

OWAC Meeting Minutes

Minutes available: <http://www.azdeq.gov/environ/water/engineering/index.html>

Onsite Wastewater Advisory Committee (OWAC) Meeting
July 14, 2015 from 10:00 am to 1:30 pm

TELECONFERENCE ONLY

The notes listed below are from the On-site Wastewater Advisory Committee meetings and are not necessarily the views of the Arizona Department of Environmental Quality. These notes are for informational purposes only and are not guidance or policy.

SPECIAL MEETING WITH FOCUS ON A316 "LISTENING SESSION"

7 of 10 Attendance: Ehrlich, Garrett, Long, Swanson, Fagen, Bartholomew, Farrell-Poe, Hawke (11:47) ADEQ-Smit, Greenslade. Public-Paul Miller

10:00 am **Chair Opening Remarks**

Jake Garrett

1. Introduction

Housekeeping details of the "July 17, Listening Session" Was OWAC informed of the "Listening Session" or invited to participate in the "Listening Session." The group believes that OWAC was informed of the meeting not invited.

Question: Do we want to provide a response from OWAC? Sentiment was in the affirmative.

Question: How does the public participate and how are they informed of the process or invited to participate?

10:15am **OWAC Discussion**

1. Discussion and development of OWAC comments to ADEQ's proposal to consider striking A316 to be presented at the July 17 "listening session".

a. Consideration of 13 points

Ed Swanson

Motion for a canvas of the OWAC members to express a preference for the June 2014 prioritized recommendations as amended and presented on July 14 as to all items or some. 2nd by Long. Amended by Long for all items be presented to the "Listening Session", 2nd by Swanson. Amendment approved unanimously. Motion to include the May 2015 Proposal for Inspection (R18-9-A309.A.11) by Long. 2nd Bartholomew. Amendment by Swanson to accept the May 2015 proposal as a draft with a change to the title to strike the word "Domestic", 2nd Long. Unanimous Approval of the Amendment. Unanimous Approval of the entire Motion and amendments. Final approved version is shown in file "OWAC B Findings _2015-07-14 for Listening Session", 3 pages.

11:33 Human Break. 11:42 resume. Bartholomew (11:43) and Swanson (11:44).

b. Consideration of specific statements regarding OWAC's A316 deliberations and a formal recommendation regarding a path to be followed related to the A316 Notice of Transfer Inspection program.

All

The following points summarize ADEQ staff oral statements were presented on June 9, 2015 (without supporting written documentation) before a meeting of the ADEQ-appointed OWAC, relating to the planned ADEQ "Listening Session" on July 17, 2015:

1. **ADEQ said: The Transfer of Ownership Inspection program (R18-9-A316) is primarily a Consumer Protection not an Environmental Protection program.**

OWAC research shows: The program was sold to the public in 2001 and 2005 as an environmental protection program evidenced by the inclusion in the Arizona Revised Statutes

as discharging facilities, Arizona Administrative Code, and Notices of Rule Making. The Department stated to the Governor's Regulatory Review Council, and commemorated in the *Arizona Administrative Digest*:

"The pre-sale inspection program ensures that septic tanks are pumped at the time of the property transfer . . . the inspection will identify other maintenance or repairs needed to ensure effective operation of the system. This program provides significant benefits to the property owner by reducing the chance of septic tank failure and extending the lifetime of the facility. It enhances the operational effectiveness of the system, thus minimizing the possibility that sewage effluent will reach the surface and cause a public health hazard. Finally, by ensuring an effectively operating system, the threat of groundwater contamination is reduced."

2. ADEQ said: There are sufficient other environmental protections in the rule.

OWAC position is: ADEQ should provide written citations of the other practical, enforceable environmental protections in the rule that serve as a proxy for R18-9-A316 and the associated compliance procedures to support this position. Except for the 5-year authorization renewals as required for Type 2 and Type 3 General Permits, R18-9-A316 and its interlocking provisions are the principle tool for ensuring compliance and making repairs to operating onsite wastewater treatment facilities authorized by the Article 3 general permit rule. The Transfer of Ownership Inspection Program is the only "champion of the environment" standing between original discharge and catastrophic failure of each of the more than 400,000 sewage facilities currently in operation in Arizona.

3. ADEQ said: The Department finds implementation of R18-9-A316 to be resource intensive.

OWAC position is: R18-9-A316, from the perspective of the State Agency, should not be resource intensive as the program has been essentially fully delegated to the most populous counties under State of Arizona jurisdiction. The ADEQ inspection report and notice of transfer forms and website have not been updated since 2006 nor to recognize the 2012 change to a 50-year Delegation Agreement term.

4. ADEQ said: Counties did not find the January 22, 2015 Draft Delegation Amendment to be acceptable.

OWAC position is: The statement is irrelevant to the misguided ADEQ proposal to repeal R18-9-A316.

If the issues raised in the June 17, 2015 letter are of concern to ADEQ, the Department should not have delegated essentially all of R18-9-A316 to 13 of 15 counties for the 50-year Delegation Agreements that expire in 2063.

OWAC Points:

1. ADEQ should justify in writing the Department position for suddenly seeking to eliminate R18-9-A316, after approximately 3 years of participation in the ADEQ-appointed OWAC meeting process. The timing, intent, and goal of the ADEQ proposal is unclear.
2. R18-9-A316 is an integral part of the statewide onsite sewage management rule. The adoption of the Article 3 rule, as described by ADEQ to the Governor's Regulatory Review Council and commemorated in the 2001 and 2005 Notices of Final Rulemaking, is critically important to the success of the uniform-framework for the statewide General Permits for onsite sewage facilities as a component of the State's aquifer protection program.

3. OWAC affirms the importance of a uniform-framework statewide regulatory framework for onsite sewage facilities which is implemented at the local level and allows for an effective, citizen friendly program that considers public support of environmental values.
 4. The June 17, 2015 letter from ADEQ represents a major departure from the stated onsite program direction as expressed by ADEQ before the Governor's Regulatory Review Council and in the 2001 and 2005 Notices of Final Rulemaking.
 5. It is important that ADEQ understand that there has been an evolving public awareness of the need for maintenance and proper operation of onsite sewage facilities to ensure protection of the environment and public health. Many stakeholders believe that this is largely driven by efforts of the R18-9-A316 program. This shift in awareness may be the single most important environmental contribution ever made as it affects more than 400,000 discharging facilities or about 25% of the wastewater discharged to the aquifer.
 6. Any regressive change or repeal of the R18-9-A316 program will require the opening of a docket and disclosure to knowledgeable stakeholders. If that is going to happen a comprehensive review can be done in context of the executive order at minimal cost to the Department as draft documents have been prepared by ACDEHSA and the OWAC. The current rule needs updating to provide streamlined procedures and efficient remedies to the missing or ineffective elements which could be incorporated in an update of the current, 9-year old rule.
 7. The only direct interaction the Arizona public has with the on-site rules is the product of the R18-9-A316 Notice of Transfer Program which informs them about the operational condition of their system and increases their awareness of the system's impact on the environment and groundwater. A316 is the driver of that increased awareness. *(Paul Miller, public stakeholder)*
2. General Notice of Transfer Inspection, Operations and Maintenance and rule development discussion. All
Not discussed

1:15 pm **Administrative Issues**

1. BUSINESS FROM THIS MEETING FOR FUTURE DISCUSSION
2. Open Forum for Stakeholder Comments Call to Public
Paul Miller- see item 7 above.

1:50 pm Close the Meeting. Motion to adjourn Fagen, 2nd Swanson, Unanimous approval to adjourn.