

The Texas Commission on Environmental Quality (TCEQ or commission) proposes 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.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED 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 proposed repeals, new additions, and amendments are necessary to ensure consistency between the rules and their applicable statutes. The proposed amendments would make grammatical and punctuation corrections and incorporate language modifications needed to improve readability and enhance enforceability. The proposed amendments would 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 Additionally, the proposed amendments would remove any requirements or references to dates that are no longer applicable.

The proposed rules would 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 a 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 Chapter 290.

SECTION BY SECTION DISCUSSION

Subchapter A: Administration of Occupational Licenses and Registrations.

The proposed amendments to §30.3, Purpose and Applicability, would 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 would also

add visible emissions evaluator training providers to the list of programs the agency currently administers.

Changes in the numbering to this provision are proposed where necessary to reflect the changes.

The proposed amendments to §30.5, General Provisions, would add Texas Occupations Code, §1903.251, to the list of statutes that describe activities that are regulated by the commission. The proposed amendment to §30.5, would also remove the reference to Texas Water Code, §34.007, which no longer exists. Additionally, the commission has proposed changes to this section to improve its readability and enhance its enforceability.

The proposed amendments to §30.7, Definitions, would add 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 proposed where necessary to reflect the changes.

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

The proposed amendments to §30.14, Applications for Initial Registrations, would 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 proposed 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 proposes additional language in this subsection to improve its readability, and enhance its enforceability. Changes in the numbering to this provision have been proposed where necessary to reflect the changes.

The proposed amendments to §30.18, Applications for an Initial License, would 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 proposed 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 proposes additional language in this subsection to improve its readability, and enhance its enforceability. Changes in the numbering to this provision have been proposed where necessary to reflect the changes.

The proposed amendments to §30.20, Examinations, would add §30.20(c) - (h) to clarify the existing requirements for individuals who need to take repeat examinations. Additionally, the commission proposes §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 Texas Occupations Code, §54.002(a). Changes in the numbering to this provision have been proposed where necessary to reflect the changes.

The proposed amendments to §30.24, License and Registration Applications for Renewal, are required by Texas Occupations Code, §55.002, and would 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 proposed addition to §30.24(c), would require 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 proposed 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 proposes additional language in this subsection to improve its readability, and enhance its enforceability. The addition of §30.24(p), is proposed 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 proposed amendments would also remove the existing §30.24(f), as there is no statutory authority for this subsection. The commission proposes additional language to this subsection to improve its readability,

and enhance its enforceability. Changes in the numbering to this provision have been proposed where necessary to reflect the changes.

The proposed repeal of §30.28, Approval of Training, would delete this section in its entirety and replace it with new §30.28, that would incorporate basic components of the agency's existing regulatory guidance document, RG-373, relating 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 proposed new section would also establish fees for reviewing and processing applications for training program approval that are received by the commission. Texas Water Code, §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.

The proposed amendments to §30.30, Terms and Fees for Licenses and Registrations, would adjust those licenses or registrations that have a two-year validity period to have a three-year validity period. This change would provide consistency between all licensing programs that are administered by the agency. The proposed amendments would also adjust the license fee from \$35 per year to \$37 per year. The proposed 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, §2054.111, authorizes the commission to collect subscription fees charged by TxOnline.

The proposed amendment to §30.33, License or Registration Denial, Warning, Suspension, or Revocation, would remove §30.33(a)(1)(B) and create §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 proposed amendments would 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 is necessary to comply with the Texas Family Code, Chapter 232. Additionally, the proposed amendments would also restructure the section and modify some of the existing language to improve its readability and make it consistent with the relevant statute. Changes in the numbering to this provision have been proposed where necessary to reflect the changes.

Subchapter B: Backflow Prevention Assembly Testers.

The proposed amendment to §30.51, Purpose and Applicability, would delete §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 proposed amendments to §30.60, Qualifications for Initial License, would 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 proposed where necessary to reflect the changes.

Subchapter C: Customer Service Inspectors.

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

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

The proposed amendment to §30.92, Qualifications for License Renewal, would adjust 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 would still provide sufficient continuing education necessary to protect the environment and public health.

Subchapter D: Landscape Irrigators and Installers.

The proposed amendment to §30.111, Purpose and Applicability, would delete §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 proposed amendment to §30.120, Qualifications for Initial License, would modify the existing language to improve its readability and enhance its enforceability.

The proposed amendment to §30.122, Qualifications for License Renewal, would remove the reference to January 1, 2002, which is no longer applicable. The proposed amendments would 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 proposed amendment to the rules that would adjust the validity period of the licenses from two years to three years.

The proposed repeal of §30.125, Renewal of Certificates of Registrations, would repeal 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 it is no longer applicable.

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

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

The proposed amendment to §30.171, Purpose and Applicability, would repeal §30.171(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 proposed amendment to §30.180, Qualifications for Initial License, would change the term “preceding” to “previous.” This change would provide consistency throughout this section.

The proposed amendments to §30.185, Qualifications for License Renewal, would change 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 proposed change will correct a typographical error that exists in the current provision. Changes in the numbering to this section have been proposed where necessary to reflect the changes.

The proposed amendment to §30.190, Qualifications for Initial Registration, would clarify the amount of liability insurance required and would change the term “preceding” to “previous.” This change would provide consistency throughout this section. Additionally, the proposed amendment would adjust the initial registration fee from \$150 to \$232. The proposed 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. Texas Government Code, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline.

The proposed amendment to §30.192, Qualifications for Registration Renewal, would adjust the renewal registration fee from \$150 to \$232. The proposed 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. Texas Government Code, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline.

Subchapter F: Municipal Solid Waste Facility Supervisors.

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

The proposed amendments to §30.201, would modify §30.201(c), to remove the January 1, 2004, date referenced because it is no longer applicable. The proposed amendments to this section would 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 licenses 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 proposed rules would include a transitional period to allow individuals and facilities to comply with the new rules.

The proposed amendments to §30.201, would add §30.201(d), which would also eliminate the issuance of Class D MSW supervisor licenses and establish a date when new applications for the Class D license would not be accepted. Class D issued licenses will remain in effect until they expire.

The proposed amendment to §30.210, Qualifications for Initial License, would specify the education, work experience, and training credits for each license class in a tabular format for clarity and conciseness.

The proposed amendment would remove the applicant qualifications for obtaining a Class D license because this class of licenses is being eliminated.

The proposed amendment to §30.212, Qualifications for License Renewal, would eliminate 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 proposed where necessary to reflect the changes and improve readability.

The commission proposes 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 proposes 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 proposed new section would also include the effective date for facilities to comply with the requirements of §30.213. Further, the proposed addition of §30.213(b), would allow the facility's permit to supersede the requirements of §30.213(a). Proposed §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.

The commission proposes 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. The commission also proposes to exempt individuals who supervise MSW facilities that are exempt from the permitting requirements of §330.7, and that are exempt from the permit required or registration requirements of §330.9, Registration Required, unless otherwise described in §30.213, Classification of Municipal Solid Waste Facilities and Level of License Required.

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

The proposed amendment to §30.231, Purpose and Applicability, would repeal §30.231(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 proposed where necessary to reflect the changes and improve readability.

The proposed amendment to §30.240, Qualifications for Initial License, would adjust 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 proposed amendments would also

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 proposed where necessary to reflect the changes.

The proposed amendment to §30.242, Qualifications for License Renewal, would adjust 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 proposed amendment to the rules that adjusts the validity period of the licenses from two years to three years. The proposed change would also remove the second sentence from §30.242(a)(2), as it is no longer applicable.

