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Landscape Irrigator's Rule Compilation

Office of Compliance and Enforcement

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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Landscape Irrigator's Rule Compilation

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Office of Compliance and Enforcement

RG-470
July 2015

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Introduction

The correct practice of irrigation as a science and profession is essential for the protection and conservation of the water resources of the state and should be conducted by individuals who are held to the highest ethical standards. The legislature has vested the commission with the authority and duty to establish and enforce standards of professional conduct and ethics for practitioners in the irrigation industry.

For the most current information about the landscape irrigation program, go to <www.tceq.texas.gov/goto/irrigator>.

Introducción (español)

La práctica correcta de riego como ciencia y profesión es esencial para la protección y conservación de los recursos de agua del estado y las deben llevar a cabo personas de quienes se esperan los más altos estándares de ética. El congreso estatal ha otorgadodo a la comisión la autoridad y deber de establecer y hacer cumplir las normas de conducta profesional y de ética para participantes en la industria deriego.

Para la información más actualizada sobre el programa de riego de jardines vaya a <www.tceq.texas.gov/goto/irrigator>.

Occupations Code
Chapter 1903
Irrigators

Updated September 1, 2007

Occupations Code
Chapter 1903
Irrigators

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Subchapter A. General Provisions

§ 1903.001. Definitions.

(1) "Commission" means the Texas Commission on Environmental Quality.

(2) "Council" means the Irrigator Advisory Council.

(3) “Executive director" means the executive director of the commission.

(4) "Irrigation system" means an assembly of component parts permanently installed for the controlled distribution and conservation of water to irrigate landscape vegetation, reduce dust, or control erosion. The term does not include a system used on or by an agricultural operation as defined by Section 251.002, Agriculture Code.

(5) "Person" means an individual.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.434(a), eff. Sept. 1, 2003.

§ 1903.002. Exemptions.

(a) In this section, "property owners' association" has the meaning assigned by Section 202.001, Property Code.

(b) The licensing requirements of this chapter do not apply to a person who is:

(1) licensed by the Texas State Board of Plumbing Examiners; or

(2) a licensed engineer, registered architect, or registered landscape architect to the extent the person's acts are incidental to the pursuit of the person's profession.

(c) The licensing requirements of this chapter do not apply to:

(1) irrigation or yard sprinkler work performed by a property owner in a building or on premises owned or occupied by the person as the person's home;

(2) irrigation or yard sprinkler repair work, other than extension of an existing irrigation or yard sprinkler system or installation of a replacement system, that is:

(A) performed by a maintenance person who does not act as an irrigator or engage in yard sprinkler construction or maintenance for the public; and

(B) incidental to and on premises owned by the business in which the person is regularly employed or engaged;

(3) irrigation or yard sprinkler work performed:

(A) by a regular employee of a railroad who does not act as an irrigator or engage in yard sprinkler construction or maintenance for the public; and

(B) on the premises or equipment of the railroad;

(4) irrigation or yard sprinkler work performed on public property by a person who is regularly employed by a political subdivision of this state;

(5) irrigation or yard sprinkler work performed by an agriculturist, agronomist, horticulturist, forester, gardener, contract gardener, garden or lawn caretaker, nurseryman, or grader or cultivator of land on land owned by the person;

(6) irrigation or yard sprinkler work performed by a member of a property owners' association on real property owned by the association or in common by the association's members if the irrigation or yard sprinkler system waters real property that:

(A) is less than one-half acre in size; and

(B) is used for aesthetic or recreational purposes;

(7) irrigation or yard sprinkler work performed by a person using a garden hose, hose sprinkler, hose-end product, or agricultural irrigation system;

(8) activities involving a commercial agricultural irrigation system;

(9) a person who assists in the installation, maintenance, alteration, repair, or service of an irrigation system under the direct supervision of an individual described by Subchapter F of this chapter who is licensed under Chapter 37, Water Code; or

(10) an owner of a business that employs an individual described by Subchapter F of this chapter who is licensed under Chapter 37, Water Code, to supervise the business's sale, design, consultation, installation, maintenance, alteration, repair, and service of irrigation systems.

(d) A person who is exempt from the licensing requirements of this chapter shall comply with the standards established by this chapter and the rules adopted under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.435(a), eff. Sept. 1, 2003.

Subchapter B. Commission Powers and Duties

§ 1903.053. Standards.

(a) The commission shall adopt by rule and enforce standards governing:

(1) the connection of irrigation systems to any water supply;

(2) the design, installation, and operation of irrigation systems;

(3) water conservation; and

(4) the duties and responsibilities of licensed irrigators.

(b) The commission may not require or prohibit the use of any irrigation system, component part, or equipment of any particular brand or manufacturer.

(c) In adopting standards under this section, the commission shall consult the council.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.436(a), eff. Sept. 1, 2003. Amended by: Acts 2007, 80th Leg., R.S., Ch. 1352, Sec. 13, eff. June 15, 2007 and Acts 2007, 80th Leg., R.S., Ch. 1430, Sec. 2.34, eff. September 1, 2007.

Subchapter D. Irrigator Advisory Council

§ 1903.151. Council Membership.

(a) The Irrigator Advisory Council consists of nine members appointed by the commission as follows:

(1) six members who are irrigators, residents of this state, experienced in the irrigation business, and familiar with irrigation methods and techniques; and

(2) three public members.

(b) Appointments to the council shall be made without regard to the race, creed, sex, religion, or national origin of the appointee.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.438(a), eff. Sept. 1, 2003.

§ 1903.152. Eligibility of Public Members.

A person is not eligible for appointment as a public member of the council if the person or the person's spouse:

(1) is licensed by an occupational regulatory agency in the field of irrigation; or

(2) is employed by, participates in the management of, or has, other than as a consumer, a financial interest in a business entity or other organization related to the field of irrigation.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

§1903.155. Presiding Officer.

The council shall elect a presiding officer.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.438(b), eff. Sept. 1, 2003.

§1903.157. Meetings. The council shall hold meetings at the call of the commission or presiding officer.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.438(c), eff. Sept. 1, 2003.

§ 1903.158. Per Diem; Reimbursement. A council member is entitled to a per diem as set by legislative appropriation for each day the member engages in the business of the council. A council member is entitled to reimbursement for travel expenses, including expenses for meals and lodging, as prescribed by the General Appropriations Act.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

§ 1903.159. Council Duties. The council shall provide advice to the commission and the commission's staff concerning matters relating to irrigation.

Acts 2003, 78th Leg., ch. 1276, Sec. 14A.438(d), eff. Sept. 1, 2003.

Subchapter F. Licensing Requirements

§ 1903.251. License Required.

(a) A person must hold a license issued by the commission under Chapter 37, Water Code, if the person:

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

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

(3) connects an irrigation system to a private or public, raw or potable water supply system or any water supply; or

(4) inspects an irrigation system for a municipality or water district.

(b) A person is ineligible for a license under Subsection (a)(4) if the person engages in or has a financial or advisory interest in an entity that engages in an activity under Subsection (a)(1), (2), or (3).

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.435(c), eff. Sept. 1, 2003. Amended by Acts 2007, 80th Leg., R.S., Ch. 874, Sec. 1, eff. June 15, 2007.

§ 1903.252. Licensing of Landscape Architect. The commission may not require a person who on August 27, 1979, held a license as a landscape architect under Chapter 457, Acts of the 61st Legislature, Regular Session, 1969 (Article 249c, Vernon's Texas Civil Statutes), to pass an examination in order to be licensed.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.435(c), eff. Sept. 1, 2003.

§ 1903.255. Reciprocal Licensing. The commission may waive any prerequisite for obtaining a license for an applicant who is registered or licensed as an irrigator or installer by another jurisdiction with which this state has a

reciprocity agreement. The commission may make an agreement, subject to the approval of the governor, with another state to allow for licensing by reciprocity.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.439(a), eff. Sept. 1, 2003.

§ 1903.256 Installation of Irrigation System without a License: Offense.

(a) Unless exempt under Section 1903.002, a person commits an offense if the person installs an irrigation system without holding a license issued by the commission under Chapter 37, Water Code.

(b) An offense under this section is a Class C misdemeanor.

Added by Acts 2011, 82nd Leg., R.S., ch. 324, Sec. 1, eff. September 1, 2011.

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Chapter 37
Occupational Licensing and Registration

Updated September 1, 2007

Water Code
Chapter 37
Occupational Licensing and Registration

Subtitle F. Occupational Licensing and Registration

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Subtitle F. Occupational Licensing and Registration[1]

§ 37.001 Definitions. In this chapter:

(1) "Commission" means the Texas Natural Resource Conservation Commission.

(2) "License" means an occupational license or class of license issued by the commission to an individual.

(3) "Registration" means an occupational registration issued by the commission to a person.

Added by Acts 2001, 77th Leg., ch. 880, § 1, eff. Sept. 1, 2001.

§ 37.002. Rules. The commission shall adopt any rules necessary to:

(1) establish occupational licenses and registrations prescribed by Sections 26.0301, 26.3573, 26.452, and 26.456 of this code, Sections 341.033, 341.034, 361.027, and 366.071, Health and Safety Code, and Section 1903.251, Occupations Code;

(2) establish classes and terms of occupational licenses and registrations; and

(3) administer the provisions of this chapter and other laws governing occupational licenses and registrations under the commission's jurisdiction.

Added by Acts 2001, 77th Leg., ch. 880, § 1, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1276, § 14A.848, eff. Sept. 1, 2003.

§ 37.003. License or Registration Required. A person may not engage in a business, occupation, or profession described by Section 26.0301, 26.3573, 26.452, or 26.456 of this code, Section 341.033, 341.034, 361.027, 366.014, or 366.071, Health and Safety Code, or Section 1903.251, Occupations Code, unless the person holds the appropriate license or registration issued by the commission.

Added by Acts 2001, 77th Leg., ch. 880, § 1, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1276, § 14A.848, eff. Sept. 1, 2003.

§ 37.004. Qualifications. The commission may establish qualifications for each license and registration issued under this chapter.

Added by Acts 2001, 77th Leg., ch. 880, § 1, eff. Sept. 1, 2001.

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[1] In 2001, the Texas Legislature renamed the Texas Natural Resource Conservation Commission to the Texas Commission on Environmental Quality.

