BEFORE THE INDIANA STATE DEPARTMENT OF HEALTH

AN ADMINISTRATIVE RULES HEARING
LSA DOCUMENT #13-350

HEARING OFFICER REPORT

This matter came before the duly appointed Hearing Officer, Hilari Sautbine, on the 21st day of November, 2013, at 10:00 a.m., at the Indiana State Department of Health (ISDH), 2 North Meridian Street, Indianapolis, Indiana.

Notice of time and place of the hearing was given as provided by law by publishing on October 23, 2013, in the *Indianapolis Star* and by publishing in the *Indiana Register* dated October 23, 2013. Proof of publication of this notice has been received by the ISDH and the notice and proof are hereby incorporated into the record of this cause by reference and placed in the official files of the ISDH.

ORAL STATEMENT

Carlie Hopper
Regulatory Affairs Director
Indiana Builders Association

Ms. Hopper testified at the hearing. She expressed support for the proposed changes to the residential rule. Ms. Hopper submitted a written copy of her statement and the comments are attached and incorporated by reference as Exhibit 1.

WRITTEN STATEMENT

Julia Hayes, EHS
Environmental Supervisor
Floyd County Health Department

Ms. Hayes recommended that the agency specify a difference between close loop and open loop geothermal systems. She also notes that only one filter currently meets the requirements of the proposed rule, even of those on the "approved" list. She asked whether the rule applies after flow adjusters are used. Ms. Hayes' comments are attached and incorporated by reference as Exhibit 2.

Stuart Meade
Meade Septic Design Inc.
Meade Septic Supply LLC

Mr. Meade asked why the flood dose rates were being revised and commented that finding a pump to discharge between 30-35 gpm will be impossible in many situations. He

recommended that reference to "effluent pump" be changed to read "effluent/sewage pump." Mr. Meade's comments are attached and incorporated by reference as Exhibit 3.

Kris Thomas
Chief EHS/Administrator
Steuben County Health Department

Ms. Thomas noted that the proposed rule mentions a sanitary tee but another section of the rule does not mention a sanitary tee. Ms. Thomas' comments are attached and incorporated by reference as Exhibit 4.

Linda J. Mauller
Environmental Health Assistant Director
St. Joseph County Health Department

Ms. Mauller noted that section 71(b) is not consistent with Table VI for separation distances to a load rate of 1.2 and that other subsections of section 71 are inconsistent as well. Ms. Mauller's comments are attached and incorporated by reference as Exhibit 5.

Harry R. Plander
Tuf-Tite Inc.

Mr. Plander recommended removing the phrase "and during cleaning or exchange" from section 64(e)(5). Mr. Plander's comments are attached and incorporated by reference as Exhibit 6.

Theo B. Terry, III, RS
Bear Onsite, LLC

Mr. Terry recommended changes to the proposed rule regarding effluent filters. Mr. Terry's comments are attached and incorporated by reference as Exhibit 7.

The record was left open until November 29, 2013.

Dated at Indianapolis, Indiana this 2nd day of December, 2013.

Hilari A Sautbine

Hilari A. Sautbine
Hearing Officer

I am Carlie Hopper, Regulatory Affairs Director of Indiana Builders Association.

The Builders Association represents more than 3,000 building industry professionals, including septic system installers.

IBA supports the proposed changes to the residential onsite sewage systems rule.

IBA believes that properly designed, constructed and maintained, septic systems can provide long-term, effective treatment of household wastewater, and should remain a viable option for homes where access to a municipal sewer system is neither available nor economically practical.

We appreciate the work of ISDH staff.

Exhibit 1

Sautbine, Hilari A

From: Julia M. Hayes [jmmartin@floydcounty.in.gov]
Sent: Monday, November 25, 2013 2:31 PM
To: Dunn, Alan
Subject: 410 Revisions Comment

Sect 64 (4) - Currently only 1 filter meets this rule. Even the filters on the "approved" filter list do not all meet this rule.
Sec 66 (g3) - S&M d-boxes meet this rule, but when flow adjusters are used then it doesn't meet the rule. There is a small amount of standing water in the influent port. So does this rule also apply after flow adjusters are used? I believe that plastic d-boxs still meet the rule after flow adjusters are used but the same people manufacture the plastic d-box that manufacture the flow adjusters.
Sect 57 - Consider specifying a difference between close loop and open loop geothermal system since I was told the separation distance for a close loop system is only 10'.

Sincerely,

Julia Hayes, EHS

Environmental Supervisor

Floyd County Health Dept

P: (812) 948-4726 X660

F: (812) 948-2208

Exhibit 2

Sautbine, Hilari A

From: Stuart Meade [stuart@septicdesign.com]
Sent: Saturday, October 26, 2013 8:55 AM
To: Dunn, Alan
Subject: Re: Onsite Sewage Systems Rules Revisions

Hello Alan,

I looked over the proposed changes and everything looks fine except for the flood dose rates. I guess my first questions is whey are these being revised? Finding a pump to discharge strictly between 30-35 gpm will be impossible in many situations. What is wrong with a three bedroom home flood-dose system discharging at 40 gallons per minute?