The proposed amendment to §30.244, Exemptions, would add 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 proposed amendments to §30.245, Registration of Apprentices, would 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 proposed where necessary to reflect the changes. Additionally, the proposed amendment would adjust the initial registration fee for On-Site Sewage Facility (OSSF) apprentices from \$50 to \$81. The proposed 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. Texas Government Code, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline.

The proposed repeal of §30.246, Application for Site Evaluator, would repeal 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 proposed amendment to §30.247, Registration of Maintenance Providers, would adjust the registration validity period from two years to three years and adjust the current \$70 initial registration and renewal fee to \$111. The proposed 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. Texas Government Code, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline. These proposed changes would provide consistency between all licensing programs.

Subchapter H: Water Treatment Specialists.

The proposed amendment to §30.261, Purpose and Applicability, would remove §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 proposed amendment to §30.270, Qualifications for Initial License, would reformat the current table that outlines the requirements for obtaining a water treatment specialist license. This change would improve the readability of the rule.

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

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

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

The proposed amendment to §30.301, Purpose and Applicability, would remove §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 proposed amendments to §30.307, Definitions, would change the terminology used in §30.307(6)(A) - (C) from “License” to “Class.” This change would provide consistency throughout this subchapter.

The proposed amendments to §30.310, Qualifications for Initial License, would modify and add to the current rule language to improve its readability and enhance its enforceability. Changes in the numbering to this provision have been proposed where necessary to reflect the changes.

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

The proposed amendments to §30.315, Qualifications for Initial Registration, would adjust the initial registration fee from \$150 to \$232. The proposed 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. The Texas Government Code, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline. The proposed changes would also provide clarity to the amount of liability insurance required and would change the term “preceding” to “previous.” This would provide consistency throughout this subchapter.

The proposed amendments to §30.317, Qualifications for Registration Renewal, would remove the reference to January 1, 2002, which is no longer applicable. The proposed changes would also adjust the renewal registration fee from \$150 to \$232. The proposed 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 license and registration requirements issued under Chapter

30. The Texas Government Code, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline. The proposed changes would also provide clarity to the amount of liability insurance to be held by the registrant and would change the term “preceding” to “previous.” This would provide consistency throughout this subchapter.

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

The proposed repeal of §30.319, Exemptions, would delete the section in its entirety and replace it with the new §30.319, which would modify the current structure of the section to improve its readability.

Subchapter J: Wastewater Operators and Operations Companies.

The proposed amendment to §30.337, Definitions, would be reflected in §30.337(8), by changing the term frequent to daily. This proposed change would specify when operators will provide on-site inspections and supervision. Additionally the proposed amendment to §30.337(12), would modify the definition to include decisions associated to process control.

The proposed amendment to §30.340, Qualifications for Initial License, would modify and add to the current rule language to clarify it, in regard to the substitution of college hours for required work experience.

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

The proposed repeal to §30.349, Registration Fees, would delete the section in its entirety and instead incorporate these same requirements into §30.355. This would clarify and improve the readability of the subchapter.

The proposed amendment to §30.350, Classification of Wastewater Treatment Facilities, Wastewater Collection Systems, and Licenses Required, would modify and add to the current rule language to improve its readability and enhance its enforceability with regards to the duty requirements of the licensed individuals. Changes in the numbering to this section have been proposed where necessary to reflect the changes.

The proposed amendments to §30.355, Additional Requirements for Wastewater Operations Companies, would incorporate the requirements from the proposed repealed §30.349, Registration Fees, and would clarify and improve the readability of the subchapter. The proposed 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. Texas Government Code, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline. Other proposed amendments to this section would change the requirement of companies

submitting yearly reports to submitting a report at the time of renewal or when a company is bought or sold and the name of the company changes. The proposed changes would also decrease the amount of information having to be reported by the companies. The commission staff has determined that some of the information currently being reported was information the commission already had and the effort was 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 proposed change would lessen the burden on both the companies and the commission.

Subchapter K: Public Water System Operators and Operations Companies.

The proposed amendment to §30.381, Purpose and Applicability, would add the term “operator” to clarify §30.381(c).

The proposed amendments to §30.387, Definitions, would 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 proposed where necessary to reflect the changes.

The proposed amendments to §30.390, Qualifications for Initial License, would modify and add to the current rule language to provide clarity, improve the readability, and enhance enforcement. The proposed changes would 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 proposed where necessary to reflect the changes.

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

The proposed repeal to §30.399, Registration Fees, would delete the section in its entirety and incorporate the requirements into §30.400. This would clarify and improve the readability of the subchapter.

The proposed amendments to §30.400, Additional Requirements for Public Water System Operations Companies, would incorporate the requirements from the proposed repealed §30.399, Registration Fees, into this section and would clarify and improve the readability of the subchapter. The proposed 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. The Texas Government Code, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline. Other proposed amendments to this section would change the requirement of companies submitting yearly reports to submitting a report at the time of renewal or when a company is bought or sold and the name of the company changes. The proposed changes would also decrease the amount of information having to be reported by the companies. The commission staff has

determined that some of the information currently being reported was information the commission already had on file and the effort was 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 proposed change would lessen the burden on both the companies and the commission.

Subchapter L: Visible Emissions Evaluator Training and Certification.

The proposed creation of Subchapter L would establish qualifications to train and certify visible emissions evaluators.

The proposed creation of §30.500, Purpose and Applicability, would establish standards and qualifications for persons who train and certify visible emissions evaluators.

The proposed creation of §30.501, Definitions, would establish the definition of terms used in Subchapter L related to visible emissions evaluator training.

The proposed creation of §30.502, Term for Visible Emission Evaluator Certification, would establish the validity period for visible emissions evaluator certifications.

The proposed creation of §30.503, Visible Emission Evaluator Course Training Material and Course Approval, would establish the requirements necessary to have visible emissions evaluator training approved by the executive director.

The proposed creation of §30.504, Visible Emission Evaluator Training Provider Approval, would establish the requirements necessary to obtain executive director approval to be a visible emissions evaluator training provider.

The proposed creation of §30.505, Requirements for Visible Emission Evaluator Training Providers, would establish the duties required of visible emissions evaluator training providers.

The proposed creation of §30.506, Visible Emission Evaluator Training Requirements, would establish the requirements for the methods used for presenting training to visible emissions evaluators.

The proposed creation of §30.507, Field Training and Testing Requirements, would establish the requirements for the methods used in the field training and testing of visible emissions evaluators.

The proposed creation of §30.508, Disapproval of Visible Emission Evaluator Course Training, would establish the criteria to be used by the executive director in disapproving visible emissions evaluator training courses.

FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENT

Nina Chamness, Analyst, Strategic Planning and Assessment, has determined that, for the first five-year period the proposed rules are in effect, fiscal implications, although not expected to be significant, are anticipated for the agency or other units of state or local governments as a result of administration or enforcement of the proposed rules. The agency is expected to experience some increase in revenue in the

Occupational Licensing Account (Account 4680) as a result of the proposed rules. Other units of state or local governments may experience some increase in costs for licenses or training under the proposed rules if they elect to pay these costs for their employees.

The proposed rules would establish more uniform procedures for issuing licenses, renewing licenses, setting terms, setting fees, approving training materials, approving training providers, and enforcing licensing requirements required by Chapter 37 of the Texas Water Code (TWC) by amending appropriate sections of Texas Administrative Code (TAC), Chapter 30. The proposed rules would also: provide consistency with the Texas Occupations Code regarding military personnel and religious holidays relating to license requirements; ensure that licensing periods are consistent between all agency licensing and registration programs; clarify and enhance the authority of the executive director in administering and regulating training programs; clarify which high school diplomas or equivalency certificates are acceptable for license applicants to have; and clarify other training, licensing, and registration issues. In addition, the proposed rules would allow the agency to increase fees for occupational licenses and registrations to cover the subscription cost of internet renewal through the TxOnline Web site and establish fees for the review and approval of training materials used by training providers. Additional fee revenue under the proposed rules is estimated to be \$190,863 each year for the first two years the proposed rules are in effect and \$157,026 each year for the third through fifth years, totaling an estimated five-year increase of \$852,804 for the Occupational Licensing Account (Account 4680). Revenue increases for licenses and registrations will be offset by agency subscription costs for using TxOnline.

