

Minutes of the Technical Advisory Committee Meeting
February 4, 2003
Revised 2-18-2003

Members present: John Forcier Tom Ray
 Gary Fern Allison Lowry
 Spencer Harris Alan Huizenga
 Bernie Chenette Roger Thompson
 Jeff Williams Craig Heindel

Others attending: Marilyn Davis Frank O'Brien

Scheduled Meetings:

February 18, 2003	1-4 PM	100 Stanley Hall
March 5, 2003	1-4 PM	Mad Tom Room, Osgood Building
• Note this is a Wednesday meeting.		
March 18, 2003	1-4 PM	100 Stanley Hall
April 1, 2003	1-4 PM	100 Stanley Hall
April 15, 2003	1-4 PM	Skylight Conference Room
April 29, 2003	1-4 PM	Secretary's Con. Rm., Osgood Building
• Note we are trying to relocate to a better room for this date.		

New Attendee –

The committee welcomed Tom Ray who is sitting in for Gerry Kittle for a few meetings.

Review of Agenda –

The agenda was reviewed and accepted.

Review of Minutes –

The minutes of the January 21, 2003 meeting were reviewed. John asked if the minutes should reflect that the committee authorized the publication of the chart and that the chart should be included in the rules in the future. This was discussed and members recalled that previous discussion had resulted in a majority opinion that the chart should be published as a practice and not included in the rules. This led to a discussion of the role of the committee and it was decided to make this the next topic of discussion. It was

agreed to accept the minutes with the addition of a note that the chart would be published as a practice and not included in the rules.

Role of the Committee-

There was extensive discussion of the role the committee should have versus how it was currently functioning. John said that this committee seemed to be quite different than the Implementation and Education Committee he chaired that had recently completed its work. John said that he believed this committee was charged with some oversight and direction functions related to implementing the statute and rules. Bernie said that he feels the committee is different and advisory in nature based on the statutory language. Craig agreed that the committee is advisory. Gary also agreed that the committee is advisory but thought that the Agency needs support of the committee. John noted that his discussions and attendance at the legislature caused him to believe that there was intent that the committee have some part in directing the implementation of the rules. Roger reviewed the past operations of advisory committees as being forums to discuss issues that are relevant to future rule changes. Past committees have discussed many issues and reached consensus or majority opinions on several important topics. The Agency believes that the most effective way to proceed is to discuss issues until there is a position that the Agency and at least a majority of the committee can support. Marilyn reviewed the statutory language for the two committees and noted that there are some significant differences. The statute creates an advisory committee related to the rules section of the statute. The statute separately directs the TAC to provide a report that would talk about what has happened in implementing the rules, how many systems of various types, and how those systems are performing and would presumably make any observations or recommendations for future action. While the majority of the committee members agreed that the advisory function is related to the rules, several members also felt that it was important that the committee report required by the statute be prepared and supported by committee members who are not Agency employees because it would carry more weight with legislators if it was seen as independent from the Agency. In order to implement this, it was decided there should be a chair for the committee, who would be elected each year, and John was elected to serve for the coming year. A subcommittee will be selected to do the first draft of the next annual report due January 15, 2004. Craig and Gary indicated they would like to participate in writing the report. The subcommittee will be established at the next meeting. Roger will continue to prepare an agenda, write the minutes, and facilitate the meetings.

Legislative Briefing-

John gave a short summary of his presentation of the I+E Committee report to the House and Senate Natural Resources Committees. John handed out a copy of the outline he used for the presentations. The four main topics in the I+E report were, A. the quick ending of the buildout period, B. the first in time effects of permits on neighboring lots, C. effects on a town's grand list, and D. towns choosing to not allow use of reduced site conditions by not updating their sewage rules. John noted that the Senate committee had several questions related to the implementation and status of innovative systems but that

there had been no time for discussion of specifics. Roger discussed the possible options related to dealing with the quick closing of the buildout period, which include an unconditional extension, a conditional extension, or no change. Roger noted that John had provided one possible option for a conditional extension to the Senate committee based on using a “best fix” system such as could be approved under the variance provisions in the rules.

