

**BEFORE THE INDIANA STATE DEPARTMENT OF HEALTH**

**AN ADMINISTRATIVE RULES HEARING  
LSA DOCUMENT #09-7**

**HEARING OFFICER REPORT**

This matter came before the duly appointed Hearing Officer, Kelly MacKinnon, on the 12<sup>th</sup> day of April, 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 March 16, 2010, in the *Indianapolis Star* and by publishing in the *Indiana Register* dated March 17, 2010. 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**

**Dick Blazer, President, Indiana Onsite Waste Water Professionals Association, Inc.  
(IOWPA)**

Mr. Blazer stated that IOWPA gives its support for the rule. He continued that IOWPA assisted with the changes and that IOWPA believes it is time for a change. Finally, he said that the rule will improve the installation of septic systems in Indiana.

**Gary Chapple, Pollution Control Director, Fort Wayne-Allen County Department of  
Health**

Mr. Chapple stated he was at the hearing to support the rule and the changes. He requested some technical changes to the rule. In Section 50(i), he requested clarification that sump pumps are not allowed if they are draining from one of the items prohibited from going into an on-site system in the Section. In Section 52(g), he recommended that exemption clause for subdivisions that are platted be dated back to the date of the current rule (December 21, 1990), not prior to the effective date of the new rule. For section 63(7), Mr. Chapple recommended that geotextile fabric only be allowed when it is six inches below the surface so there is soil to cover it because allowing it come to the surface would have the fabric just sitting there.

He commented that in section 64(f), the rule states that “the liquid holding capacity of a dosing tank must equal the daily average wastewater volume” which he thinks would be overkill

for mound systems which are dosed four times a day. He recommended that it has to hold the dosed volume required in the rule. Mr. Chapple recommended that in Section 73(v) the total head for a subsoil absorption system using flood dosing be changed to the elevation difference between the effluent pump and the highest point in the force main because if one goes up and then back down, you would have to take that into account even though the distribution box might not be as high. He thinks Section 74(e) and 74(k) need to be changed to subsurface gravity feed alternating systems instead of flood dosed systems because the section deals with alternating systems. He believes there is a typo in Section 75(ee) which should be "one fourth inch hole" instead of "one forth inch hold." Mr. Chapple stated that he thought the diagram in Section 76 was difficult to read so he asked that the diagram be cleaned up somehow. He concluded by saying that he would like to give his overall support to the proposed rule.

The complete text of Mr. Blazer and Mr. Chapple's comments can be found in transcript of hearing which is attached and incorporated by reference as Exhibit 1.

#### **WRITTEN STATEMENT**

**No written statements were submitted.**

Two people testified and no written statements were presented at the hearing. The record was left open until April 16, 2010. No comments were submitted during that time period.

Dated at Indianapolis, Indiana this 7<sup>th</sup> day of July, 2010.



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Kelly MacKinnon  
Hearing Officer

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INDIANA STATE DEPARTMENT OF HEALTH

HEARING

RE: Sewage Rule



HEARING OFFICER: Ms. Kelly MacKinnon

Also Present:

Mr. Mike Mettler, Director, ISDH

Ms. Kim Crawford, Staff Attorney, ISDH

Tim Decker, ISDH, Retired

Dick Blazer, IOWPA

Dave Sweet, McCreary Concrete Products

Mike New, Jefferson County Health Dept.

Ralph Armand, Jefferson County Health Dept.

Scott Rexroth, Clearwater Environmental

Denise H. Wright, ISDH

Gary Chapple, Allen County Health Dept.

Carlie Hopper, Indiana Builders Association

Conducted On: April 12, 2010  
10:00 a.m.

