

MINUTES
WATER QUALITY MANAGEMENT ADVISORY COUNCIL
January 7, 2020
Oklahoma Department of Environmental Quality
Multipurpose Room
Oklahoma City, Oklahoma

Official WQMAC
To be approved at the July 21, 2020 Virtual Meeting

Notice of Public Meeting – The Water Quality Management Advisory Council (WQMAC) convened for a Regular Meeting at 2:00 p.m. at the Oklahoma Department of Environmental Quality (DEQ), 707 North Robinson, Oklahoma City, Oklahoma. The meeting was held in accordance with the Open Meeting Act, with notice of the meeting given to the Secretary of State on October 16, 2019. The agenda was posted at DEQ twenty-four hours prior to the meeting. Mr. Brian Duzan, Chair, called the meeting to order. Ms. Quiana Fields called roll and confirmed that a quorum was present. Mr. Duzan welcomed new member, Mr. Bill Smith to the Council.

MEMBERS PRESENT

Robert Carr
 Brian Duzan
 Mary Mach
 Mark Matheson
 Jon Nelson
 Bill Smith
 Steve Sowers
 Debbie Wells
 Duane Winegardner

MEMBERS ABSENT

Terry Wyatt

DEQ STAFF PRESENT

Shellie Chard
 Chris Armstrong
 Nicholas Huber
 Mark Hildebrand
 David Pruitt
 Betsey Streuli
 Chris Wisniewski
 Travis Couch
 April Eberle
 Andy Callaway
 Scott Raybern
 Michelle Wynn
 Jennifer Boyle
 Travis Mensik
 Bruce Vande Lune
 Matt Pace
 Lloyd Kirk
 Traci Kelly
 Quiana Fields

OTHERS PRESENT

Melissia Prawl, Court Reporter

Approval of Minutes from the October 1, 2019 Meeting – Mr. Duzan called for a motion to approve the Minutes of the October 1, 2019 Regular Meeting. Mr. Matheson moved to approve and Mr. Nelson made the second.

	<i>See transcript pages 4 – 5</i>		
Robert Carr	Yes	Steve Sowers	Yes
Mary Mach	Yes	Debbie Wells	Yes
Mark Matheson	Yes	Duane Winegardner	Yes
Jon Nelson	Yes	Brian Duzan	Yes
Bill Smith	Yes		

ELECTION OF THE VICE-CHAIR – Mr. Duzan opened discussion for nominations for Vice-Chair. Mr. Sowers nominated Mr. Winegardner for Vice-Chair and Mr. Matheson made the second.

	<i>See transcript pages 5 – 6</i>		
Robert Carr	Yes	Steve Sowers	Yes
Mary Mach	Yes	Debbie Wells	Yes
Mark Matheson	Yes	Duane Winegardner	Yes
Jon Nelson	Yes	Brian Duzan	Yes
Bill Smith	Yes		

ELECTION OF THE CHAIR – Mr. Winegardner opened discussion for nominations for Chair. Mr. Sowers nominated Mr. Duzan for Chair and Ms. Wells made the second.

	<i>See transcript pages 6 – 7</i>		
Robert Carr	Yes	Steve Sowers	Yes
Mary Mach	Yes	Debbie Wells	Yes
Mark Matheson	Yes	Duane Winegardner	Yes
Jon Nelson	Yes	Brian Duzan	Yes
Bill Smith	Yes		

PERMANENT RULEMAKING – OAC 252:641 – INDIVIDUAL AND SMALL PUBLIC ONSITE SEWAGE TREATMENT SYSTEMS – Mr. Nicholas Huber, Environmental Programs Manager of the ECLS Division, stated that the DEQ staff will be proposing to update Chapter 641 to: clarify language; update definitions; evaluate soil test requirements, clarify relationship with plumbing code and DEQ rules; expand rules for aerobic systems to include commercial facilities; require closure plans for small public lagoons; changes to dispersal field requirements and changes to testing timeframes for certified installers and soil profilers. Following questions and comments by the Council and the public regarding the rule, Mr. Duzan called for a motion. Mr. Carr moved to approve the modifications with the exception of 252:641-3-2 (a) (3). Mr. Matheson made the second.

	<i>See transcript pages 8 – 45</i>		
Robert Carr	Yes	Steve Sowers	Yes
Mary Mach	Yes	Debbie Wells	Yes
Mark Matheson	Yes	Duane Winegardner	No
Jon Nelson	No	Brian Duzan	Yes
Bill Smith	Yes		

PERMANENT RULEMAKING – OAC 252:710 – WATERWORKS AND WASTEWATER WORKS OPERATOR CERTIFICATION – Mr. Mark Hildebrand, Environmental Programs Manager of the WQD, stated that the DEQ staff will be proposing to: change the annual requirement for professional development hours for operators; add reciprocity language from state statute; add a special certification for environmental professionals working with water and wastewater systems; clarify that a registered helper must work under direct supervision and a temporary operator may work alone and clarify language throughout the text including adding definitions, cleaning up fee schedules, ensuring consistency with statutes, removing citations to Oklahoma State Department of Health, etc. Following questions by the Council and none by the public, Mr. Duzan called for a motion. Ms. Mach moved to approve the statute as written and Mr. Nelson made the second.

	<i>See transcript pages 45 – 58</i>		
Robert Carr	Yes	Steve Sowers	Yes

Mary Mach	Yes	Debbie Wells	Yes
Mark Matheson	Yes	Duane Winegardner	Yes
Jon Nelson	Yes	Brian Duzan	Yes
Bill Smith	Yes		

DIRECTOR'S REPORT – Ms. Shellie Chard, Division Director of WQD, provided an update on other division activities.

See transcript pages 58 – 65

NEW BUSINESS – None

ANNOUNCEMENTS – The next scheduled meeting is on Tuesday, April 21, 2020, 2:00 p. m. at DEQ.

ADJOURNMENT – Mr. Duzan called for a motion to adjourn. Mr. Matheson moved to adjourn and Ms. Wells made the second. The meeting was adjourned at 3:35 p.m.

See transcript pages 66 – 67

Robert Carr	Yes	Steve Sowers	Yes
Mary Mach	Yes	Debbie Wells	Yes
Mark Matheson	Yes	Duane Winegardner	Yes
Jon Nelson	Yes	Brian Duzan	Yes
Bill Smith	Yes		

Transcripts and Attendance Sheet are attached as an official part of these Minutes.

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

WATER QUALITY MANAGEMENT ADVISORY COUNCIL

PUBLIC MEETING

JANUARY 7, 2020 - 2:00 P.M.

Multi-Purpose Room, 1st Floor
DEQ Building
707 N. Robinson
Oklahoma City, OK

REPORTED BY: MELISSIA A. PRAWL, CSR

Page 2

1 BOARD MEMBERS PRESENT:

2 MR. BRIAN DUZAN - CHAIRMAN

3 MR. DUANE WINEGARDNER, VICE-CHAIRMAN

4 MR. STEVE SOWERS

5 MS. DEBBIE WELLS

6 MR. JON NELSON

7 MS. MARY ELIZABETH MACH

8 MR. ROBERT CARR

9 MR. MARK MATHESON

10 MS. TERRY WYATT - absent

11 MR. WILLARD (BILL) SMITH

12 ALSO PRESENT:

13 Ms. Quiana Fields, Secretary of Board and Council

14 Mr. Nicholas Huber, DEQ Environmental Complaints and Local Services Division

15

16 MR. JOE WILLINGHAM, PE, Chickasaw Nation, Office of Environmental Health and Engineering

17

18 MR. JOHNNY TAYLOR, Indian Health Service

19 MR. DARREN WEST, Program Manager for the Chickasaw Nation Office of Environmental Health and Engineering

20

21 MR. MARK HILDEBRAND, DEQ Environmental Program Manager for the Water Quality Division

22

23 MR. DAVID PRUITT, DEQ Environmental Program Manager for the Water Quality Division

24

25 MS. SHELLIE CHARD- DEQ WATER QUALITY DIVISION DIRECTOR

Page 4

1 MS. QUIANA FIELDS: Mr. Sowers.

2 MR. STEVE SOWERS: Here.

3 MS. QUIANA FIELDS: Ms. Wells.

4 MS. DEBBIE WELLS: Here.

5 MS. QUIANA FIELDS: Mr. Winegardner.

6 VICE CHAIRMAN DUANE WINEGARDNER: Here.

7 MS. QUIANA FIELDS: Ms. Wyatt is absent.

8 Mr. Duzan.

9 CHAIRMAN BRIAN DUZAN: Here.

10 MS. QUIANA FIELDS: We have a quorum.

11 CHAIRMAN BRIAN DUZAN: Okay. The next thing is

12 the approval of minutes from the October 1st meeting.

13 MR. MARK MATHESON: I make a motion that they

14 be approved as mailed out.

15 MR. JON NELSON: Second.

16 CHAIRMAN BRIAN DUZAN: Okay. Vote.

17 MS. QUIANA FIELDS: Mr. Carr.

18 MR. ROBERT CARR: Yes.

19 MS. QUIANA FIELDS: Ms. Mach.

20 MS. MARY MACH: Yes.

21 MS. QUIANA FIELDS: Mr. Matheson.

22 MR. MARK MATHESON: Yes.

23 MS. QUIANA FIELDS: Mr. Nelson.

24 MR. JON NELSON: Yes.

25 MS. QUIANA FIELDS: Mr. Smith.

Page 3

1 CALL TO ORDER - 2:00 p.m.

2 CHAIRMAN BRIAN DUZAN: This regular meeting of

3 the Water Quality Management Advisory Council is called in

4 accordance with the Open Meeting Act. Notice for this

5 January 7th, 2020, meeting was filed with the Secretary of

6 State on October 16th, 2019. The Agenda was duly posted at

7 DEQ at least 24 hours prior to the meeting.

8 Only matters appearing on the posted Agenda may

9 be considered at this regular meeting. In the event this

10 meeting is continued or reconvened, public notice of the date

11 and time and place of the continued meeting will be given by

12 announcement at this meeting. Only matters appearing on the

13 Agenda of a meeting which is continued may be discussed at the

14 continued or reconvened meeting.

