

**RESPONSE TO COMMENTS
FOR
PUBLIC HEARINGS AND COMMENT PERIOD
FOR
DRAFT GENERAL HOUSEHOLD SEWAGE TREATMENT SYSTEM (HSTS)
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
PERMIT NO. OHL000001**

On December 23, 2007, the Ohio Environmental Protection Agency (Ohio EPA) issued the draft General Household Sewage Treatment System (HSTS) National Pollutant Discharge Elimination System (NPDES) Permit No. OHL000001. This draft NPDES permit was issued in accordance with requirements of Amended Substitute House Bill 119 and supports the already effective HSTS NPDES Permit No. OHK000001. A series of public hearings and a subsequent comment period for this draft permit were held in February, 2008. The following is intended to summarize and respond to the general issues raised during this comment period:

Question/Comment: Public notification of rules and/or permits at the state and local levels are inadequate to allow the citizens of Ohio to know what is being proposed or required.

Answer/Response: Ohio EPA provided public notice of the draft permit in accordance with all appropriate rules and regulations. Public notification was provided in all major papers in Ohio at least 45 days prior to any of the public hearings. Additionally, all local health districts received a direct mailing related to the draft permit, a press release was sent to all major newspapers and information was provided on the Ohio EPA website related to the program initiative. Though, not an issue related to the permit in question, any rules established follow a similar or more vigorous notification process.

Question/Comment: The “problems” with water quality, environmental or public health impacts and/or concerns are overblown.

Answer/Response: Concerns related to improperly treated household sewage are widespread throughout Ohio and documented via many different avenues. Ohio EPA has issued more than 200 sets of administrative orders to local jurisdictions (e.g. County Commissioners, etc.) to alleviate documented public health and environmental concerns associated with residential sewage in streams. It is predicted that at least that many additional areas in Ohio may need to be pursued as well to eliminate similar problems. Additionally, through water quality studies and evaluations, Ohio EPA has documented at least 50 to 60 watersheds in Ohio that have some level of water quality impacts due to discharges of improperly treated or untreated sewage from residential areas

without sewers. All of our water quality reports and total maximum daily load (TMDL) reports are accessible on our website at www.epa.state.oh.us/dsw/document_index/psdindx.html. Due to the extensive nature of these reports and the rule initiatives being pursued in Ohio related to household sewage treatment, Ohio EPA and the Ohio Department of Health are working to more precisely document these areas of concern.

Additionally, the Ohio Department of Health has created a report to the legislature as required outlining the issues related to household sewage treatment and disposal in Ohio and is available on its website at www.odh.ohio.gov/odhPrograms/eh/sewage/sewage1.aspx. This report highlights information available from both agencies and documents the more extensive problems that the state has experienced within last several years.

Question/Comment:

Local Health Districts should not be allowed to have more stringent regulations than the state.

Answer/Response:

Again, this is beyond the scope of the HSTS General NPDES permit for which the public hearing and comments are being addressed. This is an issue that would require legislation and revisions of rules within the Ohio Department of Health program. However, in response to the issue raised, local health districts have had this ability and authority for a number of years. The extent of the state minimum sanitary code would be an area where this would be addressed. If there was an adequate, updated state code related to HSTS design, there would be no need or issue for more stringent local regulations. Additionally, local regulations would only be more stringent in areas where there is limited state code and should be based upon local issues related to design, soils, siting, etc.

Question/Comment:

Why is a discharge permit required to a non-navigable water?

Answer/Response:

A discharge permit, or NPDES permit, has always been required for all discharges to waters of the state in Ohio. State law and the Clean Water Act create a mechanism where by the discharge of pollutants must meet standards and regulations for the operation and maintenance of systems. Without such a permitting system, there would be a lack of oversight in any of these areas that would be injurious to waters of the state.

Question/Comment:

Homeowners should have their choice of what system they can

install be it an onsite system or discharging system. LHD and state officials should only be allowed to insure that they are operated and maintained adequately. This is especially the case for new builds or new lots.