Conducted At:  
Indiana State Department of Health  
2 North Meridian Street  
Indianapolis, Indiana

A STENOGRAPHIC RECORD BY:

Tricha L. Roach  
Notary Public

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CONNOR REPORTING, INC.  
1650 ONE AMERICAN SQUARE  
INDIANAPOLIS, IN 46282  
(317) 236-6022

1           **THE OFFICER:** This is a public hearing  
2 before the Indiana State Department of Health on  
3 the 12<sup>th</sup> day of April, 2010, at 10 a.m. in the  
4 Indiana State Department of Health, Rice  
5 Auditorium, 2 North Meridian Street,  
6 Indianapolis, Indiana.

7           It is documented before the executive board  
8 of the state department of health as LSA  
9 Document Number 09-7, a rule to add 410 IAC  
10 6-8.2 to update and clarify agency requirements  
11 pertaining to the design, construction,  
12 installation, maintenance, and operation of  
13 residential on-site sewage systems. It repeals  
14 410 IAC 6-8.1.

15           Notice of time and place of this hearing  
16 was given, as provided by law, by publishing on  
17 March 16<sup>th</sup>, 2010 in the Indianapolis Star and  
18 on March 17<sup>th</sup>, 2010 in the Indiana Register.  
19 Proof of publication of this notice has been  
20 received by the department; and the notice and  
21 proof are now incorporated in the record, this  
22 cause by reference and placed in the official  
23 files of the department.

24           My name is Kelly MacKinnon, and I have been  
25 appointed hearing officer by the state

1 department of health to serve in this cause.  
2 The sign-in sheet should be completed by all  
3 individuals desiring to be shown as appearing of  
4 record and shall be completed by those who  
5 desire to be heard during this hearing. If you  
6 have not already signed the sheet, please do so  
7 at this time.

8           You will also find at the back of the room  
9 a copy of the proposed rule, a small business  
10 economic impact statement and Indiana Economic  
11 Development Corporation's comments on the  
12 economic impact statement. You are welcome to  
13 take a copy of each. Additionally, the proposed  
14 rule and IEDC's comments are posted on the  
15 department's website at [www.in.gov/isdh](http://www.in.gov/isdh) under  
16 "rules."

17           Oral statements will be heard; and written  
18 statements may be handed to me, e-mailed to me  
19 at [kmackinnon@isdh.in.gov](mailto:kmackinnon@isdh.in.gov) or mailed to me at  
20 2 North Meridian Street, Section 3H-99  
21 Indianapolis, Indiana, 46204, by Friday,  
22 April 16<sup>th</sup>, 2010. All written and verbal  
23 comments will be recorded in my report on this  
24 hearing to the executive board of the Indiana  
25 State Department of Health.

1           Each person who speaks for the record is  
2 requested to clearly identify yourself by giving  
3 your name, spelling it and identifying who you  
4 represent. Is there anyone who cares to be  
5 heard, anyone? Please step forward.

6           **MR. BLAZER:** My name is Dick Blazer. It's  
7 B-L-A-Z-E-R. And I am president of IOWPA, and I  
8 came today to just give you our support for this  
9 rule. We spent a lot of time helping with the  
10 changes and -- well, changes of the rule; and  
11 IOWPA, we think it's time for a new rule. And  
12 we think the changes have -- will improve the  
13 installation of septic systems in the state of  
14 Indiana.

15           **THE OFFICER:** Thank you. Is there anyone  
16 else who would like to speak? Okay. Well, then  
17 seeing and --

18           **MR. CHAPPLE:** I was trying to get a little  
19 better organized but didn't have time.

20           **THE OFFICER:** Take your time.

21           **MR. CHAPPLE:** My name is Gary Chapple,  
22 G-A-R-Y C-H-A-P-P-L-E; and I am the pollution  
23 control director for the Fort Wayne-Allen County  
24 Department of Health. I'm here to support this  
25 rule and the changes. I do have a brief list of

1 some technical modifications that I would like  
2 to run down through real quickly, and that's  
3 what I was trying to get organized. I have it  
4 by page number. I don't have sections on it  
5 yet.

