

Texas Commission on Environmental Quality

Criminal Conviction Guidelines

These guidelines are issued by the Texas Commission on Environmental Quality (TCEQ) pursuant to the Texas Occupations Code, § 53.025(a). These guidelines describe the process by which the executive director determines whether a criminal conviction renders an applicant an unsuitable candidate for the license, or whether a conviction warrants revocation or suspension of a license previously granted. These guidelines present the general factors that are considered in all cases, and also the reasons why particular crimes are considered to relate to each type of license issued by TCEQ.

I. Agency's process

A. Upon receiving a request to issue a criminal history evaluation letter regarding an individual's eligibility for a license, the executive director will:

1. Request a criminal background check through the Department of Public Safety (DPS) or other applicable data system for the individual requesting the evaluation letter; and
2. Make a determination whether or not grounds for ineligibility do or do not exist.

B. If the executive director determines that grounds for ineligibility do not exist, the executive director shall notify the requestor in writing of the executive director's determination not later than the 90th day after the date the executive director receives the request.

C. If the executive director determines that the requestor is ineligible for a license, the executive director shall issue a letter not later than the 90th day after the date the executive director receives the request, setting out each basis for potential ineligibility.

D. Upon the executive director's discovery of new facts unknown or undisclosed at the time of the determination of eligibility, the executive director may re-evaluate the eligibility of the requestor.

E. The executive director's determination of eligibility is final.

F. For individuals who are already licensed when the agency discovers a criminal conviction, the executive director may deny that individual's renewal application by:

1. Preparing a letter of proposed license renewal denial and mailing it to the applicant.

2. The letter will clearly identify the convictions that form the basis of the proposed denial, cite the TCEQ rule and statutory authority for the proposed denial, and advise the applicant that a hearing may be requested to challenge the proposed denial.

G. For individuals who are already licensed when the agency discovers a criminal conviction, the executive director may suspend or revoke a license by:

1. Preparing a letter of the proposed license suspension or revocation and mailing it to the licensee.

2. The letter will clearly identify the convictions that form the basis of the proposed suspension or revocation, cite the TCEQ rules and statutory authority for the proposed denial, and advise the applicant that a hearing may be requested to challenge the proposed suspension or revocation.

H. If the applicant or license holder requests a hearing, a hearing is conducted, a Proposal for Decision is issued for consideration by the Commission, and the Commission ultimately decides whether the license application should be denied or an existing license be suspended or revoked.

II. Responsibilities of the applicant

A. The applicant has the responsibility, to the extent possible, to obtain and provide to the executive director the recommendations of the prosecution, law enforcement, and correctional authorities as described in section III below.

B. The applicant has the further obligation to furnish proof in the form required by the TCEQ that the applicant has:

1. Maintained a record of steady employment;

2. Supported the applicant's dependents;

3. Maintained a record of good conduct; and

4. Paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.

III. General factors

A. In determining whether a criminal conviction should be grounds to deny a license the following factors are considered in all cases:

1. The nature and seriousness of the crime;

2. The relationship of the crime to the purposes for requiring a license to engage in the occupation;

3. The extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the applicant previously had been involved; and

4. The relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.

B. In determining the fitness to perform the duties and discharge the responsibilities of the licensed occupation of a person who has been convicted of a crime, the agency will also consider the following:

1. The extent and nature of the person's past criminal activity;

2. The age of the person when the crime was committed;

3. The amount of time that has elapsed since the person's last criminal activity;

4. The conduct and work activity of the person before and after the criminal activity;

5. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release; and

6. Other evidence of the person's fitness, including letters of recommendation from:

a. Prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;

b. The sheriff or chief of police in the community where the person resides; and

c. Any other person in contact with the convicted person.

IV. Relation of crimes to specific licenses issued by TCEQ

These guidelines reflect the most common or well-known categories of crimes, and their relation to specific license types. Listed below is a list of the occupational licenses issued by TCEQ and how particular categories of crimes may relate to those specific licenses. The vast majority of criminal convictions reviewed by the executive director will fit within the categories of crimes described below. However, these guidelines are not intended to be an exclusive listing, i.e. they do not prohibit the executive director from considering crimes not listed herein. After due consideration of the circumstances of the criminal act and the general factors listed above, the executive director may find that a conviction not described herein renders a person unfit to hold a license.

In addition to the specific crimes listed below, multiple violations of any criminal statute should always be reviewed, for any license type. Multiple violations may reflect a pattern of behavior that renders the applicant unfit for the license.

