



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE BOARD FOR THE CERTIFICATION OF SEWAGE ENFORCEMENT OFFICERS

DRAFT
MINUTES
August 14, 2019

The State Board for the Certification of Sewage Enforcement Officers (Board) was called to order at 10:11 a.m. on Wednesday, August 14, 2019, by Vice-Chairman, Mr. Gordon Sheetz. Chairman, Samuel D'Alessandro was unable to attend. The teleconference meeting was held in the 11th floor conference room B of the Rachel Carson State Office Building, Harrisburg, PA.

Meeting Attendees:

- Mr. Gordon Sheetz (telephone).....Board Vice-Chairman
Mr. John Seamans (telephone).....Board Member
Mr. John Wagman (telephone).....Board Member
Mr. Galen Weibley (telephone).....Board Member
Ms. Amy Forney.....Board Secretary, DEP
Mr. John Cantwell..... Board Legal Counsel, DEP
Ms. Roberta Radel..... DEP, BCW
Mr. Brian Schlauderaff..... DEP, BCW
Mr. Brian Chalfant..... DEP, Policy Office

- 1. Consideration of approval of the August 14, 2019, meeting minutes. Mr. Sheetz requested feedback from the Board on the contents of the draft meeting minutes. Mr. Galen Weibley noted that his name was misspelled in the first paragraph. Mr. Sheetz requested that DEP update the minutes accordingly prior to being posted on the Board's website. Mr. John Wagman motioned to approve the August 14, 2019, meeting minutes. Mr. John Seamans seconded the motion. The vote was unanimous; motion carried.
2. Certification of new Sewage Enforcement Officers (SEOs). Mr. Sheetz asked the Board if they had received a copy of the exam report to which they all replied that they had. Mr. Sheetz then explained the requirements and noted that of the six individuals who tested the first two listed has passed while the remaining four had failed. Mr. Sheetz then inquired if any of these were second or third attempts. Ms. Amy Forney explained that all examinees were retesting from the May 10th, 2019 exam following that Pennsylvania State Association of Township Supervisors (PSATS) SEO Academy class. Mr. Wagman asked about the frequency limitations on taking the SEO Certification Exam. Ms. Forney explained that an SEO has three opportunities to pass the certification exam following the academy. After three failures the candidate is required to wait one year and must first retake the PSATS SEO Academy prior to retaking the SEO Certification Exam. Mr. Seaman's motioned to approve the certification of the two individuals who had passed the SEO Certification Exam. Mr. Weibley seconded the motion. The vote was unanimous; motion carried.

3. Mr. Brian Schlauderaff updated the Board on DEP's meeting with PSATS and the increased failure rate from the May 10, 2019 SEO Certification Exam. Mr. Schlauderaff explained that DEP didn't have much information to review in trying to understand why the failure rate was so high in comparison to past PSATS SEO Academy classes. Mr. Schlauderaff expressed DEP's intentions to follow-up during the course of the November 18-22, 2019, PSATS SEO Academy class. Mr. Schlauderaff stated that PSATS requests that students complete a survey at the close of the SEO Academy, prior to taking the SEO Certification Exam. DEP has advised that PSATS include additional questions on that survey in an attempt to produce more helpful feedback and to pinpoint potential inadequacies in the SEO Academy. DEP staff will get more information on this issue and, hopefully, have more details to offer at the December 4<sup>th</sup>, 2019 Board meeting. Mr. Sheetz was satisfied with DEP's inquiries and efforts on this issue and stated that the Board looks forward to more feedback at the next Board meeting following the November 18-22, 2019 PSATS SEO Academy. Mr. Wagman inquired about the number of students enrolled in the Academy. Ms. Forney noted that we have only three registrants currently registered for the SEO Certification Exam following the November 2019 Academy and only one of those is a previous student from the May 2019 exam that will be retaking the SEO Certification Exam. At the time of the Board meeting, only two individuals were signed up for the November 2019 PSATS SEO Academy, although students typically do not sign up for the Academy months before the course date(s). As the November 2019 PSATS SEO Academy approaches, DEP staff will collaborate with PSATS to ensure that students taking the Academy are signed up to also take the SEO Certification Exam.
4. Board legal counsel, Mr. John Cantwell updated the Board on the agreement to obtain a Hearing Officer through the Pennsylvania Department of State (DOS) for the appeal of SEO certification revocation by Robin Singer. Mr. Cantwell noted that a selection had been made for a Hearing Officer and that work on the appeal had begun. Mr. Cantwell noted that a pre-hearing conference call has been scheduled and that requests for documentation of pre-hearing materials from Mr. Singer's attorney and from DEP's Southwest Regional Office attorneys were made in preparation for the call. Mr. Cantwell gave a general overview of the hearing process. The DOS Hearing Officer will conduct a hearing and will then draft a report of findings and provide it to the Board, who will then review and decide whether they will adopt the Hearing Officer's final proposed adjudication and order. If the Board is not satisfied with the Hearing Officer's report, the Board may draft their own report and final determination. Mr. Cantwell noted that this is currently the standard procedure being used throughout the Commonwealth of Pennsylvania's government offices. Mr. Cantwell indicated that DEP has also drafted a Memorandum of Understanding (MOU) to work with DOS to standardize this process between DEP and the certification boards under DEP's oversight to allow more expedient facilitation in future revocation actions made by DEP staff.

