

The Texas Natural Resource Conservation Commission (commission) proposes amendments to §§344.1, 344.10, 344.49, 344.58 - 344.60, 344.72, 344.73, 344.75, 344.77, 344.96. The commission also proposes new §344.4.

The commission also proposes the repeal of §§344.2, 344.20, 344.23, 344.26 - 344.30, 344.34, 344.37 - 344.43, 344.46, 344.50, 344.51, 344.55 - 344.57, and 344.80 - 344.85.

BACKGROUND AND SUMMARY OF FACTUAL BASIS FOR THE PROPOSED RULES

The commission proposes these revisions to Chapter 344 because the licensing requirements for licensed irrigators and licensed installers will be consolidated into one chapter, newly created 30 TAC Chapter 30, Occupational Licenses and Registrations. Newly created Chapter 30 is concurrently proposed in this issue of the *Texas Register*. Chapter 30 will establish uniform procedures for issuing and renewing licenses, setting terms and fees, enforcement activities, and training approval for all of the licensing programs managed by the commission staff in the Compliance Support Division (CSD). The existing rules in Chapter 344 specify the minimum standards for designing and installing a landscape irrigation system, including the permitting of these installations.

The proposed revisions to Chapter 344 are to accommodate the requirement in Texas Water Code (TWC), Chapter 37, which was created by House Bill (HB) 3111 approved by the 77th Legislature, 2001. Texas Water Code, Chapter 37, requires the commission to consolidate administrative requirements and establish uniform procedures for the occupational licensing and registration programs administered by the commission. House Bill 3111 requires the commission to establish rules for the

occupational licensing programs by December 2001. To achieve this, the commission proposes to create Chapter 30 to consolidate the administrative requirements for the ten licensing and registration programs administered in the CSD.

The proposed rulemaking will transfer the requirements and procedures for issuing and renewing licenses, setting terms and fees, enforcement activities, and training approval for the landscape irrigation licenses because these requirements and procedures will be specified in Chapter 30. Chapter 344 is proposed to be amended to accommodate the affect of moving the licensing portion.

Additionally, Chapter 344 will be amended to reference the licensing requirements according to Chapter 30 and to correct some minor errors in Chapter 344.

SECTION BY SECTION DISCUSSION

The existing title of Chapter 344 will be changed from “Landscape Irrigators” to “Landscape Irrigation,” to clearly define the content of this chapter.

Subchapter A - General Provisions

Section 344.1, Definitions, is proposed to be revised. The definitions for “Commission,” “Complainant,” and “Executive Director” are deleted because they are defined in Chapter 3 of this title (relating to Definitions). The proposed new language for the definition of “Council” deletes “Texas Irrigators” and replaces it with “Irrigator” to comply with Chapter 30. The definition of “Installer” proposes new language to be added at the end of the existing definition, “who is licensed according to Chapter 30.” Proposed new language for the definition of “Irrigation System” adds the sentence at the

end of the definition which reads, “The term does not include a system used on or by an agricultural operation as defined by Texas Agricultural Code, §251.002.” This will make this definition agree with the change in the statute. The proposed new language for the definition of “Irrigator” deletes Subparagraphs (A) and (B) and transfers the language to concurrently proposed new §30.129, Exemptions. This will comply with the change in their location by the change which occurred in the statute. In addition, proposed new language will then add at the end of the remaining definition for irrigator...“who is licensed according to Chapter 30.” The definitions of “Licensed Irrigator” and “Licensed Installer” have been deleted. The license stipulation of the definition is now given under “irrigator” and “installer” in the proposed new title. The definition “Person” is deleted because it is defined in Chapter 3. The definition of “Respondent” is deleted and will not be used in the proposed new Chapter 30.

Section 344.2, Exemptions, is proposed to be repealed and transferred to proposed new Chapter 30.

New §344.4, License Required, is proposed to establish who must be licensed when performing the functions of an irrigator and installer. This addition is necessary to clarify who can perform the functions of the profession of landscape irrigation, and to reference Chapter 30.

Subchapter B - General Provisions Affecting the Irrigators Advisory Council

The titles of Subchapter B and §344.10, Irrigators Advisory Council, is proposed to change the word “Irrigators” to “Irrigator,” to mirror the language in TWC, Chapter 34.

