

The Texas Commission on Environmental Quality (TCEQ or commission) adopts the repeal of §§30.28, 30.125, 30.210, 30.246, 30.318, 30.319, 30.349, and 30.399; new §§30.28, 30.210, 30.213, 30.214, 30.319, and 30.500 - 30.508; and amendments to §§30.3, 30.5, 30.7, 30.10, 30.14, 30.18, 30.20, 30.24, 30.30, 30.33, 30.51, 30.60, 30.81, 30.90, 30.92, 30.111, 30.120, 30.122, 30.129, 30.171, 30.180, 30.185, 30.190, 30.192, 30.201, 30.212, 30.231, 30.240, 30.242, 30.244, 30.245, 30.247, 30.261, 30.270, 30.272, 30.274, 30.301, 30.307, 30.310, 30.312, 30.315, 30.317, 30.337, 30.340, 30.342, 30.350, 30.355, 30.381, 30.387, 30.390, 30.392, and 30.400.

Sections 30.3, 30.14, 30.18, 30.20, 30.30, 30.33, 30.51, 30.60, 30.81, 30.90, 30.92, 30.111, 30.120, 30.122, 30.129, 30.171, 30.180, 30.185, 30.190, 30.192, 30.201, 30.210, 30.212, 30.214, 30.231, 30.240, 30.242, 30.244, 30.245, 30.247, 30.261, 30.270, 30.272, 30.274, 30.301, 30.307, 30.310, 30.312, 30.315, 30.317, 30.319, 30.337, 30.340, 30.342, 30.381, 30.387, 30.390, 30.392, 30.400 and 30.500 - 30.508 and the repeals are adopted *without changes* to the proposed text and will not be republished. Sections 30.5, 30.7, 30.10, 30.24, 30.28, 30.213, 30.350, and 30.355 are adopted *with changes* to the proposed text as published in the April 13, 2007 issue of the *Texas Register* (32 TexReg 2093).

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

During the 77th Legislature, 2001, Regular Session, House Bill (HB) 3111 was passed which created Texas Water Code (TWC), Chapter 37 to consolidate administrative requirements and establish uniform procedures for the occupational licensing and registration programs administered by the TCEQ. In December 2001 agency rules were adopted which consolidated the ten occupational licensing programs into Chapter 30. Since their adoption, there have been no major reviews or changes to the rules with the exception of implementation of HB 2510, 79th Legislature, 2005, Regular Session, related to on-site

sewage facility maintenance providers. The adopted repeals, new additions, and amendments are necessary to ensure consistency between the rules and their applicable statutes. The adopted amendments make grammatical and punctuational corrections and incorporate language modifications needed to improve readability and enhance enforceability. The adopted amendments also provide consistency and further establish uniform procedures for issuing and renewing licenses, setting terms and fees, approving training and training providers, and enforcing licensing requirements. Additionally, the adopted amendments remove any requirements or references to dates that are no longer applicable.

The adopted rules modify provisions to allow for the approval of training providers who offer training and certification of Visible Emissions Evaluators; establish fees for reviewing and processing applications received for approval of training; address requirements for Web-based testing for licensure; address the license renewal requirements for individuals on active military duty outside Texas; adjust the current fees for obtaining initial and renewing licenses and registrations; change the validity period of two-year licenses and registrations to three years; adjust the training credit hour requirements for Customer Service Inspectors; remove the licensing requirement for individuals who supervise or manage the collection or transportation of municipal solid waste; establish the level of license required to operate specific types of municipal solid waste facilities; add a transitional period to eliminate the municipal solid waste Class D license and provisional or solid waste facility supervisor in training letters; and remove the definition of process control duties for public water system operators from the Chapter 30 rules and transfer the definition to the public drinking water rules located in 30 TAC Chapter 290.

## SECTION BY SECTION DISCUSSION

*Subchapter A: Administration of Occupational Licenses and Registrations.*

The adopted amendments to §30.3, Purpose and Applicability, remove §30.3(b), which is no longer applicable because it applies to applications for the issuance or renewal of licenses or registrations that are received on or after January 1, 2002, and states that maintenance providers are not required to obtain a registration as a maintenance provider prior to September 1, 2006. The amendments also add visible emissions evaluator training providers to the list of programs the agency currently administers. Changes in the numbering to this provision are adopted where necessary to reflect the changes.

Section 30.5 is adopted with a change to the proposed text. The adopted amendments to §30.5, General Provisions, add Texas Occupations Code (TOC), §1903.251 and §1904.051 to the list of statutes that describe activities that are regulated by the commission. The amendment to include TOC, §1904.051 was necessary because of the change of authority for certification of Water Treatment Specialists from Texas Health and Safety Code (THSC), Chapter 341, Subchapter G, to Subtitle A, Title 12, TOC, redesignated as TOC, Chapter 1904, in accordance with House Bill 3017, 80th Legislature, 2007, Regular Session. House Bill 3017 was effective immediately. The change was not part of the proposal. The adopted amendments to §30.5, also remove the reference to TWC, §34.007, which no longer exists. Additionally, the commission adopts changes to this section to improve its readability and enhance its enforceability.

The adopted amendments to §30.7, Definitions, adds the following definitions to the rules for clarity: Conference, Distance learning, Distributor, High school diploma or equivalent certificate, Industry related association, Manufacturer, Qualified classroom instructor, Service provider, Subject matter expert, Technology-based training, and Training provider. Changes in the numbering to this provision are adopted where necessary to reflect the changes. Section 30.7 is adopted with a change to the proposed text. In response to video conferencing the term “interactive video conference” was added to the

definition of conference contained in §30.7(3). In response to a comment regarding the definition of subject matter expert contained in §30.7 the terms “minimum of three years” and “as relates to the training” have been added to §30.7(16).

The adopted amendments to §30.10, Administration, add the duty of approving training providers to the executive director’s responsibilities. The adopted amendments also require the executive director to respond to complaints filed against training providers. This adopted change is under TWC, §37.008. Changes in the numbering to this provision have been adopted where necessary to reflect the changes.

The adopted amendments to §30.14, Applications for Initial Registrations, add §30.14(e) to require that all statements, qualifications, and attachments that are provided by the applicant and that relate to an application shall be true, accurate, complete, and contain no willful or negligent misrepresentation or falsification. This adopted change is necessary because, currently, if an individual is not truthful or provides false information on an application, there is no specific provision the executive director can cite as a violation. The commission adopts additional language in this subsection to improve its readability, and enhance its enforceability. Changes in the numbering to this provision have been adopted where necessary to reflect the changes.

The adopted amendments to §30.18, Applications for an Initial License, add §30.18(f) to require that all statements, qualifications, and attachments that are provided by the applicant and that relate to an application shall be true, accurate, complete, and contain no willful or negligent misrepresentation or falsification. This adopted change is necessary because, currently, if an individual is not truthful or provides false information on an application, there is no specific provision the executive director can cite

as a violation. The commission adopts additional language in this subsection to improve its readability, and enhance its enforceability. Changes in the numbering to this provision have been adopted where necessary to reflect the changes.

The adopted amendments to §30.20, Examinations, add §30.20(c) - (h) to clarify the existing requirements for individuals who need to take repeat examinations. Additionally, the commission adopts §30.20(l) to allow individuals who may be precluded from taking an examination scheduled to be administered by the agency on a religious holy day to take the examination on an alternate date set by the executive director. This addition is necessary to comply with TOC, §54.002(a). Changes in the numbering to this provision have been adopted where necessary to reflect the changes.

The adopted amendments to §30.24, License and Registration Applications for Renewal, are required by TOC, §55.002, and add §30.24(f) - (i), to allow individuals who fail to renew their license or registration in a timely manner due to serving on active duty in the United States armed forces outside this state to renew their license within 180 days of that individual's return from active duty and exempt that individual from any increased fee or penalty if the individual establishes that he/she was on active duty in the United States armed forces and serving outside this state during the renewal period of their license.

The adopted addition to §30.24(c), requires all statements, qualifications, and attachments that are provided by the applicant and that relate to a renewal application shall be true, accurate, complete, and contain no misrepresentation or falsification. This adopted change is necessary because, currently, if an individual is not truthful or provides false information on an application, there is no specific provision the executive director can cite to as a violation. The commission adopted additional language in this

subsection to improve its readability, and enhance its enforceability. The addition of §30.24(p), is adopted to clarify what will occur when an individual fails to correct deficiencies in a renewal application after the individual is sent a notification of the deficiencies by the executive director. The adopted amendments also remove the existing §30.24(f), as there is no statutory authority for this subsection. The commission adopted additional language to this subsection to improve its readability, and enhance its enforceability. Changes in the numbering to this provision have been adopted where necessary to reflect the changes. To eliminate the contradiction between §30.24(a) and (e) the phrase "... an application has not been received by the executive director or postmarked within 30 days after the expiration date of the license or registration" has been added to §30.24(a). The change was not part of the proposal.

The adopted repeal of §30.28, Approval of Training, deletes this section in its entirety and replaces it with new §30.28, that incorporates basic components of the agency's existing regulatory guidance document, RG-373, that relates to the approval of training used to meet pre-licensing requirements and post-licensing continuing education requirements for occupational licenses and registrations. This incorporation provides a mechanism to implement and enforce the requirements of the most crucial activities that are performed by training providers. The adopted new section also establishes fees for reviewing and processing applications for training program approval that are received by the commission. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations that are issued under Chapter 30. Section 30.28 is adopted with several changes to the proposed text. In response to a comment regarding the use of the term "training course", that term has been changed throughout §30.28 to the terms "training event" or "training." In response to a comment regarding the term "attendance" used in §30.28 being vague, the term has been changed to "successful completion" where applicable throughout §30.28. In response to a comment that

TCEQ should formalize its in-house performance standards for the length of time it takes staff and the methods by which the staff approves or disapproves training proposals ensuring uniform treatment of various training providers; the following provisions were added to the rule to provide clarity regarding the commission's approval standards: §30.28(a)(1) "Within 45 days of the receipt of an application for approval for conferences, and association meeting training, the executive director shall notify the training provider of the approval of the training or any deficiencies in the application or supporting documentation" and §30.28(a)(2) "Within 120 days of the receipt of an application for approval for classroom, distance learning training, the executive director shall notify the training provider of the approval of the training or any deficiencies in the application or supporting documentation." Additionally, the term "...at least 30 days..." contained in §30.28(o)(2) was changed to "...at least 45 days..." to provide consistency with §30.28(a)(1). In response to a comment that "qualified subject matter expert" needed to be defined; to make the term consistent with the definition of "subject matter expert" contained in §30.28(16), the word "qualified" was removed from the phrase where applicable throughout §30.28. In response to a comment regarding §30.28(i)(4), the word "liable" is replaced with the word "responsible." In response to a comment that §30.28(i)(10) and §30.28(p)(3)(C) were inconsistent with repeating training within the current renewal period; the sections now allow repeating a course, but prohibit training credits to be earned if the same distance learning course is repeated in the current renewal period. A change was made to §30.28(i)(13) in response to a comment that clarification was needed for the number of days allowed to submit training rosters; the word "business" was added to provide clarity. A change was made to §30.28(1) in response to a comment that clarification was needed regarding "occupational training is not to be used as an opportunity for advertisement." The word "single" was removed from the term "...of a single manufacturer, distributor...", the phrase "or used as an opportunity for advertisement" was also added to the provision for clarity. In response to a comment that §30.28(n) and (o) were not

consistent with other provisions in the rule addressing “occupational training is not to be used as an opportunity for advertisement”, the provision “the training at association meetings must not be held in a place of business of a product manufacturer, distributor, or service provider directly related to the occupational license” was added. A change was made to §30.28(o) in response to a comment that the term “training event” was unclear; the term has been changed to “training at meetings...” In response to a comment that questioned what the word “exceptional” means in the context of §30.28(p)(1)(D); to provide clarity the word “exceptional” was removed. A change was made to §30.28(p)(3)(B) in response to a comment that the term “timely” was vague; to provide clarity, the term has been changed to “within one business day.” The term “timely” was removed and the term “one business day” was added to §30.28(r)(4) to provide consistency. A change was made to §30.28(s) in response to a comment that the term “printed course information...” was vague and unclear; the term has been changed and the section now includes language that “training materials...” The phrase “current technical standards or rules” was replaced with “accepted industry standard practices or agency rules” in response to a comment requesting clarity to §30.28(w)(3)(A). In response to a comment regarding the criteria for recalling training, the phrases “recall” and “...but not limited to...” have been added to §30.028(w)(3). A change was made to §30.28(w)(3)(F) in response to a comment that clarification was needed regarding “occupational training is not to be used as an opportunity for advertisement.” The word “single” was removed from the term “...of a single manufacturer, distributor...”

The adopted amendments to §30.30, Terms and Fees for Licenses and Registrations, adjusts those licenses or registrations that have a two-year validity period to have a three-year validity period. This change provides consistency among all licensing programs that are administered by the agency. The adopted amendments also adjust the license fee from \$35 per year to \$37 per year. The adopted fee

adjustment covers the cost for the license renewal process through TexasOnline (TxOnline). TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations that are issued under Chapter 30. Additionally, Texas Government Code (TGC), §2054.111, authorizes the commission to collect subscription fees charged by TxOnline.

The adopted amendment to §30.33, License or Registration Denial, Warning, Suspension, or Revocation, removes §30.33(a)(1)(B) and creates §30.33(a)(2)(G), because the denial of a renewal application for this situation must allow the individual the opportunity for a hearing. The adopted amendments also add provisions to allow the commission to suspend a license or registration if an individual is identified by the Office of the Attorney General as being delinquent on child support payments. This change will make the rules consistent with the Texas Family Code, Chapter 232 and TWC, §7.303. Changes in the numbering to this provision have been adopted where necessary to reflect the changes.

*Subchapter B: Backflow Prevention Assembly Testers.*

The adopted amendment to §30.51, Purpose and Applicability, deletes §30.51(c) in its entirety. This section allows individuals to transition their backflow prevention assembly tester accreditation to a license. This language is no longer applicable.

The adopted amendments to §30.60, Qualifications for Initial License, add language to clarify and specify the duties the executive director will accept as approved areas of work to gain the experience necessary to obtain a Backflow Prevention Assembly Tester license. Changes in the numbering to this provision have been adopted where necessary to reflect the changes.

*Subchapter C: Customer Service Inspectors.*

The adopted amendment to §30.81, Purpose and Applicability, changes the term “may” to “shall,” to enhance the enforceability of the rules.

The adopted amendments to §30.90, Qualifications for Initial License, restructure the section to improve its readability. Changes in the numbering to this provision have been adopted where necessary to reflect the changes.

The adopted amendment to §30.92, Qualifications for License Renewal, adjusts the continuing education requirements for customer service inspectors from 24 hours to 16 hours. Based on input from the regulated community and agency staff assessment, it was determined that 16 hours is sufficient for the three-year validity period. This adjustment still provides sufficient continuing education necessary to protect the environment and public health.

*Subchapter D: Landscape Irrigators and Installers.*

The adopted amendment to §30.111, Purpose and Applicability, deletes §30.111(c) in its entirety. This section allows licenses and certificates of registrations issued before January 1, 2002, to remain in effect until they expire or are revoked by the commission. This language is no longer applicable.

The adopted amendment to §30.120, Qualifications for Initial License, modifies the existing language to improve its readability and enhance its enforceability.

The adopted amendments to §30.122, Qualifications for License Renewal, remove the reference to January 1, 2002, which is no longer applicable. The adopted amendments also adjust the number of training credits required to renew landscape irrigator licenses from 16 hours to 24 hours. This change is necessary because of the adopted amendment to the rules that adjust the validity period of the licenses from two years to three years.

The adopted repeal of §30.125, Renewal of Certificates of Registrations, deletes this section in its entirety. This section contains language to transition the landscape irrigator and installer licenses from one-year to two-year licenses, and is no longer applicable.

The adopted amendment to §30.129, Exemptions, modifies some of the existing language to improve its readability and enhance its enforceability. Changes in the numbering to this provision have been adopted where necessary to reflect the changes.

*Subchapter E: Leaking Petroleum Storage Tank Corrective Action Project Managers and Specialists.*

The adopted amendment to §30.171, Purpose and Applicability, deletes subsection (d) in its entirety. This section allows registrations issued before January 1, 2002, to remain in effect until they expire, or are replaced or revoked by the commission. This language is no longer applicable.

The adopted amendment to §30.180, Qualifications for Initial License, changes the term “preceding” to “previous.” This change provides consistency throughout this section.

The adopted amendment to §30.185, Qualifications for License Renewal, changes the number of training credits required to renew a license to 32 hours, instead of 16 hours, as is currently required by §30.185(a)(2). This adopted change also corrects a typographical error that exists in the current provision. Changes in the numbering to this section have been adopted where necessary to reflect the changes.

The adopted amendment to §30.190, Qualifications for Initial Registration, clarifies the amount of liability insurance required and changes the term “preceding” to “previous.” This change provides consistency throughout this section. Additionally, the adopted amendment adjusts the initial registration fee from \$150 to \$232. The adopted fee adjustment includes the cost for the TxOnline subscription fees and the increase from a two-year to a three-year validity period for registrations. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations that are issued under Chapter 30. TGC, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline.

The adopted amendment to §30.192, Qualifications for Registration Renewal, adjusts the renewal registration fee from \$150 to \$232. The adopted fee adjustment includes the cost for the TxOnline subscription fees and the increase from a two-year to a three-year validity period for registrations. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations that are issued under Chapter 30. TGC, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline.

*Subchapter F: Municipal Solid Waste Facility Supervisors.*

The adopted amendment to §30.201, Purpose and Applicability, revises §30.201(a) and (b) to eliminate licensing requirements for individuals who supervise the collection or transportation of municipal solid waste (MSW). This adopted amendment is necessary to make the rule consistent with THSC, §361.027.

The adopted amendment to §30.201, modifies §30.201(c), to remove the January 1, 2004, date referenced because it is no longer applicable. The adopted amendments to this section also establish a transition period to eliminate the issuance of provisional or solid waste facility supervisor in training letters. This change is necessary because under the current rules, individuals who have been issued provisional or supervisor-in-training letters perform the same duties as those individuals that hold standard licenses, and those individuals may not have met the educational or experience requirements for a standard license. The adopted rules include a transitional period to allow individuals and facilities to comply with the new rules.

The adopted amendment to §30.201, adds §30.201(d), eliminates the issuance of Class D MSW supervisor licenses and establishes a date when new applications for the Class D license not be accepted. Class D issued licenses will remain in effect until they expire.

The adopted repeal of §30.210, Qualifications for Initial License, deletes the section in its entirety. The adopted new §30.210, Qualifications for Initial License, specifies the education, work experience, and training credits for each license class in a tabular format for clarity and conciseness. The adopted new section also removes the applicant qualifications for obtaining a Class D license because this class of licenses is being eliminated.

The adopted amendment to §30.212, Qualifications for License Renewal, eliminates the training credit requirements for a Class D license because this class of licenses is being eliminated. Changes in the numbering to this section have been adopted where necessary to reflect the changes and improve readability.

The commission adopts new §30.213, Classification of Municipal Solid Waste Facilities and Level of License Required, to specify the different classes of licenses that supervisors are required to obtain based on the complexity of municipal solid waste operations. The commission adopts that: a Class A license be required for Type I landfills and Type IX landfill mining operations; a Class B license be required for Type IV landfills, Type V storage and processing facilities, other Type IX energy or material recovery facilities, and permitted compost facilities; and a Class C license be required for Type I and Type IV landfills that qualify for the arid exemption specified in §330.5(b), (relating to Classification of Municipal Solid Waste Facilities). The adopted new section also includes the effective date for facilities to comply with the requirements of §30.213. Further, the adopted addition of §30.213(b), allow the facility's permit to supersede the requirements of §30.213(a). Adopted §30.213(a), requires that each MSW facility employ at least one licensed individual who supervises or manages the operations of a MSW facility and is licensed according to this chapter. In response to a comment, §30.213(a) has been revised to group licensing requirements by similar facility type, the license level for registered compost facilities has changed from Class C to Class B and the license level for Type IAE landfill facilities has changed from Class C to Class A. The commission believes that the adopted change from the proposed text will add clarity to the rule. Also in response to comment, the September 1, 2008 the implementation date for MSW facilities to have the correct level of licensed supervisor has been changed to September 1, 2009. The

commission believes that the additional time will ensure adequate time for the facilities to have personnel properly trained and at the correct license levels.

The commission adopts new §30.214, Exemptions, to exempt individuals who perform relatively low-risk MSW management activities that are related to Type IX beneficial landfill gas recovery facilities, animal crematories, dual chamber incinerators, and air curtain incinerators operating in accordance with an MSW permit by rule from the applicable licensing requirements.

*Subchapter G: On-Site Sewage Facilities Installers, Apprentices, Designated Representatives, Maintenance Providers, and Site Evaluators.*

The adopted amendment to §30.231, Purpose and Applicability, deletes subsection (d), in its entirety.

This subsection allows licenses and certificates of registrations issued before January 1, 2002, to remain in effect until they expire or are revoked by the commission. This language is no longer applicable.

Changes in the numbering to this section have been adopted where necessary to reflect the changes and improve readability.

The adopted amendment to §30.240, Qualifications for Initial License, adjusts the requirements for obtaining an Installer II license from holding an Installer I license for six months and possessing an apprentice registration for at least one year before June 13, 2001, to holding an apprentice license for at least two years or previously possessing an Installer II license. The adopted amendments modify and add to the current rule language to improve its readability and enhance its enforceability. Changes in the numbering to this section have been adopted where necessary to reflect the changes.

The adopted amendment to §30.242, Qualifications for License Renewal, adjusts the number of continuing education hours required to renew On-Site Sewage Facility program licenses from 16 hours to 24 hours. This change is necessary because of the adopted amendment to the rules that adjust the validity period of the licenses from two years to three years. The adopted change also removes the second sentence from §30.242(a)(2), regarding Site Evaluator licenses issued prior to August 1, 2004, as it is no longer applicable.

The adopted amendment to §30.244, Exemptions, adds language to §30.244(c) that was repealed from §30.246 which allows a professional engineer to perform site evaluations without obtaining a site evaluator license and provides the individual the option to obtain a site evaluator license by complying with the requirements in Subchapter G.