Any cost increases for units of local government would depend on whether they choose to pay for licenses, registrations, or training costs for certain employees such as wastewater operators, municipal solid waste facility supervisors, or others. Any cost increases are not expected to have significant fiscal implications for individual local governments.

Revenue Increase for License and Registrations

The proposed rules would standardize the license and registration term to three years for individuals and entities, for Landscape Irrigators and Installers, Leaking Petroleum Storage Tank Corrective Action Project Managers and Specialist, On-Site Sewage Facility (OSSF) Installers, OSSF Designated Representatives, OSSF Maintenance Providers, OSSF Site Evaluators, Underground Storage Tank On-Site Supervisors and Contractors, Class “D” Public Water System Operators, Class “D” Wastewater Treatment Facility Operators, Class “I” Wastewater Collection System Operators, Public Water System and Wastewater Operations Companies. Licenses and registrations can currently be applied for using the Internet at the TxOnline Web site. To cover the cost of subscription charges for the use of TxOnline, the proposed rules would increase the cost for most individuals 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 total statewide estimated increase in license and registration fee revenue is expected to be \$134,268 per year for the first two years and \$100,431 per year for the third

through fifth year the proposed rule is in effect. The revenue increase over the five-year period is estimated to be \$469,398.

Revenue Increase for Review/Approval of Training Materials

Currently agency staff does extensive review and revision of many training documents used by third party trainers in conferences and seminars. To cover the cost of detailed editing and correction, the proposed rules would allow the agency to collect training approval fees. Such fees would vary depending on whether approval was needed for classroom instruction, distance learning, or seminars conducted at conferences or professional meetings. Training approval fees for conferences would range from a minimum of \$50 per request to a maximum of \$10 per credit hour, whichever is greater. Approval fees for classroom training using existing and agency approved manuals would range from a minimum of \$100 per request to a maximum of \$10 per credit hour, whichever is greater. Approval fees for new classroom training materials would range from a minimum \$100 per request to \$25 per credit hour, whichever is greater. Approval fees for distance learning materials would range from a minimum of \$100 per request to a maximum of \$25 per credit hour, whichever is greater. Training approval fees for association meetings would be \$10 per hour for single meetings, \$100 for single association chapters meeting more than once, and \$400 for associations with multiple chapters meeting more than once. Staff has estimated that total annual training approval fee revenue for Account 4680 could be as much as \$56,595 per year, or \$282,975 over five years.

PUBLIC BENEFITS AND COST

Ms. Chamness also determined that for each year of the first five years the proposed new rules are in effect, the public benefit anticipated from the changes seen in the proposed rules will be increased consolidation and standardization of the agency's occupational licensing programs which is expected to lead to more easily understood rules and greater compliance.

The proposed rules are expected to increase the licensing and registration costs for individuals, companies, and other entities using TxOnline to comply with the agency's occupational licensing programs. It is not expected that these cost increases to recover TxOnline subscription costs will have significant fiscal implications for regulated parties. Individuals and business entities could pay two to three dollars more per year, depending on the license or registration required, the first year of renewal for a three-year renewal period. Staff estimates that the statewide fiscal impact due to these fees will be \$134,268 each year for the first two years the rules are in effect and \$100,431 each year for the third through fifth year the rules are in effect. The total statewide cost for five years is estimated to be \$469,398 for using TxOnline to comply with agency requirements.

Training providers would pay training approval fees based on the type of training approved. It is expected that trainers would recover the cost of these fees from trainees, and costs to trainers for this fee are not expected to have significant implications for either the training provider or trainees. Training approval fee costs for the following training types could be as much as: \$80 per approval for conferences; \$200 per approval for classroom training using existing and agency approved manuals; \$375 per approval for classroom training using new manuals; \$150 per approval for distance learning courses; and from \$10 to \$400 per approval, depending on the number of meetings, for training material used at

association meetings. Training approval costs could be as much as \$56,595 per year, or \$282,975 over a five-year period depending on the number of approvals required.

SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT

Fiscal implications, although they are not anticipated to be significant, will occur for small or micro-businesses as a result of the proposed rules. It is not known how many small or micro-businesses will utilize TxOnline to renew licenses and registrations; nor is it known how many training providers are small or micro-businesses. However, small or micro-businesses will be subject to the same fee increases under the proposed rules as those experienced by large businesses or individuals.

LOCAL EMPLOYMENT IMPACT STATEMENT

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

DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed this rulemaking action in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the proposed rules are not subject to that statute. Section 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 Texas Water Code (TWC), Chapter 37 to consolidate administrative requirements and establish uniform procedures for the occupational licensing

and registration programs administered by the Texas Commission on Environmental Quality (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 intent of the proposed rules is to ensure consistency between the rules and their applicable statutes, to make grammatical and punctuation corrections, and to modify or add language to improve readability and enhance enforceability. Protection of human health and the environment may be a by-product of the proposed rules, but it is not the specific intent of the rules. Furthermore, the proposed rules would implement new regulations to 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 proposed rules would 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 proposed rules do not meet the definition of "a major environmental rule" as defined in Texas Government Code, §2001.0225(g)(3), and thus, do not require a full regulatory impact analysis. The commission invites comment on the draft regulatory impact determination.

TAKINGS IMPACT ASSESSMENT

The commission evaluated these proposed rules and performed an assessment of whether these proposed rules constitute a taking under Texas Government Code, Chapter 2007. The purpose of these proposed

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 readability and enhance enforceability. Promulgation and enforcement of these proposed rules would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject proposed 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 proposed rules would only make non-substantive changes to the existing rules and proposed new regulations that do not affect private real property.

CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed the proposed rulemaking and found the proposal is a rulemaking identified in the Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(4) relating to rules subject to the Coastal Management Program, and will, 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 will have no substantive effect on commission actions subject to the CMP and is, therefore, consistent with CMP goals and policies.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the SUBMITTAL OF COMMENTS section of this preamble.

ANNOUNCEMENT OF HEARING

A public hearing on this proposal will be held in Austin on May 7, 2007, at 2:00 p.m. at the Texas Commission on Environmental Quality complex located at 12100 Park 35 Circle in Building E, Room 201S. The hearing will be structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. A time limit may be established at the hearing to assure that enough time is allowed for every interested person to speak. There will be no open discussion during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Lola Brown, Office of Legal Services, at (512) 239-0348. Requests should be made as far in advance as possible.

SUBMITTAL OF COMMENTS

Written comments may be submitted to Lola Brown, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at <http://www5.tceq.state.tx.us/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2006-041-030-CE. The comment period closes May 14, 2007. Copies of the proposed rules can be obtained from the commission's Web site at

http://www.tceq.state.tx.us/nav/rules/propose_adopt.html. For further information, please contact Terry Thompson, Compliance Support Division, at (512) 239-6095.