15 I'll take a roll call.

16 MS. QUIANA FIELDS: Mr. Carr.

17 MR. ROBERT CARR: Here.

18 MS. QUIANA FIELDS: Ms. Mach.

19 MS. MARY MACH: Here.

20 MS. QUIANA FIELDS: Mr. Matheson.

21 MR. MARK MATHESON: Here.

22 MS. QUIANA FIELDS: Mr. Nelson.

23 MR. JON NELSON: Here.

24 MS. QUIANA FIELDS: Mr. Smith.

25 MR. BILL SMITH: Here.

Page 5

1 MR. BILL SMITH: Yes.

2 MS. QUIANA FIELDS: Mr. Sowers.

3 MR. STEVE SOWERS: Yes.

4 MS. QUIANA FIELDS: Ms. Wells.

5 MS. DEBBIE WELLS: Yes.

6 MS. QUIANA FIELDS: Mr. Winegardner.

7 VICE CHAIRMAN DUANE WINEGARDNER: Yes.

8 MS. QUIANA FIELDS: Mr. Duzan.

9 CHAIRMAN BRIAN DUZAN: Yes.

10 MS. QUIANA FIELDS: Motion passed.

11 CHAIRMAN BRIAN DUZAN: Okay. And then the next

12 thing on the Agenda is the election of the Vice Chair. Do we

13 have nominations for the Vice Chair?

14 MR. STEVE SOWERS: I would nominate Duane

15 Winegardner.

16 MR. MARK MATHESON: I'll second that.

17 CHAIRMAN BRIAN DUZAN: Okay. Vote.

18 MS. QUIANA FIELDS: Mr. Carr.

19 MR. ROBERT CARR: Yes.

20 MS. QUIANA FIELDS: Ms. Mach.

21 MS. MARY MACH: Yes.

22 MS. QUIANA FIELDS: Mr. Matheson.

23 MR. MARK MATHESON: Yes.

24 MS. QUIANA FIELDS: Mr. Nelson.

25 MR. JON NELSON: Yes.

Page 6

1 MS. QUIANA FIELDS: Mr. Smith.
2 MR. BILL SMITH: Yes.
3 MS. QUIANA FIELDS: Mr. Sowers.
4 MR. STEVE SOWERS: Yes.
5 MS. QUIANA FIELDS: Ms. Wells.
6 MS. DEBBIE WELLS: Yes.
7 MS. QUIANA FIELDS: Mr. Winegardner.
8 VICE CHAIRMAN DUANE WINEGARDNER: Yes.
9 MS. QUIANA FIELDS: Mr. Duzan.
10 CHAIRMAN BRIAN DUZAN: Yes.
11 MS. QUIANA FIELDS: Motion passed.
12 CHAIRMAN BRIAN DUZAN: Okay. I'll turn it over
13 to the Vice Chair for --
14 VICE CHAIRMAN DUANE WINEGARDNER: Okay. And
15 now we will have nominations for the Chair.
16 MR. STEVE SOWERS: I would nominate Mr. Duzan.
17 MS. DEBBIE WELLS: Second.
18 VICE CHAIRMAN DUANE WINEGARDNER: We have a
19 second. Any discussion or any other options? If not, we'll
20 call for a vote.
21 MS. QUIANA FIELDS: Mr. Carr.
22 MR. ROBERT CARR: Yes.
23 MS. QUIANA FIELDS: Ms. Mach.
24 MS. MARY MACH: Yes.
25 MS. QUIANA FIELDS: Mr. Matheson.

Page 8

1 communities. I do a lot of different things, and I'm pleased
2 to be here.
3 MR. MARK MATHESON: Good to have you.
4 CHAIRMAN BRIAN DUZAN: We're pleased to have
5 you. Sounds like you bring a wealth of information to the
6 council.
7 Our next deal is permanent rulemaking. We have
8 a presentation from Nicholas Huber.
9 MR. NICHOLAS HUBER: Hello. I am Nicholas
10 Huber. I'm the onsite program manager for the Environment
11 Complaints and Local Services Division. It was determined in
12 the early part of 2019, that a revision of Chapter 641 was
13 needed to address and clarify certain areas. We reached out
14 to our field staff, the Oklahoma Onsite Wastewater Association
15 regarding changes they felt would be beneficial. This request
16 was well-received and we received quite a few comments.
17 In May, it was determined that we should meet
18 with the OOWA, which is the Oklahoma Onsite Wastewater Board
19 to review their suggestions, and go over kind of the process
20 that would follow in the proposal of language and then a draft
21 would be ready.
22 We met again with the OOWA Board in September
23 with the goal of reviewing our proposed changes, and offer the
24 organization a chance to comment on those changes. The board
25 made several suggestions that we were able to incorporate in

Page 7

1 MR. MARK MATHESON: Yes.
2 MS. QUIANA FIELDS: Mr. Nelson.
3 MR. JON NELSON: Yes.
4 MS. QUIANA FIELDS: Mr. Smith.
5 MR. BILL SMITH: Yes.
6 MS. QUIANA FIELDS: Mr. Sowers.
7 MR. STEVE SOWERS: Yes.
8 MS. QUIANA FIELDS: Ms. Wells.
9 MS. DEBBIE WELLS: Yes.
10 MS. QUIANA FIELDS: Mr. Winegardner.
11 VICE CHAIRMAN DUANE WINEGARDNER: Yes.
12 MS. QUIANA FIELDS: Mr. Duzan.
13 CHAIRMAN BRIAN DUZAN: Yes.
14 MS. QUIANA FIELDS: Motion passed.
15 CHAIRMAN BRIAN DUZAN: Okay. Moving quickly
16 on, the next issue -- oh, we do have a new member, I guess we
17 would like to address.
18 Mr. Smith, if you will give us -- tell us a
19 little bit about yourself.
20 MR. BILL SMITH: So I'm a hydrologist, civil
21 engineer. I've been practicing 46 years. I work for Benhman
22 for 26 years in Tulsa, and I have my own firm now for the last
23 20 years. I do floodplain management. I design dams and
24 hydroelectric projects all over the world. I do storm water
25 management. I'm a floodplain administrator in three

Page 9

1 the revision of our draft at that time.
2 The onsite community in Oklahoma is made up of
3 certified and non-certified installers, soil profilers, and
4 perc testers. A memo was sent out to them in -- the 16th of
5 September that provided an explanation of those proposed
6 changes and set meetings dates and locations for discussion of
7 those rules.
8 As I mentioned at the October meeting here, we
9 had intent to propose our language at those meetings. Prior
10 to that council meeting, we had conducted outreach in
11 September to discuss the revisions with our stakeholders. The
12 meetings were held here at the Oklahoma City DEQ office on the
13 24th of September and again in Tulsa on the 27th at the Mohawk
14 Water Treatment Plant.
15 It was determined, after those meetings and the
16 October council meeting, that we should hold some additional
17 discussion timeframes for our stakeholders. Those second
18 meetings were held the 24th of October in Tulsa, again at the
19 Mohawk Treatment Plant, and the 31st of October here in
20 Oklahoma City.
21 The informal outreach served to help further
22 clarify a draft of the proposed rules that we're presenting --
23 that we presented during the official public comment period
24 that ran from November 15th through December 16th. Comments
25 received during the official period have been reviewed and

Page 10

1 addressed in the summary and comment documents that you guys
2 have in your packet.

3 Based on those comments, these are the
4 following changes that we're proposing. 641-1-2, we clarified
5 the definition of sewage. This was to specify what the --
6 what is not limited to -- we had some language that was a
7 little redundant. We think that this change clarified that
8 definition.

9 In 641-1-3(c), we created division of the
10 ownership requirements of individual and small public on-site
11 sewage treatment systems. This helps to clarify what
12 requirements there are for the ownership and operation of an
13 individual system separate from a small public facility where
14 you may have multiple homes tied together.

15 In 641-3-2(a), we established a date which
16 percolation test methods will no longer be a valid test method
17 for the design of on-site systems. That date is July 1st of
18 2023. This date in the future allows us to provide training
19 classes for others that are conducting soil percolation tests
20 to become certified to do soil profiles.

21 The 641-3-4(h) provides language to be
22 consistent with similar requirements placed on certified
23 installers. We had a list of items that needed to be reported
24 on the soil profile form. We removed that language to state
25 that the form had to be completed accurately and fully upon

Page 12

1 In 641-10-2(d), we increased the allowed
2 installation depth for aerobic systems to a maximum of 36
3 inches to the top of the components of the tank.

4 In 641-10-3 (a) (6), we removed the list of
5 information to be reported to the homeowner, and added that
6 all maintenance completed is to be reported. In a previous
7 section, we provide the maintenance that is to be completed.
8 We just stated that all the maintenance completed must be
9 reported.

10 641-12-3(g), we clarified the installation
11 depth range for shallow extended systems, and we reduced that
12 range to a 17-inch installation depth instead of previously
13 listed 30 inches.

14 In 641-12-5(g), we, again, clarified the
15 installation depth range for evapotranspiration and absorption
16 systems. This range was limited to 24 inches. We expanded
17 the installation range from 18 to 24 inches, which will
18 increase the application of these systems in different soil
19 types.

20 In 641-15-1(e), we expanded closure
21 requirements to include this addition of closure plans for
22 small public lagoon systems. This provides requirements to be
23 submitted in the event that that system is no longer going to
24 be used.

25 In 641-15-6, (b) (4), we added language

Page 11

1 submission.

2 In 641, subchapter five, we had made changes to
3 the subchapter to address code requirements that are under the
4 jurisdiction of the construction industry board. There was
5 overlapped and there was discussion with the CIB to address
6 how we go about handling the installation and inspection of
7 what's considered plumbing code compliant parts.

8 In 641-7-1(c), language provides a guide for
9 citing of septic tanks with the removal of language from
10 subchapter five. So in those removing -- the removal of the
11 language from subchapter five, we lost the ability to provide
12 guidance on how to go about citing a septic tank on the
13 property. This additional language provides guidance to the
14 installers on how to determine a proper location for that
15 septic tank installation.

16 In 641-7-3, (c) (1), we added language requiring
17 the installation of maintenance access located over the inlet
18 clean out of the septic tank. Goal of this is to foster
19 additional maintenance of that septic tank.

20 641-10-1, we added language to allow for the
21 installation of aerobic system with the existing flow range
22 and newly proposed BOD limits. We set a maximum limit for a
23 loading rate that could be permitted through these rules. It
24 falls in line with standard residential BOD loadings that we
25 would expect to see with those systems.

Page 13

1 requiring the placement of signs on each side of the small
2 public lagoon and fencing.

3 641-21-2.1-3 and 641-22-33, we added language
4 that states the passing score is valid for 180 days. This was
5 previously not provided. The application had a timeframe. We
6 expanded that to include the test, as well.

7 In 641-21-12 (b) (3) and 641-22-5(b) (3), we set
8 a timeframe for the retention of records for certified
9 installers and certified profilers.

10 And then finally here in 641-23-5, provided a
11 reference to OAC 252:4-7 that addresses refunds of permits.

12 Thank you for your time.

13 CHAIRMAN BRIAN DUZAN: Okay. Questions?

14 Comments from the council?

15 Mr. Smith.

16 MR. BILL SMITH: I note that on page 11, the
17 (c). I understand that -- I read that and it didn't make much
18 sense, and I understand you're looking at some additional
19 language on that or clarification of that language.

