

Oregon DEQ Onsite Advisory Committee

Final Report of Recommended Changes to Rules Governing Onsite Systems

For
Oregon Department of Environmental Quality
Onsite Wastewater Management Program

February 8, 2010

Overview

DEQ's Mission is to be a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.

Over 30% of Oregonians dispose of their wastewater through the use of septic systems, primarily residential systems. EPA estimates that 10 to 20 percent (USEPA, 2002) of all septic systems fail annually, increasing the risk of contamination of surface and drinking water sources. DEQ and its contract agents have statutory and regulatory authority to make sure that septic systems are properly sited, sized and constructed, and ensure that pumpers have the necessary equipment to safely pump and transport septage. In addition, DEQ licenses installers and pumpers, and reviews and approves products such as septic tanks, alternative treatment technologies and alternative drainfield products.

The Onsite Program (Program) is in a position where the public and the regulated community expect services that DEQ currently does not have the resources to fulfill. The cost burden of the Program falls 100% on households and businesses with septic systems, products, or licensees who pay fees for program oversight, permits, licenses and product approvals. Indirect program costs, including complaint response and enforcement actions are expected to be fully covered by fees and surcharges assessed on system owners, licensees and manufacturers. These costs include time spent by those not directly involved in the Program, such as DEQ enforcement staff and Department of Justice attorneys. If human health and the environment benefitting all Oregonians are to be protected by a strong program, the enforcement ability must be as strong as the Program's rules.

Background

Program staffing has been incrementally shrinking for many years due to rising costs and a limited ability to raise fees enough to support the Program. The 2009 legislature approved a fee increase of up to 60%. The External Advisory Committee (Committee), convened during the 2009 legislative session, understands that raising fees is not a long-term solution to the Program's financing. They considered alternate sources of funding to improve the Program success in all identified areas. The Committee was formed to assist in providing broad direction to address funding and other administrative and regulatory concerns of the Program. The Committee made recommendations on what the Program should look like in the future and recommended possible funding strategies.

The Committee was comprised of system installers, manufacturers, O&M service providers, county government and included:

Stephanie Hallock – Former DEQ Director (Chair)
Sam Carter – Orenco Systems, Inc.
Zan Ewing – SaniTech Consulting Services
Jan Heron – Linn County Environmental Health Department
Alex Mauck – Goodman Sanitation
Pat McVay – Sporthaven Excavation
Chris Rhodaback – A&B Septic Service
Steve Wert – Wert & Associates

Building on the work of previous external advisory groups¹ the Committee offered recommendations in five key areas:

- 1. Enforcement**
- 2. Time-of-Property-Transfer Inspections**
- 3. Maintenance of All Types of Systems**
- 4. Approval Process for Alternative Treatment Technologies (ATTs).**
- 5. Additional Issues for Further Consideration.**

Recommendations

1. Enforcement

The Program ensures that septic systems are sited, constructed, maintained and perform to protect human health and the environment. A failing system or an illegally installed system can jeopardize that protection and may lower property values.

Currently, there is less than 1 full time equivalent (FTE) assigned to perform enforcement activities. There are complaints and enforcement activities that DEQ has not adequately addressed. This has created an unlevel playing field for folks trying to comply with the requirements and there are little to no consequences for breaking the rules.

1.1. Why is Enforcement Not Happening?

- Operating costs are exceeding revenues coming in, causing enforcement oversight to suffer.
- Enforcement typically costs the Program thousands of dollars, and fees for direct services such as permitting, licenses and inspections are not sufficient to cover enforcement costs, so enforcement becomes a lower priority.

¹ Most notably the recommendations of the Onsite Program Improvement Advisory Committee in 2004 and the Stakeholder Analysis and Program Recommendations to DEQ by Steve Greenwood in 2002 (informally called the Greenwood Report).

- Without a direct connection to an environmental or public health risk, enforcement becomes less of a priority and is perceived to be less important.
- For some violations, environmental harm is not initially obvious. For example, installing a septic system without a license or failing to submit required annual reports.
- There is no comprehensive database or tracking mechanism for permitted systems to track violations, like ATT annual reporting.
- There is not enough authority in rule to enforce some violations (for example, procedures for revoking a license and some enforcement rules are nebulous).