Mr. Cantwell noted that DEP's Chief Counsel, Alex Chiaruttini, is willing to discuss the details of this MOU at the next Board meeting if the Board is interested or has questions. Mr. Sheetz expressed the Board's understanding of what Mr. Cantwell discussed. Mr. Seaman's inquired as to whether the inadequacies noted in the revocation were found as result of failure of the septic system(s) approved by the Mr. Singer. Mr. Cantwell explained that all materials from DEP findings leading to the revocation of certification were provided to the Board, but that it is

now up to the Hearing Officer to collect the information through the hearing and make a proposal to the Board. Mr. Cantwell stated that after the hearing, the Board will be able to review the information and that Mr. Cantwell, as the Board's attorney, will then be able to make recommendations on what actions are available to the Board. Mr. Cantwell noted that the transcript and exhibits from the hearing will be provided to the Board as well as the Hearing Officer's report and recommended determination. Mr. Cantwell noted that all the hearing materials are to be reviewed by the Board who will make the final decision on the outcome. Mr. Sheetz inquired as to whether the Board had the materials discussed; Mr. Wagman and Mr. Seamans stated that they had. Mr. Weibley inadvertently left the meeting before responding.

5. Mr. Schlauderaff updated the Board on the soils training course outcomes and anticipated upcoming training opportunities and potential additional subsidies. Training outcomes are resulting in a high success rate, in spite of feedback from students that the training course is difficult. DEP staff takes that as a positive sign that this is a good training course. Mr. Schlauderaff reviewed some of the greatest issues with the course, including:
  - a) A limited availability of portable toilets and the fact that public facilities were not quickly accessible.
  - b) The backhoe was not on site for safety reasons. With students being in close proximity to the backhoe, the costs of keeping heavy equipment on-site greatly increases the risk and liability, and, therefore, the cost. Since safety is a primary concern with the course, having heavy equipment on site will likely increase the cost of the course moving forward.
  - c) DEP realizes that is difficult to find and gain access to areas with good mottling to provide students adequate examples of limiting zones for seasonal high waters. Therefore, DEP requested that the training providers include other visual tools, like cores, that can show students good examples of mottling.
  - d) DEP suggested some requirements for the online portion of the course. DEP review found that trainers were sometimes using different techniques during the course based on their personal preferences for what worked well for them. DEP staff suggested that it would be most advantageous for students to learn all of these techniques and for students to walk through all of the pits to physically experience each of the different methods.
  - e) DEP also specified to the training provider that each of the trainers need to follow the approved training script to ensure that the students are all getting the prescribed, approved program information.

Mr. Schlauderaff noted that the next soils training course is proposed for September or October has not yet been scheduled, and that nothing about the next course is yet listed on the PA Clean Water Academy.

Mr. Schlauderaff noted that the Clean Water budget includes \$30,000 for FY19-20 to subsidize soils training for approximately 50 SEOs. Mr. Schlauderaff noted that DEP staff have notified the SEO community of the updated draft SEO Certification and Training Program Guidance that would make the soils course required training, and that DEP will work to subsidize the course for SEOs as much as possible.

Mr. Schlauderaff noted that the intention for future versions of the SEO Certification and Training Program Guidance are to make the soils course requisite training prior to taking the PSATS SEO Academy, and to require successful completion of both the soils course and the SEO Academy before a candidate can sit for the SEO Certification Exam.

Mr. Sheetz was impressed with the pass rate for the soils course and expressed the importance of the course being located in physical training sites that would sufficiently demonstrate the limiting zone for both the water table and rock. Mr. Seamans also emphasized the importance of having the visual examples of the limiting zone, both to rock and mottles.

Mr. Schlauderaff agreed and stated that DEP also requested that trainers impress upon the soils course students that if they *ever* have *any* doubt or questions, *whatsoever*, when they're making these determinations, they should be contacting a DEP Soil Scientist to come on site.

6. Mr. Schlauderaff updated the Board on the SEO Certification and Training Program Guidance, which is now moving through the final stage. Mr. Schlauderaff noted that DEP received only seven comments on the draft guidance, that the comment and response document has been prepared, and that the final guidance is currently going through the executive review and approval process. Mr. Schlauderaff further noted that the comment and response document will be posted on eLibrary and noticed in the *Pennsylvania Bulletin* once the final approval has been made by DEP executives and the Policy Office. Mr. Schlauderaff stated his hope that the final guidance will be available by the end of this calendar year. Mr. Schlauderaff noted that once the final guidance is available, notifications will go out to all SEOs. Mr. Schlauderaff also assured that the Board would be notified as soon as the final guidance is approved.
7. Mr. Sheetz called for any new business from the Board and then from DEP; neither had any new business to discuss. It was noted that Mr. Weibley had not returned to the meeting, however a quorum was still present, so the meeting continued without Mr. Weibley.
8. Mr. Sheetz announced that the Board will meet next on December 4, 2019 at 10 a.m. Mr. Wagman motioned to adjourn. Mr. Seamans seconded the motion. The vote was unanimous; motion carried. Meeting adjourned at 10:52 a.m.