

Texas Commission on Environmental Quality

Cross-Connection Control Subcommittee

September 2, 2021

Microsoft Teams Webinar

Time: 9:00 – 12:30

Commencement - Ms. Katherine McGlaughlin

The meeting commenced on time with the general announcements and introductions by meeting participants.

The motion was then made to adopt the meeting summary. A second to the motion was heard and the vote to adopt was unanimous.

The next meeting of this Subcommittee will be held on December 2, 2021.

Update from Cross-Connection Control Program - Ms. Katherine McGlaughlin

Ms. Katherine McGlaughlin, TCEQ Cross-Connection Control Program Coordinator, provided program updates.

In the past quarter, the TCEQ Cross Connection Control program conducted 1 technical assistance survey. At this time, the program is considering replacing the old model of an interview-style survey, opting more for a question-and-answer roundtable discussion. For example, the last survey we did was more hands-on going over what the PWS had, how we could improve, and was paired with Directed Assistance Module (DAM) 12 "Establishing and Managing an Effective XCON program"

Ms. McGlaughlin discussed the recent restructuring at the Water Supply Division. The Response and Capacity Development Team has been spun off into its own Section "Emergency Preparedness and Response" section, and is no longer under the Plan and Technical Review section. This section is split up into the Texas Optimization Program and Response Team (where Cross Connection Control and the Texas Optimization program), and the Resiliency and Preparedness Team (where Drought, Financial Managerial and Technical Assistance, and At-Risk/Receivership) is. As a result, new postings for potential vacancies for the Optimization program and Resiliency Team will posted online.

The program has been invited to several presentations in the past Quarter, with other presentations impending. In October, Ms. McGlaughlin we will be doing a presentation for the Office of Compliance and Enforcement fall Basic Investigator training. We will also be doing a presentation later this month for the Independent Water and Sewer Companies of Texas (IWSCOT), with a focus on developing a cross connection control program for investor-owned utilities.

Ms. McGlaughlin is still sending out Invites for the subcommittee meeting via GovDelivery. To be notified, you can sign up on the TCEQ web page on the "Email Alerts" tab. You can also send a

request to PDWS@tceq.texas.gov, or contact a member of the Cross Connection Control Program directly for sign-up.

Update from Landscape Irrigation - Mr. Kenneth Smith

Mr. Kenneth Smith, TCEQ Office of Compliance and Enforcement, provided an update on the Landscape Irrigation Program (LIP).

The LIP continues to receive a high volume of calls and emails. Specifically, since the Irrigation Advisory Council meeting on August 5, 2021, the program fielded 2 new complaints incidents. In that time the program approved of 5 investigations. 2 investigations remain pending, and 4 additional investigations were closed.

In the past Quarter, the program published an updated regulatory guidance document (RG). The document RG-470 "Landscape Irrigator's Rule Compilation" now covers the most recent rule changes published from over the past year. The program continues to host a summary document for the most recent rule changes for installers and technicians. The summary document can be found on the TCEQ's website:

tceq.texas.gov/assets/public/compliance/compliance_support/regulatory/irrigation/quick-reference-guide-chapter-344-rule-changes.pdf

At this time, the LIP is searching for trade fairs, industry events, and community outreach opportunities to educate the public on the most recent rule updates. If you have any suggestions or contacts for potential events, please contact the Landscape Irrigation Program at INSTALL@tceq.texas.gov.

Update from Occupational Licensing - Ms. Shannon Watson

Ms. Shannon Watson, TCEQ Occupational Licensing (OL), provided an update from the OL section.

- In the 4th Quarter (June 1, 2021 - August 31, 2021), 204 new Backflow Prevention Assembly Tester (BPAT) license applications were received along with 333 renewal applications. Out of the 264 tests administered, 128 passed., resulting in a 48.5% passing rate. This brings the total number of BPAT licenses in the State of Texas to 5,539.
- In the 4th Quarter, OL Received 93 new Customer Service Inspector (CSI) applications and 128 renewal applications. 87 tests were administered with 45 having passed, resulting in a 51.7% pass rate. This brings the number of total licensed CSIs to 2,099.

At this time, the OL Section is aggregating the information from the previous fiscal year which ran from September 1, 2020 through August 31, 2021.

Ms. Watson indicated the OL Section is considering translating additional license exams into Spanish, including BPAT and CSI licenses. At this time there are 4 paper exams that have been translated, and more are being added, including certain Wastewater and Water Distribution exams. OL is researching if the backflow tests are in higher demand. The Subcommittee indicated there is significant demand for Spanish CSI and BPAT exams, but less demand for higher levels of license (such as Class B Operator). OL is also in the process of developing and approving of Spanish educational courses. A limiting factor is the need to translate all of the hourly educational materials. There is 1 training provider who is making a CEU course in Spanish, and TRWA is working on translating some water courses. OL indicated this process may need to be pursued by a third-party contractor.

