Arkansas Department of Health

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Governor Sarah Huckabee Sanders

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PUBLIC COMMENT REPORT

Proposed Rules Pertaining to Onsite Wastewater Systems

PUBLIC COMMENTS:

Public comment period expired June 3, 2024.

The Environmental Health Protection Section proposed changes to the current rule. The respondents included the following Designated Representatives.

Sam Dunn
Robert Goff
Peggy Daley
Jimmy Don Daley
Richard D Daley
Kaitlyn Daley
Bodie Drake
Rebecca and Mark Corbitt
Tim Tyler
Marissa & Jeremy Drew
Piper Satterfield
Mike O'Connor
Tate O'Connor

Mark and Rebecca Corbitt
Received June 2, 2024

> *There is no current regulation regarding how a septic system malfunction is handled for a newly installed system or any system that fails prematurely. We have seen on more than one occasion, the installer and or (DR. working for the installer) is contacted by the home owner or builder to help with a malfunctioning system. Most of the time the installer can correct the problem or fix the system if they have the knowledge and put the effort and time into diagnosing the problem. Unfortunately, we have also seen the opposite, the installer is contacted and can't solve the problem, or just makes no attempt. In this case the homeowner is strung along and becomes very upset trying to get some resolve with no support what so ever. We need a regulation stating the installer and or DR MUST contact the health department, along with the DR who designed the system, upon discovery of a failing system as more often than not the installer is the one that is called and designer knows nothing about it. Especially since inspections are few and far between for installs. This will give the designing DR, installer and state the ability to meet on site and collectively formulate a plan of action. We have already visited with Richard Murphree about some problems we have experienced with this situation. He said he would definitely support this change.*

ADH Response:

This comment will be carefully considered before the next rule update. The Department is always willing to assist a Designated Representative or homeowner in trouble-shooting a system

malfunction. However, currently, the Department has been hesitant to interfere within the contract and business arrangement or disputes between a licensee and homeowner/customer.

Tim Tyler
Received on June 3, 2024

> *Plastic barrier really needed. Water will seek path of less resistance (2.25). 24 (month training plan) not long enough, need 48 month minimum. Health Department is not police for ADEQ. Let ADEQ take care of its own. Objection to 5.5.3: We never know where house or size is before lot is built on. Section 12. If homeowner has a license or certification, they should be allowed to maintain their own system. RV usage rate (Appendix) is still too high.*

ADH Response:

The plastic barrier while not recorded in the rule verbiage has been indicated on the diagram in our rule. The barrier plastic in the first draft was 6 mil plastic. The second version was changed to 4 mil plastic which is a little easier to install and will prevent backflow into the drain.

With respect the proposed training plan, knowledge of the constituents of wastewater, treatment types, aeration types and the general biological factors in breaking down wastes will further educate prospective designated representative's when aerobic treatment units, fixed media filters, and advanced types of treatment are needed.

With respect to Section 5.5.3, the requirement for the interceptor drain requirements are part of the subdivision review when the lot size and locations are being preliminarily identified.

Sitewise, LLC
Jimmy Don Daley
Peggy D. Daley
Richard Daniel Daley
Kaitlyn Daley
Received on May 21, 2024

> *Comments are as follows: The three deleted loading rates (laundry, service station, outdoor drive-in) are currently in Appendix B, not A (using the online Onsite Wastewater Rules). Is the current Appendix A (Absorption Area Requirements) being deleted or moved? Will the Hotel/Motel loading rate now include the laundry (washing machines)? What happened to laundromats; are they only ADEQ?*
> *Section 3 Variances and Exemptions - is the paragraph numbering being corrected (i.e. currently 1 .3,1.4,1.5, 1.6 to 3.1,3.2,3.3, and 3.4)? Shouldn't 1 .7 be moved to Section 16 (Reciprocity and Licensure (A.C.A. $ 17 -l-108(c),(d)(1)(A))) as well as 3.5. 1 ? Then the addition of Section 3.5 would be in Section 16? The addition of Section 8.4.3 verbiage is not a complete sentence. A little more explanation would be useful (for example 8.4.2). Section 12 -In the first sentence, the prepositional phrase, 'for the*
> *life of the system', is misplaced in the sentence structure. Section 16.1.1 .1.1 - Natural Sciences does not include Mathematics, is this intentional? Shouldn't the term 'engineered wastewater' be added to Section 21, Definitions? 2.50 Similarly Qualified Individual - For the training plan, is it*

