

Irrigator Advisory Council (IAC) Meeting

Minutes

Date: August 20, 2015

Time: 9:00 a.m. – 2:30 p.m.

Location: Texas Commission on Environmental Quality, 12100 Park 35 Circle,
Building A, Conference Room 173, Austin, Texas 78753

Chairperson: Paul Ward called the meeting to order at 9:12 a.m.

- I. Roll Call:** Toni Fox, Paul Ward, David Kania, Philip Hathaway, Brooke Furrh were present. Marsha Carson attended via teleconference.

Texas Commission on Environmental Quality (TCEQ) staff present: Program Support Section-Melissa Keller, Andrew Clark, Elizabeth Vanderwerken, Kristi Mills-Jurach, James Hemple, Beryl Thatcher, and Anton Rozsypal. Water Supply Division-Al Fuentes, Simon Arends, and Richard Bosch. Office of Waste, Permitting and Registration Support, Occupational Licensing-Russell Gardner, Jaya Zyman, and Ismael Parra. Litigation Division-Jess Robinson. Enforcement Division-Rachael Bekowies and Michael De La Cruz

- II. Agenda Topic: Consideration of the May 7, 2015 Minutes**

Motion made by Council Member Toni Fox and seconded by Vice-Chairperson David Kania. Decision: The Council approved the minutes.

- III. Agenda Topic: IAC Updates and Setting of Meeting Goals** (*Melissa Keller*)

The following were identified as specific topics for the Council to address, with a goal for a formal recommendation at the end of the meeting:

- IAC plan for Rule Petition
- Comments on Lawn Irrigation Plan Checklist

- IV. Agenda Topic: IAC Subcommittee Reports**

Subtopic: Rules and IAC Administrative Committee (*David Kania*)

- The committee met in June, July and August to discuss rulemaking. The August 7 meeting was a joint meeting between the Rules and Legislative Committees. No formal rule recommendation was made to the council.

Subtopic: Enforcement and Legislative Committee (David Kania)

- The committee met in June, July and August to discuss rulemaking.

Subtopic: Education, Training and Licensing Committee-(Philip Hathaway)

- Suggestions for the additions to the checklist and plan were: TCEQ seal, north arrow, legend, scale:_____, version date in the footer, the term “legible and valid irrigators seal”, irrigator’s license number, registration (if applicable), and signature.
- Melissa Keller requested that public/consumer education be one of the next projects for the committee. Byron Hardin suggested that cities and water purveyors should be the first targeted group. Doug Christian and Melissa Keller discussed water bill inserts and the use of local council of governments as a resource.
- An irrigation supply representative stated they mostly sell to contractors, but they allow homeowners and others to buy at list price, which is somewhat of a deterrent. The alternative is customers buying from Home Depot and Lowe’s, which will sell to anyone.

V. Agenda Topic: TCEQ Reports

Subtopic: Update on Office of Legal Services, Litigation Division Program

- Litigation Cases: 15 total
- No License: 10
- Advertising: 3
- Failed to obtain permit: 3
- Falsifying a license: 1

Mr. Robinson also explained the litigation process in detail and the penalty policy.

Subtopic: Update from Backflow and Cross-Connection Control- Mr. Al Fuentes, Office of Water, Water Supply Division (WSD)-

Mr. Fuentes stated he and his staff had been in the Dallas/Ft Worth area conducting Cross-Connection Control Program Surveys. During these surveys he stated they do address irrigation systems and provided copies of the TCEQ rules. Mr. Fuentes stated he talks to the customers about test

results and backflow assembly devices. Mr. Fuentes stated that in the Houston area they found worms in the water which could have come from a ground storage tank. Mr. Fuentes explained that a separate occurrence of possible cross-connections was an observation of 157 private wells in a subdivision used for irrigation that were also connected to the potable water supply

Mr. Fuentes stated there have been new rules adopted for the lead requirement in Public Drinking Water. Mr. Fuentes stated that the lead requirement will not affect the irrigation rules. If the backflow is not intended for potable use then it does not have to meet the lead free requirement. Unless it is a local jurisdiction that requires the backflow to be lead free, the irrigation system can continue to use the regular backflow assembly devices and they do not have to be lead free.

