

Tuesday, March 05, 2013

To: Representative Paul Holvey
Oregon House Consumer Protection and Government Efficiency Committee
900 Court St. NE, H-277
Salem, OR 97301

CC: Bob Estabrook, Committee Administrator, bob.estabrook@state.or.us

CC: Samantha White, Committee Assistant, samantha.white@state.or.us

RE: HB 3166 - Registered Environmental Health Technicians, Comments

To: Representative Paul Holvey,

I wish to provide information concerning the proposed lessening of minimum qualifications for regulatory inspectors who perform 'pre-cover' inspections and 'authorizations' within the DEQ Onsite Wastewater Program as outlined in House Bill 3166. The proposed legislation will result in:

1. A dramatic shift away from the accepted core competencies in the Oregon environmental health profession.
2. Low-quality inspections;
3. A greater likelihood of the pollution of Oregon waters;
4. A loss of institutional knowledge within both the local health authorities and the Oregon State workforce leading to less credibility for the environmental health profession; and
5. A greater risk to the people of Oregon from damages sustained following poor determinations made in the course of performing the work of an 'Environmental Health Technician'.

First Concern: The purpose of ORS: 700 can be summarized with a single phrase: "...*protect [the public] from unauthorized or unqualified persons and from unprofessional conduct...*"¹

The people of Oregon will be harmed by a decrease in the accepted core competencies in the environmental health profession in Oregon. The Centers For Disease Control (CDC) has identified 14 core competencies, grouped into three primary functions, most of which are well beyond the scope of proposed qualifications for an 'Environmental Health Technician'² (HB

¹ ORS: 700.005

² National Center for Environmental Health, Centers for Disease Control and Prevention, American Public Health Association. 2001. Environmental health Competency Project, Recommendations for Core Competencies for Local Environmental Health Practitioners. http://www.cdc.gov/nceh/ehs/Corecomp/Core_Competencies_EH_Practice.pdf

3166, High-school diploma). As well, the National Association of Local Boards of Health³ wrote in 2009 a detailed report outlining the knowledge, skills, competencies and abilities for environmental health practitioners. The document reported that students completing a 2-year science degree would only cover only 4 or 14 core competencies. In addition, the document reported that of those 4 competencies, only between 5% - 20% content covered would be comparable to an accredited environmental health Program.

Second Concern: The public will be harmed by promoting policies that lead to less-qualified individuals performing complex regulatory actions because they will be more likely to provide low-quality inspections. The onsite wastewater rules (OAR: 340-071 & 340-073) are not written with under-qualified inspectors in mind. Much of the language is flexible allowing inspectors the freedom to evaluate risk in the field and make judgment calls regarding the necessity of regulatory action or inaction⁴. Without adequate training and professional development, inspectors may make field judgments that either harm the public via unnecessary regulatory actions and/or harm the public by allowing preventable pollution of public waters. It is clear that without a diverse knowledge-base including variety of natural, biological and physical sciences, the resulting quality of inspections will decrease if lower-qualified inspectors are allowed to perform these tasks.

The proposed language in HB 3166 also suggests that additional functions may also be performed by an 'Environmental Health Technician'. It states that they may "...perform other duties determined by the Environmental Health Registration Board by rule..."

In the future, we may see technicians, with only a high-school education, performing complex sanitation evaluations of restaurants, swimming pools, drinking water systems, day-care facilities, school kitchens and tourist facilities if HB 3166 becomes law. As well, we may see smaller local health authorities opting to hire/contract an under-qualified 'Technician' whose token 'supervising' environmental health specialist is located in another City or County and plays no significant role in ensuring quality service delivery to the public.

Third Concern: Oregon's waters will become more vulnerable to pollution if inspectors are less qualified to recognize risk and properly evaluate the situation observed in the field. By completing a 4-year university education with the required 45 credit hours of core sciences, environmental health specialists develop a diverse understanding of the natural processes that make up the human environment. They are better suited to develop a complete understanding of the DEQ Onsite program goals and prevent the pollution of Oregon's waters. A less-qualified individual using a 'check-list' cannot make these important value judgments in the field without adequate education and experience.

Fourth Concern: I wish to draw attention to a likely result of a dilution of the profession: As knowledgeable and qualified professionals are displaced by less qualified (and less expensive) technicians, the institutional knowledge in our local health departments (as well as the Oregon State workforce) will lessen as experienced environmental health specialists leave the profession.

³ Murphy, T., Neistadt, J., Schultz, M., 2009. Recommendations for Hiring Qualified Environmental Health Practitioners. http://www.cdc.gov/nceh/ehs/Docs/NALBOH_EH_Workforce_Guide.pdf.

⁴ For example, see OAR: 340-071-0410(5).

It is foreseeable that as more qualified professionals leave, technicians will have less oversight leading to poorer field judgments, lower-quality report writing and an increased risk of pollution in Oregon waters. Poorly conceived and written reports will also lead to lower public perceptions and less legal credibility for the environmental health profession. I am also concerned that these effects will have a disproportionately greater effect in smaller Oregon Counties.

Fifth Concern: Lowering minimum standards tends to favor lower standards. As an environmental health professional, I strive for the best outcomes possible for the citizens of Oregon. The value judgments made by myself and other field inspectors, especially within the Onsite program, have a significant effect on the real economic costs of doing business and living in Oregon. Each field-determination results in real costs (or savings) to the home or business owner. There are a myriad of new products and technologies that have been approved under OAR: 340-71 & 73 that require both extensive training and knowledge of the wastewater field. These products are complex because they are designed to address properties with marginal soil conditions or other limitations. As well, under-qualified inspectors may approve wastewater systems that are prone to early failure and increase costs to the home or business owner to repair. This may increase liability to governmental agencies. Depending on the site, repairing a failed onsite wastewater system may cost \$10,000 to \$40,000 (sometimes more). It is also possible that without an adequate designated repair area, a home may lose the ability to be occupied (condemned) possibly leading to significant liability for both the installer and the regulatory agency.

More than 30% of Oregonians dispose of liquid wastes via small onsite wastewater systems⁵; we owe our citizens the best possible outcomes and protections when their investments are being evaluated by a field inspector. I have provided information that clearly illustrates why only the best qualified individuals may make these determinations. These complex tasks cannot be adequately performed by under-qualified individual guided by only a checklist and infrequent mentoring from a supervisor.

I am very concerned that these proposed changes may set a precedent for further dilution of the standards by which we ensure that “...*the public is protected from unauthorized or unqualified persons and from unprofessional conduct by persons registered to practice [environmental health’ in Oregon].*”⁶

The operational complexity of many public facilities, including but not limited to restaurants and swimming pools, require years of training and mentorship to perform adequate sanitation evaluations; these expectations will likely far exceed the ability of an individual whom has not completed a university education with emphasis on the natural, physical and engineering sciences. These competencies are certainly beyond the scope of a high-school graduate which, under HB 3166, may be performing these evaluations in the future.

⁵ Referenced from: <http://www.deq.state.or.us/WQ/onsite/onsite.htm> on 11/15/12.

⁶ ORS: 700.005

If you are interested in having additional discussions regarding this issue, you may contact me directly at 541-806-2064. Thank you for your time and for allowing me to provide you with this information.

Regards,

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PS: Ian's views are not necessarily those of his employer.