

Response To Comments

On February 17, 2006, Ohio EPA issued the draft General National Pollutant Discharge Elimination System (NPDES) Permit No. OHK000001 for Selected New and Replacement Household Sewage Treatment Systems (HSTS). A series of five public hearings were held in April, 2006 to accept comments and testimony related to this draft General NPDES Permit. The following is a summary of the comments and questions received during this subsequent comment period and Ohio EPA's response to the issues raised.

Comment/Question 1: The discharge standards established within the permit are not routinely attainable by today's technology and are, therefore, overly stringent.

Response 1: First, it needs to be stated that based upon comments, review of the draft permit and additional evaluation, it has been determined to slightly modify the discharge standards contained in the HSTS General NPDES Permit. Ohio EPA has decided to remove the 30-day effluent limitations from the permit as well as increasing the ammonia discharge standards to be obtained. This will allow approximately a 50% increase in allowable discharge levels and is based upon the fact that a number of the discharges may be to waterbodies with some base stream flow.

Current rules and regulations imposed by many local health departments do not require compliance with or a level of treatment necessary to obtain the standards contained within the HSTS General NPDES Permit. However, it needs to be stressed that the HSTS General NPDES Permit will be applied to new technologies installed for new systems under new ODH rules. The technologies employed today in many local health districts may not be the same as those to be installed under the new rules that become effective January 1, 2007. Also, it has been stressed that proper operations and maintenance will be a key component in insuring compliance with the standards and the new ODH rules will provide a framework for this necessary component. Additionally, manufacturers in Ohio have stated that the standards can be achieved, but that proper operations and maintenance needs to be a mandate.

Comment/Question 2: What is the basis for the effluent limitations in the HSTS General NPDES Permit?

Response 2: The effluent standards contained within the HSTS General NPDES Permit were developed using Ohio's water quality standards. Ohio rules and regulations require any new discharge of sewage to meet standards defined as "best available demonstrated control technology." These standards, and those contained within the HSTS General NPDES Permit, are specifically identified in rules. Also, general water quality standards require an advanced level of treatment in order to obtain stream quality necessary to protect aquatic life and human health. This advanced level of treatment is necessary since the permit was developed to allow for discharges in low stream flow (or no flow) scenarios.

Comment/Question 3: The Ohio EPA permit fee of \$200 is too high and needs to be reduced or eliminated. What if the homeowner applies for permit coverage only one year from the expiration date of the general permit? Do they have to pay the \$200 application fee for a permit for only one year and then re-apply and pay an additional \$200? Will the local health districts get a portion of the fee?

Response 3: Current state law requires a \$200 application fee for any NPDES permit application (or NOI). Ohio EPA is aware of the concerns and issues associated with the application fee and is committed to looking into alternatives in the future to reduce or modify the fee accordingly. However, such recommendations cannot be made until after the program is implemented and a determination made as to the extent of the program. The fee will be modified accordingly. Also, there is no mechanism in state law or rules to allow Ohio EPA to pass some of the fee along to the local health districts to implement the program. However, the local health district is allowed to charge fees for implementation of their individual programs and the work being performed to aid in implementing the HSTS General NPDES Permit program should be considered in developing local fees.

Comment/Question 4: There should be consideration given for allowing discharges to roadside ditches, etc. for existing system repairs.

Response 4: The HSTS General NPDES Permit does allow for discharges to “roadside ditches, etc.” for replacement systems from existing residences, but only if an on-site alternative is not available. The prohibition to discharge to these zero flow, low flow or storm sewer systems is for “new” discharges from “new” housing construction, if appropriate.

Comment/Question 5: How will the Memorandum of Understanding concept work? Implementation of this permit must be very simple and straight forward.

Response 5: The intent of the Memorandum of Understanding is to piggyback upon the ODH rules and utilize the provisions and strategies that the local health districts must follow in implementing those rules. If the local health district is adequately implementing the ODH rules, then a significant portion of the necessary HSTS General NPDES Permit implementation and oversight provisions will already be being performed. The only additional requirements in the Memorandum of Understanding will be records management and transfer of information to homeowners and Ohio EPA. It is not the intent of Ohio EPA to add requirements upon the local health districts above and beyond those they already need to perform.

Comment/Question 6: How do I get the permission to install a new, discharging system on my property?

Response 6: This is not a question best asked of Ohio EPA. The local health districts, in the performance of their day to day operations, will perform site review and evaluations to determine the best alternative for a given property. The HSTS General

NPDES Permit does outline criteria that must be met in order to obtain coverage under the permit and can only be utilized as an alternative if an on-site system cannot be installed.

Comment/Question 7: What will be the cost to the local health districts in implementing this part of the program on top of the new ODH rules? Can the local health districts recoup their costs?