1.2. Enforcement Recommendations

- a. The expense burden of enforcement should be borne most heavily by those convicted of violations. Civil penalty money should be deposited in an onsite enforcement fund instead of reverting to the state General Fund and should be used to help offset enforcement costs to the Program.
- b. DEQ should consider assessing higher license and permit fees for violators.
- c. DEQ should consider acting on enforcement referrals from the counties.
- d. A program for DEQ and contract counties to track and log permits, complaints, etc would help to establish an ongoing system for compliance.
- e. The Committee supports the expedited enforcement offers (EEO) process that was recently adopted by the program.

1.3. Issue:

To avoid any perception of ‘bounty hunting’, fines are typically not used to fund DEQ programs. A statutory change would be needed to allow fines to revert to the Program.

2. Time-of-Property-Transfer Inspections

The Coastal Zone Management Act (CZMA) is a National Oceanic and Atmospheric Association (NOAA) and Environmental Protection Agency (EPA) program that has numerous conditions states are required to implement, including time of property transfer inspections for all septic systems within the designated area. The DEQ Water Quality Program is committed to meeting CZMA requirements.

The Real Estate Agency has published a Buyer’s Advisory which recommends that prospective buyers have a septic system inspected prior to purchasing a property. Likewise, the Association of Oregon Realtors recommends that sellers consider getting their septic systems inspected prior to putting the property on the market.

With the exception of Alternative Treatment Technology (ATT) systems, DEQ's rules contain no requirements or minimum standards for inspection of septic systems at the time a property is transferred.

Without minimum requirements and standards for inspections, there is no assurance that a septic system is functioning properly or that an adequate inspection will occur. Some detrimental practices may harm septic systems.

Standardized time-of-transfer inspection requirements would help DEQ build an accurate database of systems and protect homeowners and the environment by ensuring that systems are operating as intended and being maintained properly.

2.1 Time of Property Transfer Recommendations

- a. DEQ should seek statutory authority to require time of property transfer inspections and be adopted statewide for all types of septic systems, not just in the CZMA zone.
- b. DEQ needs to adopt inspection standards and inspector qualifications for all systems similar to ATT time of property transfer requirements and develop standardized forms to be used statewide. Statewide consistency will benefit property owners and service providers.

2.2 Issue:

DEQ will need funding to get the program off the ground with educational outreach and to set up a database to track systems and compliance. The Committee recommends that DEQ seek a source of funding, such as a federal grant, general fund, or lottery dollars to educate stakeholders (realtors, title companies, the public, etc...).

3. Maintenance of All Types of Systems

The Committee agreed on the importance of ongoing assessment and maintenance for all septic systems, and shared concern that a majority of systems in the state are not being properly maintained. Furthermore, failing systems are not always repaired. The need for ongoing maintenance was also addressed in the Greenwood Report and by the 2004 Advisory Committee. See Appendix A for supporting documents on system maintenance.

3.1 Maintenance Recommendations:

The Committee recommends that DEQ's rules ensure that all septic systems are monitored, inspected and maintained in the manner most appropriate for each particular type of system as outlined below.

3.2 System Type Inspection & Reporting

Standard Gravity

Generally, it is assumed that a standard gravity system is a lower risk system, as the site has soils that are sufficient and appropriate for the dispersal and adequate treatment of septic tank effluent prior to potential contact with ground water.

With these systems, inspection frequencies can be extended because of the reduced risk of environmental impact. There are also fewer electrical or mechanical parts of the system that must be maintained. A system should be established whereby owners of gravity systems are notified by regulator (DEQ or county) that the system is due for inspection. Owners would contract with an authorized inspector to perform an inspection and submit a report indicating the condition of the system.

Suggested Minimum Inspection Frequency: Every 3 years

Suggested Notification Method: Electronic or hard copy mail

Suggested Report Evaluation Fee: Per inspection report submitted

Alternative Systems

Alternative systems include every type of system other than standard gravity category, including pump to gravity, pressure distribution, sand filters, proprietary treatment systems, etc. These systems were required because site conditions called for an improved distribution method or improved effluent quality to reduce reliance on the soil for treatment. Generally these systems are applied when sites have poor soils, or there are horizontal setback limitations (the well or creek is too close), or when there is insufficient space for a standard system.

