

Approved Minutes of the Technical Advisory Committee Meeting

May 16, 2023

**Participation by videoconference**

<b>Attendees:</b>	Cristin Ashmankas*	Roger Thompson*
	Cristian Jabolonski	Sharon Bissell
	Sheri Young*	Craig Heindel*
	Gunner McCain*	Ernie Christianson*
	Jared Willey	Bruce Douglas*
	Erin Stewart	Julia Beaudoin
	Sille Larsen	Denise Johnson-Terk
	Jeffery Williams	Brad Fischer*
	Jeanne Allen	Kevin Eaton
	Tom DeBell	Megan Kane
	Craig Jewett*	

\*Technical Advisory Committee members or substitutes

**Scheduled meetings:**

July 18, 2023	Virtual
September 19, 2023	Virtual
November 16, 2023	Virtual

**Updates:**

Bruce introduced Julia Beaudoin as the new Department of Environmental Conservation (DEC) Hydrogeologist. Julia is filling the position previously held by Sille Larsen. Julia will be recommended for appointment to the Technical Advisory Committee (TAC) as Sille's replacement.

Bruce noted that the Legislature has adjourned and that he will have more time to update the Wastewater System and Potable Water Supply Rules (WW Rules) and program management.

**Agenda:**

The proposed agenda was accepted as drafted.

**Minutes:**

The draft minutes were amended to add a topic heading to the discussion of local adoptions of rules related to wastewater disposal systems.

**Old Business:**

The proposed changes to the Wastewater System and Potable Water Supply Rules (WW Rules) have been approved by the Interagency Committee on Administrative Rules (ICAR). The proposed rules will be filed with the Secretary of State's Office and then the public meetings can be scheduled. After public meetings are held, the DEC makes a written response to all the public comments, and if needed, revisions to the proposed rules. At that point, a meeting is scheduled with the Legislative Committee on Administrative Rules (LCAR). LCAR decides if the proposed rules meet statutory authority and legislative intent. LCAR can decide that the proposed rules comply, can decide that they do not comply, or suggest changes. Suggested changes are usually quickly negotiated and agreed upon, at which time LCAR makes a determination that the proposed rules comply. The approved rules are then resubmitted to the Secretary of State's Office and take effect after a statutorily set waiting period.

The introduction of the updated electronic application has been delayed until June 1<sup>st</sup> so that the new process for dealing with incomplete permit applications can start at the same time. The new process is that if, upon initial review, the application is incomplete the applicant will be notified that they have 30 days to submit the required information. If there is no response a second notice will be sent with a 30-day deadline. If the information is still not received, the application will be administratively closed. The process for dealing with incomplete applications will eventually apply to all DEC applications. The DEC is considering whether a processing fee should be retained if an application is closed because it is incomplete. The existing policy is that the full application fee is returned if the application is closed because it remains administratively incomplete.

The notes from the subcommittee meetings on Instantaneous Peak Demand (IPD) calculations still need to be written up. Bruce is working on this. The results will be circulated to the TAC.

The draft guidance for deciding if living units meet the definition of being attached is still being reviewed.

S.146 which is related to the Indirect Discharge Rules, classification of State waters, and anti-degradation rules has passed the Senate. It can be worked on next year in the second year of the bi-annual Legislative session.

S.100, which is a large bill with many sections that is intended to improve access to affordable housing has passed the House and the Senate and is waiting for action by the Governor. When proposed the bill included a provision for municipalities to issue permits for water and wastewater systems when the connections would be to municipal water and wastewater systems. This section was removed from the bill. The bill requires the Agency of Natural Resources (ANR) to review permitting processes and identify areas where the administrative burden on applicants can be reduced. One area of conflict under the current rules is that some municipalities use different design flow calculations. Gunner said that Stowe uses different numbers. Roger added that Hartford had used one number for the municipal fee calculation while giving approval for the DEC design flow. Craig J. said that some towns do this based on their experience of measured sewage discharges that are generally lower than DEC design standards. If they reserve flow for new projects based on the DEC numbers, there is less capacity for other applicants. Sheri expressed concern about the impact on applicants when the water and wastewater systems are reviewed at both the State and town level. Bruce agreed and said that this will be part of the review of how administrative burdens can be reduced.

### **WW Rules Update:**

Bruce outlined his plans for a major review and update of the WW Rules. He proposes to reorganize the WW Rules so that there is a section for water issues, one for wastewater issues, one for designers' issues, and one for administrative issues. Bruce would like to wait until the Fall to start working on this. Craig H. agreed, as did the TAC.

Jeff mentioned two issues that well drillers are interested in. When an applicant proposes to add an accessory unit for a project with an existing well the WW Rules require that the well supply sufficient water. In many cases the existing well does not meet the requirements and a new source or major upgrades are proposed. Jeff said that in some cases, if the well is drilled deeper, it will meet the requirements, but the results are not guaranteed. If the project has a permit approving a new source or major upgrade and the well is drilled deeper with a good result, the permit then needs to be amended to reflect what is actually done. It would save some money if the process could be streamlined. It is possible that an update to the Instantaneous Peak Demand calculations will reduce the number of applications where a water source will need to be upgraded. Jeff also mentioned that there are some large geothermal projects with many wells and there is some concern about a temperature impact on neighboring wells.

Craig J. said that PFAS (polyfluoralkyl substances), sometimes described as forever chemicals, are a rising concern not only for drinking water but also septage disposal. Bruce said there is a study coming on septage in Vermont that will look at the amount generated, how to dispose of it, and the impacts on groundwater. Sheri said that the study should also look at other contaminants such as pharmaceuticals. Sille asked if stormwater impacts on groundwater will be included. Bruce said probably not with this study but that the DEC is looking into the problem. Craig J. said that there is a two-year time of travel requirement for separation between large wastewater disposal systems and water sources and maybe something like this could be applied

to stormwater disposal. Julia said that the constructed impacts of stormwater systems in general need to be studied.

Sheri said that all the rules should be studied to see if permitting accessory dwellings can be made easier. There is a large demand for these units and unnecessary requirements should be eliminated.

Sheri asked about the restrictions on surface water supplies in Lake Champlain in §1-1102(d)(2) of the WW Rules. This section prohibits the use of surface water systems south of the Lake Champlain Bridge. Sheri asked if there are any exceptions to this and Ernie said that the restriction applies to all portions of the lake south of the bridge. Ernie said that the restrictions are based on information from the Water Quality Division. Sille asked if algae blooms might be the basis of the restriction. Craig H. remembered that the TAC discussed the issue in the past and asked that the minutes be checked so that past discussions could be reviewed. Roger will check the records.

**Variance Question:**

Cristian asked if the variance process can be used when proposing a drilled well to replace a surface water system. Cristin said that the variance process can be used.

**Local Ordinances:**

The Town of Burke adopted an ordinance that regulates wastewater disposal systems which may be in conflict with the WW Rules that gives sole jurisdiction to the State. Bruce met with the town, and they plan to update the ordinance so that it is not in conflict with the WW Rules.

The Town of Fairlee also adopted an ordinance that may conflict with the WW Rules. DEC legal counsel is reviewing the matter and will decide if there is a conflict that needs to be resolved.