

Large On-Site Sewage System
Rule Advisory Committee

January 30, 2008 Meeting Summary Notes

Welcome and Introductions..... 1
Task 1 – Opening Remarks..... 2
Task 2 – Review Draft Ground Rules 2
Task 3 – History and 2007 Legislation..... 4
Task 4 – Rule Process Timeline..... 4
Task 5 – On-Site System Rules at Department of Health and the Requirement for Consistency 5
Task 6 – Issues and Results from the 2004 LOSS Rule Development Effort 5
Task 7 – Roundtable Discussion: What Should Department of Health Focus on for the 2007 Legislation to Work?..... 5
2008 Meeting Schedule 5
Task 7 – Roundtable Discussion: Continued..... 6
Wrap-Up and Action Items..... 6
Meeting Attendees..... 8
Attachment 1 9

Welcome and Introductions

Dave Lenning welcomed committee members and thanked them for participating in this rule revision effort. Dave then introduced Department of Health (DOH) staff working on the LOSS rule revision. He then asked members to introduce themselves and extended introductions to audience members as well. Dave reviewed the agenda with committee members and focused attention on the binder/notebook provided for each member and alternate. Dave provided some initial background information in the binders to help members keep organized and retain information. Members and alternates are expected to download, read, and print their own copies of material for future meetings.

Dave said he would refer to documents in the notebooks during this meeting and in future meetings. Dave walked through the binder contents with the members. He focused on the meeting schedule and explained that DOH intends to complete a draft rule by summer 08 if possible to allow for regional meetings or workshops on the draft rule before beginning the formal “rule-adoption” process.

The committee the meeting schedule:

- Meetings are scheduled 1 a month from Jan – Oct.
- All meetings will run from 9:30 AM to 3:30 PM.
- Meetings location is the DOH Kent office, unless otherwise noted. (see website for directions.)
- Next meeting is Thursday FEB 28th

Questions and Comments:

- A larger room may be needed if we continue to get large audiences.

DOH agreed to investigate other facilities. Videoconferencing may not be available if we use other facilities.

- DOH is looking into videoconferencing to reduce travel for eastern WA members. The Kent and Spokane offices are set-up to accommodate videoconferencing. (The DOH - ERO Drinking Water office located at 1500 W 4th AVE Suite 305, Spokane)

Task 1 – Opening Remarks

Dave introduced Maryanne Guichard, Director of the Office of Shellfish and Water Protection at DOH. Maryanne also welcomed the committee and thanked them for agreeing to assist DOH in revising the LOSS rule.

Maryanne shared with the group that this is an important rule revision in the LOSS program and that DOH is committed to providing the support necessary to make the committee's work successful. Maryanne also wanted members to know how much she values the LRAC and interested parties' input into the rule process. She reminded the group that the committee is in an advisory role to DOH and that we will strive to include the recommendations in the new rule to the greatest extent possible, while still meeting the statutory requirements of Chapter 70.118B RCW. Maryanne explained that DOH will ask LRAC members to recommend conceptual rule language on various topics / issues and then DOH staff will "word-smith" to develop final rule language. Maryanne also noted that there will be much homework and that DOH has a relatively short timeline to develop a draft so the final rule becomes effective by July 1, 2009.

Maryanne mentioned that DOH is updating the website & creating a Listserve to keep LRAC members and interested parties informed. Once the listserv is ready and interested parties have a chance to sign-up, we will no longer maintain an "interested parties" email list. Anybody can subscribe / unsubscribe to the Listserve or access the website. DOH will post important notices on the listserv: meeting summaries, PowerPoint presentations, agendas, background material, etc., as needed.

Maryanne thanked everyone for attending today, answered questions, and turned over the proceedings to Dave.

Task 2 – Review Draft Ground Rules

Dave asked members to open their notebooks to the Draft Ground Rules. Dave presented **draft ground rules** for conducting committee business and discussed levels of agreement, quorums, and voting procedures.

General Operating Principles:

- DOH will strive for LRAC consensus or at least *consent* on all issues.

- DOH will strive to obtain LRAC consensus on every issue but if it can't be achieved or if a quorum isn't present, DOH reserves the right to finalize rule language on specific issues.
- Discussions won't be re-opened for the benefit of committee members who were absent during previous discussions.
- All LRAC members are encouraged to find an alternate to attend meetings and represent their interest if the primary member can't attend. This will help us maintain the necessary quorum and make steady progress under our tight deadline.
- Primary & alternate LRAC members are solely responsible for communicating and sharing information with their respective constituents.
- Each agenda will allow time for audience comments and discussions to assure their input will be heard / considered.
- DOH will record on flipcharts issues identified, key discussion points and decisions. The information will be transcribed and added to the meeting summaries. Any member may ask to have something recorded on a flipchart.
- Meeting summaries will be posted to the website and emailed to LRAC members and alternates as soon as possible after each meeting. Members are urged to take their own notes.