A. BACKFLOW PREVENTION ASSEMBLY TESTER (BPAT)

1. Crimes involving, misrepresentation, fraud, extortion, bribery, theft or deceptive business practices.

A person with a predisposition for crimes involving misrepresentation, fraud, extortion, bribery, theft or deceptive business practices would have the opportunity to engage in further similar conduct.

- a. BPATs have the means and the opportunity to practice deceit, fraud and misrepresentation related to the need for service, parts, and equipment.

- b. BPATs are in a position to approve backflow prevention assemblies during inspections that may not be operable or have code or safety violations in exchange for an inducement offered by the individual or entity requesting the test of the equipment.

2. Crimes involving a sexually violent offense, as defined by Code of Criminal Procedure, Article 62.001.

A person with a predisposition for crimes involving sexually violent offenses would have the opportunity to engage in further similar conduct.

- a. BPATs have direct access to private residences and deal directly with the general public which could allow the opportunity to engage in further similar conduct.

- b. BPATs have direct access to business facilities and deal directly with the owners of the businesses and business personnel which could allow the opportunity to engage in further similar conduct.

3. Crimes against property such as theft or burglary.

A person with the predisposition and experience in committing crimes against property would have the opportunity to engage in further similar conduct.

BPATs have access to private residences and businesses, where they may come into direct contact with unattended property, which could allow the opportunity to engage in further similar conduct.

4. Crimes against the person such as homicide, kidnapping and assault.
A person with a predisposition for a violent response would pose a risk to the public.

BPATs have direct contact with persons at residences and businesses in situations that could have a potential for confrontational behavior.

5. Crimes involving environmental law violations.

A person having the predisposition and experience in committing environmental law violations would have the opportunity to engage in further similar conduct.

B. CUSTOMER SERVICE INSPECTORS (CSI)

1. Crimes involving, misrepresentation, fraud, extortion, bribery, theft or deceptive business practices.

A person with a predisposition for crimes involving misrepresentation, fraud, extortion, bribery, theft or deceptive business practices would have the opportunity to engage in further similar conduct.

a. CSIs have the means and the opportunity to practice deceit, fraud and misrepresentation related to the need for service, parts, and equipment.

b. CSIs are in a position to approve inspections of facilities that may have code or safety violations in exchange for an inducement offered by the individual or entity requesting the inspection.

2. Crimes involving a sexually violent offense, as defined by Code of Criminal Procedure, Article 62.001.

A person with a predisposition for crimes involving sexually violent offenses would have the opportunity to engage in further similar conduct.

a. CSIs have direct access to private residences and deal directly with the general public which could allow the opportunity to engage in further.

b. CSIs have direct access to business facilities and deal directly with the owners of the businesses and business personnel which could allow the opportunity to engage in further.

3. Crimes against property such as theft or burglary.

A person with the predisposition and experience in committing crimes against property would have the opportunity to engage in further similar conduct.

CSIs have access to private residences and businesses, where they may come into direct contact with unattended property which could allow the opportunity to engage in further similar conduct.

4. Crimes against the person such as homicide, kidnapping and assault.

A person with a predisposition for a violent response would pose a risk to the public.

CSIs have direct contact with persons at residences and businesses in situations that could have a potential for confrontational behavior.

5. Crimes involving environmental law violations.

A person having the predisposition and experience in committing environmental law violations would have the opportunity to engage in further similar conduct.

C. LANDSCAPE IRRIGATORS, IRRIGATION TECHNICIANS AND, IRRIGATION INSPECTORS

1. Crimes involving misrepresentation, fraud, extortion, bribery, theft or deceptive business practices.

A person with a predisposition for crimes involving misrepresentation, fraud, extortion, bribery, theft or deceptive business practices would have the opportunity to engage in further similar conduct.

- a. Landscape Irrigators and Irrigation Technicians have the means and the opportunity to practice deceit, fraud and misrepresentation related to the need for service, parts, and equipment.

- b. Irrigation Inspectors are in a position to pass irrigation systems during inspections that may have code or safety violations in exchange for an inducement offered by the individual or entity requesting the inspection.

2. Crimes involving a sexually violent offense, as defined by Code of Criminal Procedure, Article 62.001.

A person with a predisposition for crimes involving sexually violent offenses would have the opportunity to engage in further similar conduct.

- a. The above licensees have direct access to private residences and deal directly with the general public which could allow the opportunity to engage in further similar conduct.

- b. The above licensees have direct access to business facilities and deal directly with the owners of the businesses and business personnel which could allow the opportunity to engage in further similar conduct.

3. Crimes against property such as theft or burglary.

A person with the predisposition and experience in committing crimes against property would have the opportunity to engage in further similar conduct.

