

TECHNICAL REVIEW AND ADVISORY PANEL

ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS

ADVISORY TO THE DEPARTMENT OF HEALTH

AUTHORITY: SECTION 381.0068, FLORIDA STATUTES

TECHNICAL REVIEW AND ADVISORY PANEL (TRAP) MEETING

DATE: Tuesday, May 28, 2019
TIME: 1 p.m. Eastern Time
PLACE: By Conference Call Meeting
Teleconference Phone Number: 888-585-9008
At the prompt, enter the Conference Code: 200-983-436 #

THIS MEETING IS OPEN TO THE PUBLIC.

Agenda

1. Introductions and roll call
2. Review minutes of April 23, 2019 meeting
3. Old Business
4. New Business
A) Innovative System Permitting Process TRAP Issue 19-08 language discussion
5. Other items of interest to the Technical Review and Advisory Panel
6. Public Comment

Scott Johnson <i>Professional Engineer</i>	Vacant <i>Real Estate Industry</i>	Dewayne Bingham, Jr. <i>Septic Tank Industry</i>	Ron Davenport <i>Septic Tank Manufacturer</i>
Glenn W. Bryant <i>DOH County Health Department</i>	Robert Washam <i>Consumer</i>	Scott Franz <i>Soil Scientist</i>	Elias Christ <i>Environmental Health</i>
Ronald Oakley <i>Local Government</i>	Ken Odom <i>Home Building Industry</i>	Roy Pence <i>Home Building Industry</i>	

T E C H N I C A L R E V I E W A N D A D V I S O R Y P A N E L
ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS
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TECHNICAL REVIEW AND ADVISORY PANEL (TRAP) MEETING MINUTES

DATE: Tuesday, May 28, 2019
PLACE: Conference Call, Tallahassee, FL

Members present were:

G. Will Bryant, *County Health Department*
Elias Christ, *Environmental Health*
Roy Pence, *Home Building Industry*
Kriss Kaye, *Florida Engineering Society*
Ron Davenport, *Septic Tank Manufacturer,*
Chair

Alternate members present:

Stephen Shepard, Septic Tank Manufacturer

Department of Health staff present:

Ed Barranco, *Environmental Administrator*
Robin Eychaner, *Environmental*
Administrator
Dr. Eberhard Roeder, *Engineer*
David Hammonds, *Environmental*
Consultant
Dr. Xueqing Gao
Ed Williams, *Environmental Consultant*
Debby Tipton, *Environmental Consultant*

Absent members and alternates:

Robert Washam, *Consumer Representative*
Ronald Oakley, *Local Government* Mark
Ken Odom, *Home Building Industry, Vice*
Chair
Scott Johnson, *Florida Engineering Society*
Dewayne Bingham, Jr., *Septic Tank*
Industry
Scott Franz, *Soil Scientist*
Joseph Sullivan, *Soil Scientist*

Others present:

Roxanne Groover, *Florida Onsite*
Wastewater Assoc. (FOWA)
Denworth Cameron, *Presby Environmental*
Maurice Barker, *Department of*
Environmental Protection
Bob Himschoot, *Crews Environmental*
Mark Thomasson, *PE, W. Source Group*

Kriss Kaye <i>Professional Engineer</i>	Vacant <i>Real Estate Industry</i>	Dewayne Bingham, Jr. <i>Septic Tank Industry</i>	Ron Davenport <i>Septic Tank Manufacturer</i>
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Glenn W. Bryant <i>DOH County Health Department</i>	Robert Washam <i>Consumer</i>	Scott Franz <i>Soil Scientist</i>	Elias Christ <i>Environmental Health</i>
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Ronald Oakley <i>Local Government</i>	Ken Odom <i>Home Building Industry</i>	Roy Pence <i>Home Building Industry</i>
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1. CALL TO ORDER

Robin Eychaner called the meeting to order at 1:05 p.m.

Roll call was completed and she also invited the members of the public introduce themselves. Six panel members or their alternates were present.

2. REVIEW MINUTES OF LAST MEETING

The TRAP reviewed the minutes of the April 23, 2019 meeting conference call. Ron Davenport presented the pages with the following results:

1. Elias Christ made a motion to accept and seconded Will Bryant. Unanimously approved, motion passes, none opposed, pages 1 and 2 accepted.
2. Motion to approve by Will Bryant and seconded by Elias Christ. Unanimously approved, motion passes, none opposed, page 3 accepted.
3. Motion to approve by Elias Christ and seconded by Will Bryant. Unanimously approved, motion passes, none opposed, page 4 accepted.
4. Ron Davenport made a correction to minutes for the motion to adjourn, to change it to made by Ron Davenport and seconded by Roy Pence, (was flip flopped). Motion to approve with Ron's changes by Will Bryant and seconded by Elias Christ. Unanimously approved, motion passes, none opposed, page 5 accepted.

