



MICHELLE LUJAN-GRISHAM
Governor

HOWIE C. MORALES
Lt. Governor

NEW MEXICO ENVIRONMENT DEPARTMENT

Harold Runnels Building
1190 South St. Francis Drive (87505)
P.O. Box 5469, Santa Fe, NM 87502-5469
Phone (505) 827-2802 Fax (505) 476-8656
www.env.nm.gov



JAMES C. KENNEY
Cabinet Secretary Designate

JENNIFER J. PRUETT
Deputy Secretary

Utility Operator Certification Advisory Board Minutes of Regular Meeting July 19, 2019

Ms. Eisen called the meeting to order at 9:10 a.m. and began with the roll call and introduction of guests.

1. Roll Call and Introduction of Guests:

Present: Cathie Eisen, Joe Harvey, Joe Bailey, Ivan Abell. Maria Gilvarry and Dale Graham attended by phone.

Absent: Rick Mitchell, Bobby Towel and Sydney Hoke.

Guests: Eric Hall, UOCP Manager; Nile Carver, UOCP; Anne Keller, UOCP; Cynthia Arnold, American Water-Edgewood.

2. Review and Approval of Agenda:

Ms. Eisen inquired if everyone had a chance to review the agenda and asked for any changes or corrections. Mr. Bailey made a motion to approve the agenda. Mr. Abell seconded the motion. All board members voted affirmatively, and the motion passed unanimously.

3. Review and Approval of April 5, 2019 Meeting Minutes

Ms. Eisen asked if everyone had a chance to review the meeting minutes and asked for any corrections. Ms. Eisen noted on page 1, Bobby Towle's name was misspelled and Cynthia Arnold should have been listed as NMWWA affiliate. Mr. Abell made a motion to approve the minutes as amended. Mr. Harvey seconded the motion. All board members voted affirmatively, and the motion passed unanimously.

4. Andrew Roark Experience determination

Mr. Hall explained that Mr. Roark was not present at the meeting, even though he's told Mr. Hall that he would be present for this agenda item. Mr. Hall asked if Board had time to review his experience material. Ms. Eisen commented to Ms. Keller that when there is an extensive amount of information to review for the Board meeting, the Board needs the information as early as possible, so they can properly review the material before the meeting. Ms. Keller understood and agreed and apologized that the Board was not given enough time prior to the meeting to review the material. Mr. Abell asked for a few minutes to quickly review and refresh himself on the information. The Board members silently reviewed of his experience docs.

Mr. Abell posed the a few questions after his review of the documents. He stated it appeared Mr. Roark applied to test for April 11, 2019, exam session. Mr. Abell noted that Mr. Roark was rejected due to lack of prior experience. Mr. Abell noted an email that Mr. Roark wrote Mr. Hall that contained Mr. Roark's supplemental experience. Mr. Hall confirmed receipt of the supplemental information. Mr. Abell stated supplemental experience shows he only takes samples. Mr. Hall confirmed this interpretation of the supplemental information provided by Mr. Roark.

Mr. Hall stated he's explained to Mr. Roark the need for specific information regarding his operator operations experience in the supplemental information. Unfortunately, the additional information didn't document any system operation experience. Mr. Hall noted that Mr. Roark accepted the responsibilities of the operator in charge of the two systems and then inquired about certification requirements with the UOCP.

Ms. Eisen stated Mr. Roark is required to be certified to run these systems. In her estimation, she stated it appears he's trying to push the definition of experience to benefit his situation. Ms. Eisen said that perhaps now that he's become the operator for these systems, he's actually getting the experience.

Mr. Hall agreed that he doesn't have the 1 year of experience yet. Ms. Eisen agreed and stated the supplemental information indicates he's been running these systems for approximately 7 months. Mr. Hall noted Mr. Roark is requesting to take his level 1 wastewater exam. Ms. Eisen stated he needs to get the 1 year of experience and the required training credits before he can test. Mr. Hall expressed his concerns about operator supervision in this situation.

Mr. Abell stated according to the documents submitted in his exam application, Mr. Roark has worked for Albuquerque Public Schools for 9+ yr. The information indicates Mr. Roark performed wastewater sampling from December 2009 until November 2018. Mr. Abell presumes Mr. Roark may know a little more about running a wastewater system than a new wastewater sample tech because of his prior wastewater sampling experience. Mr. Abell is inclined to allow him to test in the fall, at the next exam session because he will have 8 months of wastewater experience, he's already got 9 years of wastewater sampling experience, he's got a BS degree and it is only a WW1 certification for which he'd be testing. Mr. Hall asked for the date of the application deadline for Aug exam session. Mr. Carver responded July 31.