§ 37.005. Issuance and Denial of Licenses and Registrations.

(a) The commission shall establish requirements and uniform procedures for issuing licenses and registrations under this chapter.

(b) The commission may waive any prerequisite to obtaining a

license or registration for an applicant after reviewing the applicant's credentials and determining that the applicant holds a license or registration issued by another state that has requirements substantially equivalent to those of this state.

(c) After notice and hearing, the commission may deny an application for a license or registration by an applicant who:

(1) has a record in the preceding five years of continuing violations of statutes or rules adopted under those statutes;

(2) has engaged in fraud or deceit in obtaining or applying for a license or registration;

(3) has demonstrated gross negligence, incompetence, or misconduct in the performance of activities authorized by a license or registration;

(4) made an intentional misstatement or misrepresentation of fact in information required to be maintained or submitted to the commission by the license or registration holder;

(5) failed to keep and transmit records as required by a statute within the commission's jurisdiction or a rule adopted under such a statute; or

(6) at the time the application is submitted, is indebted to the state for a fee, penalty, or tax imposed by a statute within the commission's jurisdiction or a rule adopted under such a statute.

Added by Acts 2001, 77th Leg., ch. 880, § 1, eff. Sept. 1, 2001.

§ 37.006. Renewal of License or Registration.

(a) The commission shall establish requirements and uniform procedures for renewing licenses and registrations.

(b) The commission by rule may adopt a system under which licenses or registrations expire on various dates during the year. For the year in which the license or registration expiration date is changed, the commission shall prorate fees on a monthly basis so that each license or registration holder pays only that portion of the fee that is allocable to the number of months during which the license or registration is valid. On renewal of the license or registration on the new expiration date, the total renewal fee is payable.

(c) Not later than the 60th day before the date a person's license or registration is scheduled to expire, the commission shall send written

notice of the impending expiration to the person at the person's last known address according to the records of the commission.

(d) A person may renew an unexpired license or registration by submitting an application accompanied by the required renewal fee.

(e) A person whose license or registration has expired may not engage in activities that require a license or registration until the license or registration is renewed.

(f) A person whose license or registration has been expired for 30 days or less may apply for renewal of the license or registration by paying to the commission a renewal fee in an amount prescribed by commission rule not to exceed 1-1/2 times the normally required renewal fee.

(g) A person whose license or registration has been expired for more than 30 days may not renew the license or registration. The person may obtain a new license or registration by complying with the requirements and procedures, including the examination requirements, for obtaining an original license or registration.

Added by Acts 2001, 77th Leg., ch. 880, § 1, eff. Sept. 1, 2001.

§ 37.007. Licensing Examinations.

(a) The commission shall prescribe the content of licensing examinations. Examinations shall be based on laws, rules, job duties, and standards relating to licenses issued by the commission.

(b) The commission shall determine the location and frequency of examinations.

(c) Not later than the 45th day after the date a person takes a licensing examination under this chapter, the commission shall notify the person of the results of the examination.

(d) If requested in writing by a person who fails a licensing examination administered under this chapter, the commission, within a reasonable time, shall provide the person with an analysis of the person's performance on the examination. The commission shall ensure that an examination analysis does not compromise the fair and impartial administration of future examinations.

(e) The commission shall ensure that an otherwise qualified person with a physical, mental, or developmental disability is provided with a reasonable opportunity to take a licensing examination.

Added by Acts 2001, 77th Leg., ch. 880, § 1, eff. Sept. 1, 2001.

§ 37.008. Training; Continuing Education.

(a) The commission shall approve training programs necessary to qualify for or renew a license.

(b) The commission shall establish and make available to the public uniform procedures for approving training to qualify for or renew a license.

(c) The commission may recognize, prepare, or administer continuing education programs for license holders, including continuing education programs made available through the Internet.

(d) The commission by rule shall provide a method for a person who holds a license prescribed by Section 26.0301 of this code of Section 341.033 or 341.034, Health and Safety Code, to certify at the time the license is renewed that the license holder has compiled with the commission's continuing education requirements.

Added by Acts 2001, 77th Leg., ch. 880, § 1, eff. Sept. 1, 2001. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 149 (H.B.965), Sec.1, eff. September 1, 2011.

§ 37.009. Fees.

(a) The commission shall establish and collect fees to cover the cost of administering and enforcing this chapter and licenses and registrations issued under this chapter.

(b) Fees paid to the commission under this chapter shall be deposited in the state treasury to the credit of the commission occupational licensing account.

Added by Acts 2001, 77th Leg., ch. 880, § 1, eff. Sept. 1, 2001.

§ 37.010. Advertising.

(a) The commission may not adopt rules restricting advertising or competitive bidding by a license or registration holder except to prohibit false, misleading, or deceptive practices.

(b) In its rules to prohibit false, misleading, or deceptive practices, the commission may not include a rule that restricts:

(1) the use of any medium for advertising;

(2) the use of a license or registration holder's personal appearance or voice in an advertisement;

(3) the use or duration of an advertisement by the license or registration holder; or

(4) the license or registration holder's advertisement under a trade name.

Added by Acts 2001, 77th Leg., ch. 880, § 1, eff. Sept. 1, 2001.

§ 37.011. Complaints.The commission shall prepare and make available to the public information describing the procedures by which a person may submit licensing and registration complaints to the commission.

Added by Acts 2001, 77th Leg., ch. 880, § 1, eff. Sept. 1, 2001.

§ 37.012. Compliance Information. In administering this chapter, the commission may require a person to provide information about other occupational licenses and registrations held by the person, including:

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

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

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

Added by Acts 2001, 77th Leg., ch. 880, § 1, eff. Sept. 1, 2001.

§ 37.013. Practice Of Occupation. 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.

Added by Acts 2001, 77th Leg., ch. 880, § 1, eff. Sept. 1, 2001.

§ 37.014. Roster Of License Holders And Registrants. The commission shall maintain and make available to the public an official roster of persons who hold licenses and registrations issued under this chapter.

Added by Acts 2001, 77th Leg., ch. 880, § 1, eff. Sept. 1, 2001.

§ 37.015. Power To Contract. The commission may contract with persons to provide services required by this chapter. The commission may authorize contractors to collect reasonable fees for the services provided.

Added by Acts 2001, 77th Leg., ch. 880, § 1, eff. Sept. 1, 2001.

Title 30, Texas Administrative Code
Chapter 344
Rules for Landscape Irrigation

Effective January 1, 2009

Title 30, Texas Administrative Code
Chapter 344
Rules for Landscape Irrigation

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Chapter 344 Landscape Irrigation

Subchapter A Definitions 30 TAC §344.1

§ 344.1. Definitions.

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

(1) Air gap–A complete physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel.

(2) Atmospheric Vacuum Breaker–An assembly containing an air inlet valve, a check seat, and an air inlet port. The flow of water into the body causes the air inlet valve to close the air inlet port. When the flow of water stops the air inlet valve falls and forms a check against back-siphonage. At the same time it opens the air inlet port allowing air to enter and satisfy the vacuum. Also known as an Atmospheric Vacuum Breaker Back-siphonage Prevention Assembly.

(3) Backflow prevention–The mechanical prevention of reverse flow, or back siphonage, of nonpotable water from an irrigation system into the potable water source.

(4) Backflow prevention assembly–Any assembly used to prevent backflow into a potable water system. The type of assembly used is based on the existing or potential degree of health hazard and backflow condition.

(5) Completion of irrigation system installation--When the landscape irrigation system has been installed, all minimum standards met, all tests performed, and the irrigator is satisfied that the system is operating correctly.

(6) Consulting–The act of providing advice, guidance, review or recommendations related to landscape irrigation systems.

(7) Cross-connection–An actual or potential connection between a potable water source and an irrigation system that may contain contaminates or pollutants or any source of water that has been treated to a lesser degree in the treatment process.

(8) Design–The act of determining the various elements of a landscape irrigation system that will include, but not limited to, elements such as collecting site specific information, defining the scope of the project, defining plant watering needs, selecting and laying out emission devices, locating system components, conducting hydraulics calculations, identifying any local regulatory requirements, or scheduling irrigation work at a site. Completion of the various components will result in an irrigation plan.

(9) Design pressure--The pressure that is required for an emission device to operate properly. Design pressure is calculated by adding the operating pressure necessary at an emission device to the total of all pressure losses accumulated from an emission device to the water source.

(10) Double Check Valve--An assembly that is composed of two independently acting, approved check valves, including tightly closed resilient seated shutoff valves attached at each end of the assembly and fitted with properly located resilient seated test cocks. Also known as a Double Check Valve Backflow Prevention Assembly.

(11) Emission device--Any device that is contained within an irrigation system and that is used to apply water. Common emission devices in an irrigation system include, but are not limited to, spray and rotary sprinkler heads, and drip irrigation emitters.

(12) Employed--Engaged or hired to provide consulting services or perform any activity relating to the sale, design, installation, maintenance, alteration, repair, or service to irrigation systems. A person is employed if that person is in an employer-employee relationship as defined by Internal Revenue Code, 26 United States Code Service, §3212(d) based on the behavioral control, financial control, and the type of relationship involved in performing employment related tasks.

(13) Head-to-head spacing--The spacing of spray or rotary heads equal to the manufacturer's published radius of the head.

(14) Health hazard--A cross-connection or potential cross-connection with an irrigation system that involves any substance that may, if introduced into the potable water supply, cause death or illness, spread disease, or have a high probability of causing such effects.

(15) Hydraulics--The science of dynamic and static water; the mathematical computation of determining pressure losses and pressure requirements of an irrigation system.

(16) Inspector--A licensed plumbing inspector, water district operator, other governmental entity, or irrigation inspector who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor.

(17) Installer--A person who actually connects an irrigation system to a private or public raw or potable water supply system or any water supply, who is licensed according to Chapter 30 of this title (relating to Occupational Licenses and Registrations).

(18) Irrigation inspector--A person who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor and is required to be licensed under Chapter 30 of this title (relating to Occupational Licenses and Registrations).

(19) Irrigation plan--A scaled drawing of a landscape irrigation system which lists required information, the scope of the project, and represents the changes made in the installation of the irrigation system.

(20) Irrigation services--Selling, designing, installing, maintaining, altering, repairing, servicing, permitting, providing consulting services regarding, or connecting an irrigation system to a water supply.

