The Texas Natural Resource Conservation Commission (commission) adopts new §§30.1, 30.3, 30.5, 30.7, 30.10, 30.14, 30.18, 30.20, 30.24, 30.26, 30.28, 30.30, 30.33, 30.35, 30.51, 30.57, 30.60, 30.62, 30.81, 30.87, 30.90, 30.92, 30.95, 30.111, 30.117, 30.120, 30.122, 30.125, 30.129, 30.171, 30.177, 30.180, 30.185, 30.190, 30.192, 30.195, 30.201, 30.207, 30.210, 30.212, 30.231, 30.237, 30.240, 30.242, 30.244 - 30.246, 30.261, 30.267, 30.270, 30.272, 30.274, 30.279, 30.301, 30.307, 30.310, 30.312, 30.315, 30.317 - 30.319, 30.331, 30.337, 30.340, 30.342, 30.346, 30.348 - 30.350, 30.355, 30.381, 30.387, 30.390, 30.392, 30.396, 30.398 - 30.400, and 30.402.

Sections 30.5, 30.7, 30.18, 30.24, 30.28, 30.30, 30.33, 30.62, 30.92, 30.120, 30.125, 30.171, 30.177, 30.195, 30.201, 30.237, 30.240, 30.246, 30.272, 30.279, 30.307, 30.310, 30.337, 30.342, 30.349, 30.350, 30.392, and 30.399 are adopted *with changes* to the proposed text as published in the September 28, 2001 issue of the *Texas Register* (26 TexReg 7427). Sections 30.1, 30.3, 30.10, 30.14, 30.20, 30.26, 30.51, 30.57, 30.60, 30.81, 30.87, 30.90, 30.95, 30.111, 30.117, 30.122, 30.129, 30.180, 30.185, 30.190, 30.192, 30.207, 30.210, 30.212, 30.231, 30.242, 30.244, 30.245, 30.261, 30.267, 30.270, 30.274, 30.301, 30.312, 30.315, 30.317 - 30.319, 30.331, 30.340, 30.346, 30.348, 30.355, 30.381, 30.387, 30.390, 30.396, 30.398, 30.400, and 30.402 are adopted *without changes* and will not be republished.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED RULES

The adopted rules implement requirements in House Bill (HB) 3111 and HB 2912 of the 77th Legislature, 2001, as well as Sunset Commission recommendations for occupational licenses and registrations. House Bill 3111 created new Texas Water Code (TWC), Chapter 37, to consolidate the

administrative requirements for ten licensing and registration programs administered by the commission. House Bill 3111 required the commission to implement this consolidation by December 2001. The adopted rules also establish uniform procedures for issuing and renewing licenses, setting terms and fees, enforcing licensing requirements, and approving training. A person must be licensed or registered by the commission before engaging in an activity, occupation, or profession described by TWC, §§26.0301, 26.3573, 26.452, 26.456, 34.007, or 37.003, or Texas Health and Safety Code (THSC), §§341.033, 341.034, 341.102, 361.027, 366.014, or 366.071. This rulemaking would also implement HB 2912, Articles 7 and 18.04, which require the commission to adopt rules for the licensing of water treatment specialists, and establish renewal requirements, fees, and sanctions for this new program. The rules also implement HB 2912, Article 8, amending TWC, Chapter 34, and THSC, Chapter 366, establishing new requirements for irrigators and on-site sewage facility (OSSF) installers. The rules also reinstate the site evaluator licensing for the OSSF program.

This rulemaking also incorporates the quadrennial review of Chapter 290, Subchapter A, Residential Water Treatment Facility Operators, being concurrently adopted in this issue of the *Texas Register*. Chapter 290, Subchapter A, is repealed and adopted as new language in Chapter 30, Subchapter A, Administration of Occupational Licenses and Registrations, and Subchapter H, Water Treatment Specialists. In 1992 when the certification program was transferred to the commission, the existing rules which had been promulgated by Texas Department of Health as 25 TAC Chapter 337, Subchapter A, was also transferred. The adoption of associated rulemakings for Chapters 285, 290, 325, 330, 334, and 344 are concurrently published in this issue of the *Texas Register*.

The commission administers ten occupational licensing programs which originated in several agencies, under statutory authority in TWC, THSC, and Texas Plumbing License Law. As a result, requirements for applications, fees, renewals, continuing education, revocation, and suspension have varied.

The adopted rules create new Chapter 30, Occupational Licenses and Registrations. This new chapter consolidates the administrative requirements for backflow prevention assembly testers; customer service inspectors; landscape irrigators and installers; leaking petroleum storage tank (LPST) corrective action project managers and specialists; municipal solid waste facility supervisors; OSSF installers, apprentices, designated representatives, site evaluators; water treatment specialists; underground storage tank (UST) contractors and on-site supervisors; wastewater operators and operations companies; and public water system operators and operations companies. The adopted rules also establish uniform procedures for issuing and renewing licenses and registrations, setting terms and fees, enforcement activities, and training approval. The adopted rules also allow the Compliance Support Division (CSD) to contract for certain functions of occupational licensing if necessary. The adopted rules also establish rules for renewal requirements, fees, and sanctions for the customer service inspectors, and backflow prevention assembly testers programs for the first time. The commission has determined that the standard licensing fee for all programs will be $35 per year. The registration fees will be established in the subchapters for the applicable programs.

New Subchapter A, Administration of Occupational Licenses and Registrations, contains information related to administration of all the licensing and registration programs included in this chapter. The main objective is to consolidate the administrative requirements for these ten licensing and registration

programs administered in the CSD. New Subchapters B - K contain the program-specific requirements such as work experience; levels of licensing; and appropriate training and education requirements identified by job analysis for the particular programs. Each subchapter would address a specific occupation administered by the CSD. The current program rules are amended to accommodate moving the licensing requirements into Chapter 30. The standards in the program rules would remain in effect to address the technical portions of the programs such as design criteria, construction, and planning while excluding the elements included in the administration of occupational licensing. As the ten occupational licensing rules are created in the new chapter, the affected rules would change while all the licensing and registration requirements are standardized.

The Sunset Commission recommendations addressed by these adopted rules include: establish requirements for standard time frames for licensees who are delinquent in the renewal of licenses; require continuing education; provide timely examination results and analyses to persons taking examinations; establish procedures for licensing applicants who hold a license in another state; establish the staggered renewal of licenses; use the full range of penalties; and revise restrictive rules to allow advertising and competitive bidding practices that are not deceptive or misleading.

SECTION BY SECTION DISCUSSION

Subchapter A - Administration of Occupational Licenses and Registrations

Adopted §30.1, Authority, cites TWC, Chapter 37, which establishes the authority for Chapter 30 relating to Occupational Licensing and Registration.

Adopted §30.3, Purpose and Applicability, containing portions of existing 30 TAC §§285.50, 325.2, 325.101, 330.381, and 334.451, consolidates the administrative requirements and establishes uniform procedures for issuing, renewing, denying, suspending, and revoking occupational licenses and registrations. This section also identifies the ten occupational licenses and registrations administered under this chapter.

Adopted §30.5, General Provisions, containing portions of existing §§285.50, 325.2, 325.101, 325.106, 325.110, 325.126, 334.401, 334.414, 334.453, and 344.20, is consolidated to state that persons must be licensed or registered before engaging in any activities requiring a license under this chapter. Licenses or registrations would be issued only after applicants meet the requirements specified in this chapter. This section prohibits persons that are not licensed or registered from advertising and transferring licenses or registrations. This section also prohibits issuing new licenses to employees of this commission, and establishes provisions for contracting for services and functions, and collecting fees for contract services and functions. Since publication of the proposed rules, the commission has amended §30.5(a) to add THSC, §341.103 to the list of statutory authorities because this section gives the commission the authority for the water treatment specialist program.

Adopted §30.7, Definitions, contains definitions used throughout this chapter. Since publication of the proposed rules in response to comments received, the commission has provided a new definition of approved training event to specify types of training that may apply toward licensing requirements. The commission adopts new definitions for “continuing education” and for “license.” The adopted new definition of “license” combines portions of the definitions from existing §§285.2, 325.4, 325.102, and

334.412. The phrase “certificate of competency” is adopted from existing §325.4 and §325.102 with the term “license” replacing “certificate of competency” to comply with the new statutory requirements. The new definition of “registration” as defined in existing §325.4 and §325.10, is adopted with the deletion of the words “certificate of” to comply with the new statutory requirements. The new definition of “training credit” as defined in existing §§330.382, 325.4, and 325.102 is adopted and consolidated.

Adopted §30.10, Administration, consolidates existing language in §§285.52, 330.383, 344.20, 344.80 - 344.83, 344.85, 325.6, and 325.104, and addresses the administrative duties of the commission pertaining to occupational licensing and registration.

Adopted §30.14, Applications for Initial Registrations, consolidates portions of existing §§334.402, 334.403, 334.456, 334.458, 325.7, 325.12, 325.105, 325.126, and 325.128, to establish the procedures for submittal of applications and issuance of registrations.

Adopted §30.18, Applications for Initial License, consolidates portions of existing §§285.53, 285.56, 325.7, 325.12, 325.105, 325.110, 325.112, 330.384, 334.416, 334.417, 334.420, 334.457, 334.458, 344.23, 344.26, 344.27, 344.29, 344.30, 344.43, and 344.46, and the commission has made grammatical corrections to standardize the procedures for applying and issuing new licenses. Since publication of the proposed rules in response to comments received, the commission has amended §30.18(c) to clarify that the executive director must notify the applicant that the license requirements have been met. This allows that executive director to continue to approve applications at the

examination site. This is current practice and was not changed by this rulemaking. The commission has also amended §30.18(g), changing the time for applicants to correct application deficiencies from two months to four months to allow the applicant sufficient time to complete specific training courses.

Adopted §30.20, Examinations, containing portions of existing §§285.55, 325.12, 325.110, 330.385, 334.418, 334.419, 334.457, 344.34, and 344.37 - 344.42, is consolidated with grammatical improvements to authorize the executive director to prescribe the content of licensing examinations based on laws, rules, job duties, and standards relating to the particular license. This section establishes that the executive director would grade examinations and notify applicants of the results and analysis. This section also states that individuals with disabilities may request accommodations to take examinations.

Adopted §30.24, License and Registration Applications for Renewal, consolidates portions of existing §§285.58, 325.18, 325.28, 325.116, 325.126, 330.386, 334.404, 334.421, 334.460, 344.51, and 344.55 - 344.57, to address the administrative procedures for the renewal of licenses and registrations. This section also refers to the subchapters for the continuing education requirements that have been specified by job analysis, fees related to registration companies, or for prorated fees to applicable programs to stagger the renewal dates of the licenses mandated by HB 2912 of the 77th Legislature, 2001. Since publication of the proposed rules, the commission has amended this section to clarify that applications postmarked within the 30 days past the license expiration date will be accepted by the executive director. This is current agency practice in some programs and the commission amended the rule to make this practice consistent in all programs.

Adopted §30.26, Recognition of Licenses from Out-of-State, consolidates portions of existing §§325.16, 325.114, 330.385, 344.20, and 344.28, to provide for the recognition of similar licenses and requirements from other states. Recognition of licenses from out-of-state was also mandated by HB 2912. New §30.26(a), is adopted according to TWC, §37.005(b), which allows the executive director to 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.

Adopted §30.28, Approval of Training, consolidates portions of existing §§285.54, 325.26, 325.124, 330.385, 334.416, 334.459, and 344.20, to establish requirements to approve training that will be used for obtaining and renewing a license. Since publication of the proposed rules in response to comments received, the commission has amended §30.28(a). New paragraph (1) explains that the training must provide the knowledge or skills needed to perform one or more of the job occupation tasks. These tasks are determined by the executive director with a job analysis or training needs assessment. New paragraph (2) explains that the training must be approved by the executive director before the training begins.

Adopted §30.30, Terms and Fees for Licenses and Registrations, consolidates portions of existing §§285.60, 325.14, 325.112, 325.116, 330.389, 334.406, 334.423, 334.467, 344.26, 344.42, 344.50, 344.51, 344.55, and 344.56, to standardize language. Since publication of the proposed rules in response to comments received, the commission has amended subsection (a) establishing two- and three-year terms for licenses. All registrations have a two-year term. The following licenses also have

a two-year term: landscape irrigators and installers; LPST corrective action project managers; OSSF installers, designated representatives, apprentices, and site evaluators; UST on-site supervisors; and Class D water operators, Class D wastewater operators, and Class I wastewater collection license. The following licenses have a three-year term: backflow prevention assembly testers; customer service inspectors; municipal solid waste facility supervisors; water treatment specialists; Class A, B, C, Class II, and Class III wastewater operators; and Class A, B, and C public water system operators. These licenses will be valid for three years to avoid undue hardship on local governments and reduce staff workload. Since publication of the proposed rules in response to comments received, the commission has amended subsection (c) establishing the fees for licenses. The license fees are $70 for a two-year term and $105 for a three-year term, with the following exceptions: the fee for wastewater operators, public water system operators, and customer service inspectors shall have a fee of $20 per year for licenses issued until January 1, 2003. After January 1, 2003, the licenses fees will be $35 per year. This delayed implementation will allow local governments time to budget for the fee increase. The registration fees are established in the specific subchapters which have a registration fee.

Adopted §30.33, License or Registration Denial, Warning, Suspension, or Revocation, consolidates portions of existing §§285.59, 285.64, 325.30, 325.120, 325.122, 325.128, 330.387, 334.405, 334.409, 334.411, 334.422, 334.426, 334.428, 334.461 - 334.463, 334.465, 334.466, and 344.84, to establish requirements applicable to all licenses and registrations. Since publication of the proposed rules, the commission has revised §30.33(a)(1) to delete subparagraph (B) because the commission has the authority to deny a license application for cause under §30.33(a)(2)(F) for failure to pay a fee, penalty, or tax imposed by a statute within the commission's jurisdiction. Subsection (a)(1) has been

renumbered to accommodate this change. Section 30.33(a)(2) has been amended to specify that the commission rather than the executive director may deny an application for a license or registration for an applicant who provides fraudulent information, falsifies an application, or has a poor compliance history as a licensee in another state in the commission's program or another agency's program. Additionally, since publication of the proposed rules, the commission has amended §30.33(a) to add additional statutory requirements in TWC, Chapter 37. The commission may deny an application for the additional reasons listed in new subparagraphs (D) - (F). In subparagraph (D) the application may be denied if an applicant makes an intentional misstatement or misrepresentation of fact in information submitted to the commission; in new subparagraph (E) if the applicant fails to keep and transmit records as required by a statue or a rule adopted under such a statute; and new subparagraph (F) if the applicant is indebted to the state for a fee, penalty or tax imposed by a statue or a rule adopted under such a statute. Since publication of the proposed rules, §30.33(c) has been amended to specify that after notice and opportunity for a hearing, the commission rather than the executive director may suspend or revoke an application in accordance with TWC, §37.005(c).

Adopted §30.35, Hearings, consolidates portions of existing §§285.65, 330.387, 334.410, 334.427, and 344.84, to standardized language which references 30 TAC Chapter 70, Enforcement, and 30 TAC Chapter 80, Contested Case Hearings.

Subchapter B - Backflow Prevention Assembly Testers

Adopted §30.51, Purpose and Applicability, establishes the purpose of this subchapter. New §30.51(a) states that the purpose of this subchapter is to establish qualifications for issuing and renewing licenses.

New §30.51(b) indicates that individuals who test and repair backflow prevention assemblies must be qualified and licensed. New §30.51(c) establishes that previously held accreditations will expire on December 1, 2002.

Adopted §30.57, Definitions, provides the definition of backflow prevention assembly tester, which is an individual who tests and repairs backflow prevention assemblies.

Adopted §30.60, Qualification for Initial License, explains the minimum qualifications, education, training, and work experience required to obtain a license.

Adopted §30.62, Qualification for License Renewal, describes the renewal requirements which include meeting the requirements of Subchapter A, continuing education, and approved practical skills training. Since publication of the proposed rules in response to comments received, the commission has amended paragraph (2) to change the renewal hours to 24 hours per license term. The amount of renewal hours is still based on eight hours per year, and was amended to be consistent with the change in license term.

Subchapter C - Customer Service Inspectors

Adopted §30.81, Purpose and Applicability, establishes the purpose of this subchapter. New §30.81(a) establishes qualifications for issuing and renewing licenses for individuals who conduct customer service inspections. New §30.81(b) establishes that individuals who perform customer service inspections must meet the qualifications of this subchapter and Subchapter A. New §30.81(c) establishes that previously held endorsements will expire and individuals will be required to apply for a

renewable license at the time their water operator license expires. New §30.81(d) establishes that an individual with a customer service license may not conduct plumbing inspections.

Adopted §30.87, Definitions, provides definitions for this subchapter. Definitions are provided for cross-connection, customer service inspection, and customer service inspector.

Adopted §30.90, Qualifications for Initial License, establishes the minimum qualifications, education, training, and work experience required to obtain a license.

Adopted §30.92, Qualifications for License Renewal, references renewal requirements according to Subchapter A and establishes continuing education requirements. Since publication of the proposed rules in response to comments received, the commission has amended paragraph (2) to change the renewal hours to 24 hours per license term. The amount of renewal hours is still based on eight hours per year, and this was amended to be consistent with the change in license term.

Adopted §30.95, Exemptions, exempts plumbing inspectors and water supply protection specialists licensed by the State Board of Plumbing Examiners from the licensing requirements of this subchapter.

Subchapter D - Landscape Irrigators and Installers

Adopted §30.111, Purpose and Applicability, provides a uniform procedure for issuing licenses to licensed irrigators and licensed installers.

Adopted §30.117, Definitions, adopts amended definitions of irrigator and installer from existing §344.1 with modifications to improve readability. No change in the meaning or purpose was created by these changes. These two definitions will also remain in 30 TAC Chapter 344, Landscape Irrigators and Installers.

Adopted §30.120, Qualifications for Initial License, lists the minimum requirements for obtaining a license and states that additional requirements are located in Subchapter A. Since publication of the proposed rules in response to comments received, the commission has amended §30.120(b)(2) to add the requirement to pass the training course as opposed to merely completing the training course.

Adopted §30.122, Qualifications for License Renewal, lists the specific requirements to renew a license and states that additional requirements are located in Subchapter A. This section also establishes the number of continuing education hours required for a two-year renewal period.

Adopted §30.125, Renewal of Certificates of Registrations, existing §344.51 and §344.56, defines the term of the licenses. The adopted language clarifies the change of the section title from "Certificates of Registration" to "Licenses." This change will become effective when the certificates of registration expire on August 31, 2002. The adopted language establishes the term of the licenses for two years, alternates the term of the license expiration, and defines the manner in which this change would be implemented by the commission. The adopted language establishes that the licenses will continue to be renewed.

Adopted §30.129, Exemptions, existing §344.2(a) is adopted with changes. New §30.129(a) changes the word "licensure" to "license" to improve readability. New §30.129(a)(1), existing §344.2(a)(1), changes the existing language from "any person" to "an individual," to clarify that the exemption applies to an individual as defined in 30 TAC Chapter 3, Definitions. New §30.129(a)(2), existing §344.2(a)(2), changes the existing language from "a" to "an individual," and adds "or licensed" to improve readability. The existing language is also changed to remove gender references. New §30.129(a)(3) and (4), existing §344.2(a)(3) and (4), is changed to remove gender references. New §30.129(a)(5) and (6), existing §344.2(a)(5) and (6), is adopted with no changes. New §30.129(a)(7), existing §344.2(a)(7), adds the new language "irrigation or yard sprinkler work done by a person using," and adds the word "including" before soaker hose. The amendment is made for clarity to show that the activity rather than the product is exempt. New §30.129(a)(8), existing §344(a)(8), changes "a portable or solid set or other type of" to "activities involving a." This amendment is being made for clarity to show that the activity rather than the product qualifies for an exemption. New §30.129(a)(9), from existing §344.2(a)(9), changes "himself or herself" to "work performed by the owner" to eliminate a gender reference. New §30.129(a)(10), from existing §344.2(a)(10), is adopted without changes. New §30.129(a)(11) and (12), contains language from existing §344.1(A) and (B), concerning the definition of an irrigator. The new language clarifies the exemption under the statute. New §30.129(b), from existing §344.2(b), adds the phrase "Chapter 344 of this title." This amendment also reverses the order of the reference for the Texas Agricultural Code and the cite. These amendments improve readability and do not change the intent or the meaning of the existing rule.

Subchapter E - Leaking Petroleum Storage Tank Corrective Action Project Managers and Specialists

Since publication of the proposed rules, the commission has amended the title to correct a typographical error which clarifies that project managers also perform corrective actions.

Adopted §30.171, Purpose and Applicability, provides uniform procedures for issuing licenses to corrective action project managers and for issuing registrations to corrective action specialists. Portions of the new language are existing §334.451, and is adopted with amendments to improve readability. Since publication of the proposed rules, the commission has corrected a typographical error in subsection (c), changing the word "licensed" to "registered," because the person that contracts or performs regulated corrective action services on LPST sites must receive a registration and not a license under this chapter.

Adopted §30.177, Definitions, provides definitions for corrective action and LPST and are adopted without change. Since publication of the proposed rules, the commission has amended the definition of "corrective action" by adding the phrase "with the exception of an initial site assessment" to provide clarification of what type of assessment is not applicable to the program, and made a grammatical correction by changing "and" to "or." Corrective action services and corrective action specialist are adopted new definitions.

Adopted §30.180, Qualifications for Initial License, is adopted new language from existing §334.457. Portions of the new language are adopted with changes to the format, to make the section grammatically correct, and to improve readability. The title changed by replacing "Application" with "Qualifications"

and removing "Certificate of Registration for Corrective Action Project Manager" and replacing this with "Initial License" to incorporate the new requirements from revisions to TWC, Chapter 37, by the 77th Legislature, 2001. Also, language from existing §334.457 is adopted in §30.180 with changes by deleting "certificate of registration" and replacing it with "license." The adopted amendment is to implement the changes to the new title of the license and also to add "corrective action project manager" to clarify the type of license issued by the commission.