These types of systems are generally considered higher risk because of the need for more advanced treatment (higher environmental concerns) and they also have more moving parts, or they have pressurized laterals that need annual maintenance to ensure that they perform as intended. These alternative systems should be required to be under a maintenance contract with a trained certified individual. If they fall out with their contract, the regulatory authority will notify the owner that they must get back in compliance with their contract.

Suggested Minimum Inspection Frequency: Annually (or more frequently as required by the manufacturer of proprietary treatment systems)

Suggested Notification Method: Annual Contract

Suggested Report Evaluation Fee: per inspection report submitted

Table 1. Summary of Recommended Inspection & Reporting Requirements

System Type	O&M Contract Required	Maintenance/Inspection & Reporting Required	Minimum Maintenance/ Inspection & Reporting Frequency
Standard Gravity	No	Yes	Every three years
Alternative Systems (Pump to Gravity, Pressure Distribution, ATT's, ISF's etc..)	Yes	Yes	Annual*
Commercial and Multifamily Systems	Yes	Yes	Twice yearly*
Property Transfer	N/A	Yes	During activity
Tank Pumping	N/A	Yes	During Activity

**May be more frequent depending on manufacturer's recommendations or complexity of the system*

3.3 Phased-in Implementation

The Committee recommends phased-in implementation, with the inspection and reporting requirements being initiated after a 1-year education and outreach effort following rule adoption. Of course voluntary inspection and reporting should be promoted and allowed. It is

also suggested that all systems be in the regulatory system within 5 years. Here is an example model:

Year 1 – Education and Training

Year 2 – New systems, repairs and property transfer in Critical Resource Areas (for example, groundwater management areas and 3-basin rule area)

Year 3 – All new systems, repairs of existing systems and property transfer

Year 4 – All systems requiring a tank pumping

Year 5 – All pre-existing systems, final deadline

3.4 Issue:

There will be resistance to more regulation; low income households with septic systems may need a method of financial support to repair them; perception that standard systems do not require monitoring and maintenance will need to be addressed; DEQ/counties will need more resources initially to expand the regulatory framework, although ultimately the Program should be self-sustaining.

4. Approval Process For Alternative Treatment Technologies

4.1 History of the 2005 ATT Rule Change

Alternative Treatment Technology (ATT) systems incorporate aerobic and other treatment technologies or units not specifically described elsewhere in the Onsite Rules. Changes to the rules in March, 2005 provided an avenue for product approval and permitting of ATTs by both DEQ & contract counties. Prior to the 2005 rule change, the avenue to permitting an ATT for any facility, regardless of flow, was a DEQ-issued Water Pollution Control Facilities (WPCF) permit, which was not always a good fit. Examples of some of the challenges included:

- WPCF permits are complex and more time-intensive to process.
- WPCF permits require an annual compliance fee that the permittees did not like (\$300+/year). As the Greenwood Report indicated, the permittees felt that they were being assessed an annual fee and receiving little to no service in return.
- WPCF permits require compliance inspections by DEQ. Generally, DEQ offices are farther from sites than the local county agent, and therefore residential and small commercial facilities did not receive timely inspections from DEQ.

The 2005 rule change allowed ATT to be approved and installed under the ‘traditional’ construction/installation (C/I) permit. The benefits to taking that step:

- Made ATTs more available and affordable for the public.
- Provided options for lots too small for other kinds of systems.
- Greater assurance that ATTs will be maintained because the 2005 rule mandated that the ATT owner have an O&M contract with a certified maintenance provider or that the owner be trained by the manufacturer to service the ATT.

What has worked well with ATTs since 2005:

OR DEQ Onsite Advisory Committee:

- The initial NSF International (NSF) product testing protocol and approval process works well. It creates a minimum standard for manufacturers and regulators on determining functionality.
- The rule requirement that maintenance may be done by a certified maintenance provider (with an exception clause) and an annual report submitted to the local agent is good when used.
- The addition of ATTs to the ‘toolbox’ of options that the local agent can permit is beneficial.