the Designated Representative that is required to have a WWII license or the trainee? DEQ requires a WWI license before you can take the exam for a WWII license. 5.4 Add reference to ADH Section(s) that will need to be met. 5.5.4 Drip Dispersal – How are the primary and secondary areas to be shown on the deed/legal description? Will this requirement be added to the Drip Dispersal Systems Rules?

ADH Response:

Loading rates for these types of facilities are widely variable or not covered by ADH Rules. Relying on a static loading rate for some facilities is no longer feasible and should be carefully studied on a site-by-site basis.

Laundry Mats are considered commercial waste and are regulated by Arkansas Division of Environment Quality with the Department of Energy and Environment. Math is considered a natural science. Prospective designated representatives without a certification required by law, can obtaining licensure under the "similarly qualified". The rule provides definition to the meaning of similarly qualified.

Two methods exist in this draft: 3 years' experience with a current designated representative, or two years' experience with a designated representative and Wastewater I and II completion in place of an extra year. The are no new requirements for designated representative. The Drip Dispersal Rule is primarily a design rule. Soil characteristics, subdivision approval, and general requirements are found in the Onsite Wastewater Rule.

Marissa and Jeremy Drew
Received June 3, 2024

Please record the following comments with regard to the proposed changes to the Rule Pertaining to Onsite Wastewater: Proposed deletion of laundry loading rate: We do not support the proposed change to eliminate the laundry loading rate. Proposed changes to 2.50, regarding Similarly Qualified Individual: We request that this section be re-written to promote clarity. Both the existing and proposed wording would be easier to understand if the "ands and ors" were more expressly stated. That said, we are in support of maintaining the 36-month duration of the training period, but we also aren't sure we are understanding the proposed verbiage as intended. Proposed change to 5.4: We do not support the change to allow surface discharge in subdivisions. Proposed change to 5.5.1: We do not support the change to allow capping fill to be used for subdivision approval. Proposed change to 5.5.2: We only support this change if proposed change to 5.5.3 is also incorporated into the Rules. Proposed change to 5.5.4: We do not support the change to use drip system designs to determine subdivision lot sizing requirements. Proposed change to 8.1: We do not support this change regarding length of absorption trench. Proposed change to 16.1.1: Please reword to promote clarity. As defined in the first sentence, or in the second? Proposed changes to Appendix A: RV usage: We do not support the change to reduce the daily usage for RVs. RV usage with engineered wastewater strength reduction: Please provide more details about the system requirements for this.

ADH Response:

Laundry Mats are considered commercial waste and are regulated by Arkansas Division of Environment Quality with the Department of Energy and Environment. Prospective designated representatives without a certification required by law can obtain licensure under the "similarly qualified". The rule provides definition to the meaning of similarly qualified.

Two methods exist in this draft: 3 years' experience with a current designated representative or two years' experience with a designated representative and Wastewater I and II completion in place of an extra year. The are no new requirements for designated representative's.

Sections 5.4 and 5.54 are being updated due to previous input from constituent concerns. Situations arise in which these systems can be utilized effectively. ADH will continue to review provisions within the rule for clarity and note comments to be addressed in future proposed changes.

The 120 gallons is based on the high strength wastewater rates without treatment. The reduction from 125 to 120 accommodates the 60 gallons rate for pre-treated wastewater that are equivalent to residential strength effluent. Study have shown that average usage rates for RV are approximately 60 gallons per day per unit or less.