Mr. Abell asked for other Board member thoughts, but stated according to Regs, it is cut & dried – he cannot be allowed to test until he meets all the requirements. Mr. Hall responded that he's probably got 7-8 months operating these systems, by the time he applies and is approved, he would probably be close to 1 yr. Mr. Hall asked the Board if they want to do as Mr. Abell is suggesting – take some of Mr. Roark's wastewater sampling experience and count it as wastewater system experience. Mr. Hall noted that the Program will have to justify the Board's decision according to the regulation.

Mr. Abell stated that if sampling is a path to becoming certified, we could count some of his years of sampling. Ms. Gilvarry asked if Mr. Roark already holds a wastewater lab tech certification. Since Mr. Roark has been sampling, Ms. Gilvarry wants to know what certification Mr. Roark holds. Mr. Carver investigated Mr. Roark's certification record.

Eisen stated that if we're going to apply the wastewater sampling experience, then we should apply the experience at 25%, as per the regulation.

Mr. Harvey asked if he was invited to appear at the meeting. Mr. Hall again verified that he'd checked twice with Mr. Roark who confirmed two times that he would attend; however, he was not present. Mr. Harvey stated since Mr. Roark didn't come to the meeting to present more information and answer questions, Mr. Harvey is not inclined to apply regulatory substitutions. Mr. Harvey noted that he and Mr. Abell drove in from Carlsbad, and Ms. Eisen drove in from Ft. Sumner. Since Albuquerque Public Schools is local to the location of the Board meeting, Mr.

Harvey recommends Mr. Roark should be required to get his 1 year of experience 10 training credits before being allowed to test. Mr. Hall agreed. Ms. Eisen was also in agreement.

Ms. Eisen also stated she's concerned that a precedent will be set with this operator. She recommended the Board lay out a clear path as to how this situation will be managed now and in the future. She reminded the board that they need to treat all the operators and systems equally when it comes to the interpretation of the UOC Regulation.

Mr. Harvey noted that someone who is performing wastewater sampling should be a certified wastewater operator. The fact that Mr. Roark put "environmental manager" as his title leads the Board to believe he's worked behind the desk and not out in the field performing operations.

Mr. Carver displayed Mr. Roark's certification level on the Mondopad display. Mr. Abell stated aloud that Mr. Roark holds a WS2 certification. Ms. Gilvarry clarified that he only holds a water certification and not a wastewater certification. Mr. Hall confirmed.

Mr. Hall agrees with Ms. Eisen in that the Board needs to be consistent in their experience determinations. Mr. Hall noted that if this operator has water system operations experience, then the Board has stated in the past that some of that experience could count toward wastewater experience.

However, Mr. Hall agree with the Board that Mr. Roark should have appeared before the board for discussion of this issue. Ms. Eisen wants to know the status of historical compliance at these 2 systems he's recently taken over. Mr. Hall stated he didn't know the compliance history. Mr. Hall stated the only information the Board has to go on is the information/emails presented.

Ms. Gilvarry is inclined to provide him a little lee-way. However, she said she's concerned that he didn't investigate the certification requirements before he accepted the position as operator for these systems. Additionally, Ms. Gilvarry is concerned that Mr. Roark doesn't know what he's what the requirements are for him to hold these positions. She would still like for Mr. Roark to come before the Board regarding this issue.

Mr. Abell suggested the board table this agenda item until the next meeting and require Mr. Roark to appear in person to explain his situation and answer the Board's questions. Mr. Bailey made motion to table this agenda item until the next meeting when Mr. Roark will appear. Ms. Gilvarry seconded the motion. All board members voted affirmatively, and the motion passed unanimously.

5. Nomination for Appointment Chair, Vicechair, WQCC Commissioners

Mr. Hall asked for volunteers for Board Chair. Ms. Eisen expressed her desire to remain as Chair of the Board. Mr. Harvey moved to retain Ms. Eisen as the Chair. Mr. Bailey seconded the motion. A roll-call vote was taken:

- Ms. Gilvarry: Yes
- Mr. Harvey: Yes
- Mr. Bailey: Yes
- Mr. Abell: Yes

Ms. Eisen was unanimously re-elected as Board Chair for another year. Ms. Eisen expressed her excitement and appreciation. Ms. Eisen asked who developed the outline of duties for the Board Chair, Vice Chair and WQCC Commissioners. Mr. Keller explained she and Mr. Hall developed the document to assist all Board members in understanding the duties of the officers.

Mr. Hall asked if anyone wanted to be considered for the Vice Chair position. He noted that Mr. Bailey is the current Vice Chair. Mr. Harvey stated that Mr. Bailey is doing a fine job. Mr. Hall noted that there were no other volunteers for the Vice Chair position and asked Mr. Bailey if he would consider serving as the Vice Chari for another year. Mr. Bailey accepted the

continuation of the Vice Chair position. Mr. Abell moved to retain Mr. Bailey as Vice Chair. Mr. Harvey seconded the motion. A roll-call vote was taken:

- Ms. Gilvarry: Yes
- Mr. Harvey: Yes
- Ms. Eisen: Yes
- Mr. Abell: Yes

Mr. Bailey was unanimously re-elected as Board Vice Chair for another year.