What hasn't worked well with ATTs since 2005:

- The NSF/ANSI Standard 40 protocol is a test center test and is being utilized as the sole indicator for how a particular system will perform in the field over the long term. Currently, there are no processes in place to verify how systems are performing in the field.
- Ongoing annual certification by NSF is expensive (currently in the range of \$15,000 – 20,000/year) according to an ATT manufacturer. Oregon is 1 of only 7 jurisdictions in North America that requires treatment systems be certified by NSF. NSF's certification protocol does not physically monitor effluent characteristics in order to verify system performance in the field.
- DEQ approval process, “listing”, of new products takes too long.
- No statewide tracking of ATT systems that are installed, so the number and type of ATT systems that have been installed in Oregon is unknown. 10% of a manufacturer's systems less than 10 years old that are failing are cause for de-listing (which the manufacturer would lose the Oregon ATT product approval). Since there is no statewide tracking, de-listing is not currently possible.
- Application fees for ATTs do not cover DEQ time in doing product reviews, tracking, compliance, or de-listing. The fees assessed should cover the cost of the reviews.
- No consequences from DEQ on ATT owner for failing to maintain an O&M contract.
- The rules allow ATT owners to maintain their own systems, if trained by the manufacturer. The training provided by manufacturers is uneven and can be inadequate. System owners should be required to go through more formal training. The motivator for doing one's own maintenance should not be simply to save money. Systems are often located in environmentally vulnerable areas and the system must be adequately maintained to provide the needed environmental and public health protection.

4.2 ATT Recommendations:

- a. Continue NSF evaluation protocol to obtain initial product approval in Oregon, and consider data from other states having substantially valid field testing. DEQ shall define what a valid protocol is for field testing.
- b. Establish reasonable performance criteria for annual reporting from service providers to include more than visual and olfactory assessments.

- c. Create and maintain a statewide database to track and monitor system operation and maintenance.
- d. Explore alternatives to ongoing certification by NSF.
- e. ATT system performance should be audited for compliance using effluent limits, other performance standards and operational status.
- f. Failing to comply with performance standards should start with support (education, attention, etc) to encourage corrections to be made. If that is not successful, future actions should lead to enforcement.
- g. Time of property transfer inspections must be tracked in a statewide database (see item c above).
- h. Amend the rule that allows a homeowner to service one's own system with only training by the manufacturer, which is undefined and inequitable between manufacturers. Due to the complexity of systems, a homeowner should only be allowed to maintain their own system after they have received approved training and have demonstrated competency to become certified as a maintenance provider through the approved course.
- i. Add a Professional Engineer to the Program to assist with product reviews and the evaluation of ATT performance in the field.

4.3 Issue:

Homeowners and others may resist training requirements to maintain ATTs; DEQ lacks resources to take on responsibility for more certification.

5. Additional Issues for Further Consideration

5.1 Revenue Enhancement Options:

Direct Service revenues are not sufficient to support the Program. The 2009 60% fee increase rulemaking will pay primarily for maintaining field services at those current levels, and will not include revenue to fund any additional program oversight. Providing technical assistance to the public (about technologies, refereeing issues with local agents, realtors seeking information), reviewing septage management plans and annual septage inventory reports for pumpers, assisting in finding funding for repairs, addressing contract county inconsistencies, providing technical assistance to installers and service providers seeking certification, regional groundwater problems that involve septic systems are some examples of work that is not getting done.

In addition, areas not being addressed or are ineffective include enforcement, updating county contracts and auditing performance of contract counties, ongoing oversight of contract counties, timely product approvals and development of a statewide septic system database.

The Committee recognizes that the Program needs additional sources of funding and brainstormed some funding options for additional program support:

- A reporting fee collected from certified maintenance providers and pumpers for each system that they maintain and pump. The reporting frequency would be based on the complexity of the system.

- Septage dumping fee: Pumpers would pay a fee on a per gallon basis that would be submitted to DEQ.
- The Program currently receives no state General Fund (GF). Given that other permitting programs within DEQ receive GF, the Committee feels that the Program should also be considered as well, particularly for complaint response and enforcement where there is a public benefit. The Committee recognizes that GF is hard to get and if the Program did get GF that every legislative session there would be challenges to keep it.
- A time of property transfer inspection reporting fee for every property transfer connected to a septic system [See the Time of Property Transfer Recommendations Section]. Civil penalties collected from enforcement action should be paid to the Program instead of the state's General Fund. DEQ's Underground Storage Tank Program had similar issues with having adequate resources for compliance and was able to get legislative support for civil penalties to support the program. DEQ should evaluate if that model might work for the Program.
- Seek permanent EPA grant funds (possibly 319) to support the Program.
- If work on a project goes beyond 'fee level' that the project would then be billable. This could also include county program reviews or revising the county contracts.