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 proposed 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 proposed 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 proposed 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 proposed under Texas Occupations Code (TOC), §1903.251, concerning License Required. These amendments and new section are also proposed 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. These amendments and new section are also proposed under THSC, §363.021, concerning Commission Rulemaking Authority; and THSC, §363.022, concerning Commission Powers and Duties. Finally, these amendments and new section are proposed 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 proposed 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 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 [K] of this chapter (relating to Backflow Prevention Assembly Testers; Customer Service Inspectors; Landscape Irrigators and Installers; Leaking Petroleum Storage Tank Corrective Action Project Managers and Specialists; Municipal Solid Waste Facility Supervisors; On-Site Sewage Facilities Installers, Apprentices, Designated Representatives, Maintenance Providers, and Site Evaluators; Water Treatment Specialists; Underground Storage Tank On-Site Supervisor Licensing and Contractor Registration; Wastewater

Operators and Operations Companies; [and] Public Water System Operators and Operations Companies; and Visible Emissions Evaluator Training Providers) contain the program-specific requirements related to each program.

[(b) This chapter applies to applications for issuance or renewal of licenses or registrations that are received on or after January 1, 2002, except that maintenance providers are not required to obtain a registration as a maintenance provider prior to September 1, 2006.]

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

- (1) backflow prevention assembly testers;
- (2) customer service inspectors;
- (3) landscape irrigators and installers;
- (4) leaking petroleum storage tank corrective action specialists and project managers;
- (5) municipal solid waste facility supervisors;
- (6) on-site sewage facility 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; [and]
- (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, [34.007,] or 37.003, [or] 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. 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 [may] 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 [may]

not advertise or represent to the public that it can perform services for which a license or registration is required unless it holds a current license or registration, or unless it employs individuals who hold current licenses.

(c) The executive director may contract with persons to provide services required by this chapter. The commission may authorize contractors to collect reasonable fees for the services provided.

(d) Licenses and registrations are not transferable [transferrable].

(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, and any other such training venues.

(4) [(3)] **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) [(4)] **License**--An occupational license issued by the commission to a person authorizing the person to engage in an activity covered by this chapter.

(10) [(5)] **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) [(6)] **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) [(7)] **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 work-related experience and expert knowledge in a particular content area or areas.

(17) [(8)] **Training credit**--Hours of credit allowed by the executive director for successful completion of [attendance at] 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) establishing and collecting fees;
- (7) approving training used for the issuance of training credits; [for licensing credits;

and]

(8) approving training providers; and

(9) [(8)] responding to complaints against licensees, [and] 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) [(e)] Misrepresentation or falsification of any information may be grounds for denial [rejection] of an application and [or] for enforcement action.

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

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

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

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

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

§30.20. Examinations.

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

(b) Examinations shall be graded and the results forwarded to the applicant no later than 45 days after the examination date. The minimum passing score for an examination is 70%.

(c) Any individual 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.

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

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

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

(k) [(f)] The executive director shall provide an analysis of an examination when requested in writing by the applicant. The executive director shall ensure that an examination analysis does not compromise the fair and impartial administration of future examinations.

(1) 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 [unless] it has been:

- (1) expired for more than 30 days;
- (2) revoked; or
- (3) replaced by a higher class of license.

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

(1) The executive director shall mail a renewal application at least 60 days before the license or registration expires to the most recent address provided to the executive director. If a person does not receive a renewal application, the person is not relieved of the responsibility to timely submit a renewal application.

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

(c) 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) [(c)] The continuing education used to renew a license must be successfully completed [earned] 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 [remaining continuing education hours] shall not be carried over to the next renewal period.

(e) [(d)] The executive director may renew a license or registration if the application is received by the executive director or is postmarked within 30 days after the expiration date of the license or registration [license expires], 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) [(e)] An individual whose license renewal application is not received by the executive director or is not postmarked within 30 days after the license expiration date 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.

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

(k) [(g)] All licensees must notify the executive director of any change in the previously submitted application information within ten days from the date the change occurs.

(l) [(h)] All registration holders must notify the executive director of any change in the previously submitted application information within ten days after the month in which the change occurs.

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

(n) [(j)] The executive director shall determine whether an applicant meets the renewal requirements of this subchapter. If all requirements have been met, the executive director shall renew the

license or registration and send it to the applicant within 45 days after the date the executive director receives the renewal application.

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

(p) [(l)] If the application [is denied because the applicant] 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) [(m)] A person whose license or registration has expired shall [may] not engage in activities that require a license or registration until the license or registration is renewed or a new license or registration has been obtained.

§30.28. 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.

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

(1) training courses, events, and 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 course 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 qualified subject matter experts; and

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

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

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

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

(h) The executive director may require training providers to update a course or manual to ensure that its content reflects current technology and practices.

(i) Training providers shall:

(1) keep manuals and course 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 liable for the contents 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) ensure that licensees do not repeat the same distance learning course within the current renewal period unless approved to do so by the executive director prior to the training;

(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 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 courses and training material 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 single manufacturer, distributor, or service provider;

(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, qualified 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).

(1) Classroom training must not be held in a place of business of a product manufacturer, distributor, or service provider. 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 attendance at 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.

(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 events. If not approved annually, training at individual meetings may be approved, so long as approval is requested in writing at least 30 days before the meeting as detailed in subsection (d) of this section.

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

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

(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 exceptional 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 timely access to qualified subject matter experts;

(C) shall not be repeated by a licensee in the current renewal period if the course uses the same performance-based assessment content or format; 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 course access to the agency if provided via the Internet;

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

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

(4) provide access to timely technical support and qualified subject matter experts.

(s) Printed course information 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 course 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) rescind, suspend, or deny training approval for good cause, which includes:

(A) the training does not conform to current technical standards or 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 one 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 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)

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

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

§30.30. Terms and Fees for Licenses and Registrations.

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

[(1) backflow prevention assembly testers;]

[(2) customer service inspectors;]

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

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

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

[(6) municipal solid waste facility supervisors.]

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

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

(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) [(2)] 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 [Underground Storage Tank Contractors and 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) [(c)] The license fee is \$111 [\$70 for a two-year license and \$105] for a three-year license. [The license fee for wastewater operators, public water system operators, and customer service inspectors shall be based on \$20 per year of the licensing term until January 1, 2003.] The total amount shall be paid with each initial and renewal application and is nonrefundable.

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

(f) [(e)] The executive director may charge a \$20 fee to process a duplicate certificate or pocket card. [A fee of \$20 shall be charged for each copy of the license or registration, or to replace a lost or damaged license or registration.]

(g) [(f)] A convenience fee may be set by the executive director or service provider for alternative fee payment methods. A person using an alternative payment method is responsible for paying the convenience fee.

(h) [(g)] An examination or reexamination fee may be charged if the executive director designates an entity to administer the examinations.

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

(a) The executive director may deny an initial or renewal application for the following reasons.
[:]

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

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

(2) Cause [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) has a poor compliance history as a licensee in another state; or]

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

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

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

[(F) is indebted to the state for a fee, penalty, or tax imposed by a statute within the commission's jurisdiction or a rule adopted under such a statute.]

(b) 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 [opportunity for a] hearing, the commission may suspend or revoke a license, certificate, or registration on any of the grounds in Texas Water Code, §7.303(b), [, or suspend or revoke a maintenance provider registration on any of the grounds in Texas Health and Safety Code, §366.0515(m). A license may also be suspended if a person is identified by the Office of the Attorney General as being delinquent on child support payments (upon receipt of a final order suspending a license or registration, the executive director shall proceed as described in Texas Family Code, Chapter 232).]

(d) 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) [(d)] After notice and hearing a [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 [automatically] upon a second suspension.

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

SUBCHAPTER A: ADMINISTRATION OF OCCUPATIONAL LICENSES AND REGISTRATIONS

[§30.28]

STATUTORY AUTHORITY

The repeal is proposed 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 proposed 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 proposed 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 proposed under Texas Occupations Code (TOC), §1903.251, concerning License Required. This repeal is also proposed 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 proposed under THSC, §363.021, concerning Commission Rulemaking Authority; and THSC, §363.022, concerning Commission Powers and Duties. Finally, this repeal is proposed 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 proposed 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.