The revision to §344.10(a) proposes to delete “Texas Irrigators” and replace it with “Irrigator,” to comply with the statute. Section §344.10(i) proposes to delete the existing language and replace it with “The council shall hold meetings at the call of the commission or chairman.” Revisions to §344.10(k) propose to delete language in the rule which state “by a majority vote at the first meeting each fiscal year” and change it to “by a majority vote.” The proposed revision will comply with the statute and establish that a majority vote will determine the outcome of the election of a chairman.

Subchapter C - Registration/Licensure of Irrigators and Installers

Sections 344.20, 344.23, 344.26 - 344.30, 344.34, 344.37 - 344.43, 344.46, 344.50, 344.51, 344.55 - 344.57 are proposed to be repealed. These provisions are concurrently proposed in Chapter 30, Subchapters A and D.

Section 344.58(a) and (b) revise the phrase “certificate of registration” to “license” in the title of the section, as well as the text of the rule. This revision is to comply and mirror the language in Chapter 30. Section 344.58(c) proposes to delete the phrase “the certificate of registration” and replace it with “their license.” This is to comply with the statute.

Section 344.59(a) proposes to delete the words “and before issuance of the certificate of registration.” This is to expedite the issuance of the license.

Section 344.60 proposes to replace in the second to last sentence, the word “certificate” with “license” so as to comply with the statute.

Subchapter D - Standards for Water Supply Connections

The proposed new title for this subchapter is “Standards for Landscape Irrigation.” This more clearly defines the content of this subchapter.

Section 344.72, Water Conservation, is amended by adding “All” to replace “It is the policy of the commission” and add the word “shall” to more clearly define the intent of this rule.

Section 344.73 proposes to revise the existing title of “Absence of Local Regulation - Backflow Prevention Devices” to “Approved Backflow Prevention Methods.” The new title more clearly defines the content of this section. The opening paragraph of §344.73 is proposed to be deleted and replaced with “All irrigation systems connected to a public or private potable water supply must be properly connected through one of the following backflow prevention methods:” This revision is necessary to establish that all irrigation systems must be properly connected for the protection of the water supplies.

Section §344.73(1) proposes to revise the beginning portion of the last sentence by adding “Where atmospheric vacuum breakers are used in an irrigation system....” This revision is for clarity and readability. New §344.73(5) introduces the following language for air gap, “An air gap, when used must be installed and maintained in accordance with the standards established in the American Waterworks Association M14 Manual on Cross Connection Control.” This addition is necessary to bring the rules into current standards of cross connection control.

The proposal to revise §344.75 title from “Required Backflow Prevention Devices” to “Specific Conditions and Backflow Prevention Devices” more clearly defines the contents of this section. Section

344.75(b) is proposed to be amended to consider systems as “high health hazard” when systems add any chemical substance as opposed to injection devices for introducing toxic substances. This is required to provide protection from chemical substances and to avoid confusion over what is an injection device and what is included in toxic substances. The section requires that systems may only be connected to a potable water supply through the use of only a reduced pressure principle backflow prevention assembly which make this requirement consistent with the requirements of 30 TAC Chapter 290.

Section 344.77, proposed new title “Minimum Standards for Design and Installation of Irrigation Systems” replaces “Minimum Standards for Irrigators/Installers.” The revision clearly describes the content of this section. Section §344.77(g) deletes the language “The installer” and replaces it with “An individual who installs an irrigation system.” This is necessary to clarify that this provision does not only apply to licensed installers.

Subchapter E - Complaint Process

Sections 344.80 - 344.85 are proposed for repeal because the complaint process is administered under 30 TAC Chapter 70 and 30 TAC Chapter 80. The sections are redundant in nature and are no longer needed.

Subchapter F - Standards of Conduct for Licensed Irrigators and Installers

Within the title of Subchapter F, the word “Licensed” is removed leaving the title to read, “Standards of Conduct for Irrigators and Installers.” Section 344.96 proposes to add the following language at the

end of implied “a,” “..., and honor the warranty,” to specify the requirement to fulfil warranty obligations.

FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENT

John Davis, Technical Specialist with Strategic Planning and Appropriations, has determined that for the first five-year period the proposed rulemaking is in effect, there will be no significant fiscal implications for units of state and local government as a result of administering and enforcing the proposal. The proposed repeal of landscape irrigation requirements and procedures for issuing and renewing licenses, and setting terms and fees could result in cost savings for units of state and local government that pay these licensing fees. There will be no fiscal implications for units of state and local government that do not pay these landscape irrigation license renewal fees.

The proposed rulemaking is intended to implement provisions of HB 3111 (an act relating to occupational licenses and registrations issued by the commission).

House Bill 3111 creates a new chapter of the TWC, which consolidates the administrative requirements of all commission-regulated licensing and registration programs into one new chapter. The bill also consolidates the deposit of licensing fees from different funds or accounts into the occupational licensing account.

The proposed rulemaking would repeal the landscape irrigation requirements and procedures for issuing and renewing licenses, setting terms and fees, enforcement activities, and training approval contained in

this chapter. Additionally, this rulemaking will update references, and make minor administrative corrections to rule language contained in this chapter.

The proposed repeal of the landscape irrigation requirements and procedures for issuing and renewing licenses, setting terms and fees, enforcement activities, and training approval would affect approximately 5,800 landscape irrigators and installers licensed by the commission and result in the loss of fee revenue to the commission of an estimated \$400,000 in licensing and registration fees.

In concurrent rulemaking, the landscape irrigation requirements and procedures for issuing and renewing licenses, setting terms and fees, enforcement activities, and training approval, are established in a new Chapter 30. The proposed new fee rate (\$70 every two years) is lower for both landscape irrigators and installers compared to current fees. The fee rate for landscape irrigators is currently \$85 every year, while the fee rate for installers is \$50 every year.

PUBLIC BENEFITS AND COSTS

Mr. Davis also determined that for each year of the first five years the proposed rulemaking is in effect, the public benefit anticipated from enforcement of and compliance with this rulemaking will be the implementation of certain provisions of HB 3111, and increased compliance through the consolidation and standardization of commission occupational licensing programs.

The proposed rulemaking implements certain provisions of HB 3111. House Bill 3111 creates a new chapter of the TWC, which consolidates the administrative requirements of all commission-regulated

licensing and registration programs into one new chapter. The bill also consolidates the deposit of licensing fees from different funds or accounts into the occupational licensing account.

The proposed rulemaking would repeal the landscape irrigation requirements and procedures for issuing and renewing licenses, setting terms and fees, enforcement activities, and training approval contained in this chapter. Additionally, this rulemaking will update references, and make minor administrative corrections to rule language contained in this chapter.

If proposed amendments in concurrent rulemaking are not adopted, the adoption of this proposed rulemaking would result in cost savings for the affected 5,800 landscape irrigators and installers, though these cost savings are not considered significant. There will be no fiscal implications for individuals and businesses that do not pay license renewal fees landscape irrigators and installers.

However, in concurrent rulemaking, the landscape irrigation requirements and procedures for issuing and renewing licenses, setting terms and fees, enforcement activities, and training approval are established in a new Chapter 30. The proposed new fee rate (\$70 every two years) is lower for both landscape irrigators and installers compared to current fees. The fee rate for landscape irrigators is currently \$85 every year, while the fee rate for installers is \$50 every year.

SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT

There will be no adverse fiscal impacts for small or micro-businesses as a result of the proposed rulemaking, which is intended to implement provisions of HB 3111. Adoption of the proposed

rulemaking could result in a cost savings, which is not anticipated to be significant, for small or micro-businesses that pay for employee renewal of landscape irrigator and installer licenses. If proposed amendments in concurrent rulemaking are not adopted, the adoption of this proposed rulemaking would repeal the licensing requirements for the 5,800 affected landscape irrigators and installers, many of which are employed by small and micro-businesses. There will be no fiscal implications for small and micro-businesses that do not pay for landscape irrigators and installers license renewal fees. The proposed rulemaking would also update references, and make minor administrative corrections to rule language contained in this chapter.

