TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AGENDA ITEM REQUEST

for Proposed Rulemaking

AGENDA REQUESTED: April 6, 2016

DATE OF REQUEST: March 18, 2016

INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Sherry Davis, (512) 239-2141

CAPTION: Docket No. 2015-1024-RUL. Consideration for publication of, and hearing on, proposed amended Sections 30.3, 30.7, 30.10, 30.18, 30.20, 30.24, 30.26, 30.30, 30.81, 30.117, 30.120, 30.122, 30.231, 30.240, 30.279, 30.307, 30.331, 30.340, 30.390, 30.506, and 30.507; the repeal of Section 30.247; and the repeal and simultaneous proposal of Section 30.28 of 30 TAC Chapter 30, Occupational Licenses and Registrations.

The proposed rulemaking would implement Senate Bills 807 and 1307, 84th Texas Legislature, 2015, Regular Session, by incorporating new provisions regarding veteran licensure. The proposed rulemaking will also identify approved training delivery methods, increase licensing examination security, remove outdated and redundant references, and improve readability of the chapter. (Michael Parrish, Alicia Ramirez) (Rule Project No. 2015-026-030-WS)

Ashley Forbes for Brent Wade
Deputy Director

Jaya Zyman
Division Director

Sherry L. Davis
Agenda Coordinator

Copy to CCC Secretary? NO X YES

Texas Commission on Environmental Quality
Interoffice Memorandum

To: Commissioners **Date:** March 18, 2016

Thru: Bridget C. Bohac, Chief Clerk
Richard A. Hyde, P.E., Executive Director

From: Brent Wade, Deputy Director
Office of Waste

Docket No.: 2015-1024-RUL

Subject: Commission Approval for Proposed Rulemaking
Chapter 30, Occupational Licenses and Registrations
SB 807 and SB 1307: Military Fee Waiver and Military Renewal
Rule Project No. 2015-026-030-WS

Background and reason(s) for the rulemaking:

The proposed rulemaking will implement requirements in Senate Bills (SBs) 807 and 1307 from the 84th Texas Legislature, 2015. These bills impact 30 Texas Administrative Code (TAC) Chapter 30, Occupational Licenses and Registrations, Subchapter A, Administration of Occupational Licenses and Registrations.

SB 807, by Senator Donna Campbell, amends Texas Occupations Code, Chapter 55, by adding new Texas Occupations Code, §55.009, which requires state licensing agencies to waive fees for application and examinations for: 1) military service members or military veterans who substantially meet all of the requirements for the license and 2) military service members, military veterans, or military spouses who hold a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state.

SB 1307, by Senator Jose Menendez, amends Texas Occupations Code, §55.001, to include definitions for *active duty* and *armed forces of the United States*. SB 1307 also amends Texas Occupations Code, §55.002, by requiring state agencies to exempt military service members from penalties for failing to renew a license in a timely manner and Texas Occupations Code, §55.003, to allow military service members up to two years to complete continuing education and other requirements for renewal. SB 1307 also adds a new Texas Occupations Code, §55.009, requiring state agencies to prominently post a notice on their home website of the options available to military service members, military veterans, and military spouses.

Scope of the rulemaking:
A.) Summary of what the rulemaking will do:
The proposed rulemaking will enable the commission to: waive licensing and examination fees for military service members, military veterans, or military spouses, as required by Texas Occupations Code, Chapter 55, as amended by SB 807; and extend renewal deadlines for military service as required by Texas Occupations Code, Chapter 55,

Re: Docket No. 2015-1024-RUL

Licensing for Military Service Members, Military Veteran's, and Military Spouses, amended by SB 1307.

Additionally, the proposed rulemaking will: remove redundant citations; identify approved training delivery methods; increase examination security; add relevant statutory citations; remove historical dates which no longer pertain to occupational licenses due to agency rule changes; remove citations which no longer pertain to occupational licenses due to historical legislative statutory changes; and improve readability of rules by removing redundant wording and making non-substantive changes to grammar, punctuation, and organization.

The proposed rulemaking will also repeal and simultaneously propose new §30.28 to reorganize the section to improve readability. The new §30.28 will generalize training provider requirements to apply to additional delivery methods.

B.) Scope required by federal regulations or state statutes:
The rulemaking will implement SBs 807 and 1307 which amends Texas Occupations Code, Chapter 55.

C.) Additional staff recommendations that are not required by federal rule or state statute:
The proposed rulemaking will: remove redundant citations; identify approved training delivery methods; increase examination security; add relevant statutory citations; remove historical dates which no longer pertain to occupational licenses due to agency rule changes; remove citations which no longer pertain to occupational licenses due to historical legislative statutory changes; and improve readability of rules by removing redundant wording and making non-substantive changes to grammar, punctuation, and organization.

Statutory authority:

- Texas Water Code, §§5.013, 5.102, 5.103, 26.0301, 26.345, 26.364 - 26.366, and 37.001 - 37.015
- Texas Occupations Code, §§55.001, 55.002, 55.004 - 55.006, 55.008, 55.009, 1904.051 - 1904.055, and 1903.251
- Texas Health and Safety Code, §§341.033, 341.034, 366.011, and 366.012

Effect on the:
A.) Regulated community:
The effect from statutory changes is limited to license holders or potential license holders who are military service members, military veterans, or military spouses who will benefit from a simplified licensing and renewal process. No adverse effect from the proposed rulemaking is expected as the changes are to simplify licensing for military service members, military veterans, and military spouses and for consistency and clarity.

B.) Public:
No direct public effect is expected. The public may benefit indirectly from the proposed changes as a result of having additional licensees who are military service members, military veterans, or military spouses who will have an opportunity to be reintegrated into civilian life as trained and licensed professionals.

C.) Agency programs:
Implementation of the requirements of SBs 807 and 1307 will involve minor procedural changes in the occupational licensing application process when reviewing applicants with a military background. These changes include a request for applicants to submit proof of their military background as well as require staff to update the database to track these individuals.

Stakeholder meetings:
No stakeholder meetings were held; however, Occupational Licensing staff did inform members of Water Utility Operator Licensing Advisory Committee on July 22, 2015, of the intent to open 30 TAC Chapter 30 to clarify training rules as well make revisions necessary to comply with the 84th Texas Legislature, 2015.

Potential controversial concerns and legislative interest:
There are no controversial concerns or legislative interest related to Texas Commission on Environmental Quality implementation activities for SBs 807 and 1307.

Will this rulemaking affect any current policies or require development of new policies?
Currently, there is no policy on reviewing applications for licensees with a military background. Occupational Licensing will create a policy to allow these applicants to submit their background. Also, Occupational Licensing will need to update the database to track these individuals and note that their fees have been waived.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?
If this rulemaking does not go forward, the commission's rules will be inconsistent with statute. There are no alternatives to this rulemaking.

Key points in the proposal rulemaking schedule
Anticipated proposal date: April 6, 2016
Anticipated *Texas Register* publication date: April 22, 2016
Anticipated public hearing date (if any): May 17, 2016
Anticipated public comment period: April 22 - May 23, 2016
Anticipated adoption date: August 24, 2016

Agency contacts:
Michael Parrish, Rule Project Manager, Occupational Licensing Division, (512) 239-2548

Re: Docket No. 2015-1024-RUL

Alicia Ramirez, Staff Attorney, (512) 239-0133
Sherry Davis, Texas Register Coordinator, (512) 239-2141

Attachments
SB 807
SB 1307

cc: Chief Clerk, 2 copies
Executive Director's Office
Marshall Coover
Erin Chancellor
Stephen Tatum
Jim Rizk
Office of General Counsel
Michael Parrish
Sherry Davis

S.B. No. 807

AN ACT

relating to occupational license application and examination fees for certain military service members, military veterans, and military spouses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 55, Occupations Code, is amended by adding Section 55.009 to read as follows:

Sec. 55.009. LICENSE APPLICATION AND EXAMINATION FEES. Notwithstanding any other law, a state agency that issues a license shall waive the license application and examination fees paid to the state for an applicant who is:

(1) a military service member or military veteran whose military service, training, or education substantially meets all of the requirements for the license; or

(2) a military service member, military veteran, or military spouse who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state.

SECTION 2. The changes in law made by this Act apply only to an application for an occupational license filed on or after the effective date of this Act. An application for a license filed before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in

effect for that purpose.

SECTION 3. This Act takes effect September 1, 2015.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 807 passed the Senate on April 14, 2015, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 807 passed the House on May 23, 2015, by the following vote: Yeas 141, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor

S.B. No. 1307

AN ACT

relating to occupational licenses for military service members, military veterans, and military spouses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Chapter 55, Occupations Code, as amended by Chapters 66 (S.B. 162) and 348 (H.B. 2254), Acts of the 83rd Legislature, Regular Session, 2013, is reenacted to read as follows:

CHAPTER 55. LICENSING OF MILITARY SERVICE MEMBERS, MILITARY VETERANS, AND MILITARY SPOUSES

SECTION 2. Section 55.001, Occupations Code, is amended to read as follows:

Sec. 55.001. DEFINITIONS. In this chapter:

(1) "Active duty" means current full-time military service in the armed forces of the United States or active duty military service as a member of the Texas military forces, as defined by Section 437.001, Government Code, or similar military service of another state.

(2) "Armed forces of the United States" means the army, navy, air force, coast guard, or marine corps of the United States or a reserve unit of one of those branches of the armed forces.

(3) "License" means a license, certificate, registration, permit, or other form of authorization required by

law or a state agency rule that must be obtained by an individual to engage in a particular business.

(4) [~~(1-a)~~] "Military service member" means a person who is on active duty [~~currently serving in the armed forces of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state~~].

(5) [~~(1-b)~~] "Military spouse" means a person who is married to a military service member [~~who is currently on active duty~~].

(6) [~~(1-c)~~] "Military veteran" means a person who has served on active duty and who was discharged or released from active duty [~~in the army, navy, air force, marine corps, or coast guard of the United States, or in an auxiliary service of one of those branches of the armed forces~~].

(7) [~~(2)~~] "State agency" means a department, board, bureau, commission, committee, division, office, council, or agency of the state.

SECTION 3. Section 55.002, Occupations Code, is amended to read as follows:

Sec. 55.002. EXEMPTION FROM PENALTY FOR FAILURE TO RENEW LICENSE. A state agency that issues a license shall adopt rules to exempt an individual who holds a license issued by the agency from any increased fee or other penalty imposed by the agency for failing to renew the license in a timely manner if the individual establishes to the satisfaction of the agency that the individual failed to renew the license in a timely manner because the

individual was serving as a military service member [~~on active duty in the United States armed forces serving outside this state~~].

SECTION 4. Section 55.003, Occupations Code, is amended to read as follows:

Sec. 55.003. EXTENSION OF LICENSE RENEWAL [~~CERTAIN~~] DEADLINES FOR [~~ACTIVE DUTY~~] MILITARY SERVICE MEMBERS [~~PERSONNEL~~]. A military service member [~~person~~] who holds a license[~~, is a member of the state military forces or a reserve component of the armed forces of the United States, and is ordered to active duty by proper authority~~] is entitled to two years of [~~an~~] additional [~~amount of~~] time[~~, equal to the total number of years or parts of years that the person serves on active duty,~~] to complete:

(1) any continuing education requirements; and

(2) any other requirement related to the renewal of the military service member's [~~person's~~] license.

SECTION 5. Section 55.004, Occupations Code, is amended to read as follows:

Sec. 55.004. ALTERNATIVE LICENSING [~~LICENSE PROCEDURE~~] FOR MILITARY SERVICE MEMBERS, MILITARY VETERANS, AND MILITARY SPOUSES [~~SPOUSE~~]. (a) A state agency that issues a license shall adopt rules for the issuance of the license to an applicant who is a military service member, military veteran, or military spouse [~~the spouse of a person serving on active duty as a member of the armed forces of the United States~~] and:

(1) holds a current license issued by another jurisdiction [~~state~~] that has licensing requirements that are substantially equivalent to the requirements for the license in

this state; or

(2) within the five years preceding the application date held the license in this state [~~that expired while the applicant lived in another state for at least six months~~].

(b) [~~Rules adopted under this section must include provisions to allow alternative demonstrations of competency to meet the requirements for obtaining the license.~~

[~~(c)~~] The executive director of a state agency may waive any prerequisite to obtaining a license for an applicant described by Subsection (a) after reviewing the applicant's credentials [~~issue a license by endorsement in the same manner as the Texas Commission of Licensing and Regulation under Section 51.404 to an applicant described by Subsection (a)~~].

(c) In addition to the rules adopted under Subsection (a), a state agency that issues a license may adopt rules that would establish alternate methods for a military service member, military veteran, or military spouse to demonstrate competency to meet the requirements for obtaining the license.

SECTION 6. The heading to Section 55.005, Occupations Code, as added by Chapter 66 (S.B. 162), Acts of the 83rd Legislature, Regular Session, 2013, is amended to read as follows:

Sec. 55.005. EXPEDITED LICENSE PROCEDURE FOR MILITARY SERVICE MEMBERS, MILITARY VETERANS, AND MILITARY SPOUSES.

SECTION 7. Section 55.005(a), Occupations Code, as added by Chapter 66 (S.B. 162), Acts of the 83rd Legislature, Regular Session, 2013, is amended to read as follows:

(a) A state agency that issues a license shall, as soon as

practicable after a military service member, military veteran, or military spouse files an application for a license:

(1) process the application; and

(2) issue the [~~a~~] license to an [~~a qualified military spouse~~] applicant who qualifies for the license under Section 55.004 [~~holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the licensing requirements in this state~~].

SECTION 8. Section 55.005, Occupations Code, as added by Chapter 348 (H.B. 2254), Acts of the 83rd Legislature, Regular Session, 2013, is redesignated as Section 55.008, Occupations Code, and amended to read as follows:

Sec. 55.008 [~~55.005~~]. APPRENTICESHIP REQUIREMENTS FOR APPLICANT WITH MILITARY EXPERIENCE. (a) Notwithstanding any other law, if an apprenticeship is required for a [~~an occupational~~] license issued by a state agency, the state agency shall credit verified military service, training, or education that is relevant to the occupation toward the apprenticeship requirements for the license.

(b) The state agency shall adopt rules necessary to implement this section.

SECTION 9. The heading to Section 55.006, Occupations Code, is amended to read as follows:

Sec. 55.006. RENEWAL OF EXPEDITED LICENSE ISSUED TO MILITARY SERVICE MEMBER, MILITARY VETERAN, OR MILITARY SPOUSE.

SECTION 10. Chapter 55, Occupations Code, is amended by adding Section 55.009 to read as follows:

Sec. 55.009. NOTICE OF CHAPTER PROVISIONS. A state agency that issues a license shall prominently post a notice on the home page of the agency's Internet website describing the provisions of this chapter that are available to military service members, military veterans, and military spouses.

SECTION 11. The changes in law made by this Act apply only to an application for an occupational license or renewal of an occupational license filed on or after January 1, 2016. An application for a license or for license renewal filed before January 1, 2016, is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 12. To the extent of any conflict, this Act prevails over another Act of the 84th Legislature, Regular Session, 2015, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 13. This Act takes effect September 1, 2015.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1307 passed the Senate on April 29, 2015, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1307 passed the House on May 27, 2015, by the following vote: Yeas 144, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes to amend §§30.3, 30.7, 30.10, 30.18, 30.20, 30.24, 30.26, 30.30, 30.81, 30.117, 30.120, 30.122, 30.231, 30.240, 30.279, 30.307, 30.331, 30.340, 30.390, 30.506, and 30.507; to repeal §30.247; and to repeal and simultaneously propose new §30.28.

Background and Summary of the Factual Basis for the Proposed Rules

The proposed rules implement requirements in Senate Bills (SB) 807 and 1307 from the 84th Texas Legislature, 2015. These bills impact 30 Texas Administrative Code (TAC) Chapter 30, Subchapter A, Administration of Occupational Licenses and Registrations.

The proposed rules will enable the commission to: waive licensing and examination fees for military service members, military veterans, or military spouses, as required by Texas Occupations Code, Chapter 55, as amended by SB 807; and extend renewal deadlines for military service as required by Texas Occupations Code, Chapter 55, amended by SB 1307.

Additionally, the proposed rules will: remove redundant citations; identify approved training delivery methods; increase examination security; add relevant statutory citations; remove historical dates which no longer pertain to occupational licenses due to agency rule changes; remove citations which no longer pertain to occupational licenses due to historical legislative statutory changes; and improve readability of rules by removing redundant wording and making non-substantive changes to grammar, punctuation, and organization.

The proposed rules will also repeal and simultaneously propose new §30.28 to reorganize the section to improve readability by the public. The new §30.28 will generalize training provider requirements to apply to all delivery methods.

Section by Section Discussion

In addition to the proposed amendments associated with this rulemaking, various stylistic, non-substantive changes have been made to update rule language to current *Texas Register* style and format requirements. Such changes included appropriate and consistent use of acronyms, section references, rule structure, and certain terminology. These changes are non-substantive and generally not specifically discussed in this preamble.

§30.3, Purpose and Applicability

The proposed amendment to §30.3, would update subsection (b)(11) to match the title of 30 TAC Chapter 30, Subchapter L, Visible Emissions Evaluator Training and Certification.