(21) Irrigation system--An assembly of component parts that is permanently installed for the controlled distribution and conservation of water to irrigate any type of landscape vegetation in any location, and/or to reduce dust or control erosion. This term does not include a system that is used on or by an agricultural operation as defined by Texas Agricultural Code, §251.002.

(22) 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, and who is required to be licensed under Chapter 30 of this title (relating to Occupational Licenses and Registrations).

(23) Irrigation zone--A subdivision of an irrigation system with a matched precipitation rate based on plant material type (such as turf, shrubs, or trees), microclimate factors (such as sun/shade ratio), topographic features (such as slope) and soil conditions (such as sand, loam, clay, or combination) or for hydrological control.

(24) Irrigator--A person who sells, designs, offers consultations regarding, 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, and who is required to be licensed under Chapter 30 of this title (relating to Occupational Licenses and Registrations).

(25) Irrigator-in-Charge--The irrigator responsible for all irrigation work performed by an exempt business owner, including, but not limited to obtaining permits, developing design plans, supervising the work of other irrigators or irrigation technicians, and installing, selling, maintaining, altering, repairing, or servicing a landscape irrigation system.

(26) Landscape irrigation--The science of applying the necessary amount of water to promote or sustain healthy growth of plant material or turf.

(27) License--An occupational license that is issued by the commission under Chapter 30 of this title to an individual that authorizes the individual to engage in an activity that is covered by this chapter.

(28) Mainline--A pipe within an irrigation system that delivers water from the water source to the individual zone valves.

(29) Maintenance checklist--A document made available to the irrigation system's owner or owner's representative that contains information

regarding the operation and maintenance of the irrigation system, including, but not limited to: checking and repairing the irrigation system, setting the automatic controller, checking the rain or moisture sensor, cleaning filters, pruning grass and plants away from irrigation emitters, using and operating the irrigation system, the precipitation rates of each irrigation zone within the system, any water conservation measures currently in effect from the water purveyor, the name of the water purveyor, a suggested seasonal or monthly watering schedule based on current evapotranspiration data for the geographic region, and the minimum water requirements for the plant material in each zone based on the soil type and plant material where the system is installed.

(30) Major maintenance, alteration, repair, or service--Any activity that involves opening to the atmosphere the irrigation main line at any point prior to the discharge side of any irrigation zone control valve. This includes, but is not limited to, repairing or connecting into a main supply pipe, replacing a zone control valve, or repairing a zone control valve in a manner that opens the system to the atmosphere.

(31) Master valve--A remote control valve located after the backflow prevention device that controls the flow of water to the irrigation system mainline.

(32) Matched precipitation rate--The condition in which all sprinkler heads within an irrigation zone apply water at the same rate

(33) New installation--An irrigation system installed at a location where one did not previously exist.

(34) Non-health hazard--A cross-connection or potential cross connection from a landscape irrigation system that involves any substance that generally would not be a health hazard but would constitute a nuisance or be aesthetically objectionable if introduced into the potable water supply.

(35) Non-potable water--Water that is not suitable for human consumption. Non-potable water sources include, but are not limited to, irrigation systems, lakes, ponds, streams, gray water that is discharged from washing machines, dishwashers or other appliances, water vapor condensate from cooling towers, reclaimed water, and harvested rainwater.

(36) Pass-through contract--A written contract between a contractor or builder and a licensed irrigator or exempt business owner to perform part or all of the irrigation services relating to an irrigation system.

(37) Potable water--Water that is suitable for human consumption.

(38) Pressure Vacuum Breaker--An assembly containing an independently operating internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. Also known as a Pressure Vacuum Breaker Back-siphonage Prevention Assembly.

(39) Reclaimed water--Domestic or municipal wastewater which has been treated to a quality suitable for beneficial use, such as landscape irrigation.

(40) Records of landscape irrigation activities--The irrigation plans, contracts, warranty information, invoices, copies of permits, and other documents that relate to the installation, maintenance, alteration, repair, or service of a landscape irrigation system.

(41) Reduced Pressure Principle Backflow Prevention Assembly--An assembly containing two independently acting approved check valves together with a hydraulically operating mechanically independent pressure differential relief valve located between the two check valves and below the first check valve.

(42) Static water pressure--The pressure of water when it is not moving.

(43) Supervision--The on-the-job oversight and direction by a licensed irrigator who is fulfilling his or her professional responsibility to the client and/or employer in compliance with local or state requirements. Also a licensed installer working under the direction of a licensed irrigator or beginning January 1, 2009, an irrigation technician who is working under the direction of a licensed irrigator to install, maintain, alter, repair or service an irrigation system.

(44) Water conservation--The design, installation, service, and operation of an irrigation system in a manner that prevents the waste of water, promotes the most efficient use of water, and applies the least amount of water that is required to maintain healthy individual plant material or turf, reduce dust, and control erosion.

(45) Zone flow--A measurement, in gallons per minute or gallons per hour, of the actual flow of water through a zone valve, calculated by individually opening each zone valve and obtaining a valid reading after the pressure has stabilized. For design purposes, the zone flow is the total flow of all nozzles in the zone at a specific pressure.

(46) Zone valve--An automatic valve that controls a single zone of a landscape irrigation system.

Subchapter B Standards of Conduct for Irrigators, Installers, Irrigation Technicians, and Irrigation Inspectors, And Local Requirements (30 TAC §§344.20–344.24)

§ 344.20. Purpose of Standards.

(a) The correct practice of irrigation as a science and profession is essential for the protection and conservation of the water resources of the state and should be conducted by individuals who are held to the highest ethical standards. The legislature has vested the commission with the authority

and duty to establish and enforce standards of professional conduct and ethics for practitioners in the irrigation industry.

(b) Every applicant for an irrigator, installer, irrigation technician, or irrigation inspector license must become fully informed of the obligations and responsibilities inherent in the practice of irrigation as outlined by these standards of conduct. Each licensed irrigator, installer, irrigation technician, or irrigation inspector is deemed to have notice of these standards of conduct and is required to abide by the standards.

§ 344.21. Intent.

(a) These standards of conduct are established to prescribe responsibility on the part of an irrigator, an installer, an irrigation technician, an irrigation inspector, and a qualifying exempt business owner to aid in governing the irrigation industry.

(b) The commission will determine what actions constitute violations of the standards in accordance with Chapter 70 of this title (relating to Enforcement) and Texas Water Code, Chapter 7 and institute appropriate disciplinary action, which may lead to monetary penalties or the suspension or revocation of a license in accordance with the applicable state statutes.

§ 344.22. Profiency in the Field of Irrigation; Representation of Qualifications.

(a) All irrigators, installers, irrigation technicians, and inspectors shall be knowledgeable of the current industry standards regarding selling, designing, providing consulting services, installing, maintaining, altering, repairing, or servicing irrigation systems, including the connection of such a system to any source of water and water conservation. All irrigators, installers, irrigation technicians, and inspectors shall conform to the current adopted version of these rules and any local rules that do not conflict with these rules, or that are more stringent than these rules, when performing these activities.

(b) All irrigators, installers, irrigation technicians, irrigation inspectors, and exempt business owners shall accurately and truthfully represent to prospective clients their qualifications to perform the services requested and shall not perform services for which they are not qualified by experience, knowledge, or license in the technical field involved.

(c) All irrigators, installers, irrigation technicians, and inspectors shall be knowledgeable of local requirements related to landscape irrigation systems.

§ 344.23. Irrigation Practice.

False, misleading, or deceptive practices by an irrigator, installer, irrigation technician, or irrigation inspector relating to bidding,

advertising, selling, installation, maintenance, alteration, repair, servicing, or inspection of irrigation systems are prohibited.

§ 344.24. Local Regulation and Inspection.

(a) Where any city, town, county, special purpose district, other political subdivision of the state, or public water supplier requires licensed irrigators, installers, irrigation technicians, or irrigation inspectors to comply with reasonable inspection requirements, ordinances, or regulations designed to protect the public water supply, any of which relates to work performed or to be performed within such political subdivision's territory the licensed irrigator, installer, irrigation technician, or irrigation inspector must comply with such requirements, ordinances, and regulations.

(b) Any city, town, county, other political subdivision of the state, or public water supplier that is not required to adopt rules or ordinances regulating landscape irrigation may adopt a landscape irrigation program by ordinance or rule and may be responsible for inspection of connections to its public water supply system up to and including the backflow prevention device.

(c) Municipalities with a population of 20,000 or more and a water district that chooses to implement a landscape irrigation program must verify that the irrigator that designs and installs an irrigation system holds a valid irrigator's license and has obtained a permit before installing a system within its territorial limits or if a municipality, its extraterritorial jurisdiction. Inspectors must verify that the design and installation meet the requirements of this chapter and local ordinances or rules that do not conflict with this chapter, or that are more stringent than this chapter.

(d) Each inspector shall maintain a log of all irrigation systems inspected that includes, but is not limited to, the system location, property owner, irrigator responsible for installation, permit status, problems noted during the inspection, and date of the inspection. The log must be kept for three years. The log shall be available for review within two business days of the request by authorized representatives of the commission or any regulatory authority with jurisdiction over landscape irrigation issues in the area the inspector is employed to inspect.

(e) An inspector may not inspect a landscape irrigation system that is an on-site sewage disposal system, as defined by Texas Health and Safety Code, §366.002.

(f) An inspector may not inspect an irrigation system that is used on or by an agricultural operation as defined by Texas Agricultural Code, §251.002; or is connected to a groundwater well that is used by the property owner for domestic use.

Subchapter C Requirements for Licensed Irrigators, Installers, Irrigation Technicians, and Irrigation Inspectors 30 TAC §§344.30–344.38

§ 344.30. License Required.

(a) An irrigator is an individual who:

(1) sells, designs, provides consultation services, installs, maintains, alters, repairs, or services an irrigation system, including the connection of such system to any water supply;

(2) advertises or represents to anyone that the individual can perform any or all of these functions; and

(3) is required to hold a valid irrigator license issued under Chapter 30 of this title (relating to Occupational Licenses and Registrations).

(b) Through December 31, 2009, an installer is an individual who connects an irrigation system to any water supply.