Response 7: The intent is that there should be only minimal cost associated with implementation of the HSTS General NPDES Permit and Memorandum of Understanding provisions. Again, the permit and the MOU were developed taking into consideration the new ODH rules and all of provisions of those rules in order to work with the rules to not require significant additional requirements. Also, local health districts can recoup their costs in implementing health department programs and compliance with NPDES requirements are part of those requirements.

Comment/Question 8: What is Ohio EPA going to do about all of the existing discharging household sewage systems?

Response 8: First it needs to be stated that the HSTS General NPDES Permit is for selected “new” or “replacement” discharging HSTS when an on-site system cannot be installed. All existing discharging household sewage systems are not eligible for coverage under the permit. However, due to stormwater regulations, other state and federal mandates and the need for additional controls to help improve and protect water quality, Ohio EPA will be developing a second HSTS General NPDES Permit specifically for “existing” systems that will not need to be updated, replaced or modified. The schedule is to have this additional permit in place by March 2008.

Comment/Question 9: The cost of sampling in the permit will cost between \$70 and \$120 annually to the homeowner. This is too much of a burden on homeowners.

Response 9: Ohio EPA understands that costs may be increasing due to operations of household sewage treatment systems in the state. Therefore, we are continuing to work with local health districts, ODH and within the agency itself in evaluating all options available to aid in reducing costs for program implementation without hindering water quality improvement and proper operations of these systems.

Comment/Question 10: Is there an easy way to determine if a stream is a perennial stream? Are or can they be listed? A listing of acceptable receiving streams would be helpful.

Response 10: A perennial stream is one defined as having a drainage area of at least 5 square miles. There are many resources available that can be used in determining the stream drainage area at a given point, including internet sites, books, topographic maps, etc. Local health districts may also be able to work with other local agencies

such as the Soil and Water Conservation, ODNR, local county engineer, etc. in aiding in determining the drainage area of a point on the stream. Also, all streams listed in Ohio's Water Quality Standards can be considered perennial streams. Ohio EPA will work to develop an information package that can be shared with local health districts in negotiations related to the MOU process.

***Comment/Question 11:* Annual sampling of the effluent is meaningless in order to run and operate the system properly. It would be better to just insure that proper operation and maintenance is required through service contracts and/or remote monitoring.**

Response 11: Ohio EPA understands that the service contracts and proper operations and maintenance of the system is much more advantageous than annual sampling of the effluent. However, these are considered point source discharges and in order to issue a permit there must be some data collected to insure water quality is achieved/measured and regulations require point source to sample discharge point on a regular basis. Annual monitoring is a minimum that can be imposed within the provisions of an NPDES permit.

***Comment/Question 12:* The Ohio EPA needs to work directly with the homeowner in obtaining coverage under the HSTS General NPDES Permit. The public needs to be aware that this is an Ohio EPA requirement and not simply thrust upon them by the local health districts.**

Response 12: Based upon comments received and a reevaluation of the HSTS General NPDES Permit, Ohio EPA has modified the permit to reflect this concern. Local health districts will perform their necessary site reviews and provide the homeowner with the necessary information in order to obtain coverage under the HSTS General NPDES permit. The homeowner will then have the responsibility of contacting Ohio EPA to receive their permit coverage before an installation permit can be obtained from the local health district.

***Comment/Question 13:* The local health districts cannot and should not be collecting the \$200 application fee for the Ohio EPA.**

Response 13: Please see the response to Comment/Question 12 above. The conditions of the permit have been modified to require the homeowner to be in contact with Ohio EPA directly in obtaining coverage under the HSTS General NPDES Permit, including submission of fees directly to Ohio EPA.

***Comment/Question 14:* If the effluent standards are not obtained, who will be responsible for enforcing against homeowners?**

Response 14: Ohio EPA hopes to allow the oversight of the entire household sewage treatment system program within the hands of the local health district. This includes compliance with the HSTS General NPDES Permit. Again, based upon how the permit

was drafted, the provisions of the new ODH rules and the operation and maintenance needs, it is estimated that compliance with the HSTS General NPDES Permit will go hand in hand with day to day household sewage treatment system program management within the jurisdiction of the local health district. Additionally, complying with the conditions and requirements of the NPDES permit program is a provision established within the new ODH rules.

Comment/Question 15: Are homeowners responsible for obtaining their own sample results? If samples are not collected and analysis performed, who will be responsible for contacting the homeowners?

Response 15: Compliance with the terms and conditions of the HSTS General NPDES Permit are ultimately the responsibility of the homeowner. This includes the collection and analysis of the annual sampling requirements. However, the HSTS General NPDES Permit has been drafted in a way to allow flexibility in how the sample requirements are to be met. Many local health districts may choose to collect and perform the analysis themselves, have them be a condition of the service contracts the homeowners will have with service providers or some other alternative. The intent was to leave this flexible in order to allow the local health districts the opportunity to develop their own programs accordingly.