20 MR. NICHOLAS HUBER: Yes. The intent with the
21 removal of the information in subchapter 5, we did not provide
22 any guidance for the installation and location of those septic
23 tanks. The intent of this is to provide a slope.

24 The problem we run into is that if we mention
25 pipe, it falls under plumbing code. So the intent here was to

Page 14

1 provide a -- a difference in elevation from that stub out to
2 the tank location.

3 One thing we could do is reference them back to
4 the requirements set in subchapter 5 that provide the
5 explanation of the CIB requirements. The other thing, we
6 could make some changes that would show that -- shall be
7 located to allow for the fall of at least an eighth of an inch
8 per foot. So we can provide some clarification there, I
9 think.

10 MR. BILL SMITH: When I read it, it just looked
11 like -- I understood the slope. But then when it talks about
12 being so much below the bottom of the building sewer pipe, it
13 looks like you were trying to make a distance also --

14 MR. NICHOLAS HUBER: Right.

15 MR. BILL SMITH: -- and that was the confusion.

16 CHAIRMAN BRIAN DUZAN: Other comments from the
17 Council?

18 (No response.)

19 CHAIRMAN BRIAN DUZAN: Okay. Well, open up any
20 questions or comments from the public?

21 MR. JOE WILLINGHAM: I would like to address --

22 CHAIRMAN BRIAN DUZAN: If you would come up to
23 the microphone and state your name and --

24 MR. JOE WILLINGHAM: Joe Willingham, PE,
25 Chickasaw Nation, Office of Environmental Health and

Page 16

1 the council have comments relating to that?

2 MS. MARY MACH: Sure.

3 Nicholas, do you know what the requirements
4 would be or how long and the cost it would be to become a
5 certified profiler, soil profiler?

6 MR. NICHOLAS HUBER: The goal would --
7 currently, we have certification classes as-needed. We've
8 been holding usually about three a year, I think, usually
9 fall, spring, one over the winter.

10 The cost, there is an application fee, roughly
11 \$250, I believe, to -- to get enrolled in a class. The
12 classes have been held in Stillwater as a practice. One, the
13 trainer was there and the facilities allow us to make use of
14 the OSU grounds. The goal would be to expand that into more
15 regional area so we can reduce the cost of attending the
16 class. It's typically been a five-week course, so we are
17 looking to make some changes there.

18 The requirements for certification, there are
19 prerequisites that you are -- you either have to be a
20 registered environmental specialist, registered sanitarian,
21 professional engineer, land surveyor or soil scientist if it
22 complies with certain educational requirements. You know,
23 that sets the basis in the -- for the knowledge needed, but
24 also has some certain standards that are expected of those
25 people that hold those registrations.

Page 15

1 Engineering. I'd just like to address the phasing out of the
2 perc test. We use the perc test as a tool. It's been used as
3 a tool for many, many years.

4 One of the comments that was received was that
5 there were people who did perc tests that would like to see it
6 stay as one of the tools. We're not totally against soil
7 profile. And as a matter of fact, we've proposed a tandem
8 test of both the profile and the perc test, not just simply
9 banning or doing away with the perc test as a tool for system
10 design. And so that would be our comment.

11 Also, the idea of having a certified soil
12 profiler is something that is also troubling. If we do away
13 completely with the perc test, we're going to have a situation
14 where it requires a certification in order to do a soil
15 profile. We have people, who are trained on staff, that do
16 not meet the requirements for a certified soil profiler. I
17 can provide the oversight necessary, but there may be other
18 people, other tribes, other entities that could do the perc
19 test, but then would have to have a certified soil profile
20 come in. It would be an additional expense on families. It
21 will be an additional expense for our program.

22 So that would be a consideration that we would
23 like the board to think about a little bit further perhaps.
24 Thank you.

25 CHAIRMAN BRIAN DUZAN: Okay. Does anybody on

Page 17

1 The certification does have a yearly renewal
2 requirements and testing requirements along with an annual
3 renewal fee that is established in the current version of the
4 rules.

5 CHAIRMAN BRIAN DUZAN: So it's a considerable
6 increase in the certification to be a soil profiler versus
7 somebody that just does the perc test?

8 MR. NICHOLAS HUBER: It is an increase, yes.
9 There is an additional certification that would be required to
10 do the soil profiling over the perc test. Many of the perc
11 testers we have are also certified soil profilers, so there
12 would not be a significant number of individuals that we would
13 be talking trying to get certified. Most of them already are.

14 MR. MARK MATHESON: What's the difference in
15 cost comparison of somebody doing a perc test versus a soil
16 profiler on a homeowner's property?

17 MR. NICHOLAS HUBER: I don't know that there is
18 any difference in cost. We charge, for a service that we
19 provide, is \$275. Most of the private perc testers are
20 getting that same amount if not a little bit more. The
21 benefit over the -- the benefit of the profile over the perc
22 test is you can go out and do a profile in about an hour to an
23 hour and a half.

24 Where a properly run percolation test may take
25 five to six hours with the presoak -- the digging of the

Page 18

1 holes, the presoak and then the actual preparation and the run
2 of the test. So there being an increased number of test that
3 they can complete in the same timeframe. So there would be a
4 benefit to that group of individuals, at that time, because
5 they would have the ability to go out and just conduct more
6 testing.

7 MR. MARK MATHESON: Right. Well, besides the
8 time required to perform the test, what are the other benefits
9 of a soil profiler compared to a perc test?

10 MR. NICHOLAS HUBER: So the main thing is the
11 identification of the limiting features that we find in soil
12 in Oklahoma; shallow groundwater, redoximorphic features from
13 seasonal groundwater that we see and are able to identify;
14 identify the clay layers and the features that cause problems
15 with that -- that system actually functioning throughout the
16 year.

17 The perc test provides us how that water moves
18 through the soil at that given time. It's very variable
19 across the different seasons depending on climate changes,
20 weather -- you know, if it rained two weeks before or if it's
21 been dry. That profile is what the soil is. It provides us
22 that sizing plus the additional information of those limiting
23 features.

24 MS. MARY MACH: How does that information
25 greatly impact the decision regarding the sizing of the septic

Page 20

1 cause the system failure, our -- the number of surface and
2 sewage complaints that we've worked has been greatly reduced
3 to the tune of about 2,000 systems, so over half.

4 The issue in the public health that we're
5 addressing there is because identification of the rock layer
6 causes impact to that system from surface water that is not
7 identified, so it would reduce the overall surfacing of that
8 system.

9 MS. MARY MACH: And does this also apply to the
10 sprinkling of aerobic systems? Does it impact that at all?

11 MR. NICHOLAS HUBER: There is an exemption
12 currently for aerobic systems that do not require the soil
13 test. So they are based on evaporation in that area based on
14 the county zones assigned.

15 VICE CHAIRMAN DUANE WINEGARDNER: Having taught
16 soils for a number of years, also published a textbook on
17 soils, and then watching a lot of the environmental logs that
18 were provided to the Corporation Commission for environmental
19 investigations, I see that there's been an awful lot of
20 individual interpretation as to what soils are what. And I
21 think it is a good thing that we have a standard certified
22 person, somebody who has actually examined soils and presented
23 them for review. I think -- I'm all in favor of the soil
24 profile.

25 CHAIRMAN BRIAN DUZAN: Any other comments from

Page 19

1 system or the drain field?

2 MR. NICHOLAS HUBER: The biggest changes
3 that -- the sizing are similar across the percolation test and
4 the soil profile. The biggest change is the additional
5 information gained from the limiting features that are
6 identified.

7 If you encounter rock in a shallower depth,
8 we're able to address that in the determination of that system
9 may not be allowed for that property. The percolation test is
10 just how quick the water moves through. There's no focus on
11 what limiting features may impact that system.

12 MS. MARY MACH: So when I was looking through
13 the Rule Impact Statement, and one of the discussion items was
14 the proposed rules would significantly reduce the risk that
15 sewage would reach surface water or cause a public health
16 problem. Is that mainly related to the percolation test
17 versus the soil profile?

18 MR. NICHOLAS HUBER: Yes. So if we look at the
19 number of complaints that we've worked over a period of time
20 early on in the use of the profile, where most of the systems
21 were designed based on percolation tests, we had a significant
22 number of complaints that we worked, about -- I want to say
23 4,200 complaints over a five-year period.

24 As we've gotten further into the profiling,
25 because we're able to remove those limiting features that

Page 21

1 the council?

2 MR. MARK MATHESON: I do have one more comment.
3 The soil profile compared to the perc test, that's probably
4 going to require more aerobic systems and leach fields, isn't
5 it?

6 MR. NICHOLAS HUBER: The soil profile allows us
7 to provide for a proper design based on the soil that's
8 present on the property in determination of what other options
9 may be available. You know, there's a lot of shallow soils in
10 Oklahoma that just won't allow for the installation of a
11 subsurface system to provide that proper treatment.

12 You know, we hope with the expansion of the
13 installation depth of ETAs that provides another option for
14 some of those. A lot of it has to do with education, being
15 able to provide those homeowners that soil report that shows
16 them all the options that they're allowed based on what they
17 have on their property so they can make informed decisions on
18 what type of system that they can install.

19 We see a lot of aerobic systems installed that
20 are not based on that soil test.

21 MR. MARK MATHESON: I just -- I just personally
22 have an issue with a lot of the aerobic systems because
23 there's a lot of homeowners that don't do the maintenance on
24 them like they're supposed to. They just sit there and run.
25 When the pump goes out, they put a new pump in, but they don't

Page 22

1 check the chlorine, they don't check -- you know, and -- and
2 now you've got an aerobic system out there that's running.
3 Comes a rain and now you have all this washing off into the
4 creek and stuff that could have been soaked into the ground
5 and -- you know, so there's -- there's concern with aerobic
6 systems, too, especially when it comes to maintenance on those
7 and making sure they're operating properly.
8 MR. NICHOLAS HUBER: The initial benefit over
9 the soil profile over the percolation test is it does expand
10 the number of systems that can be designed based on that test
11 method. Currently, we don't allow shallow extended low
12 pressure to be based on a soil percolation test. You have to
13 complete that soil profile. So with the use of the soil
14 profile as the sole test method, we do get an expansion of the
15 types of systems that will be designed for those property
16 owners.
17 CHAIRMAN BRIAN DUZAN: And it's still three --
18 the perc test is still valid for basically another three
19 years, so those entities that are currently using it will have
20 time to get their people trained and move forward.
21 MR. NICHOLAS HUBER: Correct. Yes. And we
22 will be sending out a schedule posted on the website and reach
23 out to everybody --
24 CHAIRMAN BRIAN DUZAN: Okay.
25 MR. NICHOLAS HUBER: -- that are conducting

