

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**DECISION OF THE COMMISSION
REGARDING THE PETITION FOR RULEMAKING
FILED BY BAC-FLO UNLIMITED, AMERICAN BACKFLOW PREVENTION ASSOCIATION
(ABPA), CROSS-CONNECTION CONTROL INSTITUTE, HARDIN AND ASSOCIATES
CONSULTING, LLC, AND CEN-TEX ABPA CHAPTER**

Docket No. 2009-1711-RUL

On December 9, 2009, the Texas Commission on Environmental Quality (Commission) considered the petitions for rulemaking filed by Mr. Fred Baird with Bac-Flo Unlimited, Mr. Bruce Rathburn, National President of the American Backflow Prevention Association (ABPA), Mr. John Stephen Fain with the Cross-Connection Control Institute, Mr. Byron Hardin with Hardin and Associates Consulting, LLC, Mr. Danny Lytle, and Mr. Cory Harmon with the Cen-Tex ABPA Chapter.

The petitions, filed on October 20, 2009, request that the agency initiate rulemaking to require the following amendments to 30 TAC Chapter 290, Public Drinking Water, concerning the rules and regulations, which govern cross-connection control and backflow prevention. The petition concerning "Reporting of Backflow Incidents" seeks to require public water systems to report all confirmed backflow incidents to the Commission; and clarify language found in § 290.46(j)(2) that authorizes public water systems to terminate a customer's water service based on the presence of a health hazard(s) at the customer's residence/facility. The petition concerning "Recognition as a Superior or Approved Public Water System" seeks to add a requirement to the existing criteria for the "Superior Public Water System" designation found in § 290.47(a)(1). The new criterion would require a public water system to have an approved backflow prevention program in order to be eligible to be recognized as a "Superior Public Water System." The petition concerning "Sample Service Agreement" seeks to require all public water systems to adopt a customer service agreement and a state-approved plumbing code or regulations; and define the term "customer" in the Sample Service Agreement found in § 290.47(b) to extend the authority of the agreement to apply to all customers of a public water system.

IT IS THE DECISION OF THE COMMISSION pursuant to Administrative Procedure Act (APA), Texas Government Code, § 2001.021 and Texas Water Code, § 5.102 to deny the petitioners' requests because the requested rule changes are unnecessary, could adversely impact public water system ratings, or exceed the Commission's jurisdiction.

This Decision constitutes the decision of the Commission required by the APA, § 2001.021(c).

Issued date: **DEC 11 2009**

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ENVIRONMENTAL QUALITY

A handwritten signature in black ink, appearing to read "Bryan W. Shaw".

Bryan W. Shaw, Ph.D., Chairman