The adopted amendments to §30.245, Registration of Apprentices, modify and add to the current rule language to improve its readability and enhance its enforceability. Changes in the numbering to this section have been adopted where necessary to reflect the changes. Additionally, the adopted amendment adjusts the initial registration fee for On-Site Sewage Facility (OSSF) apprentices from \$50 to \$81. The adopted fee adjustment includes the cost for the TxOnline subscription fees and the increase from a two-year to a three-year validity period for registrations. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations that are issued under Chapter 30. TGC, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline.

The adopted repeal of §30.246, Application for Site Evaluator, deletes this section in its entirety. This section pertains to individuals who previously held a site evaluator license or had previously taken the site evaluator basic training course and passed the site evaluator examination, but did not hold a site evaluator license or meet the requirements necessary to obtain a site evaluator license before September 1, 2003, and it is no longer applicable.

The adopted amendment to §30.247, Registration of Maintenance Providers, adjusts the registration validity period from two years to three years and adjusts the current \$70 initial registration and renewal fee to \$111. The adopted fee adjustment includes the cost for the TxOnline subscription fees and the increase from a two-year to a three-year validity period for registrations. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations that are issued under Chapter 30. TGC, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline. These adopted changes provide consistency between all licensing programs.

*Subchapter H: Water Treatment Specialists.*

The adopted amendment to §30.261, Purpose and Applicability, removes §30.261(c), because this section allows licenses and certificates of registrations issued before January 1, 2002, to remain in effect until they expire or are revoked by the commission. This language is no longer applicable.

The adopted amendment to §30.270, Qualifications for Initial License, reformats the current table that outlines the requirements for obtaining a water treatment specialist license. This change improves the readability of the rule.

The adopted amendments to §30.272, Qualifications for License Renewal, simplify the existing table for the training and experience requirements.

The adopted amendment to §30.274, Classification of Licenses, modifies and adds to the current rule language to clarify, improve its readability, and enhance its enforceability. Changes in the numbering to this section have been adopted where necessary to reflect the changes.

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

The adopted amendment to §30.301, Purpose and Applicability, removes §30.301(c), which allows licenses and certificates of registrations issued before January 1, 2002, to remain in effect until they expire or are revoked by the commission. This language is no longer applicable.

The adopted amendment to §30.307, Definitions, changes the terminology used in §30.307(6)(A) - (C) from “License” to “Class.” This change provides consistency throughout this subchapter.

The adopted amendment to §30.310, Qualifications for Initial License, modifies and adds to the current rule language to improve its readability and enhance its enforceability. Changes in the numbering to this provision have been adopted where necessary to reflect the changes.

The adopted amendment to §30.312, Qualifications for License Renewal, removes the reference to January 1, 2002, which is no longer applicable.

The adopted amendments to §30.315, Qualifications for Initial Registration, adjust the initial registration fee from \$150 to \$232. The adopted fee adjustment includes the cost for the TxOnline subscription fees and the increase from a two-year to a three-year validity period for registrations. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing license and registration requirements issued under Chapter 30. TGC, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline. The adopted changes also provide clarity to the amount of liability insurance required and change the term “preceding” to “previous.” This provides consistency throughout this subchapter.

The adopted amendments to §30.317, Qualifications for Registration Renewal, remove the reference to January 1, 2002, which is no longer applicable. The adopted changes also adjust the renewal registration fee from \$150 to \$232. The adopted fee adjustment reflects the registration validity period going from two years to three years and is necessary to cover the cost for the license renewal process through TxOnline. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations that are issued under Chapter 30. TGC, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline. The adopted changes provide clarity to the amount of liability insurance to be held by the registrant and change the term “preceding” to “previous.” This provides consistency throughout this subchapter.

The adopted repeal of §30.318, Renewal of Licenses and Registrations Issued before the Effective Date of these Rules, removes this section in its entirety as it is no longer applicable.

The adopted repeal of §30.319, Exemptions, deletes the section in its entirety and replaces it with the new §30.319, which modifies the current structure of the section to improve its readability.

*Subchapter J: Wastewater Operators and Operations Companies.*

The adopted amendment to §30.337, Definitions, is reflected in §30.337(8), by changing the term “frequent” to “daily.” This adopted change specifies when operators will provide on-site inspections and supervision. Additionally the adopted amendment to §30.337(12), modifies the definition to include decisions associated to process control.

The adopted amendment to §30.340, Qualifications for Initial License, modifies and adds to the current rule language to clarify it, in regard to the substitution of college hours for required work experience.

The adopted amendment to §30.342, Qualifications for License Renewal, modifies and adds to the current rule language to improve its readability regarding the amount of training credits needed for the renewal of a license.

The adopted repeal of §30.349, Registration Fees, deletes the section in its entirety and instead incorporates these same requirements into §30.355. This clarifies and improves the readability of the subchapter.

The adopted amendment to §30.350, Classification of Wastewater Treatment Facilities, Wastewater Collection Systems, and Licenses Required, modifies and adds to the current rule language to improve its readability and enhance its enforceability with regard to the duty requirements of the licensed individuals.

Changes in the numbering to this section have been adopted where necessary to reflect the changes.

Section 30.350(a) is adopted with changes in the text in response to comments about the applicability of the word “daily.” To provide clarity and identify the functions to be completed on a daily basis the sentence “Wastewater collection system operation and maintenance activities shall be supervised and inspected daily by an on-site licensed wastewater operator” was added to the text contained in §30.350(n).

The adopted amendments to §30.355, Additional Requirements for Wastewater Operations Companies, incorporate the requirements from adopted repealed §30.349, Registration Fees, and clarify and improve the readability of the subchapter. The adopted fee adjustment includes the cost for the TxOnline subscription fees and the increase from a two-year to a three-year validity period for registrations. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations requirements issued under Chapter 30. TGC, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline. Other adopted amendments to this section change the requirement of companies that submit yearly reports to a requirement that they submit a report at the time of renewal or when a company is bought or sold and the name of the company changes. The adopted changes also decrease the amount of information that has to be reported by the companies. Some of the information that is currently being reported is information the commission already has and the effort is being duplicated. Additionally, it was determined that it would be more feasible to have the companies submit the reports at the time of their initial registrations and renewals. This adopted change lessens the burden on both the companies and the commission. Section 30.355(b) is adopted with changes to the proposed text in response to comment suggesting that the commission should delete the phrase “wastewater system operations company.” The commission recognized that clarity could be added to §30.355(b) and has modified the sentence to read “A registered wastewater system operations

company must apply for a new registration and submit an amended report if the company is bought or sold and the name of the company changes.”

*Subchapter K: Public Water System Operators and Operations Companies.*

The adopted amendment to §30.381, Purpose and Applicability, adds the term “operator” to clarify §30.381(c).

The adopted amendments to §30.387, Definitions, remove the definition of “Process control duties.” The Water Supply Division’s Public Drinking Water Section agrees that this definition is best addressed by the Chapter 290 rules. The Water Supply Division’s Public Drinking Water Section is currently revising the Chapter 290 rules and will incorporate this definition into their rules. Changes in the numbering to this section have been adopted where necessary to reflect the changes.

The adopted amendments to §30.390, Qualifications for Initial License, modify and add to the current rule language to provide clarity, improve readability, and enhance enforcement. The adopted changes also modify the current tables that outline the requirements for obtaining and renewing a water operator license to reflect changes to the number of training credits needed for each level of license. Changes in the numbering to this section have been adopted where necessary to reflect the changes.

The adopted amendment to §30.392, Qualifications for License Renewal, modifies and adds to the current rule language to clarify, improve the readability, and enhance enforcement with regard to the duties of the licensed individuals. Changes in the numbering to this section have been adopted where necessary to reflect the changes.

The adopted repeal of §30.399, Registration Fees, deletes the section in its entirety and incorporates the requirements into §30.400. This clarifies and improves the readability of the subchapter.

The adopted amendments to §30.400, Additional Requirements for Public Water System Operations Companies, incorporate the requirements from adopted repealed §30.399, Registration Fees, into this section and clarify and improve the readability of the subchapter. The adopted fee adjustment includes the cost for the TxOnline subscription fees and the increase from a two-year to a three-year validity period for registrations. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations issued under Chapter 30. TGC, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline. Other adopted amendments to this section change the requirement of companies that submit yearly reports to a requirement that they submit a report at the time of renewal or when a company is bought or sold and the name of the company changes. The adopted changes also decrease the amount of information that has to be reported by the companies. Some of the information being reported is information the commission already has on file and the efforts are being duplicated. Additionally, it was determined that it would be more feasible to have the companies submit the reports at the time of their initial registrations and renewals. This adopted change lessens the burden on both the companies and the commission.

*Subchapter L: Visible Emissions Evaluator Training and Certification.*

The adopted Subchapter L establishes qualifications to train and certify visible emissions evaluators.

The adopted new §30.500, Purpose and Applicability, establishes standards and qualifications for persons who train and certify visible emissions evaluators.

The adopted new §30.501, Definitions, establishes the definition of terms used in Subchapter L that are related to visible emissions evaluator training.

The adopted new §30.502, Term for Visible Emission Evaluator Certification, establishes the validity period for visible emissions evaluator certifications.

The adopted new §30.503, Visible Emission Evaluator Course Training Material and Course Approval, establishes the requirements necessary to have visible emissions evaluator training approved by the executive director.

The adopted new §30.504, Visible Emission Evaluator Training Provider Approval, establishes the requirements necessary to obtain executive director approval to be a visible emissions evaluator training provider.

The adopted new §30.505, Requirements for Visible Emission Evaluator Training Providers, establishes the duties required of visible emissions evaluator training providers.

The adopted new §30.506, Visible Emission Evaluator Training Requirements, establishes the requirements for the methods used for presenting training to visible emissions evaluators.

The adopted new §30.507, Field Training and Testing Requirements, establishes the requirements for the methods used in the field training and testing of visible emissions evaluators.

The adopted new §30.508, Disapproval of Visible Emission Evaluator Course Training, establishes the criteria to be used by the executive director in disapproving visible emissions evaluator training courses.

#### FINAL REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed this rulemaking action in light of the regulatory analysis requirements of TGC, §2001.0225, and determined that the adopted rules are not subject to that statute. TGC, §2001.0225 applies only to rules that are specifically intended to protect the environment, or reduce risks to human health from environmental exposure. During the 77th Legislature, 2001, Regular Session, House Bill (HB) 3111 was passed which created TWC, Chapter 37 to consolidate administrative requirements and establish uniform procedures for the occupational licensing and registration programs administered by the TCEQ. In December 2001, agency rules were adopted which consolidated the ten occupational licensing programs into Chapter 30. Since their adoption, there have been no major reviews or changes to the rules with the exception of implementation of HB 2510, 79th Legislature, 2005, Regular Session. The specific intent of the adopted rules is to ensure consistency between the rules and their applicable statutes, to make grammatical and punctuational corrections, and to modify or add language to improve the Chapter's readability and enhance its enforceability. 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 implement new regulations for the agency's licensing and registration programs and impose additional cost requirements that are necessary to ensure more consistent operation and enforcement among the licensing and registration programs that the agency administers, and 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 only make the existing rules for all of the licensing and registration programs more consistent and formalize many existing industry practices and procedures into rule-form. Thus, the adopted rules do not meet the definition of “a major environmental rule” as defined in TGC, §2001.0225(g)(3), and thus, do not require a full regulatory impact analysis. Public comments were solicited and one commenter submitted comments regarding the Regulatory Impact Analysis Determination. All comments are addressed in the RESPONSE TO COMMENTS section of this preamble.

#### TAKINGS IMPACT ASSESSMENT

The commission evaluated these adopted rules and performed an assessment of whether these adopted rules constitute a taking under TGC, Chapter 2007. The purpose of these adopted rules is to ensure consistency between the rules and their applicable statutes, to make grammatical and punctuational corrections, and to modify or add language to improve the Chapter’s readability and enhance its enforceability. Promulgation and enforcement of these adopted rules would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject adopted regulations do not affect a landowner’s rights in private real property because this rulemaking does not burden nor restrict or limit the owner’s right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulations. These adopted rules make non-substantive changes to the existing rules and the adopted new regulations do not affect private real property.

#### CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed the adopted rulemaking and found the rulemaking identified in the Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(4), relating to rules subject to the Coastal Management Program, therefore, require that goals and policies of the Texas Coastal Management Program (CMP) be considered during the rulemaking process.

The commission reviewed this rulemaking for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Council and determined that the rulemaking is editorial, administrative, and procedural in nature and has no substantive effect on commission actions subject to the CMP and is, therefore, consistent with CMP goals and policies.

#### PUBLIC COMMENT

The commission received comments from Austin Water Utility, Avery Solutions Unlimited, Burke Enterprises, City of Farmers Branch, ECO Resources, Inc., Irrigator Advisory Council, Irrigation Services, Irrigation System Solutions, Professional Operations, Inc., Pro-Line Publications, Raven Environmental Products, Inc., Texas Disposal Systems, Water Environment Association of Texas and three individuals. Austin Water Utility, City of Farmers Branch, Irrigators Advisory Council and the Water Environment Association of Texas all supported the rulemaking. However, Pro-Line Publications is opposed to the rules as written but supports uniform standards for all TCEQ licensee training. Pro-Line Publications commented that the distance learning mode/type of training is given negative treatment in the rulemaking compared to other methods of training. Several other commenters wanted additional clarity put into some of the rule provisions.

## RESPONSE TO COMMENTS

### *General Comments*

One individual commented that TCEQ has destroyed virtually all previously existing web page addresses and links with a "system upgrade" and virtually all internet searches for TCEQ turns up links are no longer available.

**The commission appreciates the comment. This comment is beyond the scope of this rulemaking. However, the comment was forwarded to TCEQ's Agency Communications Division for action, as they are responsible for the agency's websites. The commission made no change to the rules in response to this comment.**

One individual commented that the TCEQ and Aqua Texas do not make it simple enough to find a licensed Customer Service Inspector and they should assist the builder at the time of the application.

**The commission appreciates the comment, but it is beyond the scope of this rulemaking. However, the commission does maintain a searchable website, by license type, by TCEQ region, county or city that can be used by the general public. The commission made no change in the rules in response to this comment.**

One individual commented that they wanted their name removed from the TCEQ mailing list.

**The commission appreciates the comment. This comment is beyond the scope of this rulemaking; however, the individual's name was removed from the mailing list in response to the comment. The**

**commission made no change to the rules in response to this comment.**

Austin Water Utility commented that as a training provider, it is in favor of the elimination of the agency's existing Regulatory Guidance document RG-373 and for it to be replaced with a more specific document.

**The commission acknowledges Austin Water Utility's support of the rules. An updated RG-373 is planned to address items that are not required (rules) but are best practices (guidance). The commission made no change to the rules in response to this comment.**

Austin Water Utility commented that the current guidelines for classes contained in the current RG 373 have been applied inconsistently and the guidelines themselves need to be clarified and definitions for classroom training or seminars need to be established.

**The commission appreciates the comment. The incorporation of basic components from the existing RG-373 and other requirements into rule will establish more uniform procedures and more consistency for approving training and provides a mechanism to implement and enforce the requirements of those activities performed by training providers. The rules do establish definite requirements and provide clarification for classroom training and seminars. Additionally, an updated RG-373 is planned to address items that are not required (rules) but are best practices (guidance), to include descriptions of terms such as classroom training, seminars and other types of training approved for training credits. The commission made no change to the rules in response to this comment.**

Austin Water Utility also commented that training providers and topics should be based on their experience and relevance, and not necessarily whether the person or company is "industry related." If so, water utilities should be considered as industry related businesses.

**The commission appreciates the comment. Based on the requirements for the type of training event, the commission does consider the training provider's, instructor's or subject matter expert's experience. Also, training relevance is based on critical job tasks related to the license. The rules include governmental entities in the "conference" format in addition to industry-related associations. The commission made no change in response to this comment.**

Austin Water Utility commented that because governmental agencies are nonprofit that under the rules they should be exempt from paying fees for approval of classes.

**The commission appreciates the comment. An equal amount of time is spent on reviewing and approving training submitted by nonprofit and for-profit organizations. This review consumes agency resources and the fee requirements contained in these rules are intended to cover part of that cost. The commission made no change to the rules in response to this comment.**

The City of Farmers Branch (Farmers Branch) commended the commission's efforts to ensure current licensing regulations in Chapter 30 address inconsistencies between rules and applicable statutes and to address inconsistencies between the different licensing programs. The Irrigator Advisory Council commented that it was pleased to see several of its suggestions incorporated into the final draft of the

proposed rules. The Water Environment Association of Texas commented that it supports the rules as drafted.

**The commission acknowledges support of the rules by Farmers Branch, the Irrigator Advisory Council and the Water Environment Association of Texas.**

Pro-Line Publications (Pro-Line) commented that it is opposed to the proposed rules as written, but does support uniform standards for all TCEQ licensee training. Pro-line and one individual commented that the goal of having uniform procedures for approving training has not been achieved in this rulemaking, particularly between distance learning and other methods of training and that contrary to statements in the Preamble, the proposed rules dramatically change the standards now found in the last adopted version of the commission's Regulatory Guidance document (RG-373) for approving training.

**The commission appreciates the comment, but respectfully disagrees with the statement that the goal of having uniform procedures for approving training has not been achieved in this rulemaking, particularly between distance learning and other methods of training. The adopted rules may differ from the standards found in the existing RG-373, but there is nothing that precludes the commission from adopting rules that change guidance. The adopted rules incorporate basic components of RG-373 and additional requirements to provide consistency and further establish uniform procedures for approving training and a mechanism to implement and enforce the requirements of those activities performed by training providers. The modes of training (i.e., classroom training versus distance learning versus conferences) differ greatly in training methodology and therefore the delivery standards and requirements for approval reflect those**

**differences. For example successful completion of training for classroom training can be determined by interaction between the instructor or subject matter expert presenter and participants. Other participants can also aid in the comprehension of the training topic by interaction between participants which is possible in classroom training, conferences and training occurring at association meetings. The commission believes this is not possible with certain other modes of training such as distance learning. An important part of classroom training lesson plans is the four-step teaching process including “checking for understanding or evaluation of learning.” This can be accomplished by several methods/means including, but not limited to “...verifying participation...” and to report only the hours successfully completed for a training event. For classroom training, conferences, and training at meetings, the training provider can use a variety of means to verify participation, to include, but not be limited to, proctored sign-in sheets, electronic tracking of attendance, and taking roll. The commission made no change to the rules in response to this comment.**

Pro-line commented that the proposed rules promote more use of in-person training by reducing existing standards for classroom, association and conference training and increasing the standards for distance learning and that the TCEQ is unreasonably disadvantaging distance learning, the method of training that is least costly to the licensees and is most environmentally efficient. Pro-Line also commented that the rule proposal did not include any factual basis for adopting changes to the current standards in RG-373 nor adopting the standards for approval of distance learning training and that Chapter 30 should be revised to provide uniform standards for training materials; training providers; subject matter experts; methods of determining student comprehension of the training regardless of the training methodology; credit for repeat courses; and fees (without waiving their challenge that training approval fees are not

authorized by law).

**The commission appreciates the comment, but respectfully disagrees that the proposed rules lower classroom instructor qualifications while increasing qualifications for distance-learning providers. The modes of training (i.e., classroom training versus distance learning versus conferences) differ greatly in training methodology and therefore the delivery standards and requirements for approval reflect those differences. The commission's approval process between each mode of training is uniform and in fact increased standards for training approval of all modes/types of training as relates to accepted industry standards and practices. If the commenter is referring to the entities who may apply for approval of distance learning, the entities included in the rules have access to the resources, knowledge and technical expertise to produce quality training for occupational licensing. The commission made no changes to the rules in response to this comment.**

Pro-Line commented that TCEQ should formalize its in-house performance standards for the length of time it takes staff and the methods by which the staff approves or disapproves training proposals ensuring uniform treatment of various training providers.

**The commission appreciates the comment. The commission's staff work expeditiously to review and approve training of all the different types of training and levels of complexity of the materials submitted. To provide clarity regarding the commission's approval standards the following provisions have been added: §30.28(a)(1) "Within 45 days of the receipt of an application for approval for conferences, or association meeting training, the executive director shall notify the**

**training provider of the approval of the training or any deficiencies in the application or supporting documentation” and §30.28(a)(2) “Within 120 days of the receipt of an application for approval for classroom, distance learning, correspondence, or technology based training, the executive director shall notify the training provider of the approval of the training or any deficiencies in the application or supporting documentation.” Additionally, the term “...at least 30 days...” contained in §30.28(o)(2) has been changed to “...at least 45 days...” to provide consistency with §30.28(a)(1).**

Pro-Line commented that current training providers have been afforded the legal privilege of providing training. Therefore, before the TCEQ revokes this privilege through adoption of a new rule, the TCEQ should seriously consider grandfathering existing training providers.

**The commission appreciates the comment, but respectfully disagrees that the commission has revoked the privilege of currently approved training providers to provide training through the adoption of this rule. The commission has clarified the requirements that were previously in a guidance document and has addressed items that involve changing technology. However, current approved training will not be recalled as a result of the rulemaking. The new requirements will be imposed only when the training needs to be updated due to rule or program changes. There is no need to grandfather existing training providers. TWC, Chapter 37 does not expressly grant any rights or privileges to “training providers.” TWC, Chapter 37 generally gives the commission authority to establish the qualifications that are necessary to obtain licenses and registrations issued under TWC, Chapter 37, and to determine what training, if any, is necessary to obtain or renew a license or registration, and to approve that training. The commission made no change to the rules in response to this comment.**

Pro-Line commented that the proposed rules should include a transition plan to ensure that ongoing training businesses and their training is not disrupted unnecessarily by implementation of the new rule.

**The commission appreciates the comment. The commission has no intention to recall, suspend or rescind training that has been previously approved as a result of implementation of this rule, therefore no transition period is needed. When a determination is made to recall training, the commission will coordinate with the training provider to establish a timeline for updating the training. During the recall period the training provider will be allowed to continue providing training. Students that attend and successfully complete the training during the recall period will receive applicable training credit. Training approval would be suspended or rescinded only after an investigation has determined the action is warranted. The commission made no change to the rule in response to this comment.**

*Comments to Background and Summary – Preamble Statement*

One individual questioned whether or not there has ever been a separate fee for the review of training programs by TCEQ staff.