Adopted §30.185, Qualifications for License Renewal, existing §334.460, is reformatted to make the section grammatically correct and improve readability. The title is changed by adding "Qualifications for License" and removing "of Certificate of Registration for Corrective Action Specialist and Corrective Action Project Manager" to incorporate new revisions to TWC, Chapter 37. Also, language in existing §334.457 is adopted in §30.185 with changes by deleting "certificate of registration" and replacing it with "license." The adopted amendment is to implement the changes to the new title of the license, and to delete "corrective action specialist" to clarify the type of license issued by the commission.

Adopted §30.190, Qualifications for Initial Registration, containing portions of existing §334.456, is reformatted to make the section grammatically correct and improve readability. The title is changed by removing "Application" and"Certificate of" and replacing these with "Qualifications"and "Initial," and removing "of Corrective Action Specialist" to incorporate the new revisions to TWC, Chapter 37. Also, existing language in §334.456 is new language in §30.190 with changes by deleting "registered"

when referring to a corrective action project manager and replacing it with "licensed" to implement changes to TWC, Chapter 37.

Adopted §30.192, Qualifications for Registration Renewal, containing portions of existing §334.460, is reformatted to make the section grammatically correct and improve readability. The title is changed by adding "Qualifications for Registration" and removing "of Certificate of Registration for Corrective Action Specialist and Corrective Action Project Manager" to incorporate the new requirements. Also, existing language in §334.460 is adopted in §30.192 with changes by deleting "certificates." The adopted amendment is to implement the changes to the new title of the registration; to delete "corrective action project manager"; and to clarify the type of registration. Additional language is adopted from existing §334.467 establishes fees and is changed to reflect the new fee amount.

Adopted §30.195, Exemptions, containing portions of existing §334.452, is reformatted to make the section grammatically correct, improve readability, and eliminate gender references. The title is adopted with a change by deleting "from Subchapter J" to correct the cross-reference. Also, existing language in §334.452 is adopted in §30.195 with changes by deleting "registered" and replacing it with "licensed" to incorporate the changes to TWC, Chapter 37. Since publication of the proposed rules, the commission has amended subsection (b) to clarify that if geoscientists comply with the provisions listed in paragraphs (1) - (4), then they are exempt from the requirements of this subchapter. Also since publication of the proposed rules, the commission corrected a typographical error in subsection (g)(1) changing the reference to the title of Subchapter I, Underground Storage Tank On-Site Supervisor Licensing and Contractor Registration, because the word "Supervisor" is singular.

Subchapter F - Municipal Solid Waste Facility Supervisors

Adopted §30.201, Purpose and Applicability, is new language from existing §330.381. New §30.201(a) establishes a license for individuals who supervise or manage the operation of municipal solid waste facilities or the collection, or transportation of municipal solid waste. New §30.201(b) states that an individual must meet licensing and registration requirements in Subchapter A. New subsection (c) establishes that letters of competency issued before the effective date of these rules will remain in effect until their expiration date, and at the time of renewal, these letters of competency will be replaced with a license. Current municipal solid waste facility supervisors who are not licensed at the time these rules are adopted, must obtain a municipal solid waste facility supervisor license or become a supervisor in training by January 2004. Since publication of the proposed rules in response to comments received, the commission has amended subsection (b) to clarify that at least one supervisory individual at the facility must be licensed and amended subsection (c) to change the effective date for each facility to have a licensed supervisor to January 1, 2004. This program was formerly a voluntary program, however, in compliance with HB 3111, this is now a mandatory requirement. This will provide facilities with sufficient time to get a licensed supervisor.

Adopted §30.207, Definitions, is new language from existing §330.382. The definition of "experience" replaces of the words "letter of competency" with "license" to allow consistency with new definitions. A new definition is provided for "solid waste facility supervisor."

Adopted §30.210, Qualifications for Initial License, existing §330.385, adds the phrase "for initial license." New §30.210(a) specifies requirements to be met in this subchapter. New §30.210(a)(1)

replaces the phrase "letter of competency (solid waste facility operation) a person must have" with the word "license." New §30.210(a)(1)(A) and (B) is adopted with reformatting for readability. New §30.210(a)(2) replaces the phrase "letter of competency (solid waste facility operation)" with "license." New §30.210(a)(2)(A) and (C) is adopted for reformatting and for readability. New §30.210(a)(3) replaces of the phrase "letter of competency (solid waste facility operation)" with the word "license." New §30.210(a)(3)(A) and (B) is adopted with reformatting for readability. New §30.210(a)(4) replaces of the phrase "letter of competency (collection system)" with the word "license." New §30.210(a)(4)(A) and (B) is adopted with reformatting for readability. New §30.210(a)(5) is adopted with modification to clarify the use of the provisional letter. New §30.210(a)(5)(A) replaces the word "persons" with the word "individual," and the phrase "position of responsibility that equates to the class of letter applied for," with "equivalent to the applicable class of license." New §30.210(a)(5)(B) replaces of the word "individuals" with the word "persons." New §30.210(b), existing §30.385(a)(6), replaces of the word "engaged" with the phrase "who engages."

Adopted §30.212, Qualifications for License Renewal, existing §330.386, adds the phrase "qualification for license." New §30.212(1) establishes requirements for Subchapter A must be met to renew a license. New §30.212(2), existing §330.386, is reformatted to improve readability. New §30.212(2)(A)(D), existing §330.386(1) - (4), reduces continuing education requirements to renew a license for consistency with other programs.

Subchapter G - On-Site Sewage Facilities Installers, Designated Representatives, and Site Evaluators

Adopted §30.231(a), Purpose and Applicability, describes the purpose of the rule. These statements clearly indicate that the purpose is to provide a comprehensive licensing program for individuals who perform work associated with OSSFs. New §30.231(b) adds that all individuals performing the tasks identified in adopted §30.231(a) must meet the general licensing requirements in Subchapter A and the technical requirements in 30 TAC Chapter 285. New §30.231(c) provides that all licenses, registrations, and certificates of registration issued prior to January 1, 2002, will remain in effect until they expire, or are replaced or revoked. This language matches the new licensing requirements established in these adopted rules as a result of new provisions in TWC, Chapter 37.

Adopted §30.237, Definitions, provides definitions that have either been moved from existing §285.2 or have been added as a result of provisions in TWC, Chapter 37, as explained earlier in this preamble. The definitions for “alter,” “apprentice,” “authorized agent,” “construct,” “extend,” “install,” “installer,” and “repair” are adopted from existing §285.2 with no changes. The definition for “designated representative” is adopted from existing §285.2 with changes as required by the language in TWC, Chapter 37. The definition for “site evaluator” has been added to agree with the definition provided in TWC, Chapter 37. Since publication of the proposed rules in response to comments received, the commission has amended the definition for “site evaluator” to delete the phrase “holds a professional engineer license” and add “an individual who holds a current professional engineer license is not required to obtain a site evaluator license.” This change clarifies that a licensed professional engineer may perform site evaluations and is not required to obtain a license as a site evaluator.

Adopted §30.240, Qualifications for Initial License, contains requirements to obtain an initial license. New §30.240(a) - (c), existing §285.53(a) - (c) and §285.56(b), is amended for readability and references licensing requirements in Subchapter A. Since publication of the proposed rules, the commission has revised §30.240(b)(2)(A) by changing the words "two years" to "one year" due to a typographical error. Rule changes that became effective June 13, 2001, had changed this requirement to one year. In addition in response to comments received, "Installer II" has been changed to "Installer I." The commission has also changed the words "Installer II" to "Installer I license" because the word "license" was inadvertently omitted. In addition, after publication of the proposed rules in response to comments received, the commission has amended §30.240(d) to add a reference to licensing requirements for site evaluators in §30.246 and to add requirements to obtain a site evaluator license for professional engineers and for certified professional soil scientists. Although a professional engineer is exempt from having to obtain the site evaluator license, professional engineers may obtain a site evaluator license. The commission has therefore added language clarifying that a professional engineer may obtain a site evaluator license. Since publication of the proposed rules, the commission has amended subsection (d) to delete paragraphs (2) and (3) section since they are redundant, and the subsection has been relettered.

Adopted §30.242, Qualifications for License Renewal, adds requirements necessary to renew Installer I, Installer II, designated representative, and site evaluator licenses. New §30.242(a) adds the renewal requirements for Installer I, Installer II, and designated representative licenses after January 1, 2002, and includes language from existing §285.54(b) and a reference to Subchapter A. New §30.242(b)

provides requirements for renewal of a site evaluator license, which has been added as a result of language in TWC, Chapter 37.

Adopted §30.244, Exemptions, is language from existing §285.51. Language has been added to the end of adopted §30.244(a) to clarify that the owner must have a site evaluation performed by an individual who possesses either a current site evaluator license or a professional engineer license. New §30.244(b) specifies that an electrician who installs electrical components is not required to have an installer license. New §30.244(c) adds the exemption to the site evaluator license allowed in TWC, Chapter 37 regarding professional engineers.

Adopted §30.245, Registration of Apprentices, existing §285.57, is changed for readability and clarity and references language in Subchapter A. New §30.245(a) contains general requirements. New §30.245(b) provides information on completing applications. New §30.245(c) contains notification requirements. New §30.245(d) provides information on expirations or terminations. New §30.245(e) contains information on renewals.

Adopted §30.246, Application for Site Evaluator, provides the requirements for applying for a site evaluator license. The language includes the process for submitting an application if the individual previously possessed a site evaluator license, previously took the site evaluator basic training course and passed the site evaluator examination, but did not hold a site evaluator license, and had never held a site evaluator license. Language has been adopted for the renewal of licenses for individuals with odd license numbers for one-year initially and renewal of licenses for individuals with even license numbers

for two years. This language matches the new licensing terms established in these adopted rules. Since publication of the proposed rules in response to comments received, the commission has amended subsection (e) to add language stating that "an individual who holds a current professional engineer license is not required to obtain a site evaluator license to perform site evaluations. However, an individual who holds a current professional engineer license may obtain a site evaluator license by complying with the requirements of this subchapter." This new language clarifies that a licensed professional engineer may perform site evaluations and is not required to obtain a license as a site evaluator. Also, since publication of the proposed rules, the citation has been corrected in subsections (b) - (d), as a result of relettering §30.240(d).

Subchapter H - Water Treatment Specialists

Adopted §30.261, Purpose and Applicability, establishes the purpose of this subchapter. New §30.261(a) establishes qualifications for issuing and renewing licenses to water treatment specialists. New §30.261(b) establishes that an applicant must meet the qualifications and licensing requirements under this subchapter and the requirements in Subchapter A.

Adopted §30.267, Definitions, provides definitions for this subchapter. New definitions are provided for "installation of water treatment appliances," "water treatment," "water treatment equipment," and "water treatment specialist."

Adopted §30.270, Qualifications for Initial License, existing §290.23, replaces of the word "requirements" with "for initial license" in the title. The figure contained in §30.270(a)(2) deletes the "validity column" which is covered in Subchapter A.

Adopted §30.272, Qualifications for License Renewal, existing §290.23(b), replaces the phrase "of certificate" with "qualifications for license" in the title. New §30.272(1) establishes requirements of Subchapter A must be met to renew a license. New §30.272(2), existing §290.24(b)(1), is reformatted and grammatical changes made to improve readability. Since publication of the proposed rules in response to comments received, the commission has amended paragraph (2) to stipulate that the renewal hours required for the Class I, Class II, and Class III licenses will be based on four hours per year the license is valid. Training providers have not developed enough training courses to meet the increased requirements, so the commission amended the rule to allow sufficient time for training providers to develop additional courses.

Adopted §30.274, Classification of Licenses, existing §290.22, is adopted with a change in title from "types of certificates." This section is reformatted to improve readability.

Adopted §30.279, Exemptions, exempts licensed plumbers, and employees of industrial facilities who install or service water treatment equipment at their facilities. The exemption also includes employees of public water systems who have a Class C license and install water treatment equipment at their system. Since publication of the proposed rules in response to comments received, the commission has added new subsection (d) to add an exemption for employees of registered operations companies who

hold a Class C license or higher and install water treatment equipment at facilities operated under contract. This is current agency practice and this amendment clarifies that this rulemaking does not change current practice.

Subchapter I - Underground Storage Tank On-Site Supervisor Licensing and Contractor Registration

Adopted §30.301, Purpose and Applicability, adds language to clarify who can apply for a license or registration and to establish qualifications for issuing and renewing licenses and registrations.

Adopted §30.307, Definitions, contains eight definitions from existing §334.412, and two definitions that are from existing §334.2. The definitions of "corrosion specialist," "corrosion technician," and "underground storage tank" are adopted without changes from §334.2. Since publication of the proposed rules in response to comments received, the commission has amended the definition of "critical junctures" by replacing "tank" with "UST" to be consistent with other terms in the definition of critical junctures. The definition of "engineering construction" is changed to remove the word "that." The definition of "on-site supervisor" is revised to improve readability and clarity. Since publication of the proposed rules, the commission has amended paragraph (6) to make a grammatical change by changing the order of the terms "repair, or removal of a UST" to be consistent with terms used in other sections of these rules. Since publication of the proposed rules in response to comments received, the commission has added new language in paragraph (6)(C) authorizing a combination A and B license for an on-site supervisor who supervises the installation, repair, and removal of UST systems. Since publication of the proposed rules, the commission has amended paragraph (7) to change the definition of "removal" to "permanent removal of a UST from service as defined in §334.2 of this title

(relating to Definitions) conducted according to §334.55 of this title (Permanent Removal from Service), to be consistent with the definition of "permanent removal from service." This change would be the correct term used when removing the UST by means of removal from the ground, abandonment in-place, or change-in-service. Definitions of "repair," "underground storage tank contractor," and "underground utilities" are changed to improve readability and clarity.

Adopted §30.310, Qualifications for Initial License, is adopted language from existing §334.416. Since publication of the proposed rules in response to comments received, the commission has amended subsection (a) to explain that an individual must apply for either a License A, License B, or for a combined A and B license. It is the current practice of the agency to issue a combined license and these rules have not changed that practice. Since publication of the proposed rules, the rules have been amended to accommodate issuing a combined license. New §30.310(1) explains that an applicant must meet the requirements in Subchapter A. New §30.310(2), existing §334.416(c), is changed to improve readability. New §30.310(3), existing §334.416(d), adds the word "document" and "repair, or removal of underground storage tanks" to improve readability; to clarify the qualification requirements; and to provide consistency of terms with other sections of these rules. New §30.310(4), existing §334.417(a)(6), replaces the word "agency" with "executive director" to provide consistency of terms with other sections of these rules. New §30.310(5), existing §334.417(a)(7), adds the word "submit" to improve readability and clarity. New §30.310(6) containing portions of existing §334.416(g) and (h), is changed to improve readability and clarity. Since publication of the proposed rules, the commission has amended paragraph (6)(A) to delete "or" to be grammatically correct and improve readability. In addition, since publication of the proposed rules, the commission has amended subparagraph (B) to add

"or" and delete "and" to be grammatically correct and improve readability. Since publication of the proposed rules in response to comments received, the commission has added new subparagraph (C) for a combination A and B license requiring 40 hours of training and education courses in the installation, repair, and removal of USTs. New §30.310(7), existing §334.416(f), is changed to improve readability and clarity. Since publication of the proposed rules in response to comments received, the commission has amended paragraph (7)(b) to clarify the requirements for individuals with a license A or license B license who choose to upgrade to a combination A and B license.

Adopted §30.312, Qualifications for License Renewal, includes language from existing §334.421. New §30.312 explains the requirements to renew a license if issued after January 1, 2002. New §30.312(1) explains that an applicant must meet the requirements in Subchapter A. New §30.312(2) containing portions of existing §334.421(g), is changed to improve readability and clarity.

Adopted §30.315, Qualifications for Initial Registration, includes language from existing §334.402. New §30.315(1) explains the requirements that must be met in Subchapter A. New §30.315(2), existing §334.402(2)(D), replaces the words "documentation of" with "provided" to improve readability and clarity. New §30.315(2)(A), existing §334.402(2)(i), removes the words "Texas Natural Resource Conservation" and replaces the word "agency" with "executive director" to provide consistency of terms with other sections of these rules. New §30.315(2)(B), existing §334.402(2)(ii), changes the word "indicating" to "documentation" to explain that the applicant must provide a document indicating the applicant's net worth. New §30.315(3), existing §334.402(2)(F), is adopted without changes. New §30.315(4), existing §334.406(1)(A), is changes the phrase "initial

application/issuance" to "submitted an application fee of" to improve readability and clarity. New §30.315(5), existing §334.402(2)(E), adds the word "provided" to improve readability and clarity. New §30.315(5)(A), existing §334.402(2)(E)(i), replaces the word "agency" to "executive director" to provide consistency of terms with other sections of these rules. The words "(references)" and "other" are deleted to improve readability and clarity. New §30.315(5)(B), existing §334.402(2)(E)(ii), explains in more detail what the applicant must provide when sworn statements are not provided.

Adopted §30.317, Qualifications for Registration Renewal, includes language from existing §334.404. New §30.317(1) explains that the applicant must meet the requirements in Subchapter A. New §30.317(2) and (3), existing §334.404(e), is changed to improve readability, and to clarify the qualification requirements. New §30.317(4), existing §334.406(1)(B), changes the phrase "annual renewal fee - $75" to "submitted a renewal fee of $150." This new language provides the fee change for the two-year renewal and to improve readability and clarity.

Adopted §30.318, Renewal of Licenses and Registrations Issued before the Effective Date of these Rules, includes language from existing §334.421 and §334.404. New language and requirements were added for licenses and registrations to have a first-year transition period for a biennial renewal. License and registration numbers with odd license numbers and registration numbers will renew for one-year for the first year of transition, and license and registration numbers with even license and registration numbers will renew for two years. New §30.318(c)(1)(D), existing §334.406(B), adds the words "submitted a renewal fee of $75" to be consistent with other terms in this chapter, and to explain the fee required for registrations renewing for one year. New §30.318(2)(D), existing §334.406(B), adds the

words “submitted a renewal fee of $150" to be consistent with other terms in this chapter and to explain the fee required for registrations with odd registration numbers renewing for one year. New §30.318(d)(4), existing §334.406(B), adds the words “submitted a renewal fee of $150" to be consistent with other terms in this chapter and to explain the fee required for registrations with even registration numbers renewing for two years.

Adopted §30.319, Exemptions, includes language from existing §334.425 and §334.408. New §30.319(a), existing §334.425, adds the word “is”; and adding “installs, repairs, or removes”; and deletes the word “installer” to improve readability and to provide consistency of terms with other sections of these rules. New §30.319(b) adds another exemption for persons who assist with the installation, repair, or removal of an UST who is under the direct or on-site supervision of a licensed on-site supervisor. New §30.319(c), existing §334.408, adds the words and phrases “A,” “is,” “that installs, repairs and removes,” and replaces “underground storage tank” with “UST,” to improve readability and to provide consistency with other sections of these rules.

Subchapter J - Wastewater Operators and Operations Companies

Adopted §30.331, Purpose and Applicability, is language from existing §325.101. New §30.331(a), existing §325.101(b), changes the phrase “…these rules is to provide a uniform procedure for issuing certificates…” to “…this subchapter is to establish qualifications for issuing and renewing….” New §30.331(b) is adopted with grammatical changes from existing §325.106(a) and (b) and §325.126(a), and establishes who is required to be licensed or registered and adds the requirement to comply with all applicable commission rules. New §30.331(c), existing §325.128(a), deletes the sentence “Operator

performance that results in permit violations may subject the operator to administrative penalties or other sanctions imposed by the executive director as described in this section." The meaning of this deleted sentence was transferred to Subchapter A. New §30.331(d), existing §325.101(e), changes the word "certificates" to "licenses." New §30.331(e), existing §325.118(b), explains that an individual possessing an honorary license may not operate a domestic wastewater treatment facility or supervise a wastewater collection system. New §30.331(f), establishes that licenses, certificates of competency, and registrations issued prior to January 1, 2002, remain in effect until they expire or are replaced or revoked. New §30.331(g), existing §325.128(f), changes the word "certificate" to "license or registration" and "certified" to "licensed."

Adopted §30.337, Definitions, is from existing §325.102. A new definition is provided for "honorary license." The word "certificate" or "certificate of competency" is replaced by the word "license," and "certified" the word "licensed" throughout this section. The new definition of "operator-in-charge" deletes the word "responsible" because the operator in charge is defined as the responsible operator. The new definition of "operator-in-training" replaces "person" with "individual" to maintain consistency with new definitions. Since publication of the proposed rules, the commission has amended this definition to add the phrase "or supervise a wastewater collection system" to clarify that an operator-in-training may work in a wastewater collection system. The definition for "Wastewater collection system operator" replaces the word "person" with "individual" to allow for consistency with new definitions. The definition for "wastewater system operations company" replaces the phrase "business, company, corporation, firm, partnership, individual" with the word "person" to allow for

consistency with new definitions. The definition for "Wastewater treatment facility operator" replaces the word "person" with "individual" to allow for consistency with new requirements.

Adopted §30.340, Qualifications for Initial License, existing §325.108, adds the phrase "initial license" and the deletes the phrase "for wastewater treatment facility and collection system operators." The word "certificate" is changed to "license" throughout this section for consistency. New §30.340(a) contains adopted language from existing §325.108(b) with no changes. The language specifies that operators must meet the requirements in Subchapter A and this subsection. New §30.340(b) and (c) is adopted from existing §325.108(c) and (d) with no changes. New §30.340(d) is adopted from existing §325.108(e) with grammatical changes. New §30.340(e) is adopted from existing §325.108(f) with no changes. New §30.340(f), existing §325.108(g), adds two elective courses for the Class A license. New §30.340(g) clarifies that an individual who previously held a Class D license may not apply for a new Class D license if the individual currently operates facilities listed in §30.342(c). The abbreviation of "RBC" is replaced with "rotating biological contactor" and adds an explanation of these facilities.