3. NEW BUSINESS

Debby Tipton delivered a PowerPoint presentation on Innovative/Performance Based Treatment System (PBTS) Rule Revision Discussion Points. See handouts. Debby went over the Innovative System Permitting (ISP) and Testing, background, concerns, objectives and proposed options, plus reclassification paths for tested novel technologies or products.

Will Bryant: Indicated he liked the presentation. He thinks it's a wise move to make expeditious improvements to protect water quality for recreation and drinking water purposes. Wants to have a meter to measure all the things involved in this process.

Roxanne Groover: Is concerned that on paper it looks good, but in reality she sees some challenges. Big challenge is asking manufacturers to train ahead of time. No one has the time to get everyone together to do the training. If we had a way to do that, it would make perfect sense. Online training is not real field experience. If manufacturers have to train installers and CHD staff is a logistical challenge, the rule might end up being more restrictive and not being helpful. Other concern is identification of criteria that is accepted for review. She has seen other technologies, not approved in this state, that went to other universities for review and resulted in vague endorsement statements like "to the best of our knowledge or we compared it to a sequencing batch reactor.... therefore, we think it's going to work." However, she also doesn't want to force everybody through NSF 40 and 245; She does agree going through the testing before talking about going through 120 variances. Eb and Roxanne always have challenges on interpretations of the rules. Headed in right direction, legislatively they want us to make this process smoother. Some areas we are getting too lean and others we are getting too loose. I will go through each slide one by one and make my comments,

Kriss Kaye <i>Professional Engineer</i>	Vacant <i>Real Estate Industry</i>	Dewayne Bingham, Jr. <i>Septic Tank Industry</i>	Ron Davenport <i>Septic Tank Manufacturer</i>
Glenn W. Bryant <i>DOH County Health Department</i>	Robert Washam <i>Consumer</i>	Scott Franz <i>Soil Scientist</i>	Elias Christ <i>Environmental Health</i>
Ronald Oakley <i>Local Government</i>	Ken Odom <i>Home Building Industry</i>	Roy Pence <i>Home Building Industry</i>	

which you can share with the group. We have a tremendous challenge with this innovative process and need to make sure everyone gives this due consideration.

Ed Barranco: discusses issues. Agree the 120 variance is a tricky issue, as the manufacturer has to prove a hardship or show that they are meeting the intent of the statute. There is not a simple way to do that. Moving this (120 variance) to the backend of the process is the simple way to do this, because at the end of testing you either have shown you can meet the intent of the statute and can show it does, or it will show it does not and it might put them in a place to rework the design and push again for a variance. I believe we gain time moving the variance to the end of the process. Agree with identifying the criteria that is accepted. We need to develop an innovative system testing protocol, for use during the development phase. However, we need to understand there may be things that do not fit in the frame. It will be available by rule (through adoption) for viewing by the manufactures and developers up front. We want sound science without being overwhelming. You make a good point about the training. It is a challenge. The problem we are having is the review we conduct are limited. We don't propose or design the technology, we just review the training and we have not installed the technology. We hear from the CHDs that certain technologies were not installed based on the permit, now what does that leave us with a site with questionable compliance and reworking an innovative system permit with takes more time. Can we consider video trainings? We review the training. Video training on each of the steps like the install, inspection, etc. (Ron indicating, he likes the video idea)

Roxanne: Have an additional comment. I think we needs to be clear on what everybody's responsibility is in the process. The manufacturers responsibility is to provide the design/mechanism/installation design etc., the States responsibility is to review that information. In a lot of cases, the state has taken it upon themselves to try and help the manufacture through the design, testing design, operation and maintenance design, and that is not really the States responsibility. NSF has testing protocols they use and that's all that they do. They do not try and second, third, and fourth guess the manufacture on how their technology is going to work in the State of Florida. The regulatory agency here gets a little too overzealous (and I know that's a very harsh word) on thinking Florida is so different from other states. Florida is not that different than other states, we have compatible soils, compatible ground water situations and we certainly have compatible temperatures. The State Regulatory Agency gets too far in the weeds and too far into the details thinking we are part of the design team from the manufacturer. Truly what the States job is to do is to look at the statutory and rule language, to see if it fits and if it doesn't fit to let them know it does not and allow the manufacturer to move forward. She was involved in one of these processes and felt like the state was redesigning the system. If they do redesign the system and it was already NSF approved, then they'll lose their NSF approval. Going forward we really need to make sure we have separation of responsibilities, so everyone knows what their responsibility is.