5.2 Prioritization of Resources:

If DEQ is able to generate additional resources, the Committee recommends the Program prioritize those resources (beyond the timely services rendered to applicants of field services, product applications, licenses) in the following order:

- a. Enforcement of rules
- b. Program reviews/updating county contracts
- c. New statewide database to track and monitor maintenance of onsite systems.
- d. Training and outreach to agents, licensees, and the public
- e. Update policies / guidance

5.3 Data Tracking:

At a minimum, a database and data management system should be established to track ATT system performance and listing, maintenance activities and time of property transfer inspections. Ideally, all septic systems would be in the database eventually. The Committee recommends that DEQ acquire such a system and also look into recruiting volunteers or interns to help populate the system.

5.4 Certification Dates:

The Committee heard testimony from an installer who expressed frustration that the certification expires on a different date than the license. The challenge with making the certification date expire simultaneously with the license is that there is a 'weak' connection between licensing and certification. Some certified installers work for a licensed Sewage Disposal Service (licensees) but do not hold the license and likewise some licensees are not certified and licenses expire June 30th. Having certification expire on that same day will

likely create problems for certified folks to get signed up for classes (more likely to fill up around the deadline).

5.5 Recertification of Installers:

An issue raised by Oregon Onsite Wastewater Association (O2WA) was that the rule is not clear about someone taking the initial installer class again when their certification expires. DEQ agrees that the rule is open to interpretation and the intent of the initial certification class is not to recertify installers. O2WA suggests increasing the fee and/or the difficulty of the initial test to discourage folks as a possible solution. DEQ would like to address both issues in the next significant rulemaking to try and make certification work better.

5.6 Siting Criteria for Septic Systems:

The Committee heard public testimony requesting consideration of not allowing new septic systems to be installed in floodways and 100-year floodplains. The Committee recognizes that this may be a real concern; however the Program does not have the resources to address the issue. Materials provided to the Committee will be given to DEQ's Water Quality Program for consideration.

5.7 Cumulative impacts from densely-populated areas:

The Committee heard public testimony on the importance of looking at an entire area when siting a system. The Committee also heard public testimony on the value of community systems to address densely-populated areas rather than individual systems for each lot. The Committee recognizes the importance of these issues but land-use restrictions on community systems outside urban growth boundaries must be addressed by DEQ and Department of Land Conservation and Development. The Committee does not believe that the Program has the resources to undertake this endeavor at this time. Rather, this should be addressed at a future date when resources are more available.

5.8 Allowing a Reduced-Sized Bottomless Sand Filter (BSF) Following an ATT:

This scenario appears to be a Central Oregon issue primarily, and does not appear to be controversial. DEQ has agreed to draft rule language at the next significant rule change.

5.9 Definition of "Failure":

The Committee expressed a desire that DEQ broaden the definition of "failure" in the Onsite Rules to include effluent quality as a determining factor. Many systems at a certain point fail to function satisfactorily in a manner that is demonstrated by sewage backing up in plumbing fixtures rather than failing onto the ground surface. It may not be surfacing but the system is not performing satisfactorily. The definition of "failing system" currently reads "any system that discharges untreated or incompletely treated sewage or septic tank effluent directly or indirectly onto the ground surface or into public waters or that creates a public health hazard." Changing the definition will allow these systems to be "repaired" rather than "altered".

5.10 Role of the Private Sector:

There is nothing in rule that prohibits someone hiring a consultant to facilitate siting, inspect an existing septic system or a newly constructed system. A private consultant may facilitate the process. There is inconsistency with how agents handle work that has been prepared by a consultant. The Committee recommends that DEQ consider adding permissive language to the rules to spell out opportunities for the private sector to enhance the process, and add credential requirements, enforcement mechanisms for "bad actors", and standardize forms.

5.11 Contract County/DEQ Structure:

The question was raised if DEQ might consider terminating county contracts and taking over all county onsite programs. DEQ was not opposed to this suggestion but also acknowledged that this would likely be very controversial, as many counties provide excellent service and would resist efforts to take the program back. After some discussion, the advisory committee agreed that it really shouldn't matter whether DEQ or a local county administered the program, provided that the program was run properly and consistently across the state.

