

MDB, Inc.
13.01 EPA Decentralized MOU Property Transfer Inspections of Onsite Wastewater
Treatment Systems and Lessons Learned
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Speakers:

Maureen Tooke; EPA

Jim Anderson; NAWT

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Ray Erb; PSMA

Presentation

Editor: Audio in progress.

Operator: -- Transfer Inspections of Onsite Wastewater Treatment Systems, Lessons Learned. Today's session will be moderated by Maureen Tooke of the EPA. (Operator Instructions) And with that, I will turn it over to Maureen. Maureen?

Maureen Tooke: Okay. Welcome, everyone. Welcome to EPA's Decentralized MOU Partnership webinar series. We do these webinars about quarterly, give or take, depending on how much we have to share with everyone.

Today we're talking about property transfers and inspections of onsite systems. And we have three presenters today and I will briefly give a little background for you on them. The flyer that we did send out, we have a little change up in our presenters.

Kit Rosefield was unable to present today, based on some scheduling conflicts. But we have someone to stand in for him, which is Jim Anderson, who is retired from the University of Minnesota's Water Resource Center, and is currently an education program [coordinator] for NAWT, the National Association of Wastewater Transporters. He is a colleague of Kit's.

Next we'll have Kitt Farrell-Poe. Kitt is a water quality extension specialist and professor and the head of the Agricultural and Biosystems Engineering Department at the University of Arizona. She is at the state extension water quality coordinator and directs the University of Arizona's onsite wastewater education program. She's been educating practitioners, regulators, real estate professionals, homeowners, and the university students about onsite wastewater treatment systems since 2000. Kitt has also been the proud owner of a septic system for the last five years.

And Ray Erb is our final presenter. And he is the president of Thomas H. Erb and Sons, Inc., an on-lot wastewater treatment service company. And the chairman of the Education Committee for the Pennsylvania Septage Management Association, or PSMA, working with their point of sale inspection program for 25 years.

So we will get started here with Jim Anderson.

Jim Anderson: Okay. Thanks a lot, Maureen. As you highlighted, today we wanted to spend a little time talking about property transfer inspections. So just to give a brief idea of what we're going to do this afternoon, or this morning, depending upon where you are (multiple speakers) --

Operator: Jim, I hate to interrupt. But you have not shown your computer screen. So we're not able to see the presentation you have.

Jim Anderson: Oh, okay. Sorry about that. Now?

Operator: There we go. Thank you very much.

Jim Anderson: Everybody have that now? Okay. So we will discuss a little bit about what could -- well, what in our view, anyway, a property transfer inspection should look like. Give some specific state examples that have programs of different types. And then make a few comments and conclusions at the end. And then, of course, as has been highlighted, there will be a question and answer time at the end.

So just to kind of acknowledge a little bit, there's actually been a number of people that have contributed to this presentation. They include Kitt Farrell-Poe and Ray Erb, who you'll hear from in just a little bit. Kit Rosefield from California, Tom Groves from Massachusetts, and Nick Haig from the Minnesota Pollution Control Agency in Minnesota.

So property transfer inspections, one of the questions asked is do they make a difference? We obviously feel that they do. And that they're very important. So we thought that we would run through a little bit of who, what, where, when, and why of the inspections before we give a few state examples going forward.

So the who is obviously an inspector is involved. And one of the common issues that's kind of faced or questions is that it's important to have an inspector that's qualified. So one of the questions that is asked, certainly, is the inspector certified? And then the corresponding questions that go along with that is what standards is the inspector using? What are the requirements? All of those types of things.

This slide just indicates that depending upon where you're at and the specific state situation that you have, that there's a number of entities or places that inspectors get certified to do this work. NAWT obviously has one program. NSF International has had a credential in place for a number of years as well.

There's regional certification, state and local certifications. One of the prime aspects of any of the inspectors, though, obviously is that they be knowledgeable in the particular state or local policies that are in place.

And again, I'm just going to talk from our perspective just for a minute or two about the NAWT standards because I think it indicates some of the thoughts or the issues that anyone that wants to put in place a property transfer inspection needs to think about, at least from an inspection standpoint.

So what we try to lay out in our program is the national standard, of course, which obviously gets modified or is modified from place to place in terms of certain state or local requirements. But it does provide a standard method for a real estate point of sale inspection.

And it provides that assessment -- and this is an important aspect that we'll talk about briefly here in just a moment. That it provides an operation assessment of the system. One of the things that you need to decide relative to your inspection program that's going to go along with the property transfer is what level of inspection is going to be conducted.

And a part of this, of course, relates. And you're going to hear a little bit more about this as the time progresses here. But it's obvious that depending upon who I am or who you are in the sales transaction, that you have some highly different expectations in terms of what you want to see happen with the inspection.

If I'm the buyer I probably want to have some pretty good guarantees that my system or my system I'm going to inherit is going to actually last for a long period of time. That it's actually working the way it should. All of those types of things.

If I'm the owner and I'm trying to sell it, my main goal, of course, is to have somebody come out, give me a good report, say that it's okay. And the less I need to deal with, the better off from my perspective. So you've got some different things going on depending where you are in terms of the transaction.

This is just (technical difficulty) that we use to kind of highlight, as I mentioned before, our approach to it is the type of inspection given and the standards that I'll point to this, that it's at the level of system operation.

And by system operation we mean that all the parts to that particular system are there. They're in place. They operate the way they should. There are no issues with them in terms of corrosion or any of those types of things that you might find that would interfere with having that system operate at the level and to the point that it was intended.

And that's obviously different from other types of inspections that go on. Or even should go on from that perspective. Obviously, things like drive-bys or just walking in the backyard to see if there's surfacing effluent, we do not view those as legitimate types of inspections for this particular reason.

On the other hand, the assessment is just looking at the operation of the parts. It doesn't say that the system is necessarily up to code in all aspects. Up to current code since

depending upon when the system was put in and that type of thing, there may have been code updates, code changes, other things there that are difficult to interpret and figure out.

