHD's suggested correction. The second option is to submit a *Request for Alternative Failure Correction* form. The third option is to request an administrative conference with BEDHD. These conferences allow for a discussion among the property owner (or the owner's representative) and BEDHD. Administrative conferences commonly result in mutual understanding and agreement by all to next steps. If you want to appeal the decision after this conference, see [information about filing an appeal](#).

The second option, submitting a *Request for Alternative Failure Correction*, lets property owners request to do something different than what BEDHD has suggested. The owner must complete the form, explaining the corrections they are proposing, and return it to BEDHD. BEDHD will consider the request and respond in writing, typically within 5 days. Often, BEDHD staff will work with the owner in developing the details of the alternate plan. When considering a proposed alternative correction, BEDHD will use the “equal or greater” test. This means that if

the proposal provides protection to public health and the environment that is equal to or greater than the protection in the BEDHD-proposed plan, BEDHD will generally be able to approve the proposed alternative plan. Keep in mind that an alternative plan to ignore the problem or any plan that does not offer equal or greater protection is probably not acceptable to BEDHD.

Example: A *Notice of Action Required* is issued because a bathroom in a pole barn does not have an approved septic system. The correction proposed by BEDHD is for the property owner to apply for a permit to install a proper septic system for the pole barn bathroom. The owner might then submit an *Alternative Correction Plan* proposing to remove the bathroom and all plumbing from the pole barn, or to connect the pole barn bathroom to the home's existing approved septic system. Either of those options would be seriously considered and probably approved. An *Alternative Correction Plan* that suggests allowing the pole barn bathroom to remain but only be used "in emergencies" would be *not* be an acceptable alternative, however.

Q. Will all systems be required to meet current construction code?

A. No. Most transfer authorizations are given for properties with wells and septic systems that do not meet current code. Instead, these systems are held to science-based, common-sense standards, which ask if the current system is a risk to the public health or the environment. This standard is less demanding than current construction codes.

Q. What is an *Assured Maintenance Agreement*?

A. An *Assured Maintenance Agreement* is an agreement between the buyer and the seller to correct certain, specific maintenance conditions. By signing this agreement, the buyer and the seller agree that BEDHD will no longer be involved in overseeing the correction of these items. After the agreement is signed, if there are no other actions required on the property, the BEDHD will issue a *Transfer Authorization*. *Assured Maintenance Agreement* forms and information on the maintenance conditions that they can be used for can be found [here](#).

Q. Can I use an *Assured Maintenance Agreement* to replace my well or septic system or to do something not the list?

A. No. An *Assured Maintenance Agreement* can only be used for specific maintenance items. Non-maintenance items like replacing a well or septic system cannot be handled through an *Assured Maintenance Agreement*. Completing the necessary maintenance and/or following the instructions for a "transfer under escrow" are options to address these types of corrections.

Q. Do I have to fix the *Action Recommended* items that BEDHD says serious consideration should be given to?

A. No. Any item that says "no repairs are required" does not have to be changed before the sale or transfer of a property.

Q. I fixed a recommendation that was listed on my authorization letter. Can I get a new authorization letter without this item listed?

A. Yes. As long as BEDHD verifies that the correction has been made, we can issue an authorization letter without the item listed.