(c) Beginning January 1, 2009, an irrigation technician is an individual who:

(1) connects an irrigation system to a water supply;

(2) under the supervision of a licensed irrigator, installs, maintains, alters, repairs, or services a landscape irrigation system;

(3) represents to anyone that the individual can perform any or all of these functions; and

(4) is required to hold a valid irrigation technician license issued under Chapter 30 of this title.

(d) All irrigators, installers, and irrigation technicians shall comply with the rules contained in this chapter when performing any or all of the functions listed in this section.

(e) An individual who inspects irrigation systems and enforces a municipality's landscape irrigation ordinance must:

(1) hold a valid irrigation inspector license issued according to Chapter 30 of this title; or (2) hold a valid plumbing inspector license.

(f) An individual who inspects irrigation systems and enforces a water district's rules related to landscape irrigation systems must:

(1) hold a valid irrigation inspector license issued according to Chapter 30 of this title;

(2) hold a valid plumbing inspector license;

(3) be the district's operator; or

(4) be another regulatory authority with jurisdiction over landscape irrigation.

(g) An inspector shall comply with the rules contained in this chapter when performing any or all of the functions listed in this section.

(h) A property owner is not required to be licensed in accordance with Texas Occupations Code, Title 12, §1903.002(c)(1) if he or she is performing irrigation work in a building or on a premises owned or occupied by the person as the person's home. A home or property owner who installs an irrigation system must meet the standards contained in §344.62(b) Spacing, §344.62(c) Water pressure, §344.62(g) related to spraying water over impervious materials, §344.62(j) Rain or moisture shut-off devices or other technology, and §344.62(k) Isolation valve. Municipalities or water districts may adopt more stringent requirements for a home or property owner who installs an irrigation system.

§ 344.31. Exemption for Business Owner Who Provides Irrigation Services.

Under Chapter 30 of this title (relating to Occupational Licenses and Registrations), a business owner who employs a licensed irrigator as an irrigator-in-charge to provide consulting services or to supervise or conduct the exempt business's operations relating to the design, installation, maintenance, alteration, repairing, and servicing of irrigation systems is exempt from the licensing requirements of Texas Occupations Code, Chapter 1903.

§ 344.32. Responsibilities of a Business Owner Who Provides Irrigation Services

An exempt owner who provides landscape irrigation services shall ensure that all irrigation services are supervised by a licensed irrigator, according to the requirements of this subchapter. An exempt business owner who engages in landscape irrigation is responsible for verifying the validity of the license belonging to all irrigators, installers, and irrigation technicians performing irrigation services for the business. An exempt business owner who engages in landscape irrigation is responsible for designating an irrigator-in-charge.

§ 344.33. Display of License.

(a) Irrigators, installers, and irrigation technicians shall prominently display their license certificate at the place of irrigation business or employment and shall present their license upon request by any regulatory authority, irrigation system's owner, or prospective owner.

(b) Irrigation inspectors shall present their license, when requested by any entity that is regulated under this chapter, and when that request is made while an irrigation inspector is conducting business.

§ 344.34. Use of License.

(a) No one other than the irrigator, installer, irrigation technician, or irrigation inspector to whom a license is issued shall use or attempt to use the license, which includes the license number.

(b) An individual who uses or attempts to use the license or license number of someone else who is a licensed irrigator, licensed installer, licensed irrigation technician, or licensed irrigation inspector is in violation of Texas Occupations Code, Chapter 1903, and this chapter.

(c) An irrigator's license or license number may be used at only one entity as the irrigator-in-charge. An irrigator may work for other entities, but not as the irrigator-in-charge.

(d) It is a violation of this chapter for an irrigator, installer, irrigation technician or irrigation inspector to authorize or allow another person or entity to use the irrigator's, installer's, irrigation technician's, or irrigation inspector's license or license number in a manner inconsistent with this chapter.

§ 344.35. Duties and Responsibilities of Irrigators.

(a) An irrigator shall comply with the rules contained in this chapter when performing any or all of the functions described in this section.

(b) An irrigator who performs work for an entity or for an exempt business owner who performs or offers to perform irrigation services shall be knowledgeable of and responsible for all permits, contracts, agreements, advertising, and other irrigation services secured and performed using the irrigator's license.

(c) A licensed irrigator who is employed by an exempt business owner as defined by §344.31 of this title (relating to Exemption for Business Owner Who Provides Irrigation Services) shall supervise all irrigation services of the business, in accordance with this chapter.

(d) A licensed irrigator is responsible for:

(1) using the stamp or rubber seal in accordance with this chapter;

(2) obtaining all permits and inspections required to install an irrigation system;

(3) complying with local regulations;

(4) determining the appropriate backflow prevention method for each irrigation system installation and installing the backflow prevention device correctly;

(5) maintaining landscape irrigation systems records;

(6) conserving water;

(7) developing and following irrigation plan for each new irrigation system;

(8) designing an irrigation system that complies with the requirements of this chapter;

(9) providing on-site supervision of the installation of an irrigation system beginning January 1, 2010;

(10) providing supervision to an irrigation technician while connecting an irrigation system to a water supply; installing, maintaining, altering, repairing, or servicing an irrigation system;

(11) providing supervision to an installer connecting an irrigation system through December 31, 2009;

(12) completing the irrigation system including the final "walk through," completing the maintenance checklist, placing a permanent sticker on the controller or on the maintenance checklist if the irrigation system does not have an automatic controller, and providing a copy of the design plan;

(13) selling, consulting, performing maintenance, alteration, repair, and service of irrigation systems that complies with the requirements of this chapter;

(14) providing advertisements, contracts, and warranties that comply with the requirements of this chapter; and

(15) installing an irrigation system that complies with the requirements of this chapter.

§ 344.36. Duties and Responsibilities of Installers and Irrgation Technicians.

(a) A licensed installer may connect an irrigation system to a water supply through December 31, 2009. This includes installing an approved backflow prevention method pursuant to §344.50 of this title (relating to Backflow Prevention Methods) when connecting an irrigation system to a potable water supply. Beginning January 1, 2009, a licensed irrigation technician may connect an irrigation system to a water supply, including installing an approved backflow prevention method pursuant to §344.50 of this title and may maintain, alter, repair, service, or direct the installation of irrigation systems under the supervision of an irrigator.

(b) If an installer or irrigation technician connects an irrigation system to a potable water supply, the connection and installation of the backflow prevention method must be as indicated on the site irrigation plan or as directed by the licensed irrigator and documented on the site irrigation plan.

(c) Through December 31, 2009, an installer is responsible for the connection of an irrigation system to a water supply under the supervision of a licensed irrigator.

(d) Beginning January 1, 2009, an irrigation technician, under the supervision of a licensed irrigator, is responsible for:

(1) connecting an irrigation system to a water supply; and

(2) providing on-site supervision of the installation, maintenance, alteration, repair, service of an irrigation system including the final walk through with the irrigation system owner or owner's representative to explain the maintenance and operation of the irrigation system.

§ 344.37. Duties and Responsibilities of Irrigation Inspectors.

(a) A licensed irrigation inspector shall enforce the applicable irrigation rules or ordinance of the employing governmental entity.

(b) A licensed irrigation inspector, licensed plumbing inspector, a water district's operator or other governmental entity shall be responsible for:

(1) verifying that the appropriate permits have been obtained for an irrigation system and that the irrigator and installer or irrigation technician, if applicable, are licensed;

(2) inspecting the irrigation system;

(3) determining that the irrigation system complies with the requirements of this chapter;

(4) determining that the appropriate backflow prevention device was installed, tested, and test results provided to the water purveyor;

(5) investigating complaints related to irrigation system installation, maintenance, alteration, repairs, or service of an irrigation system and advertisement of irrigation services; and

(6) maintaining records according to this chapter.

§ 344.38. Irrigator, Installer, And Irrigation Technician Records.

Upon the licensed irrigator obtaining the seal or rubber stamp, in accordance with this chapter, an impression of the seal or rubber stamp will be made on letterhead, or other business stationary, and maintained on file for review by the commission. Archival copies of all records given to the irrigation system's owner or owner's representative shall be maintained by the irrigator. Records will be maintained by the irrigator for a period of three years from the date installation, maintenance, alteration, repair or service was completed. Irrigators, installers, and irrigation technicians shall make all records of landscape irrigation services available within ten business days of any request made by authorized representatives of the commission or the local regulatory authority with jurisdiction over landscape irrigation issues.

Subchapter D. Licensed Irrigator Seal
30 TAC §§344.40–344.43

§ 344.40. Seal Required.

Each irrigator, upon being licensed with the commission, shall obtain a seal, as described in §344.41 of this title (relating to Seal Design). Licensed irrigators shall not engage in any landscape irrigation services without physical possession of the seal and the license. The irrigator is responsible for the security of the seal.

§ 344.41. Seal Design.

(a) The required seal must be:

(1) circular; and

(2) not less than 1-1/2 inches in diameter.

(b) The required seal must display:

(1) the words "State of Texas" at the top between the knurled circles;

(2) the words "Licensed Irrigator" at the bottom; and

(3) the irrigator's name and license number, excluding leading zeros, horizontally in the circular field.

§ 344.42. Seal Display.

(a) On every document requiring an irrigator's seal, the seal shall be clearly visible and legible on the original document and all copies or reproductions of the original document.

(b) An irrigator may use an electronic or other format seal and signature if the seal, signature, and date are clearly visible and legible on the original document and all copies or reproductions of the original document.

§ 344.43. Seal Use.

(a) Irrigators shall:

(1) sign their legal name;

(2) affix the seal above the irrigator's signature; and

(3) include the date of signing (month, day, and year) of each document to which the seal is affixed.

(b) The presence of the irrigator's seal displayed above the irrigator's signature and date on any document constitutes the acceptance of all professional responsibility for the document and the irrigation services performed in accordance with that document.

(c) The irrigator will maintain, for three years, a copy of each document bearing the irrigator's seal.

(d) Once a document containing a seal is issued, the seal may not be altered.

(e) Irrigators shall not use or authorize the use of a seal on any plan or specification created by another irrigator unless the irrigator:

(1) Reviews and makes changes to adapt the plan or specification to the specific site conditions and to address state and local requirements; and

(2) Accepts full responsibility for any alterations to the plan or specification and any downstream consequences.