Adopted §30.342, Qualifications for License Renewal, is adopted new language from existing §325.116. The word "certificate(s)" is changed to "license(s)" throughout this section for consistency. New §30.342(a) provides the license renewal requirements. New §30.342(a)(1), contains the figure from existing §325.116(d) and is reformatting from chart to narrative form and deletes the information in the fee column, which is covered in Subchapter A. Since publication of the proposed rules in response to comments received, and because the commission is increasing the license term from two years to three years, the commission has amended subsection (a)(1) to clarify that ten hours of

continuing education are required to renew the license for each year the license is valid. The number of continuing education hours required each year remains the same and is not changed by these amendments. New §30.342(a)(2) explains an individual may renew a license by examination if the individual meets the requirements in Subchapter A. New §30.342(b), existing §325.116(h), adds of the word "operation." New §30.342(c), existing §325.116(b), replaces the abbreviation "RBC" replaced with "rotating biological contactor" and adds an explanation of these facilities. Since publication of the proposed rules, the commission has added new subsection (d) to explain the renewal requirements for active converted perpetual licenses, including the exclusion of renewal fees. This was inadvertently deleted from the proposed rules but is included in the current rule, Chapter 325, which has been repealed with this rulemaking.

Adopted §30.346, Qualifications for Initial Registration, states that an applicant must meet the requirements of Subchapter A to obtain initial registration.

Adopted §30.348, Qualifications for Registration Renewal, states that an applicant must meet the requirements of Subchapter A to renew a registration.

Adopted §30.349, Registration Fees, existing §325.126(d), deletes of the phrase "prior to issuance or renewal of a wastewater system operations company certificate, an application must be submitted with the appropriate fee." This phrase was transferred to Subchapter A. Since publication of the proposed rules, the commission has corrected a typographical error in the fee amount in the table, changing $70 to the correct amount of $75 for "0 - 4" facilities served.

Adopted §30.350, Classification of Wastewater Treatment Facilities, Wastewater Collection Systems, and Licenses Required, existing §325.106, changes the word "Certificates" to "Licenses" in the title. Throughout this section, the word "certificate" and "certificate of competency" is changed to "license" or "registration" as applicable, and "certified" is changed to "licensed" for consistency. New §30.350(a) - (i), existing §325.106(c) - (k), is changed for consistency with new requirements and changes the word "person" changed to "individual" in subsection (c). Since publication of the proposed rules, the commission modified new §30.350(j), which was existing §325.106(l), to clarify that each category of facility must be operated a minimum of five days per week by the chief operator or operator holding a license of the required level or higher, and must be available by telephone or pager seven days per week. Since publication of the proposed rules, the commission has replaced the phrase "a license of the same class" with the phrase "holding the required level of license" to make the sentence more grammatically clear. New §30.350(k) - (n) is adopted from existing §325.106(m) - (p) with no changes.

Adopted §30.355, Additional Requirements for Wastewater Operations Companies, changes the words "certificate" or "certified" to "license" or "licensed" throughout this section for consistency. New §30.355(a), existing §325.126(g), replaces the word "yearly" with "annual." New §30.355(b) and (c), existing §325.126(h) and (k), is adopted with no changes. New §30.355(d), existing §325.126(l), replaces the phrase "governmental entities or quasi-governmental entities, such as river authorities" with "political subdivisions" and changes a citation for correct reference.

Subchapter K - Public Water System Operators and Operations Companies

Adopted §30.381, Purpose and Applicability, is adopted language from existing §325.2. New §30.381(a), existing §325.2.(b), deletes of the phrase "the rules in" and deletes the phrase "establish qualifications for issuing and renewing licenses." New §30.381(a)(1) establishes that individuals who perform process control duties must be licensed. New §30.381(a)(2) establishes registrations for persons that operate public water systems on a contract basis. New §30.381(b) establishes licensing and registration requirements. New §30.381(c) establishes that licenses, certificates of competency, and registrations issued before January 1, 2002, remain in effect until they expire, or are replaced, or revoked. New §30.381(d), existing §325.2.(h), is adopted with grammatical changes and corrects the cross-reference. New §30.381(e) establishes that an individual issued a license under this subchapter must perform adequate process control as recognized by current best management practices. New §30.381(f), existing §325.20(b), explains that an individual possessing an honorary license may not perform process control duties for a public water system. These amendments incorporate changes to TWC, Chapter 37, with grammatical corrections and to provide consistency with new definitions.

Adopted §30.387, Definitions, contains new definitions and some definitions from existing §325.4. New definitions are provided for "honorary license," "process control duties," and "public water system operator." The definition for "chief operator" replaces the word "person" with "individual" to allow consistency with new definitions. The definition for "operator-in-charge" deletes the word "responsible" and replaces the phrase "certified operator who has been charged with the on-site supervision of the" with "an individual who has overall responsibility for the operation of a." The definition for "operator-in-training" replaces the word "person" with "an individual" to maintain

consistency with new definitions. The definition for "process control duties" is a new term used in the this subchapter. The definition for "public water system operator" replaces the phrase "a person" with "any business, company, corporation, firm, partnership, individual" because the word "person" is defined in 30 TAC Chapter 3.

Adopted §30.390, Qualifications for Initial License, existing §325.10, adds the phrase "initial license" and deletes the phrase "for public water system operators" to the title. New §30.390(a) specifies requirements to be met in this subsection. Changes were made to the figure to clarify educational requirements. New §30.390(b), existing §325.10(d), improves readability and clarifies work experience substitution requirements. New §30.390(c), existing §325.10(c), clarifies that Class C or B licenses must obtain at least one-half of the total work experience in that specified field. New §30.390(c)(1) - (3), existing §325.10(c)(1) - (3), were reformatted only. New §30.390(d), existing §325.10(c)(4), clarifies that laboratory experience must involve consultation with individuals who perform process control duties. New §30.390(e), existing §325.10(e), was reformatted only. New §30.390(f), existing §325.10(f), reformats the figure only. In the figure which includes the Class B water distribution license training requirements, the training classes under elective courses "Pump and Motor Maintenance" and "Valve and Hydrant Maintenance" are deleted as a result of these classes being erroneously listed as elective courses when they are actually required training classes for the Class B distribution license. These two training classes were also listed under both required courses and elective courses. New §30.390(g) clarifies that an individual who previously held a Class D license may not apply for a new Class D license if the individual currently operates facilities listed in §30.390(g)(1) - (5).

Adopted §30.392, Qualifications for License Renewal, is existing language in §325.18. New §30.392(a) states the license renewal requirements. New §30.392(a)(1), is the figure that is contained in existing §325.18(d) and is reformatted from chart to narrative form. The information in the fee column is provided in Subchapter A. Since publication of the proposed rules in response to comments received and the increase in licensing terms from two years to three years, the commission has amended subsection (a)(1) to clarify that ten hours of continuing education are required to renew the license for each year the license is valid. The number of continuing education hours required each year remains the same and is not changed by these amendments. New §30.392(a)(2) explains that an individual may renew a license by examination if the individual meets the requirements of Subchapter A. New §30.392(b), existing §325.18(h), is adopted with no change. New §30.392(c) and (c)(1) - (4), existing §325.18(b) and (b)(1) - (4), was reformatted only. New §30.392(c)(5) prohibits an individual from renewing a Class D license if the individual operates multiple groundwater systems and the cumulative number of connections exceeds 250. Since publication of the proposed rules, the commission has added new subsection (d) to explain the renewal requirements for active converted perpetual licenses, including the exclusion of renewal fees. This was inadvertently deleted from the proposed rules but is included in the current rule, Chapter 325, which has been repealed with this rulemaking.

Adopted §30.396, Qualifications for Initial Registration, establishes that an applicant must meet the requirements of Subchapter A to obtain a registration.

Adopted §30.398, Qualifications for Registration Renewal, establishes that an applicant must meet the requirements of Subchapter A to renew a registration.

Adopted §30.399, Registration Fees, existing §325.28(d), deletes the phrase "prior to issuance or renewal of an operations company's certificate, an application must be submitted with the appropriate fee" because this requirement is provided in Subchapter A. Since publication of the proposed rules, the commission has corrected a typographical error in the fee amount in the table, changing $70 to the correct amount of $75 for "0 - 4" facilities served.

Adopted §30.400, Additional Requirements for Public Water System Operations Companies, is new section. New §30.400(a) - (d), existing §325.28(g), (i), (k), and (l), is adopted with grammatical changes to improve readability.

Adopted §30.402, Exemptions, is a new section. New §30.402(a), existing §325.2(d) and (d)(1) and (2), is adopted with formatting changes which combine §325.2(d) and (d)(1) and (2) into one subsection. Grammatical changes are made to improve readability. New §30.402(b) exempts an operator-in-training from the licensing requirements of this chapter. This new language is necessary to allow individuals an opportunity to enter the field of public drinking water for the purpose of training. New §30.402(c), existing §325.8(f), is a grammatical change to improve readability.

FINAL REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed this rulemaking action in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the adopted rules are not subject to that statute. Section 2001.0225 only applies to rules that are specifically intended to protect the environment, or reduce risks to human health from environmental exposure. The intent of the adopted rules is to consolidate the requirements for the various occupations, licensed or registered by the

commission, into one chapter; not to protect the environment or human health. Protection of human health and the environment may be a by-product of the adopted rules, but it is not the specific intent of the rules. Furthermore, the adopted rules would not adversely affect, in a material way, the economy, a section of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state, because the adopted rules would simply consolidate existing rule language into one chapter. Thus, the adopted rules do not meet the definition of a "major environmental rule" as defined in Texas Government Code, §2001.0225(g)(3), and thus, do not require a full regulatory impact analysis. The commission invited public comment on the draft regulatory impact analysis determination, but received no comments.

TAKINGS IMPACT ASSESSMENT

The commission prepared a takings impact assessment for these adopted rules according to Texas Government Code, §2007.43. The following is a summary of that assessment. The specific purpose of the adopted rules is to consolidate the requirements for the various occupations, licensed or registered by the commission, into one chapter. The adopted rules would substantially advance this specific purpose by setting forth detailed procedures for obtaining an occupational license or registration including procedures for: the initial application; examinations; and renewal applications. The adopted rules do not constitute a takings because they would not burden private real property.

CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission has reviewed the adopted rulemaking and found that the rules are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11, relating to Actions and Rules

Subject to the Texas Coastal Management Program (CMP), nor will they affect any action or authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11. Therefore, the adoption is not subject to the CMP.

HEARING AND COMMENTERS

The commission held a public hearing on October 11, 2001 and the public comment period closed on October 22, 2001. Three commenters provided both oral and written comments at the public hearing: Texas Water Quality Association (TWQA), Texas Water Utilities Association (TWUA); and East Texas Irrigation Association (ETIA). In addition, 36 individuals and 52 entities provided written comments only. The following provided written comments:

Aqua Water Supply Corporation (AWSC); Bell County Public Health District (BCPHD); Central West Texas Regional School (CWTRS); City of Abilene (Abilene); City of Cedar Hill (Cedar Hill); City of Dallas (Dallas); City of Mexia (Mexia); City of Odessa (Odessa); City of Ralls (Ralls); City of Rockport (Rockport); City of Paris (Paris); City of Marshall (Marshall); Coke County Water Supply Corporation (Coke County WSC); Cypress Cove Maintenance Association (CCMA); ECO Resources (ECO); Dallas Irrigation Association (DIA); Guadalupe Blanco River Authority (GBRA); Infiltrator Systems, Inc. (IS); Irrigator Training Providers (ITP); Lavaca-Navidad River Authority (LNRA); Lone Star Solid Waste Association of North America (LS-SWANA); North Alamo Water Supply Corporation (NAWSC); Northeast Texas Municipal Water District (NTMWD); Process Engineered Equipment Company (PEECO); San Antonio Water System (SAWS); Sea Grant Marine Advisory Service (SGMAS); Springhills Water Management District (SWMD); Texas American Water Works

Association (TAWWA); Texas Association of Storage Tank Professionals (TASTP); Texas On-Site Wastewater Association (TOWA); Texas Rural Water Association (TRWA); Texas Turf Irrigation Association (TTIA); TWUA ArkLa Tex CSS Chapter (TWUA-ArkLa); TWUA Cedar Creek (TWUA - CC); TWUA Central Rio Grande (TWUA-CRG); TWUA Central Texas District (TWUA - CTD); TWUA Central West Texas District (TWUA - CWTD); TWUA East Texas District (TWUA - ETD); TWUA East Texas Lab Analysts Section (TWUA - ETLAS); TWUA Golden Crescent District (TWUA - GCD); TWUA Green Forest District (TWUA - GFD); TWUA North Sulphur/Sabine Chapter (TWUA - NSSC); TWUA Permian Basin Lab Analysts Section (TWUA - PBLAS); TWUA Pineywoods Chapter, Lab Analyst Section (TWUA - PWCLAS); TWUA Texomaland District (TWUA - TXD); TWUA Trinity Neches Sabine District (TWUA - TNS); TWUA Trinity Valley District (TWUA-TVD); TWUA Winter Garden (TWUA - WG); Water Environment Association of Texas (WEAT); Water Technology (WT); and Williamson County and Cities Health District (WCCHD).

RESPONSE TO COMMENTS

General Comments

WT praised the commission for improving the water and wastewater profession by education and testing.

The commission acknowledges the praise.

TWUA, which is a non-profit education corporation whose membership consists of approximately 9,400 water and wastewater operators, utility managers, utility owners, engineers, lab and customer service personnel and others involved in the water utility industry, commented that they do not object to the commission requiring backflow prevention assembly testers and customer service inspectors to become stand-alone licenses. TAWWA, which is an organization of 3,200 members representing utility directors, operators, and other drinking water professionals also commented that they do not object to the commission requiring backflow prevention assembly testers and customer service inspectors to become stand-alone licenses.

The commission acknowledges that TWUA represents a significant number of water utility operators throughout the state, and appreciates TWUA's representation of their members. The commission acknowledges that TAWWA represents a significant number of water utility professionals throughout the state, and appreciates TAWWA's representation of their members. The commission acknowledges the support for the rules regarding backflow prevention assembly testers and customer service inspectors.

TWUA, TAWWA, and TRWA commented that the commission did not provide sufficient notice for the August 6, 2001 stakeholder meeting in reference to this rulemaking.

The commission disagrees with the comment. House Bill 3111, 77th Legislature, 2001, requires the commission to adopt rules implementing this bill by December 1, 2001. To meet this very short statutory deadline, the commission had to expedite the rulemaking process. The commission

solicited input from affected stakeholders and invited interested parties to a stakeholder meeting for input on the rules. The commission informed the stakeholders of the meeting two weeks in advance.

TWUA, AWSC, Dallas, and TAWWA commented that they support the consolidation of the occupational licensing rules into Chapter 30.

The commission agrees with the comment and acknowledges the positive support of this rule consolidation.

TWUA and TAWWA commented that they oppose a late fee for submitting renewal applications unless the commission can demonstrate that more staff time is required to process a renewal application during the 30 days past expiration.

The commission disagrees with this comment. The proposed language in Chapter 30 does not require a late fee for renewal of licenses.

TRWA also commented that there is no mechanism for review or appeal of decisions related to training approval.

The commission agrees in part. Appeals may be addressed through the agency management structure. Appeal process language will be considered in the next revision to the regulatory guidance document.

Subchapter A General Comments

One individual commented about the outstanding training he received from one of the commission's approved training providers in the irrigator program.

The commission acknowledges the positive comment on the training provided by this trainer.

AWSC commented that different occupations and businesses require different levels of training and experience and that a person working with LPSTs will require more training and supervision than a customer service inspector.

The commission agrees with the comment. The licensing and renewal requirements for each program, including LPSTs and customer service inspectors, are derived independently from a job task analysis study. As a result, there are different requirements for the licensing programs.

Comments on §30.5

TOWA recommended that employees of the commission hold the same licenses as those they regulate. TOWA stated that they believed the loss of license or registration means a great deal, and TOWA stated that some people expressed the belief that they can do whatever they want when they are exempted from a rule or they believe that they can make up rules for others to follow. TOWA provided an example of a compliance review where the designated representative was chastised for not

using commission forms, and there is nothing in the rules about this. TOWA stated that there must be a procedure to force compliance on agency staff.

The commission disagrees with the comment. The commission has determined that it is a conflict of interest for agency staff to obtain occupational licenses issued by the commission while employed by the agency because agency staff are required to review and approve training programs and to develop examinations. Employees who have obtained an occupational license prior to becoming an agency employee may maintain that license. Agency employees whose responsibilities includes permitting OSSFs are required to meet the same training requirements as designated representatives.

LS-SWANA commented that they are an organization of over 435 members representing approximately 168 public entities and approximately 79 corporate entities and special districts throughout the state. LS-SWANA is affiliated with approximately 6,700 members of international Solid Waste Association of North America. LS-SWANA commented that it provides training, leadership opportunities, a network of solid waste professionals, safety initiatives, good-natured competitions, and the opportunity to participate in rulemaking. LS-SWANA commented that it recognizes the importance of insuring that individuals in regulated entities are competent, and believes that licensing is necessary to insure that well-trained and highly competent individuals serve in positions of leadership. LS-SWANA supported the overall purpose of this rule. However, LS-SWANA recommended that §30.5 should be amended to require the commission's employees, who have regulatory oversight, to be licensed.

The commission acknowledges that LS-SWANA represents more than 435 members, approximately 168 public utilities and approximately 79 corporate entities and special districts throughout the state. The commission appreciates LS-SWANA's representation of their members. The commission disagrees with the comment. Such a requirement would constitute a conflict of interest because agency staff are required to review and approve training programs and to develop examinations.

Comments on §30.7

TWUA and TAWWA commented that they support the decision to use the term "license" instead of "certificate."

The commission acknowledges the support for the use of the term "license."

TRWA commented that "approved training event" should be defined in the definitions.

The commission agrees with the comment and has amended the rule to add that definition.

Comments on §30.14

TWUA and TAWWA commented that they oppose the proposed preapproval of applications in §30.14(c) because this may take as long as 45 days for preapproval, then 45 days to issue the license

after the examination has been passed. TWUA and TAWWA pointed out that it may take up to 90 days for an applicant to apply for preapproval, take the exam, and then for the executive director to issue a license.

The commission disagrees with the comment. There is no preapproval process for registrations under §30.14 because there are very few requirements and no examination is required.

Comments on §30.18

Abilene, TWUA-CWTD, and CWTRS commented that they are opposed to requiring preapproval of all applications for exams because water systems and municipalities across the state are struggling to comply with training, experience, and certification requirements. They stated that currently preapproval is required only for Class A certifications, and that preapproval for all certifications will further complicate this process. Abilene, TWUA-CWTD, and CWTRS stated that certification approval would be more appropriate after training and testing requirements have been met, and this change will again cost money and provide no corresponding benefit to the public. TWUA and TAWWA opposed the proposed preapproval of applications in §30.18(c) because it may take as long as 45 days for preapproval, then 45 days to issue the license after the examination has been passed. TWUA and TAWWA points out that it may take up to 90 days for an applicant to apply for preapproval, take the exam, and then for the executive director to issue a license.

The commission agrees with the comment. Section 30.18(c) has been modified to address notification to the applicant when licensing requirements have been met. Notification of eligibility

to take the examination was removed which will allow the executive director to continue its practice of approving applications at regularly scheduled exam sessions and immediately after training events at the discretion of the executive director. The amount of time the executive director has to notify the applicant if licensing requirements are met is up to 45 days.

LNRA agrees with the proposed preapproval of applications in §30.18(c).

The commission agrees with the comment and will maintain the practice of approving applications at the examination site to maximize the use of resources, reduce the amount of time needed to receive and review applications, and provide examination results, and as a convenience to the operators.

TRWA, TWUA, and TAWWA commented that they oppose requiring preapproval of applications for taking water and wastewater licensing exams. They expressed strong opposition to these changes and urge the commission to change the other much smaller licensing programs to mirror the water and wastewater operator licensing programs if uniformity among the various licensing programs is to be accomplished. Cedar Hill, Coke County WSC, Dallas, Marshall, Ralls, Rockport, GBRA, Mexia, Odessa, Paris, SAWS, TWUA-CC, TWUA-CRG, TWUA-CTD, TWUA-ETD, TWUA-ETLAS, TWUA-GCD, TWUA-GFD, TWUA-NSSC, TWUA-PBLAS, TWUA-PWCLAS, TWUA-TXD, TWUA-TNS, TWUA-WG, TWUA- ArkLa Tex CSS, and TWUA-TVD WEAT, and WT also commented that they oppose requiring preapproval of applications for taking water and wastewater licensing exams.

The commission agrees with the comment. Section 30.18(c) has been modified to address notification to the applicant to licensing requirements have been met. Notification of eligibility to take the examination was removed which will allow the executive director to continue its practice of approving applications at regularly scheduled exam sessions and immediately after training events at the discretion of the executive director. The amount of time the executive director has to notify the applicant if licensing requirements are met is up to 45 days.

TRWA commented that individuals paying a fee to take an examination should know whether they passed the examination before paying an additional application fee.

The commission disagrees with the comment. There are not two separate fees for an examination and an application. The application fee includes the examination fee.

Comments on §30.20

ITP and one individual recommended that the frequency of the irrigator exam should be limited to four times per year.

The commission disagrees with the comment. The frequency of examinations is based on the number of applicants and the availability of adequate facilities. Examination schedules are addressed in program policy, and are beyond the scope of this rulemaking.

One individual recommended that the design section of the irrigator exam be retained in the exam in its current form.

The commission disagrees with the comment. Changes in the structure of the exam will be addressed through program policy, and are beyond the scope of this rulemaking.

ITP recommended that applicants for the irrigator exam be required to repeat a basic training course after repeating the exam four times, or after one year.

The commission disagrees with this comment. Texas Water Code, Chapter 37, requires all licensing programs to develop uniform procedures for licensing. The commission does not require retaking the basic course for any occupational license.

ITP recommended that a larger portion of the exam cover related laws by creating a section specifically for this subject.

The commission disagrees with the comment. Changes in the structure of the exam will be addressed through program policy as determined by a job task analysis, and are beyond the scope of this rulemaking.