Comments/Suggestions:

- Members should identify alternates if possible.
- DOH needs to identify how interested parties can participate.

Level of Agreement using Color-Coded Cards:

Dave went over with members the levels of agreement section. One of the features of this section is to use color coded cards to indicate level of agreement:

- **Green:** you support the proposal or language;
- **Yellow:** you can accept the proposal or language, but have concerns you'd like to be addressed;
- **Red:** you can't support the proposal or language (strongly object).

The committee agreed to use the color coded cards with the meanings listed in the Draft Ground Rules.

Quorum Question:

The committee considered whether a quorum of members is appropriate to approve and recommend rule concept language and if yes what level. The group reviewed the options listed in the Draft Ground Rules and did not add any. Committee members then discussed the 3 quorum options:

- 2/3 of members must be present to move to formal recommendations
- 1/2+1 member must be present
- No quorum.

Using the color-coded cards, the group determined they would like to operate using a 2/3 member quorum. The recorded flipchart results are listed below:

<u>Options</u>	<u>Level of Agreement</u>
2/3 =	8 green; 1 yellow
1/2 +1	0
None	0

Consensus Question:

Dave asked the committee to consider what level of agreement do members consider adequate to achieve consensus. Consensus = Green or Yellow card level of agreement. Members reviewed the options highlighted in the Draft Ground Rules and Dave asked if there were others. No additional options were brought up. The committee members discussed the options and indicated their level of agreement using the color-coded cards. Members decided consensus is achieved when 2/3 of the members vote Yellow or Green card and alternate views are recorded as part of the results. The recorded flip-chart notes are listed below:

<u>Options on Consensus</u>	<u>Tally</u>
2/3 + capture alternate views	11 Green
1/2 +1 and capture alternate views	0

Agreements:

- The committee agreed to use the color-coded cards with the meanings listed in the Draft Ground Rules.
- The group agreed to the Draft Ground Rules with minor modifications.
- Members determined they would like to operate using a 2/3 member quorum.
- Members decided consensus is achieved when 2/3 of the members vote Yellow or Green card and alternate views are recorded as part of the results
- Members agreed to amend the rules of participation if needed. (11 Green cards)

Task 3 – History and 2007 Legislation

Richard Benson presented information on the 2004 Rule Development Process and gave an overview of the 2007 legislation and requirements (Power Point): “History of the Last LOSS Rule Process” and “Summary of 2007 LOSS Legislation and Requirements” (see website).

Task 4 – Rule Process Timeline

Melissa McEachron walked the group through the LOSS rule development timeline. The timeline incorporates Administrative Procedure Act requirements and timeframes. (See attachment 1 below).

All state agencies must follow the **Administrative Procedure Act**. DOH filed a **CR-101** notice with the Code Reviser 1-14-08. This announces our intent to begin rule making describes the type of rule, and invites the public to participate. All “CR” notices are published in the **Washington State Register**. A **small business economic impact statement** is required if the rule adds new costs and a “**cost-benefit**” and **least burdensome**” analysis are necessary for **significant legislative rules** under the APA. This rule is a significant legislative rule.

A **CR-102** must be filed after a draft rule is completed and DOH is ready to formally propose the rule. This notice provides background and includes full text of the proposed rules, and states how to obtain copies of the economic analyses. It also provides dates and places for public hearings and instructions for sending in written comments.

A **Concise Explanatory Statement** must be prepared prior to adoption that describes the reason for adopting the rule, and any changes from the proposed rule, and reason for the changes, a

summary of comments and DOH responses. A **CR 103** order adopts the rule. (For DOH, the Secretary of Health signs the order). It includes full text of the rule, and announces to the public when the rule becomes effective. Our goal is to adopt by Jan-Feb 2009. DOH then sends or emails a **Notice of Adoption** to affected individuals or businesses.

Task 5 – On-Site System Rules at Department of Health and the Requirement for Consistency

Dave Lenning presented information (PowerPoint) on DOH Onsite Rules (WAC 246-272A) and requirements for consistency with the LOSS Rule (WAC 246-272B). Dave highlighted key differences between the two rules and some anticipated issues for the LRAC to address. (see website)

Task 6 – Issues and Results from the 2004 LOSS Rule Development Effort

Richard Benson gave an overview of issues and results from the 2004 rule development effort (PowerPoint). (see website)

Task 7 – Roundtable Discussion: What Should Department of Health Focus on for the 2007 Legislation to Work?

Issues and Concerns:

- What is “industrial” waste? This is a gray area.
 - 173-240 WAC states industrial waste contains constituents not normally found in domestic waste.
 - New rules must protect environment & be consistent with applicable portions of RCW 90.48 (what parts are applicable?). A presentation on this by Ecology would be helpful;
- NSF std 40 vs. 46 (MBR)
- What if soil treatment is not needed or used in the process? (reclaimed water treatment)
- Re-evaluate original design parameters (of LOSS systems?)
 - Flow per bedroom may under load a system if conservation, etc. reduced flow.
- Address existing small lots or record (big issue for some counties).