**The commission appreciates the comment. In the past there has not been a separate fee for applications for training approvals. However the commission has authority to impose this fee under TWC, §37.009(a), which states that the commission shall establish and collect fees to cover the cost of administering and enforcing TWC, Chapter 37 and licenses and registrations issued under TWC, Chapter 37. The commission made no change to the rules in response to this comment.**

One individual questioned if the RG-373 referred to in this rulemaking is the existing RG-373 dated September 2002.

**The commission concurs that the RG-373 referred to in this rulemaking is the existing RG-373 dated September 2002. An updated RG-373 is planned to address issues that are not required (rules) but are best practices (guidance). The commission made no changes to the rules in response to this comment.**

One individual questioned if any changes to the RG-373 require following the Administrative Procedures Act.

**The commission appreciates the comment. Changes to regulatory guidance do not require the commission to follow the Administrative Procedures Act. However, the commission makes every effort to inform the regulated community when changes are being considered and to request comments and feedback to those changes. The commission generally uses various stakeholder groups to discuss changes. Agendas noting discussion of guidance documents are posted on the commission's applicable websites. The commission made no change to the rule in response to this comment.**

One individual questioned if TCEQ staff are paid by the taxpayers. The individual questioned what funds currently cover the cost for the TCEQ to review and approve training material. The individual questioned what will the additional revenue collected by the TCEQ to review and approve training material be spent

on. That individual also questioned whether the additional revenue collected by the TCEQ for the review and approval of training material is a way to make the proposed rule revisions more appealing to the commissioners or legislature.

**The commission appreciates the comment. While some commission programs receive funds from tax dollars, according to the commission's budget and planning section the majority of funding comes from fees charged by the agency. The Occupational Licensing Program uses license application fee revenue to support its activities. Currently, funds from the Operator Licensing Section's budget are used to cover the cost for the commission to process applications for training approval. Due to the large volume of applications for training approval that are received, the commission established fees for processing applications for approval of training material covering: classroom training courses; training at conferences; training at association meetings; correspondence training; and technology-based training. In fiscal year 2006, staff processed approximately 500 applications for training approval. The review of this training is very time consuming and in some instances the entity submitting the material has used the agency's expertise to correct, complete, and polish their product. The commission disagrees with the comment that the purpose of the fees is to make the rule revisions more appealing to the commissioners or legislature. The commission made no change to the rules in response to this comment.**

One individual commented that the TCEQ will edit and correct only conference and seminar training; however, fees are collected from all training providers in all modes of training. The individual questioned if the collection of fees for training material review and approval meant that TCEQ would provide editing and correction services for all training providers that pay the fee.

**The commission appreciates the comment, but respectfully disagrees with this statement. The application fees are for the review and processing of training materials submitted for all modes of training, not just conference and seminar training. The rules do not imply that the commission will be performing editing and correction services for a fee. If errors are found during the review process, commission staff will notify the training provider of the discrepancies and allow them the opportunity to correct them. The rules require that the materials that are submitted with applications for course approval, no matter what mode/type of training, must have been edited by a subject matter expert. The commission made no change to the rules in response to this comment.**

*Comments to Fiscal Note, "Public Benefits and Costs"*

Professional Operations, Inc. (PRO-OPS) commented that the cost for approval of classroom training (20-hour course) with new manuals would be \$500 not \$375.

**The commission acknowledges the comment. There was an error in the fiscal note regarding the cost for approval of classroom training. The commission made no change to the rules in response to this comment.**

*Comments to "Draft Regulatory Impact Analysis Determination"*

One individual commented that the determination in the Draft Regulatory Impact Analysis is incorrect in that the proposed rule revisions affect the training of environmental occupational licensees and therefore they do affect environmental quality.

**The commission appreciates the comment. All of the commission's rules arguably work to protect the environment and reduce risks to human health. However, the specific intent of these rules is to aid the commission in administering occupational licenses and registrations. A by product of these rules would be the protection of the environment or reduced risks to human health from environmental exposure. The commission made no change to the rules in response to this comment.**

One individual commented that the determination in the Draft Regulatory Impact Analysis is incorrect in that the proposed rule revisions do not establish consistent or uniform procedures.

**The commission appreciates the comment, but respectfully disagrees with this statement. The individual does not provide any basis that the rules do not establish consistent or uniform procedures. The adopted rules incorporate basic components of the RG-373 and additional requirements into rule to provide consistency and further establish uniform procedures for approving training and a mechanism to implement and enforce the requirements of the activities performed by training providers. The modes of training (i.e., classroom training versus distance learning versus conferences) differ greatly in training methodology and therefore the delivery standards and requirements for approval reflect those differences. The commission made no change to the rules in response to this comment.**

One individual commented that the determination in the Draft Regulatory Impact Analysis is incorrect in that the proposed rule revisions adversely affect small and micro-businesses.

**The commission appreciates the comment. The determination was actually made in the Small Business and Micro-Business Assessment section of the proposal preamble. The commission disagrees with the premise that the rule will adversely affect small and micro-businesses. In fact, the rule provides greater clarity and certainty to the requirements for licensing and training. There should be less risk to small and micro-businesses since businesses will have a better understanding of the commission's requirements. The commission made no change to the rules in response to this comment.**

One individual commented that the determination in the Draft Regulatory Impact Analysis is incorrect in that the proposed rule revisions do adversely affect jobs.

**The commission appreciates the comment, but disagrees with the statement that the proposed rule revisions adversely affect jobs. The rules do not impact the need for licensed individuals, thus there will be no change in the number of individuals seeking to obtain or renew a license. The market will remain for training to meet the licensing requirements. Because these rules do not meet the definition of "major environmental rule" as defined by TGC, §2001.0225(g)(3), even if these proposed rules did adversely affect jobs in some manner, a full regulatory impact analysis is not required under TGC, §2001.0225(a) and (b). The commission made no change to the rules in response to this comment.**

One individual commented that the determination in the Draft Regulatory Impact Analysis is incorrect in that the proposed rule revisions produce a conflict of interest between TCEQ and other training providers and therefore affect competition.

**The commission appreciates the comment, but respectfully disagrees with the statement that the rule revisions produce a conflict of interest between TCEQ and other training providers. The TCEQ is held to the same standards as any other training provider, therefore, there is no conflict of interest for TCEQ to be a training provider or to be in competition with other training providers. It is the commission's belief that any affect on the economy or competition by these rules would be immaterial. Even if there was material affect, a full Regulatory Impact Analysis is not required because the specific intent of these rules is not to protect the environment or reduce risks to human health from environmental exposure. The commission made no change to the rules in response to this comment.**

One individual commented that the determination in the Draft Regulatory Impact Analysis is incorrect in that the proposed rule revisions adversely affect competition between training providers.

**The commission appreciates the comment, but respectfully disagrees with this statement. The individual does not provide any basis for the presumption that the rules adversely affect competition between training providers. By incorporating basic components of the RG-373 along with other requirements, Chapter 30 does provide uniform standards for training materials; training providers; subject matter experts; methods of determining student comprehension of the training regardless of the training methodology; credit for repeat courses; and fees. The modes of training (i.e., classroom training versus distance learning versus conferences) differ greatly in training methodology and therefore the delivery standards and requirements for approval appropriately reflect those differences. The commission's approval process between each mode of**

**training is uniform and does not affect competition between training providers. Because these rules do not meet the definition of “major environmental rule” as defined by TGC, §2001.0225(g)(3), even if these proposed rules did adversely affect jobs in some manner, a full regulatory impact analysis is not required under TGC, §2001.0225(a) and (b). The commission made no change to the rules in response to this comment.**

One individual commented that the determination in the Draft Regulatory Impact Analysis is incorrect in that the proposed rule revisions cause irreversible damages to the credibility and reputation of the training provider.

**The commission appreciates the comment, but respectfully disagrees with this statement. The individual does not provide any basis for the statement that the rules cause irreversible damages to the credibility and reputation of the training provider. It is the commission’s intention, by incorporating basic components of the RG-373 along with other requirements, to provide uniform standards for training materials; training providers; subject matter experts; methods of determining student comprehension of the training regardless of the training methodology; credit for repeat courses; and fees. The modes of training (i.e., classroom training versus distance learning versus conferences) differ greatly in training methodology and therefore the delivery standards and requirements for approval appropriately reflect those differences. The commission’s approval process between each mode of training is uniform and does not affect competition between training providers. In actuality, although in the form of a guidance document, the requirements for approving training and the requirements for training providers have had changes over the years and implementing the rule will not cause irreversible damages to the credibility and reputation of**

**the training provider. Training that conforms to the rules should not cause damages to the credibility or reputation of the training provider. The commission made no change to the rules in response to this comment.**

One individual commented that the determination in the Draft Regulatory Impact Analysis is incorrect in that the proposed rule revisions creates a scheduling dilemma for the licenses and adversely affects hundreds of licenses in training programs that are in progress.

**The commission appreciates the comment. The implementation of the rules should not have an adverse effect on the occupational licensing programs. However, the Municipal Solid Waste (MSW) licensing program could be affected if the required training is not available in a timely manner. Therefore, the September 1, 2008 date for all MSW facilities to have the level of licensed supervisor required by §30.213(a) has been changed to September 1, 2009. Even though this might have affected some licenses, a full Regulatory Impact Analysis is still not required because these rules are not a major environmental rule.**

One individual commented that the determination in the Draft Regulatory Impact Analysis is incorrect in that the proposed rule revisions cause misrepresentation producing litigation and damages for training providers.

**The commission appreciates the comment, but respectfully disagrees with the statement. The individual does not provide any specific information regarding how the rule revisions cause misrepresentation, producing litigation and damages for training providers. The proposed rule**

**revisions will not cause misrepresentation, producing litigation and damages for training providers. No material affect to the economy or sector of the economy is expected. The commission made no change to the rules in response to this comment.**

One individual commented that eighty percent of training providers are small businesses and the proposed rule revisions do not adequately explain how the imposition of additional cost to the licenses or training providers ensures more consistent operation and enforcement among the licensing and registration programs.

**The commission appreciates the comment. The commission is not aware of information to support the commenter assertion that eighty percent of training providers are small businesses. The commission does not categorize the size of businesses that provide training. To get a realistic assessment, all types of training and training providers in all of the occupational licensing programs must be taken into consideration rather than a particular mode/type of training or training provider. In reviewing all of the approved training, the major training providers such as the Texas Engineering Extension Service, Texas Water Utility Association, and Texas Rural Water Association provide the majority of the training. The requirement that a subject-matter expert review and edit training documents will allow staff to focus efforts on consistency in operations and enforcement among the licensing and registration programs rather than editing documents. According to TWC, §37.008(a), the commission has a mandatory duty to approve the training programs that are necessary for all occupational licensees regulated by the commission to qualify for or renew their licenses. The statute requires the commission to establish and collect fees to cover the cost of administering and enforcing provisions and to deposit the fees to the credit of**

**the occupational licensing account (TWC, §37.009). Administering the program entails approving the training, issuing the licenses or registrations, and enforcing TWC, Chapter 37 and making sure that its provisions are complied with after license or registration issuance, among other things. The grant of authority in TWC, §37.009 was intended to allow the commission to establish and collect fees to cover the costs of the entire occupational licensing program. Additionally, the proposed rules incorporate basic components of the RG-373 and additional requirements into rule to provide consistency and further establish uniform procedures for approving training and a mechanism to implement and enforce the requirements of those activities performed by training providers. With regards to the imposition of additional cost to the licensees, renewals of licenses and registrations can currently be applied for using the state's TxOnline web site. To cover the cost of subscription charges for the use of TxOnline, the adopted rules will increase the cost for most for licenses and registrations by two dollars per year, or six dollars for the three-year term payable in the first year of application or renewal. License and registration costs for Leaking Petroleum Storage Tank Corrective Action Specialist and Underground Storage Tank On-Site Supervisors will increase an estimated three dollars per year, or nine dollars for a three-year period. Registration costs for water and wastewater operations companies will range from an estimated three dollars to twelve dollars a year, or nine dollars to thirty-six dollars for a three-year period depending on the size of the company. The commission made no change to the rules in response to this comment.**

One individual commented that the proposed rule revisions lack adequate definition of terminology and therefore make interpretation of the rules by TCEQ very subjective.

**The commission appreciates the comment. The individual did not identify which rules lack**

**adequate definition of terminology. The commission believes the terms are adequately defined and allow for reasonable interpretation. Therefore, the commission made no change to the rules in response to this comment.**

One individual commented that the proposed rule revisions are not consistent with RG-373 and the applicable statutes.

**The commission appreciates the comment, but respectfully disagrees with the statement that proposed rule revisions are not consistent with RG-373 and the applicable statutes. The proposed rules may differ from the standards found in the existing RG-373, but there is nothing that precludes the commission from adopting rules that change guidance. The proposed rules incorporate basic components of RG-373 and additional requirements into rule to provide consistency and further establish uniform procedures for approving training and a mechanism to implement and enforce the requirements of those activities performed by training providers. The modes of training (i.e. classroom training versus distance learning versus conferences) differ greatly in training methodology and therefore the delivery standards and requirements for approval reflect those differences. The commission is unaware of any inconsistency between the rules and their applicable statutes. The commission made no change to the rules in response to this comment.**

One individual commented that the proposed rules meet the definition of a “major environmental rule” as defined in Texas Government Code, §2001.0225(g)(3), and thus require a full regulatory impact analysis and questioned why the commission is avoiding performing a full regulatory impact analysis.

**The commission appreciates the comment, but disagrees that the proposed rules meet the definition of a “major environmental rule” as defined in TGC, §2001.0225(g)(3). That section defines a “major environmental rule” as a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure *and* that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Since the specific intent of these rules is to aid the commission in administering occupational licenses and registrations, it is not necessary to go to the second part of the definition. The stated intent of these rules is to ensure consistency between the rules and their applicable statutes, to make grammatical and punctuational corrections, and to modify or add language to improve the Chapter’s readability and enhance its enforceability. The commission disagrees that it is avoiding performing a full regulatory impact analysis. A full regulatory impact analysis is not required under TGC, §2001.0225(a) and (b) because the proposed rules do not meet the definition of a “major environmental rule.” The commission made no change to the rules in response to this comment.**

PRO-OPS commented that it agrees that the rule as proposed is not a major environmental rule as defined in the Government Code, but respectfully disagrees with the stated reason. The first sentence in the analysis fails to include the second part of the two part test of what is a major environmental rule, the "adverse impact" clause. PRO-OPS commented that for TCEQ to avoid having to conduct a full regulatory impact assessment, they should state the intent and functions of the rules is to protect public health and the environment and that there is no adverse impact as a result of the rules.

**The commission disagrees that it is inaccurate to state that the purpose of the proposed rules is not**

**to protect human health and the environment. Texas Government Code, §2001.0225(g)(3), defines a "major environmental rule" "as a rule, the specific intent of which, is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state." All of the commission's rules arguably work to protect the environment and reduce risks to human health. However, a number of TCEQ rulemaking projects will not meet this test, and therefore will not be subject to a full regulatory impact analysis. Because the specific intent of these rules is to aid the agency in administering occupational licenses and registrations, it is not necessary to get to the second part of the definition of a "major environmental rule." The commission made no change to the rules in response to this comment.**

*Comments to Subchapter A: Administration of Occupational Licenses and Registrations*

One individual questioned how the terms "work related" and "expert knowledge" contained in §30.7(16) were relative to the definition of a subject matter expert and how much work related experience (1 yr, 5 yrs) is needed to qualify as a subject matter expert.

**The commission acknowledges the comment. Work-related experience is considered such experience as relates to the critical tasks in a particular occupation and may include, but is not limited to, hands-on experience such as design, installation, troubleshooting, testing, and operation. Expert knowledge can be the result of advanced study or research, association with other experts or extensive experience in a content area. A combination of experience and knowledge are necessary to be considered a subject matter expert. Subject matter experts are usually recognized and known**

**throughout the occupation. The phrases “minimum of three years” and “as relates to the training” have been added to §30.7(16) to add clarity to the rule.**

One individual questioned whether or not training experience would constitute work related experience. **The commission appreciates the comment. However, training experience does not constitute work-related experience. Work-related experience refers to the performance of the critical tasks associated with the occupational license. The commission made no change to the rules in response to this comment.**

Pro-Line and one individual questioned whether or not “work related experience” and “expert knowledge” should be in the same area as the subject matter of the training being provided.

**The commission acknowledges the comment. The definition contained in §30.7(16) has been modified to clarify that work-related experience and expert knowledge should be in the same area as the subject matter of the training being provided.**

Irrigation Services, Pro-Line and one individual commented that the definition of subject matter expert is unclear and leaves the TCEQ staff to make a very subjective interpretation of who is and who is not a subject matter expert.

**The commission acknowledges the comment. To provide clarity the definition of a subject matter expert contained in §30.7(16) has been modified to read: “subject matter expert--a person having a**

**minimum of three years of work-related experience and expert knowledge in a particular content area or areas as relates to training.”**

Irrigation Services commented that video conferencing needs to be added to the definition of Technology-based training.

**The commission appreciates the comment. Video conferencing is currently considered under the approval for conferences and is not considered technology based. The term “interactive video conference” has been added to the definition of conference contained in §30.7(3).**

Pro-Line questioned what factual basis was used for lowering the classroom instructor qualifications while increasing the qualifications for distance-learning providers and requiring more expertise in subject matter and educational principles of persons who teach correspondence than classroom instructor. Pro-Line feels that the definition of a qualified classroom instructor serves to decrease the existing, more specific requirements in RG-373, for an individual to qualify as a classroom instructor and the vagueness of the definition will encourage arbitrary approval or disapproval of who can qualify as a classroom instructor.

**The commission appreciates the comment, but respectfully disagrees that the proposed rules lower classroom instructor qualifications while increasing qualifications for distance-learning providers. The modes of training (i.e., classroom training versus distance learning versus conferences) differ greatly in training methodology and therefore the delivery standards and requirements for approval reflect those differences. The commission’s approval process between each mode of training is uniform and in fact increased standards for training approval of all modes/types of**

**training as relates to accepted industry standards and practices. If the commenter is referring to the entities who may apply for approval of distance learning training, the entities included in the rules have access to the resources, knowledge and technical expertise to produce quality training for occupational licensing. It is important to realize that the classroom instructor may not always be the same persons as the training provider. The commission made no change to the rules in response to this comment.**

Pro-line and one individual commented that a better approach would be to require subject matter experts to hold a Texas license for the subject matter on which they are providing their expertise. In the alternative, a licensee should be considered sufficiently qualified to be considered as a subject matter expert.

**The commission appreciates the comment, but respectfully disagrees that licensure should be considered sufficient to be a subject matter expert. The definition references "...work-related experience and expert knowledge...." Several licenses require no work-related experience or expert knowledge to obtain. For example, no work-related experience or expert knowledge is required to obtain a Class "D" water and wastewater operator, On-Site Sewage Facility Installer I or Landscape Installer license. Additionally, requiring a Texas license might exclude nationally recognized experts from providing training, for credit, to Texas licensees because they do not have a Texas license. The commission made no change to the rules in response to this comment.**

Pro-Line questioned whether or not the TCEQ Board intended in §30.10, Administration, to delegate to the Executive Director the power to establish (including changing) fees and by what authority can such a

delegation be made. Pro-Line questioned if such a delegation was made how would the Administrative Procedures Act (APA) review and comments provisions be met for changes to the fees by future rules.

**The commission appreciates the comment. TWC, §37.009(a) mandates that the commission shall establish and collect fees to cover the cost of administering and enforcing TWC, Chapter 37 and licenses and registrations issued under TWC, Chapter 37. The commission has already given the executive director the authority to collect occupational licensing fees under §30.10(6). However, the commission agrees that state law does not provide for the commission to delegate to the authority to the executive director to establish fees. Therefore, the term "establishing and" are being removed from that section.**

Irrigation System Solutions commented that they were unaware of computer-based testing being offered by the TCEQ and questioned if this was something new or something that is going to take place.

Irrigation System Solutions questioned to which occupational licensing programs this would be available.

**The commission acknowledges that currently no computer-based testing is being offered by TCEQ. Because of the rapid development of technology, this type of testing may become available in the near future. The commission believes that it is prudent and proactive to address this issue in this rulemaking. The occupational licensing programs that would participate in such a project have yet to be determined. The commission made no change to the rules in response to this comment.**

Irrigator Services commented that in regards to §30.28(a), classes should be approved that directly relate to the duties of a Licensed Irrigator. For example a landscape irrigator is an individual who sells, designs,

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. For a Licensed Irrigator to professionally fulfill his licensed requirements, one must be proficient in design, marketing, accounting, estimating, ethics, and management, to name a few.

**The commission appreciates the comment. The commission approves training that is directly related to the licensees' job tasks and knowledge as is required to operate facilities, conduct installations, site assessments, or tests that lead to protection of the environment and public health. Licensees may take other training they find beneficial to maintain or improve their business practices; however, only those that support the job tasks are issued training credits. The commission made no change to the rules in response to this comment.**

PRO-OPS commented that the use of the term "may be approved" in §30.28(b) is inconsistent with usage before and after and the wording should be changed to "shall be approved."

**The commission appreciates the comment, but respectfully disagrees. The term "may be approved" in §30.28(b) is referring to the various modes/types of training for which licensees may receive credit if successfully completed and is consistent with the intended use. The term "shall be approved" contained in §30.28(a) refers to the approval of training. The commission made no change to the rules in response to this comment.**

Pro-Line questioned the meaning of the term "successful completion" and whether or not the meaning applies to all methods of training. Pro-line also questioned whether or not mere attendance (without any

testing) qualifies as “successful completion” of classroom, association and conference training and how mere attendance of classroom, association and conference training assures comprehension of the training. Pro-Line questioned what means does the proposed rule require to verify actual and full attendance of this type of training if no testing for comprehension of the training materials is required.

