

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Commissioners **Date:** January 9, 2009
Thru: LaDonna Castañuela
Chief Clerk
From: Dan Eden, Deputy Director
Office of Permitting and Registration
Subject: Consideration of a Petition for Proposed Rulemaking
Docket No.: 2008-1882-RUL
Rule Project No. 2009-010-PET-NR

Who Submitted the Petition:

The Petition was submitted by two individuals (Petitioners) on December 3, 2008.

What the Petitioner Requests:

The Petitioners propose that the Texas Commission on Environmental Quality (TCEQ or commission) adopt the following language as a requirement in Title 30 of the Texas Administrative Code (TAC):

All pumps that convey groundwater to the surface or subsurface via a private water well shall have an appropriate approved testable backflow prevention assembly (ies) or air gap(s) installed downstream of the pump(s) and upstream of any other appurtenances or branches. Each backflow prevention assembly must pass an operational test upon installation, repair, or replacement.

Recommended Action and Justification:

The Executive Director recommends denial of the Petition. The Commission does not have the authority to require private wells to have a backflow prevention device or air gap. The Texas Commission of Licensing and Regulation (TCLR) regulates the installation of private water wells in accordance with the Texas Occupations Code, Chapter 1901 and 16 TAC Chapter 76. The Commission has not regulated the installation of private water wells since that responsibility was transferred to TCLR by Senate Bill 1955, 75th Legislature, 1997. The Commission only regulates water wells used by public water systems under 30 TAC Chapter 290.

Applicable Laws:

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

Affected Public:

The TCEQ does not regulate private wells. Therefore, there is no affected public that would be affected by this Petition.

Affected Agency Programs:

The TCEQ does not regulate private wells. Therefore, there is no existing program that would be affected by the Petition.

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Re: Docket No. 2008-1882-RUL

Agency Contacts:

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Attachments: Petition
Senate Bill 1955, 75th Legislature, 1997

cc: 5 copies to the Chief Clerk for distribution
Executive Director's Office
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