[§30.28. Approval of Training.]

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

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

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

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

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

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

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

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

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

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

SUBCHAPTER B: BACKFLOW PREVENTION ASSEMBLY TESTERS

§30.51, §30.60

STATUTORY AUTHORITY

These amendments are proposed 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 proposed 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 proposed 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 proposed 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).

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

§30.60. 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) Approved areas are:]

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

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

(C) [(iii)] installing or repairing lawn irrigation systems;

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

(E) [(v)] installing or servicing [testing and repairing backflow prevention assemblies on] fire suppression sprinkler systems and lines; [or]

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

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

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

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

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

(B) [(ii)] 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 proposed 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 proposed 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 proposed 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 proposed 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 [may] 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.

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

(b) [(5)] One [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 [24] hours of approved continuing education.

SUBCHAPTER D: LANDSCAPE IRRIGATORS AND INSTALLERS

§§30.111, 30.120, 30.122, 30.129

STATUTORY AUTHORITY

These amendments are proposed 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 proposed 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 proposed under the Texas Occupations Code (TOC), §1903.251, concerning License Required.

These proposed 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).

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

§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 [an approved] examination.

- (b) To obtain an irrigator license, an individual must have:
- (1) met the requirements in Subchapter A of this chapter;
 - (2) completed and passed the basic irrigator [an approved] training course; and
 - (3) passed all sections of the applicable examination.

§30.122. Qualifications for License Renewal.

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

- (b) To renew an irrigator license, [issued after January 1, 2002,] an individual must:
- (1) meet the requirements in Subchapter A of this chapter; and
 - (2) complete 24 [16] hours of approved training credits [continuing education].

§30.129. Exemptions.

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

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

(2) is [an individual] registered or licensed as a professional engineer or architect or landscape architect if the work is related [incidental] 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) [(3)] irrigation or yard sprinkler work that is performed [done] by a property owner in a building or on premises owned or occupied by the owner as the owner's home;

(2) [(4)] 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: [done by a maintenance person incidental to and on premises owned by the business in which the individual is regularly employed or engaged and who does not engage in the occupation of licensed irrigator or in yard sprinkler construction or maintenance for the general public;]

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

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

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

(6) [(8)] an activity that includes [activities involving] a commercial agricultural irrigation system;

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

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

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

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

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

SUBCHAPTER D: LANDSCAPE IRRIGATORS AND INSTALLERS

[\§30.125]

STATUTORY AUTHORITY

This repeal is proposed 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 proposed 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 proposed repeal is also proposed under Texas Occupations Code (TOC), §1903.251, concerning License Required.

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

[\§30.125. Renewal of Certificates of Registrations.]

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

[(1) Installers.]

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

[(i) To renew for the first period, an installer must follow the procedures specified in §30.24 of this title (relating to License and Registration Applications for Renewal) and pay the renewal fee as specified in §30.30 of this title (relating to Terms and Fees for Licenses and Registrations); however, the license fee shall be prorated so that the installer only pays for the actual months licensed.]

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

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

[(2) Irrigators.]

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

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

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

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

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

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

**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 proposed 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 proposed under TWC, §26.3573, concerning Petroleum Storage Tank Remediation Account. Finally, these amendments are also proposed 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 proposed 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.

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

§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 [preceding] 24 months. The statements shall attest to the applicant's job reliability and the client's satisfaction. The statements shall also include a description of the type or types of corrective action services performed by the applicant and the physical address where the services occurred. Corrective action services are not limited to experience gained at leaking petroleum storage tank sites, but may also include corrective actions conducted under any environmental program administered by a state or by the federal government under Resource Conservation and Recovery Act [RCRA]; Comprehensive Environmental Response, Compensation, and Liability Act [CERCLA]; the Oil Spill Prevention and Response Act; 33 United States Code, Chapter 40, Subchapter I; and Texas Water Code, Chapter 26; or

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

(3) passed an approved examination;

(4) documented education and experience:

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

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

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

§30.185. Qualifications for License Renewal.

(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 [16] hours of approved continuing education. [;]

(b) [(3)] With [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) [\$1 million] and of a type approved by the executive director; and

(B) a financial statement (balance sheet) prepared in conformity with accounting principles as defined by the American Institute of Public Accountants, documenting an applicant's current

net worth of not less than \$25,000; or a letter from a certified public accountant who is not employed by the applicant or does not receive payment from the applicant on a regular basis verifying that the applicant's current net worth is not less than \$25,000;

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

(3) [(4)] submitted an application fee of \$232 [\$150]; and

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

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

Water Code, Chapter 26. The executive director shall evaluate the explanation and case histories on a case-by-case basis; or

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

§30.192. Qualifications for Registration Renewal.

To renew a registration, a person must:

- (1) meet the requirements in Subchapter A of this chapter [title] (relating to Administration of Occupational Licenses and Registrations); [and]
- (2) complete an application for registration renewal for a corrective action specialist approved by the executive director, certifying that the company has continued to meet the financial requirements of §30.190 of this title (relating to Qualifications for Initial Registration [for Corrective Action Specialist]); and [pay a registration renewal fee of \$150.]

(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 proposed 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 proposed 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 proposed 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 proposed under THSC, §363.021, concerning Commission Rulemaking Authority; and THSC, §363.022, concerning Commission Powers and Duties.

These proposed 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, [, or the collection or transportation of municipal solid waste.]

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

(c) 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.

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

(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

<u>License</u>	<u>Education</u>	<u>Work Experience</u>	<u>Training Credits</u>
<u>Class C</u>	None	<u>None**</u>	<u>C MSW Course</u>
<u>Class B</u>	<u>HSD or equivalent *</u> <u>No HSD or equivalent *</u>	<u>2 years</u> <u>4 years</u> <u>**</u>	<u>B MSW Course</u> <u>C MSW Course</u>
<u>Class A</u>	<u>HSD or equivalent</u> <u>No HSD or equivalent</u>	<u>4 years</u> <u>6 years</u> <u>**</u>	<u>A MSW Course</u> <u>B MSW Course</u> <u>C MSW Course</u>
<u>* HSD or equivalent may be substituted by completing an additional 20 hours of MSW training.</u>			
<u>** 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.</u>			
<u>Class 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</u>			

one year.

Class A - 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.

§30.212. Qualifications For License Renewal.

To renew a license, an individual must have:

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

(2) completed the following hours of continuing education:

(A) Class A - 20 hours;

(B) Class B - 16 hours;

(C) Class C - 12 hours. [;]

[(D) Class D - 12 hours.]

§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)

<u>Type of MSW Facility</u>	<u>Level of License Required</u>
<u>Type I landfill facilities</u>	<u>Class A</u>
<u>Type IX landfill mining facilities</u>	<u>Class A</u>
<u>Type IV landfill</u>	<u>Class B</u>
<u>Type V storage and processing facilities not otherwise specified</u>	<u>Class B</u>
<u>Type IX energy or material recovery facilities (other)</u>	<u>Class B</u>
<u>Permitted compost facilities</u>	<u>Class B</u>
<u>Type VI demonstration facilities</u>	<u>Class C</u>
<u>Type VII land application facilities</u>	<u>Class C</u>
<u>Type VIII used or scrap tire facilities</u>	<u>Class C</u>

<u>Registered compost facilities</u>	<u>Class C</u>
<u>Type IAE landfill facilities</u>	<u>Class C</u>

(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, 2008. Beginning September 1, 2008, 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 proposed 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 proposed 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 proposed 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 proposed under THSC, §363.021, concerning Commission Rulemaking Authority; and THSC, §363.022, concerning Commission Powers and Duties.