If changes are being made to the rule, reference to "Effluent Pump" should be changed to read "Effluent/Sewage Pump". I understand that "effluent pump" includes sewage pumps but many local health departments might not know this.

Thank you,

Stuart Meade
Meade Septic Design Inc.
Meade Septic Supply LLC
Cell 574.215.9289
Office 574.533.1470
Fax 574.534.8687

On Fri, Oct 25, 2013 at 4:13 PM, Dunn, Alan <Adunn@isdh.in.gov> wrote:

The Indiana State Department of Health has scheduled public hearings for proposed revisions to 410 IAC 6-8.3, Residential Onsite Sewage Systems (LSA Document #13-350), and 410 IAC 6-10.1, Commercial Onsite Systems (LSA Doc. # 13-351). The hearing for the residential rule is scheduled for **November 21, 2013, at 10:00 a.m., local time,** with the hearing for the commercial rule immediately following. Both hearings will be conducted at the Indiana State Department of Health, 2 North Meridian Street, Indianapolis, Indiana, 46206. Please note that these public hearings are only for comment on the proposed rule revisions. There will be no discussion, and no questions answered, concerning the proposed rule revisions at that time.

The proposed revisions are attached, with a summary of the revisions, for each rule.

If you have questions prior to the hearing concerning the proposed rule revisions, you may address them to Alan Dunn at adunn@isdh.in.gov or at 317-233-7179.

Exhibit 3

The notices of public hearing may be accessed at:

Notice of Public Hearing, Residential: http://www.in.gov/legislative/iac/20131023-IR-410130350PHA.xml.pdf

Notice of Public Hearing, Commercial: http://www.in.gov/legislative/iac/20131023-IR-410130351PHA.xml.pdf

The proposed revisions may be accessed at:

Residential rule: http://www.in.gov/legislative/iac/20131023-IR-410130350PRA.xml.pdf

Commercial rule: http://www.in.gov/legislative/iac/20131023-IR-410130351PRA.xml.pdf

Comments may be provided at the public hearing or in writing or email to Michael Mettler, Director, Environmental Public Health Division by the close of business on November 29, 2013. Please note that it must be clearly stated whether each comment applies to 410 IAC 6-8.3, Residential Onsite Sewage Systems (LSA Doc. # 13-350), 410 IAC 6-10.1, Commercial Onsite Sewage Systems (LSA Document #13-351), or both.

If you desire to comment on the proposed rule, you may do so at the public hearing, or by sending your comments to:

Michael Mettler, Director

Environmental Public Health Division

Indiana State Department of Health

2 North Meridian Street, #5-E

Indianapolis, IN 46204

Phone: 317-233-7183

FAX: 317-233-7047

Email: mmettler@isdh.IN.gov

Again if you have any questions, please contact me.

Alan M. Dunn

Senior Environmental Manager

Onsite Sewage Systems Program

Environmental Public Health Division

Indiana State Department of Health

100 N. Senate Ave., N8555

Indianapolis, IN 46204

Phone 317-233-7179

FAX 317-233-7047

adunn@isdh.IN.gov

Accept the Governor's Challenge for better nutrition, increased exercise, and smoking cessation. Register at INShape Indiana: www.inshape.in.gov

Sautbine, Hilari A

From: Kris Thomas [kthomas@co.steuben.in.us]
Sent: Wednesday, November 27, 2013 10:26 AM
To: Mettler, Mike; Dunn, Alan
Cc: Quinn, Alice R
Subject: Septic Rule Revision

Good morning,

Hope all is going well for you folks at the state!!

It is my understanding you are attempting to take care of the discrepancies in the current septic rule with the next rule revision. I am providing the following information to be considered for correction during that next revision:

Currently, Section 66(f) allows an elbow or sanitary tee in place of the baffle in the D-box; however, Section 76(f) states there must be a baffle or an elbow turned down. There is no mention of a sanitary tee – a slight discrepancy.

Thank you for your consideration in this matter. Have a terrific Thanksgiving!!!! My staff is looking forward to the EHS/Public Health Nurse Orientation next week!

Take care,

Kris Thomas
Chief EHS/Administrator
Steuben County Health Department
317 S. Wayne St., Suite 3A
Angola, Indiana 46703

Exhibit 4

Sautbine, Hilari A

From: Mauller, Linda
Sent: Friday, November 22, 2013 4:59 PM
To: Dunn, Alan
Subject: comments for Rule 410 IAC 6-8.4

All the following comments are in reference to **410 IAC 6-8.3, Residential Onsite Sewage Systems (LSA Doc. # 13-350):**

Section 71(b) is not consistent with Table VI for separation distances to a load rate of 1.2.

Section 71(f) and Section 71(b) are inconsistent in that they do not address the requirement of pressure distribution with separation distances of between 24 inches and 30 inches.