Page 24

1 indication of how that soil is going to perform with that
2 septic system.
3 I don't think if there's a way to -- to do
4 both. We know go into areas where there are existing septic
5 systems that have failed. Generally, they all fail due to
6 lack of O&M. They've never been pumped. Is it right to tell
7 somebody to put in an aerobic when a conventional system will
8 work? We're going to put the conventional system in if it
9 will work. We'd like to keep the language where the perc
10 tests are allowed.
11 Anybody got any questions for me?
12 MR. JON NELSON: Johnny, how would you style
13 that language be either/or, or in the event one doesn't pass,
14 you try the other or -- you have ideas?
15 MR. JOHNNY TAYLOR: We haven't -- I haven't
16 really thought that through, Jon. I mean, because right now
17 the perc test works, and that's a hard one. It's hard to just
18 say the soil test is always going to work and -- or the perc
19 test either one. But maybe if there was some language to give
20 us the ability to get approval, some -- some manner through
21 the -- in that direction.
22 MS. MARY MACH: So I might just not be
23 understanding correctly. But is there instances where the
24 soil test hasn't worked but the perc test has?
25 MR. JOHNNY TAYLOR: I'm sure there's -- it's

Page 23

1 percolation tests at this time to provide them opportunity to
2 become certified with a focus on being regional to give them
3 the opportunity to be able to complete the certification in a
4 timely manner with as little burden as possible.
5 CHAIRMAN BRIAN DUZAN: Okay. Any other
6 questions, comments?
7 MR. JOHNNY TAYLOR: Johnny Taylor, Indian
8 Health Service. We put in -- we probably put in a thousand
9 systems a year. We've been using perc test historically. We
10 do soil tests. It's a matter of timing with us whether we've
11 got staff that can do the perc test or we contract out with
12 DEQ to do the soil tests.
13 What we've found is more and more aerobics are
14 required to be put in. If there's any question that a person
15 doing the soil test is going to require the aerobic, and with
16 Indian Health Service, aerobics are a problem. I think
17 they're a problem statewide, but we have to go in and fix
18 them. I mean, we're going to go in and fix it no matter what.
19 But with a soil test, it seems like DEQ -- I
20 mean, I can almost tell you the DEQ people that are going to
21 require an aerobic, and some of them read it one way, and it's
22 only as good as the person doing the analysis.
23 A perc test, you measure the depth of the water
24 as it goes through the soil, and I agree sometimes it works
25 and sometimes there's problems. But generally, it's a good

Page 25

1 both ways.
2 MS. MARY MACH: Well, just
3 scientifically-speaking --
4 MR. JOHNNY TAYLOR: Just speaking --
5 MS. MARY MACH: -- is there a reason why the
6 one --
7 MR. JOHNNY TAYLOR: There are systems that have
8 gone in with the soil test that have failed, same way with the
9 perc test.
10 MS. MARY MACH: Okay.
11 MR. JON NELSON: Nicholas, let me ask you a
12 question.
13 MR. NICHOLAS HUBER: Yes, sir.
14 MR. JON NELSON: I don't know much about the
15 soil profile approach. I know something about the perc test,
16 but not so much about the other. What's --
17 And maybe, Duane, you can help on this.
18 But what's the history behind this approach?
19 Where did it come from? Apparently it's not new.
20 MR. NICHOLAS HUBER: So I believe it was -- it
21 was impleted well before I started with the agency, but we did
22 work with OSU. Dr. Carter plant soil scientist, a professor
23 there at OSU, worked with him to kind of -- the best
24 description is USDA soil, NRCS soil group have a description
25 that they use in identification, soil nephrology, soil

Page 26

1 texturing. We took that and applied it to the design of
2 septic systems.

3 There are soil groups that we've assigned
4 different soil textures that have similar characteristics of
5 how they handle the flow of water, and we've used that to
6 allow for a design of septic system based on a loading rate
7 that we have established for the state.

8 You know, we go out in a soil test in a pec --
9 in a profile and we identify six-inch intervals as we move
10 through that profile, determine the texture and then assign it
11 a group based on, you know, NRCS recommendations and soil
12 triangle. That's an established document. That allows us to
13 identify limiting features, depth of those limiting features,
14 the soil above limiting features, which has an impact on how
15 well that system functions. And has available soil for
16 treatment. And then also the soil in that sizing area where
17 the system is going to be working it's going to determine how
18 well that water flows through the soil. You know, all that in
19 conjunction gives us the design.

20 It's been established as a test method with DEQ
21 since, I believe, 2000. Prior to that, we were conducting
22 percolation tests. The decision, I think was made as a review
23 of issues we had with the percolation tests, moving towards a
24 more reproducible test that provided more identification of
25 those features that are going to cause problems in how that

Page 28

1 The majority of the states across the continental U.S. use
2 some version of the soil texture based on the sandy clay
3 content, assigned groups. Group numbers will differ from
4 state to state, but the textures are all the same.

5 MR. JON NELSON: Okay. So it's not something
6 that's brand new and --

7 MR. NICHOLAS HUBER: No. No. This is -- this
8 is a test that has been well used across the continuous 48
9 states and --

10 MS. MARY MACH: Are percolation tests still
11 largely utilized across the United States?

12 MR. NICHOLAS HUBER: So we did outreach to
13 other states to see how many are using it. Out of the
14 response that we got about half of the states responded, and
15 only about four allow to have a stand-alone percolation test
16 method. The majority of them you have to have that soil
17 profile description along with maybe a soil percolation test
18 hole that they're going to use to identify some structure. It
19 is not a widely-used test method anymore. We are probably
20 only one of three states that allow it as a stand-alone
21 design.

22 MR. MARK MATHESON: Of the 4,200 systems or
23 whatever you said that you looked at that have failed over the
24 last several years, how many of those were actually analyzed
25 to see what failed? Was it the soil failed? Was it grease

Page 27

1 system works.

2 MR. JON NELSON: Okay. So it's -- it's a -- a
3 basically a home-grown approach in Oklahoma or --

4 MR. NICHOLAS HUBER: Well, no, it's -- the NRCS
5 soils, they use the same texture by feel method in the
6 identification of soils. So when they do soil maps for the --
7 all the counties across the United States, it's the same
8 texture method that they utilize in determining the soil
9 texture with their finding.

10 MR. JON NELSON: Put the correlation into the
11 ability to perc properly --

12 MR. NICHOLAS HUBER: Yes. Well, it's --

13 MR. JON NELSON: -- is something that's been
14 done here -- prepared, the correlation between soil types and
15 its performance --

16 MR. NICHOLAS HUBER: Yes.

17 MR. JON NELSON: -- was developed here?

18 MR. NICHOLAS HUBER: Well, I don't know that it
19 was developed here. The research has been completed where
20 they have documented case stats, which is the ability of that
21 soil to take that water, determine based on the clay content.
22 We took that information and applied it to the soil textures,
23 and the groups that we've assigned to determine the overall
24 sizing of the systems that we would need.

25 So it's a similar test that's run in Kansas.

Page 29

1 that had been dumped in the septic system that has now coated
2 the leach fields?

3 MR. NICHOLAS HUBER: So we do have a form that
4 we have filled out in the past. Its evolved as our technology
5 has changed. But we had an investigative report that we would
6 do any time we did a sewage investigation. Many of the
7 failures are hydraulic overloading where the homeowner is
8 using too much water.

9 Many of those are from improperly-sized systems
10 based on percolation tests that weren't completed properly, or
11 we verify shallow rock has allowed groundwater to infiltrate
12 the system and caused it to fail.

13 MR. MARK MATHESON: So all the -- so the
14 majority of these systems didn't fail rather quickly after
15 installation went in or --

16 MR. NICHOLAS HUBER: Yes. I actually did one a
17 couple days ago where the system was based on a percolation
18 test done in '99 in Rogers County at 23 minutes. The only
19 reason that they got that percolation rate was the timing of
20 the test itself. The profile for the area, based on the USGA
21 web soil survey is a silt loam to a silty clay, which is a
22 very tight soil. So we were able to see those failures pretty
23 quickly.

24 MR. MARK MATHESON: The reason I ask is I've
25 personally seen leach fields that have been dug up that were

Page 30

1 full of grease, and a lot of that goes back to the homeowner
2 not pumping the septic tanks regular and those types of
3 things.
4 What's to stop that same thing from happening
5 after a soil profile? I mean, that -- that leach field failed
6 not because of the soil but because of maintenance.
7 MR. NICHOLAS HUBER: Correct. There are a
8 number of those systems that failed due to O&M issues. Then
9 we try, through education of the homeowners and outreach to
10 our environmental specialists in the field, to educate the
11 homeowners that they need to pump the tank on a regular basis
12 and be careful of what they put down it.
13 The test method there provides for design. If
14 the design is flawed in the beginning, we have issues with
15 that system functioning.
16 MS. MARY MACH: Speaking about the design and a
17 question that Mr. Taylor noted, that the design was up for
18 interpretation ultimately. That individuals might see that
19 soil test and interpret a different installation method that
20 would be allowable.
21 Who is reviewing those and making those
22 determinations? Is it DEQ personnel? And are those DEQ
23 personnel also certified soil profilers, too?
24 MR. MARK MATHESON: And are they all going to
25 make the same decision on the same soil?

Page 32

1 MR. MARK MATHESON: All right. So you are
2 doing a -- basically, a core sample at the soil?
3 MR. NICHOLAS HUBER: Yes. So we have a hand
4 auger that we'll go out and bore that soil out, and then we're
5 texturing for sandy clay content.
6 MR. MARK MATHESON: Okay.
7 MR. NICHOLAS HUBER: Very simple. I was tell
8 people when I'm teaching the class, that you can teach your
9 seven-year-old to do it. It's a practice. It's -- and having
10 that training is there to get their footing in, and then
11 provide standardization as we move forward.
12 MR. JOHNNY TAYLOR: I have one more thing, Jon.
13 When you mentioned do we have any ideas? We've been kicking
14 this around and we would -- we would propose that when a
15 design is based on a -- we're going -- we're going to do this
16 whether it's a perc test or whether it's a soil sample. We're
17 going to overdesign. We're going to put another bedroom on
18 that calculation when we figure out the linear footage of the
19 design.
20 So we've just found that the problems we run
21 into are too many people in the home, and it -- it just won't
22 handle it hydraulically, so --
23 MR. JON NELSON: Which is a different problem.
24 MR. JOHNNY TAYLOR: It is. It is, but it's
25 real.