**The commission appreciates the comment. References to training “attendance” in §30.28 have been changed to “successful completion.” The term “successful completion” applies to all modes of training in the rules as it references “training and training material used to meet the requirements for obtaining or renewing a license....” Successful completion of training can be determined by interaction between the instructor or subject matter expert presenter and participants. Other participants can also aid in the comprehension of the training topic by interaction between participants which is possible in classroom training, conferences and training occurring at association meetings. An important part of classroom training lesson plans is the four-step teaching process including “checking for understanding or evaluation of learning.” This can be accomplished by several methods/means including, but not limited to “...verifying participation...” and to report only the hours successfully completed for a training event. For classroom training, conferences, and training at meetings, the training provider can use a variety of means to verify participation, to include, but not be limited to, proctored sign-in sheets, electronic tracking of attendance, and taking roll.**

Pro-line questioned what difference in terms of training credit used in §30.28(c) is justified if the same material is taught by one expert or another and by what criteria would such a difference be made.

**The commission appreciates the comment and believes the commenter is referring to taking the subject matter expert qualifications into account when determining program credit. A qualified subject matter expert should not develop training and should not provide information to licensees on an occupational program area where the subject matter expert is not qualified. If a non-subject matter expert prepares training materials, provides information or teaches a class outside her/his area of expertise, the licensee may receive incomplete or inaccurate information. The commission makes every effort to ensure that classes that teach the same or comparable material are awarded the same or comparable amount of training credits. The commission made no change to the rules in response to this comment.**

Pro-Line and one individual questioned the meaning of §30.28(c)(1) relating to field testing data, the criteria used for field testing, and how the provision could be uniform without the criteria for field testing.

**The commission appreciates the comment. Field testing may consist of, but not be limited to, a representative sampling of students from the target audience that have completed the training to determine training credit and appropriate course content. An updated RG-373 is planned to address issues that are not required (rules) but are best practices (guidance) to address such criteria issues for field testing. The commission made no change to the rules in response to this comment.**

One individual questioned if the criteria contained in §30.28(c)(2) would be used to determine subject matter experts and the training credit awarded. The commenter questioned how the determination could be uniform without predetermined criteria. The individual questioned how this provision could be

uniform with rating training credit to quantity of subject matter.

**The commission appreciates the comment but disagrees with the concept of using the quantity of subject matter only to determine training credit. A subject matter expert should not develop training nor provide information to licensees on an occupational program area where the subject matter expert is not qualified. An updated RG-373 is planned to address issues that are not required (rules) but are best practices (guidance) to further address subject matter experts. The commission made no change to the rules in response to this comment.**

One individual questioned what the criteria is for the TCEQ staff members' qualifications in subject matter expertise, instructional design expertise, and educational principals in their review and analysis of training programs.

**The commission appreciates the comment. Reviewing of training is an agency effort. Program area expertise is utilized in reviewing training material. Applicants for positions with the TCEQ must meet minimum qualifications set by the agency for specific job classifications. The TCEQ makes every effort to select individuals with educational and background experiences similar to the areas that are regulated by the agency and believes that its staff is qualified to make appropriate determinations in reviewing training material. The commission made no change to the rules in response to this comment.**

PRO-OPS suggests omitting the word "qualifications."

**The commission appreciates the comment. “Qualification” in this text means considering, the individual’s education, experience and licensing among other factors. Therefore, removing the word “qualifications,” from “...use subject matter expert qualifications to determine...” would change the rule outcome. The commission made no change to the rules in response to this comment.**

Pro-line and one individual questioned language in §30.28(d)(3) and (d)(4) regarding the meaning of the term “supplemental” information and materials and asked how training providers will know what this is and what to submit.

**The commission appreciates the comment. When submitting an application for training approval the training provider must submit supplemental materials (i.e. course overview goals, training materials, event agendas, topics of educational programs, learning outcomes, etc...) along with the application. The materials can vary depending on the mode/type of training. Therefore, an updated RG-373 is planned to address issues that are not required (rules) but are best practices (guidance) to address terms such as supplemental information and have it commensurate with the mode of training. The commission made no change to the rules in response to this comment.**

Pro-Line questioned why distance learning is the only type of training that is required to submit supplemental materials and why is this not a requirement for classroom, association or conference training to submit these materials.

**The commission appreciates the comment, but respectfully disagrees with the statement that distance learning is the only type of training that is required to submit supplemental materials.**

**Section 30.28(d)(4) of the rules require applications for approval of training courses or new training material from all modes/types of training to contain supplemental material. The commission made no change to the rules in response to this comment.**

PRO-OPS commented that the term “training course” is used in several places in §30.28(d) and (e) but is undefined. PRO-OPS suggests that if the commission is referring to all types of training, they use the term training event as used elsewhere.

**The commission appreciates the comment and staff agrees the term “training course” may be misleading and for consistency, the term(s) “training event” or “training” have been used in §30.28. The rule language was changed in response to this comment.**

One individual commented that §30.28(d)(4) needed to define a “qualified subject matter expert” that would edit supplemental materials and information to be identified or defined for efficient submittal of training for approval.

**The commission appreciates the comment. To provide consistency with the definition of “subject matter expert” contained in §30.28(16), the word “qualified” has been removed from the phrase, where applicable, throughout §30.28. A subject matter expert would need to meet the definition contained in §30.7(16) which is a person having a minimum of three years of work-related experience and expert knowledge in a particular content area or areas as relates to training.**

One individual commented that the information required for certificates of completion needs to be

identified or defined in §30.28(d)(5).

**The commission appreciates the comment. An updated RG-373 is planned to address issues that are not required (rules) but are best practices (guidance) such as the required information to be included on certificates of completion which should include, but not be limited to, the student's name, identifier number, course name, course number, training provider's name and number. The commission made no change to the rules in response to this comment.**

One individual commented that a provision in §30.28(i)(2) confirms the need to have current rules and regulations as part of the licensees' training to ensure awareness of relevant and current rules and regulations.

**The commission acknowledges the comment and agrees that current rules and regulations can be part of relevant training for licensees. However, providing licensees copies of rules with no further explanation from a classroom instructor or subject matter expert is not considered providing training. The commission made no change to the rules in response to this comment.**

One individual questioned why a training provider is not allowed 180 days to make corrections or revisions after a recall and prior to rescinding and stated that there is not an adequate and reasonable time allotment for corrections or revisions which is uniform.

**The commission appreciates the comment, but respectfully disagrees with the statement that time**

**allotment for corrections or revisions to training is not adequate, reasonable and uniform.**

**Depending on the reason and circumstances for a training recall, the time period for corrections or revisions may vary. Some recalls may be for items that are simple and do not need a great deal of time to correct or revise. There may be other instances where the material contains outdated or incorrect information and needs immediate response. It is the commission's intention to work closely with the training providers and allow reasonable time to make any necessary corrections or revisions. The amount of time allotted will be dependent upon the circumstance of the recall. The commission made no change in response to this comment.**

PRO-OPS commented that it supports the concept that providers should be held responsible for their training in §30.28(i)(4). PRO-OPS suggested using the word “responsible” instead of “liable”, which has a negative, adverse legal connotation.

**The commission appreciates the comment and the word “responsible” has replaced the word “liable” in “...the training provider shall be responsible for the content and delivery of the training.” A change to §30.28(i)(4) has been made as a result of this comment.**

Pro-Line questioned what records are included in the term “accurate training records” in §30.28(i)(5).

**The commission appreciates the comment. Accurate training records contain, but are not limited to, electronic or paper files listing student information, training the student has completed, sign-in sheets, etc. An updated RG-373 is planned to address issues that are not required (rules) but are best practices (guidance) such as what training records are to be maintained by the training**

**provider. The commission made no change to the rules in response to this comment.**

One individual questioned whether or not the TCEQ is responsible for keeping accurate records.

**The commission appreciates the comment. It is unclear what kind of records the commenter is referring to in this statement. However, with regard to occupational licensing, TWC, Chapter 37 requires the commission to maintain and make available to the public an official roster of persons who hold licenses and registrations issued under this chapter. The commission made no change to the rules in response to this comment.**

PRO-OPS commented that the requirement in §30.28(i)(7) to notify students of all fees associated with completing and obtaining credit for training before and during the training is unclear. In most cases, the students are not the ones paying for the training; their employers are responsible for the charges. It is not clear how the agency is expecting this notification to be accomplished.

**The commission appreciates the comment. The intent of the rule is that the training provider notify potential students of all the fees associated with successfully completing the training prior to enrollment. The commission wants to avoid instances where students arrive at a training event and learn that they need to purchase a workbook or supplies. This will also level the playing field because students will be able to compare the total costs of various classes. This can be done via accurate advertisements and notifications. More specific information will be available in the updated RG-373 which will address issues that are not required (rules) but are best practices (guidance). The commission made no change to the rules in response to this comment.**

PRO-OPS stated that the requirement in §30.28(i)(8) to accurately present to students approved training credit is unclear. Training providers are already approved for specific training classes prior to the class being held. Providing a certificate should suffice to the student a record of approved training credit. PRO-OPS questioned what other documentation the commission needed.

**The commission appreciates the comment. The rule intends that the training provider notify potential students of the amount of training credit the commission has approved for the training event prior to enrollment via accurate advertisements and notifications. More specific information will be available in the updated RG-373 which will address issues that are not required (rules) but are best practices (guidance). The commission made no change to the rules in response to this comment.**

Burke Enterprises and Irrigation Systems Solutions commented that in regards to §30.28(i)(10), it should not be the instructor's responsibility to ensure licensees do not repeat the same distance learning course within the renewal period.

**The commission agrees that the language in this section should be consistent with the part of the rule dealing with the requirements for distance learning. Training providers, at a minimum, should inform licensees that repeating the same distance learning training in the renewal period is not allowed for credit toward the required continuing education credits. In response to the comment the language in §30.28(i)(10) has been changed to read “inform licensees that distance learning training repeated within the renewal period will not receive training credit....”**

PRO-OPS commented that they are opposed to prohibiting a licensee from re-taking a training course and that students will learn something each time they take a class, especially safety related issues, and students should not be precluded from repeating training. PRO-OPS commented that this requirement is generally too prescriptive. Pro-Line and one individual questioned the prohibition against repeat courses for only distance learning and not classroom, association or conference courses.

**The commission appreciates the comment. Licensees may participate in training as many times as they wish, however, the purpose of training is to maintain and enhance the skills and knowledge necessary to perform the job to protect the environment and public health. Training at association meetings and conferences change and information obtained through classroom training will vary depending on the instructor and the participants. Also, attendance can be verified for meetings, conferences and classroom instruction. Distance learning, although consistent, provides licensees credit after successfully completing a performance assessment. If this performance assessment is identical in content and format, the licensee may be obtaining training credit without obtaining additional knowledge and skill and investing no additional contact time. If further study is desired, a licensee is able to retain a copy of the training materials for a paper-based correspondence course. Therefore licensees repeating the same training courses for distance learning with the current renewal period will not be issued training credit. The commission made no change to the rules in response to this comment.**

Pro-Line commented that §30.28(i)(10) and (p)(3)(C) contradict each other. The first section prohibits any distance learning repeat courses, but the second section permits the repeat course under certain conditions.

**The commission agrees that the language in this section should be consistent between these two provisions. Therefore, the term “distance learning training repeated within the renewal period will not receive training credit if the training uses the same performance-based assessment” has been added to both provisions to provide consistency.**

Pro-Line and one individual questioned if the term “days” used in §30.28(i)(13) refers to “working days” or “calendar days” and asked what “successful completion” means to each type of training. An individual also questioned the meaning of successful completion related to each type of training.

**The commission appreciates the comments. Language has been added to §30.28(i)(13) to reflect business days. References to training “attendance” in §30.28 have been changed to “successful completion.” The term “successful completion” applies to all modes of training in the rules as it references “training and training material used to meet the requirements for obtaining or renewing a license....” Successful completion of training can be determined by interaction between the instructor or subject matter expert presenter and participants. Other participants can also aid in the comprehension of the training topic by interaction between participants which is possible in classroom training, conferences and training occurring at association meetings. An important part of classroom training lesson plans is the four-step teaching process including “checking for understanding or evaluation of learning.” This can be accomplished by several methods/means including, but not limited to “...verifying participation...” and to report only the hours successfully completed for a training event. For classroom training, conferences, and training at meetings, the training provider can use a variety of means to verify participation, to include, but not be limited**

**to, proctored sign-in sheets, electronic tracking of attendance, and taking roll.**

One individual questioned what criteria will be used to recall training in §30.28(k).

**The commission acknowledges the comment. Conditions making it necessary to initiate a training recall are similar to reasons for rescinding, suspending or denying training approval. Therefore, the word “recall” will be included in §30.28(w)(3) for further clarification. The language, “...but is not limited to...” will also be added to enable the agency to initiate a training recall or rescind approval for reasons not anticipated at adoption or specifically listed in §30.28(w)(3).**

One individual questioned whether or not the TCEQ had the obligation and responsibility to provide qualified staff for reviewing and evaluating past and present training programs.

**The commission appreciates the comment. Applicants for positions with the TCEQ must meet minimum qualifications set by the agency for specific classifications. The TCEQ makes every effort to select individuals whose educational and background experiences are similar to the areas that are regulated by the professions regulated by the agency and believes that they are qualified to make the appropriate determinations in reviewing training courses and materials. The commission made no change to the rules in response to this comment.**

One individual commented that the provision fails to recognize and address the damages incurred by the training provider for the rescinding of previously approved training. The individual also stated that the proposed revision fails to allow the training provider a reasonable and adequate amount of time to correct

or revise the training prior to rescinding. There may be several hundred licensees in the process of completing training when a previously approved training program is recalled or rescinded resulting in damages and possible litigation between the licensee and training provider. The provision is not consistent with §30.28(i) which allows the training provider 180 days for revisions or corrections due to changes in the rules or regulations.

**The commission appreciates the comment, but respectfully disagrees with the statement that the provision fails to recognize and address the damages incurred by the training provider for the rescinding of previously approved training. The individual does not provide any basis or reasoning for the presumption that damages will be incurred by the training provider for the rescinding of previously approved training. The commission also respectfully disagrees with the statement that time allotments for corrections or revisions to training are not adequate and reasonable. Depending on the reason and circumstances for a training recall, the time period for corrections or revisions may differ. The amount of time allotted will be dependent upon the circumstance of the recall. One recall may be for items that are simple and do not need a great deal of time to correct or revise or it may be an instance where the material contains outdated or misinformation and needs immediate response. It is the commission's intention to work closely with the training providers and allow adequate and reasonable time to make any necessary corrections or revisions. A recall will not necessarily result in training approval being rescinded; in fact by recalling the training to fix problems the commission hopes to avoid having to rescind training approval. The commission made no change to the rules in response to this comment.**

One individual questioned whether or not the recall and rescinding of a previously approved training

program could be due to inadequate qualifications of the TCEQ staff that initially reviewed and approved the training.

**The commission appreciates the comment. TCEQ attempts to hire and retain qualified staff to review and approve training; the premise for this question is speculative. Since best practices, technology and industry standards change through time, there will be times when previously approved training programs will be recalled and rescinded. The commission made no change to the rules in response to this comment.**

One individual questioned whether or not it would be necessary to recall and re-evaluate all training to ensure compliance with proposed amendments.

**The commission appreciates the comment. Training approval requests currently in-house will be evaluated against the existing rules. At this time, there are no plans to recall or re-evaluate all training. The commission made no change to the rules in response to this comment.**

Pro-Line questioned if training is recalled when would the rescission of approval take place and how such a recall would affect credit for training that had already been completed by students.

**The commission appreciates the comment. In the majority of instances the determination to rescind training approvals will only be made after the training provider has been given an opportunity to revise or correct the training material through the recall process and fails to do so. However, depending on the seriousness of the deficiency with the training the commission may rescind**

**training approval without recalling it. Training credits for courses which have already been completed by students will not be affected by a course being recalled or rescinded. A recall will not necessarily result in training approval being rescinded; in fact by recalling the training to fix problems the commission hopes to avoid having to rescind training approval. The commission made no change to the rules in response to this comment.**

Pro-Line also questioned how would such a recall affect credit for training for which students had already enrolled but not completed and what criteria is used when recalling training.

**The commission appreciates the comment. When a determination is made to recall training, the commission will coordinate with the training provider to establish a timeline for updating the training. During the recall period the training provider will be allowed to continue providing training. Students attending and successfully completing the training during the recall period will receive applicable training credit. The commission made no change to the rules in response to this comment.**

One individual commented that limiting training in §30.28(1)(2) to critical job tasks is not in the best interest of the occupation, the licensee, or general public.

**The commission appreciates the comment. Critical job tasks are identified by performing a job task analysis or training needs assessment involving input from subject matter experts in the occupational licensing program areas. The job tasks are those identified by subject matter experts as tasks required by licensees to ensure proper operation of facilities, installation of systems, site**

**assessments or testing. The tasks are used to approve training, develop training and create curriculum guidance for acceptable topics for continuing education or course outlines for the basic licensing courses. Licensees may take other training they find beneficial to maintain or improve their business practices; however, only those that support the job tasks are issued training credits. The commission made no change to the rules in response to this comment.**

One individual questioned what criteria are used and who performs the job analysis or work needs assessment. Pro-Line and one individual questioned what is the source of the job analysis or training needs assessment to which the rule refers and when would TCEQ make the identified critical job tasks available to training providers so they can design their training in accordance with the rule. Pro-line also questioned if there was any requirement or prohibition against training going beyond the critical job tasks and including other relevant topics that indirectly relate to the occupation. One individual commented that training should be expanded to include current rules and regulations, business practices, consumer relations, and research and development instead of limiting training to critical job tasks.

**The commission appreciates the comments. Critical job tasks are identified by performing a job task analysis or training needs assessment involving input from subject matter experts in the occupational licensing program areas. The job tasks are those identified by subject matter experts as tasks required by licensees to ensure proper operation of facilities, installation of systems, site assessments or testing. The tasks can be used to approve training, develop training and create curriculum guidance for acceptable topics for continuing education or course outlines for the basic licensing courses. Staff approves training that is directly related to the licensees' job tasks and knowledge required to protect the environment and public health. Licensees may take other**

**training they find beneficial to maintain or improve their businesses; however, this is not the purpose of continuing education for maintaining an occupational license and should not receive training credit. Job tasks analysis or job assessments that have been completed for a specific program area are available upon request to the commission's occupational licensing section. The commission made no changes to the rules in response to these comments.**

One individual commented that relative to §30.28(1)(3) that RG-373, Page 3 specifically states “occupational training is not to be used as an opportunity for advertisement” and that endorsements or advertisements have never been allowed in occupational training prior to these proposed amendments. These proposed revisions will allow endorsements by multiple manufacturers, distributors or service providers and does not comply with RG-373. Therefore, these revisions do not provide consistency between the rules and the applicable statutes.

**The commission acknowledges the comment but disagrees that the rule will allow endorsements. That section was modified to clarify that training is not to be used as an opportunity for advertisement by deleting the word “single” and adding “...or used as an opportunity for advertisement...” in §30.28(1)(3). However, in some training, demonstration or use of specific products/services is required, such as testing of backflow prevention assembly devices. In these cases, the training provider is required to include examples of a variety of products/services, present information generically and refrain from endorsing product(s)/service(s) as a part of training approval as explained in RG-373. The commission made changes to the rule language in response to this comment.**

Pro-Line and one individual commented that use of the term “a single” to suggest that a training course or material can promote and endorse products or products lines, or services so long as the promotion and endorsement is for two or more manufacturers, distributors, or service providers. Pro-line commented that the rule should be clarified as to what promotion or endorsement, if any, is prohibited and what is permitted.

**The commission agrees that the term could cause confusion, therefore, the phrase “ or used as an opportunity for advertisement” has been added to the language in §30.28(1)(3) in response to the comment.**

Pro-Line and one individual commented that “means” needs to be defined and illustrated in §30.28(1)(4).

**The commission appreciates the comment. The rule intends that the training provider provide ways (means) to accomplish the learning objectives identified for training. More specific information will be available in the updated RG-373 which will address issues that are not required (rules) but are best practices (guidance). The commission made no change to the rules in response to this comment.**

Pro-Line and one individual questioned what factual basis was used in §30.28(1)(6) to require written examinations to ascertain student comprehension of distance learning courses, but not requiring such testing for classroom, conference, and association training.

**The commission acknowledges the comment but disagrees that the rules require written**

**examinations for distance learning without similar requirements for other types of training. The initial basis and reference for distance learning requirements is the International Association for Continuing Education and Training (IACET) guidelines for distance education. The rule states all training “...be monitored for successful participant completion...” There is no requirement in the rules requiring “written examinations” to ascertain student comprehension. The commission made no change to the rules in response to this comment.**

Pro-Line questioned how TCEQ or training providers determine in advance of training approval, is someone an “instructional design expert” and how will TCEQ or training providers determine in advance of training approval if someone is an “effective qualified classroom instructor.” Pro-line also questioned what is the difference between being “effective” and “qualified” and what is intended by the alternative of having “instructional design experts” versus using a “classroom instructor” and limit the alternative to only classroom instructors.

**The commission appreciates the comment. An “instructional design expert” has training with educational principles, assessments and curriculum design and learning theory along with successful experience in the delivery of training. More specific information will be available in the updated RG-373 which will address issues that are not required (rules) but are best practices (guidance). These determinations would be made during the review and approval process based on information supplied by the training provider. Instructors considered qualified would include a person whose past accomplishments include achievements related to classroom instruction, occupational license(s), and hands-on experience with critical job tasks. Instructors considered effective in the classroom would include a person with a demonstrable ability to ensure student**

**comprehension of approved course content (in part by maintaining an environment conducive to student interest and learning). An effective instructor receives few, if any, substantiated complaints on performance. The commission made no change to the rules in response to this comment.**

One individual commented that §30.28(1)(8) needs to define and qualify the terms “subject matter expert” and “instructional design expert.” Additionally, training providers need specific criteria for the proper and productive research and development of training programs.

**The commission appreciates the comment. The term “subject matter expert” has been defined in §30.28(7) as a person having a minimum of three years of work-related experience and expert knowledge in a particular content area or areas. An “instructional design expert” has training with educational principles, assessments and curriculum design and learning theory along with successful experience in the delivery of training. More specific information will be available in the updated RG-373 which will address issues that are not required (rules) but are best practices (guidance). The commission made no change to the rules in response to this comment.**

Pro-Line and one individual questioned why classroom training is not held to the same standards as distance learning and what factual basis does TCEQ have for treating these modes of training differently in §30.28(m).