§30.7, Definitions

The proposed amendment to §30.7, would reorder definitions for alphabetical correctness. The proposed amendment would add a definition for *approved application* and *association*. The proposed rule would clarify training delivery methods and providers and identify entities that may be approved for differing delivery methods. The proposed amendment would add or modify definitions to clarify what the commission considers a

high school diploma and *home school diploma*. The proposed amendment will also update additional definitions in the section to improve understanding.

§30.10, Administration

The proposed amendment to §30.10, clarifies the responsibilities of the executive director by including changes made in §30.7, Definitions.

§30.18, Applications for an Initial License

The proposed amendment to §30.18, would add language to allow the executive director discretion when considering an applicant's diploma from a non-accredited high school.

§30.20, Examinations

The proposed amendment to §30.20, would include language about the role and responsibility of examination proctors and examinees. The proposed rule would also include language for increased examination security requirements and provide details regarding the consequences for violation of exam security requirements.

§30.24, License and Registration Applications for Renewal

The proposed amendment to §30.24, would clarify language for renewal notification responsibilities. The proposed rule would include language from §30.7, Definitions. The proposed rule would incorporate language from SB 1307 for the extended renewal time for military service members.

§30.26, Recognition of Licenses from Out-of-State; Licenses for Military Service Members, Military Veterans, or Military Spouses

The proposed amendment to §30.26, would change the section title to reflect changes made by SB 1307. The proposed rule would incorporate language from SB 1307 for the qualifications of military service members, military veterans, and military spouses. The proposed rule would add language clarifying the limitations of reciprocity.

§30.28, Approval of Training

The proposed rule would repeal and simultaneously propose new §30.28, to reorganize the section to improve readability and flow. The current rule does not allow for incorporation of emerging technologies to deliver training. The new rule will generalize training provider requirements so the requirements apply to all delivery methods.

New §30.28(a), existing §30.28(a), would remove the 45 and 120-day application review notification deadlines from the existing rule and place them into internal guidance. The removal of the review notification deadlines from rule would not affect the commission's response times on these reviews and would continue to ensure staff can review training applications completely and accurately.

New §30.28(b) would identify specific training delivery methods approved by the executive director. The proposed subsection will incorporate the existing training methods in

existing §30.28(b).

New §30.28(c), part of existing §30.28(b), would allow the executive director to award training credit for successful completion of approved training used to obtain or renew a license.

New §30.28(d), existing §30.28(c), would allow the executive director to determine the number of hours of training credit for approval. The proposed subsection would clarify the methodology used to determine hours from the existing section.

New §30.28(e), existing §30.28(d), would identify the requirements for training provider applications. The proposed subsection would improve the readability of the existing language. The proposed §30.28(e)(6) would also specify documentation required for copyrighted material as listed in existing §30.28(v). The proposed §30.28(e)(7) would additionally include the application deadline from existing §30.28(y).

New §30.28(f) would add the executive director's definition of applicant.

New §30.28(g), existing Figure: TAC §30.28(y)(6), would identify the fee schedule calculations for training applications.

New §30.28(h), existing §30.28(l), would identify the requirements training providers

must meet to be approved or renewed. The proposed subsection would make no substantive change to the existing language.

New §30.28(i), existing §30.28(j), would require that training not be advertised as approved until a notice of approval is received from the executive director. The proposed subsection would make no substantive change to the existing language.

New §30.28(j), existing §30.28(m)(1), would prohibit training in a place of business directly related to the occupational license. The proposed subsection would make no substantive change to the existing language.

New §30.28(k), existing §30.28(e), would allow approved training to be offered without notification to the executive director. The proposed subsection would make no substantive change to the existing language.

New §30.28(l), existing §30.28(f), would allow training to be considered approved until the content changes or the executive director notifies the training provider of required changes. The proposed subsection would make no substantive change to the existing language.

New §30.28(m), existing §30.28(g), would require the executive director's approval when training providers change delivery methods. The proposed subsection would make no

substantive change to the existing language.

New §30.28(n), existing §30.28(x), would identify the executive director's authority over training providers. The proposed subsection would make no substantive change to the existing language. The proposed §30.28(n)(2) includes language from existing §30.28(y)(3) that grants the executive director authority to conduct an administrative review over applications and a technical review for rule compliance. The proposed §30.28(n)(4) includes the update requirement from existing §30.28(h).

New §30.28(o), existing §30.28(x)(3), would identify the reasons the executive director may recall, rescind, suspend, or deny approval for training. The proposed subsection would make no substantive change to the existing language.

New §30.28(p) would identify the types of training that will not be approved or allowed credit.

New §30.28(q), existing §30.28(i) and (q), would identify the obligations training providers have to the agency and to the students. The proposed subsection would include a requirement to ensure the agency has the most current electronic copy of a provider's training materials.

New §30.28(r), existing §30.28(t), would require that training material be presented in the

original manner and be relevant to the critical job tasks for the occupational license. The proposed subsection would make no substantive change to the existing language.

New §30.28(s), existing §30.28(u), would require training providers utilizing public information modify the material to be applicable to the target audience and delivery methods. The proposed subsection would make no substantive change to the existing language.

§30.30, Terms and Fees for Licenses and Registration

The proposed amendment to §30.30, would incorporate language from SB 807 to waive the initial application fee for military service members, military veterans, and military spouses.

§30.81, Purpose and Applicability

The proposed amendment to §30.81, would remove citations which no longer pertain to occupational licenses due to historical legislative statutory changes.

Subchapter D: Landscape Irrigators, Irrigation Technicians, and Irrigation Inspectors

The proposed amendment would change the title of Subchapter D of to reflect historical rule changes.

§30.117, Definitions

The proposed amendment to §30.117, would remove and modify historical definitions that pertain to occupational licenses due to agency rule changes.

§30.120, Qualifications for Initial License

The proposed amendment to §30.120, would remove historical terms which no longer pertain to occupational licenses due to agency rule changes.

§30.122, Qualifications for License Renewal

The proposed amendment to §30.122, would remove historical terms which no longer pertain to occupational licenses due to agency rule changes.

§30.231, Purpose and Applicability

The proposed amendment to §30.231, would remove historical terms which no longer pertain to occupational licenses and registrations due to agency rule changes.

§30.240, Qualifications for Initial License

The proposed amendment to §30.240, would remove historical terms and dates which no longer pertain to occupational licenses due to agency rule changes.

§30.247, Registration of Maintenance Providers

The proposed repeal of §30.247, would repeal a historical rule that was valid from September 11, 2008 to April 30, 2009 due to legislative changes from House Bill 2482,

80th Texas Legislature, 2007.

§30.279, Exemptions

The proposed amendment to §30.279, would remove and modify citations which pertain to occupational licenses and registrations due to historical legislative statutory changes.

§30.307, Definitions

The proposed amendment to §30.307, would remove and modify citations which pertain to occupational licenses and registrations due to historical legislative statutory changes.

§30.331, Purpose and Applicability

The proposed amendment to §30.331, would add a new citation that resulted from a recent applicable rule change. The proposed section would also remove historical dates which no longer pertain to occupational licenses and registrations due to agency rule changes.

§30.340, Qualifications for Initial License

The proposed amendment to §30.340, would clarify that an examination is required to receive the license. The proposed amendment would make references to college degrees consistent with other rules. The proposed amendment would remove historical dates which no longer pertain to occupational licenses due to agency rule changes. The proposed amendment would clarify the amount of education and training that may be substituted for the required experience. The proposed amendment would clarify the courses required for

licensure.

§30.390, Qualifications for Initial License

The proposed amendment to §30.390, would clarify that an examination is required to receive the license. The proposed rule would clarify the course and hours required for licensure. The proposed rule would make references to college degrees consistent with other rules. The proposed rule would clarify the experience requirements for licensure. The proposed rule would clarify the amount of education and training that may be substituted for the required experience.

§30.506, Visible Emission Evaluator Training Requirements

The proposed amendment to §30.506, would add a requirement for the number of proctors per student. This requirement was originally found in §30.507 and moved to §30.506 to clarify that the requirement applies to training providers.

§30.507, Field Training and Testing Requirements

The proposed amendment to §30.507, would remove a proctor requirement that is better suited to §30.506. The proposed amendment would also update a requirement to the field testing certification to be consistent with other certification requirements found in rule.

Fiscal Note: Costs to State and Local Government

Jeffrey Horvath, Analyst in the Chief Financial Officer's Division, has determined that for

the first five-year period the proposed rules are in effect, no significant fiscal implications are anticipated for the agency and no fiscal implications are anticipated for other units of state or local government as a result of administration or enforcement of the proposed rules.

The proposed rules would implement requirements in SBs 807 and 1307 from the 84th Texas Legislature, 2015. The proposed rules would waive licensing and examination fees for military service members, military veterans, or military spouses and extend occupational license renewal deadlines. The proposed rules would also: remove redundant citations; identify approved training delivery methods; increase examination security; add relevant statutory citations; remove historical dates that no longer pertain to occupational licenses due to agency rule changes; remove citations which no longer pertain to occupational licenses due to historical legislative statutory changes; and improve readability of rules by removing redundant wording and making non-substantive changes to grammar, punctuation, and organization.

No significant fiscal implications are anticipated for TCEQ to implement SBs 807 and 1307. The agency is required to waive occupational licensing application and examination fees for military service members, military veterans, and military spouses. Implementing these requirements will involve minor procedural changes in the occupational licensing application process when reviewing applicants with a military background. These changes would include a request by the agency for applicants to disclose and provide proof of their

military background. These minor procedural changes are not expected to result in significant costs. The proposed rules are not expected to affect other units of state or local government, though SBs 807 and 1307 will affect other state agencies that license occupational vocations.

Waiving occupational license application and examination fees will decrease revenue to TCEQ's Occupational Licensing Account Number 468. The current combined TCEQ occupational license application and examination fee for each application is $111.00. With the fee waived for military service members, veterans, and military spouses, the Occupational Licensing Account will experience a decrease in funding. The magnitude of the revenue decrease is not known because TCEQ currently does not track the number of military service members, military veterans, and military spouses nor can the agency anticipate the number of new applications it will receive in the future. Over time, the agency will be better able to determine the impact of the fee waiver to the account revenue stream. Currently, it is not expected that the decrease in revenue will be significant.

Public Benefits and Costs

Mr. Horvath has also determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated from the changes seen in the proposed rules will be that military service members, military veterans, or military spouses will have occupational license application and exam fees waived as a tribute for their service to the country.

The proposed rules are not anticipated to result in fiscal implications for businesses. The proposed rules will provide cost savings for those individuals who are military service members, military veterans, or military spouses who seek an occupational license by waiving the application and exam fees. These cost savings are estimated to be $111.00 for each application. Also, military service members who are on active duty who may need more time to renew their license will benefit from the rulemaking in that license renewal deadlines will be extended.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated due to the implementation or administration of the proposed rules for the first five year period the proposed rules are in effect for small or micro-businesses. The proposed rules are not anticipated to result in fiscal implications for businesses large or small. The proposed rules will provide cost savings for those individuals who are military service members, military veterans, or military spouses who seek an occupational license by waiving the application and exam fees.

Small Business Regulatory Flexibility Analysis

The commission has reviewed this proposed rulemaking and determined that a small business regulatory flexibility analysis is not required because the proposed rules are required by state law and do not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

Local Employment Impact Statement

The commission has reviewed this proposed rulemaking and determined that a local employment impact statement is not required because the proposed rules do not adversely affect a local economy in a material way for the first five years that the proposed rules are in effect.

Draft Regulatory Impact Analysis Determination

The commission reviewed this rulemaking action in light of the regulatory analysis requirements of the Administrative Procedure Act, Texas Government Code, §2001.001 *et seq*, and determined that the rulemaking is not subject to Texas Government Code, §2001.0225, because it does not meet the definition of a "major environmental rule" as defined in Texas Government Code, §2001.0225(g)(3). Texas Government Code, §2001.0225, applies only to rules that are specifically intended to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The intent of the proposed rulemaking is to implement requirements in SBs 807 and 1307 from the 84th Texas Legislature, 2015. Protection of human health and the environment may be a by-product of the proposed rules, but it is not the specific intent of this rulemaking. Furthermore, the proposed rulemaking will enable the commission to: extend renewal deadlines for military service as required by Texas Occupations Code, Chapter 55,

Licensing of Military Service Members, Military Veterans, and Military Spouses, amended by SB 1307; and waive licensing and examination fees for military service members, military veterans, or military spouses, as required by Texas Occupations Code, Chapter 55, as amended by SB 807. This rulemaking would not adversely affect, in a material way, the economy, a section of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Thus, the proposed rulemaking does not meet the definition of a "major environmental rule" as defined in Texas Government Code, §2001.0225(g)(3) and does not require a full regulatory impact analysis.

Furthermore, the proposed rulemaking does not meet any of the four applicability requirements listed in Texas Government Code, §2001.0225(a). Texas Government Code, §2001.0225 only applies to a major environmental rule which: 1) exceeds a standard set by federal law, unless the rule is specifically required by state law; 2) exceeds an express requirement of state law, unless the rule is specifically required by federal law; 3) exceeds a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) is adopted solely under the general powers of the agency instead of under a specific state law.

There are no federal standards regulating occupational licensing. This rulemaking does not exceed state law requirements, and state law authorizes their implementation, not federal law. There are no delegation agreements or contracts between the State of Texas and an

agency or representative of the federal government to implement a state and federal program regarding occupational licensing. Finally, this rulemaking is being proposed under specific state laws, in addition to the general powers of the agency.

Written comments on the Draft Regulatory Impact Analysis may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Takings Impact Assessment

The commission evaluated this proposed rulemaking and performed an analysis of whether this proposed rulemaking constitutes a taking under Texas Government Code, Chapter 2007. The purpose of this proposed rulemaking is to implement requirements in SBs 807 and 1307 from the 84th Texas Legislature, 2015. Promulgation and enforcement of this proposed rulemaking would be neither a statutory nor a constitutional taking of private real property. Specifically, the proposed regulations do not affect a landowner's rights in private real property because this rulemaking does not burden nor restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulations. This rulemaking would not constitute a statutory or constitutional taking because this proposed rulemaking only implements statutory requirements and updates and clarifies the existing rules and does not affect a landowner's rights in real property.

Consistency with the Coastal Management Program

The commission reviewed the proposed rulemaking and found that it is neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(2) or (4), nor will the rulemaking affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(a)(6). Therefore, the proposed rulemaking is not subject to the Texas Coastal Management Program.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Announcement of Hearing

The commission will hold a public hearing on this proposal in Austin on May 17, 2016, at 10:00a.m. in Building E, Room 201S, at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as

possible.

Submittal of Comments

Written comments may be submitted to Sherry Davis, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: *http://www1.tceq.texas.gov/rules/ecomments/*. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2015-026-030-WS. The comment period closes on May 23, 2016. Copies of the proposed rulemaking can be obtained from the commission's website at *http://www.tceq.texas.gov/rules/propose_adopt.html*. For further information, please contact Michael Parrish, Occupational Licensing, at (512) 239-2548.

SUBCHAPTER A: ADMINISTRATION OF OCCUPATIONAL LICENSES AND REGISTRATIONS

§§30.3, 30.7, 30.10, 30.18, 30.20, 30.24, 30.26, 30.28, 30.30

Statutory Authority

These amendments and new section are proposed under Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which establishes the general powers of the commission; and TWC, §5.103, which authorizes the Texas Commission on Environmental Quality (commission) to make rules. These amendments and new section are also proposed under TWC, §37.001, which establishes that in TWC, Chapter 37, "Commission" means the Texas Natural Resource Conservation Commission, predecessor to the commission; TWC, §37.002, which authorizes the commission to adopt any rules necessary to: establish occupational licenses and registrations prescribed by TWC, §§26.0301, 26.3573, 26.452, and 26.456; Texas Health and Safety Code (THSC), §§341.033, 341.034, 361.027, and 366.071; and Texas Occupations Code, §1903.251; establish classes and terms of occupational licenses and registrations; and administer the provisions of TWC, Chapter 37 and other laws governing occupational licenses and registrations under the commission's jurisdiction; TWC, §37.003, which establishes that a person may not engage in a business, occupation, or profession described by TWC, §§26.0301, 26.3573, 26.452, and 26.456; THSC §§341.033, 341.034, 361.027, and 366.071; or Texas Occupations Code, §1903.251, unless the person holds the appropriate license or registration issued by the commission; TWC, §37.004,

which authorizes the commission to establish qualifications for each license and registration issued under TWC, Chapter 37; TWC, §37.005, which authorizes the commission to establish requirements and uniform procedures for issuing licenses and registrations under TWC, Chapter 37; TWC, §37.006, which authorizes the commission to establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.007, which authorizes the commission to prescribe the content of licensing examinations; TWC, §37.008, which provides the commission authority to approve training programs necessary to qualify for or renew a license; TWC, §37.009, which authorizes the commission to establish and collect fees to cover the cost of administering and enforcing TWC, Chapter 37 and licenses and registrations issued under TWC, Chapter 37; TWC, §37.010, which grants the commission authority to make rules regarding false, misleading, or deceptive practices by licensees and registrants; TWC, §37.011, which authorizes the commission to prepare and make available to the public information describing the procedures by which a person may submit licensing and registration complaints to the commission; TWC, §37.012, which authorizes the commission to require a person to provide information about other occupational licenses and registrations held by the person; TWC, §37.013, which provides that a license or registration holder must engage in the business, occupation, or profession governed by the license or registration according to applicable laws and commission rules and orders; TWC, §37.014, which requires the commission to maintain and make available to the public an official roster of persons who hold licenses and registrations issued under TWC, Chapter 37; and TWC, §37.015, which authorizes the commission to contract with persons to provide services

required by TWC, chapter 37. These amendments and the new section are also proposed under Texas Occupations Code, §55.001, which establishes the definitions of active duty, armed forces of the United States, license, military service member, military spouse, military veteran, and state agency; Texas Occupations Code, §55.002, which requires the commission to adopt rules to exempt an individual who holds a license issued by the commission from any increased fee or other penalty for failing to renew the license in a timely manner if the individual establishes that the individual failed to renew the license in a timely manner because the individual was serving as a military service member; Texas Occupations Code, §55.003, which requires the commission to extend for two years license renewal deadlines for military service members who hold a license; Texas Occupations Code, §55.004, which requires the commission to adopt alternative licensing rules for military service members, military veterans, or military spouses who hold a license issued by another jurisdiction that has substantially equivalent requirements for the license in this state; Texas Occupations Code, §55.005, which requires the commission to provide an expedited license procedure for military service members, military veterans, and military spouses; Texas Occupations Code, §55.006, which requires the commission to provide expedited license renewal to military service members, military veterans, or military spouses; Texas Occupations Code, §55.008, which requires the commission to credit verified military service, training, or education that is relevant to the occupation toward apprenticeship requirements for a license if an apprenticeship is required; and Texas Occupations Code, §55.009, which requires the commission to waive license application and examination fees for certain military service members, military veterans, and military

spouses and to prominently post a notice on the home page of the commission's website describing the provisions of Texas Occupations Code, Chapter 55, that are available to military service members, military veterans, and military spouses.

