

The Texas Natural Resource Conservation Commission (commission) adopts the repeal of §290.20, General Provisions; §290.21, Definitions; §290.22, Types of Certificates; §290.23, Qualification Requirements; §290.24, Applying for Certificates; §290.25, Revocation of Certificates; and §290.26, Fees. The repeals are adopted *without changes* as published in the September 28, 2001 issue of the *Texas Register* (26 TexReg 7479) and will not be republished.

#### BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED RULES

Rules administering the water treatment certification program were originally promulgated when this program was administered by the Texas Department of Health (TDH). The certification program was transferred to the commission in 1992 and the commission adopted the existing rules which had been promulgated by TDH. Those rules were promulgated by the commission as Subchapter A of Chapter 290. Chapter 290, Public Drinking Water, Subchapter A, Certification of Person to Install, Exchange, Service, or Repair Residential Water Treatment Facilities, is repealed and readopted as 30 TAC Chapter 30, Subchapter H, Water Treatment Specialists. The repeals are part of a concurrent rulemaking which consolidates several of the occupational licensing programs under the authority of the commission into one chapter, new Chapter 30, Occupational Licenses and Registrations, to incorporate new provisions of Texas Water Code (TWC), Chapter 37, implemented by House Bill (HB) 3111 and HB 2912 of the 77th Legislature, 2001.

#### SECTION BY SECTION DISCUSSION

To implement HB 3111, the commission is consolidating ten licensing and registration programs into new Chapter 30. As part of that consolidation, Chapter 290, Subchapter A, is repealed and readopted

as Chapter 30, Subchapter H. Changes to the rules are discussed in the preamble of the rulemaking for Chapter 30, and published in this issue of the *Texas Register*.

The commission concurrently adopts the review of Chapter 290, Subchapter A, in this issue of the *Texas Register*.

#### FINAL REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed the repeals in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the repeals are not subject to §2001.0225. 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 rulemaking 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 repeals, but it is not the specific intent of the repeals. Furthermore, the repeals 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 repeals would consolidate existing rule language into one chapter. Thus, the repeals 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.

#### TAKINGS IMPACT ASSESSMENT

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

#### CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed the rulemaking and found that the repeals are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(2), relating to Actions and Rules Subject to the Texas Coastal Management Program (CMP), nor would they affect any action or authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(a)(6). Therefore, the repeals are not subject to the CMP.

#### HEARING AND COMMENTERS

The commission held a public hearing on the proposal in Austin on October 11, 2001. The public comment period closed on October 22, 2001, and no oral or written comments were received.

#### STATUTORY AUTHORITY

The repeals are adopted under the authority granted to the commission by the Texas Legislature in TWC, Chapter 37. Texas Water Code, Chapter 37, provides the commission the authority to: establish classes and terms of occupational licenses and registrations; establish procedures for granting, denying, and suspending occupational licenses and registrations; establish fees for occupational licenses and registrations; and establish training, continuing education, and examination requirements. The repeals 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 the 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 Texas Health and Safety Code (THSC).

**SUBCHAPTER A: CERTIFICATION OF PERSON TO INSTALL, EXCHANGE,  
SERVICE, OR REPAIR RESIDENTIAL WATER TREATMENT FACILITIES**

**§§290.20 - 290.26**

**§290.20. General Provisions.**

**§290.21. Definitions.**

**§290.22. Types of Certificates.**

**§290.23. Qualification Requirements.**

**§290.24. Applying for Certificates.**

**§290.25. Revocation of Certificates.**

**§290.26. Fees.**