(f) If an irrigator prepares a portion of a plan or specification, that portion of the design or specification prepared by the irrigator, or under the irrigator's supervision and seal, should be clearly identified.

(g) Irrigators shall sign, seal and date the irrigation plan and specifications, contract, addenda or change orders, warranty, and the maintenance checklist.

Subchapter E Backflow Prevention And Cross-Connections 30 TAC §§344.50–344.52

§ 344.50. Backflow Prevention Methods.

(a) Any irrigation system that is connected to a public or private potable water supply must be connected through a commission-approved backflow prevention method. The backflow prevention device must be approved by the American Society of Sanitary Engineers; or the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California; or the Uniform Plumbing Code; or any other laboratory that has equivalent capabilities for both the laboratory and field evaluation of backflow prevention assemblies. The backflow prevention device must be installed in accordance with the laboratory approval standards or if the approval does not include specific installation information, the manufacturer's current published recommendations.

(b) If conditions that present a health hazard exist, one of the following methods must be used to prevent backflow;

(1) An air gap may be used if:

(A) there is an unobstructed physical separation; and

(B) the distance from the lowest point of the water supply outlet to the flood rim of the fixture or assembly into which the outlet discharges is at least one inch or twice the diameter of the water supply outlet, whichever is greater.

(2) Reduced pressure principle backflow prevention assemblies may be used if:

(A) the device is installed at a minimum of 12 inches above ground in a location that will ensure that the assembly will not be submerged; and

(B) drainage is provided for any water that may be discharged through the assembly relief valve.

(3) Pressure vacuum breakers may be used if:

(A) no back-pressure condition will occur; and

(B) the device is installed at a minimum of 12 inches above any downstream piping and the highest downstream opening. Pop-up sprinklers are measured from the retracted position from the top of the sprinkler.

(4) Atmospheric vacuum breakers may be used if:

(A) no back-pressure will be present;

(B) there are no shutoff valves downstream from the atmospheric vacuum breaker;

(C) the device is installed at a minimum of six inches above any downstream piping and the highest downstream opening. Pop-up sprinklers are measured from the retracted position from the top of the sprinkler;

(D) there is no continuous pressure on the supply side of the atmospheric vacuum breaker for more than 12 hours in any 24-hour period; and

(E) a separate atmospheric vacuum breaker is installed on the discharge side of each irrigation control valve, between the valve and all the emission devices that the valve controls.

(c) Backflow prevention devices used in applications designated as health hazards must be tested upon installation and annually thereafter.

(d) If there are no conditions that present a health hazard double check valve backflow prevention assemblies may be used to prevent backflow if the device is tested upon installation and:

(1) a local regulatory authority does not prohibit the use of a double check valve;

(2) backpressure caused by an elevation of pressure in the discharge piping by pump or elevation of piping above the supply pressure which could cause a reversal of the normal flow of water or back-siphonage conditions caused by a reduced or negative pressure in the irrigation system exist; and

(3) test cocks are used for testing only.

(e) If a double check valve is installed below ground:

(1) test cocks must be plugged, except when the double check valve is being tested;

(2) test cock plugs must be threaded, water-tight, and made of non-ferrous material;

(3) a y-type strainer is installed on the inlet side of the double check valve;

(4) there must be a clearance between any fill material and the bottom of the double check valve to allow space for testing and repair; and

(5) there must be space on the side of the double check valve to test and repair the double check valve.

§ 344.51. Specific Conditions and Cross-Connection Control.

(a) Before any chemical is added to an irrigation system connected to any potable water supply, the irrigation system must be connected through a reduced pressure principle backflow prevention assembly or air gap.

(b) Connection of more than one water source to an irrigation system presents the potential for contamination of the potable water supply if backflow occurs. Therefore, connection of any additional water source to an irrigation system that is connected to the potable water supply can only be done if the irrigation system is connected to the potable water supply through a reduced-pressure principle backflow prevention assembly or an air gap.

(c) Irrigation system components with chemical additives induced by aspiration, injection, or emission system connected to any potable water supply must be connected through a reduced pressure principle backflow device.

(d) If an irrigation system is designed or installed on a property that is served by an on-site sewage facility, as defined in Chapter 285 of this title (relating to On-Site Sewage Facilities), then:

(1) all irrigation piping and valves must meet the separation distances from the On-Site Sewage Facilities system as required for a private water line in §285.91(10) of this title (relating to Minimum Required Separation Distances for On-Site Sewage Facilities);

(2) any connections using a private or public potable water source must be connected to the water source through a reduced pressure principle backflow prevention assembly as defined in §344.50 of this title (relating to Backflow Prevention Methods); and

(3) any water from the irrigation system that is applied to the surface of the area utilized by the On-Site Sewage Facility system must be controlled on a separate irrigation zone or zones so as to allow complete control of any irrigation to that area so that there

will not be excess water that would prevent the On-Site Sewage Facilities system from operating effectively.

§ 344.52. Installation of Backflow Prevention Device.

(a) If an irrigation system is connected to a potable water supply and requires major maintenance, alteration, repair, or service, the system must be connected to the potable water supply through an approved, properly installed backflow prevention method as defined in this title before any major maintenance, alteration, repair, or service is performed.

(b) If an irrigation system is connected to a potable water supply through a double check valve, pressure vacuum breaker, or reduced pressure principle backflow assembly and includes an automatic master valve on the system, the automatic master valve must be installed on the discharge side of the backflow prevention assembly.

(c) The irrigator shall ensure the backflow prevention device is tested prior to being placed in service and the test results provided to the local water purveyor and the irrigation system's owner or owner's representative within 10 business days of testing of the backflow prevention device.

Subchapter F Standards for Designing, Installing, and Maintaining Landscape Irrigation Systems 30 TAC §§344.60–344.65

§ 344.60. Water Conservation.

All irrigation systems shall be designed, installed, maintained, altered, repaired, serviced, and operated in a manner that will promote water conservation as defined in §344.1(44) of this title (relating to Definitions).

§ 344.61. Minimum Standards For The Design of The Irrigation Plan.

(a) An irrigator shall prepare an irrigation plan for each site where a new irrigation system will be installed. A paper or electronic copy of the irrigation plan must be on the job site at all times during the installation of the irrigation system. A drawing showing the actual installation of the system is due to each irrigation system owner after all new irrigation system installations. During the installation of the irrigation system, variances from the original plan may be authorized by the licensed irrigator if the variance from the plan does not:

(1) diminish the operational integrity of the irrigation system;

(2) violate any requirements of this chapter; and

(3) go unnoted in red on the irrigation plan.

(b) The irrigation plan must include complete coverage of the area to be irrigated. If a system does not provide complete coverage of the area to be irrigated, it must be noted on the irrigation plan.

(c) All irrigation plans used for construction must be drawn to scale. The plan must include, at a minimum, the following information:

(1) the irrigator's seal, signature, and date of signing;

(2) all major physical features and the boundaries of the areas to be watered;

(3) a North arrow;

(4) a legend;

(5) the zone flow measurement for each zone;

(6) location and type of each:

(A) controller;

(B) sensor (for example, but not limited to, rain, moisture, wind, flow, or freeze);

(7) location, type, and size of each:

(A) water source, such as, but not limited to a water meter and point(s) of connection;

(B) backflow prevention device;

(C) water emission device, including, but not limited to, spray heads, rotary sprinkler heads, quick-couplers, bubblers, drip, or micro-sprays;

(D) valve, including, but not limited to, zone valves, master valves, and isolation valves;

(E) pressure regulation component; and

(F) main line and lateral piping.

(8) the scale used; and

(9) the design pressure.

§ 344.62. Minimum Design and Installation Requirements.

(a) No irrigation design or installation shall require the use of any component, including the water meter, in a way which exceeds the manufacturer's published performance limitations for the component.

(b) Spacing.

(1) The maximum spacing between emission devices must not exceed the manufacturer's published radius or spacing of the device(s). The radius or spacing is determined by referring to the manufacturer's published specifications for a specific emission device at a specific operating pressure.

(2) New irrigation systems shall not utilize above-ground spray emission devices in landscapes that are less than 48 inches not

including the impervious surfaces in either length or width and which contain impervious pedestrian or vehicular traffic surfaces along two or more perimeters. If pop-up sprays or rotary sprinkler heads are used in a new irrigation system, the sprinkler heads must direct flow away from any adjacent surface and shall not be installed closer than four inches from a hardscape, such as, but not limited to, a building foundation, fence, concrete, asphalt, pavers, or stones set with mortar.

(3) Narrow paved walkways, jogging paths, golf cart paths or other small areas located in cemeteries, parks, golf courses or other public areas may be exempted from this requirement if the runoff drains into a landscaped area.

(c) Water pressure. Emission devices must be installed to operate at the minimum and not above the maximum sprinkler head pressure as published by the manufacturer for the nozzle and head spacing that is used. Methods to achieve the water pressure requirements include, but are not limited to, flow control valves, a pressure regulator, or pressure compensating spray heads.

(d) Piping. Piping in irrigation systems must be designed and installed so that the flow of water in the pipe will not exceed a velocity of five feet per second for polyvinyl chloride (PVC) pipe.

(e) Irrigation Zones. Irrigation systems shall have separate zones based on plant material type, microclimate factors, topographic features, soil conditions, and hydrological requirements.

(f) Matched precipitation rate. Zones must be designed and installed so that all of the emission devices in that zone irrigate at the same precipitation rate.

(g) Irrigation systems shall not spray water over surfaces made of concrete, asphalt, brick, wood, stones set with mortar, or any other impervious material, such as, but not limited to, walls, fences, sidewalks, streets, etc.

(h) Master valve. When provided, a master valve shall be installed on the discharge side of the backflow prevention device on all new installations.

(i) PVC pipe primer solvent. All new irrigation systems that are installed using PVC pipe and fittings shall be primed with a colored primer prior to applying the PVC cement in accordance with the Uniform Plumbing Code (Section 316) or the International Plumbing Code (Section 605).

(j) Rain or moisture shut-off devices or other technology. All new automatically controlled irrigation systems must include sensors or other technology designed to inhibit or interrupt operation of the irrigation system during periods of moisture or rainfall. Rain or moisture shut-off technology must be installed according to the manufacturer's published recommendations. Repairs to existing automatic irrigation systems that require replacement of an existing controller must include a sensor or other technology designed to inhibit or interrupt operation of the irrigation system during periods of moisture or rainfall. El Paso, Hudspeth, Culberson, Jeff Davis, Presidio, Brewster, Terrell, Loving, Winkler, Ward, Reeves, Ector, Crane and Pecos are excluded from this requirement.

