**GOVERNOR’S REGULATORY REVIEW COUNCIL (GRRC)**

**MINUTES OF THE**

**OCTOBER 3, 2017 COUNCIL MEETING**

The Governor’s Regulatory Review Council Meeting was held on Tuesday, October 3, 2017 at 10:00 a.m., at the Arizona Department of Administration, 100 N. 15th Ave., Room 300, Phoenix, AZ 85007.

**PRESENT:**

**Council Chairwoman:** Nicole O. Colyer

**Council Member:** Frank Thorwald

**Council Member:** Brenda Burns

**Council Member:** John Sundt (telephonically)

**Council Member:** Christopher Ames (telephonically)

**Council Member:** Connie Wilhelm (telephonically)

**Staff Attorney:** Chris Kleminich

**Staff Attorney:** Shama Thathi

**Legal Intern:**  Alissa Mack

**Legal Intern:**  Daniel Herder

**Assistant Solicitor General:** Jennifer Perkins

**Assistant Attorney General:** Rusty Crandall

**ABSENT:**

**Council Member:** Steve Voeller

1. **CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

**Chairwoman Colyer** called the meeting to order at 10:01 a.m.

1. **DISCLOSURE OF CONFLICTS OF INTEREST**

None.

1. **CONSENT AGENDA ITEMS**
2. **Rules**
   1. **BOARD OF COSMETOLOGY (R-17-1001)**

Title 4, Chapter 10, Board of Cosmetology

**Amend**: R4-10-101; R4-10-104; R4-10-105; R4-10-107; R4-10-108; R4-10-110; R4-10-203; R4-10-204; R4-10-205; R4-10-206; R4-10-208; R4-10-302; R4-10-306;

R4-10-403; R4-10-404

**New Section**:R4-10-206.1; R4-10-304.1

**1.2** **DEPARTMENT OF HEALTH SERVICES (R-17-1002)**

Title 9, Chapter 16, Article 4, Registration of Sanitarians

**Amend**: Article 4

**New Section**: R9-16-401; R9-16-402; R9-16-403; R9-16-404; R9-16-405; R9-16-406;

R9-1407; Table 4.1; R9-16-408; R9-16-409

**Repeal**: R9-16-401; R9-16-402; R9-16-403; R9-16-404; R9-16-405; R9-16-406;

R9-16-407; Table 1; R9-16-408; R9-16-409

* 1. **ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (R-17-1003)**

Title 9, Chapter 22, Article 7, Standards for Payments

**Amend**: R9-22-712.60; R9-22-712.62; R9-22-712.63; R9-22-712.64; R9-22-712.65;

R9-22-712.66; R9-22-712.68; R9-22-712.71; R9-22-712.72; R9-22-712.80;

R9-22-712.81

**1.4** **INDUSTRIAL COMMISSION (R-17-1005)**

Title 20, Chapter 5, Article 12, Arizona Minimum Wage and Earned Paid Sick Time Practice and Procurement

**Amend**: Article 12; R20-5-1201; R20-5-1202; R20-5-1205; R20-5-1206; R20-5-1208;

R20-5-1209; R20-5-1210; R20-5-1211; R20-5-1213; R20-5-1218

1. **Five-Year Review Reports**
   1. **DEPARTMENT OF HEALTH SERVICES (F-17-0907)**

Title 9, Chapter 6, Article 7, Required Immunizations for Child Care or School Entry

* 1. **DEPARTMENT OF HEALTH SERVICES (F-17-0908)**

Title 9, Chapter 10, Article 2, Hospitals

* 1. **ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (F-17-0902)**

Title 9, Chapter 28, Article 3, Preadmission Screening (PAS)

* 1. **ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (F-17-1003)**

Title 9, Chapter 28, Article 6, RFP and Contract Process

* 1. **ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (F-17-1004)**

Title 9, Chapter 28, Article 7, Standards for Payments

* 1. **DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS (F-17-1008)**

Title 8, Chapter 2, Article 1, Search and Rescue; Article 3, Governor’s Emergency Fund; Article 6, Hazardous Materials Training Program, Student and Instructor Evidence of Completion

* 1. **DEPARTMENT OF ENVIRONMENTAL QUALITY (F-17-1009)**

Title 18, Chapter 11, Article 6, Impaired Water Identification

**ACTION:** **Member Burns** moved to approve the items on the consent agenda. **Member Thorwald** seconded the motion. The motion passed unanimously.