It also does not give any type of warranty to the system in terms of how long that system is going to last. And it's -- although it -- the inspection can be the start of a management program for that system or others, the inspection probably does not come to the exact level of actually a management program type of inspection.

Okay, so just kind of a cute little thing. This is shared with us from some folks that we work with in Texas. That one way they can spot issues is actually with an airplane. Now, that's a little bit different than the drive-by type of solution that I was talk -- or inspection I was talking about earlier. But it gives you a a little bit different takes on that. This would not be a level of inspection that we would feel fits necessarily standards.

Within the system operation, as I said, we identify problems. We do it consistently with all the steps. We'll go through a few of those here in just a second. And document everything that went on in terms of being complete and knowledgeable about the system. And at the end, each component, as well as the overall system gets an acceptable or unacceptable rating.

Depending again -- and you'll hear this from the different states -- there's different terminologies and that type of thing. This just happens to be the one that we use relative to looking at the system components.

So just a couple shots of systems that would, if we were out inspecting, would look at being unacceptable. Back here you see surfacing of effluent. Here's an inspection port where the effluent is right at the very surface.

Here's a kind of cobbled-together grey water system going on that would be viewed as unacceptable. And this is what happens out East after about one of those six-inch rainfalls where the entire system here is actually flooded out.

So, what should be involved in the inspection? If we want to take just a couple minutes and talk about this, because I think this is key. That if you look in general here's kind of a list of the elements that we view are important. I think that each of us probably listening to the webinar here today can probably come up with even an expanded list from this.

But we certainly want to do some documentation of the permits and items such as that around the system from the past. We want to evaluate what the wastewater flow is from the residence. We may need to actually do an operational or a hydraulic load test. And those are two different things. We won't get into the specifics of those here today but it may be something that we need to run.

We need to do a complete septic tank inspection. We need to, also, if we have advanced

treatment performance components as well, we need to provide an evaluation of those. We need to take a look at the overall site and make an assessment if there are any issues or problems there.

And then we need to report out and provide a detailed plan. A drawing of the particular system. And Tom Groves was nice enough to share this. This is something that I've seen him use in some of his presentations over the years.

If you look at that particular list and you're thinking about going into a property transfer inspection program either as a state, a region, or a local entity, what we just talked but as being important is obviously something that can't be done in a few minutes. And for just a few dollars. So the, "Oooo, this is not cheap," little thing is probably accurate.

Having said that, one of the things -- and you'll hear this again in some of the state discussion coming up. But without a formal point-of-sale inspection program, one of the things that we see is lending institutions will have a tendency to set their own requirements.

And many of those, at least, again, depending upon what region of the country you're in, request a dye test. These pictures are from Ray Erb what -- who you'll hear from here in a few minutes. But it just highlights that while a dye test might actually establish a link between the system itself and a problem, say, with surface discharge, which is -- that's shown in this slide, it will not do some other things that we feel are important.

It will not identify that I have a tank that's not structurally sound. It may collapse or that there may be some other issues with it. It's certainly not going to identify the fact that baffles are missing at -- or not functional in the tank, along with corrosion. And it's not going to identify soil treatment areas that may not have surfaced yet but might be right on the verge of having that situation happen.

And so I'll just kind of highlight this because going back to that extensive list that we're going to run through a few comments on at the moment, that again, if we're going to do this to the level that we feel is important and necessary, then a lot more goes into it than merely evaluating for some connection or a lack thereof.

So again, as I talked about, so in terms of documentation we're going to look at the regulatory records, as-built drawings. A number of organizations and people that are doing these property transfer inspections have a client questionnaire that they go through. They look at the client records. They look at all the files and forms out there that are at the county or the local health office, wherever the permitting authority.

In terms of wastewater flow evaluation, there's going to be an evaluation to identify whether there's any problems with leaks or fixtures in terms of flow to the septic tank. We're going to identify any grey water diversions or discharges. There's a whole other additional sets of criteria but just to give you a feel for what some of those things are.

Septic tank inspection, we're going to note the liquid level. We're going to pump and clean that tank. So by definition that means that we actually have access to the tank. And can adequately inspect the inside condition of the tank and all the components that go into it. That includes whether or not it's water tight. It includes whether all the baffles and everything are in place. It's going to tell you whether the tank is structurally sound or not.

Similarly, if we have some advanced treatment or pre-treatment units, so that includes things like aerobic treatment units, media filters, disinfection, denitrification systems, et cetera. If there are some field performance tests that are required to ascertain whether or not the system is functioning the way -- or the component is functioning the way that it should, those tests are going to be performed.

In terms of site assessment, we're going to look at any encroachments on the system. Is there evidence of improper activity around the system? So that might be things like adding straight pipes or drainage away from the system. Is the surrounding vegetation import -- appropriate?

And then some places, but not necessarily for our NAWT inspections, is there a reserve or replacement area out there on the site? All of that's going to be put in a report that is factual, not judgmental. And an accurate plot plan provided if one already wasn't available for that system.

Where is this going to happen? Well, obviously it's going to happen at the residence. One of the things here that we always like to highlight when we're doing inspections is that if going through the documentation part and that type of thing there's not information on the system or the homeowner, the client doesn't know where the system or its components are there.

There's going to be some additional work necessary to actually do the locating. And that usually implies some extra cost. So that's back to the this is not a trivial matter. And not a cheap thing if -- necessarily to do.

When is always something that's interesting if you talk with service providers or inspectors that are doing this. Because dealing with the real estate communities, one of the things that they run into right away is the closing for the property is tomorrow. Or this afternoon. And we need this inspection done right away.

If you go along with kind of the standards and the ideas that we've talked about up until now, you recognize that there is quite a bit of planning in terms of setting up the scheduling. Coordinating the pumping and cleaning. Generating the report.

So there's a timeframe there where it's important to be working with the real estate people in the area that we're talking about. And have that understanding in terms of how and when this can actually happen.