5.12 Consistency:

Counties administer the Program in 22 counties and DEQ administers the program in 14 counties. Because contracts are outdated and DEQ does not have resources to oversee county programs adequately, consistency is a problem. A surcharge of \$60 is assessed on every application (except licenses), including products and WPCF permits for septic systems, and is intended to cover program reviews. However, the number of applications dropped dramatically in 2008 so there has not been sufficient revenue for DEQ to hire staff to do program reviews. The Committee recommends that DEQ alleviate the consistency problem by developing common forms for counties to use. The Committee also recommends that conducting program reviews and updating county contracts be a priority if DEQ finds additional resources for the Program, for example if civil penalties could be directed to the Program for the purpose of program review and audits.

Conclusion:

The Committee appreciates the Program situation and respectfully submits these recommendations for consideration. Oregon deserves a strong program and DEQ should support the Program. The Committee would appreciate a DEQ response. In particular, the Committee requests a timeline for implementing the recommendations and if there are recommendations that DEQ will not pursue, which recommendation(s) and why. The Committee also requests that the Committee be convened following DEQ's response to allow the Committee to evaluate the response.

APPENDIX A

Background Documents and Regulations on Maintenance

Greenwood Report:

“The lack of a statewide program to encourage/require long term maintenance of on-site systems presents the biggest obstacle to fulfilling the statutory mission of the program. In the decades ahead, more and more systems on more marginal sites, requiring proper maintenance to work well, pose a significant environmental and public health threat. The steadily increasing number of alternative technology systems will require the program to move from one that focuses only on ensuring proper siting and installation to one which will need to focus on longer term concerns about proper operation and maintenance.”

The Onsite Program Improvement Advisory Committee (OPIAC) in 2004:

“Recommendation: The OPIAC recommended against adding O&M requirements for all systems in this rulemaking but suggested that the concept be evaluated in the future. The Department concurs with this approach and has not included the requirements in the proposed rules. Although there are benefits associated with system maintenance for all types of systems, we have not evaluated the need for additional O&M requirements. Data collected during studies of alternative drain media products suggest that the state of Oregon has a very effective program and has low system failure rates compared to other states. The Department has not planned further evaluation of O&M practices but is encouraging Agents to provide onsite system maintenance brochures to all homeowners with septic systems as some counties are now doing.”

Oregon Revised Statutes 454 directs DEQ to develop rules that pertain to maintaining onsite systems:

454.607 Policy. It is the public policy of the State of Oregon to encourage improvements to, maintenance of and innovative technology for subsurface and alternative sewage disposal systems and nonwater-carried sewage disposal facilities consistent with the protection of the public health and safety and the quality of the waters of this state.

454.615 Standards for sewage disposal systems and disposal facilities. The Environmental Quality Commission shall by September 1, 1975, adopt by rule standards which:

(2) Prescribe minimum requirements for the operation and maintenance of subsurface sewage disposal systems, alternative sewage disposal systems and nonwater-carried sewage disposal facilities or parts thereof.

(3) Prescribe requirements for the pumping out or cleaning of subsurface sewage disposal systems, alternative sewage disposal systems and nonwater-carried sewage disposal facilities or parts thereof, for the disposal of material derived from such pumping out or cleaning, for sewage pumping equipment, for sewage tank trucks and for the identification of sewage tank trucks and workers.

Oregon Administrative Rules, Chapter 340, Division 71 (OAR 340-071) addresses maintenance for all systems:

OR DEQ Onsite Advisory Committee:

340-071-0110 Purpose: These rules establish requirements for the construction, alteration, repair, operation, and maintenance of onsite wastewater treatment systems. Their purpose is to restore and maintain the quality of public waters and to protect the public health and general welfare of the people of the State of Oregon.

340-071-0120 Jurisdiction and Policy... (2) Each owner of real property is jointly and severally responsible for:(c) Maintaining, repairing, and replacing the onsite system on that property as necessary to ensure proper operation of the system; and (d) Complying with all requirements for construction, installation, maintenance, replacement, and repair of onsite systems required in this division and OAR chapter 340, division 073.

340-071-0130 General Standards, Prohibitions and Requirements (13) Operation and maintenance. Owners of onsite systems must operate and maintain their systems in compliance with all permit conditions and applicable requirements in this division and must not create a public health hazard or pollute public waters.