However, in concurrent rulemaking, the landscape irrigation requirements and procedures for issuing and renewing licenses, setting terms and fees, enforcement activities, and training approval are established in a new Chapter 30. The proposed new fee rate (\$70 every two years) is lower for both landscape irrigators and installers compared to current fees. The fee rate for landscape irrigators is currently \$85 every year, while the fee rate for installers is \$50 every year.

LOCAL EMPLOYMENT IMPACT STATEMENT

The commission has reviewed this proposed rulemaking and determined that a local employment impact statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rulemaking is in effect.

DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the rule is 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 proposed 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 proposed rulemaking, but it is not the specific intent of the proposal. Furthermore, the proposed rulemaking 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 proposed rulemaking would simply consolidate existing rule language into one chapter. Thus, the proposed rulemaking does not meet the definition of a “major environmental rule” as defined in Texas Government Code, §2001.0225(g)(3), and thus, does not require a full regulatory impact analysis. The commission invites public comment on the draft regulatory impact analysis determination.

TAKINGS IMPACT ASSESSMENT

The commission has prepared a takings impact assessment for this rulemaking in accordance with Texas Government Code, §2007.43. The following is a summary of that assessment. The specific purpose of the proposal is to consolidate the requirements for the various occupations, licensed or registered by the commission into one chapter. The proposed rulemaking 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 proposed rulemaking does not constitute a takings because it would not burden private real property.

CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed the proposed rulemaking and found that the rulemaking is neither identified in the 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 it affect any action or authorization identified in §505.11(a)(6). Therefore, the proposed rulemaking is not subject to the CMP.

ANNOUNCEMENT OF HEARING

A public hearing on the proposal will be held October 11, 2001, at 10:00 a.m. in Room 131E, Building C, at the Texas Natural Resource Conservation Commission complex, located at 12100 Park 35 Circle, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not occur during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing and answer questions before and after the hearing.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the meeting should contact the agency at (512) 239-4900. Requests should be made as far in advance as possible.

SUBMITTAL OF COMMENTS

Comments may be submitted to Angela Slupe, Office of Environmental Policy, Analysis, and Assessment, MC 205, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. All comments should reference Rule Log Number 2001-044-325-WT. Comments must be received by 5:00 pm., October 18, 2001. For further information, contact Melissa Estes, Policy and Regulations Division, at (512) 239-3937.

STATUTORY AUTHORITY

The amendment and new section are proposed under the authority granted to the commission by the Texas Legislature in TWC, Chapter 37.

The amendment and new section are also proposed 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; §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.

The amendment and new section are implemented under the authority of TWC, §37.002, which requires the commission to adopt rules to establish occupational licenses and registrations for landscape irrigators and installers. 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, suspending occupational licenses and registrations; establish fees for occupational licenses and registrations, and establish training, continuing education, and examination requirements.

SUBCHAPTER A: GENERAL PROVISIONS

§344.1, §344.4

§344.1. Definitions.

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

(1) - (2) (No change.)

[(3) **Commission** -- The Texas Natural Resource Conservation Commission.]

[(4) **Complainant** -- Anyone who has filed with the executive director a complaint which states matters within the commission's jurisdiction.]

(3) [(5)] **Council** -- The Irrigator [Texas Irrigators] Advisory Council.

[(6) **Executive director** -- The executive director or any authorized individual designated to act for the executive director.]

(4) [(7)] **Hydraulics** -- The mathematical computation of determining pressure losses and pressure requirements of an irrigation system.

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

(6) (9) **Irrigation system** -- An assembly of component parts permanently installed with and for the controlled distribution and conservation of water for the purpose of irrigating any type of landscape vegetation in any location or for the purpose of dust reduction or erosion control. This includes parts used in the application and installation of drip irrigation systems. The term does not include a system used on or by an agricultural operation as defined by Texas Agricultural Code, §251.002.

(7) [(10)] **Irrigator** -- A person who sells, designs, consults, installs, maintains, alters, repairs, or services an irrigation system including the connection of such system in and to a private or public, raw or potable water supply system or any water supply, and who is licensed according to Chapter 30.
[The term does not include:]

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

[(B) an owner of a business that regularly employs a licensed irrigator who directly supervises the business's sale, design, consultation, installation, maintenance, alteration, repair, and service of irrigation systems. For the purposes of these rules, "regularly 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.]

