

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** February 17, 2012

Thru: Bridget Bohac, Chief Clerk
Mark R. Vickery, P.G., Executive Director

From: Brent Wade, Deputy Director
Office of Waste

Docket No.: 2011-1685-RUL

Subject: Commission Approval for Proposed Rulemaking
Chapter 30, Occupational Licenses and Registrations
HBs 965 and 1674 and SB 1733: Occupational Licensing
Rule Project No. 2011-044-030-WS

Background and reason(s) for the rulemaking:

House Bill (HB) 965, sponsored by Representative William Callegari, 82nd Legislature, 2011, amended Texas Water Code (TWC), Chapter 37 relating to continuing education requirements for persons holding licenses issued by the Texas Commission on Environmental Quality (TCEQ). HB 1674, sponsored by Representative Jim Jackson, 82nd Legislature, 2011, amended Texas Family Code, §232.0135, relating to procedures for establishment, modification, and enforcement of child support obligations. Additionally, Senate Bill (SB) 1733, sponsored by Senator Leticia Van de Putte, 82nd Legislature, 2011, amended Texas Occupations Code, Chapter 55, relating to the occupational licensing of spouses of members of the military. TWC, §37.002 requires the commission to adopt any rules necessary to administer the provisions of TWC, Chapter 37 and other laws governing occupational licenses and registrations under the commission's jurisdiction.

Scope of the rulemaking:

A.) Summary of what the rulemaking will do:

This rulemaking will allow certain license holders, specifically Class A and B Public Water System Operators and Wastewater Treatment Operators, to certify at the time their license is renewed that they have complied with the commission's continuing education requirements including, but not limited to, internet based continuing education programs for occupational licenses approved by the TCEQ.

This rulemaking will also require that upon notification from a child support agency concerning an individual who has failed to pay child support for six months or more, the commission refuse to accept an application for issuance of a license or renewal of an existing license of that applicant. Additionally, this rulemaking will authorize the commission to charge a fee in an amount sufficient to recover the administrative costs incurred for denying or suspending that license.

This rulemaking will allow the commission to issue a license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States and holds a current license issued by another state that has licensing requirements

Re: Docket No. 2011-1685-RUL

that are substantially equivalent to the requirements for the license issued and regulated by the TCEQ; or within the five years preceding the application date held the license in Texas that expired while the applicant lived in another state for at least six months. The rulemaking will also include provisions to allow alternative demonstrations of competency to meet the requirements for obtaining the license.

B.) Scope required by federal regulations or state statutes:

HB 965 requires that not later than December 1, 2011, the TCEQ adopt rules implementing TWC, §37.008(d), relating to continuing education requirements for certain individuals holding licenses issued by the TCEQ. The rules must provide a method by which the holder of a Class A or Class B public water system operator or domestic wastewater treatment facility operator license may certify the holder's compliance with continuing education requirements.

HB 1674 amends Texas Family Code, §232.0135(a) to expand the authority of the commission to take actions against TCEQ licensed or registered individuals that are delinquent on child support payments, by requiring that upon notification from a child support agency concerning an individual who has failed to pay child support for six months or more, the commission refuse to accept an application for issuance of a license or renewal of an existing license of that applicant. HB 1674 also amends Texas Family Code, §232.0135(a), to authorize the commission to charge a fee in an amount sufficient to recover the administrative costs incurred for denying or suspending that license.

SB 1733 requires the commission to adopt rules implementing Texas Occupations Code, §55.004, relating to the occupational licensing of spouses of members of the military. The rules shall allow for the issuance of a license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States and holds a current license issued by another state that has licensing requirements that are substantially equivalent to the requirements for the license issued and regulated by the TCEQ; or 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.

C.) Additional staff recommendations that are not required by federal rule or state statute:

None.

Statutory authority:

TWC, §5.013, concerning the General Jurisdiction of the Commission, which establishes the general jurisdiction of the commission; TWC, §5.102, concerning General Powers, which establishes the commission's general authority necessary to carry out its jurisdiction; TWC, §5.103, concerning Rules, which requires the commission to adopt rules necessary to carry out its powers and duties; TWC, §5.105, which provides the commission with the authority to establish and approve all general policy of the commission by rule; TWC, §37.002, concerning Rules, which provides that the commission with the authority to adopt rules for various occupational licenses; TWC, §37.003, concerning License or

Re: Docket No. 2011-1685-RUL

Registration Required, which provides that persons engaged in certain occupations must be licensed by the commission; TWC, §37.005, concerning Issuance and Denial of Licenses and Registration, which requires the commission to establish requirements and uniform procedures for issuing licenses and registrations; TWC, §37.006, concerning Renewal of License or Registration, which requires the commission establish requirements and uniform procedures for renewing licenses and registrations; TWC, §37.008, concerning Training; Continuing Education, which provides that the commission shall approve training programs necessary to qualify for or renew a license; TWC, §37.009 concerning Fees, which provides the commission with the authority to establish and collect fees to cover the cost administering and enforcing the provisions of TWC, Chapter 37; Texas Family Code, §232.0135, concerning Denial of License Renewal, which provides that a child support agency may require that a licensing authority refuse to accept an application for a license renewal for certain individuals; Texas Family Code §232.014(a) concerning Fee by Licensing Authority which allows the agency to charge a fee in an amount sufficient to recover the administrative costs incurred for denying or suspending that license; and Texas Occupations Code, §55.004, concerning Alternative License Procedure for Military Spouse, which provides that state agencies must provide for alternative methods to license military spouses.

Effect on the:

A.) Regulated community:

This rulemaking does not create a group of affected persons who were not affected previously. There will be no fiscal impact to the regulated community as a result of this rulemaking.

B.) Public:

This rulemaking does not create a group of affected persons who were not affected previously. There will be no fiscal impact to the public as a result of this rulemaking.

C.) Agency programs:

This rule making does not create a group of affected persons who were not affected previously. There will be no fiscal impact to agency programs as a result of this rulemaking.

Stakeholder meetings: No stakeholder meetings were held.

Potential controversial concerns and legislative interest:

There are no potential controversial concerns or legislative interest.

Will this rulemaking affect any current policies or require development of new policies?

This rulemaking will not affect any current policies or require development of new policies.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?

Re: Docket No. 2011-1685-RUL

If this rulemaking does not go forward, the agency will be noncompliant with implementing HB 965, which requires that not later than December 1, 2011, the TCEQ adopt rules implementing TWC, §37.008(d), HB 1674 which expands the authority of the commission to take actions against TCEQ licensed or registered individuals that are delinquent on child support payments and SB 1733 which requires the commission to adopt rules implementing Texas Occupations Code, §55.004.

Key points in the proposal rulemaking schedule:

Anticipated proposal date: March 7, 2012

Anticipated *Texas Register* publication date: March 23, 2012

Public hearing date: April 12, 2012

Public comment period: March 23, 2012 - April 23, 2012

Anticipated adoption date: July 11, 2012

Agency contacts:

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Attachments

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