

# Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

**To:** Commissioners **Date:** July 22, 2005

**Thru:** LaDonna Castañuela  
Chief Clerk

**From:** John F. Steib, Jr., Deputy Director

**Subject:** Consideration of a Petition for Proposed Rulemaking

**Docket No.:** 2005-1149-RUL

**Rule Project No.:** 2005-035-PET-NR

## Who Submitted the Petition:

The petition was submitted on June 16, 2005, by the Houston Gulf Coast Irrigation Association.

## What the Petitioners Request:

The petitioner requests that 30 TAC §30.120, Qualifications for Initial License, be amended to make the requirements to obtain a license for landscape installers and irrigators similar to the requirements in §30.60 for backflow prevention assembly testers, which include the following additional requirements for licensure:

- Received a high school diploma or equivalent certificate; and
- Worked at least two years in an approved area.

## Recommended Action and Justification:

The executive director recommends that the petition be denied. This recommendation is based upon there being no conclusive evidence that increased educational and work experience requirements are essential to designing, installing, or maintaining landscape irrigation systems. Also, the Irrigator Advisory Council, which is an established advisory group that the commission relies on for input in addressing landscape irrigation licensing and technical issues, has not raised this issue as an area of concern.

## Applicable Law:

- Texas Government Code, §2001.021, which establishes the procedures by which an interested person may petition a state agency for the adoption of a rule and 30 TAC, §20.15, which provides such procedures specific to the commission.

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- Texas Water Code (TWC), §5.103, which authorizes the commission to adopt any rules necessary to carry out its powers and duties under the TWC and other laws of this state.
- TWC, §37.002, which authorizes the commission to adopt any rules necessary to:
  - establish occupational licenses and registrations prescribed by TWC, §§26.0301, 26.3573, 26.452, and 26.456; Texas Health and Safety Code, §§341.033, 341.034, 361.027, and 366.071; and Texas Occupations Code, §1903.251;
  - establish classes and terms of occupational licenses and registrations; and
  - administer the provisions of this chapter and other laws governing occupational licenses and registrations under the commission's jurisdiction.
- TWC, §37.004, which authorizes the commission to establish qualifications for each license and registration issued under this chapter.
- Texas Occupations Code, §1903.251, which requires that a person hold a license issued by the commission under TWC, Chapter 37, if the person:
  - 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 a private or public, raw or potable water supply system or any water supply.

**Affected Public:**

There will be no direct impact to the public.

**Affected Agency Programs:**

There will be no direct impact to the agency programs.

**Agency Contacts:**

Terry Thompson, Rule Project Manager, 239-6095  
Kathy Brown, Staff Attorney, 239-3417  
Patricia Durón, Texas Register Coordinator, 239-6087

Attachment: Petition

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cc: 5 copies to the Chief Clerk for distribution  
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Patricia Durón

cc (without attachments):

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