TRWA commented that they oppose the 60-day waiting period to retest after a failed examination. TRWA recommended a 30-day waiting period, which is enough time for an applicant to study for the retest.

The commission disagrees with the comment. As stated in §30.20(b), the commission has 45 days after the examination date to provide the results of the examination. A 30-day waiting period for retesting is not possible because the examination may not be graded within 30 days. The commission reduced the waiting period from 90 days to 60 days in this rulemaking. The 60-day waiting period for retesting allows the commission time to grade the examination and provide the test results to the individual within the 45 days specified in the rule.

TRWA commented that they support the commission's requirement of allowing an individual to retest three times within a one-year period.

The commission acknowledges the support.

Comments on §30.24

One individual recommended that the proposed 30-day grace period for renewal of a license which has expired be increased to 90 days.

The commission disagrees with the comment. Texas Water Code, §37.006, states that a license or registration that has been expired for more than 30 days may not be renewed.

One individual opposed elimination of the grace period to obtain renewal hours for water and wastewater operators.

The commission disagrees with the comment. The operators have enough time through the validity period of their license (two or three years) to obtain the required renewal hours. This rule has been in effect since June 1, 2001.

Comments on §30.28

ITP recommended that training providers be required to publish the commission Provider Code and irrigator license number on all notices, advertisements, and postings of training classes.

The commission disagrees with the comment. This is beyond the scope of this rulemaking; however, this may be considered in scheduled reviews of the regulatory guidance document for approval for training.

ITP recommended that no new instructors be approved for basic training until after the proposed rules and policy changes have been made.

The commission disagrees with the comment. The purpose of this rule is to establish uniform procedures for issuing and renewing licenses. This rule does not address specific components of training programs.

ITP recommended that all trainers have standard training designs in their basic training courses.

The commission disagrees with the comment. The purpose of this rule is to establish uniform procedures for issuing and renewing licenses. This rule does not address specific components of training programs.

TRWA commented that the proposed rules do not provide sufficient guidance or requirements for the approval of training programs.

The commission partially agrees with the comment. The purpose of these rules as specified in TWC, Chapter 37 is to establish uniform procedures for issuing and renewing licenses, setting terms and fees, enforcing licensing requirements, and approving training. The statute does not require that these rules provide detailed guidance on training programs. The regulatory guidance on this subject, however, provides the staff and public with clear and understandable procedures for what constitutes approved training and is sufficiently explicit to eliminate inconsistent decisions by agency staff. The development of this regulatory guidance included extensive opportunity for comment from the regulated community. This guidance document (RG373) is available by contacting the commission's Publications Ordering staff at (512) 239-0028. However,

the commission agrees that it is appropriate to include a requirement that defines the training eligible for approval. The commission has amended §30.28 to add this requirement.

TRWA commented that the approval of association meetings demonstrates the agency staff's inability to fairly determine the advantage of different kinds of training. TRWA cited the disparity in number of hours awarded for attendance at meetings in comparison to the hour-for-hour credit given for classroom training.

The commission disagrees with the comment. The executive director approves training credit for association meetings based on whether or not technical presentations at the association meetings are related to the licensing program. Association meetings provide opportunities for networking and problem-solving apart from the technical presentations. Generally, most association meetings are approved for training credit. Approval of technical training within the context of an association meeting is available to all associations, not just one as suggested by the commenter.

Comments on §30.30

TWQA, which represents water treatment specialists from across the state, praised the commission for overseeing the water treatment specialist licensing program.

The commission acknowledges that TWQA represents members from across the state and appreciates their representation. The commission acknowledges the praise for overseeing the water treatment specialist licensing program.

TWUA and TAWWA commented that they oppose the change in the terms of the Class A, B, and C water and wastewater, customer service inspector, and backflow prevention assembly tester licenses from three to two years in §30.30(a). TWUA-CC, TWUA-CTD, TWUA-CRG, TWUA-ETD, TWUA-ETLAS, TWUA-GCD, TWUA-GFD, TWUA-NSSC, TWUA-PBLAS, TWUA-PWCLAS, TWUA-TXD, TWUA-TNS, TWUA-WG, TWUA- ArkLa Tex CSS, and TWUA-TVD are subsidiary organizations of TWUA. These subsidiaries of TWUA adamantly oppose changing the term of licenses for water and wastewater operators from three years to two years. Cedar Hill, Coke County WSC, Dallas, GBRA, Mexia, Paris, Ralls, Rockport, Marshall, NAWSC, SAWS, TRWA, and WT also oppose changing the term of licenses for water and wastewater operators from three years to two years. WEAT, which has approximately 1,600 members in the wastewater industry, also opposed changing the term of licenses for water and wastewater operators from three years to two years. LS-SWANA opposed changing the term of licenses for municipal solid waste facility supervisors from four years to two years. LS-SWANA commented that they do not believe this change is necessary or advisable, and they are not aware of any persuasive reasons to support the change. LS-SWANA stated that more frequent renewals will increase staff workload significantly. AWSC opposed changing the term of the licenses for backflow prevention assembly testers, customer service inspectors, public water system operators, and operations companies.

The commission acknowledges that WEAT represents a significant number of persons in the wastewater industry, and the commission appreciates WEAT's representation of their members. The commission agrees with the comments. The commission has amended §30.30(a), changing the license terms to three years for: Class A, B, and C water and wastewater operators; Class II and

III wastewater collection operators; customer service inspectors; water treatment specialists; backflow prevention assembly testers; and municipal solid waste facility supervisors. The commission agrees that changing the terms again for Class A, B, and C water and wastewater operators and Class II and III wastewater collection operators with the current rulemaking might create a hardship for those licenses whose terms were reduced in the previous rulemaking, which became effective June 1, 2001. Three-year license terms will keep the workload in these programs from increasing significantly.

ECO commented that they oppose the two-year license term for water and wastewater operators and suggested that the certificate and license term should be set for three years because: 1) Texas just conformed to federal regulations for water and wastewater operators to be three years, and there's some question that changing from three, five, and eight years to three actually enhances operator training. A two-year term could create a situation where one class could be continually used to renew a license; 2) the proposed two-year term would be different from many states, which according to Eco, could create problems for operators transferring out of the state, and for operators considering transferring into the state, and may reduce the already limited supply of qualified operators in Texas; and 3) it would appear to be more costly and more burdensome to approve and renew several thousand licenses in a two-year period than in a three-year period.

The commission agrees with the comment. The commission has amended §30.30(a), changing the license terms to three years for Class A, B, and C water and wastewater operators; Class II and III wastewater collection operators; customer service inspectors; water treatment specialists;

backflow prevention assembly testers; and municipal solid waste facility supervisors. The commission agrees that this change will enhance operator training. This change should not create a problem for operators from out of state attempting to obtain a license because now the renewal terms are consistent with federal guidelines which have been adopted by many states. This would also alleviate the burden on the commission of renewing additional licenses on a more frequent basis.

Abilene, Odessa, TWUA-CWTD, and CWTRS are opposed to changes in the water and wastewater operator licensing programs, and specifically oppose reducing the term for all water and wastewater licenses from three years to two years because this change will increase paperwork which already seems to have reached unmanageable levels at the commission. According to Abilene, Odessa, TWUA-CWTD, and CWTRS, the increased costs for processing paperwork will provide not provide a benefit to water systems or the public.

The commission agrees with the comment. The commission has amended §30.30(a), changing the license terms to three years for Class A, B, and C water and wastewater operators; Class II and III wastewater collection operators; customer service inspectors; water treatment specialists; and backflow prevention assembly testers.

TWQA opposed the two-year license term proposed for Class II and III water treatment specialists and recommends that the term be three years for each.

The commission agrees with the comment. The commission has amended §30.30(a) so that all water treatment specialists licenses will be valid for three-year terms. Three-year terms for these licenses will provide consistency among the water-related licenses.

One individual opposed the two-year term for backflow prevention assembly testers proposed in §30.30(a). The individual stated that the term should be three years to coincide with the national standards.

The commission agrees with the comment. The commission has amended §30.30(a), to require a three-year term for a backflow prevention assembly tester license. This will coincide with the three-year term for national licenses.

LNRA opposed the change in licensing terms from three to two years proposed in §30.30(a) for water and wastewater operators and recommended the terms be two years for a Class C license, four years for the Class B license, and six years for the Class A license.

The commission disagrees with the comment. The commission has amended §30.30(a) allowing for the Class A, B, and C water and wastewater and Class II and III wastewater collection license terms to be three years. The three-year term was not changed from the current rules. The term was established to comply with EPA guidelines which state that water operator licenses must be valid for no more than three years. For consistency, all related licenses are established with a three-year term.

TWUA and TAWWA opposed increasing the fee for water and wastewater operators, customer service inspector, and backflow prevention assembly tester licenses from $20 a year to $35 per year. Odessa also opposed increasing the fee for water operators twice in one year and increasing the fees for wastewater operators without advance notice. According to Odessa, TWUA, and TAWWA, the fee increase will create a hardship for public utilities that have already finalized budgets for this fiscal year. TWUA-CC, TWUA-CRG, TWUA-CTD, TWUA-ETD, TWUA-ETLAS, TWUA-GCD, TWUA-GFD, TWUA-NSSC, TWUA-PBLAS, TWUA-PWCLAS, TWUA-TXD, TWUA-TNS, TWUA-WG, TWUA-ArkLa Tex CSS, and TWUA-TVD adamantly opposed increasing the application and renewal fee for water and wastewater operators from $20 to $35 per year. Cedar Hill, Coke County WSC, Dallas, GBRA, Mexia, Paris, Ralls, Rockport, Marshall, SAWS, TRWA, WEAT, and WT opposed increasing the application and renewal fee for water and wastewater operators from $20 to $35 per year.

The commission agrees in part with the comment. The commission has amended §30.30(c) to change the licensing fee for water and wastewater operators and customer service inspectors to $20 a year until January 1, 2003. These occupations are employed by public utilities and the commission understands it may create a hardship to change these fees in the middle of the fiscal year. The commission disagrees with the comment about the fee increase because the fee must increase to $35 a year to comply with HB 3111. The commission was mandated by the legislature to recover the cost of administering the ten occupational licenses programs in the CSD. The commission has determined that $35 a year for a licensing fee will cover the cost of administering

the ten occupational licensing programs. However, maintaining the fee at $20 until 2003 should minimize the hardship for public utilities that have already finalized their budgets.

Abilene, TWUA-CWTD, and CWTRS opposed increasing the application and renewal fee for all water and wastewater licenses from $20 per year to $35 per year because this change will not benefit anyone except the agency. They stated that the commission should find ways to reduce costs, and if revenue increases are necessary, the commission should simply raise certification fees and not add cumbersome paperwork created by the first two changes. Abilene, TWUA-CWTD, and CWTRS urged the agency to abandon these proposed changes and to carefully consider future changes to this and other agency programs. Abilene, TWUA-CWTD, and CWTRS hoped that any future changes that add burdens to water systems provide an appropriate level of benefit.

The commission agrees in part with the comment. The commission has amended §30.30(c) to change the licensing fee for water and wastewater operators and customer service inspectors to $20 a year until January 1, 2003. These occupations are employed by public utilities and the commission understands it would create a hardship to change these fees in the middle of the fiscal year. The commission disagrees with the comment about the fee increase because the fee must increase to $35 a year to comply with HB 3111. However, maintaining the fee at $20 until 2003 should minimize the hardship for public utilities that have already finalized their budgets.

NAWSC opposed the fee increase for water and wastewater operators proposed in §30.30(c). The fees were proposed to increase from $20 a year to $35 per year. NAWSC commented that agency

employees would not like to see a similar increase in their water and wastewater bills. Furthermore, water systems would not be able to raise their rates 100% because the commission would not let them.

The commission partially agrees with the comment. The commission has amended §30.30(c) for water and wastewater operators and customer service inspectors. The fee will be $20 a year until January 1, 2003, then the fee will increase to $35 a year. This will allow for local governments to budget for this change in the next fiscal year. All water utility rate increases are subject to commission approval and if rate increases are justified, they may be approved.

TOWA agreed with the change in fees for all licenses.

The commission agrees with the comment and acknowledges the support for this rule change.

TRWA commented that the commission should set fees in order to be self-sufficient.

The commission agrees with the comment. This is the goal of the commission and will be achieved as a result of HB 3111.

TRWA commented that no funds from the collection of licensing fees should be used for any other purpose other than the operator certification program.

The commission agrees with the comment. Statutory requirements of HB 3111 mandate that the fees collected for occupational licensing be deposited in the commission's occupational licensing account. Funds in this account are the purpose of funding the licensing function only.

WT commented that increasing the fees and regulations for water and wastewater will result in operators leaving the profession due to low salaries and hourly wages.

The commission acknowledges the concern; however, the commission has determined the fee for all licenses based on the costs of administering the licensing programs. The commission made licensing fees consistent, as mandated by HB 3111. The commission does not regulate salaries or hourly wages of licensed operators.

Comments on §30.51

Coke County WSC opposed the accreditation for backflow prevention assembly tester becoming a stand-alone license.

The commission disagrees with the comment. The conversion of the backflow prevention assembly tester accreditation to a renewable license was necessary to meet the statutory requirements. House Bill 3111 requires the commission to establish uniform procedures for issuing and renewing licenses; thus, backflow prevention assembly testers licenses must be renewable, as are other licenses.

Comments on §30.60

One individual opposed allowing individuals to obtain a backflow prevention assembly tester license if they do not possess a high school diploma or equivalent as stated in §30.60(3).

The commission agrees with the comment. Section 30.60(3) requires a high school diploma or equivalent to qualify for this license.

One individual praised the commission for the proposed changes for the backflow prevention assembly tester licensing program.

The commission acknowledges the praise.

Comments on §30.62

One individual requested that the eight hours of hands-on training be required every three years, not every two years as in the proposed rule.

The commission agrees with the comment. The commission has amended §30.30 to change the license term to three years and requires the eight hours of practical skills training to be consistent with national standards.

Coke County WSC commented that if the continuing education credits for the backflow prevention assembly testers license are required, it will be more difficult to obtain a higher class water license

because of the increased number of continuing education requirements for holding these licenses that previously did not require continuing education.

The commission disagrees with the comment. The backflow prevention assembly tester license and the customer service inspector license are similar, and thus certain continuing education courses will count toward both licenses.

Coke County WSC opposed the increase in the continuing education requirements for the backflow prevention assembly tester license.

The commission disagrees with the comment. The backflow prevention assembly testers license is strengthened by this requirement because continuing education helps ensure the licensee maintains critical skills and knowledge.

Comments on §30.81

Coke County WSC opposed the customer service endorsement becoming a stand-alone license.

The commission disagrees with the comment. The conversion of the customer service inspector endorsement to a renewable license was necessary to meet the statutory requirements. House Bill 3111 requires the commission to establish uniform procedures for issuing and renewing licenses; thus, customer service inspector licenses must be renewable, as are other licenses.

Coke County WSC commented that if the continuing education credits for the customer service inspector license are required as proposed, it will be more difficult to obtain a higher class water license because of the increased number of continuing education requirements for holding these licenses that previously did not require continuing education.

The commission disagrees with the comment. The backflow prevention assembly tester license and the customer service inspector license are similar and certain continuing education courses will count toward both licenses.

Comments on §30.90

TRWA suggested that the rules specify the length of the customer service inspector training course. TRWA recommended the customer service inspector training course be 16 - 20 hours.

The commission disagrees with the comment. The length of the training course will be established in guidance documents. Currently, the customer service inspector training course is ten hours. The executive director will need additional time to determine the appropriate number of additional hours to be required for this training course. Additionally, the number of training hours are not specified in the rule at this time so that they can be changed after completion of the job task analysis.

Comments on §30.92

TRWA opposed the requirement of 16 hours of continuing education required for renewal of the customer service inspector license. TRWA recommended that the continuing education requirements for renewal be ten hours for the two-year license term.

The commission disagrees with the comment. Requiring ten hours of continuing education for renewal of a two-year license term would equate to five hours per year. The commission will maintain consistency with the closely related backflow prevention assembly tester program which requires eight hours of continuing education per year.

Coke County WSC opposed the customer service inspector license continuing education requirements increase from no requirement to 16 hours per two-year license term.

The commission disagrees with the comment. The customer service license is strengthened by this requirement because continuing education helps ensure the licensee maintains critical skills.

Subchapter D General Comments

ITP and one individual recommended that the installer license be upgraded to the level of a journeyman or apprentice-type license.

The commission partially agrees with the comment. The commission agrees there may be merit in establishing a journeyman or apprentice-type license. However, extensive study and research,

including a detailed job analysis of this occupation, is needed before establishing such a level of license. This is a time consuming process which cannot be accomplished within the time frame for adopting these rules. This suggestion will be considered in future rules revisions.

ITP recommended that the commission provide pass/fail statistics to the trainers. Additionally, according to ITP, the statistics should be provided to irrigation candidates and posted on the agency website.

The commission disagrees with the comment. This rule is required by HB 3111, which requires the agency to establish uniform standards. Thus, this suggestion is appropriately addressed in program policy, and therefore is outside the scope of this rulemaking.

Comments on §30.111

One individual recommended that licensed irrigators be allowed to install on-site surface irrigation systems that serve nonstandard secondary treatment systems, that have been designed by a professional engineer.

The commission disagrees with the comment. Texas Water Code, Chapter 34 requires that only a licensed irrigator may perform work on landscape irrigation systems. Texas Health Safety Code, Chapter 366 requires that only a person who is licensed as an Installer II may work on an on-site surface application system.

Comments on §30.120

ETIA, which represents 74 members, TTIA, ITP, DIA, and 35 individuals recommended that applicants for the irrigator license who fail the examination be required to retake and pass the entire examination instead of only retaking the section or sections that were failed.

The commission disagrees with this comment. Applicants who pass a section of the examination have demonstrated that they understand that particular portion of the subject. Requiring the applicant to retake the entire examination again will require additional resources for both the applicant and the commission, without adding any value.

ETIA, TTIA, and 35 individuals recommended that irrigator applicants be required to "pass" the required training course instead of "completing" the training course.

The commission agrees with this comment. Section 30.120 has been amended to require "passing" the training course, because the irrigator applicant should demonstrate a knowledge of the principles taught in the training course prior to taking the exam.

ETIA and 35 individuals recommended that the qualifications to obtain an irrigator license be expanded to include the proposed education and experience requirements for the backflow prevention assembly testers license as proposed in §30.60. This would add the requirement for a high school diploma or GED equivalent, and at least two years of experience in the areas required for the backflow prevention assembly testers.

The commission disagrees with the comment. The commission has not performed a detailed job analysis of this occupation to determine if changes are needed regarding minimum experience and education. A job analysis is a time consuming process which cannot be accomplished within the time available for adopting these rules. The commission will conduct an analysis in the future which will be used as a basis to make the determination of experience and educational requirements. Without conclusive evidence that a high school diploma and increased work experience are essential to test backflow prevention assemblies, the commission declines to make any changes at this time.

ITP, ETIA, and 36 individuals recommended that the minimum required number of training hours for the irrigator basic training course be increased as more requirements are added to the exam.

The commission disagrees with the comment. The commission has determined that changing the length of the basic training course is appropriately addressed in program policy, and therefore is not addressed by this rule.

Comments on §30.125

ITP recommended that license renewal dates be determined by the individual's birth date rather than an arbitrary date assigned by the commission.

The commission disagrees with the comment. Data files for the majority of over 5,000 current licensees do not contain birth dates. Obtaining these dates would require significant staff time

and resources. Also, each licensee will receive a renewal notice at least 60 days prior to expiration of the license, and will be allowed to renew the license up to 30 days after the license has expired.

Comments on §30.201

LS-SWANA commented that the rule should clarify that the licensing requirements should apply to only the top level or top two levels of management at each facility.

The commission disagrees with the comment. The rule states that an individual who supervises or manages the operation of municipal solid waste facilities or the collection or transportation of municipal solid waste must be licensed. This program was voluntary until HB 3111 created a licensing program for personnel who supervise the operation or maintenance of municipal solid waste facilities. The commission has amended the rule to delay the implementation of mandatory licensing of supervisors until January 1, 2004. Therefore, delayed implementation will allow sufficient time for personnel to become licensed.

LS-SWANA commented that mandatory licensing of supervisors should be delayed.

The commission agrees with the comment. The commission has amended the rule to delay the implementation of mandatory licensing of supervisors until January 1, 2004. Delayed implementation will allow sufficient time for personnel to become licensed.

Comments on §30.210

LS-SWANA commented that the rule should clarify the process for determining levels of licensure for facility personnel according to their position. LS-SWANA recommended that the agency should differentiate among facilities according to the number of persons served by the facility. In its comments, LS-SWANA recommended that the agency should require the appropriate level of license based on the operator's duties and the size of the facility.

The commission acknowledges the comment, however, this is outside the scope of this rulemaking. This rulemaking implements HB 3111 which requires the commission to adopt uniform procedures for licenses and registrations issued by the commission, including municipal solid waste facility supervisors. The job analysis has been conducted and this item will be reviewed and considered in future rulemaking.

LS-SWANA commented that the rule should stipulate that only an individual's compliance history will affect his or her licensure, not the compliance history of the facility where they are employed.

The commission agrees with the comment. An individual's compliance history will be considered separately from the facility's compliance history unless the individual is also the owner of the facility.

LS-SWANA commented that the commission should offer a training and examination session at least four times per year, once per year in each quadrant of the state. LS-SWANA commented that their members have had difficulties in the past attending training sessions that required significant time for

travel, especially if the training is given once per year. LS-SWANA suggested that the training sessions and exams should be held concurrently and available multiple times per year throughout the state.

The commission disagrees with the comment. Training and examination schedules and locations are addressed through program policy, and therefore are not addressed in this rule. Currently, authorized training providers offer 50 - 55 training sessions and the commission conducts examinations concurrently with these sessions throughout the state.

Comments on §30.292

LS-SWANA commented that licenses should only have to be renewed every four years.

The commission partially agrees with the comment and has amended the rule to increase the license renewal period to three years.

LS-SWANA commented that the experience requirement should be one year regardless of the class of license sought.