(8) (11) **Landscape Irrigation** -- The science of applying water to promote and/or sustain growth of plant material or turf.

[(12) **Licensed Installer** -- An installer who has prequalified and is licensed under this chapter.]

[(13) **Licensed Irrigator** -- An irrigator who has prequalified and is licensed under this chapter.]

(9) [(14)] **Non-toxic Substance** -- Any substance, solid, liquid, or gaseous, which may make the water aesthetically unacceptable but, if ingested, will not cause illness or death and is not considered a health hazard.

[(15) **Person** -- A natural person.]

(10) [(16)] **Precipitation Zones** --

(A) Precipitation Zone #1 is defined as the region of Texas requiring the landscape

irrigation system to distribute a minimum of .25 inches of water per hour for every hour that the landscape irrigation system is in operation.

(B) Precipitation Zone #2 is defined as the region of Texas requiring the landscape irrigation system to distribute a minimum of .275 inches of water per hour for every hour that the landscape irrigation system is in operation.

(C) Precipitation Zone #3 is defined as the region of Texas requiring the landscape irrigation system to distribute a minimum of .30 inches of water per hour for every hour that the landscape irrigation system is in operation.

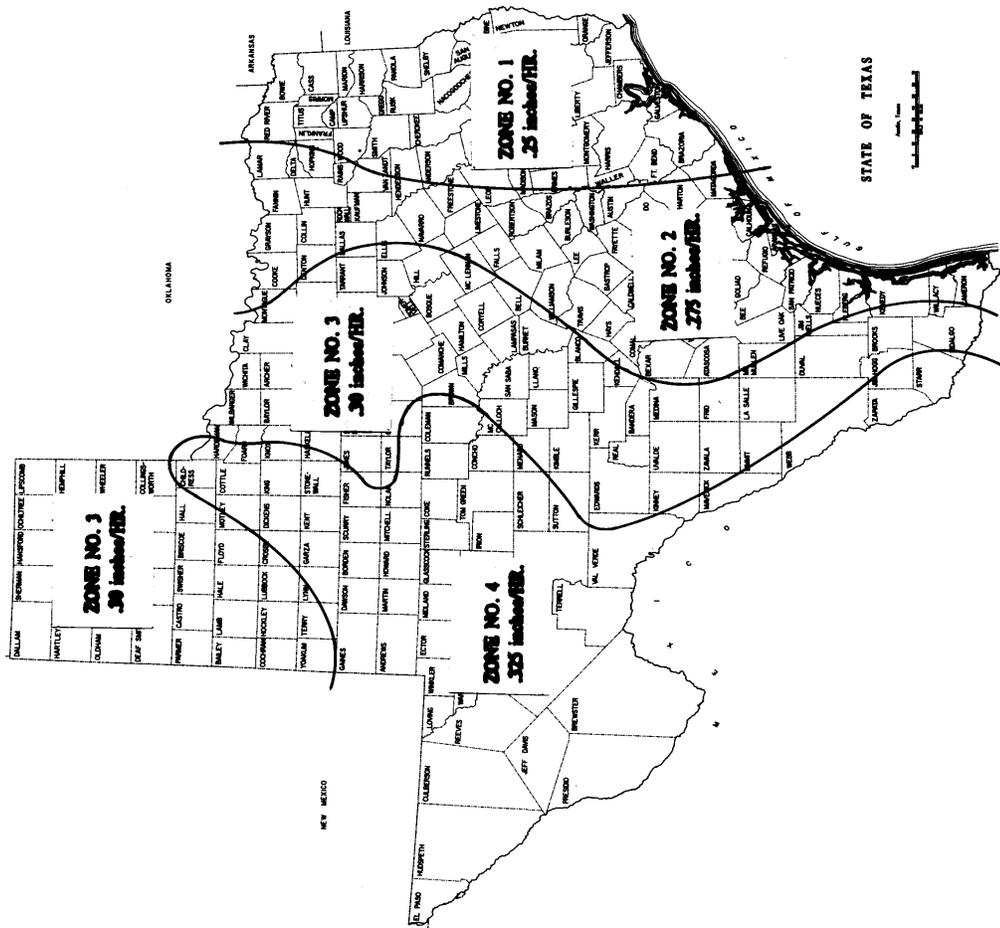
(D) Precipitation Zone #4 is defined as the region of Texas requiring the landscape irrigation system to distribute a minimum of .325 inches of water per hour for every hour that the landscape irrigation system is in operation. The precipitation zones defined in paragraphs (A) - (D) of this section are represented as Zones No. 1 - 4 on the following map:

Figure: 30 TAC §344.1(10)(D)

[Figure: 30 TAC §344.1(16)(D)]

Figure: 30 TAC §344.1(10)(D)

MINIMUM PRECIPITATION RATE FOR LANDSCAPE SYSTEMS BY ZONE



[(17) **Respondent** -- Anyone against whom a complaint, which states matters within the commission's jurisdiction, has been filed with the executive director.]

(11) [(18)] **Toxic Substance** -- Any substance, solid, liquid, or gaseous, which when introduced into the water supply system creates, or may create, a danger to the health and well-being of the consumer.

(12) [(19)] **Water Conservation** -- The design and installation of an irrigation system which prevents the waste of water, promotes the most efficient use of water and applies the least amount of water required to maintain healthy individual plant material or turf.

§344.4. License Required.

(a) An individual who sells, designs, consults, installs, maintains, alters, repairs, or services and irrigation system, including the connection of such system to any water supply, or represents that they can perform any or all of these functions, must hold an irrigator license issued according to Chapter 30 of this title (relating to Occupational Licenses and Registrations.) An irrigator must comply with the rules contained in this chapter when performing any or all of the above described functions.

(b) An individual who performs the functions of an installer by connecting an irrigation system to any water supply, or represents that they can perform this function, must hold an installer license issued according to Chapter 30 of this title. An installer must work under the direct supervision of a

licensed irrigator and comply with the applicable provisions of this chapter when performing this function.

SUBCHAPTER A: GENERAL PROVISIONS

§344.2

STATUTORY AUTHORITY

The repeal is proposed under the authority granted to the commission by the Texas Legislature in TWC, Chapter 37.

The repeal is also proposed 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; §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.

The repeal is implemented under the authority of TWC, §37.002, which requires the commission to adopt rules to establish occupational licenses and registrations for landscape irrigators and installers. 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, suspending occupational licenses and registrations; establish fees for occupational licenses and registrations; and establish training, continuing education, and examination requirements.

§344.2. Exemptions.

SUBCHAPTER B: GENERAL PROVISIONS AFFECTING THE IRRIGATOR [IRRIGATORS]

ADVISORY COUNCIL

§344.10

STATUTORY AUTHORITY

The amendment is proposed under the authority granted to the commission by the Texas Legislature in TWC, Chapter 37.

The amendment is also proposed 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; §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.

The amendment is implemented under the authority of TWC, §37.002, which requires the commission to adopt rules to establish occupational licenses and registrations for landscape irrigators and installers. 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, suspending occupational licenses and registrations; establish fees for occupational licenses and registrations; and establish training, continuing education, and examination requirements.

§344.10. Irrigator [Irrigators] Advisory Council.

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

(b) - (h) (No change.)

(i) The council shall hold meetings at the call of the commission or chairman. [Meetings must be conducted in compliance with Chapter 551, Texas Government Code.]

(j) (No change.)

(k) The council will elect a chairman by a majority vote [at the first meeting each fiscal year].

SUBCHAPTER C: REGISTRATION/LICENSURE OF IRRIGATORS AND INSTALLERS

**§§344.20, 344.23, 344.26 - 344.30, 344.34, 344.37 - 344.43, 344.46, 344.50, 344.51,
344.55 - 344.57**

STATUTORY AUTHORITY

The repeals are proposed under the authority granted to the commission by the Texas Legislature in TWC, Chapter 37.

The repeals are also proposed 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; §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.

The repeals are implemented under the authority of TWC, §37.002, which requires the commission to adopt rules to establish occupational licenses and registrations for landscape irrigators and installers. 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, suspending occupational licenses and registrations; establish fees for occupational licenses and registrations; and establish training, continuing education, and examination requirements.

§344.20. Eligibility for Certificates of Registration.

§344.23. Applications for Certificates of Registration.

§344.26. Application and Examination Fees; Form of Payment.