Hall asked for volunteers to be WQCC Commissioners. He stated Mr. Harvey and Mr. Graham are current WQCC representatives. Mr. Harvey stated due to distance, being the WQCC commissioner is sometimes difficult. He expressed his willingness to “give up his seat” to a board member that is closer by distance. Ms. Gilvarry stated she’s too busy to adequately cover that responsibility. Mr. Hall suggested taking 5 min break to contact Mr. Graham. Upon calling Mr. Graham, Mr. Hall discovered Mr. Graham was having difficulty accessing conference line.

Break: 9:45-9:55.

Mr. Bailey made a motion to keep Mr. Harvey as WQCC representative. Ms. Gilvarry seconded the motion. A roll-call vote was taken:

- Ms. Gilvarry: Yes
- Mr. Bailey: Yes
- Ms. Eisen: Yes
- Mr. Abell: Yes

The motion passed, and Mr. Harvey was re-elected for another year as a WQCC representative.

Mr. Graham was finally able to call into the conference line and attend the meeting. He attended by phone for remainder of meeting.

Mr. Hall asked if Mr. Graham would like to continue being one of the WQCC representatives. Mr. Graham accepted the responsibility. Mr. Abell moved to retain Mr. Graham as WQCC representative for another year. Mr. Bailey seconded the motion. A roll-call vote was taken:

- Ms. Gilvarry: Yes
- Mr. Bailey: Yes
- Ms. Eisen: Yes
- Mr. Abell: Yes
- Mr. Harvey: Yes

The motion passed, and Mr. Graham was re-elected for another year as a WQCC representative.

6. Review of Public Involvement Plan (PIP)

Mr. Hall stated that Ms. Keller has worked very hard on the PIP and asked if the Board had any comments. Mr. Hall asked if the Board had read through the document. Ms. Eisen stated she’d read it and was very pleased with it. Ms. Gilvarry read through and thought it looked great. She was very happy with the scope of getting people involved in the UOC regulation revisions. Mr. Abell asked if internal management had reviewed the document. Mr. Hall confirmed internal management had review and approved it. Ms. Eisen asked for any Board comments or changes. Ms. Gilvarry, Mr. Graham and the rest of Board didn’t have any comments.

7. Review & Approval: Draft UOC Regulation Amendments

Mr. Hall explained Ms. Keller had prepared a “driver” document for the expedient review of the latest changes to the current draft.

Page 2- Mr. Hall read:

- *per the Board's recommendation, added “water meter installation, replacement, operation and maintenance” to the “water experience” and “distribution experience” definitions.*
- *per the Board's recommendation, removed “microbiological lab analyses including” from the definition of WW Laboratory Technician Experience.*
- *per the Board's recommendation, removed the definition of “on-site”*
- *re-lettered the definitions, starting with “M”*

The Advisory board had no comments regarding the changes to page 2.

Page 3- Mr. Hall read:

- *Added a definition for “program” because it is used in 20.7.4.20.F. NMAC.*

The Advisory board had no comments regarding the changes to page 2.

Page 5- Mr. Hall read:

- *per the Board's recommendation in 20.7.4.12.A, changed “WS2” to “WS3” in the “pressure filtration” row, second and third columns.*

Mr. Harvey reminded Board that in last Board meeting, WS3 was suggested and approved for “ion exchange” for systems with populations of 501 to 5,000 and 5,001 to 10,000. All board members approved increasing the certification requirements for systems that use “ion exchange” in their treatment.

Mr. Hall continued to read:

- *per the Board's recommendation in 20.7.4.12.A, UOC staff have considered and evaluated changing the certification requirements for “Fluoridation” for systems with populations of 25 to 500, 501 to 5,000 and 5,001 to 10,000.*

Ms. Eisen read emails regarding increasing the certification level for systems that use “fluoridation”. She stated fluoride is unique because it is a primary and secondary contaminant. As such, it has long-term health effects at 4 ppm and has an action level at 2 ppm. Ms. Eisen explained Ft. Sumner has a continuous public notice for the water system due to fluoride levels in the water. Mr. Abell supported increasing the certification to WS3 & SWA for those systems who fluoridate the water or to deal with an excess of natural fluoride in the water. Mr. Harvey, Ms. Gilvarry and all board members approved this change to the regulation.

Mr. Abell also supports Harvey suggestion that ion exchange should be SWA & WS3. Abell recommends that anywhere there is a SWA in regs the next cert level for 501-5000 should be WS3. Harvey supports this change for consistency across the reg. All board members are in favor of this change.