Answer/Response:

Ohio EPA and the Ohio Department of Health agree to this statement to a point, but it is not wholly appropriate. State and federal regulations within the NPDES permit program prohibit discharging systems (or new discharges) for any level of wastewater treatment if there is a social, economic and/or technically feasible alternative to the discharge (e.g. if there is a no discharge option available it must be pursued). So, if there is an available soil dissipation system or public sewers are available, then that option should always be pursued. As for an on-site or soil dissipation system, the nature of the soils may very well dictate which system can be utilized or installed to provide adequate treatment to the household sewage from the residence. If there are several options available based upon a given site, then the homeowner can pick between those options. However, again, it is stressed that there is a hierarchy of systems and it is felt that such is appropriate.

Additionally, both Ohio EPA and the Ohio Department of Health will promote any system that has reduced operation and maintenance provisions as well. Due to the magnitude of the number of systems in Ohio and the responsibility of operations of those systems (e.g. individual homeowners) overseeing proper operation and maintenance is a monumental task and the environment and public health will be better served by the installation of systems with lower operation and maintenance needs. Also, no system can be utilized in Ohio until after it is reviewed and approved by the Technical Advisory Committee which is a legislatively mandated committee developed for that specific purpose.

Question/Comment:

Not all of the individuals listed as “professionals” for a third party site evaluation are qualified to design and recommend a system.

Answer/Response:

The permit allows for a “third party evaluation” of a site for a recommendation if conditions of the permit are met and coverage under the permit is appropriate. However, these individuals will not be recommending coverage under the permit. This third party evaluation is simply a tool that will be used to obtain information in reviewing the individual applications or notice of intents to determine coverage. Ohio EPA staff will be making any final

recommendations and verifying all information obtained in making those recommendations.

Question/Comment: LHD or ODH should not be allowed to determine what are allowable systems through a state approval authority. There are many other technologies out there that will work and should not be limited to those approved by the state.

Answer/Response: Again, this is a question or comment outside of the realm of the NPDES permit in question. However, there is a basis for this requirement. State law has developed this mechanism to allow for a more streamlined approach to permitting the installation of systems in Ohio. State law mandates the development of the ODH Technical Advisory Committee to review and approve systems to be utilized in Ohio. If a system is approved through Ohio, then when a system is proposed for a given residence the review and approval process for that individual residence can be streamlined based upon soil and site considerations and a detailed engineering review of the mechanisms themselves is not necessary. The environmental health professionals in Ohio (and nationwide) have supported this approach and feel that any program lacking such state approval mechanism would hinder the program in Ohio due to diversity of systems, experience and magnitude of residences operating under the program in Ohio.

Question/Comment: Municipal separate storm sewer system (MS4) operators should be contacted when an application/NOI is received in their jurisdiction to verify if sewers are available within 400 feet.

Answer/Response: As part of the determination of availability of sewers to meet this eligibility requirement, Ohio EPA staff will be contacting local sewer authorities to determine if sewers are available (e.g. the MS4 communities in many instances) before coverage is granted.

Question/Comment: MS4 communities should be contacted or notified when a system is approved to be discharging into their systems.

Answer/Response: Ohio EPA will be forwarding copies of all approved coverages to the MS4 community and the local health departments having jurisdiction in a given area.

Question/Comment: The sampling frequencies in the permit, especially that for fecal coliform, or once per year is inadequate to determine if there is proper operation and maintenance of the system.

Answer/Response:

As with any permit or treatment system, sampling is only part of the program to aid in operation and maintenance. Any approved system will have to be operating under approved and signed service agreements where regular inspections and maintenance will be performed by a service provider. Also, local health districts will need to utilize their inspection or permit programs to aid in overseeing the system. Ohio EPA feels that all of these aspects working together will aid in providing the necessary oversight, operation and maintenance of the systems.