§344.27. Application Processing.

§344.28. Determination of Application for Registration Under Reciprocity.

§344.29. Incomplete Application Returned.

§344.30. Rejection of Application.

§344.34. Eligibility for Written Examinations.

§344.37. Notification of Examination Date, Time, and Place.

§344.38. Appearance for Examination; Failure to Appear.

§344.39. Examination Conditions.

§344.40. Grading; Minimum Passing Score.

§344.41. Notification of Examination Results and Performance.

§344.42. Reexamination; Fee.

§344.43. Issuance of Certificate.

§344.46. Description of Certificate.

§344.50. Replacement of Certificate.

§344.51. Expiration of Certificate.

§344.55. Notice of Certificate Expiration; Change of Address.

§344.56. Renewal of Certificate; Same Registration Number.

§344.57. Failure To Renew Certificate of Registration; Notice; Penalty.

**SUBCHAPTER C: REQUIREMENTS FOR LICENSED IRRIGATORS AND LICENSED
INSTALLERS [REGISTRATION/LICENSURE OF IRRIGATORS AND INSTALLERS]**

§§344.49, 344.58 - 344.60

STATUTORY AUTHORITY

The amendments are proposed under the authority granted to the commission by the Texas Legislature in TWC, Chapter 37.

The amendments are also proposed 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; §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.

The amendments are implemented under the authority of TWC, §37.002, which requires the commission to adopt rules to establish occupational licenses and registrations for landscape irrigators and installers. 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, suspending occupational licenses and registrations; establish fees for occupational licenses and registrations; and establish training, continuing education, and examination requirements.

§344.49. Display of License [Certificate].

Every person holding a license [certificate of registration] must display it at the person's place of business or employment and be prepared to substantiate the annual renewal for the current year.

§344.58. Unauthorized Use of License [Certificate].

(a) Only a licensed irrigator or licensed installer may use or attempt to use the license [certificate of registration.]

(b) Anyone who uses or attempts to use the license [certificate of registration] of someone else who is a licensed irrigator or licensed installer violates Texas Water Code, Chapter 34, and this chapter.

(c) Any licensed irrigator or licensed installer who authorizes or allows anyone else to use their license [the certificate of registration] to act as a licensed irrigator or licensed installer violates this chapter.

§344.59. Seal Required.

(a) Each licensed irrigator, upon registration [and before issuance of the certificate of registration], must obtain a seal or a rubber stamp, as described in §344.60 of this title (relating to Seal

and Rubber Stamp Facsimile Design), of the design authorized by the commission. The seal must be placed on all professional documents, including maps, plans, designs, drawings, and specifications, issued by a licensed irrigator for use in this state.

(b) (No change.)

§344.60. Seal and Rubber Stamp Facsimile Design.

The required seal and rubber stamp impressions must be circular and not less than 1 1/2 inches in diameter. The words "State of Texas" must be at the top between the two knurled circles and the words "Licensed Irrigator" must be in a like position at the bottom. The licensed irrigator's name must be placed horizontally in the circular field accompanied by his license [certificate] number. Letters and figures must be as bold as possible to insure legibility and durability.

**SUBCHAPTER D: STANDARDS FOR LANDSCAPE IRRIGATION [STANDARDS FOR
WATER SUPPLY CONNECTIONS]**

§§344.72, 344.73, 344.75, 344.77

STATUTORY AUTHORITY

The amendments are proposed under the authority granted to the commission by the Texas Legislature in TWC, Chapter 37.

The amendments are also proposed 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; §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.

The amendments are implemented under the authority of TWC, §37.002, which requires the commission to adopt rules to establish occupational licenses and registrations for landscape irrigators and installers. 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, suspending occupational licenses and registrations; establish fees for occupational licenses and registrations, and establish training, continuing education, and examination requirements.

§344.72. Water Conservation.

All [It is the policy of the commission that] irrigation systems shall be designed, installed, maintained, repaired, and serviced in a manner that will promote water conservation as defined in §344.1 of this title (relating to Definitions).

§344.73. Backflow Prevention Methods [Absence of Local Regulation - Backflow Prevention Devices].