Ed Barranco: Roxanne that is a good point. The rule may be able to discern who should be doing those areas of responsibilities. We are hopefully going to create a section to deal with innovative testing alone. We can put these things into the section, new technologies as they are presented to us. We are considering exempting a few conditions that do not have a high public health risk.

Denworth Cameron: I love all the comments so far but see a problem with moving the 120 variance towards the back of the process is, a manufacture comes in and spends hundreds and thousands of dollars doing the testing. At the end they are denied the 120 variance which they are seeking. They have a product they've invested so much but nothing happened in the end. Possibly, this could be the issue with moving the 120 variance to the end, unless, there is some guarantee, if they meet a certain criterion throughout the testing, then the 120 that there seeking be granted.

Ed Barranco: Thank you for your comment on the process. Let me explain how it works right now. You are required to apply for the 120 variance upfront for innovative system testing and it is only varying you for the limited time during testing the product (in order to obtain data). I agree there is a cost to the process for testing. The 120 variance is not a variance to put in your product for ever and ever. The only thing it gives you is time to install the systems to do the testing. At the end of the testing process (under the 120 variance) the data gathering is what gets you the approval or not. We are trying to shave 4-6 months or more off the process up front. Doing this would allow the manufacturer

to convince the department, without any testing in Florida, their product meets the intent of the statute. At the back end, (ex. testing was excellent) we can then reclassify this product for continuous use.

Ron Davenport: The ones that fly through with great results will be easy to look at for the 120 variance, the C- systems will be hard to decide. There needs to be black or white results, fail or not fail.

Ed Barranco: We are not rewriting 120 variance process, we are streamlining the process to get to the 120 variance process. We cannot change what is in statute (120). We will give a week for anyone not here today to share their comments.

Bob Himschoot: Any product in pipeline right now being held up for adoption?

Ed Barranco: We have a couple of alternative drainfield types that we are in the process of writing the innovative system permit. We have gotten through the 120 variances. These two would have likely benefited in a slightly different process. A number of other ATU like systems that are listed as innovate and they are progressing at their own pace. We are waiting to hear back from them. Several PBTS table that are marked innovate and are progressing at their own pace.

Bob Himschoot: Do we have any systems that are trying to circumvent DOH-approval.

Ed Barranco: Lead a discussion of a manufacturer going to DEP after NSF testing. Went through NSF but did not get NSF certification for 40, 245, or both. They have NSF data but not the certification.

4. Other items of interest to the TRAP

Ron Davenport: Question on legislative update.

Ed Barranco: Most bills died in committee. One bill, HB 973, died on floor prior to second reading. It was postponed indefinitely.

Roxanne Groover: Onsite sewage transfer to DEP is already discussion item for next year. Don't get too comfortable. We escaped this year, but she had her first phone call the day after session ended about next year.

Will Bryant: BMAP-area requirements are increasing. Before each change there is a throng of applications coming in before the change. Anything we can do related to BMAPS would be helpful. Need to consider and communicate before-hand.

Ed Barranco: Explains BMAP-challenge. There are five BMAPs that are under challenge. They will not be heard until September. The implementation on the prohibition on existing systems, what we permit as repairs. To get to that point requires three conditions to be met: Wastewater feasibility analysis; funding program to assist homeowners, DOH to write rule to implement this mandate (going forward) and happen within five years of the adoption of the BMAPS (four years left). DEP will then re-adopt BMAPs, to put in place the actual conditions for nitrogen-removing systems, then DOH will adopt the new BMAP references in rule. Might not see a rush for repairs, but most likely see a rush for modifications without having to meet nitrogen-reducing standards.

Will: Saw increase in repair permits when SB 550 required 12" instead of 6". Repairs bring systems into better state. Likes video idea and using modern technology to move forward.

6. PUBLIC COMMENT

MEMBERS OF THE PUBLIC WERE FREE TO SPEAK DURING THE MEETING AND DID SO. THERE WAS NO ADDITIONAL PUBLIC COMMENT.

Ron Davenport made a motion to adjourn and was seconded by Roy Pence. PASSED Unanimously, none opposed. Meeting Adjourned at 2:29 p.m.

