

## Response To Comments

On December 2, 2011, Ohio Environmental Protection Agency (Ohio EPA) issued the draft General National Pollutant Discharge Elimination System (NPDES) Permit No. OHK000002 for Selected New, Replacement and/or Updated Household Sewage Treatment Systems (HSTS). This draft General NPDES Permit is a renewal of General NPDES Permit No. OHK000001 for similar discharges which expired December 31, 2011. Comments on the draft General NPDES Permit were accepted through January 3, 2012. 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: As per Part I., 2. Limitations on Coverage, will the Ohio EPA provide a guidance document on how discharging systems must be upgraded to be eligible for the permit?***

***Response 1:*** The Ohio EPA and Ohio Department of Health (ODH), through the resources of the ODH Technical Advisory Committee, will develop an approved list of all systems that can meet the eligibility criteria for upgraded systems established by the draft permit. This approved list will be developed and maintained the same way as the current listing for NPDES discharging systems for complete replacement installations.

***Comment/Question 2: The bacterial standard for discharges has been changed from fecal coliform to an E. coli standard of 523 colonies/100 ml in waters other than Lake Erie and to 235 colonies/100 ml in discharges to Lake Erie. Will the current state approved discharging systems be able to meet these standards? How will these new standards affect the existing discharging systems installed under the permit since 2007?***

***Response 2:*** Several of the current state approved discharging systems were approved to meet both the bacterial standards for fecal coliform and E. coli. A few systems were approved to meet only fecal coliform standards and not E. coli, but this was simply because there was no request or data supplied relevant to E. coli. In light of the renewal of the General NPDES permit, ODH has been in contact with all currently approved discharging household sewage treatment systems not approved for E. coli under the existing General NPDES permit and has acquired information related to those systems and all currently approved systems can meet the proposed E. coli standard. The approval for those systems is moving forward through the ODH Technical Advisory Committee process.

***Comment/Question 3: The Ohio EPA permit fee renewal fee should be reduced to \$50.00 for the initial coverage to a homeowner and \$25.00 or less for anyone requesting coverage for which they had originally been authorized under the previous HSTS General NPDES Permit. Reducing the cost of obtaining permit coverage will assist in improving compliance with sampling requirements and coverage under service contracts.***

**Response 3:** The Ohio EPA acknowledges the concern raised by this comment. Recent legislation lowered the fee for renewal coverage to \$100.00 in an attempt to provide a lower burden on homeowners. The initial coverage fee of \$200.00 was maintained. As indicated, a change in legislation will be necessary to modify the current fee structure. Ohio EPA will continue to work with ODH and local health departments in the future to evaluate this program and make recommendations accordingly.

**Comment/Question 4: Will the Local Health Department need to sign another MOU with Ohio EPA or will the current MOU stay in force?**

**Response 4:** Yes, all local health departments will be required to sign another MOU. Since the conditions of the permit do change upon renewal it was felt prudent that a new MOU agreeing to consider the new permit conditions would be appropriate. Upon issuance of the General NPDES permit, Ohio EPA will be forwarding copies of MOUs to all local health departments for their consideration and signature.

**Comment/Question 5: Will the Local Health Department be responsible to mail out the NOI's for the renewals or will Ohio EPA do that directly? What compliance monitoring with the Local Health Department be responsible for in terms of the permit renewals? What enforcement requirements will be expected for property owners that do not renew their permits? Will the Local Health Department be responsible for the enforcement for failure to renew a permit?**

**Response 5:** As with any part of the process associated with the discharging household sewage treatment program, Ohio EPA hopes that there will be a partnership with local health departments in implementing the renewal coverage under the new General NPDES permit. Ohio EPA will be mailing out all NOI's for renewal coverage to individual homeowners for this permit cycle. The accompanying cover letter to those NOIs will inform the homeowners of their responsibility to reapply, the necessity of having permit coverage and the potential repercussions (including need to eliminate discharge, replace system or potential fines) associated with not pursuing coverage. At the time Ohio EPA sends out the renewal NOIs, each local health department will be sent a copy of all systems granted coverage under the previous permit so that they are aware of the actions being pursued by Ohio EPA. Ohio EPA will be tracking all NOIs received and will follow up with homeowners appropriately, however, it is our desire that local health departments work with us to achieve the common goal.

**Comment/Question 6: E. coli effluent limitation requirements for discharges into waters other than Lake Erie should be reduced to a maximum of 235 cfu/100ml for a daily concentration?**

**Response 6:** Water quality standards for E. coli vary depending on the potential recreational use of the specific water body in question. The recommended effluent limitation for discharges to waterbodies other than Lake Erie of 523 cfu/100ml reflects the water quality standard applicable to Class B primary recreational use waterbodies which compromises the vast majority of waters in the state. Ohio EPA feels that the

inclusion of this effluent limitation in the draft permit provides the necessary protections of public health and Ohio's water quality. Additionally, as drafted and based upon the monitoring frequency established, this is in essence a not to exceed effluent limitation for individual discharges rather than a geometric mean established based upon various samples collected in a given period of time. Also, the various treatment technologies employed by household sewage treatment systems will meet or exceed this limitation and varying the value will not alter operations and designs of those systems. Ohio EPA continues to support its recommendation that the effluent limitation of 523 cfu/100ml is appropriate for this permit.