Mr. Fuentes explained the backflow assembly test form was removed from the rules and put on the TCEQ public website. Mr. Al Fuentes explained the benefit of removing the backflow assembly device test form from the state regulations is that TCEQ can change the form whenever there is a need. Mr. Fuentes explained that Mr. Simon Arends, TCEQ WSD, will take feedback on backflow assembly device test form to be updated at the next Cross Connection meeting.

Mr. Fuentes explained that they are in process of revising RG-206 (Customer Service Inspections). Ms. Keller reminded Mr. Fuentes that TCEQ regional investigators need to be included in the changes and be provided training.

*TCEQ Office of Waste, Permitting and Registration Support, Occupational Licensing-See **attachment***

VI. Agenda Topic: Rule Proposal (David Kania and Paul Ward)

Subtopic: Rule Proposal- Audience member Tammy Swor explained that cities that are less than 20,000 in population are rapidly growing and often do not have any ordinance. A rule change should be considered to address this problem. Audience member James Garvin explained that a lot of these cities do not have the resources to enforce the rules.

Audience member Jerry Lewis explained that the smaller cities are complaining that they have to deal with the bad irrigators leaving the bigger cities and coming to their city and do bad work. Mr. Lewis explained that if the smaller cities adopt these rules, there would be more statewide coverage. Audience member Adam Smith explained that the plumbing code has this structure; that if municipalities of less than 5,000 population choose to adopt the plumbing code, they must enforce these

rules. Mr. Smith explained that if you are going to adopt these rules, then tie the enforcement process to it.

Mr. Doug Christensen explained that if we start with a drought contingency plan it may be a way to start the rule implementation. Ms. Keller explained that a drought contingency plan, does not fall under the 344 rule; it falls under a different set of rules.

Mr. Kania suggested putting penalties in the 344 Texas Administrative Code rules. Ms. Keller explained there should not be penalties within the 344 Texas Administrative code. Ms. Keller explained the TCEQ Penalty Policy provides guidance on assessing administrative penalties.

VII. Agenda Topic: TCEQ Reports

Subtopic: TCEQ Office of Compliance and Enforcement, Enforcement Division (Michael De La Cruz)

- Enforcement Action Referrals Received: 43
- Field Citations Received: 10
- Enforcement Orders Mailed: 33

Subtopic: TCEQ Office of Compliance and Enforcement, Program Support Section

- FY15 Current Open Incidents: 8
- FY15 Incoming Complaints Received: 112
- FY15 Total Investigations: 218

VIII. Agenda Topic: Individuals wishing to address the Council

Mr. John DeCell spoke about annual inspections of backflows. He reported 9% of systems don't have a backflow, 34% are not installed correctly. Public education is the biggest obstacle; but once it's understood, people are willing to pay for it.

Mr. Hathaway motioned to open up the 30 Texas Administrative Code 344 rules. Mr. Kania seconded. All IAC members voted yes.

Mr. Lewis vocalized his concerns with Mr. Furrh's suggestions on rule changes. Others also vocalized their concerns.

IX. Agenda Topic: Meeting Recap

Ms. Keller suggested for the council to meet prior to the November 19, 2015 IAC meeting for a rules and checklist project work session with public attendance.

Motion made by Ms. Fox and seconded by Mr. Hathaway to meet for a rules and checklist/sample work session before the November 19, 2015 IAC meeting.

X. Agenda Topic: Adjournment

Mr. Ward made the motion to adjourn and Mr. Hathaway seconded the motion.

The meeting was adjourned on August 20, 2015 at 2:35 p.m.

These minutes are in draft form and will be approved at the next Irrigation Advisory Council meeting on November 19, 2015. To provide comments, please contact Melissa.Keller@tceq.texas.gov