The commission disagrees with the comment. The current rule is established to maintain the highest level of competency and to ensure public safety and professionalism, and the class of license varies with the level of competence required.

Subchapter G - General Comments

SGMAS recommended that a training requirement be added for professional engineers before they are authorized to perform site evaluations.

The commission disagrees with the comment. Texas Health and Safety Code, §366.071 states that professional engineers are exempt from the licensing requirements for a site evaluator. In addition, the statute does not allow the executive director to require training for professional engineers. Therefore, a training requirement cannot be added for professional engineers.

TOWA commended the work that was done to reinstate the site evaluator license.

The commission acknowledges the comment.

Comments on §30.237.

One individual disagreed with the proposed definition of "designated representative." The individual commented that the proposed definition does not allow a designated representative to perform site evaluations.

The commission disagrees with the comment. The definition incorporates language from TWC, Chapter 37. Section 285.62(19) specifies that a designated representative can not perform site evaluations in the area of jurisdiction.

SGMAS requested that "certified professional soil scientist" be included in the definition of "site evaluator" and that certified professional soil scientists be exempt from the licensing requirements.

The commission disagrees with the comment. The exemption for the professional engineers from having to obtain a site evaluator license was provided by HB 3111, which added THSC, §366.71. The exemption for professional engineers is the only exemption authorized in the statute. The commission agrees, however, that a "certified professional soil scientist" should be allowed to obtain a site evaluator license without having to obtain either an Installer II, designated representative, or professional sanitarian license. The commission, therefore, has amended §30.240 and §30.246 to include individuals certified as "professional soil scientists" as able to obtain a site evaluator license, by following the same process as an individual with an Installer II, designated representative, or professional sanitarian license.

SGMAS stated that the language in §285.60(4) regarding the relationship of professional engineers and the site evaluator license is not clear.

The commission agrees with the comment. The commission has amended the language in §30.237(10) to delete "or holds a current professional engineer license." According to THSC, §366.071, the professional engineer is exempt from having to obtain a site evaluator license in order in order to perform site evaluations and is therefore not a site evaluator. Language in this paragraph and in §§285.2(67), 285.50(e), 285.60(1) and (4) imply that the professional engineer is a site evaluator. Language has been added to §285.2(67) that "a professional engineer may

perform site evaluations without obtaining a site evaluator license." This language will clarify that the professional engineer is exempt from the licensing requirements.

Comments on §30.240

NTMWD commented that in §30.240(b)(2)(B), the word "Installer II" should be "Installer I."

The commission agrees with the comment. This was a typographical error. Therefore, the word has been changed to "Installer I." In addition, the word "license" was inadvertently excluded from the language after "Installer II." Therefore, the words "Installer II" has been changed to "Installer I license."

NTMWD commented that in §30.240(d)(1), the word "and" at the end of the sentence should be replaced with either "and/or" or "or" since it is not clear how an individual may qualify.

The commission agrees with the comment. The qualifications are not clearly stated. The commission has amended the rule in several provisions to clearly indicate that an individual needs to meet the requirements in Subchapter A, §30.246, and of §30.24(d)(4). The commission has added the phrase "and §30.246 of this title (relating to Application for Site Evaluation)" to the end of paragraph (1). Since §30.246 indicates individuals who can apply for a site evaluator license and the process each individual must follow, paragraphs (2) and (3) have been deleted because they are redundant and cause more confusion and the subsection has been relettered. The

word "and" at the end of paragraph (1) is needed to identify that both paragraphs (1) and the renumbered (2) have to be met to obtain a site evaluator license.

An individual commented that in §30.240(d)(4), a designated representative should not have to attend the site evaluator's course to obtain the site evaluator license since a designated representative receives the same training as a site evaluator in the designated representative course.

The commission disagrees with the comment. The site evaluator course includes materials on all aspects of the site evaluation, including analyzing numerous soil samples, and performing an actual site evaluation in the field. This material is not covered in the designated representative course. The purpose of the site evaluator course is to have training that will result in individuals being prepared to perform accurate site evaluations. Since the courses are not the same, no changes have been made in response to the comments.

SGMAS requested that in §30.240(d)(4)(C), now renumbered as §30.240(d)(2)(C), the "certified professional soil scientists" be exempt from the licensing requirements.

The commission disagrees with the comment. The exemption for the professional engineers from having to obtain a site evaluator license was provided by HB 3111, which added THSC, §366.71. The exemption for professional engineers is the only exemption authorized in the statute. The commission agrees, however, that a "certified professional soil scientist" should be allowed to obtain a site evaluator license without having to obtain an Installer II, designated representative,

or professional sanitarian license, based on certification from the American Society of Agronomy. The commission, therefore, has amended §30.240 and §30.246 to include individuals certified as "professional soil scientists" as able to obtain a site evaluator license, by following the same process as an individual with an Installer II, designated representative, or professional sanitarian license.

TOWA recommended that in §30.240(d)(4)(D), the words "with OSSFs" be added in the first sentence after "verified experience." TOWA expressed concern that a sanitarian may not have OSSF work experience, and could qualify to become a site evaluator with verified expience in some other work.

The commission agrees with the comment. The commission has determined, however, that the suggested change would be better in the second sentence indicating that the work experience must be OSSF related. The word "OSSF" has been added in the second sentence of the renumbered §30.240(d)(2)(D) before "work experience." Therefore, the sentence will read, "Applicants for a site evaluator license must submit statements attesting to the individual's OSSF work experience."

SGMAS requested that in §30.240(d)(4)(D), now renumbered as §30.240(d)(2)(D), "certified professional soil scientists" be exempt from the licensing requirements.

The commission disagrees with the comment. The exemption for the professional engineers from having to obtain a site evaluator license was provided by HB 3111, which added THSC, §366.71. The exemption for professional engineers is the only exemption authorized in the statute. The

commission agrees, however, that a "certified professional soil scientist" should be allowed to obtain a site evaluator license without having to obtain an Installer II, designated representative, or professional sanitarian license, based on certification from the American Society of Agronomy. Language, therefore, has been added clarifying that an individual who is a certified professional soil scientist and wants to obtain a site evaluator license must provide verified experience as a certified professional soil scientist certificate in order to obtain the site evaluator license.

Comments on §30.242

Concerning §30.242(b), PEECO asked if the site evaluator is required to maintain a second license in addition to site evaluator, will the site evaluator have to "pay $70 each per year for the two licenses?"

The commission acknowledges the question. The language in Senate Bill 405 requires that a second license be maintained in addition to the site evaluator license. Therefore, the site evaluator will have to pay for two licenses. The amount indicated by the commenter is incorrect. The amount will be $35 a year for each license, or $70 for the two-year term per license, if the license is either an Installer II or a designated representative license. The amount is less than what the individual is currently paying for one license. No changes have been made in response to the comment.

Comments on §30.244.

SGMAS requested that in §30.244(c), "certified professional soil scientists" be exempt from the licensing requirements.

The commission disagrees that a "certified professional soil scientist" should be exempt from the licensing requirements of "site evaluator." The exemption for the professional engineers from having to obtain a site evaluator license was provided by HB 3111, which added THSC, §366.71. The exemption for professional engineers is the only exemption authorized in the statute. The commission agrees, however, that a "certified professional soil scientist" should be allowed to obtain a site evaluator license without having to obtain an Installer II, designated representative, or professional sanitarian license, based on certification from the American Society of Agronomy. Language, therefore, has been added clarifying that an individual who is a certified professional soil scientist and wants to obtain a site evaluator license must provide verified experience as a certified professional soil scientist to obtain the site evaluator license.

Comments on §30.267

ECO commented that the applicability of Subchapter H, Water Treatment Specialists, appears to be unclear. It replaces §§290.20 - §290.26. The definition of "water treatment" (§290.267(2)) states in the last sentence that "the term also includes the installation, exchange, connection, maintenance, service, and repair of potable treatment equipment and appliances in public or private water systems." ECO asked if this sentence is addressing work in public or private water systems such as homes or businesses connected to the system; if so, there would be no problem. ECO commented that if this applies to work on public or private water systems such as the installation or maintenance of a chlorinator; then this would suggest that contractors who build water facilities, and subcontractors who install certain equipment would be required to obtain this license, and this would also include contractors who have passed manufacturer-approved courses.

The commission agrees with the comment. It is not the commission's intent to suggest that contractors and subcontractors who build water treatment facilities (such as surface water or groundwater treatment plants) need to obtain a water treatment specialist license.

Comments on §30.272

TWQA opposed the continuing education requirements for water treatment specialists which are eight hours per year for the Class II and Class III licenses. At the public hearing, TWQA presented oral comments recommending phasing in the continuing education requirements in the following manner: four hours of continuing education requirements per year for Class II and III licenses, and eventually requiring eight hours of continuing education per year or 24 hours of continuing education per three-year license term. TWQA stated that this would allow time to develop additional continuing education courses. In written comments submitted by TWQA, they recommended four hours of training for Class I and six hours for Class II and Class III, which is a 25% reduction for the Class II and Class III continuing education requirements. TWQA stated that this level of training still represents a substantial increase over past requirements and will insure a high level of skill knowledge and professionalism. TWQA also requested this reduction to help avoid potential waste of time and money.

The commission agrees with the comment. The commission has amended §30.272(2) to require four hours per year of continuing education requirements for the Class I, Class II, and Class III licenses for water treatment specialists. The commission will consider increasing the continuing education requirements in a future rulemaking after a job task analysis has been completed.

Comments on §30.279

ECO requested that additional language to be added to §30.279(c) Exemptions, which exempts employees of public water systems from this section as long as they have a Class C license or higher. Many public water systems contract with operations companies who employ operators. These employees are as qualified by class of licenses as direct employees of the water system and should also be exempt from this sections. ECO recommends this section be rewritten to clearly address those concerns of equipment on property not operated or maintained by a public or private water system.

The commission agrees with the comment. It is the commission's intent to exempt those individuals employed by a contract operations company and individuals who operate public water systems on a contract basis. These individuals will be exempt from the water treatment specialist licensing requirements if the equipment being installed is at a public water system that is operated under contract by the operations company. The commission has amended the rule in §30.279(d) to clarify this exemption.

Comments on §30.307

TASTP recommended changing the word "tank" to "UST" in paragraph (3)(H) in the definition of "critical junctures."

The commission agrees with the comment. Removal activities are required for all portions of the UST instead of just the tank. The definition of "critical junctures" has been changed to use UST instead of tank.

TASTP recommended changing the definition of "removal" to match the definition of "permanent removal from service."

The commission agrees with the comment. "Permanent removal from service" would be the correct term when removing the UST by means of either removal from the ground, abandonment in-place, or change-in-service. Section 30.307 has been amended to correct the definition of removal.

Comments on §30.310

TASTP recommended adding a provision in the rule for a License A and B combination license.

The commission agrees with the comment. It is the current practice to issue a combined license and it is not the intent of the commission to change procedures. The rules have been amended to accommodate the issuance of a combined license.

Comments on §30.340

TWUA and TAWWA commented that they do not object to the commission adding two elective courses for the Class A wastewater license.

The commission acknowledges the support for this proposal in §30.340(f).

Comments on §30.342

TWUA, TAWWA, and Dallas commented that the rules do not state that water and wastewater perpetual licenses are exempt from the fee requirement and asked that the exemption be stipulated in the rules.

The commission agrees with the comment. The commission has added language to §30.342 to exempt active converted perpetual licenses from the renewal fee requirement to continue the program as currently administered.

Comments on §30.350

TWUA and TAWWA commented that they do not object to the commission clarifying the requirement for the wastewater chief operator to be at the facility.

The commission acknowledges the support.

TRWA commented that it feels the wastewater operator-in-training status should be limited to six months, and not 12 months as proposed.

The commission disagrees with the comment. The wastewater operator-in-training status is established to allow persons new to the field of wastewater operations sufficient time to acquire the initial knowledge, training, and skills in the field and to obtain licensing. The rule requires that the operator-in-training be in the presence of a certified operator at all times when

performing process control duties at a wastewater facility or supervising wastewater collection systems. This requirement will be reviewed as part of the upcoming job analysis for wastewater treatment and collection licensing.

General Comments-Subchapter K

TWUA and TAWWA commented that they do not object to operator staffing requirements for water operators being moved to 30 TAC Chapter 290.

The commission acknowledges the support of this rulemaking.

Comments on §30.390

TRWA opposed the water utility management course not being required for the Class B groundwater license. The water utility management course is required for the Class B surface water license. TRWA recommended consistency among the requirements for the two separate licenses.

The commission disagrees with the comment. The water utility management course was required as a result of a recommendation from a surface water job task analysis. The commission is in the process of conducting a groundwater job task analysis and may amend the requirements for the Class B groundwater license in a future rulemaking.

TWUA and TAWWA questioned why Water Technology and Advanced Management courses are not listed as elective courses for the Class A water license.

The commission disagrees with the comment. Water Technology and Advanced Management are approved courses and can be taken as elective courses for the Class A license. Specific courses are not listed as electives; therefore, any approved water operator training may be used as elective courses to satisfy the requirements.

Comments on §30.392

TWUA and TAWWA and Dallas commented that the rules do not state that water and wastewater perpetual licenses are exempt from the fee requirement and asked that this be stipulated in the rules.

The commission agrees with the comment. Language has been added to §30.392 to exempt active converted perpetual licenses from the renewal fee requirement to continue the program as currently administered.

AWSC commented that the proposed rules would require employees to take additional time off from work to attend training courses for the renewal of a license. This would lead to increased operating costs for the water system. AWSC stated that they would need to hire additional operators to complete the work of operators that would be in training courses more often.

The commission disagrees with the comment. The renewal requirements have been ten hours per year and have not increased with this rulemaking. Whether a license term is eight years or two years, the continuing education requirements for a license renewal are the same number of hours per year.

Comments on §30.402

TRWA opposed exempting operators of transient noncommunity water systems from the licensing requirement which may lead to a compromise in public health.

The commission disagrees with the comment. The Safe Drinking Water Act does not require a license for an operator of a transient noncommunity system. However, these water systems are not exempt from commission inspections and therefore public health is being protected.

STATUTORY AUTHORITY

The new sections are adopted under the authority granted to the commission by the Texas Legislature in TWC, Chapter 37. Furthermore, TWC, Chapter 37 provides the commission the authority to: establish classes and terms of occupational licenses and registrations; establish procedures for granting, denying, suspending occupational licenses and registrations; establish fees for occupational licenses and registrations; and establish training, continuing and examination requirements.

The new sections are also adopted under the general authority granted in TWC, §5.013, which establishes the general jurisdiction of the commission over other areas of responsibility as assigned to the commission under TWC and other laws of the state; TWC, §5.103 and §5.105, which authorize the commission to adopt rules and policies necessary to carry out its responsibilities and duties under the TWC, §5.013(15); TWC, §5.122, which authorizes the commission to delegate uncontested matters to the executive director, and TWC, §7.002, which authorizes the commission to enforce provisions of the TWC and THSC.

SUBCHAPTER A: ADMINISTRATION OF OCCUPATIONAL LICENSES AND REGISTRATIONS

§§30.1, 30.3, 30.5, 30.7, 30.10, 30.14, 30.18, 30.20, 30.24, 30.26, 30.28, 30.30, 30.33, 30.35

§30.1. Authority.

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

§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 - K of this chapter (relating to Backflow Prevention Assembly Testers; Customer Service Inspectors; Landscape Irrigators and Installers; Leaking Petroleum Storage Tank Corrective Action Project Managers and Specialists; Municipal Solid Waste Facility Supervisors; On-Site Sewage Facilities Installers, Apprentices, Designated Representatives, and Site Evaluators; Water Treatment Specialists; Underground Storage Tank On-Site Supervisor Licensing and Contractor Registration; Wastewater Operators and Operations Companies; and Public Water System Operators and Operations Companies) contain the program-specific requirements related to each program.

(b) This chapter applies to applications for issuance or renewal of licenses or registrations that are received on or after January 1, 2002.

(c) 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 and installers;

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

(5) municipal solid waste facility supervisors;

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

(7) water treatment specialists;

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

(9) wastewater operators and operations companies; and

(10) public water system operators and operations companies.

§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, 34.007, or 37.003, or Texas Health and Safety Code, §§341.033, 341.034, 341.102, 341.103, 361.027, 366.014, or 366.071. 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 may not advertise or represent themselves to the public as a holder of a license or registration unless they possess a current license or registration. A person may 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 transferrable.

(e) New licenses shall not be issued to employees of the commission who have regulatory authority over the rules of this chapter.

§30.7. Definitions.

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

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

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

(3) **License** - An occupational license issued by the commission to an individual authorizing the individual to engage in an activity covered by this chapter.

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

(5) **Training credit** - Hours of credit allowed by the executive director for attendance at an approved training event.

§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 for licensing credits; and

(8) responding to complaints against licensees and registrants.

§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) Within 45 days after the date the executive director receives the application, the executive director shall notify the applicant in writing if all the registration requirements have been met.

(d) All statements and qualifications provided by the applicant are subject to verification by the executive director.

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

(f) All applications must be completed in full. All deficiencies must be corrected within two months of notification, or the application shall be considered invalid.

(g) After verification that the requirements for registration have been met, the executive director shall mail the registration no later than 45 days after the effective date of the registration. The registration shall be for the term specified in §30.30 of this title (relating to Terms and Fees for Licenses and Registrations). The effective date of the registration shall be the date the executive director issues the registration.

§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) Within 45 days after the date the executive director receives the application, the executive director shall notify the applicant in writing if the licensing requirements have been met.

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

(e) All statements and qualifications provided by each applicant are subject to verification by the executive director.

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

(g) All applications must be completed in full. All deficiencies must be corrected within four months of notification, or the application shall be considered invalid.

(h) An applicant must furnish evidence of any training credit, proof of education, or work experience when requested.

(i) After verification that the requirements for license have been met, the executive director shall mail the license no later than 45 days after the effective date of the license. The license shall be for the term specified in §30.30 of this title. The effective date of the license shall be the date the executive director issues the license.

§30.20. Examinations.

(a) The executive director shall prescribe the content of licensing examinations. Examinations shall be based on laws, rules, job duties, and standards relating to the particular license.

(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) Any individual who fails an examination may repeat the examination after waiting 60 days. The examination may not be repeated more than three times within 12 months of the initial application approval. After one year or four examinations, whichever occurs first, a new application with a new fee must be submitted before the applicant may take the examination again.

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

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

(f) 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.

§30.24. License and Registration Applications for Renewal.

(a) A license or registration may be renewed unless it has been:

(1) expired for more than 30 days;

(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) The continuing education used to renew a license must be earned after the issuance date and before the expiration date of the license. Any remaining continuing education hours shall not be carried over to the next renewal period.

(d) 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 license expires, and the person meets the requirements for renewal by the expiration date of the license or registration and pays all fees.

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

(f) The executive director may require specific training courses for renewal of a license on a case-by-case basis.

(g) 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.

(h) 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.

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

(j) 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 and send it to the applicant within 45 days after the date the executive director receives the renewal application.

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

(l) If the application is denied because the applicant does not meet the requirements, the executive director shall notify the applicant in writing within 45 days after the date the executive director receives the renewal application.

(m) 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 or a new license or registration has been obtained.

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

(a) Except for landscape irrigators and installers, 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.

§30.28. Approval of Training.

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

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

(2) be approved by the executive director before the training begins.

(b) The executive director shall determine the number of hours of credit that shall be granted for approved training.

(c) Training credit may be approved by the executive director for:

(1) attendance at training courses, events, and seminars;

(2) completion of computer or web-based training, correspondence course, or similar training;

(3) 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 training courses.

(d) The executive director may rescind or deny training approval for good cause.

§30.30. Terms and Fees for Licenses and Registrations.

(a) All licenses and registrations are valid for two years from the date of issuance, with the exception of the following licenses, which will be valid for three years:

(1) backflow prevention assembly testers;

(2) customer service inspectors;

(3) Class A, B, C, III, and II wastewater operators;

(4) Class A, B, and C public water system operators;

(5) Class III, II, and I water treatment specialists; or

(6) municipal solid waste facility supervisors.

(b) The following licenses and registrations shall be transitioned from a one-year cycle to a two-year cycle:

(1) landscape irrigator and installer, according to Subchapter D of this chapter (relating to Landscape Irrigators and Installers); and

(2) underground storage tank on-site supervisor and contractor, according to Subchapter I of this chapter (relating to Underground Storage Tank Contractors and On-Site Supervisor Licensing and Contractor Registration).

(c) The license fee is $70 for a two-year license and $105 for a three-year license. The license fee for wastewater operators, public water system operators, and customer service inspectors shall be based on $20 per year of the licensing term until January 1, 2003. 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) A fee of $20 shall be charged for each copy of the license or registration, or to replace a lost or damaged license or registration.

(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.

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

(a) Denial. The executive director may deny an initial or renewal application for:

(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 for reconsideration under §50.39 of this title (relating to Motion for Reconsideration). The executive director may determine an application is insufficient for the following reasons:

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

(B) being 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; or

(C) 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 a poor compliance history as a licensee in another state; or

(C) has a history in this or another agency program of violations of statutes or rules adopted under those statutes;

(D) makes an intentional misstatement or misrepresentation of fact in information required to be maintained or submitted to the commission by the applicant;

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

(F) 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.

(b) Warning. If a person 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 person's permanent file maintained by the executive director. This letter shall be a warning that further violations or offenses

by the person may be grounds for suspension, revocation, enforcement action, or some combination thereof. A warning is not a prerequisite for initiation of suspension, revocation, or enforcement proceedings.

(c) Suspension or revocation. After notice and opportunity for a hearing, the commission may suspend or revoke a license or registration on any of the grounds in Texas Water Code, §7.303(b). A license may also be suspended if a person is 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).

(d) 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 automatically upon a second suspension.

(e) The commission may revoke a license or registration 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 persons who have had their license or registration suspended.

(1) If a license or registration expiration date falls within the suspension period, a person 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.

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

(g) Persons who have had their license or registration revoked shall not have their license or registration automatically reinstated after the revocation period. After the revocation period has ended, a person may apply for a new license or registration according to this chapter.