1. **CONSIDERATION AND DISCUSSION OF RULES**
2. **DEPARTMENT OF ENVIRONMENTAL QUALITY (R-17-1004)**

Title 18, Chapter 9, Article 6, Reclaimed Water Conveyances; Article 7, Direct Reuse of Reclaimed Water

**Amend**: Article 7; R18-9-A701; R18-9-A702; R18-9-A703; R18-9-A704; R18-9-A705; R18-9-A706; R18-9-B701; R18-9-B702; Table 1; R18-9-B703; R18-9-B704; R18-9-B705; R18-9-B706; R18-9-B707; R18-9-B708; R18-9-B709; R18-9-B710; R18-9-C701; R18-9-D701; R18-9-D702

**New Part**: Part A; Part B; Part C; Part D; Part E

**New Section**: R18-9-A707; R18-9-E701

**Renumber**:R18-9-701; R18-9-702; R18-9-703; R18-9-704; R18-9-705; R18-9-706; R18-9-707; R18-9-708; R18-9-709; R18-9-710; R18-9-711; R18-9-712; R18-9-713; R18-9-714; R18-9-715; R18-9-716; R18-9-717; R18-9-718; R18-9-719; R18-9-A701; R18-9-A702; R18-9-A703; R18-9-A704;

R18-9-A705; R18-9-A706; R18-9-B701; R18-9-B702; Table 1;

R18-9-B703; R18-9-B704; R18-9-B705; R18-9-B706; R18-9-B707;

R18-9-B708; R18-9-B709; R18-9-B710; R18-9-C701; R18-9-D701;

R18-9-D702

**Repeal**:Article 6; R18-9-601; R18-9-602; R18-9-603; R18-9-720

**Mr. Kleminich** gave a brief presentation on the status of the rulemaking.

**Member Burns** expressed her concerns related to public comments received at the September 26th study sessionand discussed the possible merits of tabling the item until the following month to give additional time for stakeholder input and input from the Governor’s Water Augmentation Council.

**Member Thorwald** stated that he had similar concerns**.**

**Ms. Heidi Haggerty**, rule writer for the Department, discussed how the public comments made at the study session on September 26th were not related to the rulemaking before the Council.

**Mr. Chuck Graf**, principal hydrogeologist for the Department, described the make-up of the Augmentation Council.

**Member Burns** discussed the importance of stakeholder involvement.

**Mr. Trevor Baggiore,** Water Quality Division Director**,** also addressed the Council’s concerns and described the Department’s commitment to public health and safety in the water management process.

**Member Burns** noted that she respects the Department expertise with regards to water safety and is not in a position to question the Department’s technical conclusions. The stakeholder process is important for the Council to consider.

**Mr. David Dunaway,** Groundwater Protection and Water Reuse Value Streams Manager, noted that a 30 day delay in voting on the rules would not have a meaningful impact on the Department’s processes.

**Member Sundt** noted that the public commenters proposed a definition of “gray water” that differs from the definition in statute. The Department cannot alter a statutory definition.

**Chairwoman Colyer** asked the Department why an effective date of January 1, 2018 was chosen.

**Ms. Haggerty** responded due to convenience the Department has chosen that date. Mr. Baggiore agreed.

**Mr. Baggiore** asked the Council to state specific actions the Council would like the Department to take, if the Council decides to table the rulemaking for another month.

**Member Burns** asked if the Department could get a letter from the Governor’s Water Augmentation Council within the next 30 days.

**Mr. Graf** stated that the Department is not aware of when the Augmentation Council is supposed to meet next time and is unsure as to whether the public’s comments can be adequately addressed by the Augmentation Council.

**Member Burns** commented that it would help her to be sure that the Augmentation Council is aware of these other issues.

**Mr. Kleminich** discussed the statutes related to the effective date of the rulemakings.

**Ms. Haggerty** commented that the Department has concluded that the issues raised in the public comments are substantively vague or outside of the scope of this rulemaking.

**Mr. Graf** spoke to the nature of the Augmentation Council and the Augmentation Council’s work on the bigger picture issues than the ones raised by this rulemaking.

**Chairwoman Colyer** noted that at the study session a comment was made that gray water regulations affects 22% of the state’s population.

**Mr. Graf** responded that his research shows that 17% or 15% of the population are on septic right now for their wastewater disposal.

**Ms. Haggerty** reiterated that the Department will address the public comments in the future.

**Mr. Baggiore** asked the Council if the members have specific concerns.

**Member Burns** reiterated that it would be nice to have a letter from the Augmentation Council endorsing the rulemaking.

**Mr. Baggiore** commented that Augmentation Council is concerned with big picture issues at this time.

**Member Burns** noted that a member of the Augmentation Council spoke at the study session in support.

**Mr. Graf** commented that after the study session he was made aware that the Augmentation Council’s Recycled Water Committee would take up some of the on-site issues.

**Member Burns** noted that they haven’t yet.

**Mr. Graf** stated that they haven’t yet because it’s not a big picture item and not part of this rule.

**Member Thorwald** asked for clarification about DEQ’s written response to the public commenters with regard to building codes and devices for cleaning gray water.

**Mr. Graf** responded that National Sanitary Foundation 350 allows you to treat water to a higher standard. For personal use, DEQ’s rules do not disallow that. The building codes may be inconsistent with DEQ’s gray water rules, which are state rules.

**Member Thorwald** noted that many people in rural areas use gray water systems and would love to be able to use it on fruit trees and vegetables.