This proposed 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.

[\$30.210. Qualifications for Initial License.]

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

[(1) Class A license:]

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

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

[(2) Class B license:]

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

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

[(3) Class C license:]

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

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

[(4) Class D license:]

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

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

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

[(A) An individual may be awarded a provisional letter in each class upon completing the required training credits (which includes passing an examination), completing six months in a position equivalent to the applicable class of license, and possessing the minimum education requirements for that class; or]

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

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

**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 proposed 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 proposed 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 proposed 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 proposed 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.

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

§30.240. Qualifications for Initial License.

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

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

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

(3) passed the Installer I examination.

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

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

(2) met one of the following requirements:

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

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

~~[(B) [(C)] held an apprentice registration for at least two years; or~~

~~[(C) [(D)] previously possessed an Installer II license;~~

(3) completed the Installer II basic training course;

(4) passed the Installer II examination; and

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

(A) to document [verified] experience as an Installer I, [.] the applicant [The individual] shall submit either:

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

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

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

(B) to document [verified] experience as an apprentice, [.] the applicant [An individual] shall submit either:

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

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

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

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

- (1) met the requirements of Subchapter A of this chapter;
- (2) completed the designated representative basic training course; and
- (3) passed the designated representative examination.

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

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

(2) met the following requirements:

(A) complete the site evaluator basic training course;

(B) pass the site evaluator examination; 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 [16] hours of approved training credits [continuing education]. [For an individual with a current site evaluator license that expires before August 1, 2004, the individual must have completed a minimum of eight hours of approved continuing education.]

(b) In addition to the requirements in subsection (a) of this section, an individual renewing a license for site evaluator shall demonstrate possession of 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 [begins an apprentice program] 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 [a \$50] fee must be submitted to the executive director by a licensed OSSF installer for each individual that is [being] registered as an apprentice under that installer's supervision. [The application shall be on a form approved by the executive director.]

(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. [Within 45 days after the date the executive director receives the application, the executive

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

(d) Expiration or termination. The apprentice registration will expire on the same expiration date as the supervising OSSF installer's license. Either the supervising OSSF installer or the apprentice may terminate the apprenticeship [apprentice training program] by providing written notice to the executive director. No reason for the termination is required. Upon receipt of written notification [receipt of a letter] requesting [stating] that the apprenticeship be [apprentice training has been] terminated, the executive director shall expire [terminate] 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.

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

(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 [\$70] 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 [two] years:

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

(2) submit a completed renewal application and a \$111 [\$70] 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 proposed 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 proposed 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 proposed 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 proposed repeal implements TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §§366.011, 366.012, and 366.071.

[§30.246. Application for Site Evaluator.]

[(a) An individual who previously held a site evaluator license, or has previously taken the site evaluator basic training course and passed the site evaluator examination, but did not hold a site evaluator

license, shall submit an application, application fee, and documentation of a current license specified in §30.240(d)(2)(C) of this title (relating to Qualifications for Initial License) before September 1, 2003. After that date the individual must submit a new application with the appropriate fee and pass the examination.]

[(b) An individual who begins the process to become eligible for a site evaluator license after September 1, 2003, shall meet the requirements of §30.240(d)(2) of this title.]

[(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.]

SUBCHAPTER H: WATER TREATMENT SPECIALISTS
§§30.261, 30.270, 30.272, 30.274

STATUTORY AUTHORITY

These amendments are proposed 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 proposed 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 proposed 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 THSC, §341.102, concerning Water Treatment Specialist Certification Program.

The proposed amendments implement TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §§341.033, 341.034, and 341.102.

§30.261. Purpose and Applicability.

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

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

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

§30.270. 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)

<u>License</u>	<u>Education</u>	<u>Minimum Work Experience</u>	<u>Approved Training</u>
<u>Class 1</u>	<u>None</u>	<u>None</u>	<u>None</u>

<u>Class 2</u>	<u>Less than High School Diploma or GED</u>	<u>3 years</u>	<u>Basic Course</u>
<u>Class 2</u>	<u>High School Diploma or GED</u>	<u>2 years</u>	<u>Basic Course</u>
<u>Class 2</u>	<u>1 year College</u>	<u>1 year</u>	<u>Basic Course</u>
<u>Class 3</u>	<u>High School Diploma or GED</u>	<u>3 years</u>	<u>Basic and Advanced Courses</u>
<u>Class 3</u>	<u>2 years College</u>	<u>2 years</u>	<u>Basic and Advanced Courses</u>
<u>Class 3</u>	<u>College Degree</u>	<u>1 year</u>	<u>Basic and Advanced Courses</u>

[Figure: 30 TAC §30.270(2)]

<i>[License]</i>	<i>[Minimum Working Experience]</i>	<i>[Education]</i>	<i>[Approved Training]</i>
[Class 1]	[none]	[less than high school]	[none]
[Class 2]	[if 3 years]	[less than high school]	[basic course]
	[if 2 years]	[high school or GED]	[basic course]
	[if 1 year]	[1 year college]	[basic course]

[Class 3]	[if 3 years]	[high school or GED]	[basic and advanced courses]
	[if 2 years]	[2 years college]	[basic and advanced courses]
	[if 1 year]	[college degree]	[basic and advanced courses]

§30.272. Qualifications for License Renewal.

To renew a license, an individual must have:

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

(2) completed 12 hours of approved training credits. [continuing education classes:]

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

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

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

§30.274. Classification of Licenses.

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

[(1) exchange and regeneration of portable tanks;]

[(2) regeneration of nonportable tanks; or]

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

(b) Class 1 - Work is restricted to the following activities:

(1) exchange and regeneration of portable tanks;

(2) regeneration of nonportable tanks; or

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

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

(c) Class 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) [(c)] 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 proposed 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 proposed 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 proposed 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 proposed 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).

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

§30.307. Definitions.

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

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

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

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

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

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

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

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

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

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

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

(C) connecting piping systems to the tank;

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

(E) completing backfill and filling the excavation;

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

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

and

(H) anytime during the removal of the UST.

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

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

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

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

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

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

(i) spill and overflow prevention equipment, as required in §334.51 of this title (relating to Spill and Overflow 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 [License A] for an on-site supervisor who supervises the installation or repair of UST systems; or

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

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

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

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

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

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

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

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

(E) performing minor maintenance on ancillary aboveground equipment.

(9) **Underground storage tank**--Any one or combination of underground tanks and any connecting underground pipes used to contain accumulation of regulated substances, the volume of

which, including the volume of the connecting underground pipes, is 10% or more beneath the surface of the ground.

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

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

§30.310. Qualifications for Initial License.

(a) An individual applying for an on-site supervisor license must apply for one of the following levels of licenses: [either a License A, License B, or for a License A and B combination. To obtain an on-site supervisor license, an individual must:]

(1) 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 [submit, before] the examination, submit the appropriate certificates of completion for [one of] the following levels of licenses:

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

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

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

(7) pass the appropriate licensing examination.

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

§30.312. Qualifications for License Renewal.

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

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

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

§30.315. Qualifications for Initial Registration.

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

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

- (2) provided:

- (A) proof of commercial liability insurance designating the commission as the certificate holder in an amount of not less than one million dollars (\$1,000,000) [\$1 million] and of a type approved by the executive director; and

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

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

(4) submitted an application fee of \$232 [\$150]; and

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

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

(B) a written explanation indicating the reason the applicant did not provide the sworn statements required in subparagraph (A) of this paragraph and a detailed description of at least three case histories of typical UST construction activities performed by the applicant during the previous 12 months. [The executive director shall evaluate the explanation and case histories on a case-by-case basis.]

§30.317. Qualifications for Registration Renewal.

