

Summary of Minutes
SB 181 / SB 660 Committee Conference Call

Date: Wednesday November 9, 2011

Time: 9:30 a.m. – 11:30 am.

Location: Texas Water Development Board
1700 North Congress Ave.
Austin, TX 78701

Meeting Facilitators: TWDB support staff

Meeting Attendees: Members of the SB 181 /SB 660 Committee

Scott Swanson
Chris Loft
Gene Montgomery
Justin Weinhiemer
Elliot Fry
Ken Kramer
Steve Bednarz
Kevin Kluge
Dean Minichillo
Comer Tuck
John Sutton
Vanessa Escobar

At 9:30 am the conference call began. The committee used a web conferencing service to view and edit documents and handouts. The entire conference call was dedicated to discussions on defining water use categories and revising Texas Commission on Environmental Quality (TCEQ) rule definitions.

Attached are the two handouts with revisions highlighted in yellow. These revisions are considered a draft and are being reviewed by TCEQ's internal staff.

The meeting was adjourned at 11:30am.

§288.1. Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Agricultural or Agriculture--Any of the following activities:

(A) cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;

(B) the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or non-soil media by a nursery grower;

(C) raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;

(D) raising or keeping equine animals;

(E) wildlife management; and

(F) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure.

(2) Agricultural use--Any use or activity involving agriculture, including irrigation.

(3) Best management practices--Voluntary efficiency measures that save a quantifiable amount of water, either directly or indirectly, and that can be implemented within a specific time frame.

(4) Conservation--Those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.

(5) Commercial use--The use of water by a place of business, such as hotels, restaurants, office buildings, commercial businesses or other places of commerce. These do not include multi-family residences, agricultural users, or customers that fall within the industrial or institutional classifications.

(6) Drought contingency plan--A strategy or combination of strategies for temporary supply and demand management responses to temporary and potentially recurring water supply shortages and other water supply emergencies. A drought contingency plan may be a separate document identified as such or may be contained within another water management document(s).

(7) Industrial use--The use of water in processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, , and the development of power by means other than hydroelectric, but does not include agricultural use.

(8) Institutional use--Water used by an establishment dedicated to public service. This includes water use by schools, universities, churches, hospitals, nursing homes, prisons,

and government facilities. All facilities serving these functions are considered institutional regardless of ownership.

(9) Irrigation--The agricultural use of water for the irrigation of crops, trees, and pastureland, including, but not limited to, golf courses and parks which do not receive water through a municipal distribution system.

(10) Irrigation water use efficiency--The percentage of that amount of irrigation water which is beneficially used by agriculture crops or other vegetation relative to the amount of water diverted from the source(s) of supply. Beneficial uses of water for irrigation purposes include, but are not limited to, evapotranspiration needs for vegetative maintenance and growth, salinity management, and leaching requirements associated with irrigation.

(11) Mining use--The use of water for mining processes including hydraulic use, drilling, washing sand and gravel, and oil field repressuring.

~~(12) Municipal use--The use of potable water within or outside a municipality and its environs whether supplied by a person, privately owned utility, political subdivision, or other entity as well as the use of sewage effluent for residential, commercial, industrial, irrigation, institutional, recreational, and wholesale uses.~~

Comment [ve1]: TWDB Viewpoint: Remove this defined term completely

~~(13) Municipal use in gallons per capita per day--The total average daily amount of water diverted or pumped for treatment for potable use by a public water supply system. The calculation is made by dividing the water diverted or pumped for treatment for potable use by population served. Indirect reuse volumes shall be credited against total diversion volumes for the purpose of calculating gallons per capita per day for targets and goals.~~

Comment [ve2]: TWDB Viewpoint: Remove this defined term completely

(14) Nursery grower--A person engaged in the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or nonsoil media, who grows more than 50% of the products that the person either sells or leases, regardless of the variety sold, leased, or grown. For the purpose of this definition, grow means the actual cultivation or propagation of the product beyond the mere holding or maintaining of the item prior to sale or lease, and typically includes activities associated with the production or multiplying of stock such as the development of new plants from cuttings, grafts, plugs, or seedlings.