**Mr. Graf** noted that these rules do not disallow those devices and workshops around the state show how people can operate their gray water system to the highest effect.

**Mr. Dunaway** expanded on Mr. Graff’s comment.

**Mr. Graf** reiterated that the NSF 350 process needs to be dealt under DEQ’s APP rules.

**Member Burns** commented if this rule were approved today or 30 days from now, what are DEQ’s next steps with regard to the on-site issues that have been brought up and how quickly and what would be the next steps?

**Mr. Dunaway** responded that regardless of what the decision is today, the Department plans to begin working on the on-site issues by October 15th, 2017.

**Mr. Graf** noted that the Department will need to discuss specific rule changes and request an exemption from the moratorium. He also noted that the Department will empower its work groups to analyze potential issues.

**Member Burns** asked if that was the DEQ subcommittee or the Augmentation Council subcommittee?

**Mr. Graf** said they would absolutely keep the Water Augmentation Council participants involved. The two existing work groups are specific ADEQ work groups.

**Member Burns** asked how long before the new rule could potentially take effect.

**Mr. Graf** responded their current schedule is end of next year.

**Member Burns** asked how long it would take for the Department to incorporate language proposed by the public commenters into this rulemaking.

**Ms. Haggerty** responded it wouldn’t be a part of this rule making as it requires significant research and stakeholder outreach.

**Chairwoman Colyer** commented that it is helpful to know DEQ’s next steps with regards to the on-site community.

**Member Thorwald** commented that he is also the Chairman of the Oil and Gas Commission and asked if the process by which drillers will clean water for use impacted by this rulemaking.

**Mr. Graf** responded that DEQ allows for individual recycled water permits to be retained on a case-by-case basis.

**ACTION: Member Burns** moved to approve the agenda item. **Member Thorwald** seconded the motion. The motion passed unanimously.

1. **CONSIDERATION AND DISCUSSION OF FIVE-YEAR REVIEW REPORTS**

None.

1. **CONSIDERATION AND DISCUSSION OF THE REVIEW OF RULES OUTSIDE OF THE FIVE-YEAR-REVIEW PROCESS:**
2. **DEPARTMENT OF ENVIRONMENTAL QUALITY**

Title 18, Chapter 2, Article 7:

Table 1: Emission Limitations for Small, Medium, and Large HMIWI

Table 2: Emissions Limitations for Rural HMIWI

Title 18, Chapter 2, Article 17:

Appendix 12: Procedures for Determining Ambient Air Concentrations for Hazardous Air Pollutants

Title 18, Chapter 8, Article 2:

R18-8-269: Standards Applicable to the State-owned Hazardous Waste Facility

Title 18, Chapter 12, Article 6:

R18-12-601: Eligibility

R18-12-602: Applicability

R18-12-603: General Application and Direct Payment Request Requirements

R18-12-604: Reimbursement Application Process

R18-12-605: Preapproval Application Process

R18-12-606: Direct Payment Request Process

R18-12-607: Schedule of Corrective Action Costs

R18-12-608: Scope and Standard of Review

R18-12-609: Copayments: Applicability, Waivers, and Credits

R18-12-610: Interim Determinations, Informal Appeals, and Requests for Information

R18-12-611: Final Determinations and Formal Appeals

R18-12-612: Priority of Assurance Account Payments

R18-12-613: Determining Financial Need Priority Ranking Points

R18-12-614: Financial Documents for Determining Financial Need Priority Ranking Points

R18-12-615: Risk Priority Ranking Points

Title 18, Chapter 12, Article 7:

R18-12-701: Allocations of Grant Account Funds

R18-12-702: Eligible Projects

R18-12-703: Amount of Grant Per Applicant or Facility

R18-12-704: Grant Application Submission Period

R18-12-705: Grant Application Process

R18-12-706: Grant Application Contents

R18-12-707: Work Plan

R18-12-708: Business Plan

R18-12-709: Review of Application

R18-12-710: Feasibility Determination

R18-12-711: Criteria for Determining Priority Ranking Points for Applicants Other Than Local Governments

R18-12-712: Criteria for Determining Priority Ranking Points for Applicants That Are Local Governments

R18-12-713: Determination of Grants to be Issued

R18-12-714: Grant Issuance; Notification; Payment

Title 18, Chapter 12, Article 9:

R18-12-901: Regulated Substance Fund

R18-12-902: Monitored Natural Attenuation (MNA) Account

R18-12-903: Monitored Natural Attenuation (MNA) Program

Title 18, Chapter 13, Article 25:

R18-13-2501: Recycling Emblem Description and Usage

Title 18, Chapter 17, Article 1:

R18-17-102: Toxic Substances List

**Member Burns** moved to require the Department to submit a report for the rules by October 10, 2017. **Member Thorwald** seconded the motion. The motion carried unanimously.

1. **ADJOURNMENT**

**Chairwoman Colyer** adjourned the meeting at 10:45 a.m.

Respectfully submitted by

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*GRRC Executive Staff Assistant*