Comment/Question 16: How long will it take to receive coverage under the HSTS General NPDES Permit for the homeowner? In many situations it will be important to get coverage quickly in order to alleviate unsanitary conditions since a local health district will not be able to issue an installation permit until after NPDES coverage is obtained.

Response 16: The HSTS General NPDES Permit and the accompanying implementation provisions were developed with the concept that the local health districts will be performing all of the functions as part of its site review procedures. Once this is complete, there are no provisions for determining coverage under the HSTS General NPDES Permit that need to be performed by Ohio EPA other than issuing the letters granting coverage. Therefore, Ohio EPA will provide coverage and issue the letters within 5 business days of receiving the NOI's from the homeowners. This requirement is to be a condition within the MOU.

Comment/Question 17: This is Ohio EPA's program I think they need to issue permits and implement the HSTS General NPDES Permit and not impose it upon the local health districts.

Response 17: It is true that the NPDES program is Ohio EPA's program and requirements, however, the implementation and working with the local health districts as the permit has been developed was at the request of many of the local health districts. The concept is to keep household sewage within the confines and jurisdiction of the local health districts as much as possible and only involve Ohio EPA where necessary (e.g. only Ohio EPA can issue or grant coverage under and NPDES Permit). Also, the

resources do not exist within Ohio EPA to implement and oversee this program successfully. The local health districts are not anticipated to have their workloads increased significantly as a result of working within the provisions of the ODH rules and the permit as developed.

Comment/Question 18: Implementing the HSTS General NPDES Permit program seems like it will require a lot of extra work. How will the local health districts be able to support all of this extra work with limited resources?

Response 18: Again, Ohio EPA worked closely with ODH and various local health districts in the development of the HSTS General NPDES Permit along with the new ODH rules with the intent being to minimize the work that would need to be performed by local health districts in implementing the program. Local health districts will be required to implement and provide oversight in accordance with the new ODH rules and if they perform those functions adequately, implementation and compliance with the HSTS General NPDES Permit will follow suit.

Comment/Question 19: Local health districts won't be able to require individual households to tie into sewers if the property is within 400 feet of sewers as the permit currently reads. The local health districts responsibility ends at the 200 foot distance to the building in accordance with ORC 6117.51.

Response 19: The requirement to tie into sewers at 400 feet of a property line is an eligibility requirement within the NPDES permit. The ODH rules do allow the local health districts to insure that NPDES permit program requirements are met. Additionally, Ohio EPA will be working on a more explicit rule outlining availability and accessibility of sewers in the near future. There are exemptions within the eligibility criteria of the HSTS General NPDES Permit that can be used to determine if the sewers are available and/or accessible if physical, financial or legal barriers exist. These terms are not specifically defined and local health districts should use their best professional judgment in utilizing these exemptions.

Comment/Question 20: Who is to determine if a public sewer system has capacity?

Response 20: Again, through the MOU process and the eligibility criteria within the HSTS General NPDES Permit, the local health districts will be asked to make this determination, however, they are not expected to make such a determination uniformed. Any local health district should be comfortable in contacting either the owner/operator of the sewer system or the Ohio EPA to aid them in making this determination. Also, several local health districts have informed Ohio EPA that they have a working relationship with most local sewer system operators and are familiar with plant operations, etc. This type of working relationship would be beneficial for all local health districts to insure that public health and sewage treatment is adequately addressed.

Comment/Question 21: Will Ohio EPA develop any guidance documents to assist local health districts in implementing the HSTS General NPDES Permit program?

Response 21: Ohio EPA fully intends to develop a package to share with local health districts to aid them in implementation of the program. This will start with the development and revisions to the MOU. Ohio EPA is in discussion with various health districts to determine what additional information would be beneficial.

Comment/Question 22: The new rules and the HSTS General NPDES Permit are asking for too much all at once. We shouldn't be asking for all of the historical problems to be fixed at once because it will be too costly—we should be taking little steps to resolve the issues over time.

Response 22: It is the case that the new ODH rules and the HSTS General NPDES Permit are requiring much more information, design, operations, just general requirements than the previous rules, however, those rules were outdated and haven't been modified for thirty years. Also, many local health districts have, on their own, updated local ordinances, standards and rules based upon modern day technology and, therefore, the new requirements are not that drastic for those health districts. The issue of "taking too big of steps" is dependant on which local health district you may be working with, however, Ohio EPA and ODH have been working on trying to resolve the rule issues and update standards for many years and these rules and the HSTS General NPDES Permit are a result of those efforts and utilized local health districts input extensively in their development.