**The commission appreciates the comment. The commission’s approval process between each mode of training is more uniform as a result of these rules, and in fact, these rules increased the standards for training approval of all modes/types of training as relates to accepted industry standards and practices. The proposed rules incorporate basic components of the RG-373 and**

**additional requirements into rule to provide consistency and further establish more uniform procedures for approving training and a mechanism to implement and enforce the requirements of those activities performed by training providers. The modes of training (i.e., classroom training versus distance learning versus conferences) differ greatly in training methodology and therefore the delivery standards and requirements for approval reflect those differences. For example successful completion and comprehension of training can be determined by interaction between the instructor or subject matter expert presenter and participants. Other participants can also aid in the comprehension of the training topic by interaction between participants which is possible in classroom training, conferences and training occurring at association meetings. An important part of classroom training lesson plans is the four-step teaching process including “checking for understanding or evaluation of learning.” This can be accomplished by several methods/means including, but not limited to “...verifying participation...” and to report only the hours successfully completed for a training event. The commission made no change to the rules in response to this comment.**

One individual questioned how a classroom instructor monitors each and every student’s comprehension of the subject matter based on attendance and occasional interaction with a minority of the participants.

**The commission appreciates the comment. Successful completion and comprehension of training can be determined by interaction between the instructor or subject matter expert presenter and participants. Other participants can also aid in the comprehension of the training topic by interaction between participants which is possible in classroom training, conferences and training occurring at association meetings. An important part of classroom training lesson plans is the four-**

**step teaching process including “checking for understanding or evaluation of learning.” This can be accomplished by several methods/means including, but not limited to “...verifying participation...” and to report only the hours successfully completed for a training event. The commission made no change in the rules in response to this comment.**

One individual questioned why classroom training is not required to be submitted for approval by governmental entities, industry related associations or accredited colleges.

**The commission appreciates the comment, but respectfully disagrees with the statement that governmental entities, industry related associations or accredited colleges are not required to submit classroom training for approval. The rules require that all training providers no matter the mode/type submit proposed training for approval. The commission made no changes in the rules in response to this comment.**

ECO Resources, Inc. (ECO) commented that it appeared that §30.28(m)(1) addresses the State’s concern that a place of business may take a training experience and turn it into a sales opportunity. ECO commented that the State should consider that the classes are under the supervision of a trained instructor and that certain businesses may have better training facilities than some utilities and that the business may be able to provide on site resources that could not be transferred to other locations.

**The commission appreciates the comment. This provision is intended to ensure training for occupational licensees is not an opportunity for advertisement of specific products and services related to the occupational licensee’s duties. It is the training provider’s responsibility to ensure the training facilities are conducive to learning. Facilities promoting products of distributors, service**

**providers, etc., connected to the type occupational license related to the training would not be conducive to learning. The commission made no change to the rules in response to this comment.**

ECO commented that the second sentence of the rule (§30.28(m)(1)) is unnecessary and recommends deleting the proposed rule in its entirety.

**The commission appreciates the comment. This provision is intended to ensure training for occupational licensees is not an opportunity for advertisement of specific products and services related to the occupational licensee's duties. Exempting water, wastewater and solid waste facilities was included at the request of the regulated community as many of these facilities are not profit-centered and have appropriate training facilities on-site. The commission made no change to the rules in response to this comment.**

Pro-line questioned why terms such as "training courses" were used instead of the defined term "approved training event" in §30.28(n)(2). Pro-line questioned if it was the commission's intention to grant authority to the Executive Director to approve training credit for attendance or completion of events that are not included within the definition of an approved training event.

**The commission appreciates the comment and agrees the term "training course" may be misleading and for consistency, the term(s) "training event" or "training" have been used instead of "training course." It is not the commission's intention to approve training credits for attendance or completion of events that are not included within the definition of an approved training event. However, §30.28(b) allows the executive director to approve training credits for successful**

**completion of other professional activities, such as publication of articles or teaching classroom training courses. Changes to the rule language were made as a result of this comment.**

PRO-OPS commented that §30.28(o), relieves associations from the prohibition on holding training at places of businesses. PRO-OPS questioned if that was the intent of the rule and if so object to it.

**The commission appreciates the comment and to provide consistency, has added the provision “the training at association meetings must not be held in a place of business of a product manufacturer, distributor, or service provider directly related to the occupational license” to §30.28(o).**

Pro-Line questioned how §30.28(o)(1) would work and if TCEQ could ensure that training conducted at a national conference of an association was relevant to Texas-based occupation job tasks and knowledge.

Pro-Line further questioned how there is any assurance of the content, subject matter or educational expertise, if training is approved by associations on an annual basis.

**The commission appreciates the comment, but national conferences must meet the rule requirements of in-state training events and are reviewed accordingly. Presently, most associations apply for approval of training at meetings on an individual basis. The association training provider must submit a list of topics/subject matter for approval for the year, or provide training from a list of approved training topics. Upon review of the application for training approval, the training will be approved or denied as warranted. The commission made no change to the rules in response to this comment.**

Pro-Line questioned why the requirements of conferences, seminars or workshops include at least four hours of approved training and why association meetings must be at least one hour in length and contain at least 30 minutes devoted to presentations by qualified subject-matter experts on topics related to job tasks performed by the licensees. Pro-Line also questioned why conference and association training is not subject to the same standards as distance learning.

**The commission appreciates the comment, but respectfully disagrees with statement that the requirements of conferences, seminars or workshops include at least four hours of approved training. For conference training to be approved, the adopted rules will require that it contain a minimum of three hours of approvable training. Association meetings are generally conducted in conjunction with lunches or evening meal, therefore the amount of training time at those venues are less. The amount of training credits issued to an association meeting will be dependent on the actual length of the training presented. The modes of training (i.e., association meeting versus distance learning versus conferences) differ greatly in training methodology and therefore the delivery standards and requirements for approval reflect those differences. The commission made no change to the rules in response to this comment.**

One individual questioned §30.28(p)(1) and whether or not it is a conflict of interest for TCEQ to be a training provider or be in competition with other training providers because the TCEQ establishes the rules, interprets the rules and approves and rescinds all training.

**The commission appreciates the comment. The TCEQ technical programs that conduct training are held to the same standards as any other training providers. The technical programs submit their**

**training to the occupational licensing section for approval just like any other private sector training provider. If the training does not meet the criteria it will be returned to the appropriate area for revisions, the agency training is also eligible to be recalled or rescinded. Therefore, there would be no conflict of interest for TCEQ to be a training provider or be in competition with other training providers. The commission made no change to the rules in response to this comment.**

Irrigation Services commented that §30.28(p)(1)(A), (B), and (C) can be deleted and the language in §30.28(p)(1)(D) changed.

**The commission appreciates the comment. As relates to distance learning training, governmental entities, industry-related associations and accredited colleges have or have access to the resources, knowledge and technical expertise to produce quality training for occupational licensing. Individuals and private companies may very well demonstrate capabilities in the technical, educational, and subject-matter knowledge areas of distance learning training and under §30.28(p)(1)(D) will be considered for approval. The commission made no change to the rules in response to this comment.**

Pro-Line questioned the factual basis for the standard relating to organizations that can submit distance learning training for approval. Pro-Line questioned the context of the rule related to the term “comparable” (comparable to whom or what). Pro-Line also questioned why distance learning trainers have exceptional subject matter expertise beyond that required of trainers in other modes of training and what does the term “exceptional” mean in this context. Additionally, Pro-Line questioned if experience actually performing approved distance learning for TCEQ, such as that possessed by Pro-Line, qualify an

entity for distance learning and why isn't the criteria included in the rule that the executive director would use to determine who can submit distance learning for approval.

**The commission appreciates the comment. With respect to the term “comparable”, contained in §30.28(p)(1)(D) as it relates to other entities that the executive director may determine qualified to submit distance learning training; this would be entities that can demonstrate they have comparable resources of governmental entities, industry-related associations, and accredited colleges such as having or having access to knowledge and technical expertise to produce quality training for occupational licensing. Therefore, individuals and private companies with demonstrated capabilities in the technical, educational, and subject-matter knowledge areas of distance learning training comparable to the other entities will also be considered for approval. It is not appropriate to address an individual training provider’s qualifications as part of the rule process. Additionally, to provide clarity the commission has removed the term “exceptional” from §30.28(p)(1)(D).**

PRO-OPS commented that the wording in §30.28(p)(1)(D) is too vague and uncertain. The characteristics that distance learning must have are specified elsewhere in the rule, so (D) can be safely deleted.

**The commission appreciates the comment. However, “...other entities, as determined by the executive director, who can demonstrate...” refers to those entities which may submit applications for approval of distance learning and are not included in the characteristics of the training. Therefore, the reference to other entities who may apply for training approval remains. The**

**commission made no change to the rules in response to this comment.**

One individual questioned §30.28(p)(3) and whether or not distance learning training could be repeated if a different examination is provided for student evaluation.

**The commission appreciates the comment. Licensees may participate in training as many times as they wish, however, the purpose of training is to maintain and enhance the skills and knowledge necessary to perform the job to protect the environment and public health. Training at association meetings and conferences changes and information obtained through classroom training may vary depending on the instructor and the participants. Also, attendance can be verified for meetings, conferences and classroom instruction. Distance learning, although consistent, provides licensees credit after successfully completing a performance assessment. If this performance assessment is identical in content and format, the licensee may obtain training credit without obtaining additional knowledge and skill and investing no additional contact time. If further study is desired, a licensee is able to retain a copy of the training materials for a paper-based correspondence course. Distance learning may be repeated if the training provider can demonstrate the performance assessment is not identical in content and format to the same training that has already been taken during the current renewal period. The commission made no change to the rules in response to this comment.**

One individual questioned whether or not the same training be repeated by attendees in the same renewal period for classroom, convention, association meetings and training events and why the provision (§30.28(p)(3)(C)) was discriminatory.

**The commission appreciates the comment. Licensees may participate in training as many times as they wish, however, the purpose of training is to maintain and enhance the skills and knowledge necessary to perform the job to protect the environment and public health. Training at association meetings and conferences changes and information obtained through classroom training may vary depending on the instructor and the participants. Also, attendance can be verified for meetings, conferences and classroom instruction. Distance learning, although consistent, provides licensees credit after successfully completing a performance assessment. If this performance assessment is identical in content and format, the licensee may obtain training credit without obtaining additional knowledge and skills and investing no additional contact time. The commission made no change to the rules in response to this comment.**

One individual commented that the term “timely” needs to be defined in §30.28(p)(3)(B).

**The commission appreciates the comment. To provide clarity the term “timely” used in §30.28(p)(3)(B) and (r)(4) has been changed to “must provide students within one business day, access to a subject matter expert.”**

PRO-OPS commented that the term “printed course information” is vague and unclear in §30.28(s). They suggest using language such as “written course materials.” The existing language for example could be interpreted to mean “course announcements.”

**The commission appreciates the comment and agrees the phrase “Printed course information...” may be confusing. Therefore, the phrase has been changed to “Training materials....”**

**Consequently, training utilizing power point presentations, manuals, hand-outs, information on a computer screen, etc., would be included.**

One individual commented that the terms “modified”, “target audience” and “method of delivery” need to be defined in §30.28(t).

**The commission appreciates the comment. The term “modified” as used in §30.28(t) refers to changing the training materials; the term “target audience” as used in §30.28(t) refers to the particular group that the training is being addressed (i.e. water operator, landscape irrigators, etc.), and the term “method of delivery” as used in §30.28(t) refers to the method in which the training is being delivered (i.e. on-line, activity based, instructor led, field project, etc.). More specific information will be available in the updated RG-373 which will address issues that are not required (rules) but are best practices (guidance). The commission made no change to the rules in response to this comment.**

Pro-Line and one individual questioned what is meant by the term “in an original manner” and why aren’t there uniform requirements that printed course material be used at all times in all types of training in the rule. Pro-Line questioned whether or not printed material could include knowledge that is relevant and optional in addition to that which is necessary. Pro-Line also questioned whether or not this language prohibits using copies of rules and other reference material that are not reformatted, i.e., not in an original manner created by the trainer and the reasoning for such broad restrictions.

**The commission appreciates the comment. To provide clarity the phrase “printed course information...” has been changed to “training materials....” Consequently, training utilizing manuals, hand-outs, information on a computer screen, etc., would be included. The rule addresses the use of copies of the rules in §30.28(t) in that the materials must be modified to be applicable to the target audience and the method of delivery, such as via instructor-led presentation or on-line training. The rules do not prohibit copies of rules, or other materials that have not been reformatted from being included in the training, but should only be used as reference in conjunction with the training material. If training materials submitted to the executive director for approval are copyrighted materials, the training provider is responsible for obtaining proper approval from the publisher to reprint text, pictures, graphics, tables, data, and any other information that is obtained from a source that is not an original creation of the training provider. The training materials submitted shall include appropriate references. The rule language was changed as a result of this comment.**

One individual commented that the term “good cause” in §30.28(w)(3) needs to be defined.

**The commission appreciates the comment. However the term “good cause” is defined within the provision. Section 30.28(w)(3), states that the executive director may rescind, suspend, or deny training approval for good cause. Those reasons include, but are not limited to: the training not conforming to current technical standards or rules; the training not conforming to the materials as approved; the subject matter not relating to critical job tasks performed by licensees; an instructor not qualified to teach the subject matter; an instructor being ineffective in the delivery of the subject matter; training that promotes or endorses products, product lines, or services from one**

**manufacturer, distributor, or service provider; participation records not submitted as required by the rules; records, rosters, or application materials having been falsified; noncompliance with a training recall. The commission made no change to the rules in response to this comment.**

One individual commented that §30.28(w)(3)(A) needs to specifically identify or define current technical standards or rules for each occupation.

**The commission appreciates the comments. The rule references rescinding, suspending, or denying training approval if the training does not conform to current technical standards or rules. The phrase, “accepted industry standard practices or agency rules” has been substituted for the words “current technical standards or rules” to clarify the requirements. For example, the rules for Landscape Irrigation reference manufacturer’s recommendations and currently accepted practices and knowledge. In the water and wastewater industry there are national associations which develop and update best management practices and industry standards. Training providers making an effort to remain updated and active in their industry are familiar with the technical requirements in the training for occupational licensees and may vary for each program area. The rule language was changed as a result of this comment.**

Pro-Line questioned what difference there is between training being recalled and training being rescinded or suspended and if training is rescinded or suspended, how will that action be taken so as not to adversely affect credit for training for which students had already enrolled but not completed.

**The commission appreciates the comment. Training recalls are used to review and re-evaluate existing training courses. The training provider is allowed to keep offering the course during the recall period. Once the recalled course has been re-evaluated the commission will notify the training provider of any deficiencies and give them a time frame to correct the deficiencies. The training provider is allowed to offer the course during this time period. However, if the training provider fails to make the necessary modifications to the course within the time frame allotted, the commission may rescind training approval for that course and instruct the training provider to discontinue offering the course. The commission may also rescind, suspend or deny training approval for training that meets the criteria in §30.28(w). Any students that had enrolled in the training before the effective date of the training approval being rescinded or suspended, but had not completed the training will receive the applicable credit. The commission made no change to the rules in response to this comment.**

Pro-line questioned whether or not training could comply with these rules, but still be rescinded, suspended, or denied if not conforming to current technical standards and to what technical standards are being referred. Pro-line questioned what authority is there to omit the technical standards from the rule proposal if they are going to constitute the basis for rescinding, suspending, or denying training approval.

**The commission appreciates the comment. The rule references rescinding, suspending, or denying training approval if the training does not conform to current technical standards or rules. The phrase, "accepted industry standard practices or agency rules" in §30.28 has been substituted for the words "current technical standards or rules" to clarify the requirements. For example, the rules for Landscape Irrigation reference manufacturer's recommendations and currently accepted**

**practices and knowledge. In the water and wastewater industry there are national associations which develop and update best management practices and industry standards. Training providers making an effort to remain updated and active in their industry are familiar with the technical requirements in the training for occupational licensees and may vary for each program area. An updated RG-373 is planned to address issues that are not required (rules) but are best practices (guidance) accepted industry standard practices.**

Irrigation Services commented that better definitions of “subject matter expert” and “critical job tasks” are needed in §30.28(w)(3)(C).

**The commission appreciates the comment. “Subject matter expert” is defined in §30.28(16) of the rules. Critical job tasks are identified by performing a job task analysis or training needs assessment involving input from subject matter experts in the occupational licensing program areas. The job tasks are those identified by subject matter experts as tasks required by licensees to ensure proper operation of facilities, installation of systems, site assessments or testing. The tasks are used to approve training, develop training and create curriculum guidance for acceptable topics for continuing education or course outlines for the basic licensing courses. The commission made no change to the rules in response to this comment.**

Irrigation System Solutions commented with regards to §30.28(x), they have no problem with a reasonable fee for training material reviews. However, most training providers in the landscape irrigation industry are small companies and these fees appear quite high. Irrigation System Solutions also suggested that TCEQ consider a more reasonable fee structure (if any). Burke Enterprises commented that the total

dollars TCEQ takes in from the irrigation program licensing fee is much greater than the expense to run TCEQ's part of the irrigation licensing program and it is unfair to burden instructors with another fee.

**The commission appreciates the comments. According to TWC, §37.008(a), the commission has a mandatory duty to approve the training programs that are necessary for all occupational licensees regulated by the commission to qualify for or renew their licenses. The statute requires the commission to establish and collect fees to cover the cost of administering and enforcing provisions and to deposit the fees to the credit of the occupational licensing account (TWC, §37.009).**

**Administering the program entails approving the training, issuing the licenses or registrations, and continuing to enforce TWC, Chapter 37 and making sure that its provisions are complied with after license or registration issuance, among other things. The commission believes that the grant of authority in TWC, §37.009 was intended to allow the commission to establish and collect fees to cover the costs of the entire occupational licensing program. The fees contained in the rules are consistent between all modes/types of training. The commission made no change to the rules in response to this comment.**

Irrigation Services questioned why collect fees for training approval if the fees are being deposited into the State's general revenue fund and are not being used to help the landscape irrigator licensing program.

**The commission appreciates the comment. However, according to TWC, §37.008(a), the commission has a mandatory duty to approve the training programs that are necessary for all occupational licensees regulated by the commission to qualify for or renew their licenses. The**

**statute requires the commission to establish and collect fees to cover the cost of administering and enforcing provisions and to deposit the fees to the credit of the occupational licensing account (TWC, §37.009).**

**Administering the program entails approving the training, issuing the licenses or registrations, and continuing to enforce TWC, Chapter 37 and making sure that its provisions are complied with after license or registration issuance, among other things. The commission believes that the grant of authority in TWC, §37.009 was intended to allow the commission to establish and collect fees to cover the costs of the entire occupational licensing program. Therefore, the cost to review and approve training must be looked at globally and not what the cost may be for an individual program. The commission made no changes to the rules in response to this comment.**

Pro-Line commented that they challenge the authority of the TCEQ to tax training providers directly with this new fee. Pro-Line questioned the factual justification for different fee rates for training approval based on the modes of training.

**The commission disagrees that it does not have authority to impose a new fee for reviewing and processing applications for training program approval that are received by the commission. TWC, §37.009(a) states that the commission shall establish and collect fees to cover the cost of administering and enforcing TWC, Chapter 37. Contrary to the comment, this grant of authority is in addition to the grant of authority that is also in that section, which is to establish and collect fees for the issuance of licenses and registrations.**

**Further, according to TWC, §37.008(a), in administering TWC, Chapter 37, the commission has a mandatory duty under TWC, Chapter 37 to approve the training programs that are necessary for licensees to qualify for or renew their licenses. In addition to the clear language of the statute, the bill analysis that was filed with the final enrolled version of HB 3111, 77th Legislature, 2001, Regular Session states that, "The bill sets forth provisions requiring TNRCC (now TCEQ) to establish and approve training programs necessary to qualify for or renew a license (TWC, §37.008). The bill requires TNRCC (now TCEQ) to establish and collect fees to cover the cost of administering and enforcing provisions and to deposit the fees to the credit of the occupational licensing account (TWC, §37.009)."**

**Administering the program entails approving the training, issuing the licenses or registrations, and continuing to enforce TWC, Chapter 37 and making sure that its provisions are complied with after license or registration issuance, among other things. The commission believes that the grant of authority in TWC, §37.009 was intended to allow the commission to establish and collect fees to cover the costs of the entire occupational licensing program, which does not contemplate just the issuance of licenses and registrations. Finally, the commission does not believe that the Texas Legislature intended to impose a separate, mandatory duty on the commission while excluding the cost of carrying out that duty from the grant of authority in TWC, §37.009. The commission made no change to the rules in response to this comment.**

*Comments to Subchapter B: Backflow Prevention Assembly Testers*

PRO-OPS commented that the addition of §30.60(5)(F) and (G) would add wastewater experience and sanitarian experience to those work areas approved for qualifying for a Backflow Prevention Assembly Tester (BPAT) license. PRO-OPS disagrees with these additions, as neither of the two occupations

perform any related job tasks that would meaningfully qualify them for BPAT licensure. To accept this work experience would mean licensure of unqualified individuals.

**The commission appreciates the comment, but respectfully disagrees with the assumption that accepting the proposed work experiences would mean licensure of unqualified individuals. The commission feels that both of these occupations serve as base levels for qualifying to apply for a BPAT license. The individual will have to show competency by completing the BPAT training course and passing the applicable exam. The commission made no change to the rule in response to this comment.**

*Comments to Subchapter F: Municipal Solid Waste Facility Supervisors*

Farmers Branch believes the proposed removal of the MSW “D” license in §30.210, Qualifications for Initial License, should be reevaluated. Farmers Branch believes MSW transporters are integral to the solid waste management process and are held to a high standard by the applicable regulations, especially 30 TAC Chapter 330, Subchapter C, Municipal Solid Waste Collection and Transportation. Farmers Branch stated that transporters must be able to properly classify the type of waste being hauled as well as the proper type of facility to which to haul the material for processing or disposal. Farmers Branch stated that given the breadth of both federal and state regulations that must be understood, mandatory training and licensing for MSW transporters should be imposed despite the lack of a mandate. Farmers Branch stated that not imposing licensing, minimum education, minimum training, or work experience requirements for MSW transporters seems to place a large onus on MSW processing and disposal facility operators to police and educate transporters. Farmers Branch perceives a contradiction between the current MSW regulations and the proposed licensing regulations.