These amendments and new section implement TWC, §§5.013, 5.102, 5.103, and 37.001 - 37.015; Texas Occupations Code, §§55.001 - 55.006, 55.008, and 55.009; and Senate Bills 807 and 1307.

§30.3. Purpose and Applicability.

(a) The purpose of this chapter is to consolidate the administrative requirements and establish uniform procedures for the occupational licensing and registration programs prescribed by Texas Water Code, Chapter 37. This subchapter contains general procedures for issuing, renewing, denying, suspending, and revoking occupational licenses and registrations. Subchapters B - L of this chapter (relating to Backflow Prevention Assembly Testers; Customer Service Inspectors; Landscape Irrigators, Irrigation Technicians, and Irrigation Inspectors; Leaking Petroleum Storage Tank Corrective Action Project Managers and Specialists; Municipal Solid Waste Facility Supervisors; On-Site Sewage Facilities Installers, Apprentices, Designated Representatives, Maintenance Providers, Maintenance Technicians, and Site Evaluators; Water Treatment Specialists; Underground Storage Tank On-Site Supervisor Licensing and Contractor Registration; Wastewater Operators and Operations Companies; Public Water System Operators and Operations Companies; and

Visible Emissions Evaluator Training and Certification) contain the program-specific requirements related to each program.

(b) The requirements of this chapter apply to the following occupational licenses and registrations:

(1) backflow prevention assembly testers;

(2) customer service inspectors;

(3) landscape irrigators, irrigation technicians, and irrigation inspectors;

(4) leaking petroleum storage tank corrective action specialists and project managers;

(5) municipal solid waste facility supervisors;

(6) on-site sewage facility installers, designated representatives, apprentices, maintenance providers, maintenance technicians, and site evaluators;

(7) water treatment specialists;

(8) underground storage tank contractors and on-site supervisors;

(9) wastewater operators and operations companies;

(10) public water system operators and operations companies; and

(11) visible emissions evaluator [evaluators] training and certification [providers].

§30.7. Definitions.

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

[(1) Approved training event--Instructor-led classroom training, conferences, seminars, workshops, training at association meetings, distance learning, or technology-based training providing the knowledge and skills needed to perform occupational job tasks and that has been reviewed and approved by the executive director.]

(1) [(2)] Aerobic treatment system owner--Persons that in their individual capacities own a single-family dwelling that is serviced by an on-site sewage disposal system using aerobic treatment.

(2) Approved application--An application submitted to the Occupational Licensing Section that contains all the information the executive director has deemed necessary to be accurately processed and that the executive director has determined to be approved.

(3) Approved classroom training providers--Entities that have been approved by the executive director to provide classroom training after demonstration of hands-on subject matter expertise, knowledge of and experience with educational principles and effective instructional designs.

(4) Approved conference and webinar training providers--Governmental entities or their designated agents, associations, or colleges as listed by accrediting agencies that are recognized by the United States Department of Education and that have been approved by the executive director to provide conference and webinar training.

(5) Approved distance training providers--Governmental entities or their designated agents, associations, or colleges as listed by accrediting agencies that are recognized by the United States Department of Education and that have been approved by the executive director to provide distance training after demonstrating comparable subject matter expertise, knowledge of and experience with educational principles, and effective instructional designs.

(6) Approved training--Training which provides the knowledge and skills necessary to perform occupational job tasks and is used for obtaining or renewing a license as determined by the executive director.

(7) Approved training delivery method--Methods approved by the executive director that currently include instructor-led classroom training, conferences, seminars, workshops, training at association meetings, distance training, or technology-based training.

(8) Association--The term association as used in the context of this chapter is an industry-related non-profit association whose members hold licenses issued by the commission.

(9) [(3)] Conference--The term conference as used in the context of this chapter includes conferences, seminars, workshops, symposiums, expos, [interactive video conferences] and any other such training venues.

(10) [(4)] Continuing education--Job-related training credit approved by the executive director used for renewal of licenses [and registrations].

(11) Correspondence training--The term correspondence training as used in the context of this chapter is distance training that can either be paper-based and conducted through a postal system, electronic-based and conducted through a website, or a blend of these delivery systems.

(12) [(5)] Distance training [learning]--The acquisition of knowledge that occurs through various technologies with a separation of place and/or time between the instructor(s) or learning resources and the learner.

(13) [(6)] Distributor--Any person or nongovernmental organization that sells a product primarily to individuals maintaining occupational licenses administered by the agency.

(14) High school diploma--An earned high school diploma from a United States high school, an accredited secondary school equivalent to that of United States high school, or a passing score on the general education development (GED) test that indicates a high school graduation level.

(15) Home school diploma--An earned diploma from a student who predominately receives instruction in a general elementary or secondary education program that is provided by the parent, or by a person in parental authority, in or through the child's home.

[(7) High school diploma or equivalent certificate--A graduation diploma from a high school or a General Educational Development (GED) certification from an accrediting agency recognized by the United States Department of Education or other respective territory's or country's accreditation process if outside the United States.]

[(8) Industry-related association--A nonprofit organization that represents members that possess occupational licenses issued by the agency.]

(16) [(9)] License--An occupational license issued by the commission to a person authorizing the person to engage in an activity covered by this chapter.

(17) [(10)] Maintenance provider--A person that, for compensation, provides service or maintenance for one or more on-site sewage disposal systems using aerobic treatment.

(18) [(11)] Manufacturer--For the purpose of this subchapter any person, company, or nongovernmental organization that produces a product for sale primarily to individuals who maintain occupational licenses that are administered by the agency.

(19) [(12)] Person--As defined in §3.2 of this title (relating to Definitions).

(20) [(13)] Qualified [classroom] instructor--An individual who has instructional experience, work-related experience, and subject matter expertise that enables [enable] the individual to communicate course information in a relevant, informed manner and to answer students' questions.

(21) [(14)] Registration--An occupational registration issued by the commission to a person authorizing the person to engage in an activity covered by this chapter.

(22) [(15)] Service provider--Any person, company, or nongovernmental organization that provides a service for its own profit to individuals who maintain occupational licenses that are administered by the agency.

(23) [(16)] Subject matter expert--A person having a minimum of three years of work-related experience and expert knowledge in a particular content area or areas as relates to training.

(24) Technology-based training--The term technology-based training as used in the context of this chapter includes training offered through computer equipment or through a website (also known as on-line training or e-learning).

(25) [(17)] Training credit--Hours awarded [of credit allowed] by the executive director for successful completion of [an] approved training [event].

[(18) Technology-based training--Training offered through computer equipment or through a Web site (also known as on-line training or e-learning).]

(26) [(19)] Training provider--An administrative entity or individual responsible for obtaining approval of training, providing acceptable delivery of approved training, ensuring that qualified instructors or subject matter experts are utilized in the delivery, support, and development of training and monitoring, recording and reporting attendance accurately and promptly as required by the executive director.

(27) [(20)] Webinar--Interactive training delivered live via the Internet as a combination of conference training and distance training [learning] where the learner is separated by place from the learning source. [Successful completion of webinar training may only be credited toward training requirements for license renewals.]

§30.10. Administration.

The executive director is responsible for:

(1) reviewing applications;

(2) developing, administering, and grading examinations;

(3) issuing and renewing licenses and registrations;

(4) maintaining records related to licenses and registrations;

(5) maintaining a roster of current licenses and registrations;

(6) collecting fees;

(7) approving training providers [used for the issuance of training credits];

(8) awarding training credit for approved [approving] training [providers]; and

(9) responding to complaints against licensees, registrants, and training providers.

§30.18. Applications for an Initial License.

(a) Applications for initial licenses shall be made on a standard form provided by the executive director. The application must be submitted to the executive director with the fee according to §30.30 of this title (relating to Terms and Fees for Licenses and Registrations). The application must be submitted to the executive director before the applicant may take the examination.

(b) Supplemental information for each individual program shall be submitted according to the specific requirements for each program.

(c) An approved application shall be valid for one year from the date of application approval.

(d) All statements and qualifications provided by each applicant or on the behalf of the applicant are subject to verification by the executive director.

(e) All statements, qualifications, and attachments provided by the applicant relating to an application shall be true, accurate, complete, and contain no misrepresentation or falsification.

(f) Misrepresentation or falsification of any information may be grounds for denial of an application and for enforcement action.

(g) All applications must be completed in full. All deficiencies must be corrected within 120 days of notification, or the application shall be considered void.

(h) An applicant must furnish evidence of any training credit, proof of education, or work experience when requested. Diplomas from non-accredited high schools will be evaluated by the executive director on a case-by-case basis and will be considered based on the following submitted information:

(1) transcript;

(2) documentation of actual coursework;

(3) time spent on coursework or program; and

(4) any additional documentation the executive director might reasonably request or that would assist the applicant in demonstrating the proof of their education claim.

(i) The executive director shall determine whether an applicant meets the requirements of this subchapter. If all requirements have been met, the executive director shall issue the license. The license shall be valid for the term specified in Subchapters B - L of this chapter (relating to Backflow Prevention Assembly Testers;[,]Customer Service

Inspectors;[,] Landscape Irrigators, [Installers,] Irrigation Technicians, and Irrigation Inspectors;[,] Leaking Petroleum Storage Tank Corrective Action Project Managers and Specialists;[,] Municipal Solid Waste Facility Supervisors;[,] On-Site Sewage Facilities Installers, Apprentices, Designated Representatives, Maintenance Providers, Maintenance Technicians, and Site Evaluators;[.] Water Treatment Specialists;[,] Underground Storage Tank On-Site Supervisor Licensing and Contractor Registration;[,] Wastewater Operators and Operations Companies;[,] Public Water System Operators and Operations Companies; and [,] Visible Emissions Evaluator Training and Certification, respectively.) The effective date of the license shall be the date the executive director issues the license.

§30.20. Examinations.

(a) The executive director shall prescribe the content of licensing examinations. Examinations shall be based on laws, rules, job duties, and standards relating to the particular license. The contents of any examination required for licensure under this chapter are confidential and examinees may not share them with anyone.

(b) Examinations shall be graded and the results forwarded to the applicant no later than 45 days after the examination date. The minimum passing score for an examination is 70%.

(c) An individual with an approved application who fails an examination may not repeat an examination until receiving notification of examination results for that particular examination.

(d) The application becomes void either after 365 days from date of application or failing the same examination four times, whichever occurs first. If an application becomes void, a new fee and a new application must be submitted before the applicant may take the same examination again.

(e) Any scores for repeat examinations taken after an application becomes void will not be applied to the issuance of the license.

(f) Any qualified applicant with a physical, mental, or developmental disability may request reasonable accommodations to take an examination.

(g) Examinations shall be given at places and times approved by the executive director.

<u>(h) Examinees must comply with all written and verbal instructions of the proctor and shall not:</u>

(1) bring any unauthorized written material, in either printed or electronic formats, into the examination room;

(2) bring any electronic devices, including any device with a camera, into the examination room;

(3) share, copy, or in any way reproduce any part of the examination;

(4) engage in any deceptive or fraudulent act; or

(5) solicit, encourage, direct, assist, or aid another person to violate any provision of this section or compromise the confidentiality of the examination.

(i) [(h)] The executive director shall provide an analysis of an examination when requested in writing by the applicant. The executive director shall ensure that an examination analysis does not compromise the fair and impartial administration of future examinations.

(j) [(i)] An individual who wishes to observe a religious holy day on which the individual's religious beliefs prevent the individual from taking an examination scheduled by the agency on that religious holy day shall be allowed to take the examination on an alternate date.

(k) [(j)] The executive director may deny an individual the opportunity to take a licensing examination on the grounds that the individual has been convicted of an offense, other than an offense punishable as a Class C misdemeanor, that:

(1) directly relates to the duties and responsibilities of the licensed occupation;

(2) does not directly relate to the duties and responsibilities of the licensed occupation and that was committed less than five years before the date the individual applies for the license;

(3) is an offense listed in Texas Code of Criminal Procedure, Article 42.12, Section 3g; or

(4) is a sexually violent offense, as defined by Texas Code of Criminal Procedure, Article 62.001.

(l) [(k)] The executive director may deny an individual the opportunity to take a licensing examination on the grounds that:

(1) the individual was charged with:

(A) any offense described by Texas Code of Criminal Procedure, Article 62.001(5); or

(B) an offense other than an offense described by subparagraph (A) of this paragraph if:

(i) the individual has not completed the period of supervision or the individual completed the period of supervision less than five years before the date the individual applied for the license; or

(ii) a conviction for the offense would make the individual ineligible for the license by operation of law; and

(2) after consideration of the factors described by Texas Occupations Code, §§53.021(d), 53.022, and 53.023(a), the executive director determines that:

(A) the individual may pose a continued threat to public safety; or

(B) employment of the individual in the licensed occupation would create a situation in which the individual has an opportunity to repeat the prohibited conduct.

(m) After notice and opportunity for a hearing, the commission may deny or revoke any license or registration held by a person who violates any of the provisions of this section. The commission may file a criminal complaint against any individual who removes or attempts to remove any portion of the examination, reproduces without permission any part of the examination, or who engages in any fraudulent act relating to the examination process.

§30.24. License and Registration Applications for Renewal.

(a) A license or registration may not be renewed if it has been:

(1) expired for more than 30 days and an application has not been received by the executive director or postmarked within 30 days after the expiration date of the license or registration;

(2) revoked; or

(3) replaced by a higher class of license.

(b) Applications for renewal must be made on a standard form provided by the executive director.

(1) The executive director shall mail a renewal notification [application] at least 60 days before the license or registration expires to the most recent address provided to the executive director. If a person does not receive a renewal notification [application], the person is not relieved of the responsibility to timely submit a renewal application.

(2) The person is responsible for ensuring that the completed renewal application, the renewal fee, and other required information are submitted to the executive director by the expiration date of the license or registration.

(c) All statements, qualifications, and attachments provided by the applicant that relate to a renewal application shall be true, accurate, complete, and contain no misrepresentation or falsification.

(d) Approved training [The continuing education which includes, but is not limited to, classroom and training programs made available through the internet used] to renew a license must be successfully completed after the issuance date and before the expiration date of the current license. Any training credits completed in excess of the amount required for the renewal period shall not be carried over to the next renewal period.

(e) An individual who holds a license prescribed by Texas Water Code, §26.0301, or Texas Health and Safety Code, §341.033 or §341.034, specifically the holder of a Class A or

Class B public water system operator or Class A or B wastewater treatment facility operator license may certify compliance with continuing education requirements prior to or at the time the license is renewed by submitting a continuing education certification form available from the executive director.

(f) The executive director may renew a license or registration if the application is received by the executive director or is postmarked within 30 days after the expiration date of the license or registration, and the person meets the requirements for renewal by the expiration date of the license or registration and pays all appropriate fees. This subsection does not extend the validity period of the license or registration nor grant the person authorization to perform duties requiring a license or registration. This subsection only allows an additional 30 days after the expiration of the license or registration for the person to submit the renewal application, any supporting documentation, and appropriate fees.

(g) An individual whose license renewal application is not received by the executive director or is not postmarked within 30 days after the license expiration date may not renew the license and must meet the current education, training, and experience requirements, submit a new application with the appropriate fee, and pass the examination. A person whose registration renewal application is not received by the executive director or is not postmarked within 30 days after the expiration date may not

renew the registration and must submit a new application with the appropriate fee and meet all applicable requirements for a new registration.

(h) Persons failing to renew their license or registration in a timely manner due to serving as a military service member [on active duty in the United States armed forces outside this state] may renew their license within two years [180 days] of returning from active duty by submitting the following:

(1) a completed renewal application;

(2) a copy of the military orders substantiating the military service during the time the license expired; and

(3) the applicable license renewal fee.

