

Technical Review Panel
Environmental Public Health Division
Indiana Department of Health
Meeting Notes from November 27, 2023
10:00am – 12:00pm, Yoho Conference Room, IDOH and via Teams

Panel Members Present:

Kelly MacKinnon, IDOH, OLA	Mark McClain, IRSS	John Hack, OSS contractor
Jeff Healy, PE, ACEC	Claude Goguen, IOWPA	Jason Ravenscroft, academia
Amanda Lahners, LHD EHS (via Teams)		Dick Blazer, IBA (via Teams)

Others Present:

Mike Mettler, Alice Quinn, and Rachel Swartwood, and Mike Sutton, IDOH
Via Teams: Representative Jim Pressel (via Teams)
Erin Elam and Mike Sutton, IDOH
LA Brown, Installer (via Teams)
Josh Blauvelt, Allen County Department of Health
Jason Arney, Steuben County Health Department

MacKinnon called the meeting to order at 10:00am. It was announced that Kelly MacKinnon will now be chairing the TRP meetings.

Minutes of the 10/27/2023 meeting were reviewed. McClain made a motion to approve the minutes. Healy seconded the motion. Hack stated that amendments to the minutes were needed as he was left off of all roll call votes. The motion was withdrawn. Ravenscroft made a motion to accept the minutes as amended. Heally seconded the motion.

Ayes: McClain, Healy, Blazer, Lahners, Ravenscroft, MacKinnon, Hack.

Nays:

Motion passed. Goguen was not in attendance for this vote.

Changes to the TRP local ordinance review process were discussed.

- Local ordinances that will be reviewed at each meeting will need to be posted to the TRP website and distributed to panelists at least 2 weeks prior to each meeting so that the panelists have time to review the submissions and take to their appropriate organizations for comments prior to the meeting.
- The local ordinance with highlighting by the LHD indicating items more stringent than the rule, the financial impact statement, LHD reasons for more stringent items, and IDOH review documents will be posted and sent to the panelists.
- The TRP will be guiding LHDs as to what they see as appropriate for inclusion in a local ordinance. A model ordinance has been developed and was distributed to the members. It will be discussed and voted on at the December meeting. The model ordinance is proposed to limit the topics that can be included in a local ordinance to encourage more consistently and uniformly regulate those topics that will eventually be added to the rules. An ordinance will not be refused because it has other topics.

- If a LHD submits an ordinance with other topics, those topics can be discussed at a TRP meeting and decided if they are appropriate to add to an ordinance.
- IDOH will still preview submissions and guide LHDs as to whether or not their draft ordinance is appropriate for submission to the TRP. This should be done prior to county commissioners approving local ordinances.

Mettler summarized guidance that would be sent to LHDs concerning ordinance submissions.

- IDOH will review local ordinances and provide feedback to the LHD prior to county commissioners approving local ordinances.
- The LHD will need to highlight those portions of their local ordinance that are more stringent than the rule.
- Local ordinance approval by the TRP is all or nothing. Parts of ordinances will not be approved independent of other sections.
- A LHD representative should attend the TRP meeting where their ordinance is being reviewed.
- It is recommended to not start with an old/previous ordinance and try to make amendments. A fresh start is recommended.
- No part of the rule or statute should be repeated in a local ordinance.
- The local ordinance should only have minimal requirements that are more stringent than the rule. Only what is absolutely needed should be included in the ordinance.
- Reasons must be provided for each requirement more stringent than the rule.
- The long term plan is to update the rule to include those items that are necessary for OSS regulation.

Rep. Pressel stated that the fiscal impact statement should be presented to county commissioners along with the ordinance for approval. This will allow the county commissioners to make those decision based upon financial impact.

There will be a public comment form added to the TRP website for anyone to make comments on a local ordinance that is up for review by the TRP. MacKinnon stated that ideally most comments will be received at least 2 weeks prior to a meeting, but those comments made less than 2 weeks prior to a meeting or during a meeting will still be considered.

Ravenscroft stated that LHDs should have an option to present a local ordinance to the TRP even if IDOH does not think that it is not ready for submission.

Armey stated that the Steuben County ordinance had only one thing dealing with a local sewer district and why it was unacceptable to be included in a local ordinance. Quinn stated that the specific section reiterated an existing statute.

Mettler said this model ordinance would be sent out to LHDs this week, and any comments received would be forwarded to the TRP.

Expansive and contractive clay was discussed. McClain prepared to give a presentation on expansive and contractive clay in Indiana. Blazer questioned why this was being presented to the TRP when it should not be a discussion for the TRP members who were not familiar with the issues and should not be making decisions.

It was explained that this was a topic that was proposed for inclusion in the updated IDOH rules. The TRP is responsible for reviewing and approving any rule updates, so this was being presented as a primer to that discussion. No formal vote or action would be taken on this subject at this meeting.

McClain's presentation covered what expansive and contractive clays soils are, what characteristics expansive and contractive clays soils have, where expansive and contractive clays soils are found in Indiana, why expansive and contractive clays soils are a problem for OSS, and his proposal for a resolution to this issue in Indiana.

McClain also commented on an IDOH memo sent to LHDs on 11/1/23. He said he could not support the IDOH recommendation to consider horizons with slickensides ≥ 2 " being considered limiting layers. He also had concerns with the IDOH recommendation to keep the absorptive surface as high in the soil profile as possible, including requiring elevated systems when site conditions allow. He stated that most soils he has observed with expansive and contractive clays had issues immediately below the Ap horizon.

A few major points McClain made include:

- Soils with expansive and contractive clay mineralogy are very dynamic with structure changing dramatically between wet and dry states.
- Stress cutans (permeable) and slickensides (mostly impermeable) are both pressure faces, but have very different soil development and morphological characteristics.
- There are areas of concern in northeast Indiana and southeast/south-central Indiana and possibly in northwest Indiana.
- Correlation does not imply causation. In other words, "Knowing that these numerous shrink-swell clay 'problems' are complexly interrelated, makes it extremely difficult to completely understand how to make valid interpretations and proper informed decisions relative to technical and regulatory thresholds."
- Expensive and extensive research is needed to solve this problem, and IDOH needs an interim approach until that is completed.
- Soil scientists and engineers should work together to design systems that will overcome these limitations.

Brown posed a few questions to McClain after the presentation. He asked if this information was going to be shared with other soil scientists working with expansive and contractive clay soils to which McClain replied that he has been talking to several on a regular basis. Brown asked if slickensides could be seen in very dry soil conditions, and McClain replied yes. Brown also asked if any of the tests that had been done in Allen County were going to be recommended by McClain. McClain preferred not to answer such a broad question. Goguen asked if other areas dealt with this issue, such as northwest Ohio. It was briefly discussed that this was an issue both nationally and internationally, but there was no one way it was being dealt with consistently.

The next meeting is scheduled for December 14, 2023 from 9:00am to 12:00pm. Healy made a motion to adjourn the meeting which was seconded by Ravenscroft. The motion passed unanimously.