

Irrigator Advisory Council (IAC) Meeting

Minutes

Date: November 19, 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 9:00 a.m.

- I. Roll Call:** Paul Ward, David Kania, Brooke Furrh, Philip Hathaway, Gary Miles, and Mark Froehlich were present. Toni Fox participated via teleconference.

Texas Commission on Environmental Quality (TCEQ) staff present: Melissa Keller and Elizabeth Vanderwerken from the Program Support Section; Al Fuentes from the Water Supply Division; Michael De La Cruz from the Enforcement Division, Jess Robinson from the Litigation Division; Jaya Zyman, Sarita Nazareth, Russell Gardner, and Ismael Parra from the Permitting and Registration Support Division.

- II. Agenda Topic: Consideration of the August 20, 2015 Minutes**

Motion made by Vice-Chairperson David Kania and seconded by Gary Miles. Decision: The Council approved the minutes.

- III. Agenda Topic: IAC Updates and Meeting Goals**

Melissa Keller announced there are 2 vacant positions on the council for licensed irrigators. The positions are for the remaining terms of Marsha Carson and Jay Hartley. An announcement asking for nominations will be sent out soon.

The Council announced their two goals for the meeting were: 1) Determining the Council's plan for the rule petition, and 2) approving the Council's Landscape Irrigation Checklist.

- IV. Agenda Topic: IAC Subcommittee Reports**

a. Rules and IAC Administrative Committee

Vice-Chairperson David Kania gave an update on the rule proposal. He stated the backflow rules are the only rule changes that are not finalized for the proposal.

b. Enforcement, Planning, and Legislative Committee

Philip Hathaway gave an update on the checklist project. He stated the checklist is planned to be a sample detailed drawing and design drawing. Melissa Keller, TCEQ Program Support, asked if the upcoming changes to the Customer Service Inspection (CSI) requirements will be added to the checklist. Council Member Hathaway stated that the CSI requirement is for before the permitting process. He stated they could look into it as an addition elsewhere.

The attending public's concern regarding the new CSI requirements was brought to the attention of the Council and it was decided to be discussed during the Office of Water, Water Supply Division update regarding the Backflow and Cross-Connection Control.

c. Education, Training, and Licensing Committee

Paul Ward explained the Education, Training, and Licensing Committee would like to push forward on more education and outreach for homeowners, specifically regarding backflow prevention requirements and irrigation system installations and repairs.

V. Agenda Topic: TCEQ Reports

a. TCEQ Office of Legal Services, Litigation Division

Mr. Jess Robinson, TCEQ Litigation Division, provided an update on the number and types of landscape irrigation cases in litigation. Mr. Robinson stated the top three violation types seen by the Litigation Division include people providing services without a license, licensed irrigators installing without a permit, and not installing backflow prevention assemblies on new installations. Mr. Robinson also informed the council that there have been 5 to 10 default orders in the past few months.

In response to the November 18, 2015 commission agenda, there will be a re-evaluation of penalties for fraud such as using another landscape irrigator's license number. Mr. Hathaway asked how the council could increase the penalties. Mr. Robison answered that the Enforcement Division is responsible for the application of the Penalty Policy and is determined on a risk for health and safety. Public Member Tammy Swor asked who is over the classification of violations. Melissa Keller, TCEQ Program Support, answered

that Program Support Section owns the Enforcement Initiation Criteria with consideration from Enforcement, Litigation, and other agency offices.

b. TCEQ Office of Water, Water Supply Division – Update from Backflow and Cross-Connection Control

Mr. Al Fuentes, TCEQ Water Supply Division, provided an update on the new changes being made to the CSI requirements. Regulatory Guidance RG-206 will just be limited to the irrigation system. The water purveyor will have to develop a plan on scheduling requirements and fees. The changes are currently being written.

The Council expressed concerns that the new changes would undermine the duties and responsibilities of a licensed irrigator as defined in landscape irrigation rules. Mr. Fuentes requested a formal document detailing the Council's and the irrigation community's concerns. This document would need to be presented at the Cross-Connection Control Subcommittee meeting so the concerns may be addressed. The next meeting of the Cross-Connection Control Subcommittee is scheduled for March 3, 2016.

c. TCEQ Office of Waste, Permitting and Registration Support Division, Occupational Licensing

Mr. Russell Gardner and Ms. Jaya Zyman, representing TCEQ Occupational Licensing, gave an update on the number of new licensee's for each irrigation license type and the current total numbers of active irrigation program licenses.