Mr. Hall continued to read:

- *per DWB & UOCP recommendation in 20.7.4.12.C, “Disinfection By-Product Rule” sampling was added to the WST1 certification to strengthen this certification.*

Mr. Hall asked the Board if they are in favor of adding this sampling to the WST1 certification. Ms. Eisen understands the reasoning behind adding this to the WST1. However, it requires a specific sampling technique. Ms. Arnold stated if system receives bottles from labs, the labs include a procedure for the DBP sampling. Ms. Eisen stated it is a little more prescriptive type of sampling. Mr. Abell supports the change. The rest of the Board agreed.

Page 6- Mr. Hall read:

- *per the Board's recommendation in 20.7.4.14.A, removed a comma and inserted “and” between “SW” & “WST1”.*

Mr. Abell asked if these are just clerical changes. Mr. Hall replied affirmatively. The Board agreed to these changes.

Page 7- Mr. Hall read:

- *per the Board's recommendation in 20.7.4.14.I, added "WWLT1".*

Mr. Abell noted that this was a clerical oversight from the last time the UOC Regulation was updated. The Board agreed to this change.

Mr. Hall continued to read:

- *per the Board's recommendation in 20.7.4.14.J, added "WWLT1" and "WWLT3".*

Mr. Harvey disagreed with this change and thought perhaps he was not adamant enough in the last Board meeting. He estimated about 95% of the WW4 in state couldn't pass the WWLT3 exam and for this reason, it shouldn't be included in the WW4. Mr. Harvey believes it should remain as a stand-alone certification. He further explained that he's taken the WWLT3 exam and it took him several months of study and a couple of times taking the test before he passed. He found it a very difficult test. Mr. Harvey feels that all the need to know criteria for the WWLT3 will have to be added to the need to know criteria for the WW4 exam. He explained the gas chromatograph, atomic absorption, all the spectrophotometry and total Kjeldal Nitrogen (TKN) tests are very involved, precise tests.

Ms. Gilvarry disagreed because she looks at this issue a little differently. She stated that someone who holds a WW4 certification should and must be able to do anything and everything in a wastewater plant. Therefore, the WW4 operator should be able to do the sampling and analysis performed by a WWLT3 operator. Thus, Ms. Gilvarry is more inclined to make sure the WW4 need to know criteria includes all the WWLT3 sampling and analysis requirements. She sees it as a detriment to wastewater systems for there to be operations that a WW4 operator cannot perform.

Ms. Eisen provided a comment made by Janet Garcia at the Tucumcari Lab, who performs all analyses wastewater samples for Ft. Sumner. Reportedly, Ms. Garcia's opinion was that the WWLT3 should be a stand-alone certification. Ms. Eisen expressed concern as a WW4 certified operator that the higher-level analysis methods that Mr. Harvey named are very challenging. She noted that if an operator is not performing those analyses routinely, an operator would find it very challenging to perform them intermittently. It was Ms. Eisen's opinion that the WWLT3 responsibilities would be a burden to the WW4 operator, since the vast majority of WW4 operators will never have to perform these advanced analyses. Ms. Eisen was very inclined to leave the duties of the WWLT3 certification with the WWLT3 and keep it as a stand-alone certification.

Ms. Gilvarry understood Mr. Eisen's point of view but disagreed with Eisen's position. Ms. Gilvarry restated her position that she believes a WW4 certified operator should and must be able to do and supervise all processes and analyses in a wastewater plant.

Ms. Arnold explained her understanding of the development of the WWLT certifications was to perform these complex wastewater analyses. She acknowledged that these complex wastewater analyses are not standard operations for a wastewater system certified operator. She noted that it is up to the systems and how each runs its wastewater treatment lab as to whether the system will require its own operators to hold a WWLT3 certification, so these complex analyses can be performed in house or if the system sends the samples to a lab for analysis.

Ms. Eisen noted again that she'd never performed these advanced wastewater analyses. She acknowledged many wastewater operators perform BODs and very basic wastewater analyses. However, she pointed out that the cost of the equipment to perform these advanced analyses would likely be prohibitive for small wastewater systems. She noted that only the very large wastewater systems are likely to be able to afford the equipment and employ a full time WWLT to perform these advanced wastewater analyses in house.

Mr. Abell agreed the WWLT3 should be a stand-alone certification. He noted that a gas chromatograph is an extremely expensive and sensitive piece of equipment and you wouldn't want just any WW4 operator touching the equipment. He noted the only time he performed an atomic absorption analysis was during a chemistry class while attending NMSU. Mr. Abell further stated that even though he holds a WW4 certification and would love to have the WWLT3 certification grandfathered into the WW4, he didn't believe that it would be proper. Mr. Abell acknowledged that he's not used gas chromatograph or atomic absorption equipment except when he was in college. He explained whole effluent toxicity and other advanced analyses are always sent to higher quality labs for analysis. He stated those higher quality labs generally have staff who are chemists, microbiologists and biologists that perform these kinds of analyses daily or at least weekly. Mr. Abell understands Ms. Gilvarry's point from a supervision standpoint. He recounted an incident several years in the city of Carlsbad where WW4 certified operator was responsible for supervising the wastewater lab and told the WWLT to falsify documents. He assured the Board that the city has since dealt with and resolved that management issue.