Why? Why do we do this? Well, it does make a difference and I think probably all of us on the call today probably recognize that we have a lot of systems out there that are more than 30 years old. We have a lot of systems that maybe aren't exactly in compliance that we need to deal with.

And this is one way when property changes hands that there's a time and opportunity there to upgrade or repair things that are wrong. Because money's going to change hands here in one form or another. And so this is -- it just makes sense that it's a good place to do it.

Do the inspections matter? The answer is yes. It has implications for human health and safety, obviously. Environmental protection, water resource protection, and last but not least, consumer protection.

The only thing that I'll say here is -- and we'll see this a little bit later as well. That sometimes we confuse the consumer protection thing with the environmental and health protection aspects.

So if we have a program out there, we need to be clear with everyone what the objectives actually are. Because a simple consumer protection approach may be a little bit different. Well, it will be a different approach in terms of the property transfer inspections than if I'm worried about the health and safety and environmental aspects. So.

Okay. So that ran just a tad longer than when I practiced it. But we're going to move now. So I'm going to throw it back over to Maureen, who's then going to pass it off to Kitt Farrell-Poe for a little Arizona discussion.

Maureen Tooke: (technical difficulty) Thank you very much, Jim. Very informative. And we're going to switch over to Kitt. And while she's switching over the slides, I'll just tell everyone briefly. I'm sending out a message on the chat box right now.

One of the participants had asked if this webinar would be made available for later viewing. And yes, it will. I sent the URL for where all of the MOU webcasts are archived. We will have some transcripts to go with that in a couple of weeks.

But we'll put the slides up for everyone to view. And all the ones we've done in the past are on this website as well. So you can learn more about all the other webcasts we've done in the past. So I think Kitt is all set so we'll let her get started.

Kitt Farrell-Poe: Well, hello from sunny and warm Arizona. And thank you all for participating.

So Arizona has been in -- has had their transfer of ownership inspection program going on for about seven years. And about -- well, several thousands of onsites have been inspected, pumped and repaired that otherwise would've been in an unknown condition for the new owners.

If you want to take a look at our code, I've placed the link to the right of the schematic diagram. And note that the link will take you to a table of contents. So you'll need to go to Title 18 (sic - see slide, "Title 8") which is environmental quality and Chapter 9 of Title 18, the Department of Environmental Quality Water Pollution Control. And you can then download our code either as an htm PDF or -- no, I guess it's just PDF or Word document.

Now, the process, if you look on the schematic on the left, is such that the seller hires a qualified inspector within six months of the sale of the house. The inspector then conducts his or her inspection, completes the report on a state form. And gives it to the seller.

Then the seller is to give the report of inspection to the buyer prior to transferring the property, along with any other pertinent documents associated with the onsite wastewater treatment system.

This generally occurs at escrow. So you can imagine how much time there is for the buyer to read and understand that report. And then the buyer takes the information from the report of inspection and completes the Notice of Transfer, letting the State and sometimes the County know that the property has been transferred.

Okay. How do I get this to go down? Next. Sorry. All right. So we've -- because of these transfer of property inspections, we've had -- we've revealed some unexpected issues.

So the rule update, which we had in 2006, was remiss in not creating a specific rule for the local regulators who are delegated the transfer program. And it created a bad business model for local regulators to conduct the overall program.

There was also no provision for enforcement. That left the inspectors to the honor system which has led in some cases to some mediocre inspections, incomplete and inaccurate reports. I believe you have a copy of our Report of Inspection. If not, we'll get it to you and you'll see that we have "not determined" boxes.

This has allowed some inspectors to gloss over the Report of Inspection and just check "not determined" without any explanation. And that allow -- that gives them an opportunity to sort of pass through some of the parts they don't want to do. Or the investigations that are more difficult to complete.

And on some occasions, sellers are refusing to have their system inspected. Or the buyer and the seller agree that they can waive that inspection. Some title companies have allowed waivers for the inspection.

And there are institutions, banks, and auction houses who have flat out ignored and refused to do the point-of-sale rule. But I also want to remind everybody that there are

title companies and real estate agents and everybody else in the sector who have gone out of their way to comply with the rule.

So, the Report of Inspection form asks for answers to about 60 points of disclosure. And let me emphasize that this Report of Inspection or this transfer of property inspection is a disclosure inspection, not any one of the others that were described previously, like up to code or operational.

Now, you need full access to be able to conduct this inspection. And you can see that we are looking at six different areas. There's going to be the system design and operation. There's -- they need to be able -- they have to pump the tank, except there's some exceptions to the rule but not very many. There's about three of them.

They need to look at the dispersal and soil treatment system. Any other components. They need to provide sketches and plans. And, again, the inspector needs to be certified and sign the document.

So what are some of the fixes that I would recommend to the Arizona program? First of all, I would highly recommend that if anyone is interested in developing a similar program to this, that you really need to consider the skills, knowledge, training, and continuing education you want your inspectors to have.

Go through a needs-to-know exercise so that everybody's on board with what an inspector needs to be capable of doing. Our code doesn't require any continuing education. So once you obtain that certificate of training, you're good for life. This is not a good idea.

With no accountability we've had sloppy and poor practices as well as all sectors in that whole -- from the buyer to the seller and everybody in between being able to skirt around parts or all of the transfer of inspection program.

And right now I mentioned that the program is set up as a buyer beware or disclosure program. So what is needed is the ability to separate the permit from the property. That just because the property's being transferred to new owner, the permit doesn't actually automatically transfer without an inspection report showing up at the delegated authority.

And it should be in satisfactory operational condition. And if there are any required repairs mentioned in the report, they should be complete. It would be similar to, like, a motor vehicle title transfer. It's separate from the license transfer. And so this would then also create a permit -- a way to generate revenue to support the ongoing program and identify the true responsible party.

So here is just -- I just wanted to give you a showing. This is from one re -- one inspector over a two-year period. And there were ten -- sorry, a hundred transfer of inspections. That's the blue line on the left. Of those 100, 49 he would've -- well, he did. He failed those systems.