§30.35. Hearings.

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

SUBCHAPTER B: BACKFLOW PREVENTION ASSEMBLY TESTERS

§§30.51, 30.57, 30.60, 30.62

STATUTORY AUTHORITY

The new sections are adopted under the authority granted to the commission by the Texas Legislature in TWC, Chapter 37. The new sections are authorized under the general authority granted in TWC, §5.013, which establishes the general jurisdiction of the commission over other areas of responsibility as assigned to the commission under TWC and other laws of the state; TWC, §5.103 and §5.105, which authorize the commission to adopt rules and policies necessary to carry out its responsibilities and duties under TWC, §5.013(15); and TWC, §7.002, which authorizes the commission to enforce provisions of TWC and THSC.

§30.51. Purpose and Applicability.

(a) The purpose of this subchapter is to establish qualifications for issuing and renewing licenses to an individual who tests and repairs backflow prevention assemblies.

(b) An individual who tests and repairs backflow prevention assemblies must meet the qualifications of this subchapter and be licensed according to Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations).

(c) All previously issued backflow prevention assembly tester accreditations shall expire December 1, 2002. To obtain a license, an individual holding an accreditation must submit a new application with the appropriate fee. If an individual with an accreditation does not obtain a license by December 1, 2002, the individual must meet the qualifications of this subchapter for initial licenses. Until December 1, 2002, individuals with accreditations may test and repair backflow prevention assemblies.

§30.57. Definitions.

The following word and term, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise. **Backflow prevention assembly tester (BPAT)** - An individual who tests and repairs backflow prevention assemblies.

§30.60. Qualifications for Initial License.

To obtain a license, an individual must have:

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

(2) passed an examination;

(3) received a high school diploma or equivalent certificate;

(4) completed an approved 40-hour training course; and

(5) worked at least two years in an approved area.

(A) Approved areas are:

(i) operating or maintaining a public drinking water system;

(ii) installing or repairing residential, commercial, or industrial drinking water treatment equipment;

(iii) installing or repairing lawn irrigation systems;

(iv) performing activities requiring a master or journeyman plumbing license;

(v) testing and repairing backflow prevention assemblies on fire suppression systems and lines; or

(vi) performing other duties approved by the executive director.

(B) An individual may substitute one year of the required experience with:

(i) one year of college credit (32 semester hours); or

(ii) 20 hours of approved training in addition to the required 40-hour training course.

§30.62. Qualifications for License Renewal.

To renew a license, an individual must have:

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

(2) completed 24 hours of approved continuing education which includes eight hours of approved practical skills training.

SUBCHAPTER C: CUSTOMER SERVICE INSPECTORS

§§30.81, 30.87, 30.90, 30.92, 30.95

STATUTORY AUTHORITY

The new sections are adopted under the authority granted to the commission by the Texas Legislature in TWC, Chapter 37. The new sections also authorized under the general authority granted in TWC, §5.013, which establishes the general jurisdiction of the commission over other areas of responsibility as assigned to the commission under TWC and other laws of the state; TWC, §5.103 and §5.105, which authorize the commission to adopt rules and policies necessary to carry out its responsibilities and duties under TWC, §5.013(15); and TWC, §7.002, which authorizes the commission to enforce provisions of TWC and THSC.

§30.81. Purpose and Applicability.

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

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

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

(d) A licensed customer service inspector may not perform plumbing inspections required under Plumbing Licensing Law 15(a)(Texas Civil Statutes, Volume 17-1/2, Article 6243-101).

§30.87. Definitions.

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

(1) **Cross-connection** - A physical connection between a public water system and either another supply of unknown or questionable quality, any source which may contain contaminating or polluting substances, or any source of water treated to a lesser degree in the treatment process.

(2) **Customer service inspection** - An examination of the private water distribution facility for the purpose of providing or denying water service. The inspection is limited to the identification and prevention of cross-connections, potential contaminant hazards, and illegal lead materials. Customer service inspections are completed before providing continuous water service to new construction, on any existing service where there is reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to

private water distribution facilities (see §290.46(j) of this title (relating to Minimum Acceptable Operating Practices for Public Drinking Water Systems)).

(3) **Customer service inspector** - The person who is licensed by the executive director to perform customer service inspections.

§30.90. Qualifications for Initial License.

To obtain a license, an individual must have:

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

(2) received a high school diploma or equivalent certificate;

(3) completed an approved customer service inspector training course;

(4) worked at least two years in an approved area. Approved areas include, but are not limited to, operation or maintenance of a public drinking water treatment or distribution system, or building or construction inspections;

(5) one year of college (32 semester hours) or an additional 20 hours of training credits may be substituted for one year of the experience requirement.

§30.92. Qualifications for License Renewal.

To renew a license, an individual must have:

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

(2) completed 24 hours of approved continuing education.

§30.95. Exemptions.

Plumbing inspectors and water supply protection specialists licensed by the State Board of Plumbing Examiners are exempt from these requirements.

SUBCHAPTER D: LANDSCAPE IRRIGATORS AND INSTALLERS

§§30.111, 30.117, 30.120, 30.122, 30.125, 30.129

STATUTORY AUTHORITY

The new sections are adopted under the authority granted to the commission by the Texas Legislature in TWC, Chapter 37. The new sections are also authorized under the general authority granted in TWC, §5.013, which establishes the general jurisdiction of the commission over other areas of responsibility as assigned to the commission under TWC and other laws of the state; TWC, §5.103 and §5.105, which authorize the commission to adopt rules and policies necessary to carry out its responsibilities and duties under TWC, §5.013(15); and TWC, §7.002, which authorizes the commission to enforce provisions of TWC and THSC.

§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; or

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

(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).

(c) Licenses and certificates of registrations issued before January 1, 2002, remain in effect until they expire or are revoked by the commission.

§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.

§30.120. Qualifications for Initial License.

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

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

(2) passed an approved examination.

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

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

(2) completed and passed an approved training course; and

(3) passed all sections of the examination.

§30.122. Qualifications for License Renewal.

(a) To renew an installer license, issued after January 1, 2002, an individual must meet the requirements in Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations).

(b) To renew an irrigator license, issued after January 1, 2002, an individual must:

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

(2) complete 16 hours of approved continuing education.

§30.125. Renewal of Certificates of Registrations.

Both installer certificates of registration and irrigator certificates of registration that are current on the effective date of these rules shall be renewed as licenses. The executive director shall determine the expiration dates for the individual licenses. The expiration dates may be set throughout the year. Certificates of registration that expire on August 31, 2002, shall be renewed in the following manner.

(1) Installers.

(A) Installer certificates of registration with odd certificate numbers shall be initially renewed as a license for a period of 12 to 23 months and shall have an expiration date of the last day of a month in that period, as determined by the executive director.

(i) To renew for the first period, an installer must follow the procedures specified in §30.24 of this title (relating to License and Registration Applications for Renewal) and pay the renewal fee as specified in §30.30 of this title (relating to Terms and Fees for

Licenses and Registrations); however, the license fee shall be prorated so that the installer only pays for the actual months licensed.

(ii) Following that period, to renew a license the installer must meet the requirements specified in §30.122 of this title (relating to Qualifications for Renewal).

(B) Installer certificates of registration with even certificate numbers shall be renewed as a license for a period of 24 to 35 months and shall expire on the last day of a month in that period, as determined by the executive director. The installer must follow the procedures specified in §30.24 of this title. Additionally, the installer must pay the license fee specified in §30.30 of this title plus a prorated amount for the months beyond two years.

(2) Irrigators.

(A) Certificates of registration with odd numbers shall be initially renewed for a period of 12 to 23 months and shall expire on the last day of a month in that period, as determined by the executive director.

(i) To renew for the first period, an irrigator must follow the procedures specified in §30.24 of this title, and pay the renewal fee as specified in §30.30 of this title; however, the license fee shall be prorated so that the irrigator only pays for the actual months licensed. Additionally, the irrigator must meet the renewal qualifications specified in §30.122 of this title, except

only eight hours of continuing education is required.

(ii) Following that period, to renew a license the irrigator must meet the requirements specified in §30.122 of this title.

(B) Certificates of registration with even certificate numbers shall be renewed as a license for a period of 24 to 35 months and shall expire on the last day of a month in that period, as determined by the executive director.

(i) To renew for the first period, an irrigator must follow the procedures specified in §30.24 of this title, and pay the renewal fee as specified in §30.30 of this title, plus a prorated amount for the month beyond two years. Additionally, the irrigator must meet the renewal qualifications specified in §30.122 of this title.

(ii) Following that period, to renew a license the irrigator must meet the requirements specified in §30.122 of this title.

§30.129. Exemptions.

(a) The license requirements of this chapter do not apply to:

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

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

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

(4) irrigation or yard sprinkler repair work, other than extension of an existing irrigation or yard sprinkler system or installation of a replacement system, done by a maintenance person incidental to and on premises owned by the business in which the individual is regularly employed or engaged and who does not engage in the occupation of licensed irrigator or in yard sprinkler construction or maintenance for the general public;

(5) irrigation or yard sprinkler work done on the premises or equipment of a railroad by a regular employee of the railroad who does not engage in the occupation of licensed irrigator or in yard sprinkler construction or maintenance for the general public;

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

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

(8) activities involving a commercial agricultural irrigation system;

(9) irrigation or yard sprinkler work done 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;

(10) irrigation or yard sprinkler work done 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;

(11) a person who assists in the installation, maintenance, alteration, repair, or service of an irrigation system under the direct supervision of a licensed irrigator; or

(12) an owner of a business that employs a licensed irrigator to supervise the business's 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 a view of earning a livelihood, as opposed to working casually or occasionally.

(b) 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 Irrigations). The term

"irrigation system" does not include a system used on or by an agricultural operation as defined in

Texas Agriculture Code, §251.002.

SUBCHAPTER E: LEAKING PETROLEUM STORAGE TANK CORRECTIVE ACTION PROJECT MANAGERS AND SPECIALISTS

§§30.171, 30.177, 30.180, 30.185, 30.190, 30.192, 30.195

STATUTORY AUTHORITY

The new sections are adopted under the authority granted to the commission by the Texas Legislature in TWC, Chapter 37. The new sections are also authorized under the general authority granted in TWC, §5.013, which establishes the general jurisdiction of the commission over other areas of responsibility as assigned to the commission under TWC and other laws of the state; TWC, §5.103 and §5.105, which authorize the commission to adopt rules and policies necessary to carry out its responsibilities and duties under TWC, §5.013(15); and TWC, §7.002, which authorizes the commission to enforce provisions of TWC and THSC.

§30.171. Purpose and Applicability.

(a) The purpose of this section is to establish qualifications for issuing and renewing licenses to individuals who supervise leaking petroleum storage tank (LPST) corrective actions. This subchapter also establishes qualifications for issuing and renewing registrations to persons that contract to perform LPST corrective actions.

(b) An individual who performs or supervises regulated corrective action services as a project manager on LPST sites 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 exempt under §30.195 of this title (relating to Exemptions).

(c) A person that contracts or performs regulated corrective action services on LPST sites as a corrective action specialist must meet the qualifications of this subchapter and be registered according to Subchapter A of this chapter.

(d) Registrations issued before January 1, 2002, remain in effect until they expire, or are replaced or revoked by the commission.

§30.177. Definitions.

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

(1) **Corrective action** - Any assessment (with the exception of an initial site assessment), monitoring, or remedial activities undertaken to investigate the extent of, and to remediate contamination.

(2) **Corrective action services** - Activities required to accomplish regulated corrective action at a leaking petroleum storage tank (LPST) site.

(3) **Corrective action specialist** - A person that is registered to perform regulated corrective action services on LPST sites.

(4) **Leaking petroleum storage tank (LPST)** - An aboveground or underground storage tank which has a confirmed release of a petroleum substance.

(5) **Project manager** - An individual who is licensed to perform or supervise regulated corrective action services on LPST sites.

§30.180. Qualifications for Initial License.

To obtain a license as a corrective action project manager, an individual must have:

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

(2) provided documentation of quality of performance including one of the following:

(A) sworn statements, on forms approved by the executive director, from at least three individuals, not related by blood or marriage, for whom the applicant performed corrective action services, within the preceding 24 months. The statements shall attest to the applicant's job reliability and the client's satisfaction. The statements shall also include a description of

the type or types of corrective action services performed by the applicant and the physical address where the services occurred. Corrective action services are not limited to experience gained at leaking petroleum storage tank sites, but may also include corrective actions conducted under any environmental program administered by a state or by the federal government under RCRA; CERCLA; the Oil Spill Prevention and Response Act; 33 United States Code, Chapter 40, Subchapter I; and Texas Water Code, Chapter 26; or

(B) a written explanation of why the sworn statements required by subparagraph (A) of this paragraph are not available. An individual's experience, under the supervision of a licensed corrective action project manager, may be sufficient if the executive director determines that the individual had substantial involvement in the decision-making process during the project. The written explanation shall include a detailed description of three case histories of corrective action services performed by the individual during the previous 24 months;

(3) passed an approved examination;

(4) documented education and experience:

(A) an individual must have received a high school diploma or equivalent and a minimum of four years experience in corrective action services; or

(B) an individual must have received a bachelor's degree in the physical, natural, biological, or environmental sciences, engineering, applied geography, or a subject directly relevant to the environmental field, as approved by the executive director; and documented a minimum of two years' experience in corrective action services; and

(5) submitted a sworn statement from the applicant attesting to the accuracy of the information provided on the application.

§30.185. Qualifications for License Renewal.

To renew a license, an individual must:

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

(2) complete 16 hours of approved continuing education;

(3) with the exception of professional engineers and professional geoscientist, an application for renewal of a corrective action project manager license is complete when the executive director has received an application for renewal on a form provided by the executive director, completed in a manner acceptable to the executive director, and is accompanied with the required training certificate indicating 32 hours of continuing education; and payment of applicable fees specified

in §30.30 of this title (relating to Terms and Fees for Licenses).

§30.190. Qualifications for Initial Registration.

To obtain a corrective action specialist registration, a person must have:

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

(2) provided:

(A) proof of a comprehensive general liability insurance policy designating the commission as the certificate holder in an amount of not less than $1 million and of a type approved by the executive director; and

(B) a financial statement (balance sheet) prepared in conformity with accounting principles as defined by the American Institute of Public Accountants, documenting an applicant's current net worth of not less than $25,000; or a letter from a certified public accountant who is not employed by the applicant or does not receive payment from the applicant on a regular basis verifying that the applicant's current net worth is not less than $25,000;

(3) submitted a sworn statement from the applicant attesting to the accuracy of the information provided on the application;

(4) submitted an application fee of $150; and

(5) documented quality of performance including one of the following:

(A) sworn statements, on forms approved by the executive director, from at least three persons, not related by blood or marriage, for whom the applicant performed corrective action services, within the preceding 24 months. The statements shall attest to the applicant's job reliability and the client's satisfaction. The statements shall also include description of the type of corrective action services that were performed by the applicant and the physical address where the activity occurred. Applicable corrective action experience is not limited to experience gained at leaking petroleum storage tank sites, but may also include corrective actions conducted under any environmental program administered by a state or by the federal government under RCRA; CERCLA; the Oil Spill Prevention and Response Act; 33 United States Code, Chapter 40, Subchapter I; and Texas Water Code, Chapter 26. The executive director shall evaluate the explanation and case histories on a case-by-case basis; or

(B) a written explanation of why the applicant did not provide the sworn statements required by subparagraph (A) of this paragraph are not available. An applicant’s experience, under the supervision of a licensed corrective action project manager, may be sufficient if the executive

director determines that the individual had substantial involvement in the decision-making process during the project. The written explanation shall include a detailed description of three case histories of corrective action services performed by the individual during the previous 24 months. The executive director shall evaluate the explanation and case histories on a case-by-case basis.

§30.192. Qualifications for Registration Renewal.

To renew a registration, a person must:

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

(2) complete an application for registration renewal for a corrective action specialist approved by the executive director, certifying that the company has continued to meet the financial requirements of §30.190 of this title (relating to Qualifications for Initial Registration for Corrective Action Specialist); and pay a registration renewal fee of $150.

§30.195. Exemptions.

(a) An individual licensed to practice engineering by the Texas Board of Professional Engineers (TBPE), may become licensed as a corrective action project manager and is exempt from the requirements in this subchapter by submitting:

(1) an application form provided by the executive director;

(2) a signed written request;

(3) a copy of the license as a professional engineer; and

(4) a written statement from the TBPE that the applicant is currently licensed to practice engineering in the State of Texas and that the TBPE is not aware of any reason that the applicant is not qualified to perform corrective action. An engineer who obtains a license as a corrective action project manager in this manner is exempt from the requirements in this subchapter.

(b) A professional geoscientist licensed to engage in the public practice of geoscience in the State of Texas may become licensed as a corrective action project manager and is exempt from the requirements in this subchapter by submitting:

(1) an application form provided by the executive director;

(2) a signed written request;

(3) a copy of the license as a professional geoscientist; and

(4) a written statement from the Texas Board of Professional Geoscientists (TBPG) that the applicant is currently licensed to engage in the public practice of geoscience in the State of Texas and that the TBPG is not aware of any reason that the applicant is not qualified to perform corrective action. A geoscientist who obtains a license as a corrective action project manager in this manner is exempt from the requirements in this subchapter.

(c) The commission shall reserve the authority to pursue all appropriate enforcement actions, sanctions, and or penalties, in accordance with applicable law and rules if the TBPE or the TBPG does not pursue appropriate disciplinary or enforcement actions due to a lack of statutory or regulatory authority or jurisdiction, or for any other reason.

(d) A person does not have to have a license to perform corrective action services if the person claiming the exemption can show the corrective action was performed or offered to be performed at leaking petroleum storage tank (LPST) sites which are:

(1) completely exempt from regulation under §334.3(a) of this title (relating to Exemptions for Underground Storage Tanks (USTs) and UST Systems) or §334.123 of this title (relating to Exemptions for Aboveground Storage Tanks (ASTs)); or

(2) completely excluded from regulation under §334.4(a) of this title (relating to Exclusions for Underground Storage Tanks (USTs) and UST Systems) or §334.124 of this title (relating to Exclusions for Aboveground Storage Tanks (ASTs)).

(e) The requirements of this subchapter do not apply to corrective action specialists when the party claiming the exemption can show that corrective action services were completed on or before October 1, 1994. Any corrective action service started by a corrective action specialist on or after October 1, 1994, is subject to the requirements of this subchapter. Any corrective action service started by a corrective action specialist before October 1, 1994, which is still being performed on or after October 1, 1994, is subject to the requirements of Chapter 334 of this title (relating to Underground and Aboveground Storage Tanks).

(f) The requirements of this subchapter do not apply to corrective action project managers when the party claiming the exemption can show that corrective action services were completed on or before January 1, 1995. Any corrective action service started by a corrective action project manager on or after January 1, 1995, is subject to the requirements of this subchapter. Any corrective action service started by a corrective action project manager before January 1, 1995, which is still being performed on or after January 1, 1995, is subject to the requirements of this subchapter.

(g) The requirements of this subchapter do not apply to:

(1) installation, repair, and removal of USTs when the work is conducted and supervised by persons or entities registered or licensed in accordance with Subchapter I of this chapter (relating to Underground Storage Tank On-Site Supervisor Licensing and Contractor Registration); and

(2) the following activities, but only when such activities are performed as part of a UST permanent removal-from-service project conducted under the direct supervision of an on-site supervisor licensed to remove USTs under Chapter 213 of this title (relating to Edwards Aquifer), and further subject to all appropriate requirements and standards in this subchapter, including enforcement authority:

(A) subject to prior written commission approval, excavation of contaminated soil when necessary for corrective action at the LPST site of an amount not to exceed 300 cubic yards of compacted materials (390 cubic yards of uncompacted materials) beyond the backfill unless specific prior written authorization from the commission is granted for additional excavation yardage;

(B) sampling of the excavated materials described in subparagraph (A) of this paragraph, and the floor and walls of the area excavated as necessary to determine levels of contamination as required by Chapter 334, Subchapter C or D of this title (relating to Technical Standards; and Corrective Action and Release Reporting);

(C) passive aeration and necessary routine tilling and sampling of the excavated materials described in subparagraph (A) of this paragraph according to air program regulations; and

(D) lawful disposal of the excavated materials described in subparagraph (A) of this paragraph.

(h) The requirements of this subchapter do not apply to:

(1) providing alternate water supplies; or

(2) analyzing samples by a laboratory.

(i) The requirements of this subchapter do not apply to emergency abatement actions in compliance with §334.454 of this title (relating to Exception for Emergency Abatement Actions).

(j) The requirements of this subchapter do not apply to facilities which are authorized to store or treat petroleum-substance waste from more than one LPST site under the provisions of Chapter 334 of this title.

(k) The requirements of this subchapter do not apply to owners or operators, their direct employees, parent companies, or subsidiaries that on behalf of the owner or operator coordinate with, manage, or supervise corrective action specialists or corrective action project managers, or coordinate with the commission, or review the corrective action reports. The tank owners or operators, their direct employees, parent companies, or subsidiaries who conduct corrective action services are subject to all provisions of this subchapter.

SUBCHAPTER F: MUNICIPAL SOLID WASTE FACILITY SUPERVISORS

§§30.201, 30.207, 30.210, 30.212

STATUTORY AUTHORITY

The new sections are adopted under the authority granted to the commission by the Texas Legislature in TWC, Chapter 37. The new sections are also authorized under the general authority granted in TWC, §5.013, which establishes the general jurisdiction of the commission over other areas of responsibility as assigned to the commission under TWC and other laws of the state; TWC, §5.103 and §5.105, which authorize the commission to adopt rules and policies necessary to carry out its responsibilities and duties under the TWC, §5.013(15); and TWC, §7.002, which authorizes the commission to enforce provisions of TWC and THSC.

§30.201. Purpose and Applicability.

(a) The purpose of this section is to establish qualifications for issuing and renewing licenses to an individual who supervises or manages the operation of municipal solid waste facilities, or the collection or transportation of municipal solid waste.