The above licensees have access to private residences and businesses, where they may come into direct contact with unattended property which could allow the opportunity to engage in further similar conduct.

4. Crimes against the person such as homicide, kidnapping and assault.

A person with a predisposition for a violent response would pose a risk to the public.

The above licensees have direct contact with persons at residences and businesses in situations that could have a potential for confrontational behavior.

6. Crimes involving environmental law violations.

A person having the predisposition and experience in committing environmental law violations would have the opportunity to engage in further similar conduct.

D. LEAKING PETROLEUM STORAGE TANK CORRECTIVE ACTION PROJECT MANAGERS AND SPECIALIST

1. Crimes involving misrepresentation, fraud, extortion, bribery, theft or deceptive business practices.

A person with a predisposition for crimes involving misrepresentation, fraud, extortion, bribery, theft or deceptive business practices would have the opportunity to engage in further similar conduct.

The above licensees have the means and the opportunity to practice deceit, fraud and misrepresentation related to the need for service, parts, and equipment.

2. Crimes involving a sexually violent offense, as defined by Code of Criminal Procedure, Article 62.001.

A person with a predisposition for crimes involving sexually violent offenses would have the opportunity to engage in further similar conduct.

The above licensees have direct access to business facilities and deal directly with the owners of the businesses and business personnel which could allow the opportunity to engage in further similar conduct.

3. Crimes against property such as theft or burglary.

A person with the predisposition and experience in committing crimes against property would have the opportunity to engage in further similar conduct.

The above licensees have access to businesses, where they may come into direct contact with unattended property which could allow the opportunity to engage in further similar conduct.

4. Crimes against the person such as homicide, kidnapping and assault.

A person with a predisposition for a violent response would pose a risk to the public.

The above licensees have direct contact with individuals at businesses in situations that could have a potential for confrontational behavior.

5. Crimes involving environmental law violations.

A person having the predisposition and experience in committing environmental law violations would have the opportunity to engage in further similar conduct.

E. MUNICIPAL SOLID WASTE FACILITY SUPERVISORS

Crimes involving environmental law violations.

A person having the predisposition and experience in committing environmental law violations would have the opportunity to engage in further similar conduct.

F. ON-SITE SEWAGE FACILITY (OSSF) APPRENTICES, DESIGNATED REPRESENTATIVES, INSTALLERS, MAINTENANCE PROVIDERS AND SITE EVALUATORS

1. Crimes involving misrepresentation, fraud, extortion, bribery, theft or deceptive business.

A person with a predisposition for crimes involving misrepresentation, fraud, extortion, bribery, theft or deceptive business practices would have the opportunity to engage in further similar conduct.

- a. The OSSF Apprentices, Installers, Maintenance Providers and Site Evaluators have the means and the opportunity to practice deceit, fraud and misrepresentation related to the need for service, parts, and equipment.

- b. The OSSF Designated Representatives are in a position to pass OSSF systems during inspections that may have code or safety violations

in exchange for an inducement offered by the individual or entity requesting the inspection.

2. Crimes involving a sexually violent offense, as defined by Code of Criminal Procedure, Article 62.001.

A person with a predisposition for crimes involving sexually violent offenses would have the opportunity to engage in further similar conduct.

- a. The above licensees have direct access to private residences and deal directly with the general public which could allow the opportunity to engage in further similar conduct.

- b. The above licensees have direct access to business facilities and deal directly with the owners of the businesses and business personnel which could allow the opportunity to engage in further similar conduct.

3. Crimes against property such as theft or burglary.

A person with the predisposition and experience in committing crimes against property would have the opportunity to engage in further similar conduct.

The above licensees have access to private residences and businesses, where they may come into direct contact with unattended property which could allow the opportunity to engage in further similar conduct.

4. Crimes against the person such as homicide, kidnapping and assault.

A person with a predisposition for a violent response would pose a risk to the public.

The above licensees have direct contact with individuals at private residences and businesses in situations that could have a potential for confrontational behavior.

5. Crimes involving environmental law violations.

A person having the predisposition and experience in committing environmental law violations would have the opportunity to engage in further similar conduct.

G. PUBLIC WATER SYSTEM OPERATORS

1. Crimes involving a sexually violent offense, as defined by Code of Criminal Procedure, Article 62.001.

A person with a predisposition for crimes involving sexually violent offenses would have the opportunity to engage in further similar conduct.

a. The above licensees may have opportunities to have direct access to private residences and deal directly with the general public which could allow the opportunity to engage in further similar conduct.

b. The above licensees may have opportunities to have direct access to business facilities and deal directly with the owners of the businesses and business personnel which could allow the opportunity to engage in further similar conduct.

