

Backflow Valve Update # 5

June 3, 2010

The full series of *Backflow Valve Updates* is available at www.backflowvideos.org

This *Update*¹ is devoted to a discussion of who should decide on the final version of the backflow valve regulations (62-550 & 62-555). Should it be a Secretarial Hearing run by the Department of Environmental Protection (DEP), who just happened to write the regulations? Or should it be the Environmental Regulation Commission (ERC) which “sets standards and rules that protect Floridians and the environment based on sound scientific and technical validity, economic impacts, and risks and benefits to the public and Florida’s natural resources”?

The DEP has held four Rule Development Workshops² concerning the revision of the backflow valve and cross-connection regulations. At each workshop, John Sowerby gave a PowerPoint presentation that ended with a schedule of future events. Included in that schedule was a “Secretarial Hearing” to take place once the regulations have been finalized. My understanding is that a Secretarial Hearing is conducted by someone from DEP who rubberstamps the DEP’s regulations as being OK. And that such a hearing is only appropriate for internal regulations, like the reorganization of departments or how paperwork is to be shuffled about. It is not appropriate for regulations which have an effect outside of the DEP’s building.

In fact, the Florida Environmental Regulation Commission (ERC)

“sets standards and rules that protect Floridians and the environment based on sound scientific and technical validity, economic impacts, and risks and benefits to the public and Florida’s natural resources. Most issues that go before the ERC relate to air pollution, water quality and waste management. It is a non-salaried, seven-member board selected by the Governor, who represents agriculture, the

¹ The DEP is aware of the contents of this *Update* and any corrections that they supplied have been incorporated. My discussion is not intended to detract from the seriously brilliant effort by DEP to at least attempt to revise their out-of-date regulations. As a citizen, I do not speak for the DEP.

² Sanford (2/18/2009), Temple Terrace (7/8/2009), West Palm Beach (7/9/2009) and Tallahassee (7/21/2009).

development industry, local government, the environmental community, citizens, and members of the scientific and technical community.”³

The ERC was created as a check on the DEP. My under-the-table understanding is that when the DEP uses a Secretarial Hearing for matters that affect the public, they’re trying to do an end run around the ERC in order to force through their own agenda!

The three major complaints that surfaced at the workshops about the most recent version of the regulations were

- the far-reaching reporting burdens that are being put on utilities,
- the hurry-up timelines for utilities to implement the regulations,
- the continued inclusion of the old-fashioned and dangerous RP valves⁴ in the regulations.

If you have an interest in any of the above three matters, I believe your concerns would be more fairly address by a commission made up of working folks who recognize the importance of time, money and safety, instead of DEP bureaucrats.

Again, I appreciate your positive responses to these *Backflow Valve Updates*.

Thank you,



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³ <http://www.floridadep.org/legal/ERC/>

⁴ Reduced Pressure Zone backflow valves (known as RPs & RPZs) provide direct access to the public water supply for use by terrorists, pranksters and disgruntled people. A number of officials have sent internal emails (see Update 2) noting the dangers of RPs. RPs don’t belong on lawns in residential areas - nor in the DEP’s rules and regulations.