Innovative/Performance Based Treatment System (PBTS) Rule Revision Discussion Points

Version 5/28/2019



Outline

- Innovative System Permitting (ISP) & Testing
 - Background
 - Concerns
 - Objectives and Proposed Options
 - Reclassification Paths for Tested Novel Technologies or Products:
 - Alternative Systems
 - PBTS

Version 5/28/2019



Aerobic Treatment Units (ATUs)

- Product approval based on the NSF 40/NSF 245 Report and compliance with Rule 64E-6.012 Florida Administrative Code
 - Product manual review, proof of at least one maintenance entity in the state, spare parts, approved tanks, wiring.
- Not required to be innovatively tested when permitted as an ATU

Version 5/28/2019



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Aerobic Treatment Units (continued)

- Installed as NSF certified and listed
- Allow 25% drainfield reduction in slightly limited soil (NSF 40)
- 50% nitrogen-reducing systems to comply with spring Basin Management Action Plan (BMAP) requirements (NSF 245)
- Compliance with county ordinances

Version 5/28/2019



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History

- The Department began to permit non-traditional onsite system components in the mid-1980s
- There were no regulatory requirements for these products to be tested under conditions found in Florida
- A particular drainfield product installed in the State had a high failure rate
- Many homeowners were left with failing systems, which needed to be replaced

Version 5/28/2019



History (continued)

- This experience pointed to a need for further study of untested products under Florida conditions, which also has the effect of protecting system owners
- Resulted in a statutory framework to evaluate novel and unique technologies untested in the State

Version 5/28/2019



Innovative System

“...an onsite sewage treatment and disposal system that, in whole or in part, employs materials, devices or techniques that are **novel or unique and that have not been successfully field-tested under sound scientific and engineering principles under climatic and soil conditions found in this state.**” (s. 381.0065(2)(h), Florida Statutes)

Innovative System Permit Authority

s. 381.0065(3), Florida Statutes

Duties and Powers of the Department of Health.—

The department shall:

“...(e) Permit the use of a **limited number of innovative systems for a specific period of time, when there is compelling evidence** that the system will function properly and reliably to meet the requirements of this section and rules adopted under this section.”

Objectives and Proposed Options

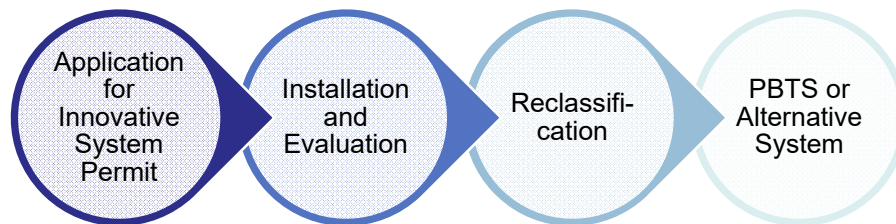
Faster, Clearer, Transparent Process

- Reduce Permitting Timelines
- Reduce Implementation Challenges
- Provide Clearer Expectations
- Standardize Monitoring Protocols and Evaluation Criteria