And a failure was any type of failure to treat or dispose the water, disperse the water. Typically it was due to crushed pipes or root invasions that stopped flows, pumps that didn't run, septic tanks that leaked.

Then if you look -- that's the red next to the blue. There were 31 tanks failures. Now, if you add all of these up, they're going to more -- add up, I believe, more than to a hundred because sometimes the failed system might be because of a tank. So it would fall under both failed system and tank failure.

Notice that there were 39 successfully repaired -- repairs conducted that wouldn't have been conducted if there wasn't a transfer of property inspection. And they did, believe it or not, discover six cesspools.

The unfortunate thing was that the properties on -- that doesn't keep the properties from being transferred just because you have a cesspool. The rules in Arizona that have been on since the '70s that you can't use them. But there's nothing that prohibits the transfer of property if there is a cesspool.

And then the last picture I wanted to show is -- this sort of illustrates that the water-hungry desert trees will drink any old kind of water. And you can see that the roots are forming at the crack -- at the joint between the walls and the lid. And there's also probably -- you can see it's coming down. So you can see that it's coming down the sides here.

This is from the joint where the lid and the sides come together. And then there's one down here. So I believe these -- this lid is two slabs and roots are coming in there. And these will get worse and this is obviously not a water-tight tank. And that's actually required by Arizona code.

Take it away, Jim.

Maureen Tooke: Okay. We're going to switch over to Jim Anderson again. Just since we're all talking about this and the folks that are doing the webinar today are in the educating homeowners and inspectors and local officials world. I'm sending another link out to everyone right now for EPA septic smart education programs.

We built this last year. And we'll be doing a septic smart leak in September again. We did our first last year. It's a program. There's a toolbox online for various materials in English and in Spanish. And there's also a homeowner's guide that's been tailored for tribal communities, for print and download for free for everyone out there to use. So check it out and help us get the word out and educate our homeowners. Thanks. Jim?

Jim Anderson: Okay. So they don't --

Operator: Jim, you need to share your screen again.

Jim Anderson: -- see my screen. Okay.

Operator: There we go.

Jim Anderson: All right, there we go. Okay. Sorry about that. Oh, just a little bit unused to this. Thanks, Kitt. (inaudible) I seem to be having a problem.

Operator: Just click on the Power Point slide somewhere and then you can advance it like normal. There you go.

Jim Anderson: There we go. All right. Sorry about that. Okay. So I'm going to briefly run through three other states: California, Massachusetts and my state of Minnesota. Kit Rosefield, as we talked about before, would normally do the California piece. But he's not able to be with us today. So hopefully I do justice to this.

They -- for the last actually probably 15 or 20 years there's been quite a number of discussions going on in California around onsite systems. And various aspects of the rules and regulations.

But just in this particular topic, the property transfer inspections, back in 2000 they actually made some proposals to have some property transfer requirements. Following a 2002 set of stakeholder meetings and that sort of thing, all the property transfer requirements were actually dropped from the policy discussion.

And a part of this was due to questions and actually some resistance from the real estate community in terms of those requirements. But one of -- two of the important things kind of going on in California now at least relative to what Kit has been relaying back is that then this has put, of course, the burden kind of back at the local area.

In the hands of county health departments or the regional water boards. Or special districts that are out there. Have seen fit that -- to actually put into place some inspection and inspector requirements.

One of those that's been leading the way happens to be the City of Malibu. They have inspector requirements in place and inspection standards in place. Their requirements actually recognize in their local regulation NAWT certification as well as the NSF accreditation, for instance.

Then there's other places like in particular the town of Paradise that has some particular deed restrictions in place. And again, some inspector requirements. They do their own certification and evaluation of inspectors.

So these aren't the only things going on in California but it gives you an idea that both at the local and the county levels there, there's places that are trying to institute various programs.

One of the things that survived, this is sort of a state-wide dilemma, as it were, that Kit has been relaying. Is that a number of the lenders, and we talked about them briefly a few minutes ago, are requiring certified inspection. And from a state perspective, that means that you need one of the licenses that are put up there on the slide.

Some of those people, but not very many in those particular license categories, actually are necessarily directly involved with the industry. And an even fewer number are either NAWT or NSF certified.

So one of the things that they seem to be running into, at least from the county's perspective, are licensed contractors and the like that at least from the state perspective are qualified to do inspections. But they really don't know a lot about onsite systems. So they have some issues there.

Tom Groves supplied me with a lot of information on the Massachusetts Title 5 program. This is an inspection program at the point of the sale that's probably been around as long as any, if not longer, than all of them. So they've actually gone through a couple of iterations.

Their inspection happens at the time of property sale or transfer. It's a non-intrusive inspection to avoid damage to the system and surrounding soil. Yet, after having said non-intrusive, it needs to assess the condition and the function of the systems, determine if any maintenance is needed, repair or replacement.

And so it leads me to the question, anyway, so without actually opening up all the components and looking inside and getting a feel for that, I'm not sure exactly how you do that. So anyway. So just something for us to think about.

The inspection itself is not designed to demonstrate a system will serve the use of the new owner. So that actually has -- that little statement has (inaudible) that their operation inspection. It just says that everything's there and it's working. Doesn't necessarily mean when my family moves in with six kids that the system's going to handle it.

The requirement is to determine the location and condition of all of the components. Inspections are required at the time of property transfer. If there is an expansion, additional bedrooms, an expansion of the residence itself, that's likely to increase flows.

If there's a change in the use of that property or there's been some ownership combination going on. There are some other general instances where inspections are required. They include during foreclosures, bankruptcy, those types of things.

There's a number of specific types of systems and situations and timelines (inaudible) are specified. And since I'm not that familiar with all the Massachusetts requirements, I'll just tell you that they have a number of those.

The seller must notify the buyer in writing and send them a copy of the final report. So again, this is a little bit similar to Arizona in terms of the seller must provide that information.

There's likewise some specific instances where the inspections are not required. Those would include like refinancing. An agreement is in place to upgrade or connect to a large sewer system within the next two years.

