

**LEGISLATIVE REVIEW**  
**SEPTEMBER 30, 2014 – REPORT #20**

**DEPT OF HEALTH ONSITE SEPTIC RULES TO BECOME EFFECTIVE JAN 1ST**

Seven years after the General Assembly blocked regulations setting statewide standards for home septic systems, JCARR allowed the Department of Health's revised rules to take effect. The ODH rules are designed to reduce the risk of exposure to sewage from failing septic systems. According to ODH's business impact analysis, the rules establish new modern standards for system construction, alteration and maintenance when a system fails or breaks and must be altered or replaced, or a when a new system is installed. A representative from ODH attended a recent OHBA Board meeting to help clear up misconceptions and answer any questions on the new rules. Having gone through JCARR, the agency's rules are set to take effect January 1, 2015.

**EARLY STAKEHOLDER COMMENTS SUBMITTED ON OEPA NPDES RULES**

Early stakeholder outreach is a requirement of the Common Sense Initiative (CSI) Process, where the agency solicits comments on rules without having proposed any draft language. Comments are to be focused on potential issues with the rule or suggestions on changes to consider when drafting new rule language. OHBA strongly discouraged the OEPA from developing numeric standards for phosphorous and nitrogen when developing its nutrient water quality criteria. Other concerns raised in the comments related to possible changes in the rule for inclusion of any "green" infrastructure practices as new storm water BMP's (bio-swales, rain garden, permeable pavement, etc). We raised several potential issues with such practices and posed several questions on "green" infrastructure regarding cost, maintenance and effectiveness. Lastly, OHBA encouraged the agency to reach out when draft rule revisions are available to participate in ongoing discussions. Please contact OHBA with any questions.

**OHBA FACILITATES MEETING WITH DEVELOPER AND EPA TO QUESTION  
MITIGATION AUTHORITY**

When a developer from the Canton area requested explanation on potential mitigation requirements from the OEPA, OHBA interceded and set up a meeting with the agency for further clarification. After being told by the US Corp a section of the property was non-jurisdictional and classified as an agricultural ditch, the OEPA attempted to take jurisdiction to require mitigation under the state's own classification of the 'stream'. However, currently there are no rules in place to regulate this type of isolated 'stream', thus no way to predict or plan for such a feature on a property. After explaining the situation further and asking for more details on where OEPA was getting its authority to require certain amounts of mitigation, a determination was made it did not appear that the ephemeral stream/isolated ditch in question would require any type

of mitigation from the state. This was a real life example OHBA was able to bring to the attention of the agency where the agency was attempting to act outside its scope of authority under the rule. Hundreds of thousands of dollars were potentially saved and the development may have a more viable chance of moving ahead.

Please contact OHBA with further questions.