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

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

(2) certified that the UST contractor has commercial liability insurance designating the commission as the certificate holder in an amount of not less than one million dollars (\$1,000,000) [\$1 million] and of a type approved by the executive director;

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

(4) submitted a renewal fee of \$232 [\$150].

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

[\$30.318. Renewal of Licenses and Registrations Issued before the Effective Date of these Rules.]

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

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

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

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

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

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

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

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

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

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

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

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

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

[(D) submitted a renewal fee of \$75.]

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

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

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

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

[(D) submitted a renewal fee of \$150.]

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

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

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

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

[(4) submitted a renewal fee of \$150.]

[\$30.319. Exemptions.]

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

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

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

SUBCHAPTER J: WASTEWATER OPERATORS AND OPERATIONS COMPANIES

§§30.337, 30.340, 30.342, 30.350, 30.355

STATUTORY AUTHORITY

These amendments are proposed 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 proposed under TWC, §26.0301, concerning Wastewater Operations Company Registrations and Operator Licensing. Finally, these amendments are proposed 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 proposed 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 [frequent] on-site inspection and supervision of wastewater collection system operation or maintenance activities.

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

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

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

(12) **Wastewater treatment facility operator**--An individual who performs process control tasks 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) (No change.)

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

(b) At least one-half of the total experience required for a wastewater treatment license must be in actual domestic wastewater treatment facility operation or maintenance duties. Related experience, which involves tasks similar to those required for operation of wastewater treatment facilities, will count

at a rate of 50% toward meeting the total experience requirement. For laboratory experience to be applicable, the laboratory must be owned and operated by the permittee and the laboratory technician must consult daily with operational personnel.

(c) Wastewater collection system experience must be in actual wastewater collection system operation or maintenance duties. Credit for 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, [on a case-by-case basis.]

(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.

[(e) For applicants with a high school diploma or equivalent, 32 semester hours of college or an additional 40 hours of training credits may be substituted for one year of the experience requirement. The maximum years allowed for substitution are as follows:]

[(1) Class A, Class B, and Class III applicants may substitute up to two years of the required work experience; and]

[(2) Class C and Class II applicants may substitute up to one year of the required work experience.]

(f) The 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) [(f)] The hours of training credit required for a license must be in approved courses, which include the following or their equivalents.

Figure: 30 TAC §30.340(g)

[Figure: 30 TAC §30.340(f)]

License	Required Courses	Elective Courses
Class D	Basic Wastewater Operation	None
Class C	Basic Wastewater Operation <u>Activated Sludge or Wastewater Treatment</u> plus one elective course	Wastewater Collection Wastewater Laboratory Water Utility Calculations Water Utility Safety
Class B	<u>Activated Sludge or Wastewater Treatment</u> Wastewater Collection Wastewater Laboratory Water Utility Safety plus one elective course	<u>Intermediate Wastewater Laboratory</u> Water Utility Calculations Water Utility Management [Advanced Wastewater Laboratory]
Class A	<u>Activated Sludge or Wastewater Treatment</u> Wastewater Collection Wastewater Laboratory Water Utility Management Water Utility Safety plus one elective course	<u>Intermediate Wastewater Laboratory</u> Water Utility Calculations [Advanced Wastewater Laboratory] Wastewater Technology Advanced Management
Class I	Wastewater Collection	None
Class II	Basic Wastewater Operation Wastewater Collection	Water Utility Safety Pump and Motor Maintenance

	plus one elective course	
Class III	Basic Wastewater Operation Wastewater Collection Water Utility Safety Pump and Motor Maintenance plus one elective course	<u>Intermediate Wastewater Laboratory</u> Water Utility Management Water Utility Calculations Pre-treatment Facility Inspection

(h) [(g)] 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 [ten hours 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 [which] are regulated by industrial-type wastewater disposal permits are required to be licensed, [. This is required] only if the point of discharge is separate from any other industrial outfalls and the domestic wastewater is not mixed with other industrial wastewater before discharge.

(c) An individual first entering the field of wastewater treatment or collection may be employed as an operator-in-training for a period up to one year. An operator-in-training must perform all process control tasks [work] in the presence of a licensed operator [during this time].

(d) Each holder of a wastewater disposal permit for a wastewater treatment facility shall employ or contract with one or more licensed wastewater treatment facility operators holding the appropriate level of license or wastewater system operations companies holding a valid [license or] 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) (No change.)

Treatment System	Permitted Daily Average Flow	Category
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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 demand₅ or total suspended solids concentration less than ten milligrams per liter.

(g) A wastewater treatment facility having a combination of treatment processes that [which] are in different categories shall be assigned the higher category.

(h) The executive director may increase the treatment facility classification for facilities which include unusually complex processes or present unusual operation or maintenance conditions.

(i) The chief operator of each wastewater treatment facility must possess a license equal to or higher than that of the category of treatment facility.

(j) Each category of facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher. The licensed chief operator or operator holding the required level of license or higher must be available by telephone or pager seven days per week.

(k) When [Where] shift operation of the wastewater treatment facility is necessary, each shift must be operated [which does not have the on-site supervision of the licensed chief operator must be supervised] by an operator in charge who is licensed at not less than one level below the category of the facility.

(l) Either the licensed chief operator or licensed operator in charge must be present for scheduled commission inspections.

(m) A licensed wastewater treatment facility operator may perform all duties relating to the operation and maintenance of both wastewater treatment facilities and wastewater collection systems. It is not necessary to hold both types of licenses. A licensed collection system operator may perform only those duties relating to the operation and maintenance of wastewater collection systems.

(n) Each classified wastewater collection system must employ [have] at least one licensed operator who holds a license class equal to or higher than that category of system and provides frequent on-site supervision of collection system activities. Wastewater collection systems shall be classified as follows.

Figure: 30 TAC §30.350(n) (No change.)

Category of Collection System	Daily Average Flow	Minimum Class of Operator Required
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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 [Every wastewater system operations company] must submit a [an annual] report to the executive director, [within one year and 30 days after issuance or renewal of the registration.] For each [The report shall include 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 [reporting year];

(5) the names and license numbers of all licensed operators employed by the operations company;[, including their mailing addresses, license classes, license numbers, and the name of each wastewater treatment facility or wastewater collection system for which the operators work or have worked;]

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

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

(b) A person that operates a wastewater system operations company under contract 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.

[(b) The information in subsection (c) of this section must be submitted with any application for a new or renewal registration, along with the appropriate fee.]

(c) 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)

<u>Number of Facilities Served</u>	<u>Fee</u>
<u>0 - 4</u>	<u>\$122</u>
<u>5 - 9</u>	<u>\$240</u>
<u>10 - 19</u>	<u>\$399</u>
<u>20 or more</u>	<u>\$636</u>

[(c) If a company is bought or sold and a name change occurs, the company must apply for a new registration.]

[(d) Once a year, political subdivisions that contract to operate wastewater systems must report to the commission the information required by subsection (a) of this section.]

SUBCHAPTER J: WASTEWATER OPERATORS AND OPERATIONS COMPANIES

[\$30.349]

STATUTORY AUTHORITY

This repeal is proposed 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 proposed under TWC, §26.0301, concerning Wastewater Operations Company Registrations and Operator Licensing. Finally, this repeal is also proposed 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 proposed repeal implements TWC, §§5.013, 5.102, 5.103, 26.0301, and 37.001 - 37.015.

[\$30.349. Registration Fees.]

[The two-year registration fee is based on the number of facilities served:]

[Figure: 30 TAC §30.349]

[Number of Facilities Served]	[Fee]
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[0 – 4]	[\$75]
[5 – 9]	[\$150]
[10 – 19]	[\$250]
[20 or more]	[\$400]

**SUBCHAPTER K: PUBLIC WATER SYSTEM OPERATORS AND OPERATIONS
COMPANIES**

§§30.381, 30.387, 30.390, 30.392, 30.400

STATUTORY AUTHORITY

These amendments are proposed 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 proposed 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 proposed 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 proposed 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 [contract] basis.