6 Section 50, point h, it has been suggested  
7 that some modification be put in there to --  
8 this is referencing what can't go into a system  
9 and has a list there. Oh, I'm sorry, it's point  
10 i. I missed a letter. There's a list of things  
11 that can't go into an on-site system. It's been  
12 suggested to me that it be clear that any sump  
13 pump that's connected to one of those be  
14 included in that list so it's clear that sump  
15 pumps aren't allowed if they are draining from  
16 one of those.

17 Section 52, point g, this is one of two in  
18 here, I think, that's typically referred to as a  
19 grandfather clause that exempts pre-existing  
20 conditions. This one says the effective date of  
21 this rule, and that's a carryover from the  
22 current rule. It exempts lots in subdivisions  
23 that are platted.

24 The suggestion is that be changed to the  
25 date of the current rule, December 21<sup>st</sup>, 1990,

1 instead of the effective date so it doesn't move  
2 forward a provision that's already in there.

3 Section 63, point 7, under that section,  
4 says that aggregate used as backfill shall be  
5 covered with a geotextile fabric; but the  
6 provisions in that section allow it to either  
7 come to the surface or to be 6 inches below the  
8 surface with soil over it. Putting geotextile  
9 fabric over soil that comes to the surface  
10 wouldn't be very practical because it would just  
11 be laying there, and so the suggestion is to  
12 modify that so the geotextile fabric only  
13 applies to the ones that are 6 inches below the  
14 surface with soil to cover it.

15 In Section 64(f) the current language says,  
16 "The liquid holding capacity of a dosing tank  
17 must equal the daily average wastewater volume."  
18 For a mound system that's dosed four times a  
19 day, that provides a tremendous overkill  
20 compared to systems that are dosed once a day.

21 So I would suggest changing the wording  
22 there to reflect that it has to hold the dosed  
23 volume required in the rule, whether you  
24 reference each section that gives a dosed volume  
25 or how you do that. I didn't have time to write

1           wording there but something to the effect so  
2           that it holds the dosed volume for each dose in  
3           addition to the others that are listed there.

4           Section 73, point v talks about the total  
5           head for a subsurface soil absorption system  
6           using flood dosing, says that elevation differs  
7           between the effluent pump and the outlet in the  
8           distribution box. I would suggest inserting  
9           language in there so it reads between the  
10          effluent pump and the highest point in the force  
11          main, which is usually the outlet of the  
12          distribution box, because if one goes up and  
13          then back down, you would have to take that into  
14          account even though the distribution box might  
15          not be as high.

16          Section 74, points e and k, this section is  
17          dealing with subsurface gravity feed alternating  
18          systems; and both of those reference flood dosed  
19          systems. I believe both of those need to be  
20          changed to alternating systems.

21          Section 75, point ee, there's just a typo  
22          in there. It says "one-fourth inch hold," and  
23          it should be one-fourth inch hole.

24          And, finally, in Section 76, there is a  
25          diagram there. This doesn't have anything to do

1 with content. But, in the diagram, a lot of the  
2 text in the diagram is not very readable; and  
3 something just needs to be done to clean that up  
4 so that you can actually see it. And that is  
5 all I have. And, again, overall I would like to  
6 give my support to it. Thanks.

7 **THE OFFICER:** Thank you. Is there anyone  
8 else who would like to speak? Okay. Then  
9 seeing and hearing everyone who cares to be  
10 heard this time, I want to thank each of you for  
11 your presentation. My report of the hearing  
12 will be in writing to the executive board of the  
13 Indiana State Department of Health for their  
14 consideration before final adoption.

15 These proceedings, pursuant to notice, are  
16 hereby concluded. This cause is therefore  
17 adjourned until final order of the executive  
18 board. Thank you all for coming.

19 *(Time Noted: 10:20 a.m.)*  
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**CERTIFICATE**

I, Tricha L. Roach, the undersigned Court Reporter and Notary Public residing in the city of Fishers, Hamilton County, Indiana, do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me on Monday, April 12, 2010 in this matter and transcribed by me.

*Tricha L. Roach*

Tricha L. Roach,  
Notary Public in and for  
the State of Indiana

My Commission expires July 6, 2016.