(15) Pollution--The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

(16) Public water supplier--An individual or entity that supplies water to the public for human consumption.

~~(17) Recreational use--The use of water for public and aesthetics needs.~~

Comment [ve3]: TCEQ may consider duplicating the "recreational" definition from Ch 297

(18) Residential use: Residential water use is the water billed to single and multi-family residences, and includes both indoor and outdoor water uses. The remainder, non-residential water use, reflects the water used for all other purposes, commercial (non-industrial) businesses, industrial, agricultural and institutional.

(A) Single-Family--Residential properties with single family occupancy including duplexes.

(B) Multifamily--Housing for multiple families.

(19) Residential GPCD – single-family plus multifamily consumption divided by the total population. Residential GPCD is calculated using the following formula:
 $(\text{Single Family and multi-family water sold} \div \text{Population Served}) \div 365 = \text{Residential GPCD}$

(20) Regional water planning group--A group established by the Texas Water Development Board to prepare a regional water plan under Texas Water Code, §16.053.

(21) Retail public water supplier--An individual or entity that for compensation supplies water to the public for human consumption. The term does not include an individual or entity that supplies water to itself or its employees or tenants when that water is not resold to or used by others.

(22) Reuse--The authorized use for one or more beneficial purposes of use of water that remains unconsumed after the water is used for the original purpose of use and before that water is either disposed of or discharged or otherwise allowed to flow into a watercourse, lake, or other body of state-owned water.

(23) Total Use - The volume of raw or potable water provided by a public water system to a billed customer sector or a nonrevenue use and the volume lost during conveyance, treatment or transmission of that water. Customer sectors may include the following: single family residential, multifamily residential, commercial, institutional, industrial, agricultural, or wholesale.

(24) Total GPCD - the total amount of water diverted and/or pumped for potable use divided by total permanent population. Indirect-reuse-diversion volumes shall be credited against total diversion volumes for the purpose of calculating gpcd for targets and goals. Total GPCD is calculated using the following formula:
 $(\text{Total Gallons of Water Produced or Diverted} \div \text{Permanent Population Served}) \div 365 = \text{Total GPCD}$

(25) Water conservation plan--A strategy or combination of strategies for reducing the volume of water withdrawn from a water supply source, for reducing the loss or waste of water, for maintaining or improving the efficiency in the use of water, for increasing the recycling and reuse of water, and for preventing the pollution of water. A water conservation plan may be a separate document identified as such or may be contained within another water management document(s).

(26) Wholesale public water supplier--An individual or entity that for compensation supplies water to another for resale to the public for human consumption. The term does not include an individual or entity that supplies water to itself or its employees or tenants as an incident of that employee service or tenancy when that water is not resold to or used by others, or an individual or entity that conveys water to another individual or entity, but does not own the right to the water which is conveyed, whether or not for a delivery fee.

(27) Wholesale Use - Water sold from one entity or public water system to another entity or public water system with the intent that the water will be distributed and resold to end users.

§288.2. Water Conservation Plans for Municipal Uses by Public Water Suppliers.

(a) A water conservation plan for municipal water use by public water suppliers must provide information in response to the following. If the plan does not provide information for each requirement, the public water supplier shall include in the plan an explanation of why the requirement is not applicable.

(1) Minimum requirements. All water conservation plans for municipal uses by public drinking water suppliers must include the following elements:

(A) a utility profile in accordance with the Texas Water Use methodology including, but not limited to, information regarding population and customer data, water use data, water supply system data, and wastewater system data;

(B) a record management system which allows for the desegregation of water sales and uses into the following user sectors:

(i) residential;
 a. Single-family
 b. Multifamily

(ii) commercial;

(iii) institutional;

(iv) industrial;

(v) agricultural/irrigation;

(vi) wholesale; and

(vii) recreational.