(k) Isolation valve. All new irrigation systems must include an isolation valve between the water meter and the backflow prevention device.

(l) Depth coverage of piping. Piping in all irrigation systems must be installed according to the manufacturer's published specifications for depth coverage of piping.

(1) If the manufacturer has not published specifications for depth coverage of piping, the piping must be installed to provide minimum depth coverage of six inches of select backfill, between the top of the pipe and the natural grade of the topsoil. All portions of the irrigation system that fail to meet this standard must be noted on the irrigation plan. If the area being irrigated has rock at a depth of six inches or less, select backfill may be mounded over the pipe. Mounding must be noted on the irrigation plan and discussed with the irrigation system owner or owner's representative to address any safety issues.

(2) If a utility, man-made structure, or roots create an unavoidable obstacle, which makes the six-inch depth coverage requirement impractical, the piping shall be installed to provide a minimum of two inches of select backfill between the top of the pipe and the natural grade of the topsoil.

(3) All trenches and holes created during installation of an irrigation system must be backfilled and compacted to the original grade.

(m) Wiring irrigation systems.

(1) Underground electrical wiring used to connect an automatic controller to any electrical component of the

irrigation system must be listed by Underwriters Laboratories as acceptable for burial underground.

(2) Electrical wiring that connects any electrical components of an irrigation system must be sized according to the manufacturer's recommendation.

(3) Electrical wire splices which may be exposed to moisture must be waterproof as certified by the wire splice manufacturer.

(4) Underground electrical wiring that connects an automatic controller to any electrical component of the irrigation system must be buried with a minimum of six inches of select backfill.

(n) Water contained within the piping of an irrigation system is deemed to be non-potable. No drinking or domestic water usage, such as, but not limited to, filling swimming pools or decorative fountains, shall be connected to an irrigation system. If a hose bib (an outdoor water faucet that has hose threads on the spout) is connected to an irrigation system for the purpose of providing supplemental water to an area, the hose bib must be installed using a quick coupler key on a quick coupler installed in a covered purple valve box and the hose bib and any hoses connected to the bib must be labeled "non-potable, not safe for drinking." An isolation valve must be installed upstream of a quick coupler connecting a hose bib to an irrigation system.

(o) Beginning January 1, 2010, either a licensed irrigator or a licensed irrigation technician shall be on-site at all times while the landscape irrigation system is being installed. When an irrigator is not on-site, the irrigator shall be responsible for ensuring that a licensed irrigation technician is on-site to supervise the installation of the irrigation system.

§ 344.63. Completion of Irrigation System Installation.

Upon completion of the irrigation system, the irrigator or irrigation technician who provided supervision for the on-site installation shall be required to complete four items:

(1) a final "walk through" with the irrigation system's owner or the owner's representative to explain the operation of the system;

(2) The maintenance checklist on which the irrigator or irrigation technician shall obtain the signature of the irrigation system's owner or owner's representative and shall sign, date, and seal the checklist. If the irrigation system's owner or owner's representative is unwilling or unable to sign the maintenance checklist, the irrigator shall note the time and

date of the refusal on the irrigation system's owner or owner's representative's signature line. The irrigation system owner or owner's representative will be given the original maintenance checklist and a duplicate copy of the maintenance checklist shall be maintained by the irrigator. The items on the maintenance checklist shall include but are not limited to:

(A) the manufacturer's manual for the automatic controller, if the system is automatic;

(B) a seasonal (spring, summer, fall, winter) watering schedule based on either current/real time evapotranspiration or monthly historical reference evapotranspiration (historical ET) data, monthly effective rainfall estimates, plant landscape coefficient factors, and site factors;

(C) a list of components, such as the nozzle, or pump filters, and other such components; that require maintenance and the recommended frequency for the service; and

(D) the statement, "This irrigation system has been installed in accordance with all applicable state and local laws, ordinances, rules, regulations or orders. I have tested the system and determined that it has been installed according to the Irrigation Plan and is properly adjusted for the most efficient application of water at this time."

(3) A permanent sticker which contains the irrigator's name, license number, company name, telephone number and the dates of the warranty period shall be affixed to each automatic controller installed by the irrigator or irrigation technician. If the irrigation system is manual, the sticker shall be affixed to the original maintenance checklist. The information contained on the sticker must be printed with waterproof ink and include:

(4) The irrigation plan indicating the actual installation of the system must be provided to the irrigation system's owner or owner representative.

§ 344.64. Maintenance, Alteration, Repair, or Service of Irrigation Systems.

(a) The irrigator is responsible for all work that the irrigator performed during the maintenance, alteration, repair, or service of an irrigation system during the warranty period. The irrigator or business owner is not responsible for the professional negligence of any other irrigator who subsequently conducts any irrigation service on the same irrigation system.

(b) All trenches and holes created during the maintenance, alteration, repair, or service of an irrigation system must be returned to the original grade with compacted select backfill.

(c) Colored PVC pipe primer solvent must be used on all pipes and fittings used in the maintenance, alteration, repair, or service of an irrigation system in accordance with the Uniform Plumbing Code (Section 316) or the International Plumbing Code (Section 605).

(d) When maintenance, alteration, repair or service of an irrigation system involves excavation work at the water meter or backflow prevention device, an isolation valve shall be installed, if an isolation valve is not present.

§ 344.65. Reclaimed Water.

Reclaimed water may be utilized in landscape irrigation systems if:

(1) there is no direct contact with edible crops, unless the crop is pasteurized before consumption;

(2) the irrigation system does not spray water across property lines that do not belong to the irrigation system's owner;

(3) the irrigation system is installed using purple components;

(4) the domestic potable water line is connected using an air gap or a reduced pressure principle backflow prevention device, in accordance with §290.47(i) of this title (relating to Appendices);

(5) a minimum of an eight inch by eight inch sign, in English and Spanish, is prominently posted on/in the area that is being irrigated, that reads, "RECLAIMED WATER—DO NOT DRINK" and "AGUA DE RECUPERACIÓN—NO BEBER"; and

(6) backflow prevention on the reclaimed water supply line shall be in accordance with the regulations of the water purveyor.

Subchapter G Advertising, Contract, and Warranty 30 TAC §§344.70–344.72

§ 344.70. Advertisement.

(a) All vehicles used in the performance of irrigation installation, maintenance, alteration, repair, or service must display the irrigator's license number in the form of "LI_____" in a contrasting color of block letters at least two inches high, on both sides of the vehicle.

(b) All forms of written and electronic advertisements for irrigation services must display the irrigator's license number in the form of "LI_____." Any form of advertisement, including business cards, and estimates which displays an entity's or individual's name other than that of the licensed irrigator must also display the name of the licensed irrigator and the licensed irrigator's license number. Trailers that advertise irrigation services must display the irrigator's license number.

(c) The name, mailing address, and telephone number of the commission must be prominently displayed on a legible sign and displayed in plain

view for the purpose of addressing complaints at the permanent structure where irrigation business is primarily conducted and irrigation records are kept.

§ 344.71. Contracts.

(a) All contracts to install an irrigation system must be in writing and signed by each party and must specify the irrigator's name, license number, business address, current business telephone numbers, the date that each party signed the agreement, the total agreed price, and must contain the statement, "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ), MC-178, P.O. Box 13087, Austin, Texas 78711-3087. TCEQ's website is: www. tceq.state.tx.us." All contracts must include the irrigator's seal, signature, and date.

(b) All written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system(s) must include the irrigator's name, license number, business address, current business telephone number(s), and the statement: "Irrigation in Texas is regulated by the Texas Commission On Environmental Quality (TCEQ) (MC-178), P.O. Box 13087, Austin, Texas 78711-3087. TCEQ's web site is: www.tceq.state.tx.us."

(c) An individual who agrees by contract to provide irrigation services as defined in §344.30 of this title (relating to License Required) shall hold an irrigator license issued under Chapter 30 of this title (relating to Occupational Licenses and Registrations) unless the contract is a pass-through contract as defined in §344.1(36) of this title (relating to Definitions). If a pass-through contract includes irrigation services, then the irrigation portion of the contract can only be performed by a licensed irrigator. If an irrigator installs a system pursuant to a pass-through contract, the irrigator shall still be responsible for providing the irrigation system's owner or through contract, the irrigator shall still be responsible for providing the irrigation system's owner or owner's representative a copy of the warranty and all other documents required under this chapter. A pass-through contract must identify by name and license number the irrigator that will perform the work and must provide a mechanism for contacting the irrigator for irrigation system warranty work.

(d) The contract must include the dates that the warranty is valid.

§ 344.72. Warranties.

(a) On all installations of new irrigation systems, an irrigator shall present the irrigation system's owner or owner's representative with a written warranty covering materials and labor furnished in the new installation of the irrigation system. The irrigator shall be responsible for adhering to terms of the warranty. If the irrigator's warranty is less than the manufacturer's warranty for the system components, then the irrigator shall provide the irrigation system's owner or the owner's representative

with applicable information regarding the manufacturer's warranty period. The warranty must include the irrigator's seal, signature, and date. If the warranty is part of an irrigator's contract, a separate warranty document is not required.

(b) An irrigator's written warranty on new irrigation systems must specify the irrigator's name, business address, and business telephone number(s), must contain the signature of the irrigation system's owner or owner's representative confirming receipt of the warranty and must include the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ), MC-178, P.O. Box 130897, Austin, Texas 78711-3087. TCEQ's website is: www.tceq.state.tx.us."

(c) On all maintenance, alterations, repairs, or service to existing irrigation systems, an irrigator shall present the irrigation system's owner or owner's representative a written document that identifies the materials furnished in the maintenance, alteration, repair, or service. If a warranty is provided, the irrigator shall abide by the terms. The warranty document must include the irrigator's name and business contact information.

Subchapter H Irrigator Advisory Council

§ 344.80. Irrigator Advisory Council.