All irrigation systems connected to a public or private potable water supply must be properly connected through one of the following backflow prevention methods: [Where a licensed irrigator's or a licensed installer's connection of an irrigation system to a public or a private potable water supply is not subject to any inspection requirement, ordinance, or regulation of any city, town, county, special purpose district, other political subdivision of the state, or public water supplier, the licensed irrigator or licensed installer making such connection must install one of the following devices:]

(1) Atmospheric vacuum breakers. Atmospheric vacuum breakers are designed to prevent only back-siphon age. Therefore, atmospheric vacuum breakers must not be used in any irrigation systems where back-pressure may occur. There cannot be any shutoff valves downstream from an atmospheric vacuum breaker. Where atmospheric vacuum breakers may be used, they must be installed at least six inches above any downstream piping and the highest downstream opening. Where local topography effectively prohibits such installation, the executive director shall be consulted for

alternative acceptable installation criteria. Such alternative criteria must provide equivalent protection to the potable water supply. In addition, continuous pressure on the supply side of an atmospheric vacuum breaker is prohibited. Where atmospheric vacuum breakers are used in an irrigation system, a [A] separate atmospheric vacuum breaker must be installed on the discharge side of each water control valve, between the valve and all of the sprinkler heads which the valve controls.

(2) - (4) (No change.)

(5) Air Gap. An air gap, when used must be installed and maintained in accordance with the standards established in the American Waterworks Association M14 Manual on Cross Connection Control.

§344.75. Specific Conditions and Backflow Prevention Devices [Required Backflow Prevention Devices].

(a) (No change.)

(b) An irrigation system which adds any chemical [with any kind of injection device associated with it has a potential for introducing toxic substances into the water supply and] is[, therefore,] considered to be a "high health hazard" [installation]. Such an irrigation system must not be connected to any potable water supply except through [an industry-approved "high health hazard" backflow prevention device, such as an appropriate pressure-type vacuum breaker backflow preventor or] a

reduced pressure principle backflow prevention assembly. The backflow prevention assembly must be tested upon installation and, at least, annually, thereafter, in accordance with §290.44(h)(4) of this title (relating to Water Distribution).

§344.77. Minimum Standards for Design and Installation of Irrigation Systems [Minimum Standards for Irrigators and Installers].

(a) - (f) (No change.)

(g) Water Conservation Devices. An individual who installs an irrigation system [The installer] should discuss with the purchaser of an irrigation system, including drip irrigation, water conservation devices and irrigation scheduling as a component of the design and installation of the irrigation system. All such components of an irrigation system shall be installed following the manufacturer's recommended practices for specific types of equipment.

SUBCHAPTER E: COMPLAINT PROCESS

§§344.80 - 344.85

STATUTORY AUTHORITY

The repeals are proposed under the authority granted to the commission by the Texas Legislature in TWC, Chapter 37.

The repeals are also proposed 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; §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.

The repeals are implemented under the authority of TWC, §37.002, which requires the commission to adopt rules to establish occupational licenses and registrations for landscape irrigators and installers. 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, suspending occupational licenses and registrations; establish fees for occupational licenses and registrations; and establish training, continuing education, and examination requirements.

§344.80. Complaint.

§344.81. Executive Director's Receipt of Complaint.

§344.82. Investigation of Complaint.

§344.83. Informal Resolution of Complaint.

§344.84. Enforcement.

§344.85. Surrender of Certificate and Identification Card; Seal.

**SUBCHAPTER F: STANDARDS OF CONDUCT FOR LICENSED IRRIGATORS AND
INSTALLERS**

§344.96

STATUTORY AUTHORITY

The amendment is proposed under the authority granted to the commission by the Texas Legislature in TWC, Chapter 37.

The amendment is also proposed 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; §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.

The amendment is implemented under the authority of TWC, §37.002, which requires the commission to adopt rules to establish occupational licenses and registrations for landscape irrigators and installers. 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, suspending occupational licenses and registrations; establish fees for occupational licenses and registrations; and establish training, continuing education, and examination requirements.

§344.96. Warranties.

On all installations of new irrigation systems (i.e., excluding remodeling and renovation) a licensed irrigator must present the customer a written statement of guarantees for materials and labor furnished in the installation of the irrigation system and shall honor the warranty.