

**Irrigator Advisory Council (IAC) Meeting
Minutes**

Date: February 11, 2016

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: David Kania called the meeting to order at 9:00 a.m.

I. Roll Call:

Irrigation Advisory Council:

Present: Paul Ward
David Kania
Brooke Furrh
Philip Hathaway
Gary Miles
Mark Froehlich
Toni Fox

Absent: None

Texas Commission on Environmental Quality (TCEQ):

Office of Compliance and Enforcement Program Support Section:

Beryl Thatcher
Kristi Mills-Jurach
Melissa Keller
Elizabeth Vanderwerken
Andre Clark
James Hemple

Office of Compliance and Enforcement, Enforcement Division:

Michael De La Cruz

Office of Water, Water Supply Division

Al Fuentes
Richard Bosch

Office of Legal Services, Litigation Division:

Jacquelyn Boutwell

Office of Waste, Permitting and Registration Support Division

Jaya Zyman
Russell Gardner
Ismael Parra

II. Agenda Topic: Consideration of the November 19, 2015 Minutes

Minutes were approved with no change.

III. Agenda Topic: IAC Updates and Meeting Goals

The following goals were set:

1. Home Owner Education
2. Inspector Checklist
3. Plan Checklist

IV. Agenda Topic: TCEQ Office of Legal Services, Litigation Division

Ms. Jacquelyn Boutwell, TCEQ Litigation Division, provided an update on the number and types of landscape irrigation cases in litigation. Ms. Boutwell stated the top violation types seen by the Litigation Division include people providing services without a license and licensed irrigators installing without a permit.

An audience member asked is there any kind of way to find if an irrigator has been cited in their city for a license violation so they can know who's doing these types of violations. Ms. Boutwell stated that any order that has gone through the TCEQ Litigation Division is public information and is available on the TCEQ's website. Melissa Keller, TCEQ Program Support, answered she will show the audience how to do a Compliance History search later in the meeting.

V. TCEQ Reports

- a. 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 changes being made to the Regulatory Guidance RG-206 (Customer Service Inspections) and RG-478 (Cross-Connection Control Program). The changes would remove the exemption previously stated for irrigation systems. Mr. Fuentes explained that the underlying rules did not allow for the exemption and the change in the guidance document will help alignment with the rule. There are no rule changes.

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.

Richard Bosch gave an update on specific cross-connection complaints they received along the Texas coast.

An audience member stated that there have been a lot of Boil Water Notices in North Texas and asked if that is common. Mr. Fuentes stated that he does not have the numbers stated but that they do receive a lot of Boil Water Notices.

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

Mr. Ismael Parra provided an update for the second Quarter Fiscal Year 2016-See Handout. An audience member asked Mr. Parra if there was data that showed pass rate for 1st time test takers vs. the 2nd or 3rd time. Mr. Parra indicated that the system currently does not break the data down that way and he does not have the manpower to begin tracking it.

c. TCEQ Office of Water and Office of Waste: CSI changes

Mr. Al Fuentes stated the changes being made to RG-206 to better align the document with the rules. He stated that when you have a new irrigation system installation you now have to have a Customer Service Inspection (CSI). Mr. Fuentes stated that does not apply to existing systems. Chairman David Kania asked if there are health hazard changes to existing systems, example changing out the Backflow Assembly Device would there need to be a Customer Service Inspection (CSI). Mr. Fuentes stated that if there are high health hazard changes there would need to be a Customer Service Inspection (CSI).

An audience member asked that if he has to obtain a permit would he need to have a Customer Service Inspection (CSI). Mr. Al Fuentes stated that a (CSI) is required when obtaining a permit per Texas Administrative Code, Title 30, Chapter 290 (30 TAC 290), but it was up to the water purveyor when the CSI would be required in the process

An audience member asked if the RG-206 had been removed from the agency website. Mr. Al Fuentes stated that the revision is not out and will be available soon on the agency's website.

An audience member asked if the (CSI) is there to assess the site as a whole not the irrigation system as a separate piece. Another audience member stated that the (CSI) is just a way for the water purveyor to see what is going on with the water system as far as injections or any major changes to the system. They continued to explain that in the City of Austin the (CSI) is done at the end of the project to see what is going on with the water system.

VI. Agenda Topic: Working Lunch Session

a. Rule Proposal

Council Gary Miles member stated they are still working on getting the Irrigation Plan Checklist set in motion for the rule changes.

b. Enforcement, Planning, and Legislative Committee

Council member Brooke Furrh stated they talked about that the fines are not very high for irrigation violations and how do we go about increasing the fines. Chairman David Kania stated that they have to get the rule petition approved and then start working on how to increase fines.

c. Education, Training and Licensing Committee

Council member Philip Hathaway stated that they are 99 percent done with the Irrigation Plan Checklist. Philip stated that they will still work on the detailed drawing. Mr. Hathaway stated that there should be a box added on the checklist that say is a Customer Service Inspection (CSI) required.

b. Receive, discuss, and act on other items of interest to the Council

Ms. Melissa Keller, TCEQ, requested to schedule the subcommittee calls from the council members. Dates of times and calls for all subcommittees were set.