2008 Meeting Schedule

Dave suggested moving up the discussion of the proposed schedule. Members agreed. Dave reviewed the proposed schedule with members (in note-books provided members and alternates).

The dates looked OK to most. The group agreed meeting on the West side made the most sense.

Issues/ Concerns

- There was concern about the whether the meeting room at the DOH facility in Kent.
- During the legislative session, the meetings need to be located in Olympia.
- Judy Hockett mentioned DOT may have a meeting room we can use.

Melissa and Dave agreed to check into other available rooms for the February, and March meeting dates (and beyond). Melissa will notify members if the location changes and request new locations be posted on the DOH website.

Task 7 – Roundtable Discussion: Continued

- Better coordination/integration between LOSS and Reclaimed Water
- LOSS Inspection (issue in previous RDC)
 - New Construction or
 - Over time
- To Do: ID existing systems not currently in operating permit system.
- Legislation – funding to individuals to upgrade sewage systems
- Federal and State funding and audit requirements- (Communities requesting funding from Ecology)
- Expedite Washington Utilities and Transportation decisions on “Public” utility district (private ownership) formation to meet LOSS “public” purveyor.
- Biosolid management when septic systems are pumped-
 - Should DOH regulate to be consistent with LOSS rules?
 - ✓ The requirements are actually in Ecology’s rules. Probably not an option to find a new “home” for bio-solid rules.
- Funding – parallel process
 - Make this process more successful
 - Consider needs
- Spell out process Approval Process
 - Plan, inspect, design, review & approve, construct, inspect
 - In guidance documents and in existing rule.
- Technology- Treatment and Distribution
 - How will DOH deal with proprietary information?
 - Improve the treatment approval process.
- Enforcement-
 - Transition from Ecology to DOH for LOSS
 - Implement legislative direction
- Access/Control of facilities for owner, regulator and O&M provider
 - Clarify and improve
- Site Evaluation – by whom?
 - By Local Health Jurisdictions- can it be delegated? (local knowledge and availability.)

Wrap-Up and Action Items

Dave asked the committee members (and audience members) to provide feed-back on the day. How did it go? What can we improve?

Comments/Suggestions

- Stuck to the agenda today- Good.
- Get the website up and use it to avoid meeting repetition
- Make sure alternates are up to speed: member’s responsibility

- Add to Key Issues= Residential - ownership and management under the Growth Management Act.
 - Growth Management Act comprehensive plan land use requirements are complex and complicated
 - Differences in how looked at between residential and industrial
 - Differences in how implemented in rural and semi-rural areas
- Continue to Stay on Task
 - Keep end in view
 - Use website to share ideas and questions (increases efficiency)
- Timeline is aggressive. Suggest DOH provide a “target” to shoot at.
- Subcommittees may be useful. (Members and interested parties both)
- Diversity of participants = good
- WA State Parks issues addressed today
- Make sure CTED is at the table at least for consistency discussion
- Make sure the phone conference works – test in advance.
- Maintain one list to track “parking lot” issues as they come up and a 2nd list of issues that require legislative action

For Next Meeting:

- Focus on 2004 RDC work – categorize; look at what may need to change.

Meeting Attendees

Department of Health

Maryanne Guichard, Director, Office of Shellfish and Water Protection
 Dave Lenning, Manager, Wastewater Management Program
 Denise Lahmann, Engineering Supervisor, WWMP
 Melissa McEachron, Wastewater Rules Coordinator
 Richard Benson, Technical Issues Lead

Committee Members and Alternates	Guests
Bill Stuth, Installers	Jim Gleason, Enviroquip
David Jensen, Design Engineers	Brad Mercure, Gibbs and Olson, Inc.
Dale Broyles, WA State Parks	Peter Michel, AIM Mfg. inc.
John Stormon, Ecology	Ray Gauthier, AIM Mfg. inc.
Jenn Kunkel, BIAW	Carl Jones, Ecology
Theresa Janzen, Manufactured Housing of Communities of WA	Bill Creveling, Leroy Surveyors and Eng. Inc.
Judy Hockett, WSDOT- Operations	Doug Hanby, Leroy Surveyor and Eng. Inc.
Jerry Deeter, Kitsap Co. Health Dist.	Eric Noah, Gray & Osborne Engineers, Inc.
Art Starry, Thurston Co. Health Dist.	Peter Lombardi, WOSSA/Orenco
Scott Jones, Design Engineers	Jerry Walton, Geoflow Inc.
Lee Mellish, Liberty Lake Water & Sewer District	
Mark Nelson, Evergreen Valley Utilities	
Melodie Selby, Ecology	
DOH Staff	
Linda Pang, PE, Wastewater Management Program	
Mike Means, Office of Drinking Water	

Attachment 1