**The commission concurs that persons who collect and transport MSW are an important step in the process of proper waste management. Persons who collect and transport waste have an on-going opportunity to inform and educate generators as to proper waste management techniques and segregation of different waste types. The commission encourages training providers to offer training designed specifically for persons collecting and transporting MSW and will recognize qualifying collection and transport training as continuing education credits for MSW supervisor license renewals required by §30.212. However, the commission will abide by the enabling statutory authority established by THSC, §361.027, concerning Licensure of Solid Waste Facility Supervisors and will eliminate the Class D MSW supervisor licenses. The commission made no change to the rule in response to this comment.**

Texas Disposal Systems commented that the amount of training required to obtain a license has been rather excessive, has limited the number of people that have been able to participate in the program, has far exceeded what is required to adequately train staff, and has been a hindrance to getting trained staff at MSW facilities.

**The commission agrees with this comment; however, the adopted rules address the commenter's concerns as the rules remove the number of training credits/hours required to qualify for each level of license. Prior to this adoption, the courses required for each level of license was 40 training credits/hours. This adopted rule change will require different types of MSW facilities to be supervised by individuals licensed at different levels. Because of the changes in the requirements, changes in training will be needed. Updated training classes are expected to focus on specific requirements needed to operate the different types of facilities. The commission believes that by**

**removing the required 40 hour courses and providing for more focused training, the training credit hours to obtain a license will decrease, but will still provide the necessary training needed to protect the environment and public health. The commission made no changes to the rules in response to this comment.**

Farmers Branch stated that related to §30.213, Classification of Municipal Solid Waste Facilities and Level of License Required, all MSW landfill operators, regardless of waste stream, size, or location, have to understand the siting, design, and operations criteria for owning and operating an MSW disposal facility. Farmers Branch requested that all MSW landfill operators have same licensing requirements. Farmers Branch stated that since both landfills and permitted composting facilities handle MSW and have the potential to contaminate the surrounding media if operated improperly, all MSW landfills and permitted composting facilities should have at least one person on staff required to obtain an MSW “A” license.

TDS stated that the standards needed for operating a landfill as compared to a transfer station, for example, are very different. TDS commented that all MSW licenses should be grouped by similar facility type and not by volume of waste as proposed.

Avery Solutions Unlimited expressed concern that supervisors of Type IAE landfills will not have the knowledge or skills to effectively protect the environment and human health, unless sufficient training is required. Avery Solutions Unlimited further noted that Type IAE landfill facilities are required to follow the same operating standards as Type I landfills with the exceptions regarding liner installation and groundwater monitoring. Operating requirements such as daily cover, waste screening and acceptance,

signage, reporting, permitting, etc. are identical to a Type I facility. Avery Solutions Unlimited stated that supervisors of Type IAE landfills should be required to obtain at minimum Class B licenses, if not A licenses.

**The commission agrees with most of these comments and has revised §30.213 to group licensing requirements by overall facility type. The facility supervisor licensing requirement for a Type IAE landfill has been changed from the Class C MSW supervisor license to a Class A supervisor license. As a result, all Type I and Type IAE landfill facilities will be required to employ at least one individual with a Class A MSW supervisor license. The facility supervisor licensing requirement for registered compost facilities has been changed from the proposal of a Class C MSW supervisor license to a Class B supervisor license. As a result, all registered or permitted compost facilities, Type V facilities not otherwise specified, and Type IX energy or material recovery facilities not otherwise exempted will be required to employ at least one individual with a Class B MSW supervisor license. Changes to the rule were made as a result of this comment.**

Avery Solutions Unlimited noted that Type IVAE landfills were not mentioned in the proposed rules. Avery Solutions Unlimited noted that Type IVAE landfills are numerous in West Texas and are required by rule to be permitted. Avery Solutions Unlimited reasoned that since the proposed rules require registered compost and scrap tire facilities to hold a "C" license, not requiring supervisors of Type IVAE facilities to hold any license would be inconsistent with the objectives of the licensing program. Avery Solutions Unlimited commented that Type IVAE landfill supervisors should be required to hold a license equal to that of a Type IV landfill.

**The commission appreciates the comment and acknowledges the omission of Type IVAE landfill facilities in the proposed rule. This omission will be corrected in future rulemaking. The omission of the Type IVAE landfill facilities will not preclude the facility from the requirement to have a licensed supervisor. Section 30.201 requires at least one individual who supervises or manages the operation of a municipal solid waste facility must meet the qualifications of Chapter 30, Subchapter F and be licensed according to Chapter 30, Subchapter A. Additionally, commission has chosen to impose different supervisor licensing requirements for Type IV and Type IVAE landfill facilities. Although other commenters wanted all landfills to have identical supervisor licensing requirements, Type IV landfills do not warrant the same level of licensing as Type I or Type IAE landfills since Type IV landfills are only authorized to manage brush, rubbish, and construction or demolition waste, as specified in §330.5(a)(2), Classification of Municipal Solid Waste Facilities. The commission will require Type IV landfill facilities to employ at least one individual with a Class B MSW supervisor license. The commission made no changes to the rules in response to this comment.**

*Comments to Subchapter J: Wastewater Operators and Operations Companies*

ECO commented that the word “daily” in §30.337(8), Definitions, may not be appropriate and in fact may not be necessary at all. A time frame such as daily does not appear in similar definitions of the subchapter. ECO recommends deleting the words “daily” and “frequent” from the definition.

**The commission agrees in part, and has made some changes to the rule language. It is necessary to stipulate in the rule the frequency of supervision for collection system activities but the commission**

**agrees that stating the frequency of supervision within the definition is not consistent with other rule definitions. For consistency, the required frequency of supervision for collection system activities has been added to §30.350(n) which has been amended to read “Each classified wastewater collection system must employ at least one licensed operator who holds a license class equal to or higher than that category of system. Wastewater collection system operation and maintenance activities shall be supervised and inspected daily by an on-site licensed wastewater operator.”**

ECO recommends deleting the phrase “wastewater system operations company.”

**The commission disagrees with the comment but recognizes this section should be stated more clearly. Section 30.355(b) has been amended to read “A registered wastewater system operations company must apply for a new registration and submit an amended report if the company is bought or sold and the name of the company changes.”**

**SUBCHAPTER A: ADMINISTRATION OF OCCUPATIONAL LICENSES AND  
REGISTRATIONS**

**§§30.3, 30.5, 30.7, 30.10, 30.14, 30.18, 30.20, 30.24, 30.28, 30.30, 30.33**

STATUTORY AUTHORITY

These amendments and new section are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments and new section are also adopted under TWC, §26.0301, concerning Wastewater Operations Company Registrations and Operator Licensing; TWC, §26.346, concerning Registration Requirements; TWC, §26.452, concerning Underground Storage Tank Contractor; TWC, §26.456, concerning Underground Storage Tank On-Site Supervisor Licensing; and TWC, §26.3573, concerning Petroleum Storage Tank Remediation Account. These amendments and new sections are also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. These amendments and new section are also adopted under Texas Occupations Code (TOC), §1903.251, concerning License Required; TOC, §1904.051 concerning Water Treatment Specialist Certification Program; These amendments and new section are also adopted under Texas Health and Safety Code (THSC), §341.033, concerning Protection of Public Water Supplies; THSC, §341.034, concerning Licensing and Registration of Persons who Perform Duties Relating to Public Water Supplies; THSC, §361.002, concerning Policy; Findings; THSC, §361.011, concerning Commission's Jurisdiction; Municipal Solid Waste; THSC, §361.022, concerning Public Policy

Concerning Municipal Solid Waste and Sludge; THSC, §361.024, concerning Rules and Standards; THSC, §361.027, concerning Licensure of Solid Waste Facility Supervisors. These amendments and new section are also adopted under THSC, §363.021, concerning Commission Rulemaking Authority; and THSC, §363.022, concerning Commission Powers and Duties. Finally, these amendments and new section are adopted under THSC, §366.011, concerning General Supervision and Authority; THSC, §366.012, concerning Rules Concerning On-Site Sewage Disposal Systems; and THSC, §366.071 concerning Occupational Licensing and Registration.

These adopted amendments and new section implement TWC, §§5.013, 5.102, 5.103, 26.0301, 26.346, 26.452, 26.456, 26.3573, 37.001-37.015; TOC, §1903.251 and §1904.051; and THSC, §§341.033, 341.034, 341.102, 361.002, 361.011, 361.022, 361.024, 361.027, 363.021, 363.022, 366.011, 366.012, and 366.071.

### **§30.3. Purpose and Applicability.**

(a) The purpose of this chapter is to consolidate the administrative requirements and establish uniform procedures for the occupational licensing and registration programs prescribed by Texas Water Code, Chapter 37. This subchapter contains general procedures for issuing, renewing, denying, suspending, and revoking occupational licenses and registrations. Subchapters B - L of this chapter (relating to Backflow Prevention Assembly Testers; Customer Service Inspectors; Landscape Irrigators 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, Maintenance Providers, and Site Evaluators; Water Treatment Specialists;

Underground Storage Tank On-Site Supervisor Licensing and Contractor Registration; Wastewater Operators and Operations Companies; Public Water System Operators and Operations Companies; and Visible Emissions Evaluator Training Providers) contain the program-specific requirements related to each program.

(b) The requirements of this chapter apply to the following occupational licenses and registrations:

(1) backflow prevention assembly testers;

(2) customer service inspectors;

(3) landscape irrigators and installers;

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

(5) municipal solid waste facility supervisors;

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

(7) water treatment specialists;

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

(9) wastewater operators and operations companies;

(10) public water system operators and operations companies; and

(11) visible emissions evaluators training providers.

**§30.5. General Provisions.**

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

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

(c) The executive director may contract with persons to provide services required by this chapter.

The commission may authorize contractors to collect reasonable fees for the services provided.

(d) Licenses and registrations are not transferable.

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

#### **§30.7. Definitions.**

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

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

(2) **Aerobic treatment system owner**--Persons that in their individual capacities own a single-family dwelling that is serviced by an on-site sewage disposal system using aerobic treatment.

(3) **Conference**--The term conference as used in the context of this chapter includes conferences, seminars, workshops, symposiums, expos, interactive video conferences and any other such training venues.

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

(5) **Distance learning**--The acquisition of knowledge that occurs through various technologies with a separation of place and/or time between the instructor(s) or learning resources and the learner. Examples of distance education include, but are not limited to correspondence courses, CD-ROM courses, and Internet education on-line courses.

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

(7) **High school diploma or equivalent certificate**--A graduation diploma from a high school or a General Educational Development (GED) certification from an accrediting agency recognized by the United States Department of Education or other respective territory's or country's accreditation process if outside the United States.

(8) **Industry related association**--A nonprofit organization that represents members that possess occupational licenses issued by the agency.

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

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

(11) **Manufacturer**--For the purpose of this subchapter any person, company, or nongovernmental organization that produces a product for sale primarily to individuals who maintain occupational licenses that are administered by the agency.

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

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

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

(15) **Service provider**--Any person, company, or nongovernmental organization that provides a service for its own profit to individuals who maintain occupational licenses that are administered by the agency.

(16) **Subject matter expert**--A person having a minimum of three years of work-related experience and expert knowledge in a particular content area or areas as relates to training.

(17) **Training credit**--Hours of credit allowed by the executive director for successful completion of an approved training event.

(18) **Technology-based training**--Training offered through computer equipment by compact disk (CD) or digital video disk (DVD) media, or on a Web site (also known as on-line training or e-learning).

(19) **Training provider**--An administrative entity or individual responsible for obtaining approval of training, providing acceptable delivery of approved training, ensuring that qualified instructors or subject matter experts are utilized in the delivery, support, and development of training and monitoring, recording and reporting attendance accurately and promptly as required by the executive director.

### **§30.10. Administration.**

The executive director is responsible for:

(1) reviewing applications;

(2) developing, administering, and grading examinations;

- (3) issuing and renewing licenses and registrations;
- (4) maintaining records related to licenses and registrations;
- (5) maintaining a roster of current licenses and registrations;
- (6) collecting fees;
- (7) approving training used for the issuance of training credits;
- (8) approving training providers; and
- (9) responding to complaints against licensees, registrants, and training providers.

**§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 or on the behalf of the applicant are subject to verification by the executive director.

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

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

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

(h) After verification that the requirements for registration have been met, the executive director shall issue 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 or on the behalf of the applicant are subject to verification by the executive director.

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

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

(h) All applications must be completed in full. All deficiencies must be corrected within 120 days of notification, or the application shall be considered void.

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

(j) After verification that the requirements for license have been met, the executive director shall issue 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 with an approved application who fails an examination may repeat the examination after waiting 60 days from the most recent examination taken by the individual for that particular exam.

(d) An individual shall not take the same examination more than four times within 365 days of the initial application submittal.

(e) After 365 days or taking the same examinations four times, whichever occurs first, the application becomes void and a new application with a new fee must be submitted before the applicant may take the examination again, in accordance with subsection (d) of this section.

(f) Any scores for repeat examinations taken prior to waiting 60 days from the most recent examination date for that particular exam or taken after an application has expired or becomes void will not be applied to the issuance of the license.

(g) Repeat examinations taken prior to waiting 60 days from the most recent examination date for that particular exam or after an application has expired or becomes void will count towards the number of exams allowed within the 365-day period.

(h) Individuals using a computer-based testing method may be excluded from waiting 60 days to retest after failing an exam.

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

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

(k) 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.

(l) An individual who wishes to observe a religious holy day on which the individual's religious beliefs prevent the individual from taking an examination scheduled by the agency on that religious holy day shall be allowed to take the examination on an alternate date.

**§30.24. License and Registration Applications for Renewal.**

(a) A license or registration may not be renewed if it has been:

(1) expired for more than 30 days and an application has not been received by the executive director or postmarked within 30 days after the expiration date of the license or registration;

(2) revoked; or

(3) replaced by a higher class of license.

(b) Applications for renewal must be made on a standard form provided by the executive director.

(1) The executive director shall mail a renewal application at least 60 days before the license or registration expires to the most recent address provided to the executive director. If a person

does not receive a renewal application, the person is not relieved of the responsibility to timely submit a renewal application.

(2) The person is responsible for ensuring that the completed renewal application, the renewal fee, and other required information are submitted to the executive director by the expiration date of the license or registration.

(c) All statements, qualifications, and attachments provided by the applicant that relate to a renewal application shall be true, accurate, complete, and contain no misrepresentation or falsification.

(d) The continuing education used to renew a license must be successfully completed after the issuance date and before the expiration date of the current license. Any training credits completed in excess of the amount required for the renewal period shall not be carried over to the next renewal period.

(e) The executive director may renew a license or registration if the application is received by the executive director or is postmarked within 30 days after the expiration date of the license or registration, and the person meets the requirements for renewal by the expiration date of the license or registration and pays all appropriate fees. This subsection does not extend the validity period of the license or registration nor grant the person authorization to perform duties requiring a license or registration. This subsection only allows an additional 30 days after the expiration of the license or registration for the person to submit the renewal application, any supporting documentation, and appropriate fees.

(f) An individual whose license renewal application is not received by the executive director or is not postmarked within 30 days after the license expiration date may not renew the license and must meet the current education, training, and experience requirements, submit a new application with the appropriate fee, and pass the examination. A person whose registration renewal application is not received by the executive director or is not postmarked within 30 days after the expiration date may not renew the registration and must submit a new application with the appropriate fee and meet all applicable requirements for a new registration.

(g) Persons failing to renew their license or registration in a timely manner due to serving on active duty in the United States armed forces outside this state may renew their license within 180 days of returning from active duty by submitting the following:

(1) a completed renewal application;

(2) a copy of the military orders substantiating the military service during the time the license expired; and

(3) the applicable license renewal fee.

(h) For good cause the executive director may extend the 180-day period for individuals serving on active duty in the United States armed forces outside this state seeking to renew their license. Good cause may include, but is not limited to, hospitalization or injury to the licensee.

(i) Completion of the required continuing education will be waived for the renewal cycle while the licensee was on active duty service in the United States armed forces outside this state.

(j) These procedures apply only to individuals on active duty service in the United States armed forces outside this state and not to military contractors.

(k) 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.

(l) 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.

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

(n) 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.

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

(p) If the application does not meet the requirements, the executive director shall notify the applicant in writing of the deficiencies within 45 days after the date the executive director receives the renewal application.

(q) All deficiencies must be corrected within 30 days of date printed on the notification, or the renewal application shall be considered void after the license expiration date.

(r) A person whose license or registration has expired shall not engage in activities that require a license or registration until the license or registration is renewed or a new license or registration has been obtained.

**§30.28. Approval of Training.**

(a) The executive director shall approve training that provides the knowledge or skills necessary to obtain or maintain licenses or registrations that are issued by the commission. This training shall be directly related to tasks performed by persons whose duties require a license or registration in a program that is administered by the commission.

(1) Within 45 days of the receipt of an application for approval for conferences, or association meeting training, the executive director shall notify the training provider of the approval of the training or any deficiencies in the application or supporting documentation.

(2) Within 120 days of the receipt of an application for approval for classroom, distance learning or technology based training the executive director shall notify the training provider of the approval of the training or any deficiencies in the application or supporting documentation.

(b) Training credit may be approved by the executive director for successful completion of:

(1) classroom training , and training at conferences;

(2) computer or Web-based training, correspondence courses, or similar distance learning training;

(3) training at association meetings, only when the meetings include training sessions containing subject matter related to the particular license; or

(4) other professional activities, such as publication of articles or teaching classroom training courses.

(c) The executive director shall determine the number of hours of training credit that will be granted for approved training. The executive director may:

(1) request field testing data from training providers to substantiate the hours requested;

and

(2) use subject matter expert qualifications to determine the training credit awarded.

(d) Applications for training approval or approval of new training material must:

(1) be made on a standard form provided by the executive director;

(2) be submitted to the executive director with the applicable fee found in the chart contained in subsection (x)(6) of this section;

(3) be accompanied by supplemental information and materials according to the specific requirements for each type of training as approved by the executive director;

(4) contain supplemental materials and information edited by subject matter experts; and

(5) include samples of certificates of completion including information as required by the executive director.

(e) Once training is approved, a training provider may offer the training as approved without notification to the executive director.

(f) Training is considered approved until the content changes, or until the executive director notifies the training provider that changes in the content or presentation of the training event are necessary.

(g) If a training provider changes the delivery method of the training , the training must be resubmitted for review and approval by the executive director.

(h) The executive director may require training providers to update training or training materials to ensure that the content reflects current technology and practices.

(i) Training providers shall:

(1) keep manuals and training content updated to reflect rule changes;

(2) resubmit for approval training material that makes any reference to rules within 180 days of any new rule adoption that pertains to that training;

(3) resubmit materials with substantial changes for review and reapproval by the executive director accompanied by a summary, list, or other indication of significant changes;

(4) be responsible for the content and delivery of the training;

(5) retain accurate training records for a minimum of five years;

(6) maintain records of training approval throughout the entire period the training provider actively provides training;

(7) notify students of all fees associated with completing and obtaining credit for training before and during the training;

(8) accurately present to students approved training credit along with any other criteria for obtaining the credit;

(9) ensure that classroom instructors are qualified and provide the agency with instructor qualifications when requested;

(10) inform licensees that distance learning training repeated within the renewal period will not receive training credit if the training uses the same performance-based assessment;

(11) allow agency staff or their agents access to training events in order to audit training content, manner of presentation, and instructor effectiveness and qualifications;

(12) verify participation and report the participant's training credit hours not to exceed approved training credit hours; and

(13) provide to the executive director electronic rosters of training events within 14 business days after a participant's successful completion of the training event per procedures provided and approved by the executive director.

(j) Training events shall not be advertised as approved until notice of approval is received from the executive director.

(k) The executive director may recall training for reevaluation which may result in rescinding the previous approval of the training.

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

(1) be approved by the executive director before the training begins;

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

(3) not promote or endorse the products, product lines, or services of a manufacturer, distributor, or service provider or used as an opportunity for advertisement;

(4) provide the means to accomplish the learning objectives identified for the training;

(5) include, but are not limited to, visual aids, graphics, and interactivity to enhance learning and attain learning objectives;

(6) include regular monitoring of participant comprehension throughout the training with feedback from the training provider, instructor, or subject matter expert;

(7) be monitored for successful participant completion and completed training credit reported to the agency by the approved training provider; and

(8) utilize, at a minimum, subject matter experts and instructional design experts or effective qualified classroom instructors to develop training materials for approval. Additionally, development for technology-based training must also utilize experts in technology.

(m) Classroom training, training providers, and classroom instructors must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (n), (o), (p), (q), and (r) of this section.

(1) Classroom training must not be held in a place of business of a product manufacturer, distributor, or service provider directly related to the occupational license. Water, wastewater, and solid waste facilities are exempted and applicable approved training may be held at these facilities.

(2) The agency may approve high school vocational education courses if their content follows the guidance of the respective licensing program area and meets training requirements in this chapter.

(n) Conference training, training providers, and subject matter experts must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (m), (o), (p), (q), and (r).

(1) Training at conferences may be submitted for approval by:

(A) governmental entities or their designated agents;

(B) industry-related associations; or

(C) colleges listed by accrediting agencies that are recognized by the United States Department of Education.

(2) The executive director may award training credits for successful completion of in-state and out-of-state conferences.

(3) To receive training credits for in-state and out-of-state conferences, the training must be approved by the executive director prior to the conference.

(4) Training at conferences will be approved for a specified number of training credits.

(5) To be approved, a conference should contain a minimum of three hours of approvable training.

(6) If the executive director determines the conference training is more appropriately presented as classroom training, the training provider may be required to meet requirements as detailed in subsection (m) of this section.

(7) The conference is considered approved until content, presenters, or duration changes.

(8) The conference training must not be held in a place of business of a product manufacturer, distributor, or service provider directly related to the occupational license.

(o) Training at association meetings, training providers, and subject matter experts must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (m), (n), (p), (q), and (r).

(1) Training sessions conducted at regular and special meetings of industry-related associations whose members hold licenses that are issued by the commission may be approved per event or on an annual basis.

(2) Associations may apply annually for approval of training at meetings . If not approved annually, training at individual meetings may be approved, so long as approval is requested in writing at least 45 days before the meeting as detailed in subsection (d) of this section.

(3) Training at association meetings must be presented by subject matter experts.