Thank you,

Linda J. Mauller
Environmental Health Assistant Director
St. Joseph County Health Department
227 W. Jefferson Blvd.
South Bend, IN 46601
phone: 574-245-6709
Fax: 574-235-9497

Exhibit 5

Sautbine, Hilari A

From: Harry Plander [hplander@tuf-tite.com]
Sent: Friday, November 29, 2013 2:20 PM
To: Dunn, Alan; Mettler, Mike
Cc: Ted Meyers
Subject: Outlet Filter Rule Changes

Harry R. Plander
Tuf-Tite Inc.
1200 flex court
Lake Zurich, IL. 60047

11/29/13

Indiana Department of Health
2 North Meridian St.
Indianapolis, In. 46204

Attention
Mr. Alan Dunn
Mr. Mike Mettler

Gentlemen,

In reference to Indiana Septic Rules and Regulations: Section 5 – 4101AC 6-8.3-64

(e) Outlet Filters shall:

#5) Function without a bypass of unfiltered sewage, sludge, or scum during normal use and during cleaning or exchange.

Tuf-Tite feels that the wording "AND DURING CLEANING OR EXCHANGE" should be removed, and should read as follows:

#5) Function without a bypass of unfiltered sewage, sludge, or scum during normal use.

If filter housing has a shut-off feature, and the filter is not replaced, the tank will flow over the top of the filter housing sending the scum layer directly into septic field or pump station. The filter housing should function as a sanitary tee taking effluent only from the clear zone when

Exhibit 6

the filter is removed for cleaning or is missing. There are 525,000 minutes in a year, so there is no need to have a shut-off during the 15 minutes or less that it takes to clean a filter.

Sincerely,

Harry R. Plander
Tuf-Tite Inc.

Sautbine, Hilari A

From: Theo Terry [theo.terry@bearonsite.com]
Sent: Friday, November 29, 2013 3:21 PM
To: Dunn, Alan; Mettler, Mike
Subject: Onsite rule revisions comments
Attachments: UNI-Tee Sheet.pdf

Importance: High

Mike and Alan,

These comments are for both rule revisions as they relate to effluent filters. The sections I wish to comment on are: Section 5 (e) (5), Section 5 (f) (3) and Section 5 (f) (5).

First comment is regarding Section 5 (e) (5) which states: function without a bypass of unfiltered sewage, sludge, or scum, during normal use and during cleaning or exchange; **This appears to be a solution in search of a problem. Depending on the geometry of the septic tank each inch of height in the septic tank is equal to approximately 20 to 40 gallons. When specifying that tanks adhere to ASTM Standards there is between a 3-4 inch drop from the inlet invert to the outlet invert. If the outlet filter were totally plugged and had caused the tank to back up into the inlet we would be talking about 80 to 160 gallons of effluent that would flow up from the clear zone of the septic tank through the filter housing and out to the treatment system each time the filter were serviced. Depending on the use and quality of the filter installed this will be once every year to every four of five years. If you require the manufacturer to supply a shutoff in the filter along with each filter sold you are either going to cause some filter companies to discontinue selling filters in your state as they do not provide this product; require that others like myself charge them for a maintenance plate that will most likely never be used since by the time the filter is serviced it will be lost or the maintenance provider will use the one he carries from job to job; or they will use a product that has a shut off device on the bottom of the housing that alters the function of the baffle/housing and prevents effluent from entering from the clear zone. If you insist on this course of action in the rule you need to make sure you provide some warning to the homeowners telling them that if they remove the filter cartridge of this type of filter they will cause scum to flow over the top of the housing and will not know of the damage they have caused to their system until it is too late. I've never understood how this type of product has ever gotten approval in the first place as it alters how a tee baffle functions. But to protect the state from a class action lawsuit you must warn each homeowner of the consequences since you are now requiring this rather than it being an optional purchase which leaves the liability with the manufacturer.**

Second comments are regarding: Section 5 (f) (3) be installed so the bottom of the filter inlet extends below the liquid level at least ten (10) inches ... **For clarity I would suggest the language at the end of this section not be a percentage but rather state that the outlet not extend within eighteen inches of the floor of the septic tank. The longer or wider the flow path of the outlet housing the fewer solids will exit the tank with or without the filter in place. The key is to make sure that there is at least eighteen inch of sludge storage below the inlet of the housing.**

The third comments are regarding: Section 5 (f) (5) be solvent .... **In subsection (1) it says fixed with non-corrosive fasteners then in sub-section (5) it says be solvent ... My question is which is it? I have designed a detachable coupling that solvent welds onto the outlet pipe but then allows you to disengage the housing so that the homeowner/ commercial owner can upgrade to a larger better performing filter at a later time than the initial installation. See the attached sheet.**

Mike and Alan, feel free to contact me to discuss any of these issues. The Filter Task Group at NSF has debated all of these issues as to whether they should be included as part of NSF Standard 46 in the past. So these are not just my opinions but the consensus of the leading filter experts in the industry. The issue of providing a shut-off means is one

Exhibit 7

that can really cause serious issues if not properly handled. I would advise you to truly look into this further before taking on the liability from a specific manufacturer to the state.

Theo

Theo B. Terry, III, RS
Bear Onsite, LLC
P.O. Box 507
Somerville, TN 38068
www.bearonsite.com
theo.terry@bearonsite.com
901-831-5155 Cell Phone
877-653-4583 Fax