Page 31

1 MS. MARY MACH: Is there guidance given? Yeah,
2 right.
3 MR. NICHOLAS HUBER: There is standardization
4 training that we conduct for all certified profilers
5 throughout the year. We try to have standardization
6 throughout the year with our staff and the private individuals
7 that request it.
8 There should be no interpretation. You pick up
9 a sandy loam soil, it's a sandy loam soil. We have guidance
10 in Chapter 641 that provides for what that soil description is
11 used for in the design of the system. We also have
12 information we provide to all certified profilers that talk
13 about how to go about properly identifying the soil. It
14 provides guidelines and standardization practices for them to
15 be able to maintain that identification of soils.
16 MR. MARK MATHESON: On this -- on this soil
17 profile, did they do several core samples of certain depth
18 around that property or just dig a hole and look at the soil
19 then?
20 MR. NICHOLAS HUBER: We took the standard of
21 the perc test and applied it to the profile, so they're
22 required to complete three boreholes in a certain
23 configuration in the area that dispersal field is to be
24 installed. So they -- we assign basically 3,400 square feet
25 per test hole to define a 10,000 square foot area.

Page 33

1 MR. JON NELSON: I'd like -- one question I
2 had, Nick, is if I could ask you. Let's say I'm a homeowner
3 and I get a soil profile done, and there is some subjectivity
4 to the interpretation of that information, and not all soils
5 are distinctly loamy or sandy. I mean, there's blends of
6 things, so there's some judgment involved.
7 So I get a report back and the judgment is that
8 it will not perc and I have to go to an aerobic system. And
9 if anybody wants to go to an aerobic system, I haven't found
10 that person yet. So we don't want to do that if we can help
11 it.
12 So what if I was willing to go out and do perc
13 tests in that area, and -- which indicated that perhaps it
14 would perc properly, could I use that as a scientific measure
15 to say maybe that judgment on that particular soil is not
16 correct?
17 MR. NICHOLAS HUBER: I mean --
18 MR. JON NELSON: Couldn't that be used to say,
19 "listen, let's relook at this"?
20 MR. NICHOLAS HUBER: The way we have handled it
21 over the course of the last 10 to 20 years is that the profile
22 does supercede the results of the percolation test.
23 MR. JON NELSON: Sure.
24 MR. NICHOLAS HUBER: So once that profile is
25 completed, the percolation test can't be completed in that

Page 34

1 same area. If they were to go out and test a new area it
2 would show, with that percolation test, that they had an
3 acceptable percolation rate. It would -- whatever feature we
4 found during that profile, that limited their ability to
5 install a subsurface field, we would probably want to
6 investigate that area to determine if it was there and that
7 percolation test area.

8 MR. JON NELSON: So a percolation test, from
9 DEQ's perspective, and this regulation perspective, could not
10 be used to vet the decision or the judgment made from the soil
11 profile?

12 MR. NICHOLAS HUBER: Correct. If there is a
13 question about the profile on that property, then we would
14 suggest one of our regional experts that we have would go out
15 and assist that environmental specialists who completed that
16 test, or that private tester, to determine if what they found
17 was accurate. So we have a mechanism there to go in and
18 provide troubleshooting and assistance if there is question
19 with that profile.

20 MR. JON NELSON: A properly performed perc test
21 could not be used by that landowner to present to that person
22 to say, "You know what, this seem to be working to me." Well,
23 what's --

24 MR. NICHOLAS HUBER: Not in the same area, no.
25 MR. JON NELSON: Okay.

Page 36

1 mentioned a moment ago. We simply fail to see the reason to
2 exclude a time-tested evaluative tool in that of a perc test.
3 Both systems, both interpretations, both results will upon
4 occasion have a failure, a misreading. Whether it's from
5 someone being undertrained or mistrained or the system being
6 operated in such a way that causes failure or nature.

7 You mentioned grease, Mr. Matheson, and roots
8 and movement of the soil, differ climatic changes that happen
9 over time, shifting of water tables and such. We have
10 suggested from the beginning that the use of both tools
11 provide a more scientific, a more through and reasoned way to
12 evaluate an individual's property. Both in the interest of
13 conserving resources, our time, their time, disruption of
14 their property, loss and -- and devaluation in some instances
15 of their property, in the case of the inevitable use of an
16 aerobic system.

17 So I just want to put that out there. I
18 haven't seen evidence. I haven't heard it for the disuse of
19 perc test as an evaluated took in this application. And until
20 I do, the use of both methods seem to be the most reasonable
21 one. The most sound way to get the best information about
22 what you're looking at. So thank you for your time.

23 CHAIRMAN BRIAN DUZAN: Thank you. For the
24 geologists around here, is this something that could be a --
25 certain parts of Oklahoma have more -- because I know

Page 35

1 MR. NICHOLAS HUBER: And then the concern there
2 is that the movement of soil down does not offer us the same
3 information about the treatment of that wastewater. We have
4 operated with the percolation test, prior to 2000, the goal
5 was as long as it doesn't surface, it's okay. We have moved
6 to now a -- we want to make sure we have the proper amount of
7 soil between limiting features that are going to offer
8 adequate treatment. So that would be the -- got to be the
9 limiting factor with the profile or the percolation test.

10 CHAIRMAN BRIAN DUZAN: Go ahead. Sorry.

11 MS. MARY MACH: If I may. I appreciate your
12 knowledge and professionalism in handling these questions, and
13 you have answered them very sufficiently. So thank you,
14 Nicholas.

15 MR. NICHOLAS HUBER: Thank you all.

16 CHAIRMAN BRIAN DUZAN: Any other questions or
17 comments then from the public?

18 (No response.)

19 CHAIRMAN BRIAN DUZAN: Any more from the
20 council? We have one more.

21 MR. DARREN WEST: Good afternoon, council. My
22 name is Darren West, MPHRS, program manager with the
23 Chickasaw Nation, Office of Environmental Health and
24 Engineering.

25 I wanted to reiterate something my colleague

Page 37

1 there's -- there's definitely more rocky parts, more clay
2 parts. I mean, is it something that some areas are more or
3 less applicable?

4 MR. MARK HILDEBRAND: Yes. But I don't think
5 you can say from one part of the state to the other because, I
6 mean -- Duane.

7 VICE CHAIRMAN DUANE WINEGARDNER: Right. I
8 think --

9 MR. MARK HILDEBRAND: I mean, you can't do it
10 like -- you know, like rainfall in Oklahoma, you can't
11 generally say something like that.

12 MR. NICHOLAS HUBER: I'm sorry. I did not hear
13 the question. I --

14 CHAIRMAN BRIAN DUZAN: Well, I -- I guess, my
15 question was because the -- you know, the Chickasaw are from
16 basically a certain part of the state and maybe the geological
17 formations there allow -- maybe the perc test works better in
18 their area whereas it would not work as good up around, you
19 know, where it's rocky or out west where it's more clay. I --
20 I don't know. I'm not the geologist.

21 MR. NICHOLAS HUBER: So I -- thank you for the
22 break to get a drink. I was needing that.

23 One of the -- one of the comments we received
24 in our outreach meetings out of the Tulsa area, which shares
25 similar soil nephrology structure. There is a lot of rock, is

Page 38

1 you just can't dig a profile hole. Can't go out with our
2 auger and dig, so the -- the method in which you have to
3 excavate that hole to determine the soil that's there in that
4 rockier soil is going to change.

5 The description of the percolation test method
6 that they provided us as a reason for retaining the test
7 method, was we can go out with posthole diggers and dig a hole
8 to 12 to 14 inches and then we get a rock bar out and we have
9 to break through the rest of it. Well, what that does is that
10 shows you're encountering a limiting feature which is going to
11 cause problems with that system function, that you're breaking
12 through to be able to achieve a depth for that test to be able
13 to be run.

14 So we're having issues with the method and the
15 application of those test requirements for the percolation
16 test that is going to be found in any part, any county of the
17 state. There's rocky soils all over that cause those
18 problems. There tends to be more because of the Ozark Plateau
19 and then -- I'm good above I-40. Everything south of I-40 is
20 a little -- so that is an issue that they run into. You have
21 to make certain determinations based on that site of how you
22 go about completing that test.

23 MR. JON NELSON: So, Nick, so what your -- your
24 answer to Mr. West's point would be that if -- if I'm
25 rephrasing what you just said, is that limitations of the

Page 40

1 allowed to do?

2 MS. SHELLIE CHARD: Yes.

3 CHAIRMAN BRIAN DUZAN: Okay. Is it the
4 timeframe or just -- you just want to --

5 MR. ROBERT CARR: I think one of the initial
6 comments that were made, and some others may have said it a
7 little bit differently, is that a lot of the problems we may
8 be encountering, not just because of the soil conditions, is
9 because of maintenance. And I don't think that eliminating
10 one of these tests will solve for maintenance. So I'm just
11 saying let's eliminate the requirement to not allow for
12 percolation test.

13 I think there's value in having both of those
14 to make a good, valid decision on what type of system can be
15 put in place and what cannot be put in place.

16 MR. MARK METHESON: I'm going to second your
17 motion.

18 CHAIRMAN BRIAN DUZAN: Okay. So basically, the
19 rule would go back to what it is -- basically, essentially now
20 that they could do -- they could do both, but the soil profile
21 would take precedence over the perc test as, Nick, I think you
22 had said in one of your statements?

23 MR. HUBER: As it stands now, yes, the profile
24 does take precedence over the percolation test as a
25 verification method, so it would be -- it would -- I guess it

Page 39

1 current percolation test really render the soil profile
2 approach to be more effective?

3 MR. NICHOLAS HUBER: Correct.

4 MS. MARY MACH: The methods themselves expose
5 the limiting features.

6 MR. NICHOLAS HUBER: Couldn't hear you.

7 MS. MARY MACH: The methods themselves expose
8 the limiting feature, yeah.

9 MR. NICHOLAS HUBER: Yeah.

10 CHAIRMAN BRIAN DUZAN: Okay. Thank you again,
11 Nick.

12 MR. NICHOLAS HUBER: Thank you.

13 CHAIRMAN BRIAN DUZAN: Any other comments?
14 (No response.)

15 CHAIRMAN BRIAN DUZAN: If not, I guess, we'll
16 move for a vote to approve as written.

17 MR. ROBERT CARR: Well, I'm going to make a
18 motion that may not get a second, but we'll see. I will say
19 that we should approve these modifications with the exception
20 of 641-3-2, paragraph (a)(3), eliminate the time period
21 stating that percolation test will no longer be valid.
22 Eliminate the time restraint and allow for both. It's on page
23 six.

24 CHAIRMAN BRIAN DUZAN: Is the -- I guess, the
25 first question to the counsel, is that something that we're

Page 41

1 would override that.

2 CHAIRMAN BRIAN DUZAN: Okay. Any other
3 comments from the council on that?

4 MR. WILLARD SMITH: I think you're going to
5 have to change that first sentence that says, "A percolation
6 test may only be used" if you're going to -- if you're going
7 to allow the soil profiles, also, that limits it. That first
8 sentence only limits it to a percolation test only. So you're
9 going to have to change that first sentence a little bit.