Mike O'Conner
Received on June 4, 2024

> *In reference to 5.5.4, Drip dispersal design should not be used as MINIMUM lot size. also, 2.50 Similarly Qualified Individual. 24 month training is not enough time for an individual to become a DR. ADEQ wastewater one and two is absolutely useless to the Septic Program and will serve no purpose to a DR. Also, a 50% field line reduction should be acceptable for any residential application using an ATU!*

ADH Response:
Sections 5.4 and 5.54 are being updated due to previous input from constituent concerns. Situations arise which these systems can be utilized effectively. ADH will continue to review provisions within the rule for clarity and note comments to be addressed in future proposed changes.

The 120 gallons is based on the high strength wastewater rates without treatment. The reduction from 125 to 120 accommodates the 60 gallons rate for pre-treated wastewater that are equivalent to residential strength effluent. Study have shown that average usage rates for RV are approximately 60 gallons per day per unit or less.

Prospective designated representatives without a certification required by law can obtain licensure under the "similarly qualified". The rule provides definition to the meaning of similarly qualified. Two methods exist in this draft: 3 years' experience with a current designated representative or two years' experience with a designated representative and Wastewater I and II completion in place of an extra year. The are no new requirements for designated representative's.

The Onsite Wastewater Rule is based on storage of effluent above the seasonal water tables and a maximum long term acceptance rate of .75 gallons per square foot per day.

Sam Dunn
Received June 6, 2024

I forgot one other item, the notarized pumper agreement should be dropped. I would secure the notarized agreement for the permit, then later on the customer would drop the pumper and call in another pumper who had a better price for pickup. The agreement is all one should need over going through the trouble of getting the agreement notarized. Only a couple of items 5.4 No surface discharging systems shall be allowed in subdivisions for new construction until all requirements of the Division of Environmental Quality under the Department of Energy and Environment and the Department of Health are met. Not sure what are you meaning by this. The last part of "are met" this just sounds a little odd, makes it sound like you meet the requirements you can apply. 5.5.2 , 5.5.3, 5.5.4 If you are reducing the size of the lot using these management practices, the details of reduction shall be platted on the subdivision plat during the review and approval process. The one item about submitting the permit during the review process is not practical in the long run. I have using this practice before and it looks good staring out but later when it comes time for installation the plans do not always match up. Suggest again that these practices be included on the approval plat. 5.5.4 The same for using drip system, the dispersal area platted on the plat with all details of the system included. the use of having the dispersal fields listed in the legal descriptions of the lots is not practical. The buyer does not see the legals of the lots and for the most part do not understand what they are reading. I have seen EHS's who can not read a legal description, sometimes I have a hard time figuring out the exact meaning of what is descripted. I think it would be better served is the dispersal areas be listed on the approved and recorded plat. When the surveyor sets the corners of the lot, they can record the gps reading of the four corners of each dispersal area. Section 12 I would change the wording from contract to read agreement. You can have the homeowner fill out the contract paperwork by the time the system the installer, they have cancelled the contract. Maybe a play on words at this point. Some homeowners I have ran into like agreement instead of contract. It makes some feel like they are bound. Also, delete MOA requirement. No need for the form and second the form is out of date. The other item that is troubling is 8.4.3 RV flow. You are asking for all RV parks to be on pretreatment system. I think you are asking for headache with other parts of the regs. I my opinion all commercial operations shall be paired with a pretreatment unit. if you are reducing the flow rate for RV parks with the installation of a pretreatment unit then why not require this for all high strength developments. This exception is like you are picking and choosing wins and losers. If this section passed, I know I would turn around an ask for a reduction in flow rate for other projects. I would like to see all commercial or high strength establishments be under a section for small commercial projects. Last item, surface discharge application should start first with ADEQ. It is of my opinion that ADH could issue a Notice of Intent form which would have all the current information that the EHP19 has for the DR to submit to ADEQ. I have seen first hand the crazy way the application process take shape from the submission of the application to ADH and then working with ADQ for final approval. What I see as one issue with the current process is the fact you can get a permit approved by ADH but when you submit this same permit into ADEQ there is no guarantee the permit will be issue. The

