

RESEARCH REVIEW AND ADVISORY COMMITTEE

ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS

ADVISORY TO THE DEPARTMENT OF HEALTH

AUTHORITY: SECTION 381.0065(4)(o), FLORIDA STATUTES

Draft Minutes of the Meeting held at the Southwood Office Complex, 4025 Bald Cypress Way, Room 220P, Tallahassee, Florida
December 20, 2019

In attendance:

Research Review and Advisory Committee (RRAC) Members and Alternates:

In person:

- Elke Ursin (alternate, Department of Health)

Via teleconference:

- Roxanne Groover (chair, member, Septic Tank Industry)
- Eberhard Roeder (member, Department of Health)
- Bob Himschoot (member, Home Building Industry)
- John Schert (member, State University System)
- Daniel Meeroff (alternate, State University System)
- Clay Tappan (alternate, Professional Engineer)
- Eric Rollings (member, Real Estate Profession)
- Thomas Baker (alternate, Real Estate Profession)

Absent members and alternates:

- Bill Melton (vice chair, Consumer)
- Bob Washam (alternate, Consumer)
- Mark Tumeo (member, Professional Engineer)
- Craig Diamond (member, Environmental Interest Group)
- Matt Surrency (member, Local Government)
- Chris Pettit (alternate, Local government)
- Geoff Luebkekmann (member, Restaurant Industry)

Department of Health (the Department), Onsite Sewage Program (OSP):

In person:

- Alan Willett
- Debby Tipton
- Ed Barranco
- Ed William
- Kim Duffek
- Marcelo Blanco
- Xueqing Gao

Other attendees:

None

- 1. Introductions** – Six out of ten groups were present, representing a quorum. The meeting started at 10:00 am. Dr. Gao presented the agenda and conducted the roll call. He stated that the purpose of the meeting was to provide responses to questions raised by RRAC-chair Roxanne Groover during the December 20, 2019 RRAC meeting.

2. Responses to the first question raised during the December 20, 2019 RRAC meeting

Mr. Ed Barranco provided the response from the Department to the first request raised by a RRAC member during the December 20, 2019 RRAC meeting:

Issue:

The committee requested to know what the legal ramifications would be for RRAC to educate legislators about using the committee as an information resource.

Response:

The Department consulted its legal counsel on this issue. Legal counsel indicated Mrs. Roxanne Groover could mentioned her role in RRAC and would be able to discuss committee and its accomplishments, in her capacity as Executive Director of the Florida Onsite Wastewater Association (FOWA). RRAC information would be available for Mrs. Groover's efforts.

Mr. Barranco indicated that the response was prepared after consulting the Department's legal counsel. He elaborated that chair Groover can approach legislators as the director of FOWA, and also indicate that she is the chair of the RRAC committee. All information available to RRAC will be available to chair. Groover, including research reports and presentations published by the Department and the OSTDS research data collected by the Department.

Chair Roxanne Groover wanted to confirm that, as a RRAC member, while she can discuss with legislators and legislative committee members about RRAC's achievements and other available information, whether any other RRAC members can do the same. She also wanted to confirm that the RRAC was not given the permission to have dialogue with legislators as a group.

Mr. Barranco indicated that the response based on consulting the Department's legal counsel is relatively narrow and specifically refers to chair Groover. But he would get clarification from the Department's management to see if the response narrative can be broadened to all RRAC members.

Mr. Clay Tappan suggested that, as the chair of RRAC, Ms. Groover has the authority to talk to legislators and state RRAC's official position on issues. But other RRAC members do not have the formal authority to represent RRAC. They can speak for themselves and their organizations, but should not present to legislators officially about RRAC's position.

Chair Groover stated that she would prefer that the RRAC can reach out to legislators as a group. However, if reaching out as a group means she will be the spokesperson on behalf of RRAC, she would like the RRAC to have another call after the holiday to prepare a set of talking points so that she can present those talking points to legislators on behalf of the committee. Since RRAC is composed of several different interest groups, having a set of talking points contributed by all these groups will ensure when chair Groover reaches out to the legislators, she will talk to the interest of all the RRAC members.

