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INDIANA STATE BOARD OF HEALTH

August 28, 1987

TO: All Local Health Officers

FROM: Woodrow A. Myers, Jr., M.D. *W.A. Myers MD*
State Health Commissioner

SUBJECT: Residential On-Site Sewage Disposal Programs

One of the duties of the Indiana State Board of Health and the local health departments is the prevention of conditions which jeopardize the health and safety of the citizens of this State. This responsibility, and the subsequent authority to promulgate and enforce rules to fulfill this responsibility, is outlined in IC 16-1-3-2, IC 16-1-3-13, and IC 16-1-3-22 for the State Board, and in IC 16-1-4-2, IC 16-1-4-11, IC 16-1-7-25, and IC 16-1-7-33 for local boards of health and their health officers. This responsibility has not been, and will never be, taken lightly by this agency.

One issue which must be addressed too frequently by my staff is the operation of residential on-site sewage disposal programs by the local health departments. Indiana State Board of Health Rule 410 IAC 6-8 requires each local health department to administer a residential wastewater disposal permit program. This rule also requires that certain portions of the program be conducted in a specific manner. Operation of such a program outside the parameters established in the rule will result in construction of residential sewage disposal systems which may jeopardize the health of the citizens of this State contrary to our mandate to protect their health. One of the major problems we still encounter with a few of the local health department residential wastewater disposal permit programs is the issuance of permits for systems utilizing off-lot discharge of the treated effluent. Rule 410 IAC 6-8-3(A) states that no person may discharge effluent off of their property from any sewage treatment facility unless a permit for such discharge has been obtained from the Department of Environmental Management as required by the Environmental Management Act and the Water Pollution Control Law.

The Water Pollution Control Law, originally enacted in 1943, specifically assigns to the Water Pollution Control Board the sole authority for reviewing plans and issuing approvals for wastewater treatment facilities designed to discharge effluent off the property where it originates. Because this activity is specifically reserved for the Water Pollution Control Board, neither the State Board of Health, nor the local health departments, have authority to approve installation of a wastewater treatment facility which is designed to discharge (see IC 36-1-3-5(2) and IC 36-1-3-7(7)).

"The health of the people is really the foundation upon which all their happiness and all their powers as a state depend."

--Disraeli

I must also touch on the public health reasons why local health departments do not have authority to grant approvals for off-lot discharge. This agency has conducted exhaustive literature reviews and field evaluations of different types of residential sewage disposal devices which are designed to discharge. This research reveals two things: 1) homeowners are not willing to spend the time or money necessary to properly maintain a discharging system; and, 2) even when properly maintained, these systems rarely produce effluent of a quality necessary to prevent a public health hazard or water pollution. Approval of discharging residential sewage disposal systems may be a misrepresentation to the homeowners and the citizens as to the effectiveness of these systems to properly treat wastewater.

You should be aware that your county may be liable when any sewage disposal system constructed in violation of Indiana law and pursuant to a permit issued by the local health department creates a health hazard. The State Board of Health will not assume obligations or responsibilities for systems approved in violation of Indiana law. It will be your responsibility, as health officer, to order the abatement of any health hazards created by these systems, at whatever cost to the homeowner and the county for replacement of these systems with appropriate and legal means of sewage disposal.

One of the essential components of the local health department operation of a residential wastewater disposal permit program is that of recognizing the soil characteristics and site conditions which will affect the operation of an on-site sewage disposal system. In order to obtain a permit from the local health department, the design, construction, installation, location, maintenance, and operation of the proposed residential sewage disposal system must meet all of the minimum requirements of Rule 410 IAC 6-8, including Section 8, "Site Evaluation." This section states that subsurface absorption fields shall not be constructed in soils rated as having severe or very severe limitations for subsurface sewage disposal by the Soil Conservation Service, U.S. Department of Agriculture, unless that limitation is not present as shown by field investigation or can be overcome. Any system design intended to overcome the limitations for which the soil was rated severe or very severe must be a design that is approved by the Indiana State Board of Health, as provided for in Sec. 3(E) of the State Rule.

The State Board of Health will assist you and your staff in the operation of your residential on-site sewage disposal program, upon request made by you or your staff. We can provide education and training for your staff members; seminars for developers, contractors, and other interested citizens; on-site soils evaluations; and evaluation of difficult sites. We are equipped to provide training in your community or here at the State Board of Health.

I expect every local health department to operate its residential sewage disposal program in full compliance with Indiana law and rules. If you, your health board, your county council, or county commissioners have any questions concerning the legal aspects of your program operation, you may contact my staff in the Office of Legal Affairs at 317/633-8540. If you desire assistance on the technical aspects of your program, you may contact my staff in the Division of Sanitary Engineering at 317/633-0173.