Or the community or town that the system resides in has a state-approved management program that they're conducting in that particular area. So again, they have a number of other specific instances and requirements as well within their particular rule.

In terms of Minnesota, which is my home state, ours is likewise a disclosure water requirement. It just says that we're going to -- the person -- the seller's going to describe the system to the extent practical. Disclose any known compliance status. And to the best of the seller's knowledge, identify if a straight pipe or some other type of problem exists.

And I think just from that particular wording, you can kind of think for yourself that that leaves a lot of open area that though the seller is required to disclose those types of situations, that it leaves a lot of room for interpretation.

The seller is also required there, if there's an abandoned system on the premise, (inaudible) likewise with a well just as a kind of a parenthetical side. So if there's a well or an older system that's been abandoned, that needs to be disclosed as well. If there's a previous inspection report, it needs to go with the disclosure statement.

Minnesota likewise has seen that given the disclosure requirement, doesn't necessarily mean that things get upgraded and repaired the way that they should. And recognize that many drywells, straight pipes, things that we would not view as being systems have actually been legally transferred under the requirements.

If the seller doesn't disclose the existence or the compliance status of the system, they are liable for costs if it can be proven that they knew it ahead of time. And that requirement stays in place for two years, actually. So there's some time for the buyer to come back at the seller in that case if they feel that important things were left out.

Due to some of the problems, about two-thirds of Minnesota counties have recognized the inadequacy of the requirement and have put into place their own requirements for point of sale inspections.

One of the things that's happened in the counties, and this is something that we continue to work through, is given our long winters sometimes -- I still have snow on the ground where I'm sitting today -- escrowing is often required until inspections can be done.

And of course, that's something that realtors really find oppressive because it slows down

the whole buying process. And it also limits some of the financing options. So there's some resistance there. But again, two-thirds of the counties have put those types of requirements in place.

So now I'm going to throw it back to Maureen, who's going to pass it back to Ray. And he's going to tell you a little bit about the situation in Pennsylvania.

Maureen Tooke: Okay. Great, thanks again, Jim. So I'm -- as the moderator, my role is to also help field the questions that are coming in through the chat. (Operator Instructions)

I'm answering a few of them as we go, the easy-to-answer ones that I can answer. Like one question is: what does NAWT stand for? It's the National Association of Wastewater Transporters. And I've responded to the asker on that. (Operator Instructions) So with that, I'll -- we'll shoot to Ray.

Ray Erb: Okay. Hello, everybody, from Pennsylvania. I guess we'll start with what Pennsylvania has.

Basically, back in 1989, the Pennsylvania Septage Management Association, or also known as PSMA, established a program for the inspection of onsite wastewater treatment systems, or septic systems, during the transfer of real estate. Or at the point of sale.

Now, with the help of Penn State University, we developed that program at the time of -- back in 1989, mortgage companies and lending institutions were asking for septic certifications.

And the State of Pennsylvania, the local DDP office and -- or the state DDP office instructed the sewage enforcement officers -- or as other states called them, sanitarians. Basically were instructed that that's not part of their activities.

So the mortgage and lending institutions came to septic tank professionals and they asked if we could do something like that. And they're basically asking for the certifications. So once we started the program, we went to Penn State and asked them for their help. And that was 25 years ago.

So we have a 25-year track record. As we've gone through the program over the years, the Pennsylvania courts have recognized the program as the industry standard. And even Pennsylvania DDP has recognized it.

Some of the benefits of the program, then, it basically became an industry-driven program. The program is consumer-driven, really. It's not mandatory. If a home buyer wants to buy a home without an inspection, they can do so.

But we've found that a lot of the realtors have recognized the value of the inspection program. And most realtors who are familiar with -- have gone through it recommend a

point of sale inspection be performed, at least if they're -- especially if they're representing the buyer. It's a good consumer protection thing.

PSMA offers, then, their inspection training for this program throughout the year. The inspectors are required to be recertified every two years. And the inspectors that follow the program then provide the clients with an inspection that's consistent and comprehensive.

Currently, PSMA has 343 certified and active inspectors. And the inspectors -- as Jim mentioned previously, inspectors can identify defects -- defects. So repairs can be made before irreversible damage is done to the system. That's one real important aspect of the program.

PSMA's also established a set of inspection standards that each inspector uses. This helps to ensure the consistency between inspectors. The goal is that when one inspector reaches a conclusion about a system and let's say that the buyer is funding the inspection. Then the seller has the opportunity to get a second opinion.

And our goal is that if the second inspector comes out and inspects the same system, they would come to the same conclusion. There are also benefits of the Pennsylvania program. That it just protects the -- it's more consumer-driven and it protects the buyer more.

But with every program there are problems with it. And one of them are that the inspectors who -- or the inspectors who inspect the septic systems for point of sale or real estate transaction inspections are not regulated by the government. Technically, anyone with tools, a flashlight and a shovel can inspect the system.

So there's no restrictions. If the client's so driven, he can hire a friend who's -- has no inspection -- or training for inspecting a septic system. And they can hire them and that friend could come up with a conclusion.

And the person selling the house then would have to hire their own inspector to refute the conclusions. And that first inspector, if there's a conflict, you could actually end up with three inspectors coming out. The third one is a tie breaker. So that's one problem.

Another problem, then, is the -- some inspectors will successfully complete the training. They'll become certified. And even though PSMA requires certification every two years, inspectors will build a client base. And then they'll apply the standards that they've been trained under.

And PSMA updates their standards every three years. So if they're not constantly being updated, trained again, recertified, the -- they'll be using an older set of standards. And they'll be no longer relevant. So that's another problem.

Next problem is standards need to be constantly updated, which requires continuing

commitment. And at this point, PSMA has to have that commitment to constantly use their resources to keep the program current.

But PSMA is committed to this program and has been working with the state legislatures -- legislators to pass legislation requiring inspectors to be trained and certified. We're -- haven't gotten too far. It's a slow, cumbersome process to get laws in place. And that is one of our goals and that's where we're at.