Ms. Elke Ursin suggested that, based on what she heard from the Department's response, chair Groover can reach out to legislators as the executive director of FOWA, but not as a representative of the Department's research group.

Mr. Barranco said the interpretation of the response can be confirmed with the Department's legal counsel. The response indeed states that Ms. Groover can reach out to legislators, mention her role

in RRAC, and provide the RRAC information as the executive director of FOWA. In that sense, making chair Groover as a spokesperson of the RRAC will work. The key issue is to represent the Department's position properly. Presenting the Department's official positions to legislators needs to be reviewed and approved by the Department.

Mr. Bob Himschoot stated that his major concern for the Department is that the septic industry is now on the defense and constantly considered the major culprit for the water pollution. But the Department does not visibly and viably promote the benefits of the onsite wastewater treatment. He stated that the Nitrogen Source Inventory Loading Tool (NSILT) estimated the nitrogen loads from onsite systems based on the end of pipe discharge without proper studies on the soil treatment at the end of the property. He also stated that the major sewage spills that happened in Hillsborough and Broward Counties caused more serious environmental issues than onsite systems. Mr. Himschoot also stated that only about ten percent of the 2000 wastewater treatment plants in Florida achieved advanced wastewater treatment. Between 50 to 60 percent of the 2000 plants have marine discharge and they only treat to advanced secondary treatment level or high-degree disinfection without treating nutrients. Much money has been spent on converting septic systems to low treatment level sewers that discharges into waterways. At the same time, the septic industry and the Department of Health do not actively promote the benefit of the onsite systems. This is a concern.

Mr. Tappan suggested that the more important issue is that the legislators need to be educated so that they will be aware that there are many management options associated with septic and sewer wastewater treatment approaches, not just either septic or sewer.

Chair Groover appreciated the suggestions raised by both Mr. Himschoot and Mr. Tappan. She indicated that what Mr. Himschoot and Mr. Tappan suggested makes it very important for the RRAC as a committee to look into the research being done, the tools currently available for treatment, the data sources such as the Florida Water Management Inventory, etc., and prepare a set of talking points to reach out to legislators and decision makers and make them aware of all the possible options. It is an important talking point regarding how RRAC can be a source of information for legislators. She said RRAC has already started working on many important issues such as looking for funding sources for onsite systems and available tools for treatment. She would like all RRAC members to provide their version of the talking points regarding what the committee has done in the past, what tools are available, and what new research can be done to answer some important environmental questions so that the RRAC can become one of the go-to resources for those decision makers.

Mr. Barranco concurred with Ms. Groover's suggestion. He indicated that all the research that the Department published are in the public domain and will be available to Ms. Groover's efforts. The Department does not oppose RRAC's efforts to educate legislators. The Department wants to ensure that it does not appear that any RRAC member speaks on behalf of the Department through the RRAC.

Mr. Himschoot suggested that it is also important to educate the Department head that, in addition to the human health issues, the environmental issue is also a critical part of the functions of the Department of Health.

Chair Groover suggested that educating the Department head can also be addressed using the set of talking points. She suggested that all RRAC members work together to prepare the talking points and meet with the Department head to start the dialogue.

Dr. Eb Roeder summarized the discussion. He mentioned that as this RRAC-meeting started, the guidance was that people trying to educate legislators could mention that they were on the RRAC, but RRAC itself would not have a position on any particular activity. Based on Mr. Tappan and Mr. Himschoot's idea, the RRAC wants to play a more active role and do something as RRAC. Dr. Roeder mentioned that, during the period of Florida Onsite Sewage Nitrogen Reduction Strategy (FOSNRS) study, it was discussed how RRAC can generate products and store them as a separate entity so that the chair, vice chair or sub-group can have the capability to give advice to the Department on onsite sewage systems. That might be one way (to communicate with legislators). Dr. Roeder wanted to get some clarifications on how the talking points approach will work. Will it mean that the January RRAC meeting will come up as a short list of items in the meeting minutes with what RRAC considers as important features about onsite systems generally or will it mean that some other products will be created?