(i) For good cause the executive director may extend the two years [180-day] period for a military service member [individuals serving on active duty in the United States armed forces outside this state] seeking to renew their license. Good cause may include, but is not limited to, hospitalization or injury to the licensee.

(j) Completion of the required continuing education will be waived for the renewal cycle for military service members [while the licensee was on active duty service in the

United States armed forces] outside of this state who were unable to complete the requirements.

(k) These procedures apply only to military service members who are [individuals on active duty service in the United States armed forces] outside this state and not to military contractors.

(l) All licensees must notify the executive director of any change in the previously submitted application information within ten days from the date the change occurs.

(m) All registration holders must notify the executive director of any change in the previously submitted application information within ten days after the month in which the change occurs.

(n) Licenses and registrations that have renewal cycles in transition shall follow the renewal requirements in the applicable subchapter.

(o) The executive director shall determine whether an applicant meets the renewal requirements of this subchapter. If all requirements have been met, the executive director shall renew the license or registration.

(p) The license or registration shall be valid for the term specified.

(q) If the application does not meet the requirements, the executive director shall notify the applicant in writing of the deficiencies.

(r) All deficiencies must be corrected within 30 days of date printed on the notification, or the renewal application shall be considered void after the license expiration date.

(s) A person whose license or registration has expired shall not engage in activities that require a license or registration until the license or registration is renewed or a new license or registration has been obtained.

§30.26. Recognition of Licenses from Out-of-State; Licenses for <u>Military Service Members, Military Veterans, or</u> Military Spouses [; Military Service Members; Military Veterans].

(a) Except for landscape irrigators the executive director may waive qualifications, training, or examination for individuals with a good compliance history who hold a current license from another state, territory, or country if that state, territory, or country has requirements equivalent to those in this chapter.

(b) A license may be issued after review and approval of the application, receipt of the appropriate fee, and verification of the license from the corresponding state, territory, or country.

(c) The executive director may waive any of the prerequisites for obtaining a landscape irrigator [or installer] license, if the applicant is licensed as an irrigator in another jurisdiction that has a reciprocity agreement with the State of Texas.

(d) The executive director may require the applicant to provide information about other occupational licenses and registrations held by the person, including:

(1) the state in which the other license or registration was issued;

(2) the current status of the other license or registration; and

(3) whether the other license or registration was ever denied, suspended, revoked, surrendered, or withdrawn.

<u>(e) To maintain a license that was issued on the basis of reciprocity, applicants must comply with the renewal requirements of this subchapter. Reciprocity will not be granted for the issuance of lower level licenses of the same type as the one that was initially issued on the basis of reciprocity.</u>

(f) [(e)] Military Service Members, Military Veterans, or Military Spouses.

(1) The executive director shall issue a license to an applicant who is a military service member, military veteran, or military spouse [the spouse of an individual serving on active duty as a member of the armed forces of the United States] and:

(A) holds a current license issued by another jurisdiction [state] that has licensing requirements that are substantially equivalent to the requirements for the license; or

(B) within the five years preceding the application date held the license in this state [that expired while the applicant lived in another state for at least six months].

(2) A license issued under this subsection shall be valid for the term specified in §30.18(i) of this title (relating to Applications for an Initial License).

(3) The executive director shall notify the license holder of the requirements for renewing a license issued under this subsection as specified in §30.24(b)(1) of this title (relating to License and Registration Applications for Renewal).

(g) [(f)] In lieu of the standard method(s) of demonstrating competency for a particular license, and based on the applicant's circumstances, the alternative methods for demonstrating competency may include, but not be limited to, any combination of the following as determined by the executive director:

(1) education;

(2) continuing education;

(3) examinations (written, practical, or a combination of written and practical);

(4) letters of good standing;

(5) letters of recommendation;

(6) work experience; or

(7) other methods or options as determined by the executive director.

(h) [(g)] Military service members or military veterans. The executive director shall credit verified military service, training, or education toward the licensing requirements.

(1) Verified military service, training, or education shall not be credited toward an examination requirement.

(2) The executive director may not apply this credit provision to an applicant who:

(A) holds a restricted license issued by another jurisdiction; or

(B) has an unacceptable criminal history.

§30.28. Approval of Training.

(a) The executive director shall approve training that provides the knowledge or skills necessary to obtain or maintain licenses or registrations that are issued by the commission. This training shall be directly related to tasks performed by persons whose duties require a license or registration in a program that is administered by the commission.

(b) The executive director may approve specific training delivery methods, to include:

(1) classroom training;

(2) conferences;

(3) technology-based training;

(4) correspondence courses or similar distance training;

(5) association meetings that include training sessions containing subject matter related to the particular license; or

(6) other professional activities, such as the publication of articles.

(c) The executive director shall award training credit for successful completion of approved training used for obtaining or renewing a license.

(d) The executive director shall determine the occupational program(s) and number of hours of training credit that will be granted for approved training. The executive director may:

(1) use the provider's subject matter experts' qualifications to determine the program(s); and

(2) request field testing data from training providers to validate the hours requested.

(e) Training providers who submit applications for approval must:

(1) utilize a standard form and method provided by the executive director;

(2) include the applicable fee found in the chart contained in subsection (g) of this section;

(3) include supplemental information and materials according to the specific requirements for each method of training as approved by the executive director;

(4) include supplemental materials and information edited by subject matter experts;

(5) include samples of certificates of completion, including information as required by the executive director;

(6) document approval from the publisher to reprint text, pictures, graphics, tables, data, and any other information that is copyrighted or obtained from a source that

is not an original creation of the training provider. The training materials submitted shall include appropriate references; and

(7) respond to any deficiencies within 60 days of the notification provided by the executive director or the application will become void and the fee forfeited.

(f) The executive director shall determine whether a provider meets the requirements of this subchapter.

(g) Fees for training applications will be calculated based on the number of requested training credit hours or type of association meetings using the following table. If the requested hours are significantly different than the actual hours of training awarded, the executive director may request an adjustment in the fee from the applicant. If the applicant does not provide the adjusted fee, the application will not be processed, resulting in denial of training approval. Fees are nonrefundable whether the training is approved or not approved.

Figure: 30 TAC §30.28(g)

Type of Delivery Method	**Fee Amount**
Association Meetings - training sessions up to two	$10.00 per training credit hour

hours (over two hours, see conferences)	
Association Meetings - annual review for single chapter, section, or district with 12 or less meetings per year	$100 per annual review application
Association Meetings - annual review for multiple chapters, sections, or districts with 12 or less meetings per year	$400 per annual review application
Conferences	$10.00 per training credit hour or a minimum of $50 whichever is greater
Classroom Training - using existing approved manuals	$10.00 per training credit hour or a minimum of $50 whichever is greater
Classroom Training - with new manuals and new materials	$25 per training credit hour or a minimum of $100 whichever is greater whichever is greater
Technology-Based Training	$25 per training credit hour or a minimum of $100 whichever is greater
Correspondence Courses	$25 per training credit hour or a minimum of $100 whichever is greater
Webinar	$50 for initial review, then $10.00 per training credit hour for subsequent applications

(h) Training delivered to meet the requirements for obtaining or renewing a license must:

(1) be approved by the executive director before the training begins;

(2) provide the knowledge or skills necessary to perform one or more of the occupation's critical job tasks as determined by a job analysis or training needs assessment;

(3) not promote or endorse the products, product lines, or services of a manufacturer, distributor, or service provider or used as an opportunity for advertisement;

(4) provide the means to accomplish the learning objectives identified for the training;

(5) contain learning aids, such as visual aids and graphics. Training must be interactive in order to enhance learning and attain learning objectives;

(6) include regular monitoring of student comprehension throughout the training and provide feedback from the training provider, instructor, or subject matter expert to the student;

(7) be monitored for successful student completion;

(8) track student time and progress toward completing learning objectives; and

(9) utilize, at a minimum, subject matter experts and instructional design experts or effective qualified instructors to develop training materials for approval. Additionally, development of technology-based training must also utilize qualified subject matter experts in technology delivery methods.

(i) Training shall not be advertised as approved until notice of approval is received from the executive director.

(j) Training may not be held in a place of business of a product manufacturer, distributor, or service provider directly related to the occupational license for which the training provider seeks approval.

(k) Once training is approved, training providers may offer the training without notification to the executive director.

(l) Training is considered approved until the content changes, or until the executive director notifies the training provider that changes in the content or delivery of the training are required.

(m) If a training provider changes the delivery method of the training, the training must be submitted for review and approval by the executive director.

(n) The executive director may:

(1) deny applications for training courses that contain extensive errors or do not meet the requirements of this section;

(2) conduct an administrative review for application completeness and a technical review for compliance with applicable agency rules;

(3) monitor, recall, reevaluate, and/or rescind approval of topics or training materials;

(4) require training providers to update training delivery methods or training materials to ensure that the content reflects current technology and practices;

(5) deny an application after determination that another delivery method is more conducive for the training material; and

(6) recall training for reevaluation which may result in rescinding any previous approval.

(o) The executive director's grounds for recalling, rescinding, suspending, or denying approval include, but are not limited to:

(1) the training does not conform to current accepted industry standard practices or agency rules;

(2) the training does not conform to the materials or method as approved;

(3) the subject matter is not related to critical job tasks performed by licensees;

(4) an instructor is not qualified to teach the subject matter;

(5) an instructor is ineffective in the delivery of the subject matter;

(6) the training promotes or endorses products, product lines, or services from a manufacturer, distributor, or service provider;

(7) the training credits for successfully completed training are not electronically submitted within 14 business days of course completion;

(8) the records, rosters, or application materials have been falsified;

(9) the training provider does not comply with a training recall;

(10) the training provider is not active or training has not been conducted for three or more years; or

(11) the training environment is not conducive to learning.

(p) The following types of training will not be approved or awarded training credit:

(1) distance training or webinars that are repeated during the renewal period;

(2) distance training that is intended to teach required manual skills; or

(3) webinar training that is submitted to qualify an applicant for an initial license.

(q) Approved training providers shall:

(1) ensure the executive director has the most current electronic edition of training materials;

(2) keep manuals and training content updated to reflect rule changes;

(3) submit approved training material that references rules for reapproval within 180 days of any new rule adoption that pertains to that training;

(4) submit material with substantial changes, including a summary, list, or other indication of changes, for review and reapproval by the executive director;

(5) allow the executive director staff or their agents access to training in order to audit training content, manner of delivery, and the effectiveness and qualifications of instructors and subject matter experts;

(6) be responsible for the content and delivery of the training;

(7) retain accurate training records for a minimum of five years;

(8) maintain records of training approval throughout the entire period the training provider actively delivers training;

(9) ensure that instructors and subject matter experts are qualified and provide the executive director with qualifications when requested;

(10) notify students of all fees associated with completing the training and obtaining credit for training before and during the training;

(11) accurately present to students the approved training credit along with any other criteria for obtaining full or partial training credit;

(12) provide students with approved copies of texts, manuals, or other training materials to use during the training and for future reference required by the delivery method and as approved by the executive director;

(13) verify participation;

(14) provide acceptable procedures for student identity verification;

(15) maintain procedures to protect student identity and personal information;

(16) provide students access to subject matter experts to answer technology-related and content-related questions within one business day from the time of request; and

(17) electronically report the students' successfully completed training credit hours per procedures provided and approved by the executive director, not to exceed approved training credit hours, within 14 business days of training completion.

(r) Printed training material must be presented in an original manner and must be relevant to the critical job tasks and knowledge for the occupational licensees.

(s) Public information copied from websites or other sources is not acceptable as training materials unless modified to be applicable to the target audience and the method of delivery.

§30.30. Terms and Fees for Licenses and Registrations.

(a) Licenses and registrations are valid for three years from the date of issuance, unless specified otherwise by Subchapters B - L of this chapter (relating to Backflow Prevention Assembly Testers;[,] Customer Service Inspectors;[,] Landscape Irrigators, [Installers,] Irrigation Technicians, and Irrigation Inspectors;[,] Leaking Petroleum Storage Tank Corrective Action Project Managers and Specialists;[,] Municipal Solid Waste Facility Supervisors;[,] On-Site Sewage Facilities Installers, Apprentices, Designated Representatives, Maintenance Providers, Maintenance Technicians, and Site Evaluators;[,] Water Treatment Specialists;[,] Underground Storage Tank On-Site Supervisor Licensing and Contractor Registration;[,] Wastewater Operators and Operations Companies;[,]

Public Water System Operators and Operations Companies;[,] and Visible Emissions Evaluator Training and Certification, respectively).

(b) The executive director may adopt a system under which licenses or registrations expire on various dates.

(c) The license fee is $111 for a three-year license. The total amount shall be paid with each initial and renewal application and is nonrefundable. The initial fee is waived for military service member, military veteran, or military spouse applicants if they:

(1) meet all other requirements for the license; or

(2) hold a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license the applicant is applying for in this state.

(d) Registration fees are established in the applicable subchapters of this chapter.

(e) The executive director may charge a $20 fee to process a duplicate certificate or pocket card.

(f) A convenience fee may be set by the executive director or service provider for alternative fee payment methods. A person using an alternative payment method is responsible for paying the convenience fee.

(g) An examination or reexamination fee may be charged if the executive director designates an entity to administer the examinations.

(h) The executive director may charge an individual requesting a criminal history evaluation letter under §30.13 of this title (relating to Eligibility of Certain Applicants for Occupational Licenses or Registrations) a fee adopted by the commission. Fees adopted by the commission under §30.13 of this title must be in an amount sufficient to cover the cost of administering §30.13 of this title.

SUBCHAPTER A: ADMINISTRATION OF OCCUPATIONAL LICENSES AND REGISTRATIONS

[§30.28]

Statutory Authority

This repeal is proposed under Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which establishes the general powers of the commission; and TWC, §5.103, which authorizes the Texas Commission on Environmental Quality (commission) to make rules. This repeal is also proposed under TWC, §37.001, which establishes that in TWC, Chapter 37, "Commission" means the Texas Natural Resource Conservation Commission, predecessor to the commission; TWC, §37.002, which authorizes the commission to adopt any rules necessary to: establish occupational licenses and registrations prescribed by TWC, §§26.0301, 26.3573, 26.452, and 26.456; Texas Health and Safety Code (THSC), §§341.033, 341.034, 361.027, and 366.071; and Texas Occupations Code, §1903.251; establish classes and terms of occupational licenses and registrations; and administer the provisions of TWC, Chapter 37, and other laws governing occupational licenses and registrations under the commission's jurisdiction; TWC, §37.003, which establishes that a person may not engage in a business, occupation, or profession described by TWC, §§26.0301, 26.3573, 26.452 and 26.456, THSC, §§341.033, 341.034, 361.027, and 366.071, or Texas Occupations Code, §1903.251, unless the person holds the appropriate license or registration issued by the commission; TWC, §37.004, which authorizes the commission to establish qualifications for each license

and registration issued under TWC, Chapter 37; TWC, §37.005, which authorizes the commission to establish requirements and uniform procedures for issuing licenses and registrations under TWC, Chapter 37; TWC, §37.006, which authorizes the commission to establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.007, which authorizes the commission to prescribe the content of licensing examinations; TWC, §37.008, which provides the commission authority to approve training programs necessary to qualify for or renew a license; TWC, §37.009, which authorizes the commission to establish and collect fees to cover the cost of administering and enforcing TWC, Chapter 37 and licenses and registrations issued under TWC, Chapter 37; TWC, §37.010, which grants the commission authority to make rules regarding false, misleading, or deceptive practices by licensees and registrants; TWC, §37.011, which authorizes the commission to prepare and make available to the public information describing the procedures by which a person may submit licensing and registration complaints to the commission; TWC, §37.012, which authorizes the commission to require a person to provide information about other occupational licenses and registrations held by the person; TWC, §37.013, which provides that a license or registration holder must engage in the business, occupation, or profession governed by the license or registration according to applicable laws and commission rules and orders; TWC, §37.014, which requires the commission to maintain and make available to the public an official roster of persons who hold licenses and registrations issued under TWC, Chapter 37; and TWC, §37.015, which authorizes the commission to contract with persons to provide services required by TWC, Chapter 37.

This repeal implements TWC, §§5.013, 5.102, 5.103, and 37.001 - 37.015.

[§30.28. Approval of Training.]

[(a) The executive director shall approve training that provides the knowledge or skills necessary to obtain or maintain licenses or registrations that are issued by the commission. This training shall be directly related to tasks performed by persons whose duties require a license or registration in a program that is administered by the commission.]

[(1) Within 45 days of the receipt of an application for approval for conferences, or association meeting training, the executive director shall notify the training provider of the approval of the training or any deficiencies in the application or supporting documentation.]

[(2) Within 120 days of the receipt of an application for approval for classroom, distance learning or technology based training the executive director shall notify the training provider of the approval of the training or any deficiencies in the application or supporting documentation.]

[(b) Training credit may be approved by the executive director for successful completion of:]

[(1) classroom training, and training at conferences;]

[(2) computer or Web-based training, correspondence courses, or similar distance learning training;]

[(3) training at association meetings, only when the meetings include training sessions containing subject matter related to the particular license; or]

[(4) other professional activities, such as publication of articles or teaching classroom training courses.]