Ms. Zyman also gave an update on the inspector license stakeholder's meeting. Ms. Zyman explained the process that Occupational Licensing is proposing as a result of the stakeholder meetings. Ms. Zyman stated the new process will be written into the Regulatory Guidance documents and will be available for the Council to review before the language is finalized. Vice-Chairperson Kania invited Occupational Licensing to the next Council meeting to provide an update on the process. Vice-Chairperson Kania made a motion to accept Occupational Licensing's new proposal, and Philip Hathaway seconded the motion.

VI. Agenda Topic: Working Lunch Session

a. Rule Proposal

Vice-Chairperson Kania reiterated that the IAC rule proposal is ready with the exception of the backflow prevention section. He requested to have the Council conduct a conference call for review and motion.

b. Checklist Project

Philip Hathaway asked the Council for a consideration of motion of approval. The public and Council reviewed the checklist presented by the Education Committee. Concerns and revisions were recommended. A decision was made to make the changes and move the consideration for motion to a meeting at a later date.

c. Special Projects

Ms. Keller requested that the council make homeowner/builder education one of their priorities. She explained that many of the complaints that TCEQ receives were due to little or no education about irrigation or hiring a properly licensed person.

d. Receive, Discuss, and act on other items of interest to the Council

No items received.

VII. Agenda Topic: TCEQ Reports

a. TCEQ Office of Compliance and Enforcement, Enforcement Division

Mr. Michael De La Cruz, TCEQ Enforcement Division, reported in FY2015 the total number of Enforcement Action Referrals (EARs) received was 43. Of those, there were 10 Field Citation EARs and 33 standard EARs. During FY2016 through November 18, 2015, the total number of EARs received was 13. Of those, there were 1 Field Citation EARs and 12 standard EARs.

b. TCEQ Office of Compliance and Enforcement, Program Support Section

Ms. Melissa Keller reported the investigation numbers for the landscape irrigation team. For FY2016 as of November 16, 2015, there were five open incidents, 46 total complaints received, 52 total approved investigations (23 of those were Notices of Violation and 10 of those were Notices of Enforcement.

Ms. Keller further explained the TCEQ Landscape Irrigation Program is a complaint based investigation program only. The most common complaint received is regarding advertisements and the second most common is the system completion process. There is a new version of the Landscape Irrigation Rules book that includes the "pink sheet" updates to the licensing rules.

The TCEQ Landscape Irrigation Program has been approved to participate in several events for the next year. These events are San Antonio Irrigation Association Expo, Lonestar Expo, and Texas Nursery and Landscape Association Expo. Any additional requests should be made in writing to TCEQ at least three months before the event.

VIII. Agenda Topic: Individuals wishing to address the Council

Ms. Tammy Swor requested the Council meetings be webcasted for public who cannot participate due to travel difficulties. Melissa Keller explained there are technical and room availability limitations that prevent the capability of webcasting the Council's regular meetings.

IX. Agenda Topic: Meeting Recap

The Council opened nominations for Council Chairperson and Vice-Chairperson. The nominations presented were Mr. Kania for Chairperson and Mr. Hathaway for Vice-Chairperson.

Appointment for subcommittee chairpersons were made by Chairperson Paul Ward:

Rules and IAC Administrative Committee will be Gary Miles;
Enforcement, Planning, and Legislative Committee will be Brooke Furrh;
Education, Training, and Licensing Committee will be Philip Hathaway.

Philip Hathaway made the motion to have the Council create a document including the suggestions and concerns regarding the changes to the CSI requirements and submit to the TCEQ Office of Water, Water Supply Division. Mark Froehlich seconded the motion.

Mr. Hathaway made the motion to request the TCEQ Litigation Division to evaluate the ramifications of changing the irrigation system classification from a non-high health hazard to a high health hazard. Mr. Froehlich seconded the motion.

Mr. Kania made a motion to have the backflow prevention section of the rules proposal state all assemblies need to be installed above ground with exception of specifically listed freeze-prone counties. Mr. Furrh seconded the motion.

The next year's meeting dates are as follows:

- February 11, 2016
- May 12, 2016
- August 18, 2016
- November 10, 2016

X. Adjournment

The Chairperson asked for a motion to adjourn. Vice-Chairperson Kania made the motion and Mr. Furrh seconded the motion.

The meeting was adjourned on November 19, 2015 at 2:45 p.m.