Mr. Hall acknowledged this is a very difficult issue, with solid arguments on both sides. However, he stated that it could make the level of knowledge insurmountable for a WW4. The WW4 exam is already a tough test. Would including the WWLT3 information be too much for a WW4 operator and result in an even smaller number of WW4 operators? If WWLT3 is added, would program have to "grandfather" existing WW4 into this certification?

Mr. Bailey agreed with Mr. Harvey in that he too believes that less than half of the level 4 wastewater operators would be able to pass the WWLT3 exam. Mr. Bailey also does not recall a time when he used any of the aforementioned advanced analysis equipment except in college.

Ms. Gilvarry responded that she will defer to those Board members who spend more time in wastewater than she. However, she restated her position from the plant supervision point. Mr. Harvey reminded Ms. Gilvarry that since her wastewater plant supervisor is a WW4 certified operator, he has the opportunity to take the WWLT3 exam to become certified. Mr. Harvey again stated it is a hard test and conceded it was the most difficult test he's taken.

Ms. Arnold stated she's hopeful that the WWLT who are running these types of advanced wastewater analyses have a bachelor's degree in chemistry or microbiology because they are these analyses require a very specialized skill set.

Mr. Harvey noted the vapors from the TKN analysis need to be exhausted in a particular way, otherwise the fumes could kill a person.

Mr. Hall explained most systems he's worked for separated the duties of the WWLTs and the WW operators; neither perform the other operator's duties.

Eisen stated it will make the pass ratio lower for WW4 operators.

After discussion, Mr. Abell moved the WWLT3 be struck from the WW4 certification and leave it as a stand-alone certification. Ms. Eisen asked the Program to pull state data in terms of how many operators take the WWLT exams. Ms. Keller investigated during the meeting.

Mr. Abell explained that when the WWLT certifications were developed, the WWLT3 was controversial from the beginning. His understanding was that the certification program expected there to be only 5 or 6 WWLT3 operators in the entire state. The purpose of the WWLT3 operator was so that the large systems could meet the demands of the whole effluent toxicity and wet testing that came about in the mid-1990s for the NPDES permits. The certification program was trying to keep up with and match the requirements of the EPA.

Ms. Keller reported to the Board the 2018 exam statistics for WWLTs: WWLT1 = 10, WWLT2 = 13, WWLT3 = 18. She noted that this was the total testing, not necessarily passing. Ms. Eisen noted that it is probably the very large wastewater systems who are sending their lab technicians to take the WWLT exams.

Ms. Arnold asked if the applicants for the WWLT certifications university graduates and not WWLT who are working their way up the ladder in the wastewater lab. Ms. Keller responded that the majority of those seeing the WWLT certifications do hold bachelor's degrees in chemistry or biology and some even hold master's degrees in those fields. Mr. Carver concurred. Ms. Arnold then asked if the WWLT certification is federally required or state required to run a laboratory and perform these analyses. Ms. Keller responded the UOC Regulation requires some type of NM wastewater state certification to perform the "simpler" wastewater analyses (i.e., BOD, dissolved oxygen, pH, etc.). She further explained the more complex and involved wastewater analyses require the higher level of WWLT. She stated the WWLT3 is the stand-alone certification and covers the most complex analyses.

Ms. Eisen verified that these higher level, more complex analyses are performed for permit compliance reporting. Ms. Keller stated that even if a system is performing the wastewater lab analyses for process control changes, they must use a properly certified wastewater operator or WWLT.

Mr. Bailey seconded motion that WWLT3 is struck from WW4 lesser included certifications and returned the WWLT3 to a stand-alone certification.

A roll-call vote was taken:

- Mr. Bailey: Yes
- Mr. Abell: Yes
- Mr. Harvey: Yes
- Ms. Gilvarry: Yes
- Mr. Graham: Yes
- Ms. Eisen: Yes

The motion passed, and the WWLT3 exam and certification remained a stand-alone certification.

Page 8- Mr. Hall read:

- *UOC staff still have reservations about the verbiage in 20.7.4.20.*
 - *per the Board's recommendation in 20.7.4.20.A, removed "on-site" and added "and is located within the general service area" at the end of the sentence.*
 - *per the Board's recommendation in 20.7.4.20.B, removed "on-site" and added "in the general service area". Also, removed "remote" from the end of the sentence and added "done outside the general service area". Since we've had so much difficulty with the word "remote" in the regs, we thought it prudent to remove it from this paragraph.*

Mr. Hall asked the Board if subsection A and B clearly define the parameters of supervision.