Chair Groover said that the idea is to let people review the past research and summarize the shining points that RRAC has accomplished. This can be the first bullet point. The second bullet point would be the use of the inventory. The third one would be how we would use the results from the past research and the inventory to take care of the challenges of dealing with human wastewater. That needs to include all the technologies from the most basic up to the central sewer. Providing the list of bullets to legislators hopefully will catch their attention on issues already studied by RRAC so that they will talk to RRAC for more information. The third point should be focused on how we can combine the research results and available tools and utilize them in a way that we should but we haven't done in the past.

Dr. Roeder suggested that we can look at the products that the Department has posted on the program website, which include a white paper discussing the plus and minus of central sewer and onsite systems, and research reports. The Department can provide direct links to those documents that RRAC members can review.

Chair Groover said that the talking points need to be prepared quickly because the legislative session will start in January. She said she would generate an outline of the three bullet points that are important and send it out to Xueqing Gao, who can send it to all RRAC members for their comments. RRAC members can go through them during the January RRAC meeting to fine tune those talking points. At the same time, she would also like to hear other suggestions.

Xueqing Gao confirmed that, once the Department received Chair Groover's outline of talking point, the document will be sent to all RRAC members as well as being posted on the Department's program webpage so that it will also be available to the general public.

Motion by Dr. John Schert and seconded by Mr. Clay Tappan for RRAC to appoint Chair Groover to draft a template on talking points for the committee to review at the next RRAC meeting. The draft template will be submitted to Xueqing Gao for dissemination to all RRAC members and the general public. All were in favor, none opposed, and the motion passed unanimously.

3. Responses to the second issue raised during the December 20, 2019 RRAC meeting

Mr. Ed Barranco provided the response from the Department to the second issue raised by a RRAC member during the December 20, 2019 RRAC meeting:

Issue:

Request to have the Department issue a memorandum to permit the use of "sand and fine sand" as part of the fine aggregates required in the INRB (In-ground Nitrogen Reducing Biofilter)

denitrification media mixture, before these fine aggregates are formally adopted in the upcoming proposed rule revision.

Department's Response:

The Department consulted with legal counsel and may consider discussing the possibility of this pathway, but not before the proposed rule has completed routing through the legal rule adoption process.

Mr. Ed Barranco indicated that the Department will be considering writing a memorandum, instructing people to follow the criteria in the revised rule once the rule is through all the adoption processes. So far, the rule is still with the Department's legal counsel. There are still several adoption steps left, including preparing a Statement of Estimate Regulatory Cost (SERC) and other documentations required by the Office of Fiscal Accountability and Regulatory Reform (OFAR). Once these documents are prepared, the revised rule will go to the Secretary for his signature. Then the program will publish a Notice of Proposed Rule for the rule adoption if there are no requests for a hearing. Once the Notice of Proposed Rule is published, the Department will consider sending the memorandum. This will avoid any uncertainties during the rule adoption process.

Mr. Barranco mentioned that, many years ago, the Department proposed a rule that would allow septic tank contractors and plumbers to abandon the disposal injection wells permitted in the Florida Keys. A memorandum was sent before the rule adoption. That rule failed to be adopted and even in early 2019, the Department was still trying to clarify the misunderstanding that septic contractors and plumbers are allowed to abandon the disposal injection wells. So, sending the memorandum after the legal processes of rule adoption is completed will prevent these confusions from happening. Mr. Barranco said that he is tracking the status of the rule adoption very closely. If the SERC requires the revised rule be ratified by the legislature, it may cause a long delay of the adoption because the chance that the rule can be ratified during the coming legislative session is small. Mr. Barranco promised that as soon as the Notice of Proposed Rule is published, he will immediately consult the management for sending out the memorandum.

Chair Groover thanked Mr. Barranco for reaching out.

Mr. Barranco indicated that the response will be posted on the program website after the RRAC meeting and will also be sent to all RRAC members.

No further questions or comments on the Department's response to the second request. Chair Groover wished everybody Merry Christmas and Happy New Year.

Motion by Dr. Eb Roeder and seconded by Mr. Eric Rollings, for the RRAC to adjourn at 10:52 a.m. None opposed, and the motion passed.

The meeting adjourned at 10:52 a.m.