2. Crimes against property such as theft or burglary.

A person with the predisposition and experience in committing crimes against property would have the opportunity to engage in further similar conduct.

The above licensees have access to private residences or businesses, where they may come into direct contact with unattended property which could allow the opportunity to engage in further similar conduct.

3. Crimes against the person such as homicide, kidnapping and assault.

A person with a predisposition for a violent response would pose a risk to the public.

The above licensees may have an opportunity to have direct contact with persons at residences and businesses in situations that could have a potential for confrontational behavior.

4. Crimes involving environmental law violations.

A person having the predisposition and experience in committing environmental law violations would have the opportunity to engage in further similar conduct.

H. UNDERGROUND STORAGE TANK ON-SITE SUPERVISORS AND CONTRACTORS

1. Crimes involving misrepresentation, fraud, extortion, bribery, theft or deceptive business practices.

The above licensees have the means and the opportunity to practice deceit, fraud and misrepresentation related to the need for service, parts, and equipment.

2. Crimes involving a sexually violent offense, as defined by Code of Criminal Procedure, Article 62.001.

A person with a predisposition for crimes involving sexually violent offenses would have the opportunity to engage in further similar conduct.

The above licensees have direct access to business facilities and deal directly with the owners of the businesses and business personnel which could allow the opportunity to engage in further similar conduct.

3. Crimes against property such as theft or burglary.

A person with the predisposition and experience in committing crimes against property would have the opportunity to engage in further similar conduct.

The above licensees have access to businesses, where they may come into direct contact with unattended property which could allow the opportunity to engage in further similar conduct.

4. Crimes against the person such as homicide, kidnapping and assault.

A person with a predisposition for a violent response would pose a risk to the public.

The above licensees have direct contact with individuals at businesses in situations that could have a potential for confrontational behavior.

5. Crimes involving environmental law violations.

A person having the predisposition and experience in committing environmental law violations would have the opportunity to engage in further similar conduct.

I. WASTEWATER OPERATORS

1. Crimes involving a sexually violent offense, as defined by Code of Criminal Procedure, Article 62.001.

A person with a predisposition for crimes involving sexually violent offenses would have the opportunity to engage in further similar conduct.

a. The above licensees may have opportunities to have direct access to private residences and deal directly with the general public which could allow the opportunity to engage in further similar conduct.

b. The above licensees may have opportunities to have direct access to business facilities and deal directly with the owners of the

businesses and business personnel which could allow the opportunity to engage in further similar conduct.

3. Crimes against property such as theft or burglary.

A person with the predisposition and experience in committing crimes against property would have the opportunity to engage in further similar conduct.

The above licensees have access to private residences or businesses, where they may come into direct contact with unattended property which could allow the opportunity to engage in further similar conduct.

4. Crimes against the person such as homicide, kidnapping and assault.

A person with a predisposition for a violent response would pose a risk to the public.

The above licensees may have an opportunity to have direct contact with persons at residences and businesses in situations that could have a potential for confrontational behavior.

5. Crimes involving environmental law violations.

A person having the predisposition and experience in committing environmental law violations would have the opportunity to engage in further similar conduct.

J. WATER TREATMENT SPECIALIST (WTS)

1. Crimes involving, misrepresentation, fraud, extortion, bribery, theft or deceptive business practices.

A person with a predisposition for crimes involving misrepresentation, fraud, extortion, bribery, theft or deceptive business practices would have the opportunity to engage in further similar conduct.

WTSs have the means and the opportunity to practice deceit, fraud and misrepresentation related to the need for service, parts, and equipment.

2. Crimes involving a sexually violent offense, as defined by Code of Criminal Procedure, Article 62.001.

A person with a predisposition for crimes involving sexually violent offenses would have the opportunity to engage in further similar conduct.

a. WTSs have direct access to private residences and deal directly with the general public which could allow the opportunity to engage in further similar conduct.

b. WTSs have direct access to business facilities and deal directly with the owners of the businesses and business personnel which could allow the opportunity to engage in further similar conduct.

3. Crimes against property such as theft or burglary.

A person with the predisposition and experience in committing crimes against property would have the opportunity to engage in further similar conduct.

WTSs have access to private residences and businesses, where they may come into direct contact with unattended property which could allow the opportunity to engage in further similar conduct.

4. Crimes against the person such as homicide, kidnapping and assault.

A person with a predisposition for a violent response would pose a risk to the public.

WTSs have licensees may have an opportunity to have direct contact with persons at residences and businesses in situations that could have a potential for confrontational behavior.

5. Crimes involving environmental law violations.

A person having the predisposition and experience in committing environmental law violations would have the opportunity to engage in further similar conduct.