Mr. Abell referred to the meeting minutes from April. He noted it was suggested that "onsite" be replaced with "general service area." This proposed change supports the suggested change made during the April meeting. Mr. Abell and Ms. Gilvarry support the change to subsection B and to the phrase regarding process monitoring. The Board agreed with the changes to subsections A and B clearly define the parameters of supervision.

Ms. Eisen asked why the reference to the appointment of primary and back up operator is not in the regulation. Ms. Keller explained this issue deals with system compliance, not operator compliance and is more fully addressed in the draft Supervision Guidance. Mr. Abell suggested reviewing the changes to subsection E and F before tackling Ms. Eisen's issue.

Mr. Hall continued reading:

- *per DWB and UOCP recommendation in 20.7.4.20.F, added a specific date by which operators must verify their personal and employment annually. Also added a penalty fee to be assessed when an operator fails to verify his/her information by the deadline.*
- *20.7.4.20.E, added "wastewater" before laboratory technician.*

- *per legal recommendation, at the end of 20.7.4.20 added embedded footnote is added to direct operators to the methods by which they can verify their personal and employment info.*

Mr. Hall asked if the Board agreed with the proposed changes to subsections E and F. Mr. Abell supports the changes made to 20.7.4.20 E and F as presented in clean copy. The Board agreed with these changes also.

A brief break was taken at 11:15 a.m. because the audio recorder's memory was full. The meeting was called to order again at 11:23 a.m.

Ms. Eisen pointed out that in the draft Supervision Guidance, it requires an alternate certified operator in charge when primary operator is absent from the system. She explained that this proposed requirement affects all systems, no matter the size. She wants the regulation to be clearly state what is considered "process control" in a system. She asked why this requirement is not in regulation. She believes it's very important to specify in the UOC Regulation that an alternate operator must be appointed when the regular operator is away. If there is no alternate operator in charge and the regular operator is absent from the system, she wants to make sure the regulation clarifies who is responsible for system operations -- the system or the regular operator.

Mr. Abell believes this issue is a system issue and not a certified operator issue. If the regular operator is absent and another properly certified operator is not appointed to perform operations in the regular operator's absence, it is the system that is in violation of running a system without a certified operator. He does not believe it is the regular operator's responsibility to designate a temporary operator to serve while he/she is absent. Mr. Abell believes this is a management issue for those individuals who are responsible for managing the system, not for the operator in charge. The onus of responsibility for having a certified operator is on the system, not the operator. It is NMED's responsibility for outlining these requirements and enforcing this requirement.

Ms. Eisen personally feels this responsibility should be on the system and should be outlined in the UOC regulation to protect the regular operator in charge at a system. She feels this omission in the UOC Regulation leaves the operator vulnerable when they are away from the system.

Mr. Abell disagrees and doesn't believe this requirement should be in the UOC Regulation, other than to state that a certified operator is required to run a system. Mr. Abell believes there should be documents in place (required by NMED) that clearly state who is the operator in charge and who is the alternate operator in charge when the regular operator is away from the system. He suggested that NMED should have these conversations with the systems and these requirements be outlined in the operating permit for the system.

Ms. Eisen acknowledged that the Program is working on a supervision guidance that includes addressing this issue. However, she asked the Board if they want this issue to have more teeth by including it into the UOC Regulation. She believed it should because it's up to the system to follow 20.7.4.20 NMAC.

Mr. Hall doesn't believe NMED can create a regulation or provision that states how a system must ensure they have a properly certified operator running the system. He stated NMED nor the Advisory Board can dictate the terms of operations to systems in the UOC Regulation.

Mr. Bailey agreed and reminded the Board that they have already had this conversation with NMED's attorney, who said we cannot dictate these terms to systems.

Ms. Eisen asked what protection is there for operators. Mr. Hall responded the only protection for operators and contract operators is to have this discussion prior to accepting a job or signing a contract. The agreement must be between the operator and the system.

Mr. Abell agreed and suggested it is the operator's responsibility to ensure these safeguards are in place before the operator accepts a position or signs a contract with a system. Mr. Abell doesn't see any way for the UOC Regulation to put teeth behind requiring a system to have a backup operator when the regular operator is absent. Mr. Abell reminded Ms. Eisen that she has the ultimate power to decide where she wants to work and under what conditions she wants to work.

Due to time constraints, Ms. Eisen requested adding this discussion to the next meeting.

Mr. Abell noted that the Board was in the middle of page 8. Mr. Hall concurred and stated there was still pages 9-13 to cover in the "driver" document. Ms. Gilvarry suggested getting to the issues of major discussion and passing over the clerical items. Since the changes were a voting issue, Mr. Abell made a motion to approve the changes on pages 9-13 per the driver document prepared by staff and move to page 13 for discussion the remaining discussion. Mr. Harvey seconded motion. All Board members were in favor of this motion.