(4) Training at association meetings over two hours must meet requirements in subsection (n) of this section.

(5) The training at association meeting must not be held in a place of business of a product manufacturer, distributor, or service provider directly related to the occupational license.

(p) Distance learning training, training providers, and training materials must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (m), (n), and (o) of this section.

(1) Distance learning training may only be submitted for approval by:

(A) governmental entities or their designated agents;

(B) industry-related associations;

(C) colleges listed by accrediting agencies that are recognized by the United States Department of Education; or

(D) other entities, as determined by the executive director, who can demonstrate comparable or subject matter expertise, knowledge of and experience with educational principles and effective instructional design.

(2) Applications for distance learning training approval must be accompanied by the supplemental materials as approved by the executive director for either correspondence or technology-based training.

(3) Distance learning training:

(A) may not be substituted for actual hands-on training, if hands-on training is necessary to teach required manual skills;

(B) must provide students within one business day access to subject matter experts;

(C) repeated within the renewal period will not receive training credit if the training uses the same performance-based assessment ; and

(D) must maintain procedures to protect student identity if using the Internet.

(q) Correspondence training, training providers, and training materials must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (m), (n), (o), and (r) of this section. Correspondence training is distance learning that can either be paper-based conducted through a postal system, electronic-based conducted through a Web site, or a blend of these delivery systems and shall:

(1) make available a text or training manual to students for training with any delivery system; and

(2) provide acceptable procedures for participant identity verification.

(r) Technology-based training must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (m), (n), (o), and (q) of this section, and shall:

(1) provide access to the agency if provided via the Internet;

(2) provide tracking of student time and progress required for training completion;

(3) provide acceptable procedures for participant identity verification; and

(4) provide access within one business day to technical support and subject matter experts.

(s) Printed training material should be presented in an original manner and must be relevant to the necessary tasks and knowledge for the occupational licensees.

(t) Public information copied from Web sites or other sources is not acceptable as training materials unless modified to be applicable to the target audience and the method of delivery.

(u) If training materials submitted to the executive director for approval are copyrighted materials, the training provider is responsible for obtaining proper approval from the publisher to reprint text, pictures, graphics, tables, data, and any other information that is obtained from a source that is not an original creation of the training provider. The training materials submitted shall include appropriate references.

(v) Under the Public Information Act, copyrighted training materials submitted to the executive director may be inspected by the public. The agency will not provide copies of copyrighted materials to the public unless required to do so as a result of legal action.

(w) The executive director may:

(1) return without approval, training courses and training material determined to contain extensive errors or not meeting the requirements of this section;

(2) monitor, recall, reevaluate, and/or rescind approval of topics or training materials provided at approved training; and

(3) recall rescind, suspend, or deny training approval for good cause, which includes, but is not limited to:

(A) the training does not conform to current accepted industry standard practices or agency rules;

(B) the training does not conform to the materials as approved;

(C) the subject matter is not related to critical job tasks performed by licensees;

(D) an instructor is not qualified to teach the subject matter;

(E) an instructor is ineffective in the delivery of the subject matter;

(F) the training promotes or endorses products, product lines, or services from a manufacturer, distributor, or service provider;

(G) participation records are not submitted as required by subsection (i)(13) of this section;

(H) records, rosters, or application materials have been falsified;

(I) noncompliance with a training recall;

(J) the training provider is not active or the training has not been conducted for three or more years; or

(K) the training environment is not conducive to learning.

(x) Fees for training approval will be assessed based on requested training credit hours available for the event with the exception of annual review and approval of training at association meetings. If the requested hours are significantly different than the actual hours of training awarded, the executive director may request an adjustment in the fee from the applicant.

(1) Fees should be submitted with the application and supplemental materials as detailed in subsection (x)(6) of this section.

(2) Fees are nonrefundable whether the training event is approved or not approved.

(3) The review and approval of training may require both an administrative review for application package completeness and a technical review for compliance with the requirements and standards detailed in this section. The fee will include both of these reviews.

(4) The application will become void and the fee forfeited if an applicant does not respond within 60 days of the notification provided by the executive director of any deficiencies in the application.

(5) Any training material submitted for approval after January 1, 2008, requires submittal of the applicable fees listed in subsection (x)(6) of this section.

(6) The greater of the following fees should be submitted with each application for approval of training for occupational licensing depending on the type of training as outlined in the following table.

Figure: 30 TAC §30.28(x)(6)

<b>Type of Training</b>	<b>Fee Amount</b>
<b>Association Meetings - training sessions up to (2) two hours (over two hours, see conferences)</b>	\$10 per training credit hour
<b>Association Meetings - annual review for single chapter, section, or district with 12 or less meetings per year</b>	\$100 per annual review application
<b>Association Meetings - annual review for multiple chapters, sections, or districts with 12 or less meetings per year for each</b>	\$400 per annual review application
<b>Conferences</b>	\$10 per training credit hour or \$50 minimum
<b>Classroom Training - using existing approved manuals.</b>	\$10 per training credit hour or a minimum of \$50

<b>Classroom Training with new manuals and new materials</b>	\$25 per training credit hour or a minimum of \$100
<b>Technology-Based (On-line, CD-ROM)</b>	\$25 per training credit hour or a minimum of \$100
<b>Correspondence Courses</b>	\$25 per training credit hour or a minimum of \$100

**§30.30. Terms and Fees for Licenses and Registrations.**

(a) All licenses and registrations are valid for three years from the date of issuance.

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

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

(2) leaking petroleum storage tank corrective actions project manager and specialist according to Subchapter E of this chapter (relating to Leaking Petroleum Storage Tank Corrective Action Project Managers and Specialists);

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

(4) on-site sewage facilities installers, apprentices, designated representatives, maintenance providers, and site evaluators, according to Subchapter G of this chapter (relating to On-Site Sewage Facilities Installers, Apprentices, Designated Representatives, Maintenance Providers, and Site Evaluators);

(5) Class D wastewater treatment facility operators, according to Subchapter J of this chapter (relating to Wastewater Operators and Operations Companies);

(6) Class I wastewater collection system operators, according to Subchapter J of this chapter;

(7) wastewater operations companies according to Subchapter J of this chapter;

(8) Class D public water system operators, according to Subchapter K of this chapter (relating to Public Water System Operators and Operation Companies); and

(9) public water system operations companies according to Subchapter K of this chapter.

(c) The executive director may adopt a system under which licenses or registrations expire on various dates.

(d) The license fee is \$111 for a three-year license. The total amount shall be paid with each initial and renewal application and is nonrefundable.

(e) Registration fees are established in the applicable subchapters of this chapter.

(f) The executive director may charge a \$20 fee to process a duplicate certificate or pocket card.

(g) 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.

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

(1) Insufficiency. The executive director shall notify the applicant of the executive director's intent to deny the application and advise the applicant of the opportunity to file a motion 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; or

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

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

(A) provides fraudulent information or falsifies the application;

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

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

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

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

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

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

(b) If 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. A warning is not a prerequisite for initiation of suspension, revocation, or enforcement proceedings.

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

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

(e) The commission may also suspend if a licensed individual 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).

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

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

(h) The following procedures for renewal apply to persons that 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.

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

**SUBCHAPTER A: ADMINISTRATION OF OCCUPATIONAL LICENSES AND  
REGISTRATIONS**

**§30.28**

STATUTORY AUTHORITY

The repeal is adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. This repeal is also adopted under TWC, §26.0301, concerning Wastewater Operations Company Registrations and Operator Licensing; TWC, §26.346, concerning Registration Requirements; TWC, §26.452, concerning Underground Storage Tank Contractor; TWC, §26.456, concerning Underground Storage Tank On-Site Supervisor Licensing; and TWC, §26.3573, concerning Petroleum Storage Tank Remediation Account. This repeal is also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. This repeal is also adopted under Texas Occupations Code (TOC), §1903.251, concerning License Required; TOC, §1904.051 concerning Water Treatment Specialist Certification Program; This repeal is also adopted under Texas Health and Safety Code (THSC), §341.033, concerning Protection of Public Water Supplies; THSC, §341.034, concerning Licensing and Registration of Persons who Perform Duties Relating to Public Water Supplies; THSC, §341.102, concerning Water Treatment Specialist Certification Program; THSC, §361.002, concerning Policy; Findings; THSC, §361.011, concerning Commission's Jurisdiction; Municipal Solid

Waste; THSC, §361.022, concerning Public Policy Concerning Municipal Solid Waste and Sludge; THSC, §361.024, concerning Rules and Standards; THSC, §361.027, concerning Licensure of Solid Waste Facility Supervisors. This repeal is also adopted under THSC, §363.021, concerning Commission Rulemaking Authority; and THSC, §363.022, concerning Commission Powers and Duties. Finally, this repeal is adopted under THSC, §366.011, concerning General Supervision and Authority; THSC, §366.012, concerning Rules Concerning On-Site Sewage Disposal Systems; and THSC, §366.071, concerning Occupational Licensing and Registration.

This adopted repeal implements TWC, §§5.013, 5.102, 5.103, 26.0301, 26.346, 26.452, 26.456, 26.3573, 37.001 - 37.015; TOC, §1903.251; and THSC, §§341.033, 341.034, 341.102, 361.002, 361.011, 361.022, 361.024, 361.027, 363.021, 363.022, 366.011, 366.012, and 366.071.

## **SUBCHAPTER B: BACKFLOW PREVENTION ASSEMBLY TESTERS**

### **§30.51, §30.60**

#### **STATUTORY AUTHORITY**

These amendments are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also adopted under TWC, Chapter 37 §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. Additionally, these amendments are also adopted under Texas Health and Safety Code (THSC), §341.033, concerning Protection of Public Water Supplies; and THSC, §341.034, concerning Licensing and Registration of Persons who Perform Duties Relating to Public Water Supplies.

These adopted amendments implement TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §341.033 and §341.034.

#### **§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).

**§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 backflow prevention assembly testing training course; and

(5) worked at least two years in an approved area which includes, but is not limited to:

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

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

(C) installing or repairing lawn irrigation systems;

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

(E) installing or servicing fire suppression sprinkler systems and lines;

(F) operating or maintaining a domestic wastewater treatment facility;

(G) performing health inspections that requires a registered sanitarian; or

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

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

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

(B) 20 hours of approved training in addition to the required 40-hour backflow prevention assembly testing training course.

## **SUBCHAPTER C: CUSTOMER SERVICE INSPECTORS**

### **§§30.81, 30.90, 30.92**

#### **STATUTORY AUTHORITY**

These amendments are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also adopted under TWC, Chapter 37 §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. Additionally, these amendments are also adopted under Texas Health and Safety Code (THSC), §341.033, concerning Protection of Public Water Supplies; and THSC, §341.034, concerning Licensing and Registration of Persons who Perform Duties Relating to Public Water Supplies.

These adopted amendments implement TWC, §§5.013, 5.102, 5.103, 37.001-37.015; and THSC, §341.033 and §341.034.

#### **§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 shall not perform plumbing inspections required under Plumbing Licensing Law 15(a) (Texas Civil Statutes, Volume 17-1/2, Article 6243-101).

**§30.90. Qualifications for Initial License.**

(a) 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 which includes, but is not limited to:

(A) operation or maintenance of a public drinking water treatment or distribution system;

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

(C) conducting building or construction inspections; or

(D) performing duties related to this profession approved by the executive director.

(b) 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 16 hours of approved continuing education.

## **SUBCHAPTER D: LANDSCAPE IRRIGATORS AND INSTALLERS**

### **§§30.111, 30.120, 30.122, 30.129**

#### **STATUTORY AUTHORITY**

These amendments are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. These amendments are finally adopted under the Texas Occupations Code (TOC), §1903.251, concerning License Required.

These adopted amendments implement TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and TOC, §1903.251.

#### **§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).

**§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 the applicable 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 the basic irrigator training course; and

(3) passed all sections of the applicable examination.

**§30.122. Qualifications for License Renewal.**

(a) To renew an installer license, 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, an individual must:

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

(2) complete 24 hours of approved training credits.

**§30.129. Exemptions.**

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

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

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

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

(4) is an owner of a business that employs a licensed irrigator to supervise the business' sale, design, consultation, installation, maintenance, alteration, repair, and service of irrigation systems. For the purpose of this subchapter, employs means steadily, uniformly, or habitually working in an employer-employee relationship with the intent to earn a livelihood, as opposed to working casually or occasionally.

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) A person who is exempt from the license requirements of this subchapter shall comply with the standards established by Chapter 344 of this title (relating to Landscape Irrigation). The term irrigation system does not include a system used on or by an agricultural operation as defined in Texas Agriculture Code, §251.002.

**SUBCHAPTER D: LANDSCAPE IRRIGATORS AND INSTALLERS**

**§30.125**

**STATUTORY AUTHORITY**

This repeal is adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. This repeal is also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. This adopted repeal is also adopted under Texas Occupations Code (TOC), §1903.251, concerning License Required.

This adopted repeal implements TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and TOC, §1903.251.

## **SUBCHAPTER E: LEAKING PETROLEUM STORAGE TANK CORRECTIVE ACTION**

### **PROJECT MANAGERS AND SPECIALISTS**

#### **§§30.171, 30.180, 30.185, 30.190, 30.192**

#### **STATUTORY AUTHORITY**

These amendments are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also adopted under TWC, §26.3573, concerning Petroleum Storage Tank Remediation Account. Finally, these amendments are also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract.

These adopted amendments implement TWC, §§5.013, 5.102, 5.103, 26.3573, and 37.001 - 37.015.

#### **§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.

**§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, that are not related by blood or marriage, for whom the applicant performed corrective action services, within the previous 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 Resource Conservation and Recovery Act; Comprehensive Environmental Response, Compensation, and Liability Act; 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.

**§30.185. Qualifications for License Renewal.**

(a) 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 32 hours of approved continuing education.

(b) 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 and Registrations).

**§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 one million dollars (\$1,000,000) 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 an application fee of \$232; and

(4) 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 previous 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 Resource Conservation and Recovery Act; Comprehensive Environmental Response, Compensation, and Liability Act; 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 chapter (relating to Administration of Occupational Licenses and Registrations);

(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); and

(3) pay a registration renewal fee of \$232.

## **SUBCHAPTER F: MUNICIPAL SOLID WASTE FACILITY SUPERVISORS**

### **§§30.201, 30.210, 30.212, 30.213, 30.214**

#### STATUTORY AUTHORITY

These amendments and new sections are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments and new sections are also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. These amendments and new sections are also adopted under Texas Health and Safety Code (THSC), §361.002, concerning Policy; Findings; THSC, §361.011, concerning Commission's Jurisdiction: Municipal Solid Waste; THSC, §361.022, concerning Public Policy concerning Municipal Solid Waste and Sludge; THSC, §361.024, concerning Rules and Standards; THSC, §361.027, concerning Licensure of Solid Waste Facility Supervisors. These amendments and new sections are also adopted under THSC, §363.021, concerning Commission Rulemaking Authority; and THSC, §363.022, concerning Commission Powers and Duties.

These adopted amendments and new sections implement TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §§361.002, 361.011, 361.022, 361.024, 361.027, 363.021, and 363.022.

**§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.

(b) At least one individual who supervises or manages the operation of a municipal solid waste facility 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) Provisional or solid waste facility supervisor in training letters that were issued before the effective date of these rules shall remain in effect until their expiration date. No applications for provisional or solid waste facility supervisor in training letters will be accepted after September 1, 2008.

(d) Current Class D supervisor licenses shall remain in effect until their expiration date. No applications for Class D supervisor will be accepted after September 1, 2008.

**§30.210. Qualifications for Initial License.**

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 §30.210

License	Education	Work Experience	Training Credits
Class C	None	None**	C MSW Course
Class B	HSD or equivalent *	2 years	B MSW Course
	No HSD or equivalent *	4 years  **	C MSW Course
Class A	HSD or equivalent	4 years	A MSW Course
	No HSD or equivalent	6 years  **	B MSW Course  C MSW Course
* HSD or equivalent may be substituted by completing an additional 20 hours of MSW training.			
** An individual who applies for a Class C, B, or A license, and relies on college credit hours as a substitute for meeting the experience requirements, must have those hours in chemistry, biology, engineering, soil science, geosciences, environmental science, or other similar discipline approved by the executive director.			
<p><b>Class B</b> - College credit hours obtained from an accredited institution may be substituted for experience on the basis of 32 hours of credit for one year of experience, up to a maximum of one year.</p> <p><b>Class A</b> - College credit hours obtained from an accredited institution may be substituted for experience on the basis of 32 hours of credit for one year of experience, up to a maximum of two years.</p>			

**§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.

**§30.213. Classification of Municipal Solid Waste Facilities and Level of License Required.**

(a) Each classification of a municipal solid waste (MSW) facility shall employ at least one licensed individual who supervises or manages the operations of a MSW facility. The level of license required for the different classifications of facilities is as follows:

Figure: 30 TAC §30.213(a)

Type of MSW Facility	Level of License Required
Type I landfill facilities	Class A

Type IX landfill mining facilities	Class A
Type IV landfill	Class B
Type V storage and processing facilities not otherwise specified	Class B
Type IX energy or material recovery facilities (other)	Class B
Permitted compost facilities	Class B
Type VI demonstration facilities	Class C
Type VII land application facilities	Class C
Type VIII used or scrap tire facilities	Class C
Registered compost facilities	Class B
Type IAE landfill facilities	Class A

(b) The level of license required for the different classifications of facilities described in subsection (a) of this section are applicable unless the facility's permit specifies that the facility be supervised by a level of supervisor different from that required in subsection (a) of this section. The facility's permit supersedes the requirement in subsection (a) of this section.

(c) All MSW facilities that are required to have a licensed supervisor may operate that facility with its current licensed supervisors until August 31, 2009 . Beginning September 1, 2009 , all MSW facilities required to have a licensed supervisor who holds a certain license level must meet the requirement of this subchapter.

(d) MSW facilities that have a supervisor who holds a provisional or solid waste facility supervisor in training letter may continue to operate with that letter until the provisional or solid waste facility supervisor in training letter expires. The facility shall then ensure that at least one individual who supervises or manages the operation of a MSW facility meets the requirements of this subchapter.

**§30.214. Exemptions.**

The following municipal solid waste (MSW) facilities do not require a licensed supervisor:

- (1) Type IX beneficial landfill gas recovery facilities;
- (2) animal crematories, dual chamber incinerators, and air curtain incinerators operating in accordance with an MSW permit by rule; and
- (3) MSW facilities exempt from permitting or registration, unless otherwise described in §30.210 of this title (relating to Qualifications for Initial License).

## **SUBCHAPTER F: MUNICIPAL SOLID WASTE FACILITY SUPERVISORS**

### **§30.210**

#### **STATUTORY AUTHORITY**

This repeal is adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. This repeal is also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. This repeal is also adopted under Texas Health and Safety Code (THSC), §361.002, concerning Policy; Findings; THSC, §361.011, concerning Commission's Jurisdiction: Municipal Solid Waste; THSC, §361.022, concerning Public Policy Concerning Municipal Solid Waste and Sludge; THSC, §361.024, concerning Rules and Standards; THSC, §361.027, concerning Licensure of Solid Waste Facility Supervisors. This repeal is also adopted under THSC, §363.021, concerning Commission Rulemaking Authority; and THSC, §363.022, concerning Commission Powers and Duties.

This adopted repeal implements TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §§361.002, 361.011, 361.022, 361.024, 361.027, 363.021, and 363.022.

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

**§§30.231, 30.240, 30.242, 30.244, 30.245, 30.247**

**STATUTORY AUTHORITY**

These amendments are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. Finally, these amendments are adopted under Texas Health and Safety Code (THSC), §366.011, concerning General Supervision and Authority; THSC, §366.012, concerning Rules Concerning On-Site Sewage Disposal Systems; and THSC, §366.071, concerning Occupational Licensing and Registration.

These adopted amendments implement TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §§366.011, 366.012, and 366.071.

**§30.231. Purpose and Applicability.**

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

- (1) constructs any part of an on-site sewage facility;
- (2) performs the duties of a designated representative;
- (3) performs the duties of a site evaluator;
- (4) performs the duties of an apprentice; or
- (5) performs the duties of a maintenance provider.

(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 §30.244 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) A person that holds a Class "D" wastewater operator's license issued on or before August 31, 2006, and that performs maintenance to on-site sewage disposal systems using aerobic treatment shall be allowed to continue to perform maintenance-provider duties until August 31, 2008. To continue performing those duties after September 1, 2008, those individuals shall obtain an on-site sewage facility

(OSSF) Installer II license or be employed by a maintenance company that employs at least one OSSF Installer II. An individual who performs maintenance to on-site sewage disposal systems using aerobic treatment shall register as required by Subchapter A of this chapter.

**§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 apprentice registration for at least two years; or

(C) 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 applicant's work experience. Such statements shall include a description of the type of on-site sewage facility (OSSF) work that was performed by the applicant 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) to document experience as an Installer I, the applicant 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 by blood or marriage to the applicant or applicant's spouse;

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

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

(B) to document experience as an apprentice, the applicant shall submit either:

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

(ii) a sworn statement from a designated representative who witnessed the applicant 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

(2) met the following requirements:

(A) complete the site evaluator basic training course;

(B) pass the site evaluator examination; and

(C) possess a current Installer II license, designated representative license, professional engineer license, professional sanitarian license, or professional geoscientist license in the soil science discipline (an individual who maintains a current license through the Texas Board of Professional Geoscientists according to the requirements for professional practice).

**§30.242. Qualifications for License Renewal.**

(a) To renew an Installer I, Installer II, designated representative, or site evaluator 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 a minimum of 24 hours of approved training credits.

(b) In addition to the requirements in subsection (a) of this section, an individual renewing a license for site evaluator shall demonstrate possession of a current license specified in §30.240(d)(2)(C) of this title (relating to Qualifications for Initial License).

**§30.244. Exemptions.**

(a) Persons that in their individual capacities:

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

(2) own a single-family dwelling that is serviced by an on-site sewage disposal system using aerobic treatment are not required to be a licensed installer in order to install or repair an OSSF servicing that single-family dwelling. Such person must meet all permitting, construction, and maintenance requirements of the permitting authority. If that person compensates a person to construct

any portion of an OSSF, the individual performing the work must be a licensed installer. This provision does not apply to property that is developed for sale or lease;

(3) elect to maintain the on-site sewage disposal system using aerobic treatment. The aerobic treatment system owner is not required to register with the agency as a maintenance provider, but must comply with the requirements of Chapter 285 of this title (relating to On-Site Sewage Facilities).