[(c) The executive director shall determine the number of hours of training credit that will be granted for approved training. The executive director may:]

[(1) request field testing data from training providers to substantiate the hours requested; and]

[(2) use subject matter expert qualifications to determine the training credit awarded.]

[(d) Applications for training approval or approval of new training material must:]

[(1) be made on a standard form provided by the executive director;]

[(2) be submitted to the executive director with the applicable fee found in the chart contained in subsection (y)(6) of this section;]

[(3) be accompanied by supplemental information and materials according to the specific requirements for each type of training as approved by the executive director;]

[(4) contain supplemental materials and information edited by subject matter experts; and]

[(5) include samples of certificates of completion including information as required by the executive director.]

[(e) Once training is approved, a training provider may offer the training as approved without notification to the executive director.]

[(f) Training is considered approved until the content changes, or until the executive director notifies the training provider that changes in the content or presentation of the training event are necessary.]

[(g) If a training provider changes the delivery method of the training, the training must be resubmitted for review and approval by the executive director.]

[(h) The executive director may require training providers to update training or training materials to ensure that the content reflects current technology and practices.]

[(i) Training providers shall:]

[(1) keep manuals and training content updated to reflect rule changes;]

[(2) resubmit for approval training material that makes any reference to rules within 180 days of any new rule adoption that pertains to that training;]

[(3) resubmit materials with substantial changes for review and reapproval by the executive director accompanied by a summary, list, or other indication of significant changes;]

[(4) be responsible for the content and delivery of the training;]

[(5) retain accurate training records for a minimum of five years;]

[(6) maintain records of training approval throughout the entire period the training provider actively provides training;]

[(7) notify students of all fees associated with completing and obtaining credit for training before and during the training;]

[(8) accurately present to students approved training credit along with any other criteria for obtaining the credit;]

[(9) ensure that classroom instructors are qualified and provide the agency with instructor qualifications when requested;]

[(10) inform licensees that distance learning training repeated within the renewal period will not receive training credit if the training uses the same performance-based assessment;]

[(11) allow agency staff or their agents access to training events in order to audit training content, manner of presentation, and instructor effectiveness and qualifications;]

[(12) verify participation and report the participant's training credit hours not to exceed approved training credit hours; and]

[(13) provide to the executive director electronic rosters of training events within 14 business days after a participant's successful completion of the training event per procedures provided and approved by the executive director.]

[(j) Training events shall not be advertised as approved until notice of approval is received from the executive director.]

[(k) The executive director may recall training for reevaluation which may result in rescinding the previous approval of the training.]

[(l) Training used to meet the requirements for obtaining or renewing a license must:]

[(1) be approved by the executive director before the training begins;]

[(2) provide the knowledge or skills necessary to perform one or more of the occupation's critical job tasks as determined by a job analysis or training needs assessment;]

[(3) not promote or endorse the products, product lines, or services of a manufacturer, distributor, or service provider or used as an opportunity for advertisement;]

[(4) provide the means to accomplish the learning objectives identified for the training;]

[(5) include, but are not limited to, visual aids, graphics, and interactivity to enhance learning and attain learning objectives;]

[(6) include regular monitoring of participant comprehension throughout the training with feedback from the training provider, instructor, or subject matter expert;]

[(7) be monitored for successful participant completion and completed training credit reported to the agency by the approved training provider; and]

[(8) utilize, at a minimum, subject matter experts and instructional design experts or effective qualified classroom instructors to develop training materials for approval. Additionally, development for technology-based training must also utilize experts in technology.]

[(m) Classroom training, training providers, and classroom instructors must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (n), (o), (p), (q), (r), and (s) of this section.]

[(1) Classroom training must not be held in a place of business of a product manufacturer, distributor, or service provider directly related to the occupational license. Water, wastewater, and solid waste facilities are exempted and applicable approved training may be held at these facilities.]

[(2) The agency may approve high school vocational education courses if their content follows the guidance of the respective licensing program area and meets training requirements in this chapter.]

[(n) Conference training, training providers, and subject matter experts must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (m), (o), (p), (q), (r), and (s) of this section.]

[(1) Training at conferences may be submitted for approval by:]

[(A) governmental entities or their designated agents;]

[(B) industry-related associations; or]

[(C) colleges listed by accrediting agencies that are recognized by the United States Department of Education.]

[(2) The executive director may award training credits for successful completion of in-state and out-of-state conferences.]

[(3) To receive training credits for in-state and out-of-state conferences, the training must be approved by the executive director prior to the conference.]

[(4) Training at conferences will be approved for a specified number of training credits.]

[(5) To be approved, a conference must contain a minimum of three hours of approvable training.]

[(6) If the executive director determines the conference training is more appropriately presented as classroom training, the training provider may be required to meet requirements as detailed in subsection (m) of this section.]

[(7) The conference is considered approved until content, presenters, or duration changes.]

[(8) The conference training must not be held in a place of business of a product manufacturer, distributor, or service provider directly related to the occupational license.]

[(o) Training at association meetings, training providers, and subject matter experts must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (m), (n), (p), (q), (r), and (s) of this section.]

[(1) Training sessions conducted at regular and special meetings of industry-related associations whose members hold licenses that are issued by the commission may be approved per event or on an annual basis.]

[(2) Associations may apply annually for approval of training at meetings. If not approved annually, training at individual meetings may be approved, so long as approval is requested in writing at least 45 days before the meeting as detailed in subsection (d) of this section.]

[(3) Training at association meetings must be presented by subject matter experts.]

[(4) Training at association meetings over two hours must meet requirements in subsection (n) of this section.]

[(5) The training at association meeting must not be held in a place of business of a product manufacturer, distributor, or service provider directly related to the occupational license.]

[(p) Distance learning training, training providers, and training materials must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (m), (n), (o), and (s) of this section.]

[(1) Distance learning training may only be submitted for approval by:]

[(A) governmental entities or their designated agents;]

[(B) industry-related associations;]

[(C) colleges listed by accrediting agencies that are recognized by the United States Department of Education; or]

[(D) other entities, as determined by the executive director, who can demonstrate comparable or subject matter expertise, knowledge of and experience with educational principles and effective instructional design.]

[(2) Applications for distance learning training approval must be accompanied by the supplemental materials as approved by the executive director for either correspondence or technology-based training.]

[(3) Distance learning training:]

[(A) may not be substituted for actual hands-on training, if hands-on training is necessary to teach required manual skills;]

[(B) must provide students within one business day access to subject matter experts;]

[(C) repeated within the renewal period will not receive training credit if the training uses the same performance-based assessment; and]

[(D) must maintain procedures to protect student identity if using the Internet.]

[(q) Correspondence training, training providers, and training materials must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (m), (n), (o), (r), and (s) of this section. Correspondence training is distance learning that can either be paper-based conducted through a postal system, electronic-based conducted through a Web site, or a blend of these delivery systems and shall:]

[(1) make available a text or training manual to students for training with any delivery system; and]

[(2) provide acceptable procedures for participant identity verification.]

[(r) Technology-based training must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (m), (n), (o), (p), and (s) of this section, and shall provide:]

[(1) access to the agency if provided via the Internet;]

[(2) tracking of student time and progress required for training completion;]

[(3) acceptable procedures for participant identity verification;]

[(4) criteria for successful training completion; and]

[(5) access within one business day to technical support and subject matter experts.]

[(s) Webinar training, training providers, and training materials must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (m), (n), (o), (p), (q), and (r) of this section.]

[(1) Webinar training may only be submitted for approval by:]

[(A) governmental entities or their designated agents;]

[(B) industry-related associations; or]

[(C) colleges listed by accrediting agencies that are recognized by the United States Department of Education.]

[(2) Applications for webinar training approval must be accompanied by the supplemental materials as approved by the executive director.]

[(3) Webinar training:]

[(A) may only be used to meet training credit requirements for renewal of a license and may not be used to meet the educational requirements for an initial license; and]

[(B) must provide students access to subject matter experts.]

[(4) The same webinar training may not be repeated within the renewal period for training credit.]

[(5) The webinar training provider must maintain procedures to protect student identity.]

[(t) Printed training material must be presented in an original manner and must be relevant to the necessary tasks and knowledge for the occupational licensees.]

[(u) Public information copied from Web sites or other sources is not acceptable as training materials unless modified to be applicable to the target audience and the method of delivery.]

[(v) If training materials submitted to the executive director for approval are copyrighted materials, the training provider is responsible for obtaining proper approval from the publisher to reprint text, pictures, graphics, tables, data, and any other

information that is obtained from a source that is not an original creation of the training provider. The training materials submitted shall include appropriate references.]

[(w) Under the Public Information Act, copyrighted training materials submitted to the executive director may be inspected by the public. The agency will not provide copies of copyrighted materials to the public unless required to do so as a result of legal action.]

[(x) The executive director may:]

[(1) return without approval, training courses and training material determined to contain extensive errors or not meeting the requirements of this section;]

[(2) monitor, recall, reevaluate, and/or rescind approval of topics or training materials provided at approved training; and]

[(3) recall rescind, suspend, or deny training approval for good cause, which includes, but is not limited to:]

[(A) the training does not conform to current accepted industry standard practices or agency rules;]

[(B) the training does not conform to the materials as approved;]

[(C) the subject matter is not related to critical job tasks performed by licensees;]

[(D) an instructor is not qualified to teach the subject matter;]

[(E) an instructor is ineffective in the delivery of the subject matter;]

[(F) the training promotes or endorses products, product lines, or services from a manufacturer, distributor, or service provider;]

[(G) participation records are not submitted as required by subsection (i)(13) of this section;]

[(H) records, rosters, or application materials have been falsified;]

[(I) noncompliance with a training recall;]

[(J) the training provider is not active or the training has not been conducted for three or more years; or]

[(K) the training environment is not conducive to learning.]

[(y) Fees for training approval will be assessed based on requested training credit hours available for the event with the exception of annual review and approval of training at association meetings. If the requested hours are significantly different than the actual hours of training awarded, the executive director may request an adjustment in the fee from the applicant.]

[(1) Fees must be submitted with the application and supplemental materials as detailed in paragraph (6) of this subsection.]

[(2) Fees are nonrefundable whether the training event is approved or not approved.]

[(3) The review and approval of training may require both an administrative review for application package completeness and a technical review for compliance with the requirements and standards detailed in this section. The fee will include both of these reviews.]

[(4) The application will become void and the fee forfeited if an applicant does not respond within 60 days of the notification provided by the executive director of any deficiencies in the application.]

[(5) Any training material submitted for approval after January 1, 2008, requires submittal of the applicable fees listed in paragraph (6) of this subsection.]

[(6) The greater of the following fees must be submitted with each application for approval of training for occupational licensing depending on the type of training as outlined in the following table.]

[Figure: 30 TAC §30.28(y)(6)]

Type of Training	**Fee Amount**
Association Meetings - training sessions up to (2) two hours (over two hours, see conferences)	$10 per training credit hour
Association Meetings - annual review for single chapter, section, or district with 12 or less meetings per year	$100 per annual review application
Association Meetings - annual review for multiple chapters, sections, or districts with 12 or less meetings per year for each	$400 per annual review application
Conferences	$10 per training credit hour or a minimum of $50
Classroom Training - using existing approved manuals	$10 per training credit hour or a minimum of $50
Classroom Training - with new manuals and new materials	$25 per training credit hour or a minimum of $100

Technology-Based Training	$25 per training credit hour or a minimum of $100
Correspondence Courses	$25 per training credit hour or a minimum of $100
Webinar	$50 for initial review, then $10 per training credit hour for subsequent applications

SUBCHAPTER C: CUSTOMER SERVICE INSPECTORS

§30.81

Statutory Authority

This amendment is proposed under Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which establishes the general powers of the commission; and TWC, §5.103, which authorizes the Texas Commission on Environmental Quality (commission) to make rules. This amendment is also proposed under TWC, §37.001, which establishes that in TWC, Chapter 37, "Commission" means the Texas Natural Resource Conservation Commission, predecessor to the commission; TWC, §37.002, which authorizes the commission to adopt any rules necessary to: establish occupational licenses and registrations prescribed by TWC, §§26.0301, 26.3573, 26.452, and 26.456; Texas Health and Safety Code (THSC), §§341.033, 341.034, 361.027, and 366.071; and Texas Occupations Code, §1903.251; establish classes and terms of occupational licenses and registrations; and administer the provisions of TWC, Chapter 37 and other laws governing occupational licenses and registrations under the commission's jurisdiction; TWC, §37.003, which establishes that a person may not engage in a business, occupation, or profession described by TWC, §§26.0301, 26.3573, 26.452, and 26.456; THSC, §§341.033, 341.034, 361.027, and 366.071; or Texas Occupations Code, §1903.251, unless the person holds the appropriate license or registration issued by the commission; TWC, §37.004, which authorizes the commission to establish qualifications for each license

and registration issued under TWC, Chapter 37; TWC, §37.005, which authorizes the commission to establish requirements and uniform procedures for issuing licenses and registrations under TWC, Chapter 37; TWC, §37.006, which authorizes the commission to establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.007, which authorizes the commission to prescribe the content of licensing examinations; TWC, §37.008, which provides the commission authority to approve training programs necessary to qualify for or renew a license; TWC, §37.009, which authorizes the commission to establish and collect fees to cover the cost of administering and enforcing TWC, Chapter 37 and licenses and registrations issued under TWC, Chapter 37; TWC, §37.010, which grants the commission authority to make rules regarding false, misleading, or deceptive practices by licensees and registrants; TWC, §37.011, which authorizes the commission to prepare and make available to the public information describing the procedures by which a person may submit licensing and registration complaints to the commission; TWC, §37.012, which authorizes the commission to require a person to provide information about other occupational licenses and registrations held by the person; TWC, §37.013, which provides that a license or registration holder must engage in the business, occupation, or profession governed by the license or registration according to applicable laws and commission rules and orders; TWC, §37.014, which requires the commission to maintain and make available to the public an official roster of persons who hold licenses and registrations issued under TWC, Chapter 37; TWC, §37.015, which authorizes the commission to contract with persons to provide services required by TWC, Chapter 37; and THSC, §341.034, which requires persons who perform duties

relating to public water supplies to hold a license or registration issued by the commission under TWC, Chapter 37.

These amendments implement TWC, §§5.013, 5.102, 5.103, and 37.001 - 37.015; and THSC, §341.034.

§30.81. Purpose and Applicability.

(a) The purpose of this subchapter is to establish qualifications for issuing and renewing licenses to individuals who conduct and certify customer service inspections.

(b) An individual who performs customer service inspections must meet the qualifications of this subchapter and be licensed according to Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations).

(c) An endorsement for customer service inspections shall expire when an individual renews a water operators license or the license expires. To obtain a customer service inspector license, an individual holding an endorsement must submit a new application with the appropriate fee.

(d) A licensed customer service inspector shall not perform plumbing inspections required under Texas Occupations Code, §1301.255 and §1301.551 [Plumbing Licensing Law 15(a) (Texas Civil Statutes, Volume 17-1/2, Article 6243-101)].

SUBCHAPTER D: LANDSCAPE IRRIGATORS, [INSTALLERS,] IRRIGATION TECHNICIANS, AND IRRIGATION INSPECTORS

§§30.117, 30.120, 30.122

Statutory Authority

These amendments are proposed under Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which establishes the general powers of the commission; and TWC, §5.103, which authorizes the Texas Commission on Environmental Quality (commission) to make rules. These amendments also proposed under TWC, §37.001, which establishes that in TWC, Chapter 37, "Commission" means the Texas Natural Resource Conservation Commission, predecessor to the commission; TWC, §37.002, which authorizes the commission to adopt any rules necessary to: establish occupational licenses and registrations prescribed by TWC, §§26.0301, 26.3573, 26.452, and 26.456; Texas Health and Safety Code (THSC), §§341.033, 341.034, 361.027, and 366.071; and Texas Occupations Code, §1903.251; establish classes and terms of occupational licenses and registrations; and administer the provisions of TWC, Chapter 37, and other laws governing occupational licenses and registrations under the commission's jurisdiction; TWC, §37.003, which establishes that a person may not engage in a business, occupation, or profession described by TWC, §§26.0301, 26.3573, 26.452, and 26.456; THSC §§341.033, 341.034, 361.027, and 366.071; or Texas Occupations Code, §1903.251, unless the person holds the appropriate license or registration issued by the commission; TWC, §37.004, which authorizes the commission to

establish qualifications for each license and registration issued under TWC, Chapter 37; TWC, §37.005, which authorizes the commission to establish requirements and uniform procedures for issuing licenses and registrations under TWC, Chapter 37; TWC, §37.006, which authorizes the commission to establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.007, which authorizes the commission to prescribe the content of licensing examinations; TWC, §37.008, which provides the commission authority to approve training programs necessary to qualify for or renew a license; TWC, §37.009, which authorizes the commission to establish and collect fees to cover the cost of administering and enforcing TWC, Chapter 37 and licenses and registrations issued under TWC, Chapter 37; TWC, §37.010, which grants the commission authority to make rules regarding false, misleading, or deceptive practices by licensees and registrants; TWC, §37.011, which authorizes the commission to prepare and make available to the public information describing the procedures by which a person may submit licensing and registration complaints to the commission; TWC, §37.012, which authorizes the commission to require a person to provide information about other occupational licenses and registrations held by the person; TWC, §37.013, which provides that a license or registration holder must engage in the business, occupation, or profession governed by the license or registration according to applicable laws and commission rules and orders; TWC, §37.014, which requires the commission to maintain and make available to the public an official roster of persons who hold licenses and registrations issued under TWC, Chapter 37; TWC, §37.015, which authorizes the commission to contract with persons to provide services required by TWC, Chapter 37; Texas Occupations Code, §1903.053, which

requires the commission to adopt by rule and enforce standards governing the responsibilities of licensed irrigators; and Texas Occupations Code, §1903.251, which requires a person to hold a license issued by the commission under TWC, Chapter 37, if the person engages in certain activities related to landscape irrigation.