On page 13, Ms. Gilvarry asked about the discussion regarding the Associates degree and Associates of Applied Science Degree. Ms. Keller described the foundation of the discussion as to the differences between an Associate's degree and an Associate's of Applied Science degree as it pertains to general education class credits. The Board discussed the pros and cons of this degree requirement change. Mr. Abell recommended leaving the substitution 20.7.4.22.B(2)(c) NMAC as written. Mr. Hall trusts that students graduating from the DACC Water Tech program are well trained in water and wastewater. Mr. Abell doesn't want to make any changes to this substitution of the UOC Regulation such that it would pigeon hole the graduates from the DACC Water Tech program. Mr. Harvey is in favor of leaving this substitution as written. Currently, the Board agreed to leave this substitution as is.

Pg. 12: Ms. Eisen read:

- *per Department recommendation, legal counsel has been asked to provide feedback regarding the use of "sovereign nation or foreign jurisdiction" in 20.7.4.24 to ensure it is the correct way to refer to Indian tribes/pueblos and foreign countries. UOCP is waiting on a response from dept. legal counsel.*

Ms. Keller explained the Program is waiting on legal counsel to determine the verbiage in this section is correct. She explained that Director Roose initially raised the issued during a regulation review meeting. During the meeting, Director Roose noted that the federal government refers to tribes and pueblos differently and she suggested the Program check with Kathryn Becker, NMED's tribal lawyer, to make sure the regulation was appropriately referring to tribes.

Pg. 13: Mr. Hall read:

- *per the Board's recommendation in 20.7.4.25.C, changed "an" to "a" before "WS1-OIT or..."*
- *per the Board's recommendation in 20.7.4.26.B, changed late fee from "\$20.00" to "\$25.00".*

The Board agreed to these changes.

Mr. Hall asked the Board to refer to Appendix B for the discussion of regarding payment of penalties and acquisition of training credits before re-examination and reinstatement of an inactive certification.

Mr. Hall continued reading:

- *per the Board's email discussion & recommendation for 20.7.4.26.C, added "...it will become inactive. An inactive certificate requires payment of 12 months of accrued late fees and proof of additional training credits as defined in 20.7.4.25.D before application for re-examination." (See email discussion in "Item 7-Appendix B")*

The Board discussed an operator's exploitation of the loop hole currently in the reg regarding lapsed and inactive certification that caused the proposed additional requirements to be added to the regulation. Mr. Abell noted currently the UOCP tracks training credits in a database for every operator over the life of the operator's career. He explained according to regulation, an operator must acquire at least 30 training credits in a 3-year period to renew their certification.

Mr. Abell explained his understanding of the information presented was that the operator is not going to get any renewal training credits, he's let his certification expire after his time limit, he's allowed the 1-year certification lapsed period to expire and then going back to retest for the same level of certification, using the existing training credits he's had since 1996. He noted the program with the Board's support, is trying to put a knot in that loophole. Based on this information, Mr. Abell recommended that if an operator is going to retest for a certification, the training credits to retest must be within past 3 years.

Due to changing regulations and technologies in the water and wastewater field, Ms. Eisen agreed both recertification training credits and retesting training credits should be acquired within the 3 years prior to renewal or retesting. Ms. Eisen also supports the proposed monetary repercussions as proposed in the draft regulation. She noted that this proposed additional to 20.7.4.26 encourages operators to keep their certifications active and supports the Program's efforts to keep certified operators in the "Active" status.

Mr. Hall asked the Board to propose a solid recommendation regarding the closing of this loophole.

For clarification, Ms. Arnold asked if the Program and Board are proposing an operator must pay this big expiration fee IF an operator allows their certification(s) to become "inactive." Mr. Hall responded affirmatively. Ms. Keller explained that the Program and Board are dealing strictly with the current loophole when an operator's certification becomes "inactive."

Mr. Abell agrees with the change in 20.7.4.26.C. Ms. Eisen supported acquiring the additional training credits. Ms. Eisen asked for motion and a second for "operators who have an inactive certification must acquire the required training credits as outlined in 20.7.4.25.D and must pay 12-months of accrued late fees before applying to retest." Mr. Abell made the motion. Mr. Harvey seconded motion.

A roll-call vote was taken:

- Mr. Bailey: Yes
- Mr. Abell: Yes
- Mr. Harvey: Yes
- Ms. Gilvarry: No response. Stepped away from the phone.
- Mr. Graham: Yes
- Ms. Eisen: Yes

The motion passed, and the training credit requirement and 12-month late fee penalty was approved to be added to inactive certificates.