10 MR. ROBERT CARR: Well, that wasn't proposed to
11 be modified in the first place, so, I mean, obviously, that
12 was already in the regs saying that.

13 MR. JON NELSON: Nick, can I get you back up to
14 the microphone? Can you come back up?

15 Hearing the motion, if it passes, what do
16 you -- how do you interpret the change?

17 MR. HUBER: The motion to remove Part C and --
18 and vote on the rules as they stand --

19 MR. ROBERT CARR: Paragraph Sub 3.

20 MR. HUBER: Three, I'm sorry. Yes. That after
21 July 1st, '23, or 2023 percolation test, yeah, remove that
22 language from moving forward, I -- I think that would be --

23 MR. JON NELSON: Remains the way it is now.

24 MR. HUBER: Yeah, I -- as the language remains
25 as it is without removal, I think that would be fine to move

Page 42

1 forward for this.

2 MS. MARY MACH: Is there additional white paper

3 or information that could be provided to allow us, you know,

4 more time to review this? Could we table that one item so

5 that -- I would hate for us to --

6 MR. HUBER: I mean, we're in favor of removing

7 that language as we move forward. We will be making

8 additional evaluations later on, and we could have additional

9 information provided for that.

10 MS. MARY MACH: Okay.

11 MR. HUBER: So I think the motion removing the

12 language, I'm --

13 MS. MARY MACH: Let's let the rest of it move

14 forward?

15 MR. HUBER: Yes.

16 MS. MARY MACH: And then continue the

17 discussion on this --

18 MR. HUBER: Yes.

19 MS. MARY MACH: -- allowable method?

20 MR. HUBER: Yes, I -- I think we're in favor of

21 that.

22 CHAIRMAN BRIAN DUZAN: And there is fees

23 associated with this, so it needs to be -- the rest needs to

24 be voted on now, correct?

25 MR. HUBER: There are no fees associated. We

Page 44

1 test, that you've already discussed, are still there?

2 MR. HUBER: Correct.

3 MR. STEVE SOWERS: So -- but you are still

4 required to soil profile test regardless; is that correct?

5 MR. HUBER: If you have a soil percolation test

6 completed, you do not have to also have that profile

7 completed. The percolation test method is limited to

8 locations outside of what we consider Zone 1 water body, and

9 then only for the design of those conventional systems. So it

10 does limit the number of design options that are available for

11 that property.

12 CHAIRMAN BRIAN DUZAN: Okay. I guess, any

13 other comments? Nick, you're getting your steps in today.

14 Okay. I guess, the next thing is to vote on the removal of

15 that -- whatever that clause was.

16 MS. SHELLIE CHARD: Mr. Chairman, if I may. I

17 think I have the motion here, and the motion was that Chapter

18 641 be recommended for approval with the exception of

19 252:641-3-2-3 -- sorry (a)(3), that that be removed from what

20 is recommended to the Environmental Quality Board.

21 Mr. Carr made that motion and Mr. Matheson

22 seconded that motion.

23 CHAIRMAN BRIAN DUZAN: Correct. So we'll take

24 a vote on that.

25 MS. QUIANA FIELDS: Mr. Carr.

Page 43

1 did -- what we discussed in October, we had removed to -- to

2 limit what we had to do as far as the fee evaluation, so it is

3 not included in this revision, so...

4 CHAIRMAN BRIAN DUZAN: Okay. Well, if there's

5 no other comments.

6 MR. JON NELSON: So with this change, this is

7 an either/or circumstance now -- situation? They can use

8 the -- the profile method --

9 MR. HUBER: It would remain as it has been.

10 MR. JON NELSON: How is that? I guess --

11 MR. HUBER: So they have the choice to use the

12 percolation test as a method for the design of conventional

13 systems and -- or they have the -- the ability to use profile

14 as a design for the remainder of the systems.

15 MS. SHELLIE CHARD: Mic. The court reporter is

16 having trouble.

17 MR. HUBER: I'm sorry. The current method

18 would allow them to choose between having a profile completed

19 or a percolation test that complies with the remainder of the

20 rules. There are limitations on the percolation test method

21 in relationship to certain water bodies that are identified as

22 impaired, so they would be excluded from being able to be

23 used. And then that percolation test would be allowed for the

24 design of conventional systems only as it reads now.

25 MR. JON NELSON: So the limitations of that

Page 45

1 MR. ROBERT CARR: Yes.

2 MS. QUIANA FIELDS: Ms. Mach.

3 MS. MARY MACH: Yes.

4 MS. QUIANA FIELDS: Mr. Matheson.

5 MR. MARK METHESON: Yes.

6 MS. QUIANA FIELDS: Mr. Nelson.

7 MR. JON NELSON: No.

8 MS. QUIANA FIELDS: Mr. Smith.

9 MR. WILLARD SMITH: Yes.

10 MS. QUIANA FIELDS: Mr. Sowers.

11 MR. STEVE SOWERS: Yes.

12 MS. QUIANA FIELDS: Ms. Wells.

13 MS. DEBBIE WELLS: Yes.

14 MS. QUIANA FIELDS: Mr. Winegardner.

15 VICE CHAIRMAN DUANE WINEGARDNER: No.

16 MS. QUIANA FIELDS: Mr. Duzan.

17 CHAIRMAN BRIAN DUZAN: Yes.

18 MS. QUIANA FIELDS: Motion passed.

19 CHAIRMAN BRIAN DUZAN: Okay. The next is

20 Permanent Rulemaking 252:710. Mark Hildebrand.

21 MR. MARK HILDEBRAND: Good afternoon.

22 Hopefully you got all the questions out of them, Nick.

23 I'm Mark Hildebrand and I'm an environmental

24 programs manager for the Water Quality Division, and I want to

25 talk to you today about our Chapter 710 regulations, which is

Page 46

1 our operator certification program.
2 And just to give you a little background, DEQ
3 staff and a member of our council were approached by members
4 of the southwest section of the American Water Works
5 Association and some Oklahoma Water Environment Association
6 members with some concerns about our -- about the need to
7 increase the required training hours in Oklahoma as compared
8 to surrounding states.
9 So we discussed this and decided to form a
10 stakeholder group. So we asked Mark Matheson, who's with
11 Oklahoma Rural Water Association that's on our council here;
12 and Robert Carr, who was also approached on this, that's on
13 our council. And we asked the Oklahoma Municipal League for
14 two people to be on this committee, and the Oklahoma Rural
15 Water Association for two stakeholders. And we -- we got a
16 stakeholder with Hong Fu from the City of Ponca City. She's
17 the environmental service director there, and Robert Streets,
18 who's the environmental service director for Midwest City,
19 Oklahoma; along with Tom Whitaker, who's with Garvin Rural
20 Water District Number 6; and Sheldon Tatum, who's with Hughes
21 Rural Water District Number 6. And then we also have Rick
22 Moore, who's the executive director of the Oklahoma Municipal
23 Contractors Association, who puts in a lot of water and lines
24 and things.
25 So they're concerned about their workers

Page 48

1 plan to encourage training options that minimize the impact on
2 customer resources and we'll develop online training
3 opportunities and encourage the use of onsite training by
4 our -- by the senior operators of our water and wastewater
5 systems.
6 We plan on developing a web application
7 providing operators access to the approved training modules
8 for renewal of professional development hours, and the intent
9 is to maintain the site to ensure relevant and current
10 training topics are provided for both basic and advanced
11 topics.
12 DEQ will work with the partners to develop
13 these modules, and the online training opportunities may also
14 be available from third-party vendors if they're approved by
15 us at DEQ.
16 We plan to draft a fact sheet to share with all
17 of our operators to provide specific details on training,
18 pre-approval needed, how to obtain approval for training, and
19 that the four cumulative hours can be received by a trainer
20 for every hour of training performed.
21 And also, if you'll remember last time we had
22 some comments from Tulsa about these, and that we -- on this
23 fact sheet, we plan on allowing -- spelling out that you can
24 have weekly meetings or monthly meetings. As long as you let
25 us know ahead of time, we will approve that for the operators

Page 47

1 putting in distribution and collection lines. So we held
2 several stakeholder meetings with this group of seven folks,
3 along with DEQ staff, and they're very -- this group was very
4 passionate about the operators, water and wastewater
5 operators, and it was an excellent group. And I'd like to
6 thank them all for their time on that.
7 We had several meetings and we sent -- I sent
8 homework with them after every meeting, and we pretty much
9 came up with the rules that we have today based on these
10 meetings. It was discussed that we want to do everything we
11 could to improve the perception of water and wastewater
12 operators where in some places they're very valued, and in
13 some communities they're overlooked and don't receive much
14 respect, and we want to get that to become a more professional
15 career.
16 So we added some terms like professional
17 development hours, and we wanted to make it important for the
18 careers there. We also had discussed this, I guess at our
19 October 1st council meeting. And since then, we had a public
20 meeting along with Nick and ECLS in Tulsa on October 24th, and
21 then here in Oklahoma City on October 31st.
22 And as part of this, we're -- we have committed
23 to do certain things at DEQ. We're fairly behind. I'd say
24 IT, that's an understatement with -- with DEQ, but we -- we've
25 committed to update our operator certification database and we

Page 49

1 there instead of sitting through long sessions.
2 We plan on enhancing the operator certification
3 licenses to submit a scannable QR code, and we've actually got
4 that in right now, the cards. So we can track and avoid the
5 collecting personal information, which we're doing in
6 triplicate right now.
7 DEQ is currently in the process of developing
8 the web application that will support the use of these codes.
9 And in addition to providing an efficient method of tracking
10 class completion, the plan is to provide a method for
11 operators to access their training records through the web
12 portal.
13 The goal is to have this new web app completed
14 and tested by the end of this fiscal year and fully
15 implemented by July 1st, 2020. However, we do have to deal
16 with IT agency, OMES, and we've had a change in our project
17 manager now so it could result in some delays, but we're still
18 going to try and get this done by July 1. We do have a new
19 shared coordinator on this, but we're going to try and get
20 this done. So the scanning application is being developed.
21 So now to the rule changes. The most
22 significant changes in the rule involve changing the
23 requirements for professional development training per year.
24 The previous requirement was four hours per year no matter
25 which level of certificate was held. The proposed requirement

Page 50

1 is in Appendix C of Chapter 710, which is the last page in the
2 text of your document. It is four hours for a D-level
3 license, eight hours for a C-level license, 12 hours for
4 B-level, and 16 for an A-level. And this is if you -- this is
5 for the highest level that an operator holds. So if you hold
6 four A licenses, you have to have 16 hours of training. It's
7 not per license.