I've listed the website there if you wanted more information about PSMA. And information on their inspection program, you can go to that. Now we'll go back to Jim.

Maureen Tooke: Okay. Thanks, Ray. We're going to switch back to Jim. And I don't have any additional interluding comments. So we'll just switch over back to Jim. Thanks.

Jim Anderson: Okay. I'm just trying to work my way through so that the screen comes back up and I've got control here.

Maureen Tooke: Here. I could help.

Operator: Okay, we can see your screen. If you'll just click somewhere on the Power Point slide. You just turned over presenter -- now we see your -- there we go.

Jim Anderson: Oh, there we go.

Operator: Okay.

Jim Anderson: Okay. All right, just a couple things to wrap up. One thing I need to highlight for Maureen and the rest of you, though, NAWT, two years ago, they actually changed their name --

Maureen Tooke: Oh, really?

Jim Anderson: -- to National Association of Wastewater Technicians. And the reason for that was, is they thought rather than transporters that more accurately reflected what the membership does. So (multiple speakers) just make that little note, I guess, for the future.

Maureen Tooke: Oh.

Jim Anderson: Then just a few comments in conclusion. Because we've run probably a little bit over the usual timeframe for these. Certainly some of the pros for having property transfer inspections, it gives a truer value of a -- idea of the value of the property.

If a system is noncompliant, now's the time to fix it. We mentioned that before that it can

be wrapped right into the purchase negotiation, that makes sense. So that seems to be a good time to do it.

If -- this is kind of a re -- a continuing theme here. If the protocols are uniform, then if I have an inspector for either the buyer or the seller, you should get the same result if they have to follow the same standards.

That's obviously, as we talked about right from the beginning, a place where things can go awry because the buyer and the seller don't have the same objectives. But if you have this in place, the buyer can be protected from inheriting an expensive problem to fix.

There is reticence, I think, on the part of a lot of people to manage compliance of systems in other more systematic, perhaps, fashions. So this is actually one of those places where sort of the environmental and health aspects maybe are a little bit different than just the consumer protection piece.

But again, if we're clear about what those objectives are (technical difficulty) can work through that relative to the program.

Okay, point of sale compliance inspections can confuse that consumer environmental protection piece. This came directly from my colleague, Nick Haig in Minnesota. That one of the things that they've seen is that having this system, since it's predicated kind of on averages in terms of when property exchanges hands or turns over, that some systems actually get inspected a couple of times in that process. And then others don't actually see any inspection because it's not changing over.

So averages, as always, are something to be approached with -- carefully relative to building that into the system for inspections.

Then this came up at a couple locations all the way along the way in terms of certification and education requirements for inspectors. And this probably deserves a webinar in and of itself because I think there's a lot of expertise out there in terms of running programs that have education associated with them. So that might be one thing to think about in the future.

Around the education and certification issues, the level of inspection required that we talked about today. The standards for that inspection are important. Education and knowledge requirements are important. And then having provisions for recertification and continuing education and updating the standards and the requirements are actually key points.

So just some food for thought going forward. And then to kind of bring us to the end of this, this is a photo that was shared with me over the weekend from a colleague of mine in Colorado, Bob Wright.

And this is actually a homeowner-installed system. And it was [installed] along where

they're actually pumping up to that tank there that you see in the corner. And then it goes to this distribution box. And then we're supposed to defy gravity here in terms of where the sewage is going to go to up to each of those sets of chambers. So obviously we have a ways to go. And I thought that the folks on the call would actually enjoy seeing that photo.

So with that, I think we're to the question and answer portion, Maureen.

Questions & Answers

Maureen Tooke: Okay, Jim. Thank you. I'm -- my jaw is sort of on the floor on that photo. So, again, (laughter) I was able to answer several of the questions. So let's see, we'll go to the ones that I'm unable to answer. We'll go to our experts. Let's see.

The first question we had before we even started the webinar, we had an eager participant. What successful models for points of sale inspection of onsite wastewater systems are recommended pertaining to the key areas of interest?

Inspector training, qualifications, and accountability. And the transfer inspection framework. As well as administrative practices. I'm not sure who could best answer that question. Basically, do -- from any of the (inaudible) do we have any recommended?

Jim Anderson: Maureen?

Maureen Tooke: Yes?

Jim Anderson: Maureen?

Maureen Tooke: Yes?

Jim Anderson: Maureen, I'll -- this is Jim. I'll take a little bit of a stab at that. It's --

Maureen Tooke: Okay.

Jim Anderson: -- that's kind of everything. But (laughter) it --

Maureen Tooke: Right.

Jim Anderson: Can they -- can people hear me now? Okay.

Kitt Farrell-Poe: Yes.

Ray Erb: Okay.

Jim Anderson: This is Jim Anderson. I -- well, it was kind of the point of this whole discussion is just to highlight that there are some examples out there. And you can look

at the different states.

The other main point is, is that each of those programs and approaches have their own pluses and minuses. And they've had some common problems. So if you're going in and trying to devise or improve a program of property inspections, that it's actually to -- important to look at all of those examples and see where those problems are. And then think about relative to the -- either the state or the local situation that you're in, how you would rectify those kinds of gaps, if possible.

And relative to the education standards and the certification, certainly there are folks out there that have programs, again, where you can get those particular standards from. So that includes folks that we've already mentioned. Tom Groves, the NAWT program, the PSMA program, the NSF International requirements. All of those.

So unfortunately, you can't go to just one place and have the kind of ideal model. At least in terms of what we see.

Maureen Tooke: Okay. Thank you. Next question is, if a buyer is railroaded into relying on an inspection provided by a seller or a seller agent, could it be argued that the buyer's being deprived of his due diligence rights? Sounds like a legal question. (laughter) That I don't know that we can answer.

Jim Anderson: Yes. Yes, that --

Kitt Farrell-Poe: So, this is actually something that Arizona is grappling with. I think what their -- the idea was is that there's only one system. And if you had a qualified inspector who is reporting facts and not -- and is not really supposed to be partial to any one entity.