Mr. Abell moved to approve draft UOC Regulation amendments as so discussed and amended during the July 19, 2019 meeting. Mr. Bailey seconded the motion.

A roll-call vote was taken:

- Mr. Bailey: Yes
- Mr. Abell: Yes
- Mr. Harvey: Yes
- Ms. Gilvarry: No response. Stepped away from the phone.
- Mr. Graham: Yes
- Ms. Eisen: Yes

The motion passed, and the draft UOC Regulation amendments were approved.

7. NM Drinking Water Bureau Update

Joe Martinez was not present. No report given for the DWB.

8. NM Surface Water Quality Bureau-Point Source Pollution Program Update

Sarah Holcomb was not present. No report given for the SWQB.

9. NM Ground Water Quality Bureau-Domestic Waste Team Update

Mr. Hall reported Mr. Herman's emailed report. Mr. Herman's email stated "our Technical Assistance RFP published last month and we received quite a bit of interest. Also, that I am now on the decision-making team and cannot discuss it with any of the bidders. So, any questions or inquiries will need to be directed to the new RFP manager Nancy McDuffie."

10. NM Operator Certification Program Update

Mr. Hall reported Ms. Shurn has taken another position outside the NMED. Joe Martinez is still the acting Bureau chief, but there is no acting or permanent SWIG manager. He reported DWB is still very short staffed. Mr. Hall noted a complete change in management in the bureau, which has made an enormous positive difference. Secretary Kenney, Director Roose and Joe Martinez are all supportive of this program and its progress. Director Roose is very engaged and concerned with the program and its progress. He explained the Program is working hard to get back on track and move forward. Mr. Hall noted that Ms. Eisen had a meeting with Director Roose, which Ms. Eisen will report on during "Other Business".

Mr. Hall reported the Department will have online payments option in place for certification renewals in September. He explained online payment for certification renewals will be instituted before online payments for certification exams. He explained the reasoning behind rolling out the renewals before the exam applications. He stated the online payments is a directive from the Governor and UOCP has been chosen as the "test program."

Ms. Gilvarry rejoined the meeting. Mr. Hall updated her on the items discussed and covered in the time she'd been away.

Mr. Hall reported Mr. Carver scheduled a meeting to discuss the OIT initiative and where we stand on planning and structure. Ms. Eisen stated Director Roose was very supportive of outreach to High Schools and Colleges about the Operator-in-Training to recruit more operators into the field.

11. Other Business (including next meeting date)

Ms. Eisen reported she met with Director Roose of the Water Protection Division regarding her concerns of factors affecting the operation of the UOCP and the function of the Board. She met with Director Roose on Wed., July 17, to discuss status and future of program. Ms. Eisen reported Director Roose came from the EPA in DC, and she is fully engaged and passionate about this work. Ms. Eisen stated Director Roose is very passionate, is very excited to be in NM, and she is here in the NMED because her heart is committed to this mission. Ms. Eisen reported Director Roose is devoted to protecting the environment and is open to suggestions, supporting the program and moving forward. Ms. Eisen feels very strongly that the program has been through the fire and is now moving into a "new day".

Mr. Hall added that Mr. Martinez and those in Secretary's office "get it". He stated they realize the program needs more staff. He has 100% faith in the current upper management.

Ms. Eisen explained that this fiscal year's budget will still be tight, but they are working on the FY21 budget that they will present to the legislature at the end of Aug. Director Roose stated she'd like to meet with Eisen again and plans to come to the next Advisory Board meeting.

Hall reported Director Roose has opened a direct door to the Advisory Board. He also stated the Secretary is in full support of the UOC Advisory Board. Mr. Hall reiterated his observation of Director Roose's excitement and dedication to this program.

Ms. Eisen reported Director Roose is very appreciative of the Advisory Board and the people who are a part of the Board. She reported Director Roose is extremely aware of the importance of having this Advisory Board be a part of the process because the Board consists of New Mexico certified operators.

Ms. Eisen asked for suggestions for the next meeting date. Ms. Keller noted dates the Program has previous commitments. Mr. Abell suggested October 25. Ms. Keller reported the Rio Grande Conference room was open on Oct. 25. She reserved the conference room for that date and emailed meeting notices to the Advisory Board.

12. Public Comment (Board will receive public comments. No action will be taken by the Board. Limit 2 minutes per commenter.)

No public comments.

13. Adjournment

The Advisory Board decided the next meeting date would be October 25, 2019 in the Albuquerque at the District-1 office.

Mr. Abell made a motion to adjourn the meeting. Mr. Harvey seconded the motion. A roll-call vote was taken:

- Joe Bailey: yes
- Joe Harvey: yes
- Ivan Abell: yes
- Maria Gilvarry: yes
- Cathie Eisen: yes
- Dale Graham: yes

The meeting was adjourned at 12:43 p.m.