8 The remaining may be any combination -- wait a
9 minute. A minimum of four hours must be in classroom or
10 in-person training. The remaining may be any combination of
11 classroom or online training. DEQ allows systems to hold
12 their own training by senior operators, and the stakeholder
13 group and DEQ both believe that this is a great opportunity to
14 pass on institutional knowledge on the specific treatment
15 processes. And these presenters will receive four hours of
16 training for every hour of training presented.

17 Now, it should be noted that the language we
18 have is the presenters included must receive four hours of
19 DEQ-approved training as an attendee. So if I'm Tom Whitaker,
20 who was on our -- if he trains his folks for 16 hours -- or
21 four hours, he would receive 16 hours of training. He would
22 still need to attend training for himself.

23 MR. MARK METHESON: For at least four hours.

24 MR. MARK HILDEBRAND: For at least four hours
25 of training. Which that could be online, it could be

Page 52

1 To be consistent with our state statutes, O.S.
2 59, we are clarifying the need to apply for a temporary
3 license within ten days of employment. If you do not already
4 have an appropriate certification for work being performed.
5 To ensure this does not place additional financial burden on
6 our customers and to promote seeking appropriate level of
7 certification, individuals holding a temporary license, who
8 make application for certification exam within 180 hours of
9 the acquiring temporary license, will be credited the amount
10 for the temporary license application.

11 And that's all I have.

12 CHAIRMAN BRIAN DUZAN: Okay. Questions from
13 the council?

14 MR. MARK METHESON: You did say 180 hours. You
15 mean 180 days, correct?

16 MR. MARK HILDEBRAND: Yes, that was a slip up
17 on my part. 180 days.

18 MR. WILLARD SMITH: Mark, I have two questions.
19 The first question is: Who at DEQ approves the training that
20 is submitted by an entity?

21 MR. MARK HILDEBRAND: We've got a section in
22 our operators' certification. I may let David respond to
23 that.

24 MR. DAVID PRUITT: I'm David Pruitt. I'm an
25 environmental program manager with the Water Quality -- for

Page 51

1 whatever. But they would have to receive training, as well.
2 And I don't think that was discussed at our
3 October 1st meeting. It was at our -- at our outreach.
4 And then we also have a change that adds a
5 special certification for non-operator environmental
6 professionals working with water and wastewater systems, which
7 is -- would include what we talked about at our last meeting.
8 DEQ staff, system support which could be engineers or other
9 private environmental professionals, and this recognizes the
10 individuals that have successfully passed the test for the
11 various levels of certification but may not have the necessary
12 hands-on experience required to operate the treatment works.

13 We've also -- to eliminate confusion, we've
14 added reciprocity language that had been removed in the past
15 because it was in -- duplicated in a State statute, and
16 this -- like I said, we added this because this is one reason
17 that the Southwest AWWA did not think we required -- had
18 reciprocity for other states because it was in statute.

19 And we also clarified that a registered helper
20 must work under direct supervision of the certified operator
21 and that a temporary operator may work alone. Also clarify
22 language throughout the text including adding definitions,
23 cleaning up fee schedules, ensuring consistency with statutes,
24 and removing citations to the Oklahoma State Department of
25 Health, et cetera.

Page 53

1 the Water Quality Division.

2 Our staff, with operator certification,
3 receives the application for approval for training courses and
4 our staff would review those. If it's consistent with our
5 requirements, we'll approve those, assign a training course ID
6 number, and we'll post that on our website as an approved
7 course.

8 MR. WILLARD SMITH: Is your staff required to
9 be certified in order to approve the courses that are --

10 MR. DAVID PRUITT: No, sir. No, sir.

11 MR. WILLARD SMITH: Okay. I've had this
12 question come up before in other areas that, "How can
13 somebody, who is approving something, not be equivalent to
14 that person being certified?"

15 The second question I have is: On page seven
16 of your 252:710-1-7, it says, "A person may apply for
17 reactivation of an expired certificate within two years of
18 expiration." And that seems like an awful long time. I would
19 think that it would be a much shorter time.

20 MR. DAVID PRUITT: The objective of that, sir,
21 is, for instance, if somebody has retired or has chosen to
22 give up a license temporarily, that they would be allowed to
23 come back into the -- as a certified operator with -- without
24 just too much of a burden placed upon them. That's just one
25 example of why we do that.

Page 54

1 MR. WILLARD SMITH: But the -- but the rule
2 would apply to everyone not just to those?
3 MR. DAVID FRUITT: Yes, sir. Yes, sir.
4 MR. WILLARD SMITH: I understand why you're
5 talking about those two specific cases, for example, but
6 you're applying it to everyone.
7 MR. DAVID FRUITT: And I've just been reminded
8 that that language is in the statute. So in an attempt to be
9 consistent with that statute, we have included that language.
10 MR. WILLARD SMITH: I see. Thank you.
11 MS. MARY MACH: I have a question about
12 advertising or making the class public. Oftentimes when we do
13 a certified training, that needs to have that class number
14 assigned and then it's open for anybody essentially to attend.
15 However, we've -- I've also understood that somebody can apply
16 for one hour weekly training for maybe 12 weeks for just their
17 local -- the local operators at the plant.
18 Is that something that those operators would be
19 training other folks that would come? Is that made a public
20 course? You following me?
21 MR. MARK METHESON: For instance, Tom Whitaker
22 of Garvin 6, if he puts on an hour of training a month for his
23 people, is it open to other people?
24 MR. DAVID FRUITT: And the goal there is to
25 allow those senior operators the ability to provide training

Page 56

1 MR. DAVID FRUITT: Yes.
2 MS. MARY MACH: -- or an adjacent county.
3 MR. DAVID FRUITT: Yes.
4 MS. MARY MACH: And I see that it was stricken
5 here and then added here. Could you just explain a little
6 about that requirement, kind of the reasoning behind it?
7 MR. DAVID FRUITT: Well, the -- the
8 requirements for an operator, working with multiple systems,
9 is that they have to be onsite depending on the level of
10 treatment that's required. So we want to make sure that they
11 have the ability to travel to those systems and meet that
12 obligation. So that's why in county or adjacent county is
13 within a drivable distance. That's --
14 MR. MARK METHESON: In a -- in a short period
15 of time.
16 MR. DAVID FRUITT: Yes.
17 MR. MARK METHESON: Right.
18 MS. MARY MACH: Thank you.
19 CHAIRMAN BRIAN DUZAN: Any other questions or
20 comments from the council?
21 (No response.)
22 CHAIRMAN BRIAN DUZAN: Questions or comments
23 from the public?
24 (No response.)
25 CHAIRMAN BRIAN DUZAN: Okay. Do we have a

Page 55

1 to their staff or others if they want to come in, and that
2 training would be more specific to that particular system.
3 MS. MARY MACH: Right.
4 MR. DAVID FRUITT: So we're actually receiving
5 training that will help them on their hands-on daily
6 operations of the current system.
7 If that individual wants to open that up to
8 others, they would let us know and we'd post that training on
9 our website and note that as being open to anyone to come in
10 and take that training.
11 MS. MARY MACH: Okay. All right. I was under
12 the impression that all DEQ-approved training was posted
13 online.
14 MR. DAVID FRUITT: If it's just going to be
15 specific to --
16 MS. MARY MACH: That facility.
17 MR. DAVID FRUITT: -- staff at a facility, we
18 will not post that.
19 MS. MARY MACH: Okay. I think that's
20 appropriate, too. I was just clarifying.
21 Also, on 710:7-2, I had a question. This might
22 just be for my education. On 710:7-2(2) it says the operator
23 only -- this is for small systems sharing operators, that an
24 operator can only provide services to a facility located in
25 the county in which they reside --

Page 57

1 motion to approve as written?
2 MS. MARY MACH: I make a motion to approve the
3 statute as written.
4 MR. JON NELSON: Second.
5 CHAIRMAN BRIAN DUZAN: Okay. Vote.
6 MS. QUIANA FIELDS: Did you second it? Nelson?
7 MR. JON NELSON: Yes.
8 MS. QUIANA FIELDS: Mr. Carr.
9 MR. ROBERT CARR: Yes.
10 MS. QUIANA FIELDS: Ms. Mach.
11 MS. MARY MACH: Yes.
12 MS. QUIANA FIELDS: Mr. Matheson.
13 MR. MARK METHESON: Yes.
14 MS. QUIANA FIELDS: Mr. Nelson.
15 MR. JON NELSON: Yes.
16 MS. QUIANA FIELDS: Mr. Smith.
17 MR. WILLARD SMITH: Yes.
18 MS. QUIANA FIELDS: Mr. Sowers.
19 MR. STEVE SOWERS: Yes.
20 MS. QUIANA FIELDS: Ms. Wells.
21 MS. DEBBIE WELLS: Yes.
22 MS. QUIANA FIELDS: Mr. Winegardner.
23 VICE CHAIRMAN DUANE WINEGARDNER: Yes.
24 MS. QUIANA FIELDS: Mr. Duzan.
25 CHAIRMAN BRIAN DUZAN: Yes.

Page 58

1 MS. QUIANA FIELDS: Motion passed.
2 CHAIRMAN BRIAN DUZAN: Okay. Moving on to the
3 Director's report, Shellie.
4 MS. SHELLIE CHARD: Good afternoon. I know
5 we've been here awhile, so I'll try to make this a little bit
6 quick.
7 First of all, I would like to welcome Bill
8 Smith to our group. Hopefully we haven't scared you off
9 today.
10 One of the things that we try to do with our
11 programs is kind of this continuous review looking for
12 efficiencies, how can we make better use of our limited
13 resources. So along those lines, I did just want to share
14 with you a couple of changes that we have made in the Water
15 Quality Division that some of you may already have experienced
16 those changes.
17 We have some new managers in place. On our
18 drinking water side, as you all know, Patty Thompson retired
19 about six months ago, and so we have been able to fill that
20 position. And Travis Archer is now the Public Water Supply
21 Group manager. We will be going through the process to
22 backfill his management position over our Engineering and
23 Field Inspection Drinking Water section.
24 Brandon Bowman, who many of you know, is now
25 the section manager over our New Capacity Development section.