That they're just reporting the facts using the form, then it would be an unbiased report. And it would only then be one per system. Whereas if you have the seller have to hire, then each -- sorry, if the buyer had to do it, that that means each buyer that comes in. And some properties have maybe two or three that are looking at the property.

Then you would have three times the amount of expense. And some of these are kind of expensive. They can range anywhere from \$250 to \$1,500. And so this is not necessarily a small idea inspection. And so that is -- but it is something that Arizona's considering changing who hires the person to conduct the inspection.

Maureen Tooke: Okay. This one's for Ray. In the Pennsylvania program, what are the typical terms and conditions stated in the -- oops, my screen just moved. In the, quote-unquote, certification document? And please amplify how the inspectors are held accountable for the content of the certification.

Ray Erb: Sure. In the PSMA program, as far as the buyer -- the inspectors, PSMA has an ethics committee. And on the PSMA website there's actually an ethics complaint

form.

So if, let's say, a seller has a complaint. Let's say the buyer hired a PSMA inspector. The seller has a complaint and says: we don't think this is right. They can go to the PSMA website, download the complaint form and send it to the ethics committee, if it's a real ethical problem.

The committee looks at every -- reviews every complaint. And takes it to their Board. Or -- we've already had at least two people de-certified because of that. Let's see, what was the other? What was the first question? Maureen?

Maureen Tooke: Oh. Let me go back. Trying to field through the continuing ones. Oh, and the -- oh, what are the typical terms and conditions stated in the certification documents?

Ray Erb: Well, the certification document is -- well, I guess you would mean our standards that we use. We use -- okay, we use many forms. When the call comes in, we -- there's what's called the authorization form. The buyer or seller, whoever's ordering the inspection would fill out the authorization form that identifies who's paying the bill. Identifies who the report's going to.

And then once the authorization form's filled out, it gets sent back to the office. The inspector goes out, does the inspection. We have a check list similar to what NAWT uses. And then that comes back and then the report is written off of the field notes.

We have -- the sketch is required and all the field notes. And they get a -- the report is submitted to the client. I hope that answers the question.

Maureen Tooke: Okay. I keep getting some new questions coming in. So is anyone, meaning the states, requiring that the system -- if the system is found to be deficient or failing, that it be fixed prior to the sale? (multiple speakers)

Ray Erb: Is that for PSMA?

Maureen Tooke: I think that's for any of the states. Are you -- are the ones that we've talked about today, are they -- or even other states that are doing this that we don't know - - that didn't present, we have information on today. Are any of them -- the states -- if they're finding failures, requiring that they be fixed prior to sale?

Ray Erb: Well, I can talk -- (multiple speakers)

Jim Anderson: That's the idea of at least a couple of the -- sorry, Ray. Go ahead.

Ray Erb: I can -- go ahead, Jim.

Jim Anderson: Oh. Oh. Well, that's the idea of several of the programs is that since

money is changing hands here, that the money is on the table that those identified problems get fixed. The issue -- and Kitt can maybe highlight this.

Like, in Arizona, though, there's a way to kind of avoid some of that. Both on the form and the fact that there's no regulatory oversight relative to those systems. So, again, if there's places that are doing those requirements, how absolutely effective they are at the time is open to some question and discussion.

Maureen Tooke: Okay. Let's see. Are there states requiring dye testing [of said] fixes and prior to property transfers? Any one of you can answer that, if you know the answer. I don't have any --

Jim Anderson: Well, I -- this Jim again. I don't know the answer to that. We see that in a number of places, as I go around the country. Whether that's in their state rules and that sort of thing.

I think in the presentation today we sort of highlighted that while the dye test can be useful to determine connections, it doesn't necessarily tell you all the information that you need to. So if you happen to be in a state that has that requirement, there's some other things to think about. So.

Maureen Tooke: Okay. There's some others here.

Jim Anderson: Like a local unit of government that -- a local unit of government might actually have that as a criteria as well. So.

Maureen Tooke: Okay. There's several folks that really like your photo here, Jim. And (laughter) it'll be available --

Jim Anderson: Well, like I said, a colleague of mine sent that to me. So.

Maureen Tooke: Okay. Let's see. I think there's some requests for including some of the information, inspection forms, things like that. And hopefully we can provide, at least in the presentation when we do get to the point where we can post it, we'll make sure that the things that we talk about in the slides have links to the information for everyone to find the information. So you don't have to hunt for it.

Let's see. Next question is, do any of the presenters' states have a time period that must pass, one or two years, for example, before an inspector can perform repairs or modifications to the system they inspect?

Kitt Farrell-Poe: Arizona does not have any such rule. And in fact, there has been some concern because in the early years, some of the inspectors were also the persons providing the repairs. And either the inspector was under the mistaken impression that the repairs had to be completed or else they wouldn't sign off. Or else they were using this as a leverage.

So it's an ongoing problem that we're educating people about. The good -- there's a -- one of our best inspectors does not do any repairs for that same issue so that there's no conflict of interest.

Maureen Tooke: Okay. Let's see. Generally, from which institutions or sectors do you see the most support: lending, mortgage industry, or the insurance companies, et cetera?

Kitt Farrell-Poe: In Arizona, it looks to be the banks, as long as it's not a bank-owned property. We're getting increasingly more lending institutions that are requiring the repairs to be made before they'll lend on the property.

However, if it's a bank-owned property, they often are not interested in even the inspection program or process. So it just depends on which end of the spectrum the bank is on.

Maureen Tooke: Okay. (multiple speakers) Oh, sorry. Go ahead. Sorry, Kitt.

Kitt Farrell-Poe: Is the -- anybody else?

Maureen Tooke: No, it just said, who -- where did you all see the most support?

Kitt Farrell-Poe: No, I was actually offering it up to the other panelists. Sorry.

Maureen Tooke: (laughter) Sorry.

Kitt Farrell-Poe: Sorry.