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

(c) A professional engineer may perform site evaluations without obtaining a site evaluator license. However, a professional engineer may obtain a site evaluator license by complying with the requirements in this subchapter.

**§30.245. Registration of Apprentices.**

(a) General. An individual who enters into an apprenticeship under the supervision of a licensed on-site sewage facility (OSSF) installer shall be registered with the executive director.

(b) Application. Applications for registrations shall be made on a standard form provided by the executive director. The completed application and an \$81 fee must be submitted to the executive director

by a licensed OSSF installer for each individual that is registered as an apprentice under that installer's supervision.

(c) Notification. After verifying that the requirements for registration have been met, the executive director shall mail the registration certificate no later than 45 days after the effective date of the registration. 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 expiration date as the supervising OSSF installer's license. Either the supervising OSSF installer or the apprentice may terminate the apprenticeship by providing written notice to the executive director. No reason for the termination is required. Upon receipt of written notification requesting that the apprenticeship be terminated, the executive director shall expire the apprentice's registration under the supervising OSSF installer.

(e) An apprentice's registration may not be renewed if:

- (1) the supervising OSSF installer's license is not current;
- (2) the registration has been expired for more than 30 days;
- (3) the registration has been revoked; or

(4) the registration has been replaced by a higher class of license.

(f) An apprentice whose registration renewal application is not received by the executive director or is not postmarked within 30 days after the registration expiration date of the current registration, must submit a new application with the appropriate fee. The apprentice will be assigned a new registration number and date, but will not lose any experience gained under the previous registration.

**§30.247. Registration of Maintenance Providers.**

(a) A maintenance provider must be registered with the executive director.

(b) To register as required by Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations), a person must:

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

(2) submit a completed application and a \$111 fee to the executive director on a form approved by the executive director;

(3) submit documentation by the manufacturer of an on-site sewage disposal system using aerobic treatment that the applicant is certified to maintain the on-site sewage facility systems under a maintenance contract; and

(4) any additional information required by the executive director.

(c) To renew a maintenance-provider registration, a maintenance provider must every three years:

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

(2) submit a completed renewal application and a \$111 fee to the executive director on a form approved by the executive director.

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

**§30.246**

**STATUTORY AUTHORITY**

This repeal is adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. This repeal is also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. Finally, this repeal is adopted under Texas Health and Safety Code (THSC), §366.011, concerning General Supervision and Authority; THSC, §366.012, concerning Rules Concerning On-Site Sewage Disposal Systems; and THSC, §366.071, concerning Occupational Licensing and Registration.

This adopted repeal implements TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §§366.011, 366.012, and 366.071.

## **SUBCHAPTER H: WATER TREATMENT SPECIALISTS**

### **§§30.261, 30.270, 30.272, 30.274**

#### **STATUTORY AUTHORITY**

These amendments are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. Additionally, these are also adopted under Texas Health and Safety Code (THSC), §341.033, concerning Protection of Public Water Supplies; THSC, §341.034, concerning Licensing and Registration of Persons who Perform Duties Relating to Public Water supplies; and Texas Occupations Code (TOC), Chapter 1904, concerning Water Treatment Specialist Certification Program.

The adopted amendments implement TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; TOC, Chapter 1904; and THSC, §341.033 and §341.034.

#### **§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).

**§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	Education	Minimum Work Experience	Approved Training
Class 1	None	None	None
Class 2	Less than High School Diploma or GED	3 years	Basic Course
Class 2	High School Diploma or GED	2 years	Basic Course
Class 2	1 year College	1 year	Basic Course

Class 3	High School Diploma or GED	3 years	Basic and Advanced Courses
Class 3	2 years College	2 years	Basic and Advanced Courses
Class 3	College Degree	1 year	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 12 hours of approved training credits.

**§30.274. Classification of Licenses.**

(a) Class 1 - Individuals who have been issued this license must work under the supervision of an individual holding a higher class license, a local plumbing inspector, or a health official that has jurisdiction where the work is performed.

(b) 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.

(c) Class 2 - Individuals who have been issued this license:

(1) shall have demonstrated a practical working knowledge of the mechanics and servicing principles of water conditioners;

(2) are deemed able to perform water treatment installations, exchanges, services, or repairs of equipment;

(3) are considered to be aware of the public health requirements connected with their activities; and

(4) are excluded from working on reverse osmosis and deionization equipment unless the work is performed under the supervision of an individual holding a higher class license.

(d) Class 3 - Individuals who have been 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.

**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**

These amendments and new section are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. Additionally, these amendments and new section are also adopted under TWC, §26.452, concerning Underground Storage Tank Contractor; and TWC, §26.456, concerning Underground Storage Tank On-Site Supervisor Licensing. Finally, these amendments are adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract.

The adopted amendments and new section implement TWC, §§5.013, 5.102, 5.103, 26.452, 26.456, and 37.001 - 37.015.

**§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).

**§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); and

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

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

(C) Class A/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 one of the following levels of licenses:

(1) Class A;

(2) Class B; or

(3) Class A/B combination.

(b) 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) prior to the examination, submit the appropriate certificates of completion for the following levels of licenses:

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

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

or

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

(7) pass the appropriate licensing examination.

(c) Individuals with a Class A or Class B may upgrade to a Class A/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, 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 one million dollars (\$1,000,000) 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 \$232; 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.

**§30.317. Qualifications for Registration Renewal.**

To renew 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) certified that the UST contractor has commercial liability insurance designating the commission as the certificate holder in an amount of not less than one million dollars (\$1,000,000) 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 \$232.

**§30.319. Exemptions.**

(a) A license is not required for:

(1) 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 Exemptions for Underground Storage Tanks (USTs) and UST Systems) or completely excluded from regulation under §334.4(a) of this title (relating to Exclusions for Underground Storage Tanks (USTs) and UST Systems); or

(2) 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.

(b) 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.

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

**§30.318, §30.319**

STATUTORY AUTHORITY

These repeals are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules.

Additionally, the repeals are adopted under TWC, §26.452, concerning Underground Storage Tank Contractor; and TWC, §26.456, concerning Underground Storage Tank On-Site Supervisor Licensing.

Finally, these repeals are also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning:

Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract.

These adopted repeals implement TWC, §§5.013, 5.102, 5.103, 26.452, 26.456, and 37.001 - 37.015.

## **SUBCHAPTER J: WASTEWATER OPERATORS AND OPERATIONS COMPANIES**

### **§§30.337, 30.340, 30.342, 30.350, 30.355**

#### **STATUTORY AUTHORITY**

These amendments are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also adopted under TWC, §26.0301, concerning Wastewater Operations Company Registrations and Operator Licensing. Finally, these amendments are adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract.

These adopted amendments implement TWC, §§5.013, 5.102, 5.103, 26.0301, and 37.001 - 37.015.

#### **§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 daily 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 or makes performance control decisions 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)

<b>License</b>	<b>Education</b>	<b>Required Work Experience</b>	<b>Required Training</b>
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 wastewater experience that is 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.

(e) Applicants may substitute an equivalent of:

(1) 32 semester hours of college or an additional 40 hours of training credits for one year of the experience requirement; or

(2) 16 semester hours of college or an additional 20 hours of training credits for six months of the experience requirement.

(f) 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.

(g) 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(g)

<b>License</b>	<b>Required Courses</b>	<b>Elective Courses</b>
Class D	Basic Wastewater Operation	None
Class C	Basic Wastewater Operation Activated Sludge or Wastewater Treatment plus one elective course	Wastewater Collection Wastewater Laboratory Water Utility Calculations Water Utility Safety
Class B	Activated Sludge or Wastewater Treatment Wastewater Collection Wastewater Laboratory Water Utility Safety	Intermediate Wastewater Laboratory Water Utility Calculations Water Utility Management

	plus one elective course	
Class A	Activated Sludge or Wastewater Treatment Wastewater Collection Wastewater Laboratory Water Utility Management Water Utility Safety plus one elective course	Intermediate Wastewater Laboratory Water Utility Calculations 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	Intermediate Wastewater Laboratory Water Utility Management Water Utility Calculations Pre-treatment Facility Inspection

(h) An individual who previously held a Class D license or higher may not apply for a new Class D license if the individual currently operates any activated sludge type facilities, any trickling filter or rotating biological contractor facilities with a permitted daily average flow of 100,000 gallons per day or greater, or any facility that uses a subsurface area drip dispersal system as defined in §222.5 of this title (relating to Definitions) for disposal of its effluent. A trickling filter or rotating biological contractor 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 a total amount of approved continuing education equal to that of ten hours 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;

(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;

(3) any facility that uses a subsurface area drip dispersal system as defined in §222.5 of this title (relating to Definitions) for disposal of its effluent.

(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.

**§30.350. 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 that are regulated by industrial-type wastewater disposal permits are required to be licensed, 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 perform all process control tasks in the presence of a licensed operator.

(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 holding the appropriate level of license or wastewater system operations companies holding a valid registration and employing licensed wastewater treatment facility operators holding the appropriate level of license.

(e) Domestic wastewater treatment facilities will be classified in accordance with the following criteria.

Figure: 30 TAC §30.350(e)

<b>Treatment System</b>	<b>Permitted Daily Average Flow</b>	<b>Category</b>
No Discharge Treatment Systems	All flows with a disposal system other than a subsurface area drip dispersal system	D
	All flows with subsurface area drip dispersal systems	C
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<sub>5</sub> or total suspended solids concentration less than ten milligrams per liter.

(g) A wastewater treatment facility having a combination of treatment processes that 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) When shift operation of the wastewater treatment facility is necessary, each shift must be operated 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 employ at least one licensed operator who holds a license class equal to or higher than that category of system. . Wastewater collection system

operation and maintenance activities shall be supervised and inspected daily by an on-site licensed wastewater operator. Wastewater collection systems shall be classified as follows.

Figure: 30 TAC §30.350(n)

<b>Category of Collection System</b>	<b>Daily Average Flow</b>	<b>Minimum Class of Operator Required</b>
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) When a wastewater operations company submits an application to obtain or renew a registration, it must submit a report to the executive director. For each wastewater treatment facility or wastewater collection system the report shall include:

- (1) the operations company name, location, and mailing address;
- (2) the permittee's name and mailing addresses;
- (3) the commission permit number, if applicable;

(4) the dates of operation during the registration validity period;

(5) the names and license numbers of all licensed operators employed by the operations company;

(6) the name of the licensed chief operator for each facility; and

(7) any additional information required by the executive director.

(b) A registered wastewater system operations company must apply for a new registration and submit an amended report if the company is bought or sold and the name of the company changes.

(c) Wastewater system operations companies shall pay a three year registration fee based on the number of facilities and collection systems served as indicated in the following table.

Figure: 30 TAC §30.355(c)

<b>Number of Facilities Served</b>	<b>Fee</b>
0 - 4	\$122

5 - 9	\$240
10 - 19	\$399
20 or more	\$636

## **SUBCHAPTER J: WASTEWATER OPERATORS AND OPERATIONS COMPANIES**

### **§30.349**

#### **STATUTORY AUTHORITY**

This repeal is adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. This repeal is also adopted under TWC, §26.0301, concerning Wastewater Operations Company Registrations and Operator Licensing. Finally, this repeal is also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract.

This adopted repeal implements TWC, §§5.013, 5.102, 5.103, 26.0301, and 37.001 - 37.015.

**SUBCHAPTER K: PUBLIC WATER SYSTEM OPERATORS AND OPERATIONS  
COMPANIES**

**§§30.381, 30.387, 30.390, 30.392, 30.400**

**STATUTORY AUTHORITY**

These amendments are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. Finally, these amendments are adopted under Texas Health and Safety Code (THSC), §341.033, concerning Protection of Public Water Supplies; and THSC, §341.034, concerning Licensing and Registration of Persons who Perform Duties Relating to Public Water Supplies.

These adopted amendments implement TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §341.033 and §341.034.

**§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 contractual 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 operator 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 did not possess a high school diploma or equivalent certificate may be renewed according to §30.392 of this title (relating to Qualifications for License Renewal).

(e) An individual that is 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. This honorary license does not award the licensee the authority to perform process control duties in production or distribution of drinking water for public water systems.

(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) **Public water system operations company**--A person or other nongovernmental entity that provides operations services to one or more public water systems on a contractual basis.

(6) **Public water system operator**--Licensed operator who performs process control duties in production or distribution of drinking water.

(7) **Work experience**--The actual performance of job tasks in a public water supply system, that are considered essential for the treatment 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)

<b>License</b>	<b>Education</b>	<b>Work Experience</b>	<b>Training Credits</b>
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	2½ years 5 years	100 hours 100 hours
Class B, Surface water	Bachelors HSD or equivalent	2½ years 5 years	124 hours 124 hours
Class A	Masters Bachelors HSD or equivalent	4 years 5 years 8 years	164 hours 164 hours 164 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 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 a Class C license, 16 semester hours of college, or 20 additional hours of approved training may be substituted for six months of work experience, approved by the executive director.

(3) 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.

(4) For Class B and A licenses, 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.

(f) Training credits must be in approved courses that include the following or equivalent.

Figure: 30 TAC §30.390(f)

<b>License</b>	<b>Core Training Courses</b>	<b>Elective Training Courses</b>
Class D	Basic Waterworks Operation	None
Class C Surface Water	Basic Waterworks Operation Surface Water Production I 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	Basic Waterworks Operation	Water Laboratory

Water Distribution	Water Distribution Plus one elective course	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	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 Pump and Motor Maintenance Valve and Hydrant Maintenance Plus one elective course	Water Utility Management Water Utility Calculations Chlorinator Maintenance Water Laboratory
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 164 hour requirement

(g) An individual who previously held a Class D license shall not apply for a new Class D license if the individual:

- (1) currently operates facilities at groundwater treatment systems of 250 connections or more;
- (2) currently operates facilities at groundwater treatment systems serving a population of 750 or more;
- (3) currently operates facilities at surface water treatment systems;
- (4) currently operates facilities at groundwater systems under the influence of surface water;
- (5) performs supervisor, crew chief, or foremen duties for distribution systems that have over 250 connections; or
- (6) operates 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 a total amount of approved continuing education equal to that of ten hours 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 shall 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 groundwater treatment systems serving a population of 750 or more;

(3) at surface water treatment systems;

(4) at groundwater systems under the influence of surface water;

(5) who are supervisors, crew chiefs, or foremen of distribution systems that have over 250 connections; or

(6) 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.

**§30.400. Additional Requirements for Public Water System Operations Companies.**

(a) When a public water system operating company submits an application to obtain or renew a registration, it must submit a report to the executive director. The report shall include:

(1) the public water system operating company name, registration number, location, and mailing address;

(2) the public water system identification number and name for each system operated;

(3) the dates of operation during the reporting period;

(4) the names and license numbers of all licensed operators employed by the operations company;

(5) the names of the licensed chief operators and licensed supervisors; and

(6) any additional information required by the executive director.

(b) A person that operates a public water system under contract must apply for a new registration and submit an amended report if a company is bought or sold and the name of the company changes.

(c) Public water system operating companies shall submit a registration fee based on the number of public water systems served as indicated in the following table.

Figure: 30 TAC §30.400(c)

<b>Number of Public Water Systems Served</b>	<b>Fee</b>
0 to 4	\$122
5 to 9	\$240
10 to 19	\$399
20 or more	\$636

## **SUBCHAPTER K: PUBLIC WATER SYSTEM OPERATORS AND OPERATIONS**

### **COMPANIES**

#### **§30.399**

##### STATUTORY AUTHORITY

This repeal is adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. This repeal is also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. This repeal is also adopted under Texas Health and Safety Code (THSC), §341.033, concerning Protection of Public Water Supplies; and THSC, §341.034, concerning Licensing and Registration of Persons who Perform Duties Relating to Public Water Supplies.

This adopted repeal implements TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §341.033 and §341.034.

**SUBCHAPTER L: VISIBLE EMISSIONS EVALUATOR TRAINING AND CERTIFICATION**

**§§30.500, 30.501, 30.502, 30.503, 30.504, 30.505, 30.506, 30.507, 30.508**

**STATUTORY AUTHORITY**

These new sections are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These new sections are also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract.

These adopted new sections implement TWC, §§5.013, 5.102, 5.103, and 37.001 - 37.015.

**§30.500. Purpose and Applicability.**

(a) The purpose of this subchapter is to establish standards approved by the executive director to train and certify visible emissions evaluators.

(b) Persons who train and certify visible emissions evaluators must meet the qualifications of this subchapter and be approved by the executive director.

**§30.501. Definitions.**

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

(1) **Visible emissions evaluator**--A person trained and certified in Texas to conduct visible emissions assessments as determined by testing every six months consistent with the United States Environmental Protection Agency's guidance found in 40 Code of Federal Regulations Part 60 Appendix A, Method 9.

(2) **Visible emissions evaluator course**--A training course presented by a qualified training provider that has been approved by the executive director.

(3) **Visible emissions evaluator training provider**--A person that has been approved by the executive director to train and certify visible emission evaluators on both the basic lecture session as well as conduct and perform field training.

**§30.502. Terms for Visible Emission Evaluator Certification.**

All visible emission evaluator certifications are valid for six months from the date of issuance.

**§30.503. Visible Emission Evaluator Course Training Material and Course Approval.**

Applications for new visible emissions evaluator course training material and course approval shall be made in accordance with §30.28 of this title (relating to Approval of Training).

**§30.504. Visible Emission Evaluator Training Provider Approval.**

To obtain approval to train and certify visible emissions evaluators, a person must:

- (1) submit an application made on a standard form approved by the executive director;
- (2) submit the appropriate fee; and
- (3) meet the training criteria approved by the executive director.

**§30.505. Requirements for Visible Emission Evaluator Training Providers.**

Visible emission evaluator course training providers shall:

- (1) train and certify visible emissions evaluators within the State of Texas;
- (2) provide the executive director with electronic records of training and certifications, in an acceptable format, as approved by the executive director;

(3) provide telephone and facsimile numbers to assist customers that may inquire about certification status;

(4) respond to inquiries regarding the visible emission evaluator course training and certification program;

(5) be responsible for all training and certification materials, equipment, and training locations including, but not limited to classrooms and field sites; and

(6) be responsible for issuing certificates.

**§30.506. Visible Emission Evaluator Training Requirements.**

(a) Visible emission evaluator training providers must:

(1) ensure that training meets the general and delivery standards approved by the executive director;

(2) follow the criteria and procedures of Method 9 as established by United States Environmental Protection Agency;

(3) provide a six to eight hour mandatory lecture session for first time students, and those students desiring to attend the lecture session again as a refresher;

(4) present the lecture session to the new students prior to any field training or testing;

(5) present the lecture session in a setting that is conducive to learning; and

(6) use visual aids and handouts to clarify topics that are taught.

(b) Visible emission evaluator training shall include, but is not limited to the following topics:

(1) opacity history to include Ringlemann equivalency;

(2) court cases that uphold opacity readings and procedures;

(3) applicability of Federal and State Method 9 opacity regulations;

(4) Federal and State New Source Performance Standards;

(5) Federal and State New Source Review program;

(6) State operating permits;

(7) State Implementation Plans;

(8) scientific principles of opacity;

(9) methodology of reading visible emissions, to include, but not limited to:

(A) position of sun;

(B) multiple stacks;

(C) water vapor plumes;

(D) slant angle correction;

(E) "red sky" concerns;

(F) not staring at plume;

(G) meteorology;

(H) wind direction and speed; and

(I) contrasting background;

(10) applicability and uses of Method 22, 203A, 203B, and 203C;

(11) proper documentation methods using the various field forms; and

(12) field testing instructions.

(c) The training topics may be modified at the discretion of the executive director.

(d) The training provider will issue a certificate of completion to attendees of the lecture session which will contain the training provider's name, title of course (visible emission evaluator course classroom lecture), student's name, location of lecture, and date of lecture.

(e) The training provider shall develop and submit for executive director approval an exit questionnaire that shall be administered to the attendees upon completion of the lecture. This questionnaire is for determining the effectiveness of the training session and the ability of the instructor to convey the necessary information. The completed questionnaires shall be kept on file for a minimum of three years and be made available to the agency upon request.

**§30.507. Field Training and Testing Requirements.**

(a) Field training shall:

(1) provide repetition of any field instructions, given at the lecture session, to those attendees attempting recertification who have not had to attend the lecture;

(2) provide familiarization plumes shown before the start of each black portion and each white portion of the field test;

(3) provide for completion of one test run for new students prior to taking a test for certification. The training run shall consist of 25 black readings and 25 white readings, and be given exactly as a regular certification test run. The training run cannot be accepted from the new student as certification, even if the score is within the passing parameters. This training run will be kept on file for three years;

(4) allow attendees that are attempting recertification to take the training run described above before certification.

(b) Field testing shall include:

(1) a complete run which consists of 50 contiguous plumes;

(2) a random order of opacity from 0% to 100%;

(3) avoidance of adverse weather; i.e., drizzle, rain, fog, or high winds;

(4) at least two proctors per each 100 attendees, and two proctors if less than 100 attendees; and

(5) a certificate issued to those students that successfully pass the test that contains the name of the provider, the name of the student, and the date of successful certification. The provider shall number each certificate so that each certificate is unique and not duplicated.

**§30.508. Disapproval of Visible Emissions Evaluator Course Training.**

(a) The executive director may return without approval, visible emissions evaluator training courses and training material that is determined to contain errors.

(b) The executive director may rescind or deny training approval for good cause, to include, but not be limited to:

- (1) training that does not conform to current technical standards or rules;
- (2) training that does not conform to the materials as approved;
- (3) subject matter that is not related to job tasks performed by licensees;
- (4) an instructor not qualified to teach the subject matter;
- (5) an instructor that is ineffective in the delivery of the subject matter;

(6) an instructor that promotes or endorses products, product lines, or services from one manufacturer, distributor, or service provider;

(7) participation records or other records that are false or untimely submitted; or

(8) the training provider's noncompliance with a training recall.

(c) The executive director may recall previously approved training for reevaluation and rescind the approval of the training if the training does not meet standards.