Page 60

1 Water Conference for their continued efforts. So we're pretty
2 proud of that program and Brandon and his staff.
3 We also made some slight changes on our
4 Wastewater program. Karen Steel is now the NPDES, Wastewater
5 group manager, and Michael Moe is -- has taken on kind of a
6 hybrid role. He's managing the municipal and storm water
7 section for permitting, but he's also working on some very
8 technical projects for us, which is kind of what his
9 background in the consulting world was. So we're really
10 excited to see that moving forward, and we're already seeing
11 some great results there.
12 Just some national news, because there always
13 is from EPA of different things that they're working on and
14 how that affects us. Those of you in the drinking water world
15 know all about the revised Lead and Copper Rule. The comment
16 period has been extended until -- I believe it's the 3rd of
17 February, early February.
18 In reviewing comments that some of the states
19 have been putting together, it's somewhere in the 30 to
20 40-page range already for a rule that was a bit complex to
21 begin with. It's even more so in the current draft that's out
22 for public comment. So those of you who work in drinking
23 water definitely take a look.
24 Those of you who work on the wastewater side,
25 you may have particular interest in one of the primary

Page 59

1 This was an area that EPA had repeatedly dinged the agency for
2 not having a dedicated capacity development staff. There are
3 certain requirements in safe Drinking Water Act and EPA
4 regulations, through the Drinking Water State Resolving Fund,
5 that we have an active capacity development section. We had
6 piecemealed it a little bit for a while, but now we do have
7 that dedicated staff. It's Brandon and two others.
8 But right now they're working a lot with the
9 Water Loss Audit program that we are working on with Rural
10 Water. That's been incredibly successful in a short period of
11 time. Our staff goes out, does managerial, financial, and
12 technical reviews of programs and policies looking at how
13 water is accounted for through metering, water that is
14 unaccounted for, where is it going. Sometimes it is leaks,
15 sometimes it's just not metered properly. So we've identified
16 millions of gallons of water that was missing from our
17 systems.
18 DEQ works with them, teaches them how to do
19 some of that auditing process based on what AWWA uses, and
20 then we work with Rural Water Association who can go out and
21 help them with leak detection so they can correct any
22 significant leaks that are identified.
23 And because of that work, one of our rural
24 water systems, Creek County Rural Water District Number 2, was
25 awarded the Water for 2060 award this year at the Governor's

Page 61

1 recommendations EPA has is that orthophosphate be the
2 corrosion control choice. So that additional phosphate may
3 have some implications on the wastewater side through
4 discharge permits, existing TMDLs. We know there are going to
5 be some complications there, so we're trying to work through
6 all of that, and working with the national associations to
7 kind of get our arms around it.
8 The Association of State Drinking Water
9 administrators has a workload model that, based on the way the
10 rule is written, now estimates even medium to small states
11 would need an additional 10 to 15 staff to implement exactly
12 the way it's written right now.
13 You know, we're not going to get money for two
14 new staff, let alone ten new staff, so we're going to have to
15 figure out how to make that work, and figure out, when the
16 final rule comes out, what that really looks like. But
17 there's a considerable amount of work that is being
18 transferred to the states. A lot of additional reviews, a lot
19 of additional sampling plans, and all kinds of events that
20 trigger updates to plans, corrosion control methods, states
21 having to review and improve corrosion control any time
22 there's a change of source.
23 So there are a lot of things that we're
24 definitely going to be watching on that one, and you may see
25 rulemaking once that is finalized.

Page 62

1 EAP is revisiting Atrazine. That has just been
 2 out in the last few weeks. Oklahoma hasn't seen too much.
 3 We've got some low level detections. We're not feeling it as
 4 much as some of the states, but that's an area that we're
 5 watching.

6 The Unregulated Contaminant Monitoring Rule is
 7 coming out soon, the Fifth Rendition, so we typically get a
 8 lot of comments and have a spike in our questions of, "Why do
 9 I have to test for all of these things? Why is EPA sending it
 10 me?" And basically, all systems that serve over 10,000 have
 11 mandatory participation. And then EPA is going down to, I
 12 believe it's 3,300 this time in our selecting random systems
 13 to participate. So that's definitely something that we'll be
 14 watching.

15 And I'm sure all of you have heard the PFAS
 16 issues per per-and poly-fluoroalkyl substances, depending on
 17 who you talk to, there's anywhere from three to 6,000 of these
 18 chemicals. There are about eight of them that are going to be
 19 part of UCMRS.

20 We know military bases, Department of Defense
 21 are doing a lot of characterization for PFAS compounds in
 22 Oklahoma. Many of the military installations actually
 23 purchase their drinking water, so we don't have as much
 24 concern as far as drinking water issues with the PFAS
 25 compounds on our military basis.

Page 64

1 to get those permits. We just have not seen the applications
 2 that they've been seeing in some other states.

3 For example, Texas had several permits they've
 4 issued -- that EPA has issued for Texas, and the State of
 5 Wyoming, and North and South Dakota. So that's something
 6 we're working on. And DEQ is participating in several
 7 national produced water studies and task force. We're part of
 8 a consortium out of New Mexico that includes environmental
 9 groups, academia, state environmental and oil and gas
 10 agencies. We're working with a regional group that started
 11 out here in Oklahoma with the Environmental Defense Fund, and
 12 a couple of industries and DEQ. That's now been expanded to
 13 the Region 6 states. So we're working to share that knowledge
 14 as we move forward.

15 And then the Groundwater Protection Council
 16 Produced Water Report was finalized in June of 2019, and the
 17 next phase of that work is the produced water task force its
 18 kicking off right now and will be about a two- to three-year
 19 series of studies, compilation of information across the
 20 country, but it's being headed up here in Oklahoma, so that's
 21 good for us. Gives us good access to information.

22 One last thing, and that is the Water Reused
 23 Action Plan. This was EPA's kind of dive into the water reuse
 24 world. It is not establishing regulations because there are
 25 so many states that have various degrees of rules. Oklahoma,

Page 63

1 They are doing sampling from monitoring wells,
 2 underground water wells they have onsite. We are finding it.
 3 That's not unexpected. But those military installations are
 4 working with our Land Protection Division on what remediation
 5 or cleanup and appropriate standards might look like. So that
 6 is something that's going to be ongoing for a long time, and
 7 we're going to be hearing more and more about that.

8 On the wastewater side, produced water has been
 9 a big issue. We have made our re-submittal for delegation of
 10 that authority from EPA to DEQ. We did that back in November.
 11 Our original submittal, it was about five to five and a half
 12 months before we heard anything from EPA. With the holidays,
 13 it's only been a couple of months, so we'll be checking in
 14 with them to see where that lies. But that's something I
 15 would think would happen certainly within the calendar year.
 16 And then we'll be the permitting and compliance authority for
 17 oil-and-gas-produced water.

18 EPA is currently engaged in an effluent
 19 limitation guideline review for all 11 of the
 20 oil-and-gas-related at limitation guidelines. This could
 21 impact any of our dischargers. Right now in Oklahoma it's not
 22 as much of an issue as it is in some states. We don't have
 23 the permits for some of those oil and gas wells yet. I don't
 24 know if it was because of the required treatment or the fact
 25 that the companies knew they would have to go to EPA in Dallas

Page 65

1 we have the ASR rules. We have the Indirect Potable Reuse
 2 rules. We have a committee and white papers on direct potable
 3 reuse. Some states have nothing, so it's kind of interesting
 4 watching EPA trying to wrap their arms around this effort.

5 The assistant administrator for Water, David
 6 Ross, is a big water reuse proponent. He announced his
 7 priorities, which he could have said pretty much everything
 8 and that would have covered it. But instead, he said potable
 9 reuse, non-potable reuse and produced water.

10 So EPA has met with stakeholders from various
 11 groups, put together what turned into about a 38-page Water
 12 Reuse Action Plan draft. They accepted comments about three
 13 or four different times and now they are set to unveil the
 14 final version late February in El Paso. And it's changing
 15 from a WRAP to a WRIP, and it will be in the Water Reuse
 16 Implementation Plan.

17 So we've been heavily involved and provided our
 18 input and our case studies and stories of what we've done and
 19 how we've done it and how long we've been doing it.

20 So with that, I will stop. And if anybody has
 21 any questions for me, I'm happy to answer.

22 CHAIRMAN BRIAN DUZAN: Any questions?
 23 (No response.)
 24 THE WITNESS: Okay. Thank you so much,
 25 Shellie.

Page 66

1 New business, I do not believe we have any new
 2 business.
 3 Our next scheduled meeting is -- does anybody
 4 know?
 5 MS. MARY MACH: April 21st.
 6 CHAIRMAN BRIAN DUZAN: April 21st.
 7 MS. MARY MACH: Where did Mark go?
 8 THE WITNESS: Okay. And with that, we'll take
 9 a motion for adjournment.
 10 MR. MARK METHESON: I make a motion to adjourn.
 11 MS. DEBBIE WELLS: Second.
 12 THE COURT: So vote.
 13 MS. QUIANA FIELDS: Mr. Carr.
 14 MR. ROBERT CARR: Yes.
 15 MS. QUIANA FIELDS: Ms. Mach.
 16 MS. MARY MACH: Yes.
 17 MS. QUIANA FIELDS: Mr. Matheson.
 18 MR. MARK METHESON: Yes.
 19 MS. QUIANA FIELDS: Mr. Nelson.
 20 MR. JON NELSON: Yes.
 21 MS. QUIANA FIELDS: Mr. Smith.
 22 MR. WILLARD SMITH: Yes.
 23 MS. QUIANA FIELDS: Mr. Sowers.
 24 MR. STEVE SOWERS: Yes.
 25 MS. QUIANA FIELDS: Ms. Wells.

Page 67

1 MS. DEBBIE WELLS: Yes.
 2 MS. QUIANA FIELDS: Mr. Winegardner.
 3 VICE CHAIRMAN DUANE WINEGARDNER: Yes.
 4 MS. QUIANA FIELDS: Mr. Duzan.
 5 CHAIRMAN BRIAN DUZAN: Yes.
 6 MS. QUIANA FIELDS: Motion passed.
 7 CHAIRMAN BRIAN DUZAN: So we are adjourned.
 8 (Meeting adjourned 3:35 p.m.)
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Page 68

1 STATE OF OKLAHOMA)
)
 2 PAYNE COUNTY)
 3
 4 C E R T I F I C A T E
 5
 6 I, MELISSIA A. PRAWL, Certified Shorthand Reporter
 7 in and for the State of Oklahoma, do hereby certify that the
 8 foregoing is a true and correct transcript of my shorthand
 9 notes taken in the above-entitled cause on the date indicated.
 10 Dated at my office in Stillwater, Oklahoma, this
 11 10th day of January, 2019.
 12
 13
 14 *Melissia Prawl*
 15 Melissia A. Prawl, CSR
 16 Certified Court Reporter
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WATER QUALITY MANAGEMENT ADVISORY COUNCIL

Attendance Record

January 7, 2020

Department of Environmental Quality
Oklahoma City, Oklahoma

CHECK BOX TO COMMENT

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

<u>NAME</u> and/or <u>AFFILIATION</u>	<u>Address</u> and/or <u>Phone</u> and/or <u>E-Mail</u>
Traci Kelly DEQ	
Mark H. Hubbard DEQ	
Bill Smith ADVISORY COUNCIL	
Mary E. Mouch Garvia/advisory council	
Chris Armstrong DEQ	
Nicholas H. H. DEQ	
Jon Nelson ADV. COUNCIL	
Mark Matheson Adv Council	
Johnny Taylor IHS	
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