(a) The Irrigator Advisory Council is composed of nine members that are appointed by the commission. Appointments to the council will be made without regard to race, creed, sex, religion, or national origin of the appointees. The purpose of the council is to give the commission the benefit of the members' collective business, environmental, and technical expertise and experience with respect to matters relating to landscape irrigation. The council has no executive or administrative powers or duties with respect to the operation of the commission, and all such powers and duties rest solely with the commission.

(b) Six members of the council must be licensed irrigators who are residents of the State of Texas, experienced in the irrigation business, and familiar with irrigation methods and techniques.

(c) Three members must be representatives of the public. A person is not eligible for appointment as a public member if the person or the person's spouse:

(1) is licensed by an occupational regulatory agency in the field of irrigation; or

(2) is employed by, participates in the management of, or has, other than as a consumer, a financial interest in a business entity or other organization related to the field of irrigation.

(d) It is grounds for removal from the council by the commission if a member:

(1) does not meet, at the time of the appointment, the qualifications that are required by subsection (b) or (c) of this section for appointment to the council;

(2) does not maintain, during service on the council, the qualifications that are required by subsection (b) or (c) of this section for appointment to the council; or

(3) misses three consecutive regularly scheduled meetings or more than half of all the regularly scheduled meetings in a one-year period.

(e) The members of the council serve six-year terms, with the terms expiring February 1 of each odd-numbered year.

(f) A member of the council is entitled to per diem as appropriated by the Texas Legislature for each day that the member engages in the business of the council. A member is entitled to reimbursement for travel expenses, including expenses for meals and lodging, as provided for in the General Appropriations Act.

(g) The council shall hold meetings at the call of the commission or chairman.

(h) A majority of the council constitutes a quorum for conducting business.

(i) The council will elect a chairman by a majority vote.

Source Note: The provisions of this §344.1 adopted to be effective January 1, 2009, 33 TexReg 5713

30 TAC Chapter 30, Occupational Licenses and Registrations Subchapters A & D

Effective July 10, 2014

Occupational Licenses and Registrations
Chapter 30

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Subchapter A Administration of Occupational Licenses and Registrations

§ 30.1. Authority. The provisions in this chapter are issued under the authority of Texas Water Code, Chapter 37.

The provisions of this §30.1 adopted to be effective December 17, 2001, 26 TexReg 10330

§ 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, Installer, 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, 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 Providers) 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, installers, 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, 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 evaluators training providers.

The provisions of this §30.3 adopted to be effective December 17, 2001, 26 TexReg 10330; amended to be effective March 1, 2006, 31 TexReg 1301; amended to be effective September 27, 2007, 32 TexReg 6523; amended to be effective June 26, 2008, 33 TexReg 4886; amended to be effective July 8, 2010, 35 TexReg 5894

§ 30.5. General Provisions.

(a) A person must be licensed or registered by the commission before engaging in an activity, occupation, or profession described by Texas Water Code, §§26.0301, 26.3573, 26.452, 26.456, or 37.003, Texas Health and Safety Code, §§341.033, 341.034, 341.102, 341.103, 361.027, 366.014, 366.071, 366.0515, or Texas Occupations Code, §1903.251 and §1904.051. The commission shall issue a license or registration only after an applicant has met the minimum requirements for a license or registration as specified in this chapter.

(b) A person shall not advertise or represent themselves to the public as a holder of a license or registration unless that person possesses a current license or registration. A person shall not advertise or represent to the public that it can perform services for which a license or registration is required unless it holds a current license or registration, or unless it employs individuals who hold current licenses.

(c) The executive director may contract with persons to provide services required by this chapter. The commission may authorize contractors to collect reasonable fees for the services provided.

(d) Licenses and registrations are not transferable.

(e) New licenses shall not be issued to employees of the commission who have regulatory authority over the rules of this chapter. Commission employees may maintain a license if that license was issued prior to employment with the commission.

(f) Prohibited Employment.

(1) Individuals subject to registration under the Texas Code of Criminal Procedure, Chapter 62 because of a reportable conviction or adjudication for which an affirmative finding is entered under Texas Code of Criminal Procedure, Article 42.015(b) or Section 5(e)(2), Article 45.12, and licensed after September 1, 2013, may not, for compensation, provide or offer to provide any type of service in the residence of another person unless the provision of service will be supervised.

(2) For purposes of this subsection.

(A) "Residence" means a structure primarily used as a permanent dwelling and land that is contiguous to that permanent dwelling.

(B) "Supervision" means direct, continuous visual observation of the individual at all times.

The provisions of this §30.5 adopted to be effective December 17, 2001, 26 TexReg 10330; amended to be effective March 1, 2006, 31 TexReg 1301; amended to be effective September 27, 2007, 32 TexReg 6523; amended to be effective July 10, 2014, 39 TexReg 5181

§ 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.

(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.

(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.

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

(5) Distance 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.

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

(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.

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

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

(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.

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

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

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

(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.

(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.

(17) Training credit--Hours 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).

(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.

(20) Webinar--Interactive training delivered live via the Internet as a combination of conference training and distance 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.

The provisions of this §30.7 adopted to be effective December 17, 2001, 26 TexReg 10330; amended to be effective March 1, 2006, 31 TexReg 1301; amended to be effective September 27, 2007, 32 TexReg 6523; amended to be effective July 10, 2014, 39 TexReg 5181

§ 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 used for the issuance of training credits;

(8) approving training providers; and

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

The provisions of this §30.10 adopted to be effective December 17, 2001, 26 TexReg 10330; amended to be effective September 27, 2007, 32 TexReg 6523

§ 30.14. Applications for Initial Registration.

(a) Applications for initial registrations shall be made on a standard form approved by the executive director. The application must be submitted to the executive director with the appropriate fee.

(b) Supplemental information for each individual program shall be submitted according to the specific requirements for each program. (c) All statements and qualifications provided by the applicant or on the behalf of the applicant are subject to verification by the executive director.

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

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

(f) All applications must be completed in full. All deficiencies must be corrected within 60 days of notification, or the application shall be considered void.

(g) 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 registration. The registration 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, Visible Emissions Evaluator Training and Certification, respectively.) The effective date of the registration shall be the date the executive director issues the registration.

The provisions of this §30.14 adopted to be effective December 17, 2001, 26 TexReg 10330; amended to be effective September 27, 2007, 32 TexReg 6523; amended to be effective July 10, 2014, 39 TexReg 5181

§ 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.

(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, Visible Emissions Evaluator Training and Certification, respectively.) The effective date of the license shall be the date the executive director issues the license.

The provisions of this §30.18 adopted to be effective December 17, 2001, 26 TexReg 10330; amended to be effective September 27, 2007, 32 TexReg 6523; amended to be effective July 10, 2014, 39 TexReg 5181

§ 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.

(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.

(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.

(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.

(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.

(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.

The provisions of this §30.20 adopted to be effective December 17, 2001, 26 TexReg 10330; amended to be effective September 27, 2007, 32 TexReg 6523; amended to be effective July 8, 2010, 35 TexReg 5894; amended to be effective July 10, 2014, 39 TexReg 5181

§ 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 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 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) 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 on active duty in the United States armed forces outside this state may renew their license within 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 180-day period for 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 while the licensee was on active duty service in the United States armed forces outside this state.

(k) These procedures apply only to 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.

The provisions of this §30.24 adopted to be effective December 17, 2001, 26 TexReg 10330; amended to be effective September 27, 2007, 32 TexReg 6523; amended to be effective August 30, 2012, 37 TexReg 6607; amended to be effective July 10, 2014, 39 TexReg 5181

§ 30.26. Recognition of Licenses from Out-of-State.

(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.

(e) Military Spouses.

(1) The executive director shall issue a license to an applicant who is 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 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).

(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.

(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.

The provisions of this §30.26 adopted to be effective December 17, 2001, 26 TexReg 10330; amended to be effective August 30, 2012, 37 TexReg 6607; amended to be effective July 10, 2014, 39 TexReg 5181

§ 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 $50 minimum
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

The provisions of this §30.28 adopted to be effective September 27, 2007, 32 TexReg 6523; amended to be effective July 10, 2014, 39 TexReg 5181

§ 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, 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.

(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.

The provisions of this §30.30 adopted to be effective December 17, 2001, 26 TexReg 10330; amended to be effective September 27, 2007, 32 TexReg 6523; amended to be effective July 8, 2010, 35 TexReg 5894; amended to be effective July 10, 2014, 39 TexReg 5181

§ 30.33. License or Registration Denial, Warning, Suspension, or Revocation.

(a) The executive director may deny an initial or renewal application for the following reasons.

(1) Insufficiency. The executive director shall notify the applicant of the executive director's intent to deny the application and advise the applicant of the opportunity to file a motion to overturn the executive director's decision under §50.139 of this title (relating to Motion to Overturn

Executive Director's Decision). The executive director may determine that an application is insufficient for the following reasons:

(A) failing to meet the licensing or registration requirements of this chapter; or

(B) if an out-of-state licensing program does not have requirements substantially equivalent to those of this chapter.

(2) Cause. After notice and opportunity for a hearing, the commission may deny an application for a license or registration by an applicant who:

(A) provides fraudulent information or falsifies the application;

(B) has engaged in fraud or deceit in obtaining or applying for a license or registration;

(C) has demonstrated gross negligence, incompetence, or misconduct in the performance of activities authorized by a license or registration;

(D) made an intentional misstatement or misrepresentation of fact or information required to be maintained or submitted to the commission by the applicant or by the license or registration holder;

(E) failed to keep and transmit records as required by a statute within the commission's jurisdiction or a rule adopted under such a statute;

(F) at the time the application is submitted, is indebted to the state for a fee, penalty, or tax imposed by a statute within the commission's jurisdiction or a rule adopted under such a statute; or

(G) is in default on loans guaranteed by Texas Guaranteed Student Loan Corporation (TGSLC) (the executive director shall proceed as described in Texas Education Code, Chapter 57) if identified by TGSLC and the application is for a renewal license or registration.

(b) If an individual causes, contributes to, or allows a violation of this chapter, the executive director may issue a warning letter. The letter shall be placed in the individual's permanent file maintained by the executive director. This letter shall be a warning that further violations or offenses by the individual may be grounds for suspension, revocation, enforcement action, or some combination. A warning is not a prerequisite for initiation of suspension, revocation, or enforcement proceedings.