New billing systems purchased must be capable of reporting detailed water use described in this subchapter.

(C) Specific, quantified five-year and ten-year targets for water savings to include goals for water loss programs and goals for total gpcd and residential gpcd The goals established by a public water supplier under this subparagraph are not enforceable;

(D) metering device(s), within an accuracy of plus or minus 5.0% in order to measure and account for the amount of water diverted from the source of supply;

(E) a program for universal metering of both customer and public uses of water, for meter testing and repair, and for periodic meter replacement;

(F) measures to determine and control water loss (for example, periodic visual inspections along distribution lines; annual or monthly water loss audit of the water system to determine illegal connections; abandoned services; etc.);

(G) a program of continuing public education and information regarding water conservation;

(H) a water rate structure which is not "promotional," i.e., a rate structure which is cost-based and which does not encourage the excessive use of water;

(I) a reservoir systems operations plan, if applicable, providing for the coordinated operation of reservoirs owned by the applicant within a common watershed or river basin in order to optimize available water supplies; and

(J) a means of implementation and enforcement which shall be evidenced by:

(i) a copy of the ordinance, resolution, or tariff indicating official adoption of the water conservation plan by the water supplier; and

(ii) a description of the authority by which the water supplier will implement and enforce the conservation plan; and

(K) documentation of coordination with the regional water planning groups for the service area of the public water supplier in order to ensure consistency with the appropriate approved regional water plans.

(2) Additional content requirements. Water conservation plans for municipal uses by public drinking water suppliers serving a current population of 5,000 or more and/or a projected population of 5,000 or more within the next ten years subsequent to the effective date of the plan must include the following elements:

(A) a program of leak detection, repair, and water loss accounting for the water transmission, delivery, and distribution system in order to control water loss;

(B) a requirement in every wholesale water supply contract entered into or renewed after official adoption of the plan (by either ordinance, resolution, or tariff), and including any contract extension, that each successive wholesale customer develop and implement a water conservation plan or water conservation measures using the applicable elements in this chapter. If the customer intends to resell the water, the contract between the initial supplier and customer must provide that the contract for the resale of the water must have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures in accordance with the provisions of this chapter.

(3) Additional conservation strategies. Any combination of the following strategies shall be selected by the water supplier, in addition to the minimum requirements in paragraphs (1) and (2) of this subsection, if they are necessary to achieve the stated water conservation goals of the plan. The commission may require that any of the following strategies be implemented by the water supplier if the commission determines that the strategy is necessary to achieve the goals of the water conservation plan:

(A) conservation-oriented water rates and water rate structures such as uniform or increasing block rate schedules, and/or seasonal rates, but not flat rate or decreasing block rates;

(B) adoption of ordinances, plumbing codes, and/or rules requiring water-conserving plumbing fixtures to be installed in new structures and existing structures undergoing substantial modification or addition;

(C) a program for the replacement or retrofit of water-conserving plumbing fixtures in existing structures;

(D) reuse and/or recycling of wastewater and/or graywater;

(E) a program for pressure control and/or reduction in the distribution system and/or for customer connections;

(F) a program and/or ordinance(s) for landscape water management;

(G) a method for monitoring the effectiveness and efficiency of the water conservation plan; and

(H) any other water conservation practice, method, or technique which the water supplier shows to be appropriate for achieving the stated goal or goals of the water conservation plan.

(b) A water conservation plan prepared in accordance with 31 TAC §363.15 (relating to Required Water Conservation Plan) of the Texas Water Development Board and substantially meeting the requirements of this section and other applicable commission rules may be submitted to meet application requirements in accordance with a memorandum of understanding between the commission and the Texas Water Development Board.

(c) A public water supplier for municipal use shall review and update its water conservation plan, as appropriate, based on an assessment of previous five-year and ten-year targets and any other new or updated information. The public water supplier for municipal use shall review and update the next revision of its water conservation plan not later than May 1, 2009, and every five years after that date to coincide with the regional water planning group.