(b) At least one individual who supervises or manages the operation of a municipal solid waste facility or the collection or transportation of municipal solid waste must meet the qualifications of this subchapter and be licensed according to Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations).

(c) The effective date for each facility to have a licensed supervisor is January 1, 2004. Letters of competency issued before the effective date of these rules shall remain in effect until their expiration date. At the time of renewal, letters of competency shall be replaced with a license.

§30.207. Definitions.

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

(1) **Experience** - Actual experience gained from participating as a principal operator, foreman, supervisor, or manager of a solid waste facility appropriate to the respective class of license or other solid waste management experience approved by the executive director.

(2) **Solid waste facility supervisor** - An individual who is trained in the practical aspects of the design, operation, maintenance, or supervision of a solid waste facility according to standards, rules, or orders established by the commission.

§30.210. Qualifications For Initial License.

(a) To obtain a license, an individual must have met the following requirements:

(1) Class A license:

(A) high school diploma or equivalent, five years' experience, and 120 hours of training credits; or

(B) eight years' experience and 120 hours of training credits; college credit hours obtained from an accredited institution may be substituted for experience on the basis of 30 hours of credit for one year of experience, up to a maximum of four years.

(2) Class B license:

(A) high school diploma or equivalent, four years' experience, and 80 hours of training credits; or

(B) six years' experience and 80 hours of training credits; college credit hours obtained from an accredited institution may be substituted for experience on the basis of 30 hours of credit for one year of experience, up to a maximum of three years.

(3) Class C license:

(A) high school diploma or equivalent, two years' experience, and 40 hours of training credits; or

(B) four years' experience and 40 hours of training credits; college credit hours obtained from an accredited institution may be substituted for experience on the basis of 30 hours of credit for one year of experience, up to a maximum of one year.

(4) Class D license:

(A) high school diploma or equivalent, two years' experience, and 40 hours of training credits; or

(B) four years' experience and 40 hours of training credits; or college credit hours obtained from an accredited institution may be substituted for experience on the basis of 30 hours of credit for one year of experience, up to a maximum of one year.

(5) Provisional letter. A provisional letter may be issued to an applicant who does not meet all of the requirements for a class A - D license. A provisional letter is not renewable. Before the expiration of the provisional letter, an applicant must complete any missing requirements for the corresponding license within the time specified by the executive director. A provisional letter shall require the same application fee and shall be issued for the same term as the corresponding license.

(A) An individual may be awarded a provisional letter in each class upon completing the required training credits (which includes passing an examination), completing six

months in a position equivalent to the applicable class of license, and possessing the minimum education requirements for that class; or

(B) An individual may be awarded a provisional letter after passing the examination in each class upon meeting the education and experience requirements of paragraphs (1) - (4) of this subsection, but lack the required training credits.

(b) An individual who engages in solid waste management activities and does not meet the education, training, or experience requirements established for a license or provisional letter, may be issued a solid waste facility supervisor in training letter after performing duties similar to those performed by a solid waste facility supervisor for six months or after enrolling in a training program to qualify for a license. The solid waste facility supervisor in training letter may be issued upon application and substantiation of these requirements. The letter is nonrenewable and expires on the day before the anniversary of the date the letter was awarded. The executive director shall evaluate the duties performed by the applicant to determine if the duties are similar.

§30.212. Qualifications For License Renewal.

To renew a license, an individual must have:

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

(2) completed the following hours of continuing education:

(A) Class A - 20 hours;

(B) Class B - 16 hours;

(C) Class C - 12 hours;

(D) Class D - 12 hours.

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

§§30.231, 30.237, 30.240, 30.242, 30.244 - 30.246

STATUTORY AUTHORITY

The new sections are adopted under the authority granted to the commission by the Texas Legislature in TWC, Chapter 37. The new sections are also authorized under the general authority granted in TWC, §5.013, which establishes the general jurisdiction of the commission over other areas of responsibility as assigned to the commission under TWC and other laws of the state; TWC, §5.103 and §5.105, which authorize the commission to adopt rules and policies necessary to carry out its responsibilities and duties under TWC, §5.013(15); and TWC, §7.002, which authorized the commission to enforce provisions of TWC and THSC.

§30.231. Purpose and Applicability.

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

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

(2) performs the duties of a designated representative;

(3) performs the duties of a site evaluator; or

(4) performs the duties of an apprentice.

(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 exempt under §30.244 of this title (relating to Exemptions), and must comply with the requirements of Chapter 285 of this title (relating to On-Site Sewage Facilities).

(c) Licenses, registrations, and certificates of registrations issued prior to January 1, 2002, remain in effect until they expire, or are replaced or revoked by the commission.

§30.237. Definitions.

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

(1) **Alter** - To change an on-site sewage facility (OSSF) resulting in:

(A) an increase in the volume of permitted flow;

(B) a change in the nature of permitted influent;

(C) a change from the planning materials approved by the permitting authority;

(D) a change in construction; or

(E) an increase, lengthening, or expansion of the treatment or disposal system.

(2) **Apprentice -** An individual who has been properly registered with the executive director according to this chapter, and is undertaking a training program under the direct supervision of a licensed installer.

(3) **Authorized agent -** A local governmental entity that has been delegated the authority by the executive director to implement and enforce the rules adopted under Texas Health and Safety Code, Chapter 366.

(4) **Construct** - To engage in any activity related to the installation, alteration, extension, or repair of an OSSF, including all activities from disturbing the soils through connecting the system to the building or property served by the OSSF. Activities relating to a site evaluation are not considered construction.

(5) **Designated representative** - An individual who holds a valid license issued by the executive director according to this chapter, and who is designated by the authorized agent to review permit applications, site evaluations, or planning materials, or conduct inspections on OSSFs.

(6) **Extend -** To alter an OSSF resulting in an increase in capacity, lengthening, or expansion of the existing treatment or disposal system.

(7) **Install** - To put in place or construct any portion of an OSSF.

(8) **Installer** - An individual who is compensated by another to construct an OSSF.

(9) **Repair** - To replace any components of an OSSF in situations not included under emergency repairs according to §285.35 of this title (relating to Emergency Repairs), excluding maintenance. The replacement of tanks or drainfields is considered a repair and requires a permit for the entire OSSF system.

(10) **Site evaluator** - An individual who holds a valid license issued by the executive director according to this chapter and who conducts preconstruction site evaluations, including visiting a site and performing soil analysis, a site survey, or other activities necessary to determine the suitability of a site for an OSSF. A professional engineer may perform site evaluations without obtaining a site evaluator license.

§30.240. Qualifications for Initial License.

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

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

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

(3) passed the Installer I examination.

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

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

(2) met one of the following requirements:

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

(B) held an Installer I license for six months and possessed an apprentice registration for at least one year before June 13, 2001;

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

(D) previously possessed an Installer II license;

(3) completed the Installer II basic training course;

(4) passed the Installer II examination; and

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

(A) verified experience as an Installer I. The individual shall submit either:

(i) sworn statements from at least three individuals for whom the applicant performed construction services, statements cannot be provided by individuals related to the applicant or applicant’s spouse, such as a child, grandchild, parent, sister, brother, or grandparent;

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

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

(B) verified experience as an apprentice. An individual shall submit either:

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

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

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

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

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

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

(3) passed the designated representative examination.

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

(1) met the requirements of Subchapter A of this chapter and §30.246 of this title (relating to Application for Site Evaluator); and

(2) met the following requirements:

(A) complete the site evaluator basic training course;

(B) pass the site evaluator examination;

(C) possess a current Installer II license, designated representative license, professional engineer license, professional sanitarian license, or a certified professional soil scientist certificate; and

(D) have at least two years of verified experience as an Installer II, designated representative, professional engineer, certified professional soil scientist, or professional sanitarian. Applicants for a site evaluator license must submit statements attesting to the individual's OSSF work experience. The statements shall include a description of the type of OSSF work that was performed by the individual and the physical addresses where the activity occurred or for where the activity was

proposed. The experience shall be actual work accomplished under the license specified in subparagraph (C) of this paragraph during the time frames required. The number of systems will not substitute for the time required. The statements must be:

(i) sworn statements from at least six individuals for whom the applicant performed OSSF services. Statements cannot be provided by individuals related to the applicant or applicant's spouse, such as a child, grandchild, parent, sister, brother, or grandparent;

(ii) a sworn statement from a designated representative who has approved a minimum of six installations performed by the individual, reviewed six site evaluations performed by the individual before September 1, 2002, or approved six sets of planning materials submitted by the individual; or

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

§30.242. Qualifications for License Renewal.

(a) To renew an Installer I, Installer II, or designated representative license, issued after January 1, 2002, an individual must have:

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

(2) completed a minimum of 16 hours of approved continuing education.

(b) In addition to the requirements in subsection (a) of this section, an individual renewing a license for site evaluator shall demonstrate possession of the current license specified in §30.240(d)(4)(C) of this title (relating to Qualifications for Initial License).

§30.244. Exemptions.

(a) The individual owner of a single family dwelling is not required to be a licensed installer in order to install or repair an on-site sewage facility (OSSF) on the owner's property. This provision does not apply to developers or to those that develop property for sale or lease. If the owner compensates a person to construct any portion of an OSSF, the individual performing the work must be a licensed installer. The owner must meet all permitting, construction, and maintenance requirements of the permitting authority. The owner must have the site evaluation performed by an individual who possesses either a current site evaluator or a professional engineer license.

(b) A licensed electrician who installs the electrical components, or a person who delivers a treatment or pump tank and sets the tank or tanks into an excavation, is not required to have an installer license.

(c) An individual holding a current professional engineer license is not required to possess a site evaluator license.

§30.245. Registration of Apprentices.

(a) General. An individual who begins an apprentice program under the supervision of a licensed installer shall be registered with the executive director.

(b) Application. The completed application and a $50 fee must be submitted to the executive director by a licensed installer for each individual being registered as an apprentice under that installer's supervision. The application shall be on a form approved by the executive director.

(c) Notification. Within 45 days after the date the executive director receives the application, the executive director will notify the supervising installer in writing of whether the individual has been registered as an apprentice. The apprentice's registration will be effective when the executive director receives the completed apprentice application and fee. An individual's application may be denied according to §30.33 of this title (relating to License or Registration Denial, Warning, Suspension, or Revocation).

(d) Expiration or termination. The apprentice registration will expire on the same date as the supervising installer's license. Either the supervising installer or the apprentice may terminate the apprentice training program by providing written notice to the executive director. No reason for

termination is required. Upon receipt of a letter stating that the apprentice training has been terminated, the executive director shall terminate the apprentice's registration under the supervising installer.

(e) Renewal. It is the responsibility of the supervising installer to renew all of the registrations of his apprentices. If an apprentice registration is renewed late, the apprentice will be assigned a new registration date, but will not lose any experience gained under the previous registration.

§30.246. Application for Site Evaluator.

(a) The executive director shall mail an application to the most recent address provided to the executive director at least 60 days before September 1, 2002, to:

(1) all individuals who have previously held a site evaluator license; and

(2) all individuals who have previously taken the site evaluator basic training course and passed the site evaluator examination, but did not hold a site evaluator license.

(b) An individual who previously held a site evaluator license shall submit the application, application fee, and documentation of a current license specified in §30.240(d)(2)(C) of this title (relating to Qualifications for Initial License). The application shall be processed as follows.

(1) Licenses with odd license numbers shall be for a term of one year or less and shall

have an expiration date of the last day of the month the license was first issued. The application fee shall be prorated if the term is less than one year.

(A) To renew at the time of the first renewal, the individual must have:

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

(ii) demonstrated completion of at least eight hours of approved continuing education training; and

(iii) demonstrated possession of a current license as required in §30.240(d)(4)(C) of this title.

(B) If the individual meets the requirements in subparagraph (A) of this paragraph, the license will be renewed for two years according to the requirements of §30.242 of this title (relating to Qualifications for License Renewal).

(2) Licenses with even license numbers shall be for a term of up to two years, but more than one year, and shall have an expiration date of the last day of the month of the first issue date. The application fee shall be prorated if the term is less than two years. At each subsequent renewal, the individual must meet the requirements in §30.242 of this title.

(c) An individual who has previously taken the site evaluator basic training course and passed the site evaluator examination, but did not hold a site evaluator license, shall submit the application, the required statements for experience, the application fee, and must hold the current license specified in §30.240(d)(2)(C) of this title.

(1) If the individual meets the qualifications of §30.240(d)(4) of this title, the license will be issued for a term of up to two years, but more than one year, and shall have an expiration date of the last day of the month of the date the site evaluator examination was passed.

(2) The application fee shall be prorated if the term is less than two years.

(3) The license shall be renewed for two years according to the requirements in §30.242 of this title.

(d) An individual who begins the process to become eligible for a site evaluator license after September 1, 2002, shall meet the requirements of §30.240(d)(2) of this title.

(e) An individual holding a current professional engineer license is not required to possess a site evaluator license to perform site evaluations. However, an individual who holds a current professional engineer license may obtain a site evaluator license by complying with the requirements in this subchapter.

SUBCHAPTER H: WATER TREATMENT SPECIALISTS

§§30.261, 30.267, 30.270, 30.272, 30.274, 30.279

STATUTORY AUTHORITY

The new sections are adopted under the authority granted to the commission by the Texas Legislature in TWC, Chapter 37. The new sections are also authorized under the general authority granted in TWC, §5.013, which establishes the general jurisdiction of the commission over other areas of responsibility as assigned to the commission under TWC and other laws of the state; TWC, §5.103 and §5.105, which authorize the commission to adopt rules and policies necessary to carry out its responsibilities and duties under TWC, §5.013(15); and TWC, §7.002, which authorizes the commission to enforce provisions of TWC and THSC.

§30.261. Purpose and Applicability.

(a) The purpose of this section is to establish qualifications for issuing and renewing licenses to an individual who installs and repairs water treatment equipment.

(b) An individual who installs, repairs, or services water treatment equipment under contract must meet the qualifications of this subchapter and be licensed according to Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations).

(c) Licenses issued before January 1, 2002, remain in effect until they expire, or are replaced or revoked by the commission.

§30.267. Definitions.

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

(1) **Installation of water treatment appliances -** Includes connecting the appliances to all necessary utility connections in residential, commercial, or industrial facilities.

(2) **Water treatment** - A business conducted under contract that requires the interpretation of analysis of water samples, including the ability to determine how to treat influent or effluent water, alter or purify water, or add or remove a mineral, chemical, or bacteriological content or substance. The term also includes the installation, exchange, connection, maintenance, service, and repair of potable water treatment equipment and appliances in public or private water systems.

(3) **Water treatment equipment** - Appliances used to alter or purify water or to alter a mineral, or bacteriological content, or substance.

(4) **Water treatment specialist** - A person who is licensed under this chapter to perform water treatment on a contract basis.

§30.270. Qualifications for Initial License.

To obtain a license, an individual must have:

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

(2) met the following requirements:

Figure: 30 TAC §30.270(2)

License	*Minimum Working Experience*	*Education*	*Approved Training*
Class 1	none	less than high school	none
Class 2	if 3 years	less than high school	basic course
	if 2 years	high school or GED	basic course
	if 1 year	1 year college	basic course
Class 3	if 3 years	high school or GED	basic and advanced courses
	if 2 years	2 years college	basic and advanced courses
	if 1 year	college degree	basic and advanced courses

§30.272. Qualifications for License Renewal.

To renew a license, an individual must have:

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

(2) completed approved continuing education classes:

(A) Class 1 - 12 hours of continuing education;

(B) Class 2 - 12 hours of continuing education;

(C) Class 3 - 12 hours of continuing education.

§30.274. Classification of Licenses.

(a) Class 1 - Individuals issued this license must work under the supervision of an individual holding a higher class license, the local plumbing inspector, or a health official having jurisdiction where the work is performed. Class 1 work is restricted to the following activities:

(1) exchange and regeneration of portable tanks;

(2) regeneration of nonportable tanks; or

(3) other tasks which may be assigned by the supervisor and for which direct supervision is provided.

(b) Class 2 - Individuals issued this license shall have demonstrated a practical working knowledge of the mechanics and servicing principles of water conditioners, and are deemed able to perform water treatment installations, exchanges, services, or repairs of equipment. Holders of this class license are considered to be aware of the public health requirements connected with their activities. Work on reverse osmosis and deionization equipment is specifically excluded unless performed under the supervision of an individual holding a higher class license.

(c) Class 3 - Individuals issued this license meet minimum standards of qualifications established for the installation, exchange, servicing, and repair of water treatment equipment and appliances, including reverse osmosis and deionization equipment.

§30.279. Exemptions.

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

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

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

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

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

§§30.301, 30.307, 30.310, 30.312, 30.315, 30.317 - 30.319

STATUTORY AUTHORITY

The new sections are adopted under the authority granted to the commission by the Texas Legislature in TWC, Chapter 37. The new sections are also authorized under the general authority granted in TWC, §5.013, which establishes the general jurisdiction of the commission over other areas of responsibility as assigned to the commission under TWC and other laws of the state; TWC, §5.103 and §5.105, which authorize the commission to adopt rules and policies necessary to carry out its responsibilities and duties under TWC, §5.013(15); and TWC, §7.002, which authorizes the commission to enforce provisions of TWC and THSC.

§30.301. Purpose and Applicability.

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

(1) licenses to individuals who supervise the installation, repair, or removal of an underground storage tank (UST); and

(2) registrations to persons that offer to undertake, represent themselves as being able to undertake, or undertake the installation, repair, or removal of a UST.

(b) A person that performs any of the tasks listed in subsection (a) of this section must meet the qualifications of this subchapter, and be licensed or registered according to Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations), unless exempt under §30.319 of this title (relating to Exemptions), and must comply with the requirements in Chapter 334 of this title (relating to Underground and Aboveground Storage Tanks).

(c) Licenses and certificates of registrations issued before January 1, 2002, remain in effect until they expire, or are replaced or revoked by the commission.

§30.307. Definitions.

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

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

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

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

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

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

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

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

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

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

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

(C) connecting piping systems to the tank;

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

(E) completing backfill and filling the excavation;

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

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

(H) anytime during the removal of the UST.

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

(5) **Installation** - The installation of USTs and ancillary equipment, including, but not limited to, the following activities:

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

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

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

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

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

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

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

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

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

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

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

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

(6) **On-site supervisor** - An individual who supervises the installation, repair, or removal of a UST in the State of Texas, and who meets the licensing requirements of this subchapter for one of the following licenses:

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

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

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

(7) **Removal** - Permanent removal of a UST from service as defined in §334.2 of this title (relating to Definitions) conducted according to §334.55 of this title (relating to Permanent Removal from Service).

(8) **Repair** - The modification or correction of a UST and ancillary equipment. The term does not include:

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

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

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

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

(E) performing minor maintenance on ancillary aboveground equipment.

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

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

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

§30.310. Qualifications for Initial License.

(a) An individual applying for an on-site supervisor license must apply for either a License A, License B, or for a License A and B combination. To obtain an on-site supervisor license, an individual must:

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

(2) be at least 18 years of age;

(3) document at least two years of active experience in installation, repair, or removal of underground storage tanks (USTs), underground utilities, or other engineering construction;

(4) submit sworn statements, on forms approved by the executive director, from at least four persons (three from clients not related by blood or marriage and one from a current or previous employer, or employer's representative) who have engaged the applicant or the applicant's employer within the previous 24 months to perform: UST installations, repairs, or removals; underground utility construction; or engineering construction. These statements shall attest to the applicant's character, knowledge of construction, and ability to supervise the construction activity. Such statements shall also include a description of the type of construction performed by the applicant;

(5) submit a sworn statement by the applicant as to the authenticity of the information provided on the application;

(6) submit, before the examination, certificates of completion for one of the following:

(A) for License A - 28 hours of training and education courses in the installation and repair of USTs;

(B) for License B - 12 hours of training and education courses in the removal of USTs; or

(C) for License A and B combination - 40 hours of training and education courses in the installation, repair, and removal of USTs; and

(7) pass the appropriate licensing examination.

(b) Individuals with a License A or License B may upgrade to a License A and B combination by submitting a new application with the required fee, completing the required initial training, and passing the examination.

§30.312. Qualifications for License Renewal.

To renew an on-site supervisor license issued after January 1, 2002, an individual must have:

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

(2) completed eight hours of approved continuing education for each license held.

§30.315. Qualifications for Initial Registration.

To obtain an underground storage tank (UST) contractor registration, a person must have:

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

(2) provided:

(A) proof of commercial liability insurance designating the commission as the certificate holder in an amount of not less than $1 million and of a type approved by the executive director; and

(B) a financial statement (balance sheet) prepared in conformity with accounting principles as defined by the American Institute of Public Accountants, documenting an applicant's current net worth of not less than $25,000; or a letter from a certified public accountant who is not employed by the applicant or does not receive payment from the applicant on a regular basis verifying that the applicant’s current net worth is not less that $25,000;

(3) submitted a sworn statement from the applicant attesting to the accuracy of the information provided on the application;

(4) submitted an application fee of $150; and

(5) provided documentation of quality of performance including one of the following:

(A) sworn statements, on forms approved by the executive director, from at least three persons, not related by blood or marriage, who have engaged the applicant within the previous 12 months to perform: UST installations, repairs, or removals; underground utility construction; or engineering construction. These statements shall attest to the applicant's business integrity and quality of performance. Such statements shall also include a description of the type of construction performed by the applicant; or

(B) a written explanation indicating the reason the applicant did not provide the sworn statements required in subparagraph (A) of this paragraph and a detailed description of at least

three case histories of typical UST construction activities performed by the applicant during the previous 12 months. The executive director shall evaluate the explanation and case histories on a case-by-case basis.

§30.317. Qualifications for Registration Renewal.

To renew an underground storage tank (UST) contractor registration, issued after January 1, 2002, a person must have:

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

(2) certified that the UST contractor has commercial liability insurance designating the commission as the certificate holder in an amount of not less than $1 million and of a type approved by the executive director;

(3) certified that the UST contractor has a net worth of not less than $25,000; and

(4) submitted a renewal fee of $150.