(b) A person who performs any of the tasks listed in subsection (a) of this section must meet the qualifications of this subchapter and be licensed or registered according to Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations), unless exempt under §30.402 of this title (relating to Exemptions); and must comply with the requirements in Chapter 290 of this title (relating to Public Drinking Water).

(c) Public water system 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 [do] 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) Process control duties--Activities that directly affect the potability of public drinking water, including: making decisions regarding the day-to-day operations and maintenance of public water system production and distribution; maintaining system pressures; determining the adequacy of disinfection and disinfection procedures; taking routine microbiological samples; taking chlorine residuals and microbiological samples after repairs or installation of lines or appurtenances; and operating chemical feed systems, filtration, disinfection, or pressure maintenance equipment; or performing other duties approved by the executive director.]

(5) [(6)] **Public water system operations company**--A person or other nongovernmental entity that provides operations services to one or more public water systems on a contractual [contract] basis.

(6) [(7)] **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)

[Figure: 30 TAC §30.390(a)]

License	Education	Work Experience	Training Credits
Class D	High School Diploma (HSD) or equivalent	None	20 hours
Class C, Distribution, Groundwater, Surface water	HSD or equivalent	2 years	60 hours
Class B, Distribution and Groundwater	Bachelors HSD or equivalent	2½ years 5 years	100 hours 100 hours
Class B, Surface water	Bachelors HSD or equivalent	2½ years 5 years	<u>124 hours</u> [100 hours] <u>124 hours</u> [100 hours] [Effective January 1, 2003, 120 hours of training are required.]
Class A	Masters Bachelors HSD or equivalent	4 years 5 years 8 years	<u>164 hours</u> [160 hours] <u>164 hours</u> [160 hours] <u>164 hours</u> [160 hours]

(b) An individual who applies for a Class C, B, or A license, and relies on a bachelors or masters degree to meet the educational requirements, must have a bachelors or masters degree with a major in chemistry, biology, engineering, microbiology, bacteriology, or other similar discipline approved by the executive director.

(c) An individual who applies for a Class C or B license must obtain at least one-half of the total work experience requirement in the specific field for the license that is requested.

(1) For Class C and B surface water licenses, the experience must be obtained through operations activities at the production or treatment facilities for surface water or groundwater under the direct influence of surface water.

(2) For Class C and B groundwater licenses, the experience must be obtained through operations activities at the production or treatment facilities for groundwater source or groundwater under the direct influence of surface water.

(3) For Class C and B distribution licenses, at least one-half of the required experience must be obtained as a result of operations activities at treated water storage, pumping, or distribution facilities.

(d) For all classes of licenses, laboratory experience must:

(1) be obtained at a laboratory that is owned and operated by the public water system;

and

(2) involve daily consultation with individuals who perform process control duties in production or distribution of drinking water for the water system.

(e) Individuals [with only a high school diploma or equivalent] may substitute college credits or additional approved training for work experience.

(1) For a Class C license, 32 semester hours of college, or 40 additional hours of approved training may be substituted for one year of work experience, approved by the executive director.

(2) For 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) [(2)] For Class B and A licenses, 64 semester hours of college, or 80 additional hours of approved training may be substituted for two years of work experience, approved by the executive director.

(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)

[Figure: 30 TAC §30.390(f)]

License	<u>Core [Required] Training Courses</u>	Elective Training Courses
Class D	Basic Waterworks Operation	None
Class C Surface Water	Basic Waterworks Operation Surface Water Production I[*] Surface Water Production II [* Must be taken before Surface Water Production II]	None
Class C Groundwater	Basic Waterworks Operation Groundwater Production Plus one elective course	Water Distribution Water Laboratory Water Utility Safety Water Utility Calculations Chlorinator Maintenance Pump and Motor Maintenance Valve and Hydrant Maintenance
Class C Water Distribution	Basic Waterworks Operation Water Distribution Plus one elective course	Water Laboratory Water Utility Safety Water Utility Calculations

		Chlorinator Maintenance Pump and Motor Maintenance Valve and Hydrant Maintenance.
Class B Surface Water	Surface Water Production I [*] Surface Water Production II Water Distribution Water Utility Safety Water Laboratory Water Utility Management [(effective January 1, 2003)] [* Must be taken before Surface Water Production II]	None
Class B Groundwater	Groundwater Production Water Laboratory Water Distribution Water Utility Safety Plus one elective course	Water Utility Management Water Utility Calculations Chlorinator Maintenance Pump and Motor Maintenance Valve and Hydrant Maintenance
Class B Water Distribution	Water Distribution Water Utility Safety 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 <u>164</u> [160] hour requirement

(g) An individual who previously held a Class D license shall [may] not apply for a new Class D license if the individual [currently operates facilities]:

(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) [(2)] currently operates facilities at surface water treatment systems;

(4) [(3)] currently operates facilities at groundwater systems under the influence of surface water;

(5) [(4)] performs supervisor [who are supervisors], crew chief, or foremen duties for [of] distribution systems that have over 250 connections; or

(6) [(5)] operates [who operate] multiple groundwater systems and the cumulative number of connections exceeds 250.

§30.392. Qualifications for License Renewal.

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

(1) met the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations) and completed a total amount [ten hours] 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 [may] not be used to renew a Class B or A license.

(c) Class D licenses are not renewable for licensed operators:

(1) at groundwater treatment systems of 250 connections or more;

(2) at groundwater treatment systems serving a population of 750 or more;

(3) [(2)] at surface water treatment systems;

(4) [(3)] at groundwater systems under the influence of surface water;

(5) [(4)] who are supervisors, crew chiefs, or foremen of distribution systems that have over 250 connections; or

(6) [(5)] who operate multiple groundwater systems and the cumulative number of connections exceeds 250.

(d) To renew an active converted perpetual license, an individual must have met the requirements of this section, with the exception of the renewal fee.

§30.400. 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 [A public water system operating company] must submit a [an annual] report to the executive director [within 30 days of the anniversary of the effective date of the registration]. The report shall include:

(1) 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 [year];

(4) the names and license numbers of all licensed operators employed by the operations company[, including their mailing addresses, classes and license numbers, and systems for which all employees work or have worked during the reporting year];

(5) 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 notify the executive director and amend the information included in the annual report described in subsection (a) of this section within ten days following the month in which the change occurs.]

(b) [(c)] 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)

<u>Number of Public Water Systems Served</u>	<u>Fee</u>
<u>0 to 4</u>	<u>\$122</u>
<u>5 to 9</u>	<u>\$240</u>
<u>10 to 19</u>	<u>\$399</u>
<u>20 or more</u>	<u>\$636</u>

[(d) Political subdivisions, including river authorities, that operate public water systems under contract must submit the reports required in subsections (b) and (c) of this section to the executive director.]

**SUBCHAPTER K: PUBLIC WATER SYSTEM OPERATORS AND OPERATIONS
COMPANIES**

[§30.399]

STATUTORY AUTHORITY

This repeal is proposed 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 proposed 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 proposed 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 proposed repeal implements TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §341.033 and §341.034.

[§30.399. Registration Fees.]

[The two-year registration fee is based on the number of public water systems served:]

[Figure: 30 TAC §30.399]

[Number of Public Water Systems Served]	[Fee]
[0 to 4]	[\$75]
[5 to 9]	[\$150]
[10 to 19]	[\$250]
[20 or more]	[\$400]

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 proposed 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 proposed 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 proposed 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.