Chairman David Kania stated that on the rule petition they need to review grammatical errors and format errors before they resubmit the rule changes. Mr. Kania stated they have to look at the statutes to make sure they address the content of the rules they are petitioning. Chairman Mr. Kania also stated that it also needs to be in rule form.

Ms. Beryl Thatcher, TCEQ, stated when submitting the rule, TCEQ is allowed 60 days to be review. Ms. Thatcher stated the rule making she has done in the past takes at least 14 to 16 months. Ms. Thatcher stated that the rule making has to go to proposal and adoption. Ms. Thatcher stated that it is not the agency's practice to have many rules open during the Legislative Session.

c. Special Projects

Ms. Elizabeth Vanderwerken, TCEQ, reported that the TCEQ is updating the Take Care of Texas ("TCOT") Landscape Irrigation publication (GI-409) Ms. Vanderwerken stated that GI-409 was last published in 2013. Currently, GI-409 does not have a lot on the TCEQ Landscape rules and licensing. This GI-409 is distributed in many outreach events and is available on the website. Ms. Vanderwerken requested that anyone interested in assisting with GI-409 may contact her at 512-239-5900 or elizabeth.vanderwerken@tceq.texas.gov. Council member Paul Ward suggested that Texas A&M AgriLife has a lot of good information that can be added to the GI-409.

VII. TCEQ Reports

a. TCEQ Office of Compliance and Enforcement, Enforcement Division

Mr. Michael De La Cruz, TCEQ Enforcement Division, reported in FY2016 they had 2 effective orders against irrigators and collected \$2365.00. Mr. De La Cruz stated they had 10 orders \$9413 assessed with violations. Mr. De La Cruz stated that either they were licensed or not licensed and will be on their compliance history report. Mr. De La Cruz stated they had 1 effective Field Citation for \$175.00.

Chairman David Kania asked if they are repeat offenders do their fines go up. Mr. De La Cruz stated they obtain compliance history and take a look at their Notice of Violations for the last year as well as any orders issued for the past five years. Mr. De La Cruz stated that a combination of violations for the past for years will increase their fines.

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

Mr. Andre Clark reported the investigation numbers for the landscape irrigation team. For FY2016 as of February 11, 2016, there were three open incidents, 93 total complaints received, 94 total approved investigations (56 of those were Notices of Violation and 15 of those were Notices of Enforcement.

Mr. Clark 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.

VIII. Individuals wishing to address the Council

a. Customer Service Inspections (CSI)

The discussion started with Office of Water and Office of Waste was continued in an open forum.

Mr. Jerry Lewis stated that the change with the new CSI program is going to an extra expense for the contractors and in the way the irrigators do business and the change will not be supported by all irrigators around the state of Texas. Mr. Lewis further stated that there needs to be a good communication plan to support the 7000 irrigators around the state of Texas.

Mr. Doug Christiansen stated that with adding the CSI in the beginning and at the end of a project is a major concern.

Mr. Adam Smith stated that the CSI change was fixing a paperwork error; the rules have been enforced correctly; and that not every municipality is following the program as they should. Real world costs will not change.

b. Homeowner Education

In an open discussion on the need for more education, the following ideas were proposed for IAC consideration:

- IAC should review the current webpage and the TCOT Landscape Irrigation GI-409 may be a good way to get the message out.
- Mr. Doug Christensen stated that IAC should look for ways to widen channels and may want to focus on water purveyors. For example, water purveyors send bills to all customers. He added that the City of Austin “Know Your Water IQ” program was expensive and did not seem to get traction.
- An audience member (Irrigation Inspector) stated that irrigators, themselves, do not know the rules. He stated that his city provides packets to new builders in the area that outline requirements. The city walks the completed system with the builder and irrigator.
- Ms. Tammy Swor offered that the TXIA quarterly newsletter can be used and that they are trying to cover a new Best Management Practices with each issue. She offered that anyone can propose to write an article for the newsletter.
- Mr. Brook Furrh stated that City of Amarillo has a CEU class where the city goes over the rules with the irrigators. There is a benefit to the irrigators that attend.
- The updated TCOT Landscape Irrigation GI-409 could be used to educate homeowners and builders.

IX. Meeting Recap

a. Review Parking Items

Ms. Kristi Mills-Jurach, TCEQ, provided a recap of the meeting and identified the following items to be covered in future IAC or IAC subcommittee agendas:

- Inspector checklist-Enforcement, Planning, and Legislative Committee
- RG-206 effect on irrigators – Enforcement Committee
- Rulemaking to increase statutory fine levels – Rules Committee

TCEQ Checklist

- b. Items for IAC May 12, 2016 agenda
- Changing definition of “hazard” – IAC

- Updated to TCOT Landscape Irrigation GI-409 - IAC

X. Adjournment

The meeting was adjourned at 2:00 p.m.

DRAFT