These amendments implement TWC, §§5.013, 5.102, 5.103, and 37.001 - 37.015; and Texas Occupations Code, §1903.053 and §1903.251.

§30.117. Definitions.

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

(1) Irrigation technician--A person who works under the supervision of a licensed irrigator to install, maintain, alter, repair, service, or supervise installation of an irrigation system, including the connection of such system in or to a private or public, raw or potable water supply system or any water supply.

[(1) Installer--An individual who connects irrigation systems to any water supply.]

(2) Irrigator--A person who sells, designs, offers consultations, installs, maintains, alters, repairs, services, or supervises the installation of an irrigation system, including the connection of such system to a private or public, raw or potable water supply system or any water supply. [An individual who sells, designs, installs, maintains, alters, repairs, or services an irrigation system; provides consulting services relating to an irrigation system; or connects an irrigation system to any water supply.]

§30.120. Qualifications for Initial License.

[(a) To obtain an installer license prior to January 1, 2009, an individual must:]

[(1) meet the requirements in Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations); and]

[(2) pass the applicable examination.]

(a) [(b)] Effective January 1, 2010, the installer license became invalid and was replaced with the irrigation technician license [will no longer be valid and will be replaced by an irrigation technician license. No new installer license applications will be accepted after June 1, 2009. New installer licenses issued after the effective date of these rules will remain valid through December 31, 2009. The fee for initial installer licenses issued after the effective date of these rules will be prorated to reflect the validity period].

(b) [(c)] To obtain an irrigator license, an individual must:

(1) meet the requirements in Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations);

(2) complete and pass the basic irrigator training course; and

(3) pass all sections of the applicable examination.

(c) [(d)] To obtain an irrigation technician license, an individual must:

(1) meet the requirements in Subchapter A of this chapter;

(2) complete the basic irrigation technician course; and

(3) pass the applicable examination.

(d) [(e)] To obtain an irrigation inspector license, an individual must:

(1) meet the requirements in Subchapter A of this chapter;

(2) successfully complete:

(A) the basic irrigator training course;

(B) an approved backflow prevention assembly testing training course; and

(C) an approved water conservation or water audit course; or

(D) an approved landscape irrigation inspection course; and [.]

(3) pass the applicable examination.

(e) [(f)] An individual is ineligible to obtain an irrigation inspector license if the individual engages in or has financial or advisory interest in an entity that:

(1) sells, designs, installs, maintains, alters, repairs, or services an irrigation system;

(2) provides consulting services relating to an irrigation system; or

(3) connects an irrigation system to any water supply.

§30.122. Qualifications for License Renewal.

[(a) To renew an installer license that expires prior to June 1, 2009, an individual must meet the requirements in Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations).]

(a) [(b)] Effective January 1, 2010, the installer license was [will no longer be valid and will be] replaced by an irrigation technician license. [No installer license renewal applications will be accepted after December 31, 2008.]

[(c) Installer licenses renewed after the effective date of these rules, but prior to June 1, 2009, will remain valid until December 31, 2009. The fee for installer licenses renewed after the effective date of these rules will be prorated to reflect the validity period.]

(b) [(d)] To renew an irrigator license, an individual must:

(1) meet the requirements in Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations); and

(2) complete 24 hours of approved training credits.

(c) [(e)] To renew an irrigation technician license, an individual must:

(1) meet the requirements in Subchapter A of this chapter; and

(2) complete 16 hours of approved training credits.

(d) [(f)] To renew an irrigation inspector license, an individual must:

(1) meet the requirements in Subchapter A of this chapter; and

(2) complete 24 hours of approved training credits.

SUBCHAPTER G: ON-SITE SEWAGE FACILITIES INSTALLERS, APPRENTICES, DESIGNATED REPRESENTATIVES, MAINTENANCE PROVIDERS, MAINTENANCE TECHNICIANS, AND SITE EVALUATORS

§30.231 and §30.240

Statutory Authority

These amendments are proposed under Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which establishes the general powers of the commission; and TWC, §5.103, which authorizes the Texas Commission on Environmental Quality (commission) to make rules. These amendments are also proposed under TWC, §37.001, which establishes that in TWC, Chapter 37, "Commission" means the Texas Natural Resource Conservation Commission, predecessor to the commission; TWC, §37.002, which authorizes the commission to adopt any rules necessary to: establish occupational licenses and registrations prescribed by TWC, §§26.0301, 26.3573, 26.452, and 26.456; Texas Health and Safety Commission (THSC), §§341.033, 341.034, 361.027, and 366.071; and Texas Occupations Code, §1903.251; establish classes and terms of occupational licenses and registrations; and administer the provisions of TWC, Chapter 37, and other laws governing occupational licenses and registrations under the commission's jurisdiction; TWC, §37.003, which establishes that a person may not engage in a business, occupation, or profession described by TWC, §§26.0301, 26.3573, 26.452, and 26.456; THSC, §§341.033, 341.034, 361.027, and 366.071; or Texas Occupations Code, §1903.251, unless the person holds the appropriate license or

registration issued by the commission; TWC, §37.004, which authorizes the commission to establish qualifications for each license and registration issued under TWC, Chapter 37; TWC, §37.005, which authorizes the commission to establish requirements and uniform procedures for issuing licenses and registrations under TWC, Chapter 37; TWC, §37.006, which authorizes the commission to establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.007, which authorizes the commission to prescribe the content of licensing examinations; TWC, §37.008, which provides the commission authority to approve training programs necessary to qualify for or renew a license; TWC, §37.009, which authorizes the commission to establish and collect fees to cover the cost of administering and enforcing TWC, Chapter 37 and licenses and registrations issued under TWC, Chapter 37; TWC, §37.010, which grants the commission authority to make rules regarding false, misleading, or deceptive practices by licensees and registrants; TWC, §37.011, which authorizes the commission to prepare and make available to the public information describing the procedures by which a person may submit licensing and registration complaints to the commission; TWC, §37.012, which authorizes the commission to require a person to provide information about other occupational licenses and registrations held by the person; TWC, §37.013, which provides that a license or registration holder must engage in the business, occupation, or profession governed by the license or registration according to applicable laws and commission rules and orders; TWC, §37.014, which requires the commission to maintain and make available to the public an official roster of persons who hold licenses and registrations issued under TWC, Chapter 37; and TWC, §37.015, which authorizes the commission to contract with persons

to provide services required by TWC, Chapter 37. These amendments are proposed under THSC, §366.011, which establishes that the commission has general authority over the location, design, construction, installation, and proper functioning of on-site sewage disposal systems; and THSC, §366.012, which authorizes the commission to adopt rules governing the installation of on-site sewage disposal systems.

These amendments implement TWC, §§5.013, 5.102, 5.103, and 37.001 - 37.015; THSC, §366.011 and §366.012.

§30.231. Purpose and Applicability.

(a) The purpose of this subchapter is to establish qualifications for issuing and renewing licenses and registrations for a person that:

(1) constructs any part of an on-site sewage facility;

(2) performs the duties of a designated representative;

(3) performs the duties of a site evaluator;

(4) performs the duties of an apprentice;

(5) performs the duties of a licensed maintenance provider; or

(6) performs the duties of a maintenance technician.

(b) A person that performs any of the tasks listed in subsection (a) of this section must meet the qualifications of this subchapter and be licensed or registered according to Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations), unless exempt under §30.244 of this title (relating to Exemptions), and must comply with the requirements of Chapter 285 of this title (relating to On-Site Sewage Facilities).

[(c) A person that holds a current maintenance provider registration that performs maintenance to on-site sewage disposal systems using aerobic treatment shall be allowed to continue to perform maintenance provider duties until August 31, 2009. Effective September 1, 2009, those individuals shall either hold a:]

[(1) maintenance provider license; or]

[(2) maintenance technician registration.]

<u>(c)</u> [(d)] Effective September 1, 2009, all current maintenance provider registrations <u>were</u> [will be] converted to maintenance technician registrations.

[(e) Individuals renewing their maintenance provider registration after April 30, 2009 will be issued a maintenance technician registration or may apply for a maintenance provider license, provided they meet the qualifications for the initial license of a maintenance provider.]

[(f) No applications for maintenance provider registrations will be accepted after April 30, 2009.]

§30.240. Qualifications for Initial License.

(a) To obtain an Installer I license, an individual must have:

(1) met the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations);

(2) completed the Installer I basic training course; and

(3) passed the Installer I examination.

(b) To obtain an Installer II license, an individual must have:

(1) met the requirements of Subchapter A of this chapter;

(2) met one of the following requirements:

(A) held an Installer I license for at least one year;

(B) held an apprentice registration for at least two years; or

(C) previously possessed an Installer II license;

(3) completed the Installer II basic training course;

(4) passed the Installer II examination; and

(5) met the experience requirements. Applicants for an Installer II license must submit statements attesting to the applicant's work experience. Such statements shall include a description of the type of on-site sewage facility (OSSF) work that was performed by the applicant and the physical addresses where the activity occurred. The experience shall be actual work accomplished under the license or registration. The number of systems will not substitute for the time required. Experience requirements are:

(A) to document experience as an Installer I, the applicant shall submit either:

(i) sworn statements from at least three individuals for whom the applicant performed construction services, statements cannot be provided by individuals related by blood or marriage to the applicant or applicant's spouse;

(ii) a sworn statement from a designated representative who has approved a minimum of three installations performed by the applicant; or

(iii) other documentation of the applicant's work experience, approved by the executive director;

(B) to document experience as an apprentice, the applicant shall submit either:

(i) a sworn statement from the installer for whom the applicant performed construction services;

(ii) a sworn statement from a designated representative who witnessed the applicant working on at least six OSSF installations; or

(iii) other documentation of the applicant's work experience, approved by the executive director.

(c) To obtain a designated representative license, an individual must have:

(1) met the requirements of Subchapter A of this chapter;

(2) completed the designated representative basic training course; and

(3) passed the designated representative examination.

(d) To obtain a site evaluator license, an individual must have:

(1) met the requirements of Subchapter A of this chapter; and

(2) met the following requirements:

(A) complete the site evaluator basic training course;

(B) pass the site evaluator examination; and

(C) possess a current Installer II license, designated representative license, professional engineer license, professional sanitarian license, certified professional soil scientist, or professional geoscientist license in the soil science discipline (an individual who maintains a current license through the Texas Board of Professional Geoscientists according to the requirements for professional practice).

(e) Effective September 1, 2009, a maintenance provider must be licensed with the executive director. To obtain a maintenance provider license, a person must:

(1) meet the requirements of Subchapter A of this chapter;

[(2) submit a completed application and a $111 fee to the executive director on a form approved by the executive director. Applicants with a current maintenance provider registration will be given a pro rata reduction in the $111 fee toward the maintenance provider license for the unexpired term of their registration;]

(2) [(3)] submit verification that the applicant holds a current Installer II, Class C (or higher) Wastewater license or acceptable documentation of three years experience as a maintenance technician. Registered maintenance provider experience obtained prior to the effective date of these rules may be applied towards the three years of experience as a maintenance technician; and

(3) [(4)] successfully complete agency-approved courses in basic maintenance and advanced aerobic wastewater treatment related to residential proprietary aerobic treatment units. Advanced aerobic wastewater treatment courses must have been approved after September 1, 2008;

(4) [(5)] pass the maintenance provider licensing examination; and

(5) [(6)] any additional information required by the executive director. [; and]

[(7) Exemption. Maintenance provider license applicants who obtained a maintenance provider registration prior to the effective date of these rules, hold a current maintenance provider registration, and meet all of the other provisions of this chapter for licensing as a maintenance provider on the effective date of these rules are exempt from the requirements for completion of the agency-approved advanced aerobic wastewater treatment course and the maintenance provider licensing examination.]

SUBCHAPTER G: ON-SITE SEWAGE FACILITIES INSTALLERS, APPRENTICES, DESIGNATED REPRESENTATIVES, MAINTENANCE PROVIDERS, MAINTENANCE TECHNICIANS, AND SITE EVALUATORS [§30.247]

Statutory Authority

This repeal is proposed under Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which establishes the general powers of the commission; and TWC, §5.103, which authorizes the Texas Commission on Environmental Quality (commission) to make rules. This repeal is also proposed under TWC, §37.001, which establishes that in TWC, Chapter 37, "Commission" means the Texas Natural Resource Conservation Commission, predecessor to the commission; TWC, §37.002, which authorizes the commission to adopt any rules necessary to: establish occupational licenses and registrations prescribed by TWC, §§26.0301, 26.3573, 26.452, and 26.456; Texas Health and Safety Code (THSC), §§341.033, 341.034, 361.027, and 366.071; and Texas Occupations Code, §1903.251; establish classes and terms of occupational licenses and registrations; and administer the provisions of TWC, Chapter 37, and other laws governing occupational licenses and registrations under the commission's jurisdiction; TWC, §37.003, which establishes that a person may not engage in a business, occupation, or profession described by TWC, §§26.0301, 26.3573, 26.452, and 26.456; THSC, §§341.033, 341.034, 361.027, and 366.071; or Texas Occupations Code, §1903.251, unless the person holds the appropriate license or registration issued by the commission;

TWC, §37.004, which authorizes the commission to establish qualifications for each license and registration issued under TWC, Chapter 37; TWC, §37.005, which authorizes the commission to establish requirements and uniform procedures for issuing licenses and registrations under TWC, Chapter 37; TWC, §37.006, which authorizes the commission to establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.007, which authorizes the commission to prescribe the content of licensing examinations; TWC, §37.008, which provides the commission authority to approve training programs necessary to qualify for or renew a license; TWC, §37.009, which authorizes the commission to establish and collect fees to cover the cost of administering and enforcing TWC, Chapter 37, and licenses and registrations issued under TWC, Chapter 37; TWC, §37.010, which grants the commission authority to make rules regarding false, misleading, or deceptive practices by licensees and registrants; TWC, §37.011, which authorizes the commission to prepare and make available to the public information describing the procedures by which a person may submit licensing and registration complaints to the commission; TWC, §37.012, which authorizes the commission to require a person to provide information about other occupational licenses and registrations held by the person; TWC, §37.013, which provides that a license or registration holder must engage in the business, occupation, or profession governed by the license or registration according to applicable laws and commission rules and orders; TWC, §37.014, which requires the commission to maintain and make available to the public an official roster of persons who hold licenses and registrations issued under TWC, Chapter 37; and TWC, §37.015, which authorizes the commission to contract with persons to provide services

required by TWC, Chapter 37. This repeal is also proposed under THSC, §366.011, which establishes that the commission has general authority over the location, design, construction, installation, and proper functioning of on-site sewage disposal systems; and THSC, §366.012, which authorizes the commission to adopt rules governing the installation of on-site sewage disposal systems.

This repeal implements TWC, §§5.013, 5.102, 5.103, and 37.001 - 37.015; and THSC, §366.011 and §366.012.

[§30.247. Registration of Maintenance Providers.]

[The following provisions shall be effective only through April 30, 2009. No new maintenance provider registration applications will be accepted after April 30, 2009.]

[(1) A maintenance provider must be registered with the executive director.]

[(2) To register as required by Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations), a person must:]

[(A) meet the requirements of Subchapter A of this chapter and successfully complete an agency-approved course in basic maintenance provider training;]

[(B) submit a completed application and a $111 fee to the executive director on a form approved by the executive director; and,]

[(C) any additional information required by the executive director.]

[(3) To renew a maintenance-provider registration, a maintenance provider must:]

[(A) meet the requirements in Subchapter A of this chapter; and]

[(B) submit a completed renewal application and a $111 fee to the executive director on a form approved by the executive director.]