§30.318. Renewal of Licenses and Registrations Issued before the Effective Date of these Rules.

(a) Licenses with odd license numbers shall be initially renewed for one year.

(1) To renew for the first-year (transitional year), an on-site supervisor must have met the requirements in Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations).

(2) At the end of the transitional year, the next renewal shall be for two years. To renew at the end of the transitional year and for all following renewals, an on-site supervisor must have:

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

(B) completed eight hours of approved continuing education for each license held.

(b) Licenses with even license numbers shall be renewed for two years. To renew for the first two years and for all following renewals, an on-site supervisor must have:

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

(2) completed eight hours of approved continuing education for each license held.

(c) Registrations with odd license numbers shall be initially renewed for one year.

(1) To renew for the first-year (transitional year), an underground storage tank (UST) contractor must have:

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

(B) certified that the UST contractor has maintained commercial liability insurance designating the commission as the certificate holder in an amount of not less than $1 million and of a type approved by the executive director;

(C) certified that the UST contractor has maintained a net worth of not less than $25,000; and

(D) submitted a renewal fee of $75.

(2) At the end of the transitional year, the next renewal shall be for two years. To renew at the end of the transitional year and for all following renewals, a UST contractor must have:

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

(B) certified that the UST contractor has maintained commercial liability insurance designating the commission as the certificate holder in an amount of not less than $1 million and of a type approved by the executive director;

(C) certified that the UST contractor has maintained a net worth of not less than $25,000; and

(D) submitted a renewal fee of $150.

(d) Registrations with even registration numbers shall be renewed for two years. To renew for the first two years and for all following renewals, a UST contractor must have:

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

(2) certified that the UST contractor has maintained commercial liability insurance designating the commission as the certificate holder in an amount of not less than $1 million and of a type approved by the executive director;

(3) certified that the UST contractor has maintained a net worth of not less than $25,000; and

(4) submitted a renewal fee of $150.

§30.319. Exemptions.

(a) A license is not required for an on-site supervisor who installs, repairs, or removes underground storage tank (UST) systems when such systems are completely exempt from regulation under §334.3(a) of this title (relating to Statutory Exemptions) or completely excluded from regulation under §334.4(a) of this title (relating to Commission Exclusions). An on-site supervisor who installs, repairs, or removes UST systems regulated under Chapter 213 of this title (relating to Edwards Aquifer) are not exempt from the licensing requirements of this subchapter.

(b) A license is not required for an individual who assists with the installation, repair, or removal of UST systems and is under the direct, on-site supervision of a licensed on-site supervisor.

(c) A registration is not required for a person that installs, repairs, or removes UST systems that are completely exempt from regulation under §334.3(a) of this title, or completely excluded from regulation under §334.4(a) of this title. A person that installs, repairs, or removes UST systems regulated under Chapter 213 of this title is not exempt from the contractor registration requirements of this subchapter.

SUBCHAPTER J: WASTEWATER OPERATORS AND OPERATIONS COMPANIES

§§30.331, 30.337, 30.340, 30.342, 30.346, 30.348 - 30.350, 30.355

SUBCHAPTER J: WASTEWATER OPERATORS AND OPERATIONS COMPANIES

§§30.331, 30.337, 30.340, 30.342, 30.346, 30.348 - 30.350, 30.355

STATUTORY AUTHORITY

The new sections are adopted under the authority granted to the commission by the Texas Legislature in TWC, Chapter 37. The new sections are also authorized under the general authority granted in TWC, §5.013, which establishes the general jurisdiction of the commission over other areas of responsibility as assigned to the commission under TWC and other laws of the state; TWC, §5.103 and §5.105, which authorize the commission to adopt rules and policies necessary to carry out its responsibilities and duties under TWC, §5.013(15); and TWC, §7.002, which authorizes the commission to enforce provisions of TWC and THSC.

§30.331. Purpose and Applicability.

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

(1) domestic wastewater treatment facility operators;

(2) wastewater collection system operators; and

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

(b) Persons that operate, assist in the operation, or contract to operate domestic wastewater treatment facilities or supervise wastewater collection activities, other than an operator-in-training, must be licensed or registered and meet the qualifications of this subchapter and Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations); and must comply with the requirements in Chapter 317 of this title (relating to Design Criteria for Sewerage Systems), and all other applicable rules under the jurisdiction of this commission.

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

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

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

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

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

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

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

§30.337. Definitions.

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

(1) **Chief operator** - The licensed operator with overall responsibility for the operation of a wastewater treatment facility.

(2) **Designated courses** - Courses or their equivalent which are required to obtain a wastewater operator license.

(3) **Domestic wastewater** - Waste and wastewater from humans or household operations that are discharged to a wastewater collection system or otherwise enters a wastewater facility.

(4) **Honorary license -** License converted from a perpetual license which has been discontinued by the commission.

(5) **Operator-in-charge** - Licensed operator who has been charged with the on-site supervision and operation of the wastewater facility in the absence of the chief operator.

(6) **Operator-in-training** - An individual entering the field of wastewater treatment or collection for the first time who has less than one year of experience and is in training to operate a wastewater treatment facility, or supervise a wastewater collection system.

(7) **Wastewater collection system** - Lines, manholes, pumps, pumping stations, and other components necessary to collect and transport domestic wastewater.

(8) **Wastewater collection system operator** - Any individual, in active field supervision, who provides frequent on-site inspection and supervision of wastewater collection system operation or maintenance activities.

(9) **Wastewater disposal permit** - A domestic wastewater disposal permit issued by the commission in accordance with Texas Water Code, Chapter 26.

(10) **Wastewater treatment facility** - Any facility installed for the purpose of treating, neutralizing, or stabilizing wastewater, the operation of which requires a wastewater disposal permit from the commission.

(11) **Wastewater system operations company** - Any person or other nongovernmental entity that provides operations services, on a contract basis, to one or more wastewater treatment facilities or collection systems.

(12) **Wastewater treatment facility operator** - An individual who performs process control tasks at a wastewater treatment facility.

(13) **Work experience** - The actual performance of job tasks in domestic wastewater, considered essential for the treatment or collection of domestic wastewater.

§30.340. Qualifications for Initial License.

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

Figure: 30 TAC §30.340(a)

License	**Education**	**Required Work Experience**	**Required Training**
Class D or Class I	High School diploma (HSD) or Equivalent	0	20 hours
Class C or Class II	HSD or equivalent	2 years	60 hours
Class B or Class III	Bachelors HSD or equivalent	2½ years 5 years	100 hours 100 hours
Class A	Masters Bachelors HSD or equivalent	4 years 5 years 8 years	160 hours 160 hours 160 hours

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

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

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

(e) For applicants with a high school diploma or equivalent, 32 semester hours of college or an additional 40 hours of training credits may be substituted for one year of the experience requirement. The maximum years allowed for substitution are as follows:

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

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

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

Figure: 30 TAC §30.340(f)

License	**Required Courses**	**Elective Courses**
Class D	Basic Wastewater Operation	None
Class C	Basic Wastewater Operation Wastewater Treatment plus one elective course	Wastewater Collection Wastewater Laboratory Water Utility Calculations Water Utility Safety
Class B	Wastewater Treatment Wastewater Collection Wastewater Laboratory Water Utility Safety plus one elective course	Water Utility Calculations Water Utility Management Advanced Wastewater Laboratory
Class A	Wastewater Treatment Wastewater Collection Wastewater Laboratory Water Utility Management Water Utility Safety plus one elective course	Water Utility Calculations Advanced Wastewater Laboratory Wastewater Technology Advanced Management
Class I	Wastewater Collection	None
Class II	Basic Wastewater Operation Wastewater Collection plus one elective course	Water Utility Safety Pump and Motor Maintenance
Class III	Basic Wastewater Operation Wastewater Collection Water Utility Safety Pump and Motor Maintenance plus one elective course	Water Utility Management Water Utility Calculations Pre-treatment Facility Inspection

(g) An individual who previously held a Class D license may not apply for a new Class D license if the individual currently operates any activated sludge type facilities; or any trickling filter or rotating biological contactor facilities with a permitted daily average flow of 100,000 gallons per day or greater. A trickling filter or rotating biological contactor is a secondary aerobic process that uses microbiological organisms attached to a fixed substrate.

§30.342. Qualifications for License Renewal.

(a) To renew a license, an individual must have:

(1) met the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations) and completed ten hours of approved continuing education per year the license is valid; or

(2) met the requirements of Subchapter A of this chapter and passed the examination for the license.

(b) The basic wastewater operation course may not be used to renew a Class B or A license.

(c) Class D licenses are not renewable for operators of:

(1) any activated sludge type facilities; or

(2) any trickling filter or rotating biological contractor (RBC) facilities with a permitted daily average flow of 100,000 gallons per day or greater. A trickling filter or RBC facility is a facility that uses secondary aerobic biological processes for treatment of sewage.

(d) To renew an active converted perpetual license, an individual must have met the requirements of this section, with the exception of the renewal fee.

§30.346. Qualifications for Initial Registration.

To obtain a registration, a person must meet the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations).

§30.348. Qualifications for Registration Renewal.

To renew a registration a person must meet the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations).

§30.349. Registration Fees.

The two-year registration fee is based on the number of facilities served:

Figure: 30 TAC §30.349

Number of Facilities Served	Fee
0 - 4	$75
5 - 9	$150
10 - 19	$250
20 or more	$400

§30.350. Classification of Wastewater Treatment Facilities, Wastewater Collection Systems, and Licenses Required.

(a) Operators of remote or mobile sludge processing facilities are required to hold a valid Class D or higher license.

(b) Operators of domestic wastewater treatment facilities owned and located on industrial sites which are regulated by industrial-type wastewater disposal permits are required to be licensed. This is required only if the point of discharge is separate from any other industrial outfalls and the domestic wastewater is not mixed with other industrial wastewater before discharge.

(c) An individual first entering the field of wastewater treatment or collection may be employed as an operator-in-training for a period up to one year. An operator-in-training must work in the presence of a licensed operator during this time.

(d) Each holder of a wastewater disposal permit for a wastewater treatment facility shall employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration.

(e) Domestic wastewater treatment facilities shall be classified in accordance with the following criteria.

Figure: 30 TAC §30.350(e)

Treatment System	Permitted Daily Average Flow	Category
No Discharge Treatment Systems	All Flows	D
Pond Systems Preceded by Imhoff Tanks, Primary Clarifiers, or Facultative Lagoons	1.0 million gallons per day (MGD) or less	D
	Greater than 1.0 MGD	C
Activated Sludge (Extended Aeration Mode) and Oxidation Ditch Systems	0.10 MGD or less	D
	Greater than 0.10 MGD to 1.0 MGD	C
	Greater than 1.0 MGD to 10.0 MGD	B
	Greater than 10.0 MGD	A
Activated Sludge (Modes other than Extended Aeration)	0.050 MGD or less	D
	Greater than 0.050 MGD to 1.0 MGD	C
	Greater than 1.0 MGD to 10.0 MGD	B
	Greater than 10.0 MGD	A
Trickling Filter, Rotating Biological Contactor, or other Fixed Film Processes	0.50 MGD or less	D
	Greater than 0.50 MGD to 2.0 MGD	C
	Greater than 2.0 MGD to 10.0 MGD	B
	Greater than 10.0 MGD	A

(f) Category D wastewater treatment facilities shall be reclassified as Category C facilities if any of the following conditions exist:

(1) a Category D facility incorporating anaerobic sludge digestion, except Imhoff tanks with sludge drawn off to drying beds;

(2) a Category D facility whose permit requires nutrient reduction; or

(3) a Category D facility whose permit requires the final effluent to meet a daily average biochemical oxygen demand$_5$ or total suspended solids concentration less than ten milligrams per liter.

(g) A wastewater treatment facility having a combination of treatment processes which are in different categories shall be assigned the higher category.

(h) The executive director may increase the treatment facility classification for facilities which include unusually complex processes or present unusual operation or maintenance conditions.

(i) The chief operator of each wastewater treatment facility must possess a license equal to or higher than that of the category of treatment facility.

(j) Each category of facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher. The licensed chief operator or operator holding the required level of license or higher must be available by telephone or pager seven days per week.

(k) Where shift operation of the wastewater treatment facility is necessary, each shift which does not have the on-site supervision of the licensed chief operator must be supervised by an operator in charge who is licensed at not less than one level below the category of the facility.

(l) Either the licensed chief operator or licensed operator in charge must be present for scheduled commission inspections.

(m) A licensed wastewater treatment facility operator may perform all duties relating to the operation and maintenance of both wastewater treatment facilities and wastewater collection systems. It is not necessary to hold both types of licenses. A licensed collection system operator may perform only those duties relating to the operation and maintenance of wastewater collection systems.

(n) Each classified wastewater collection system must have at least one licensed operator who holds a license class equal to or higher than that category of system. Wastewater collection systems shall be classified as follows.

Figure: 30 TAC §30.350(n)

Category of Collection System	**Daily Average Flow**	**Minimum Class of Operator Required**
Category I	Less than 100,000 gallons per day (gpd)	Class I or Class D
Category II	100,000 gpd to 1 million gallons per day (MGD)	Class II or Class C
Category III	Over 1 MGD	Class III or Class B

§30.355. Additional Requirements for Wastewater Operations Companies.

(a) Every wastewater system operations company must submit an annual report to the executive director within one year and 30 days after issuance or renewal of the registration. The report shall include for each wastewater treatment facility or wastewater collection system:

(1) name, location, and mailing address;

(2) permittee's name and mailing addresses;

(3) commission permit number, if applicable;

(4) dates of operation during the reporting year;

(5) names of all operators employed by the operations company, including their mailing addresses, license classes, license numbers, and the name of each wastewater treatment facility or wastewater collection system for which the operators work or have worked;

(6) licensed chief operator for each facility; and

(7) any additional information required by the executive director.

(b) The information in subsection (c) of this section must be submitted with any application for a new or renewal registration, along with the appropriate fee.

(c) If a company is bought or sold and a name change occurs, the company must apply for a new registration.

(d) Once a year, political subdivisions that contract to operate wastewater systems must report to the commission the information required by subsection (a) of this section.

SUBCHAPTER K: PUBLIC WATER SYSTEM OPERATORS AND OPERATIONS COMPANIES

§§30.381, 30.387, 30.390, 30.392, 30.396, 30.398 - 30.400, 30.402

STATUTORY AUTHORITY

The new sections are adopted under the authority granted to the commission by the Texas Legislature in TWC, Chapter 37. The new sections are also authorized under the general authority granted in TWC, §5.013, which establishes the general jurisdiction of the commission over other areas of responsibility as assigned to the commission under TWC and other laws of the state; TWC, §5.103 and §5.105, which authorize the commission to adopt rules and policies necessary to carry out its responsibilities and duties under TWC, §5.013(15); and TWC, §7.002, which authorizes the commission to enforce provisions of TWC and THSC.

§30.381. Purpose and Applicability.

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

(1) public water system operators who perform process control duties in production or distribution of drinking water; and

(2) operations companies that operate public water systems on a contract basis.

(b) A person who performs any of the tasks listed in subsection (a) of this section must meet the qualifications of this subchapter and be licensed or registered according to Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations), unless exempt under §30.402 of this title (relating to Exemptions); and must comply with the requirements in Chapter 290 of this title (relating to Public Drinking Water).

(c) Public water system licenses, certificates of competency, and registrations issued before January 1, 2002, remain in effect until they expire, or are replaced, or revoked by the commission.

(d) Renewable Class D licenses, previously issued to individuals who do not possess a high school diploma or equivalent, may be renewed according to §30.392 of this title (relating to Qualifications for License Renewal).

(e) An individual issued a license under this subchapter must perform adequate process control duties as recognized by current best management practices.

(f) An individual who has an honorary license shall not perform process control duties in production or distribution of drinking water for a public water system.

§30.387. Definitions.

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

(1) **Chief operator** - An individual who has overall responsibility for the operation of a public water system.

(2) **Honorary license** - License converted from a perpetual license that has been discontinued by the commission.

(3) **Operator-in-charge** - An individual who has overall responsibility for the operation of a public water system in the absence of the chief operator.

(4) **Operator-in-training** - An individual entering the field of public water system operation for the first time who has less than one year of experience and is in training to perform process control duties in production or distribution of public drinking water.

(5) **Process control duties** - Activities that directly affect the potability of public drinking water, including: making decisions regarding the day-to-day operations and maintenance of public water system production and distribution; maintaining system pressures; determining the adequacy of disinfection and disinfection procedures; taking routine microbiological samples; taking

chlorine residuals and microbiological samples after repairs or installation of lines or appurtenances; and operating chemical feed systems, filtration, disinfection, or pressure maintenance equipment; or performing other duties approved by the executive director.

(6) **Public water system operations company** - A person or other nongovernmental entity that provides operations services to one or more public water systems on a contract basis.

(7) **Public water system operator** - Licensed operator who performs process control duties in production or distribution of drinking water.

§30.390. Qualifications for Initial License.

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

Figure: 30 TAC §30.390(a)

License	Education	Work Experience	Training Credits
Class D	High School Diploma (HSD) or equivalent	None	20 hours
Class C, Distribution, Groundwater, Surface water	HSD or equivalent	2 years	60 hours
Class B, Distribution and Groundwater	Bachelors HSD or equivalent	2 ½ years 5 years	100 hours 100 hours
Class B, Surface water	Bachelors HSD or equivalent	2 ½ years 5 years	100 hours 100 hours Effective January 1, 2003, 120 hours of training are required.
Class A	Masters Bachelors HSD or equivalent	4 years 5 years 8 years	160 hours 160 hours 160 hours

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

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

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

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

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

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

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

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

(e) Individuals with only a high school diploma or equivalent may substitute college credits or additional approved training for work experience.

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

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

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

Figure: 30 TAC §30.390(f)

License	Required Training Courses	Elective Training Courses
Class D	Basic Waterworks Operation	None
Class C Surface Water	Basic Waterworks Operation Surface Water Production I * Surface Water Production II * Must be taken before Surface Water Production II	None
Class C Groundwater	Basic Waterworks Operation Groundwater Production Plus one elective course	Water Distribution Water Laboratory Water Utility Safety Water Utility Calculations Chlorinator Maintenance Pump and Motor Maintenance Valve and Hydrant Maintenance
Class C Water Distribution	Basic Waterworks Operation Water Distribution Plus one elective course	Water Laboratory Water Utility Safety Water Utility Calculations Chlorinator Maintenance Pump and Motor Maintenance Valve and Hydrant Maintenance.
Class B Surface Water	Surface Water Production I * Surface Water Production II Water Distribution Water Utility Safety Water Laboratory Water Utility Management (effective January 1, 2003) * Must be taken before Surface Water Production II	None
Class B Groundwater	Groundwater Production Water Laboratory Water Distribution Water Utility Safety Plus one elective course	Water Utility Management Water Utility Calculations Chlorinator Maintenance Pump and Motor Maintenance Valve and Hydrant Maintenance
Class B Water Distribution	Water Distribution Water Utility Safety	Water Utility Management Water Utility Calculations

Class A	Surface Water Production I Surface Water Production II Groundwater Production Water Distribution Water Laboratory Water Utility Management Water Utility Safety	Plus additional training to meet the 160 hour requirement

(g) An individual who previously held a Class D license may not apply for a new Class D license if the individual currently operates facilities:

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

(2) at surface water treatment systems;

(3) at groundwater systems under the influence of surface water;

(4) who are supervisors of distribution systems that have over 250 connections; or

(5) who operate multiple groundwater systems and the cumulative number of connections exceeds 250.

§30.392. Qualifications for License Renewal.

(a) To renew a license, an individual must have:

(1) met the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations) and completed ten hours of approved continuing education per year the license is valid; or

(2) met the requirements of Subchapter A of this chapter and passed the examination for the license.

(b) The basic water training course may not be used to renew a Class B or A license.

(c) Class D licenses are not renewable for licensed operators:

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

(2) at surface water treatment systems;

(3) at groundwater systems under the influence of surface water;

(4) who are supervisors of distribution systems that have over 250 connections; or

(5) who operate multiple groundwater systems and the cumulative number of connections exceeds 250.

(d) To renew an active converted perpetual license, an individual must have met the requirements of this section, with the exception of the renewal fee.

§30.396. Qualifications for Initial Registration.

To obtain a registration, a person must meet the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations).

§30.398. Qualifications for Registration Renewal.

To renew a registration a person must meet the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations).

§30.399. Registration Fees.

The two-year registration fee is based on the number of public water systems served:

Figure: 30 TAC §30.399

Number of Public Water Systems Served	Fee
0 to 4	$75
5 to 9	$150
10 to 19	$250
20 or more	$400

§30.400. Additional Requirements for Public Water System Operations Companies.

(a) A public water system operating company must submit an annual report to the executive director within 30 days of the anniversary of the effective date of the registration. The report shall include:

(1) public water system operating company name, registration number, location, and mailing address;

(2) public water system identification number and name;

(3) dates of operation during the reporting year;

(4) names of all operators employed by the operations company, including their mailing addresses, classes and license numbers, and systems for which all employees work or have worked during the reporting year;

(5) licensed chief operators and supervisors; and

(6) any additional information required by the executive director.

(b) A person that operates a public water system under contract must notify the executive director and amend the information included in the annual report described in subsection (a) of this section within ten days following the month in which the change occurs.

(c) A person that operates a public water system under contract must apply for a new registration if a company is bought or sold and the name of the company changes.

(d) Political subdivisions, including river authorities, that operate public water systems under contract must submit the reports required in subsections (b) and (c) of this section to the executive director.

§30.402. Exemptions.

(a) An individual who performs process control duties in production or distribution of drinking water for a transient noncommunity water system as defined in §290.38(46) of this title (relating to Definitions), is exempt from the licensing requirements of this subchapter if the source water for the water system is purchased treated water or groundwater that is not under the direct influence of surface water.

(b) An operator-in-training is exempt from the licensing requirements of this subchapter.

(c) An individual who holds a groundwater or surface water license may perform duties relating to the operation and maintenance of drinking water production, purchased water, and water distribution systems and is not required to hold a distribution license.