Tom asked about innovative systems, including incinerating toilets. Roger noted that incinerating toilets are ok under the rules, and probably not a problem with the Air Quality Division, but are very energy intensive. The Agency would be unlikely to approve any house based only on use of incinerating technology for the whole house without soils that would allow for complying systems based on conventional toilet facilities.

Spencer asked how many towns have updated their sewage ordinance. Roger indicated that only a few had completed the process but that a few more were working on it. Roger also noted that an updated model ordinance is in the works, which will need review by Anne Whiteley.

Review of Hydro Chart -

Allison reviewed the changes that had been made to the chart since the last meeting, which included some wording changes and some updated examples. Some of these changes were based on committee discussion at the previous meeting and some were made after using the chart in a presentation to licensed designers on January 31st. Craig had attended the designer’s meeting and said that people seemed to accept the chart as being useful. Roger noted that a couple of people had to be reminded that the chart did not make them hydrogeologists. John asked if the term “firm” needed to be defined. No one had a specific reference for this term though USDA must have some definition and description of how to make the determination.

Licensed Designer Rules -

Roger reviewed the updated draft which was prepared in the strikeout and underline format used in rulemaking. There were several editing comments related to section §1-313 (c)(2). The demonstration of ability section will be rewritten. The term, licensed designer, will be used uniformly. Gary asked about whether non-engineers could design connections to municipal systems. Roger said the drafted language would allow for this. Gary said that he did not agree with that position and the committee then recognized that this issue had not been specifically addressed. It was decided to send this back to the subcommittee for a review to be followed by discussion at the committee. John asked if the rules should define when installers can do the inspection certifications and it was agreed that it should be defined.

Review of General Use Permits -

At a previous committee meeting the existing general use permits were discussed and it was decided to review these so people would be familiar with the structure of the permits and how they deal with oversight and maintenance issues. Roger reviewed two general use permits and one pilot approval that had been issued for a slaughterhouse. John asked about whether a checklist had been prepared for use in submitting and reviewing applications seeking approval under the innovative system portion of the rules. Roger said it had not been done yet but was on Frank's list of to do items.

Underground Injection Control Rules –

Allison did a brief review of the rule making process that is under way. She noted that two evening hearing information meetings had been held January 28th and 30th, with one more planned for February 6th. Allison provided the handout she has used at the hearings.

Feedback –

Gary discussed a project he had done recently in Bristol. When Gary started the subdivision process in late summer he believed that there was one improved lot and one vacant lot. The soils in the area are good so he did not arrange for state staff to witness the test pits. After completing the application later in the year he found that there were two improved lots and had to find an additional replacement area. He talked to the Rutland office about looking at soils for the second lot and was told that he needed to also dig two holes to verify the soils for the first lot. The pits were only done recently and the soils were frozen which added a lot of time and expense. Gary said he did not expect to have to dig pits for the first house in any case but went along when the staff told him they wanted them dug. Roger said that the office operations memo did not support asking for test pits to be redug unless there was clear evidence that they were incorrect and that he would check into this case and see what had happened.

Gary also noted that Roger's comment at the designer's training session that 95% of all of the work would be done by site techs had caused e-mails to start circulating from some engineers and was not helpful. Roger explained that his comment was based on the fact that most projects are less than 1350 GPD which is proposed for the new limit on what non-engineers might do and was not a thought that non-engineers would actually end up doing all of the work.

Subcommittees

Hydrogeology - Allison Lowry, Craig Heindel, Dave Cotton and Steve Revell.

Training subcommittee - John Forcier, Roger Thompson, Allison Lowry, Dave Cotton, Barbara Willis and Marilyn Davis.

Licensed designers - Spencer Harris, Gary Fern, Alan Huizenga for Lance Phelps, and Gerry Kittle.

Well driller's knowledge checklist-- Jeff Williams, Rodney Pingree, Roger Thompson, Bernie Chenette and Steve Revell.

Interested in the delegation rules-- Spencer Harris, Gerry Kittle, Kimberley Crosby, Phil Dechert, Gary Fern and Alan Huizenga