SUBCHAPTER H: WATER TREATMENT SPECIALISTS

§30.279

Statutory Authority

This amendment is proposed under Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which establishes the general powers of the commission; and TWC, §5.103, which authorizes the Texas Commission on Environmental Quality (commission) to make rules. This amendment is also proposed under TWC, §37.001, which establishes that in TWC, Chapter 37, "Commission" means the Texas Natural Resource Conservation Commission, predecessor to the commission; TWC, §37.002, which authorizes the commission to adopt any rules necessary to: establish occupational licenses and registrations prescribed by TWC, §§26.0301, 26.3573, 26.452, and 26.456; Texas Health and Safety Code (THSC), §§341.033, 341.034, 361.027, and 366.071; and Texas Occupations Code, §1903.251; establish classes and terms of occupational licenses and registrations; and administer the provisions of TWC, Chapter 37, and other laws governing occupational licenses and registrations under the commission's jurisdiction; TWC, §37.003, which establishes that a person may not engage in a business, occupation, or profession described by TWC, §§26.0301, 26.3573, 26.452, and 26.456; THSC, §§341.033, 341.034, 361.027, and 366.071; or Texas Occupations Code, §1903.251, unless the person holds the appropriate license or registration issued by the commission; TWC, §37.004, which authorizes the commission to establish qualifications for each license and registration issued under TWC, Chapter 37; TWC, §37.005, which authorizes the

commission to establish requirements and uniform procedures for issuing licenses and registrations under TWC, Chapter 37; TWC, §37.006, which authorizes the commission to establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.007, which authorizes the commission to prescribe the content of licensing examinations; TWC, §37.008, which provides the commission authority to approve training programs necessary to qualify for or renew a license; TWC, §37.009, which authorizes the commission to establish and collect fees to cover the cost of administering and enforcing TWC, Chapter 37, and licenses and registrations issued under TWC, Chapter 37; TWC, §37.010, which grants the commission authority to make rules regarding false, misleading, or deceptive practices by licensees and registrants; TWC, §37.011, which authorizes the commission to prepare and make available to the public information describing the procedures by which a person may submit licensing and registration complaints to the commission; TWC, §37.012, which authorizes the commission to require a person to provide information about other occupational licenses and registrations held by the person; TWC, §37.013, which provides that a license or registration holder must engage in the business, occupation, or profession governed by the license or registration according to applicable laws and commission rules and orders; TWC, §37.014, which requires the commission to maintain and make available to the public an official roster of persons who hold licenses and registrations issued under TWC, Chapter 37; and TWC, §37.015, which authorizes the commission to contract with persons to provide services required by TWC, Chapter 37. This amendment is proposed under Texas Occupations Code, §1904.051, which requires the commission to establish a program to certify persons

qualified to install, exchange, service, and repair residential, commercial, or industrial water treatment equipment and appliances; Texas Occupations Code, §1904.052, which requires a person to obtain a certificate from the commission before engaging in water treatment; Texas Occupations Code, §1904.053, which establishes that the commission is authorized to take applications for certification into the water treatment specialist program; and Texas Occupations Code, §1904.054, which authorizes the commission to issue certificates stating that a person is qualified to install, exchange, service, and repair residential, commercial, or industrial water treatment facilities.

This amendment implements TWC, §§5.013, 5.102, 5.103, and 37.001 - 37.015; and Texas Occupations Code, §§1904.051 - 1904.054.

§30.279. Exemptions.

(a) Individuals who are licensed under the Texas Occupations Code, Chapter 1301 [Plumbing License Law (Texas Civil Statutes, Volume 17- 1/2, Article 6243-101)] are exempt from the requirements of this subchapter.

(b) Employees of industrial facilities who install or service water treatment equipment at their facilities are exempt from the requirements of this subchapter.

(c) Employees of public water systems installing water treatment equipment at their system who hold a Class C license or higher, are exempt from the requirements of this subchapter.

(d) Employees of registered operations companies installing water treatment equipment at the facilities for which the operations company has a contract to operate and who hold a Class C license or higher, are exempt from the requirements of this subchapter.

SUBCHAPTER I: UNDERGROUND STORAGE TANK ON-SITE SUPERVISOR LICENSING AND CONTRACTOR REGISTRATION

§30.307

Statutory Authority

This amendment under Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which establishes the general powers of the commission; and TWC, §5.103, which authorizes the Texas Commission on Environmental Quality (commission) to make rules. This amendment is also proposed under TWC, §37.001, which establishes that in TWC, Chapter 37, "Commission" means the Texas Natural Resource Conservation Commission, predecessor to the commission; TWC, §37.002, which authorizes the commission to adopt any rules necessary to: establish occupational licenses and registrations prescribed by TWC, §§26.0301, 26.3573, 26.452, and 26.456; Texas Health and Safety Code (THSC), §§341.033, 341.034, 361.027, and 366.071; and Texas Occupations Code, §1903.251; establish classes and terms of occupational licenses and registrations; and administer the provisions of TWC, Chapter 37, and other laws governing occupational licenses and registrations under the commission's jurisdiction; TWC, §37.003, which establishes that a person may not engage in a business, occupation, or profession described by TWC, §§26.0301, 26.3573, 26.452, and 26.456; THSC, §§341.033, 341.034, 361.027, and 366.071; or Texas Occupations Code, §1903.251, unless the person holds the appropriate license or registration issued by the commission; TWC, §37.004, which authorizes the commission to establish qualifications for each license

and registration issued under TWC, Chapter 37; TWC, §37.005, which authorizes the commission to establish requirements and uniform procedures for issuing licenses and registrations under TWC, Chapter 37; TWC, §37.006, which authorizes the commission to establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.007, which authorizes the commission to prescribe the content of licensing examinations; TWC, §37.008, which provides the commission authority to approve training programs necessary to qualify for or renew a license; TWC, §37.009, which authorizes the commission to establish and collect fees to cover the cost of administering and enforcing TWC, Chapter 37, and licenses and registrations issued under TWC, Chapter 37; TWC, §37.010, which grants the commission authority to make rules regarding false, misleading, or deceptive practices by licensees and registrants; TWC, §37.011, which authorizes the commission to prepare and make available to the public information describing the procedures by which a person may submit licensing and registration complaints to the commission; TWC, §37.012, which authorizes the commission to require a person to provide information about other occupational licenses and registrations held by the person; TWC, §37.013, which provides that a license or registration holder must engage in the business, occupation, or profession governed by the license or registration according to applicable laws and commission rules and orders; TWC, §37.014, which requires the commission to maintain and make available to the public an official roster of persons who hold licenses and registrations issued under TWC, Chapter 37; TWC, §37.015, which authorizes the commission to contract with persons to provide services required by TWC, Chapter 37; TWC, §26.345, which requires the commission to administer TWC,

Chapter 26, Subchapter I, concerning Underground and Aboveground Storage Tanks; TWC, §26.364, which authorizes the commission to implement a program under TWC, Chapter 37, to register persons who contract to perform corrective action under TWC, Chapter 26, Subchapter I; TWC, §26.365, which authorizes the commission to register geoscientists into the corrective action program; and TWC, §26.366, which authorizes the commission to implement a program to license persons who supervise a corrective action under TWC, Chapter 26, Subchapter I.

This amendment implements TWC, §§5.013, 5.102, 5.103, 26.345, 26.364 - 26.366, and 37.001 - 37.015.

§30.307. Definitions.

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

(1) Corrosion specialist--A person who, by reason of a thorough knowledge of the physical sciences and the principals of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks, and who is either:

(A) certified as a corrosion specialist or a cathodic protection specialist by NACE International; or

(B) licensed as a professional engineer by the Texas Board of Professional Engineers in a branch of engineering that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

(2) Corrosion technician--A person who can demonstrate an understanding of the principals of soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements as they relate to corrosion protection and control on buried or submerged metal tanks and metal piping systems; who is qualified by appropriate training and experience to engage in the practice of inspection and testing for corrosion protection and control on such systems, including the inspection and testing of all common types of cathodic protection systems; and who either:

(A) has been certified by NACE International as a corrosion technician, corrosion technologist, or senior corrosion technologist;

(B) is employed under the direct supervision of a corrosion specialist (as defined in paragraph (1) of this section), where the corrosion specialist is responsible for maintaining control and oversight over all corrosion testing and inspection activities; or

(C) has been officially qualified as a cathodic protection tester, according to the assessment and examination procedures prescribed by NACE International.

(3) Critical junctures--In the case of an installation, repair, or removal of an underground storage tank (UST) system, all of the following steps:

(A) preparing the tank bedding immediately before receiving the tank;

(B) setting the tank and the piping, including placement of any anchoring devices, backfill to the level of the tank, and strapping, if any;

(C) connecting piping systems to the tank;

(D) pressure testing the UST, including associated piping, performed during the installation;

(E) completing backfill and filling the excavation;

(F) anytime during the repair in which the piping system is connected or reconnected to the tank;

(G) anytime during the repair in which the tank or its associated piping is tested; and

(H) anytime during the removal of the UST.

(4) Engineering construction--Construction designed by a civil or mechanical engineer, as opposed to building construction which is designed by an architectural engineer.

(5) Installation--The installation of underground storage tanks [USTs] and ancillary equipment, including, but not limited to, the following activities:

(A) installation of new or used tanks at a new or existing facility;

(B) installation of new or replacement piping for new or existing tanks;

(C) addition of secondary containment equipment for new or existing tanks or piping;

(D) addition or replacement of the following types of equipment at a new or existing facility:

(i) spill and overfill prevention equipment, as required in §334.51 of this title (relating to Spill and Overfill Prevention and Control); and

(ii) equipment or devices which are permanently installed for the purpose of providing release detection or release monitoring as required for compliance with §334.50 of this title (relating to Release Detection), except:

(I) observation wells or monitoring wells (excluding equipment and devices therein) constructed by a well driller who possesses the appropriate license required by the Texas Occupations Code, Chapter 1901 [Texas Department of Licensing and Regulation pursuant to the Water Well Drillers Act (Texas Civil Statutes, Article 7621e, Water Auxiliary Laws)]; or

(II) any equipment temporarily installed solely for the purpose of conducting a tank or piping tightness test, as defined in §334.2 of this title (relating to Definitions), except when a tightness test is a prescribed element of a critical juncture of an installation, repair, or removal. Temporarily in this context means the reasonable amount of time required to attach the equipment, make the tests, and remove the equipment, under the given conditions at the site;

(E) installation or replacement of anchoring systems designed to prevent tank flotation;

(F) installation or replacement of vent lines at new or existing facilities;

(G) installation or replacement of submersible pumping systems at new or existing facilities; and

(H) installation or replacement of any underground Stage I or Stage II vapor recovery systems.

(6) On-site supervisor--An individual who supervises the installation, repair, or removal of <u>an underground storage tank (UST)</u> [a UST] in the State of Texas, and who meets the licensing requirements of this subchapter for one of the following licenses:

(A) Class A for an on-site supervisor who supervises the installation or repair of UST systems; or

(B) Class B for an on-site supervisor who supervises the removal of UST systems.

(C) Class A/B combination for an on-site supervisor who supervises the installation, repair, and removal of UST systems.

(7) Removal--Permanent removal of an underground storage tank [a UST] from service as defined in §334.2 of this title (relating to Definitions) conducted according to §334.55 of this title (relating to Permanent Removal from Service).

(8) Repair--The modification or correction of an underground storage tank (UST) [a UST] and ancillary equipment. The term does not include:

(A) relining a UST through the application of epoxy resins or similar materials;

(B) performing a tightness test to ascertain the integrity of the tank, except when a tightness test is a prescribed element of a critical juncture of an installation, repair, or removal;

(C) maintaining and inspecting cathodic protection devices by a corrosion specialist or corrosion technician;

(D) performing emergency actions to halt or prevent leaks or ruptures; or

(E) performing minor maintenance on ancillary aboveground equipment.

(9) Underground storage tank (UST)--Any one or combination of underground tanks and any connecting underground pipes used to contain accumulation of regulated substances, the volume of which, including the volume of the connecting underground pipes, is 10% or more beneath the surface of the ground.

(10) Underground storage tank contractor (or UST contractor)--A person that offers to undertake, represents itself as being able to undertake, or undertakes the installation, repair, or removal of a UST, and who meets the registration requirements of this subchapter.

(11) Underground utilities--Public underground water systems, sanitary sewers, or storm sewers. The phrase "underground utilities" does not include private underground pipe systems (water or sewer piping), power or communication cables, or natural gas lines.

SUBCHAPTER J: WASTEWATER OPERATORS AND OPERATIONS COMPANIES

§30.331 and §30.340

Statutory Authority

These amendments are proposed under Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which establishes the general powers of the commission; and TWC, §5.103, which authorizes the Texas Commission on Environmental Quality (commission) to make rules. These amendments are also proposed under TWC, §37.001, which establishes that in TWC, Chapter 37, "Commission" means the Texas Natural Resource Conservation Commission, predecessor to the commission; TWC, §37.002, which authorizes the commission to adopt any rules necessary to: establish occupational licenses and registrations prescribed by TWC, §§26.0301, 26.3573, 26.452, and 26.456; Texas Health and Safety Code (THSC), §§341.033, 341.034, 361.027, and 366.071; and Texas Occupations Code, §1903.251; establish classes and terms of occupational licenses and registrations; and administer the provisions of TWC, Chapter 37, and other laws governing occupational licenses and registrations under the commission's jurisdiction; TWC, §37.003, which establishes that a person may not engage in a business, occupation, or profession described by TWC, §§26.0301, 26.3573, 26.452, and 26.456; THSC, §§341.033, 341.034, 361.027, and 366.071; or Texas Occupations Code, §1903.251, unless the person holds the appropriate license or registration issued by the commission; TWC, §37.004, which authorizes the commission to

establish qualifications for each license and registration issued under TWC, Chapter 37; TWC, §37.005, which authorizes the commission to establish requirements and uniform procedures for issuing licenses and registrations under TWC, Chapter 37; TWC, §37.006, which authorizes the commission to establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.007, which authorizes the commission to prescribe the content of licensing examinations; TWC, §37.008, which provides the commission authority to approve training programs necessary to qualify for or renew a license; TWC, §37.009, which authorizes the commission to establish and collect fees to cover the cost of administering and enforcing TWC, Chapter 37, and licenses and registrations issued under TWC, Chapter 37; TWC, §37.010, which grants the commission authority to make rules regarding false, misleading, or deceptive practices by licensees and registrants; TWC, §37.011, which authorizes the commission to prepare and make available to the public information describing the procedures by which a person may submit licensing and registration complaints to the commission; TWC, §37.012, which authorizes the commission to require a person to provide information about other occupational licenses and registrations held by the person; TWC, §37.013, which provides that a license or registration holder must engage in the business, occupation, or profession governed by the license or registration according to applicable laws and commission rules and orders; TWC, §37.014, which requires the commission to maintain and make available to the public an official roster of persons who hold licenses and registrations issued under TWC, Chapter 37; and TWC, §37.015, which authorizes the commission to contract with persons to provide services required by TWC, Chapter 37. These amendments are also proposed

under TWC, §26.0301, which authorizes the commission to issue licenses and registrations for wastewater treatment plant operators and sewage treatment or collection facility services under contract.

These amendments implement TWC, §§5.013, 5.102, 5.103, 26.0301, and 37.001 - 37.015.

§30.331. Purpose and Applicability.

(a) The purpose of this subchapter is to establish qualifications for issuing and renewing licenses and registrations to:

(1) domestic wastewater treatment facility operators;

(2) wastewater collection system operators; and

(3) companies that operate these facilities on a contract basis.

(b) Persons that operate, assist in the operation, or contract to operate domestic wastewater treatment facilities or supervise wastewater collection activities, other than an operator-in-training, must be licensed or registered and meet the qualifications of this subchapter and Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations); and must comply with the requirements in Chapter 217 of this

title (relating to Design Criteria for Domestic Wastewater Systems), Chapter 317 of this title (relating to Design Criteria Prior to 2008 [for Sewerage Systems]), and all other applicable rules under the jurisdiction of this commission.

(c) Operators are responsible for performing adequate process control of wastewater treatment and collection facilities.

(d) All Class D and Class I licenses previously issued to operators who do not possess a high school diploma or equivalent, may still be renewed according to §30.342 of this title (relating to Qualifications for License Renewal).

(e) An individual who has an honorary license shall not operate a domestic wastewater treatment facility or supervise a wastewater collection system.

[(f) Certificates of competency or registration issued before January 1, 2002, remain in effect until they expire, or are replaced or revoked by the commission.]

(f) [(g)] The holder of a license or registration is not subject to revocation or suspension of a license or registration if the licensed operator or registered company is unable to properly operate the wastewater treatment or collection facility due to:

(1) the refusal of the permittee to authorize the necessary funds to operate the wastewater treatment or collection facility properly; or

(2) the failure of the wastewater treatment or collection facility to comply with its wastewater disposal permit resulting from faulty design or construction of the facility.

§30.340. Qualifications for Initial License.

(a) To obtain a license, an individual must have met the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations), [and] the following requirements for each class of license, and pass an examination. [:]

Figure: 30 TAC §30.340(a)

[Figure: 30 TAC §30.340(a)]

License	Education	Required Work Experience	Required Training
Class D or Class I	High School diploma (HSD) or Equivalent	None [0]	20 hours
Class C or Class II	HSD or equivalent	2 years	60 hours

Class B or Class III	Bachelor's [Bachelors] HSD or equivalent	2½ years 5 years	100 hours 100 hours
Class A	Master's [Masters] Bachelor's [Bachelors] HSD or equivalent	4 years 5 years 8 years	160 hours 160 hours 160 hours

(b) At least one-half of the total experience required for a wastewater treatment license must be in actual domestic wastewater treatment facility operation or maintenance duties. Related experience, which involves tasks similar to those required for operation of wastewater treatment facilities, will count at a rate of 50% toward meeting the total experience requirement. For laboratory experience to be applicable, the laboratory must be owned and operated by the permittee and the laboratory technician must consult daily with operational personnel.

(c) Wastewater collection system experience must be in actual wastewater collection system operation or maintenance duties. Credit for wastewater experience that is not directly connected with collection system operation or maintenance shall be approved if the experience involves tasks that are similar to that required for the operation and maintenance of collection systems. Each year of related experience shall count as 1/2 year of experience. Each year of experience in collection system operation and maintenance

shall only count as 1/2 year of experience toward a wastewater treatment facility operator license.