homeowner has received in the mail or by email a copy of the approved ADH permit thinking all is great and proceed on with construction or the purchase of the property only later find out that ADEQ has declined the application. I know this is a small percentage of the time, but when it happens it is with an individual who really calls attention to both agency. We have all seen this before, a phone call to the top moves down to the bottom of the chain with a take care of this situation mandate. Holding tanks allow for the installation of remote monitoring of the tank level. this can be tied to the pump out agreement in place of the monitoring agreement.

ADH Response:

Sections 5.4 and 5.54 are being updated due to previous input from constituent concerns. Situations arise which these systems can be utilized effectively. ADH will continue to review provisions within the rule for clarity and note comments to be addressed in future proposed changes.

ADH is suggesting the consideration for a legal description of the primary and alternate areas are included on the original legal description. ADH continues to work with DEQ to make the process as simple as possible for all. ADH did remove the MOA requirement from this draft.

Piper Satterfield
Received on May 3, 2024

2.50 Similarly Qualified Individual. An individual with bachelor's degree with 30 hours of natural science, engineering and/or math, OR 3 years experience verified by the Department in the design of onsite wastewater systems OR who has completed an 24- month training plan approved by the Department with a licensed Designated Representative,(AND or OR here?) completed wastewater one and two licensing with the Arkansas Department of Environmental Quality. So if a person has completed WW1 or 2 testing and passed, then they are eligible to take the DR test just like an engineer,plumber,surveyor would? This statement needs to be more clear. I don't think you should require 3 years apprenticeship when ADH is certifying EHS as inspectors with no previous experience in 6 weeks. Plus, why not experienced installers? Or designers certified in another state? But yes, there do need to be good minimum standards. "5.4 No surface discharging systems shall be allowed in subdivisions for new construction until all requirements of the Division of Environmental Quality under the Department of Energy and Environment and the Department of Health are met" Define subdivision. Here there are formal subdivisions, informal subdivisions, large acre subdivisions (might have 5 acres or more but because there were 7 lots instead of 6, then they get bumped to "formal subdivision" status even if ADH wouldn't have considered them to be one. "5.5.2. Interceptor drains may be used for the purpose of determining minimum lot size when soils exhibiting a brief seasonal water table between the surface and 18 inches of depth that an interceptor drain can effectively reduce the depth of the seasonal water table." Define when what conditions constitute "can effectively reduce the depth of the seasonal water". I'm assuming the 3% slope rule? "5.5.3. Lots less than three acres that require interceptor drains in subdivision approval shall include a complete permit submittal to establish siting of the primary and secondary areas including the interceptor drain. Lots that do not meet the above minimum soil criteria shall be three acres or larger and sized on natural soil conditions. Good management practices shall not be used for the purpose of