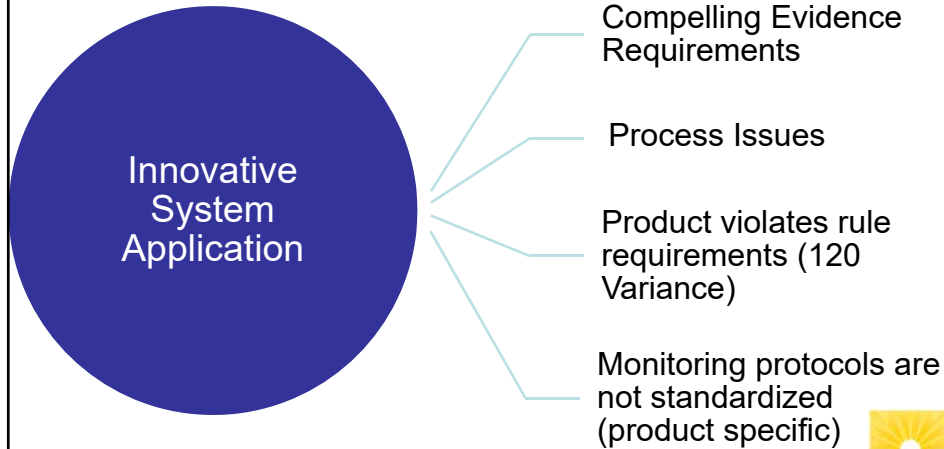
Resurrect TRAP Issue 08-09/10-11

- Update

Innovative System Permitting and Testing



Challenges



Compelling Evidence

Now

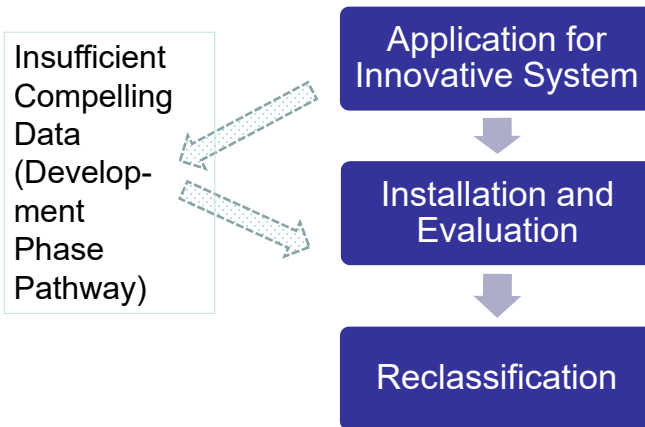
Compelling evidence must include: Testing by facility approved through the NSF International/Environmental Technology Verification Program

Under Consideration

Broaden acceptable data
(Demonstration phase pathway)

Insufficient data
(Development phase pathway)

Illustration of Process Under Consideration



Rule Violations

Now

Address all rule violations up front with 120 variances -must consider if the purpose of the underlying statute will be or has been achieved by other means.

Under Consideration

Allow for exemption of certain limited rule-specified construction standards during innovative system testing.

Results of innovative system testing informs 120 permanent variance considerations –compresses time frame.

Process Issues

Now

Frequency of information exchange Department and Applicants

Applicants response to Department request for information

Under Consideration

Clearer application requirements

Require applicant to respond within certain times

Monitoring Protocol

Now

Not standard for each ISP

Under Consideration

Standard conditions

Separate specifications for disposal systems and treatment systems

More uniformly evaluate data during application and during reclassification

Challenges



Adherence to Innovative System Permits

Training on installation and inspection procedures

Modification of ISP to incorporate experiences from the field

Permitting systems as PBTs during testing

Lack of Adherence to ISP

Now

Manufacturers and installers come up with ideas different from the ISP about how to install and monitor systems.

Some of these get incorporated into revisions of the innovative system permit.

Under Consideration

More training and guidance by manufacturer required by rule, including inspection protocols

Permitting Systems as PBTS

Now

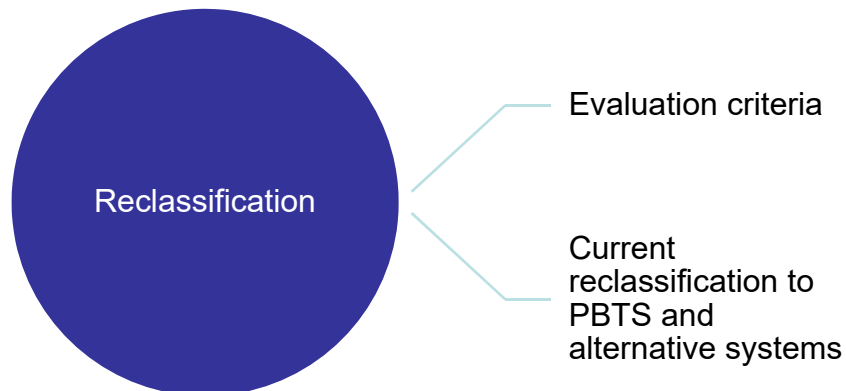
Innovative Systems are all permitted as Performance-Based Treatment Systems during testing

PBTS require extra application requirements, maintenance entity/operating permits, property record notice

Under Consideration

Move Innovative Systems out of the PBTS part of the rule

Challenges



Evaluation Criteria

Now

Product specific in each Innovative System Permit

Under Consideration

Evaluate all treatment products and all disposal products in a standardized manner using calculation procedures

Summary

Reduce Timelines for Permitting & Testing

- Broaden acceptable data and provide pathways for compelling evidence
- Streamline pathway to 120 Variances
- Rule section for ISP & Testing (separate from PBTS rule)
- Develop standardized testing protocols, limit timeframe applicants can take to respond

Provide Clearer Expectations Standardizing Monitoring Protocols and Evaluation Criteria

- Standardize monitoring protocols and evaluation criteria
- Standardize guidance and training