A Subcommittee member asked if the OL would be able to track BPATs and CSIs that are in an ethical violation, such as pencil-whipping results. Typically, the TCEQ refers these issues to the Office of Compliance and Enforcement (OCE). These are frequently a local issue and we have to depend on local enforcement authority to correct, and the TCEQ's ability to track these rogue actors is limited. The Subcommittee member noted there are fraudulent testers in the area that continue and we need to pursue this.

Update from Data Capture Workgroup - Mr. Byron Hardin

Mr. Byron Hardin, Hardin and Associates, provided an update on the Data Capture Workgroup project.

As an introduction, Mr. Hardin clarified the goal of this workgroup is to continue to support TCEQ in its efforts to maintain the State's Cross Connection Control program. The Workgroup seeks to gather and keep data in times of rule evaluation and development. This project is intended to produce the hard data to show what rules need change, what regulations require extra coverage, and identify shortcomings in the state. This data will show what is happening in the state and move the TCEQ forward to keep the agency proactive.

Certain items from the previous meeting's update were highlighted as items of concern. At this time, there is no regulation nor requirement to track failure rates, so there are a limited number of systems that would be able to supply data for this project. It remains a best interest to maintain this information for a PWS to maintain to understand what is going on in their distribution system. In addition, this information should be maintained and accessed continuously – a PWS can use this information to track testers that are passing all, not doing repairs, falsifying reports, and more. This information maintains the integrity of a backflow program.

Ms. Bobbi Winterowd, SwiftComply, indicated that other states request this type of information on an annual report. This may be something to consider in the future for Texas.

Frequently, personnel believe that a new assembly passes immediately out of the box. Several Subcommittee members indicated training providers and city staff were under this false impression. BPAs often fail out of the box and may require adjustment, cleaning, or other preparation to ensure they are working. Debris in the checks is a common cause that this project will be looking at and overlooking new assemblies may be dangerous if not addressed. This sort of misinformation may spread to the management level, cutting off vital understanding and support to a program and information tracking. Subcommittee members agreed that educating managerial staff is an important part of maintaining a program.

TCEQ should consider adding a comment or box that indicates a backflow test form requires review and follow-up.

Testers should also be aware of other items to consider during testing (or a suspension of testing). For example, a failed test may occur due to a test during boil water notice, local restrictions on certain assemblies, a payment issue between tester/customer, a failure due to inaccessibility, or other reasons. Mr. Paul Schwartz, retired University of Southern California backflow professional, noted there are lots of problems with what a failure rate it. A failure may still be offering some form of protection – the PWS will need to inspect and follow up with these failures as necessary.

Mr. Andrew Tello, GCS Backflow Services, noted that the way you ended it was to support TCEQ in their data. There are many testers in this industry that can work with PWS personnel to

support data gathering and going the extra mile. If testers are just testing, and not tracking information, remarks, or observations, the data output may be less useful for supporting the PWS and the State. This goes for both electronic tests results and paper test results.

Additional comments will be sought for this Workgroup prior to rolling out recommendations.

Possible Topics for Next Meeting

Suggested topic for the following Subcommittee meeting were discussed.

Mr. Kelley Stalder, State Fire Marshall's office, indicated that State Fire Marshal's Office is considering issuing a clarification that would allow a fire sprinkler company that only does underground work (Sprinkler Certificate/Registration-Underground, SCR-U) to offer backflow preventor assembly inspection and testing for backflow prevention assemblies installed anywhere on the incoming supply line. These include backflow prevention assemblies which are above ground outside a building, outside a building in a vault or separate building used to house the BPA, or a BPA installed on the inside of the building up to the #2 Shutoff Valve of the BPA (before the first fire sprinkler system supervised valve). There has been some confusion about where a Responsible Managing Employee-Underground (RME-U) is allowed to work on/inspect underground lines dedicated to fire sprinkler systems, particularly since some BPAs are installed outside a building but above ground. This rule clarification may conflict with preexisting language in regards to underground BPA installation, but a SCR-U/RME-U would still either have to hold a BPAT certification from TCEQ or employ a BPAT holder to do any work on the BPA.

It was noted by the Subcommittee that the TCEQ requires a backflow prevention assembly tester who tests on fire lines to be a permanent employee of an approved fire line contractor. It was noted this is a source of confusion and was clarified that this rule refers to permanent W-2 employees, and not outsourced 1099 contractors. Language ideally should reflect or compliment the preexisting TCEQ rules.

This topic will be discussed in the following meeting for further rule research for the Texas Department of Insurance. Meetings may be planned in the future for further development of this topic by the State Fire Marshall's Office, but no timeline is currently planned for the rollout of this clarification.