determining minimum lot size" Again, how can ADH require permits for a subdivision that's not approved yet. Just need to add to the subdivision review requirements that the curtain drain must be shown on the plans: 5-10 ft above the field, show the slope, elevation shots proving can get 3% slope, and specs with drawing on how to install the curtain drain. "5.5.4. Drip dispersal design may be used in determining minimum lot size for subdivisions when the following criteria are met: Minimum depth to bedrock in section 7.2.2 primary and secondary absorption areas are flagged on contour, legal description of primary and secondary absorption areas included in the legal description of those lots." I still think this will be problematic in the future. But,should at least require a minimum 1 acre lot if going to allow drip in subdivision review. It would be more effective than a legal description of the primary and secondary areas. Also, why require full permits for a simple interceptor drain in subdivision review but not an advanced system that adds $30,000+ to the cost of the development per lot? If the subdivision review requirements are going to be rewritten, they should be consistent. Also the DR submitting this should have to be certified in the drip design (as well as the reviewing EHS). Why not have a minimum 1 acre rule if any extra "tricks" or components are needed to make a system work (cap, drip, interceptor drain, etc). "8.1 A standard onsite wastewater system consists of a field of perforated pipe surrounded by gravel, or other conventional trench media product authorized by the Department and installed in such a manner that the clarified effluent from the septic tank or pretreatment unit will be distributed with reasonable uniformity into the natural soil. The individual absorption trench should not be more than 100 feet without mechanical dosing, and the trench bottom and perforated pipe or gravel substitute should be installed at a grade of 0 to 2 inches per 100 feet. In all cases line length shall not exceed 150 feet. In order to ensure even distribution of the effluent, all onsite wastewater systems utilizing a distribution box shall have absorption trenches of the same length" I like being able to extend lines beyond 100 ft. 16.1.1.1.1. Designated Representatives must be a Registered Land Surveyor, Registered Sanitarian, Plumber, Engineer, or a similarly qualified individual, as defined in these Rules. (Similarly qualified is defined as a person with a degree with 30 credit hours in the natural sciences). Should reference the complete, official definition as defined earlier. "16.9. Relevant and applicable uniformed service education, training, national certification, or service-issued credential shall be accepted toward initial licensure for a uniformed service member or a uniformed service veteran who makes an application within one (1) year of his or her discharge from uniformed service." Need examples, this is a little vague. NOWRA? "RV usage with engineered wastewater strength reduction,water, and sewer at each site 60 GPD" Still don't understand this. 1. Define an engineered wastewater strength reduction? Class 1 NSF40 unit? A Sludgehammer ABG? Also, how can you allow water consumption reduction for RV but not food service, homes, etc for when using waste strength reducers? If you allow for one, you need to allow for all or be very specific about how and why. If your research has shown that the GPD/space needs to be reduced, then just do that. Or if research has shown that RV park waste is high strength, then specify 60 GPD plus waste strength reduction. Also need to define what you mean by waste strength reduction or refer to previous parts of the regs (BOD,TSS,FOG not N or P etc). And the sentence isn't clear. I think you meant something like "Sites that provides both water and sewer connections AND engineered wastewater strength reduction shall be sized at minimum 60 GPD/space." "Footnotes: Waste Wastewater from food service operations is commercial high strength wastewater in nature and may require special system sizing and treatment/disposal considerations. For food service operations, kitchen wastewater flows are normally to be calculated at 66% of the total wastewater flow. Wastewater flows should include

estimated flows from drains from all drink dispensers including soda, tea, coffee, juice, and ice cream." This is helpful. Would also like to see a guidance chart on average BOD TSS FOG ppms for various types of food service. Also how to calculate the BOD lbs/day reduction from high strength to domestic strength. Texas used to have a chart. I think Louisiana has a worksheet to help calculate.

ADH Response:
Prospective designated representatives without a certification required by law can obtain licensure under the "similarly qualified". The rule provides definition to the meaning of similarly qualified. Two methods exist in this draft: 3 years' experience with a current designated representative or two years' experience with a designated representative and Wastewater I and II completion in place of an extra year. The are no new requirements for designated representative's.

Sections 5.4 and 5.54 are being updated due to previous input from constituent concerns. Situations arise which these systems can be utilized effectively. ADH will continue to review provisions within the rule for clarity and note comments to be addressed in future proposed changes. This provision reinforces that the agencies will work together to approve this type of project.

Wording for the use of Drip Dispersal systems in some subdivisions was a compromise solution to difficult sites. The Rule intent is to be protective as possible of the onsite wastewater fields. ADH has found the previous efforts to protect proposed field areas has failed.

The 120 gallons is based on the high strength wastewater rates without treatment. The reduction from 125 to 120 accommodates the 60 gallons rate for pre-treated wastewater that are equivalent to residential strength effluent. Study have shown that average usage rates for RV are approximately 60 gallons per day per unit or less.