(c) After notice and hearing, the commission may suspend or revoke a license, certificate, or registration on any of the grounds contained in Texas Water Code, §7.303(b).

(d) After notice and hearing a license or registration may be suspended for a period of up to one year, depending upon the seriousness of the violations. A

license or registration shall be revoked after notice and hearing upon a second suspension.

(e) The commission may revoke a license or registration after notice and hearing for a designated term or permanently. If a license or registration is revoked a second time, the revocation shall be permanent.

(f) The following procedures for renewal apply to individuals that have had their license or registration suspended.

(1) If a license or registration expiration date falls within the suspension period, an individual may renew the license or registration during the suspension period according to §30.24 of this title (relating to License and Registration Applications for Renewal) and the applicable subchapters of this chapter.

(2) A license or registration suspended in accordance with subsection (j) of this section may not be renewed during the suspension period. The license or registration may only be renewed if the court or the Title IV-D agency renders an order vacating or staying an order suspending the license or registration and the license or registration has not expired during the suspension period.

(3) After the suspension period has ended, the license or registration shall be automatically reinstated unless the individual failed to renew the license or registration during the suspension period.

(g) Individuals that have had their license or registration revoked shall not have their license or registration reinstated after the revocation period. After the revocation period has ended, an individual may apply for a new license or registration according to this chapter.

(h) Criminal Conviction.

(1) After notice and hearing, the commission may deny, suspend, or revoke a license on the grounds that the individual has been convicted of an offense, other than a Class C misdemeanor that:

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

(B) 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;

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

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

(2) The commission shall revoke the license or registration upon an individual's imprisonment following a felony conviction, felony

community supervision revocation, revocation of parole, or revocation of mandatory supervision.

(3) Prohibited Employment.

(A) Individuals subject to registration under the Texas Code of Criminal Procedure, Chapter 62 because of a reportable conviction or adjudication for which an affirmative finding is entered under Texas Code of Criminal Procedure, Article 42.015(b) or Section 5(e)(2), Article 45.12, and licensed after September 1, 2013, may not, for compensation, provide or offer to provide any type of service in the residence of another person unless the provision of service will be supervised.

(B) For purposes of this subsection:

(i) "Residence" means a structure primarily used as a permanent dwelling and land that is contiguous to that permanent dwelling.

(ii) "Supervision" means direct, continuous visual observation of the individual at all times.

(4) Except as provided by paragraph (5) of this subsection, notwithstanding any other law, the executive director may not consider an individual to have been convicted of an offense for purposes of this section if, regardless of the statutory authorization:

(A) the individual entered a plea of guilty or *nolo contendere;*

(B) the judge deferred further proceedings without entering an adjudication of guilt and placed the individual under the supervision of the court or an officer under the supervision of the court; and

(C) at the end of the period of supervision, the judge dismissed the proceedings and discharged the individual.

(5) The executive director may consider an individual to have been convicted of an offense for purposes of this section regardless of whether the proceedings were dismissed and the individual was discharged as described by paragraph (4) of this subsection if:

(A) the individual was charged with:

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

(ii) an offense other than an offense described by clause (i) of this subparagraph 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

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

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

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

(i) After notice and hearing, the commission may revoke a maintenance provider registration on any of the grounds in Texas Health and Safety Code, §366.0515(m).

(j) Failure to pay child support.

(1) The commission may suspend a license or registration if a licensed or registered individual has been identified by the Office of the Attorney General as being delinquent on child support payments (upon receipt of a final order suspending a license or registration, the executive director shall proceed as described in Texas Family Code, Chapter 232).

(2) The commission shall refuse to accept an application for:

(A) issuance of a new license or registration to an individual; or

(B) renewal of an existing license or registration to an individual if:

(i) the individual has failed to pay child support for six months or more;

(ii) the commission is notified by a child support agency, as defined by Texas Family Code, §101.004; and

(iii) the child support agency requests the commission to refuse to accept the application.

(3) The commission shall not accept an application for a license that was refused under paragraph (2) of this subsection until notified by the child support agency that the individual has:

(A) paid all child support arrearages;

(B) made an immediate payment of not less than $200 toward child support arrearages owed and established with the child support agency a satisfactory repayment schedule for the remainder or is in compliance with a court order for payment of the arrearages;

(C) been granted an exemption from this subsection as part of a court-supervised plan to improve the individual's earnings and child support payments; or

(D) successfully contested the child support agency's request for the commission's denial of issuance or renewal of the license or registration.

(4) The commission may charge a fee in an amount sufficient to recover the administrative costs incurred for denying or suspending that license.

(5) For purposes of this subsection, the suspension period for a license or registration shall be until:

(A) the court or the Title IV-D agency renders an order vacating or staying an order suspending the license or registration; or

(B) the expiration of the license or registration.

The provisions of this §30.33 adopted to be effective July 10, 2014, 39 TexReg 5181

§ 30.35. Guidelines

All hearings are to be conducted according to Chapters 70 and 80 of this title (relating to Enforcement and Contested Case Hearings).

The provisions of this §30.35 adopted to be effective December 17, 2001, 26 TexReg 103

§ 30.36. Notice

The executive director shall notify the individual in writing of the intent to suspend or revoke a license or deny the individual a license or the opportunity to be examined for a license because of the individual's prior conviction of a crime and the relationship of the crime to the license. The notification shall include, but not be limited to the:

(1) reason for the suspension, revocation, denial, or disqualification;

(2) review procedure provided by §30.35 of this title (relating to Guidelines); and

(3) earliest date that the individual may appeal the action of the commission.

The provisions of this §30.36 adopted to be effective July 8, 2010, 35 TexReg 5894; amended to be effective July 10, 2014, 39 TexReg 5181

§ 30.38 Hearings

All hearings are to be conducted according to Chapters 70 and 80 of this title (relating to Enforcement and Contested Case Hearings, respectively).

Source Note: The provisions of this §30.38 adopted to be effective July 8, 2010, 35 TexReg 5894

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

§ 30.111. Purpose and Applicability.

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

(1) sell, design, install, maintain, alter, repair, or service an irrigation system;

(2) provide consulting services relating to an irrigation system;

(3) connect an irrigation system to any water supply; or

(4) inspect irrigation systems and perform other enforcement duties as an employee or as a contractor.

(b) An individual who performs any of the tasks listed in subsection (a) of this section 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), unless they are exempt under §30.129 of this title (relating to Exemptions); and must comply with the requirements in Chapter 344 of this title (relating to Landscape Irrigation).

The provisions of this §30.111 adopted to be effective December 17, 2001, 26 TexReg 10330; amended to be effective September 27, 2007, 32 TexReg 6523; amended to be effective June 26, 2008, 33 TexReg 4886

§ 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) Installer--An individual who connects irrigation systems to any water supply.

(2) Irrigator--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.

The provisions of this §30.117 adopted to be effective December 17, 2001, 26 TexReg 10330

§ 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.

(b) Effective January 1, 2010, the installer 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.

(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.

(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.

(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.

(3) pass the applicable examination.

(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.

The provisions of this §30.120 adopted to be effective December 17, 2001, 26 TexReg 10330; amended to be effective September 27, 2007, 32 TexReg 6523; amended to be effective June 26, 2008, 33 TexReg 4886

§ 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).

(b) Effective January 1, 2010, the installer license 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.

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

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

(2) complete 24 hours of approved training credits.

(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.

(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.

The provisions of this §30.122 adopted to be effective December 17, 2001, 26 TexReg 10330; amended to be effective September 27, 2007, 32 TexReg 6523; amended to be effective June 26, 2008, 33 TexReg 4886

§ 30.129. Exemptions.

(a) The licensing requirements of this chapter do not apply to a person who:

(1) is licensed by the Texas State Board of Plumbing Examiners and is working within the scope provided by the plumbing laws;

(2) is registered or licensed as a professional engineer or architector landscape architect if the work is related to the pursuit of the profession;

(3) is under the direct supervision of a licensed irrigator and assists in the installation, maintenance, alteration, repair, or service of an irrigation system; or

(4) is an owner of a business that employs a licensed irrigator to supervise the business' sale, design, consultation, installation, maintenance, alteration, repair, and service of irrigation systems. For the purpose of this subchapter, employs means steadily, uniformly, or

habitually working in an employer-employee relationship with the intent to earn a livelihood, as opposed to working casually or occasionally.

(b) The licensing requirements of this chapter do not apply to:

(1) irrigation or yard sprinkler work that is performed by a property owner in a building or on premises owned or occupied by the owner as the owner's home;

(2) irrigation or yard sprinkler repair work, other than extension of an existing irrigation or yard sprinkler system or installation of a replacement system that is:

(A) performed by a maintenance person who does not act as an irrigator or engage in yard sprinkler construction or maintenance for the public; and

(B) incidental to and on premises owned by the business in which the person is regularly employed or engaged;

(3) irrigation or yard sprinkler work that is performed:

(A) by a regular employee of a railroad who does not act as an irrigator or engage in yard sprinkler construction or maintenance for the public; and

(B) on the premises or equipment of the railroad;

(4) irrigation and yard sprinkler work that is performed on public property by a person who is regularly employed by a county, city, town, special district, or political subdivision of the state;

(5) irrigation or yard sprinkler work that is performed by a person using a garden hose, hose sprinkler, hose-end product, including soaker hose, or agricultural irrigation system;

(6) an activity that includes a commercial agricultural irrigation system;

(7) irrigation or yard sprinkler work that is performed by an agriculturist, agronomist, horticulturist, forester, gardener, contract gardener, garden or lawn caretaker, nurseryman, or grader or cultivator of land on land owned by the individual performing the work;

(8) irrigation or yard sprinkler work that is performed by a member of a property owners' association as defined by Property Code, §202.001, on real property owned by the association or in common by the members of the association if the irrigation or yard sprinkler system water real property that is less than 1/2 acre in size and is used for aesthetic or recreational purposes.

(c) A person who is exempt from the license requirements of this subchapter shall comply with the standards established by Chapter 344 of

this title (relating to Landscape Irrigation). The term irrigation system does not include a system used on or by an agricultural operation as defined in Texas Agriculture Code, §251.002.

The provisions of this §30.129 adopted to be effective December 17, 2001, 26 TexReg 10330; amended to be effective September 27, 2007, 32 TexReg 6523