(d) Individuals who request to substitute a bachelor's [bachelors] or master's [masters] degree for experience at the Class A, Class B, or Class III level must have a major in chemistry, biology, engineering, microbiology, bacteriology, or another similar discipline[, as] approved by the executive director.

(e) For each license, applicants may substitute either college hours or training credit hours to meet the experience requirement:

(1) 16 semester hours or an additional 20 hours of training credits are equal to six months of the required work experience;

(2) Class C and Class II applicants may only substitute up to one year of the required work experience; and

(3) Class A, Class B, and Class III applicants may only substitute up to two years of the required work experience.

[(e) Applicants may substitute an equivalent of:]

[(1) 32 semester hours of college or an additional 40 hours of training credits for one year of the experience requirement; or]

[(2) 16 semester hours of college or an additional 20 hours of training credits for six months of the experience requirement.]

[(f) The maximum years allowed for substitution are as follows:]

[(1) Class A, Class B, and Class III applicants may substitute up to two years of the required work experience; and]

[(2) Class C and Class II applicants may substitute up to one year of the required work experience.]

(f) [(g)] The hours of training credit required for a license must be in approved courses, which include the following or their equivalents.

Figure: 30 TAC §30.340(f)

[Figure: 30 TAC §30.340(g)]

License	Required Courses	Elective Courses
Class D	Basic Wastewater Operation	None

Class C	Basic Wastewater Operation Activated Sludge or Wastewater Treatment plus one elective course	Wastewater Collection Wastewater Laboratory Water Utility Calculations Water Utility Safety
Class B	Activated Sludge or Wastewater Treatment Wastewater Collection Wastewater Laboratory Water Utility Safety plus one elective course	Intermediate Wastewater Laboratory Water Utility Calculations Water Utility Management
Class A	Activated Sludge or Wastewater Treatment Wastewater Collection Wastewater Laboratory Water Utility Management Water Utility Safety plus one elective course	Intermediate Wastewater Laboratory Water Utility Calculations Wastewater Technology Advanced Management
Class I	Wastewater Collection	None
Class II	Basic Wastewater Operation Wastewater Collection plus one elective course	Water Utility Safety Pump and Motor Maintenance
Class III	Basic Wastewater Operation Wastewater Collection Water Utility Safety Pump and Motor Maintenance plus one elective course	Intermediate Wastewater Laboratory Water Utility Management Water Utility Calculations Pre-treatment Facility Inspection

(g) [(h)] An individual who previously held a Class D license or higher may not apply for a new Class D license if the individual currently operates any activated sludge type facilities, any trickling filter or rotating biological contractor facilities with a permitted daily average flow of 100,000 gallons per day or greater, or any facility that uses a subsurface area drip dispersal system as defined in §222.5 of this title (relating to

Definitions) for disposal of its effluent. A trickling filter or rotating biological contractor is a secondary aerobic process that uses microbiological organisms attached to a fixed substrate.

SUBCHAPTER K: PUBLIC WATER SYSTEM OPERATORS AND OPERATIONS COMPANIES

§30.390

Statutory Authority

This amendment is proposed under Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which establishes the general powers of the commission; and TWC, §5.103, which authorizes the Texas Commission on Environmental Quality (commission) to make rules. This amendment is also proposed under TWC, §37.001, which establishes that in TWC, Chapter 37, "Commission" means the Texas Natural Resource Conservation Commission, predecessor to the commission; TWC, §37.002, which authorizes the commission to adopt any rules necessary to: establish occupational licenses and registrations prescribed by TWC, §§26.0301, 26.3573, 26.452, and 26.456; Texas Health and Safety Code (THSC), §§341.033, 341.034, 361.027, and 366.071; and Texas Occupations Code, §1903.251; establish classes and terms of occupational licenses and registrations; and administer the provisions of TWC, Chapter 37, and other laws governing occupational licenses and registrations under the commission's jurisdiction; TWC, §37.003, which establishes that a person may not engage in a business, occupation, or profession described by TWC, §§26.0301, 26.3573, 26.452, and 26.456; THSC, §§341.033, 341.034, 361.027, and 366.071; or Texas Occupations Code, §1903.251, unless the person holds the appropriate license or registration issued by the commission; TWC, §37.004, which authorizes the commission to establish qualifications for each license

and registration issued under TWC, Chapter 37; TWC, §37.005, which authorizes the commission to establish requirements and uniform procedures for issuing licenses and registrations under TWC, Chapter 37; TWC, §37.006, which authorizes the commission to establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.007, which authorizes the commission to prescribe the content of licensing examinations; TWC, §37.008, which provides the commission authority to approve training programs necessary to qualify for or renew a license; TWC, §37.009, which authorizes the commission to establish and collect fees to cover the cost of administering and enforcing TWC, Chapter 37, and licenses and registrations issued under TWC, Chapter 37; TWC, §37.010, which grants the commission authority to make rules regarding false, misleading, or deceptive practices by licensees and registrants; TWC, §37.011, which authorizes the commission to prepare and make available to the public information describing the procedures by which a person may submit licensing and registration complaints to the commission; TWC, §37.012, which authorizes the commission to require a person to provide information about other occupational licenses and registrations held by the person; TWC, §37.013, which provides that a license or registration holder must engage in the business, occupation, or profession governed by the license or registration according to applicable laws and commission rules and orders; TWC, §37.014, which requires the commission to maintain and make available to the public an official roster of persons who hold licenses and registrations issued under TWC, Chapter 37; and TWC, §37.015, which authorizes the commission to contract with persons to provide services required by TWC, Chapter 37. This amendment is also proposed under THSC, §341.033,

which requires persons who furnish drinking water to the public for a charge to hold a license issued by the commission under TWC, Chapter 37; and THSC, §341.034, which requires persons who operate a public water supply on a contract basis to hold a registration issued by the commission under TWC, Chapter 37.

This amendment implements TWC, §§5.013, 5.102, 5.103, and 37.001 - 37.015; and THSC, §341.033 and §341.034.

§30.390. Qualifications for Initial License.

(a) To obtain a license, an individual must meet the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations), and the following requirements for each class of license, and pass an examination.

Figure: 30 TAC §30.390(a)

[Figure: 30 TAC §30.390(a)]

License	Education	Work Experience	Training Credits
Class D	High School Diploma (HSD) or equivalent	None	20 hours
Class C, Distribution,	HSD or equivalent	2 years	60 hours

Groundwater, Surface water			
Class B, Distribution and Groundwater	Bachelor's [Bachelors] HSD or equivalent	2½ years 5 years	120 [100] hours 120 [100] hours
Class B, Surface water	Bachelor's [Bachelors] HSD or equivalent	2½ years 5 years	144 [124] hours 144 [124] hours
Class A	Master's [Masters] Bachelor's [Bachelors] HSD or equivalent	4 years 5 years 8 years	184 [164] hours 184 [164] hours 184 [164] hours

(b) An individual who applies for a Class C, B, or A license, and relies on a bachelor's [bachelors] or master's [masters] degree to meet the educational requirements, must have a bachelor's [bachelors] or master's [masters] degree with a major in chemistry, biology, engineering, microbiology, bacteriology, or other similar discipline approved by the executive director.

(c) An individual who applies for a Class C or B license must obtain at least one-half of the total work experience requirement in the specific field for the license that is requested: [.]

(1) for [For] Class C and B surface water licenses, the experience must be obtained through operations activities at the production or treatment facilities for surface water or groundwater under the direct influence of surface water; [.]

(2) for [For] Class C and B groundwater licenses, the experience must be obtained through operations activities at the production or treatment facilities for groundwater source or groundwater under the direct influence of surface water; or [.]

(3) for [For] Class C and B distribution licenses, at least one-half of the required experience must be obtained as a result of operations activities at treated water storage, pumping, or distribution facilities; and [.]

(4) once the work experience has been met from paragraphs (1), (2), or (3) of this subsection, the executive director may count any remaining experience to meet up to 50% of the remaining requirement.

(d) For all classes of licenses, laboratory experience must:

(1) be obtained at a laboratory that is owned and operated by the public water system; and

(2) involve daily consultation with individuals who perform process control duties in production or distribution of drinking water for the water system.

(e) For each license, applicants may substitute either college hours or training credits to meet the experience requirement:

(1) 16 semester hours or an additional 20 hours of training credits are equal to six months of the experience;

(2) Class C applicants may only substitute up to one year of the required work experience; and

(3) Class B and Class A applicants may only substitute up to two years of the required work experience.

[(e) Individuals may substitute college credits or additional approved training for work experience.]

[(1) For a Class C license, 32 semester hours of college, or 40 additional hours of approved training may be substituted for one year of work experience, approved by the executive director.]

[(2) For a Class C license, 16 semester hours of college, or 20 additional hours of approved training may be substituted for six months of work experience, approved by the executive director.]

[(3) For Class B and A licenses, 64 semester hours of college, or 80 additional hours of approved training may be substituted for two years of work experience, approved by the executive director.]

[(4) For Class B and A licenses, 32 semester hours of college, or 40 additional hours of approved training may be substituted for one year of work experience, approved by the executive director.]

(f) Training credits must be in approved courses that include the following or equivalent.

Figure: 30 TAC §30.390(f)

[Figure: 30 TAC §30.390(f)]

License	Core Training Courses	Elective Training Courses
Class D	Basic Waterworks Operation	None
Class C Surface Water	Basic Waterworks Operation Surface Water Production I Surface Water Production II	None

Class C Groundwater	Basic Waterworks Operation Groundwater Production Plus one elective course	Water Distribution Water Laboratory Water Utility Safety Water Utility Calculations Chlorinator Maintenance Pump and Motor Maintenance Valve and Hydrant Maintenance
Class C Water Distribution	Basic Waterworks Operation Water Distribution Plus one elective course	Water Laboratory Water Utility Safety Water Utility Calculations Chlorinator Maintenance Pump and Motor Maintenance Valve and Hydrant Maintenance.
Class B Surface Water	Basic Waterworks Operation Surface Water Production I Surface Water Production II Water Distribution Water Utility Safety Water Laboratory Water Utility Management	None
Class B Groundwater	Basic Waterworks Operation Groundwater Production Water Laboratory Water Distribution Water Utility Safety Plus one elective course	Water Utility Management Water Utility Calculations Chlorinator Maintenance Pump and Motor Maintenance Valve and Hydrant Maintenance
Class B Water Distribution	Basic Waterworks Operation Water Distribution Water Utility Safety Pump and Motor Maintenance Valve and Hydrant Maintenance Plus one elective course	Water Utility Management Water Utility Calculations Chlorinator Maintenance Water Laboratory
Class A	Basic Waterworks Operation Surface Water Production I Surface Water Production II Groundwater Production	Plus additional training to meet the 184 [164] hour requirement

	Water Distribution Water Laboratory Water Utility Management Water Utility Safety	

(g) An individual who previously held a Class D license shall not apply for a new Class D license if the individual:

(1) currently operates facilities at groundwater treatment systems of 250 connections or more;

(2) currently operates facilities at groundwater treatment systems serving a population of 750 or more;

(3) currently operates facilities at surface water treatment systems;

(4) currently operates facilities at groundwater systems under the influence of surface water;

(5) performs supervisor, crew chief, or foremen duties for distribution systems that have over 250 connections; or

(6) operates multiple groundwater systems and the cumulative number of connections exceeds 250.

SUBCHAPTER L: VISIBLE EMISSIONS EVALUATOR TRAINING AND CERTIFICATION

§30.506 and §30.507

Statutory Authority

These amendments are proposed under Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission; TWC, §5.102, which establishes the general powers of the commission; and TWC, §5.103, which authorizes the Texas Commission on Environmental Quality (commission) to make rules. These amendments are also proposed under TWC, §37.001, which establishes that in TWC, Chapter 37, "Commission" means the Texas Natural Resource Conservation Commission, predecessor to the commission; TWC, §37.002, which authorizes the commission to adopt any rules necessary to: establish occupational licenses and registrations prescribed by TWC, §§26.0301, 26.3573, 26.452, and 26.456; Texas Health and Safety Code (THSC), §§341.033, 341.034, 361.027, and 366.071; and Texas Occupations Code, §1903.251; establish classes and terms of occupational licenses and registrations; and administer the provisions of TWC, Chapter 37, and other laws governing occupational licenses and registrations under the commission's jurisdiction; TWC, §37.003, which establishes that a person may not engage in a business, occupation, or profession described by TWC, §§26.0301, 26.3573, 26.452, and 26.456; THSC, §§341.033, 341.034, 361.027, and 366.071; or Texas Occupations Code, §1903.251, unless the person holds the appropriate license or registration issued by the commission; TWC, §37.004, which authorizes the commission to

establish qualifications for each license and registration issued under TWC, Chapter 37; TWC, §37.005, which authorizes the commission to establish requirements and uniform procedures for issuing licenses and registrations under TWC, Chapter 37; TWC, §37.006, which authorizes the commission to establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.007, which authorizes the commission to prescribe the content of licensing examinations; TWC, §37.008, which provides the commission authority to approve training programs necessary to qualify for or renew a license; TWC, §37.009, which authorizes the commission to establish and collect fees to cover the cost of administering and enforcing TWC, Chapter 37, and licenses and registrations issued under TWC, Chapter 37; TWC, §37.010, which grants the commission authority to make rules regarding false, misleading, or deceptive practices by licensees and registrants; TWC, §37.011, which authorizes the commission to prepare and make available to the public information describing the procedures by which a person may submit licensing and registration complaints to the commission; TWC, §37.012, which authorizes the commission to require a person to provide information about other occupational licenses and registrations held by the person; TWC, §37.013, which provides that a license or registration holder must engage in the business, occupation, or profession governed by the license or registration according to applicable laws and commission rules and orders; TWC, §37.014, which requires the commission to maintain and make available to the public an official roster of persons who hold licenses and registrations issued under TWC, Chapter 37; and TWC, §37.015, which authorizes the commission to contract with persons to provide services required by TWC, Chapter 37.

These amendments implement TWC, §§5.013, 5.102, 5.103 and 37.001 - 37.015.

§30.506. Visible Emission Evaluator Training Requirements.

(a) Visible emission evaluator training providers must:

(1) ensure that training meets the general and delivery standards approved by the executive director;

(2) follow the criteria and procedures of Method 9 as established by United States Environmental Protection Agency;

(3) provide a six to eight hour mandatory lecture session for first time students, and those students desiring to attend the lecture session again as a refresher;

(4) present the lecture session to the new students prior to any field training or testing;

(5) present the lecture session in a setting that is conducive to learning; [and]

(6) use visual aids and handouts to clarify topics that are taught; and [.]

(7) provide one proctor for 24 attendees or less, two proctors for 25 to 100 attendees, and an additional proctor for every 50 attendees over 100.

(b) Visible emission evaluator training shall include, but is not limited to, the following topics:

(1) opacity history to include Ringlemann equivalency;

(2) court cases that uphold opacity readings and procedures;

(3) applicability of Federal and State Method 9 opacity regulations;

(4) Federal and State New Source Performance Standards;

(5) Federal and State New Source Review program;

(6) State operating permits;

(7) State Implementation Plans;

(8) scientific principles of opacity;

(9) methodology of reading visible emissions, to include, but not limited to:

(A) position of sun;

(B) multiple stacks;

(C) water vapor plumes;

(D) slant angle correction;

(E) "red sky" concerns;

(F) not staring at plume;

(G) meteorology;

(H) wind direction and speed; and

(I) contrasting background;

(10) applicability and uses of Method 22, 203A, 203B, and 203C;

(11) proper documentation methods using the various field forms; and

(12) field testing instructions.

(c) The training topics may be modified at the discretion of the executive director.

(d) The training provider will issue a certificate of completion to attendees of the lecture session which will contain the training provider's name, title of course (visible emission evaluator course classroom lecture), student's name, location of lecture, and date of lecture.

(e) The training provider shall develop and submit for executive director approval an exit questionnaire that shall be administered to the attendees upon completion of the lecture. This questionnaire is for determining the effectiveness of the training session and the ability of the instructor to convey the necessary information. The completed questionnaires shall be kept on file for a minimum of three years and be made available to the agency upon request.

§30.507. Field Training and Testing Requirements.

(a) Field training shall:

(1) provide repetition of any field instructions, given at the lecture session, to those attendees attempting recertification who have not had to attend the lecture;

(2) provide familiarization plumes shown before the start of each black portion and each white portion of the field test;

(3) provide for completion of one test run for new students prior to taking a test for certification. The training run shall consist of 25 black readings and 25 white readings, and be given exactly as a regular certification test run. The training run cannot be accepted from the new student as certification, even if the score is within the passing parameters. This training run will be kept on file for three years; and

(4) allow attendees that are attempting recertification to take the training run described above before certification.

(b) Field testing shall include:

(1) a complete run which consists of 50 contiguous plumes;

(2) a random order of opacity from 0% to 100%;

(3) avoidance of adverse weather; i.e., drizzle, rain, fog, or high winds; and

[(4) at least two proctors per each 100 attendees, and two proctors if less than 100 attendees; and]

(4) [(5)] a certificate issued to those students that successfully pass the test that contains the name of the provider, title of certification (to include a term similar to "visible emissions evaluator"), the name of the student, and the date of successful certification. The provider shall number each certificate so that each certificate is unique and not duplicated.