Jim Anderson: Yes. Maureen, this is Jim again. It -- that answer, I think, changes a little bit, again, depending upon where you're at. Part of the reason that NAWT got into a program to begin with actually came from the real estate community, surprisingly enough.

And sort of in the form that what they were looking for, if we need to do these types of things, what's the standard that can be used? And then similarly, even though I'm not as connected with Minnesota as I used to be, we've seen lending institutions there as well kind of driving that.

The caveat there is that that's something within your state or locality that you need to continually work with as well is the lenders. Because otherwise they have a tendency to create their own standards. So -- which then creates other problems.

Maureen Tooke: Yes.

Ray Erb: This is Ray. I'll join in and say that's our -- we also have the lending institutions are the ones that are driving the -- giving the most support, also, here.

Maureen Tooke: Okay. Thank you, everyone. This is for Kitt. How does the Arizona program hold inspectors accountable for the accuracy and completeness requirement for the point of sale inspection?

Kitt Farrell-Poe: They don't. And that's -- we do not have an enforcement. And so it actually ends up -- we have court cases. We have sanctions from NAWT which holds our state certification program.

But the problem with that is our state uses our own form which allows for a check-off with "unknown" with no explanation. And NAWT's form is -- doesn't have that kind of wiggle room.

And so it's difficult for NAWT to make those -- to do much about it. So it is a problem that we're hoping we can change the rule to get some enforcement.

Maureen Tooke: Okay. Let's see. Got a few questions here. In the states that have programs, what is the, quote-unquote, [catch]? Who makes sure the inspection gets done? The title company, the realtor? And if the inspection is not done, what is the enforcement. I think you sort of answered that, Kitt, a bit.

So other than Arizona, what is the -- I mean, is there a stick, per se, to make sure that these are done? And if not, is there an enforcement in the other states that we've heard about today?

Jim Anderson: Well, at least for the ones today, Maureen -- this is Jim again. They all have problems in that respect.

Maureen Tooke: Right.

Jim Anderson: And that was one of the points throughout the discussion.

Maureen Tooke: Right. Okay. Yes. This one is for Ray. Does the Pennsylvania program define failure in legal terms?

Ray Erb: No. The Pennsylvania program defines -- does not use the word "failure." They rate their systems as satisfactory, unsatisfactory, satisfactory with concerns, and more investigation.

So they -- there's -- it actually comes to four conclusions. And they don't use the word "failure." They don't use the word "malfunction." And they're basically reporting the condition to the client and that's it.

Maureen Tooke: Okay. Yes, and that varies from state to state, which is I guess the theme here is that, for the folks that are on the phone, that every state has their own rules. And so it varies across the board.

Let me see. Trying to -- what is the difference between the -- if anyone can answer this. Probably Jim. What is the difference between the NSF accreditation and the NAWT training?

Jim Anderson: Well, the NSF accreditation has two parts to it. One is an exam part, so that's kind of the credential piece. And then there is an in-field proctored -- searching for the right word here. So I'll call it exercise.

So you actually have to pass -- you have to go out in the field, actually, and do a system inspection under a proctored condition with an inspector to show that you actually know what to do in the inspection.

With the NAWT program, it's a classroom for two days. And a written exam relative to following on standards. And was there another piece that I missed there? Does that answer that?

Maureen Tooke: Yes, I don't think so. I'm -- sorry, I'm trying to look at -- watch my time and see where we are on questions. Let's see. Okay, we answered that one. Let's see.

And we've had a few recommendations or thoughts about how we can maybe corral all this information together. And I actually was thinking that when we were talking that if EPA was, I think -- had -- was going to collect all of this information, I think it's a very valid point. And something we can look to do possibly maybe with a partner, is collect the different state inspection program information and put it all in one place. That would be a good idea.

Let me see. Where -- let's see. We have more enforcement questions. There's a lot of support from the realtors. And the reason this person in the Atlantic Canadian region from the person who's commenting for these inspections.

Because they are concerned with killing the deal. The sale. I've actually heard this before. That they're afraid to put in a program like this because they're afraid the sale won't go through. And how is this dealt with? How do you get them on your side? Is there any advice for getting them involved?

Kitt Farrell-Poe: Well, so you really have to go back and convince them that a failing system will affect the value of the property. It will affect human health and the environment. But mostly, the real estate community is very interested in maintaining property values. And I think that it may or may not be a convincing argument.

And that's always going to be an issue. Same with a termite inspection or if you have electrical wiring inspections or home inspections. All of those could be deal-killers. Even a roof inspection can be deal-killer.

But I think that should not be the -- the argument needs to be moved to a different level. That's Kitt's opinion.

Maureen Tooke: Okay. Okay. And this kind of goes along with this, is that sometimes in an inspect -- when an inspection is performed, it identifies a failure. Then the buyer decides not to purchase the home.

Do any of the states have rules in place that require the inspection report to be filed to the town or the county for -- to be recorded with the property information?

Kitt Farrell-Poe: In Arizona, it actually has -- different counties have received the reports of inspection. Sometimes it depends also on the construction date of the property. So it's a hit or miss of whether or not the counties actually see it in Arizona.

Maureen Tooke: Okay. And I think we have time for one short one. In what year -- this is for Ray. What year was the last PSMA standard updated?

Ray Erb: Oh, let's see, 19 -- or 2013 was the last set of standards where they were updated.

Maureen Tooke: Okay. Wow. Just recently. Okay. That is all the time we have. It's 12:30. I don't want to get everyone cut off. So the questions that were not able to be answered, there were a lot of them that we got today.

And those that didn't get answered will get answered by the appropriate presenter. And we'll get the slides up online on the URL I sent out pretty soon. And then the transcripts will follow a week or two after that.

So thank you for your participation and be on the lookout for our next webinar, which we hope to have in June or July. Thanks for your participation and to our presenters.

Kitt Farrell-Poe: Bye, all.

Maureen Tooke: Thank you. Bye-bye.

Ray Erb: Thank you.

Jim Anderson: Okay, thanks.