***Comment/Question 7:*** The definition of “Perennial Stream” provided in this new general permit, OHK000002, should retain the same definition of “Perennial Stream” as provided under the original permit, OHK000001?

***Response 7:*** The Ohio EPA supports this recommendation and will modify the definition of “perennial stream” to reflect the definition contained in the previously approved permit. However, Ohio EPA does want to express its opinion that there is no difference between the definitions as written. Altering the definition would not have allowed additional discharging systems to be approved over those authorized under the current permit.

***Comment/Question 8:*** This NPDES General Permit No. OHK000002 should be subject to Ohio's Antidegradation Rules (OAC 3745-1-05)?

***Response 8:*** Ohio EPA disagrees with the position that the issuance of NPDES General Permit No. OHK000002 should be subject to Ohio's Antidegradation Rules. The rules apply, in part, when the issuance or reissuance of an NPDES permit will result in or allow for an increase in the discharge of pollutants to waters of the state. This permit will not allow for an increase in authorized discharges above those contemplated by the previous permit and therefore does not result in an increase in the discharge of pollutants to waters of the state. Additionally, simply changing the bacterial indicator organism from fecal coliform to E. coli will not result in an increase in discharge of pollutants either. The change simply allows for a more precise evaluation of the discharge relative to public health and environmental protection. The treatment required and level of discharges resulting will remain unchanged. As for the change in definition of “perennial stream” resulting in an allowable increase in authorized systems, Ohio EPA disagrees, but has already agreed to retain the existing definition (see Response 7).

***Comment/Question 9:*** The Local County Health Commissioner should be the required signatory on the Memorandum of Understanding (“MOU”) with the Ohio Department of Health and the Ohio EPA.

***Response 9:*** In practice the Health Commissioners have been the individual requesting and signing the MOU. Ohio EPA does not have a concern with altering the language accordingly to make this a requirement of the General NPDES permit.

**Comment/Question 10: Household sewage treatment systems installed prior to January 1, 2007, should only be eligible for this General NPDES permit, if the system has been updated in accordance with the provisions of this permit.**

**Response 10:** Various provisions under Ohio Revised Code 3718 prevent local health departments from granting construction or installation permits for discharging household sewage treatment systems until **after** the homeowner has received coverage from Ohio EPA under the General NPDES permit program. The process has been established to insure that discharging systems are only approved in situations where there is not a feasible non-discharging alternative (e.g. connection to sanitary sewers, on-site/soil dissipation, etc.). Additionally, as indicated in Response 1 above, Ohio EPA and ODH will be developing guidance and a list of all eligible systems that can be updated or upgraded to meet the standards established by the General NPDES permit. If an individual homeowners system is not on that list for potential upgrades then they will not be eligible for coverage under the General NPDES permit unless the entire system is replaced.

**Comment/Question 11: Household sewage treatment system service contract required under Part V. Item J(2) should be submitted and retained on record with the Local Health Departments.**

**Response 11:** Ohio EPA fully supports the fact that operations and maintenance of household sewage treatment systems will be the primary mechanism for insuring that these systems are performing as necessary. Service contracts and appropriate operation and maintenance of these systems will be key in meeting the overall goal of the program. Therefore, Ohio EPA does not object to the modification of the permit requiring a copy of the service contract to be submitted to local health departments and maintained in records appropriately.

**Comment/Question 12: The Director of the Ohio EPA should be the sole individual responsible for determining whether discharge changed by NPDES permit holders will result in the permit remaining unchanged or being terminated (Part V. Item T).**

**Response 12:** The language referenced does refer to the Director of Ohio EPA as being the responsible party for determining if the permit coverage granted remains unchanged or not. The reference to the permittee or local health department in this section of the permit simply requires them to contact the Ohio EPA if a change in source or residency status takes place. If the structure or premises for which the system serves is changed from a private residence to a commercial operation then coverage under the General NPDES permit is no longer applicable and new permit coverage will need to be pursued.

**Comment/Question 13: The procedure and requirements for renewing NPDES permits needs clarification in order to provide assurance that a comprehensive**

**review of the NOI and necessary information is completed and renewal permits are issued only if the permittee is in compliance with all of the new permit requirements.**

**Response 13:** As indicated in Response 5, once the permit is issued, Ohio EPA will be requiring renewal applications (NOIs) to be submitted by all homeowners currently covered under General NPDES permit OHK000001. In forwarding those NOIs, local health departments will be contacted who will assist in evaluating appropriateness of granting coverage. It should be stressed that the general eligibility criteria established in the General NPDES permit OHK000002 has not changed from that of the previous permit. Additionally, there have been no rule changes or modifications that would affect or alter any design standards or requirements imposed by local health departments. As indicated in comments received, the only potential change can be the availability of sanitary sewers. Provisions of ORC 3718 and OAC 3701-29 require connection to sanitary sewers when they become available. Therefore, Ohio EPA will be working with local health departments, not only through this permit renewal process, but on a program implementation basis to achieve the requirement as established by rules and regulations.