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WATER SUPPLY DIVISION

2009 OCT 20 AM 10: 27

# Petition

to amend 30 TAC §290.46(i) and §290.47(b) Appendix B

## Sample Service Agreement

**Original**

**Petition to TCEQ for Rule Adoption**  
Regarding Public Water System Service Agreement

Date: July 9, 2009

Submitted to:

Executive Director  
Texas Commission on Environmental Quality  
PO Box 13087  
Austin, TX 78711-3087

Primary petitioners:

Fred Baird, Bac-Flo Unlimited  
Bruce Rathburn, American Backflow Prevention Association - National President  
John Stephen Fain, Cross-Connection Control Institute  
Byron Hardin, Hardin & Associates Consulting, LLC  
Danny Lytle, Water Protection Specialist, Texas Plumbing Inspector I-2133  
Cory Harmon, American Backflow Prevention Association - Cen-Tex Chapter Secretary

Object of proposed rule:

To require public water systems to have service agreements with their customers and to adopt a plumbing code or regulations with provisions for proper enforcement to insure that neither cross-connections nor other unacceptable plumbing practices are permitted.

Proposed rule:

§290.46(i) should be amended as follows:

**§290.46(i) Plumbing ordinance.** Public water systems must adopt ~~an adequate plumbing ordinance, regulations, or service agreement~~ a service agreement and a state approved plumbing code or regulations with provisions for proper enforcement to insure that neither cross-connections nor other unacceptable plumbing practices are permitted. See §290.47(b) of this title (relating to Appendices). Should sanitary control of the distribution system not reside with the purveyor, the entity retaining sanitary control shall be responsible for establishing and enforcing adequate regulations in this regard. The use of pipes and pipe fittings that contain more than 8.0% lead or solders and flux that contain more than 0.2% lead is prohibited for installation or repair of any public water supply and for installation or repair of any plumbing in a residential or nonresidential facility providing water for human consumption and connected to a public drinking water supply system. This requirement may be waived for lead joints that are necessary for repairs to cast iron pipe.

Accompanying document §290.47(b) Appendix B. Sample Service Agreement should be amended as follows:

- I. **PURPOSE.** The NAME OF WATER SYSTEM is responsible for protecting the drinking water supply from contamination or pollution which could result from improper private water distribution system construction or configuration. The purpose of this service agreement is to notify each customer of the restrictions which are in place to provide this protection. A "customer" shall be defined as a person or entity receiving water service from the utility. The utility enforces these restrictions to ensure the public health and welfare. Each customer must sign this agreement before the NAME OF WATER SYSTEM will begin service. In addition, when service to an existing connection has been suspended or terminated, the water system will not re-establish service unless it has a signed copy of this agreement.

Authority under which proposed rule is to be promulgated:

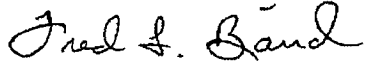
Texas Health and Safety Code Title 5 (Sanitation and Environmental Quality) Chapter 341 (Minimum Standards of Sanitation and Health Protection Measures) Subchapter C (Sanitary Standards of Drinking Water; Protection of Public Water Supplies and Bodies of Water) §341.0315(a) (Public Drinking Water Supply System Requirements) states "To preserve the public health, safety, and welfare, the commission shall ensure that public drinking water supply systems:

- (1) supply safe drinking water in adequate quantities;
- (2) are financially stable; and
- (3) are technically sound.

Allegation of injury or inequity from failure to adopt proposed rule:


Currently §290.46(i) could be interpreted to mean that a public water system could adopt regulations *without* "provisions for proper enforcement to insure that neither cross-connections nor other unacceptable plumbing practices are permitted" Furthermore, "an adequate plumbing ordinance" is ambiguous with respect to "provisions for proper enforcement." Either of these options could leave a public water system without the authority to conduct site evaluations to insure that the public drinking water is properly protected. Not only could this happen, but it has happened.

Respectfully submitted by:



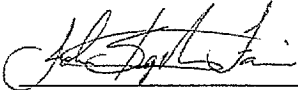
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Fred Baird  
PO Box 690053  
San Antonio, TX 78269



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Bruce Rathburn  
PO Box 3051  
Bryan, Texas 77805-3051



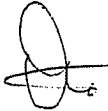
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John Stephen Fain  
1715 Autumn LN  
Arlington, TX 76012



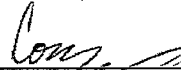
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Byron Hardin  
153 Simmons Dr.  
Coppell, TX 75019



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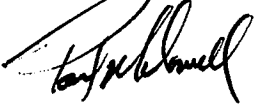
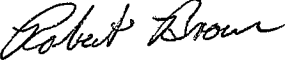



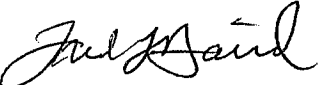

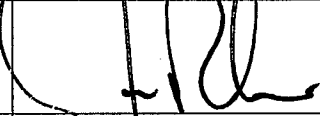
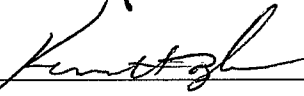
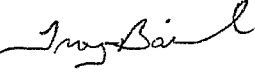
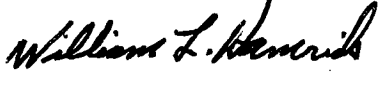


Danny Lytle  
PO Box 79  
Manor, TX 78653




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Cory Harman  
12710 Shady Acres Dr.  
Buda, TX 78610

## Supporting Petitioners

Printed Name	Signature	Address	Date
Paul McDowell		1121 MERCEDES STREET BENBROOK, TX 76126	9/2/09
Robert Brown		1525 Baker Rd Burleson Tx 76028	9/2/09
JSM NGUYEN		7000 ARDMORE, 2ND FL HOUSTON, TX 77054	9/2/09
Bruce Rathbun		12103 Peach Crossing Helotes, Tx 78023	9/2/09
Bryan Hardin		153 Simmons Dr Coppell TX 75019	9/2/09
FRED BAIRD		23437 Goodnight Loving San Antonio, TX 78255	09/02/09
Perry Ratcliff		PO Box 113 Walburg, Tx 78673	9-2-09
JERRY LEWIS		P.O. Box 1661 Keller, Tx 76244	09-02-09
Kenneth Dykes		1710 Driftwood Dr. Seguin Tx 78155	9-2-09
Troy Baird		125 Cave Circle Boerne, Tx 78006	9/2/09
WILLIAM HAMRICK		2186 JACKSON KELLER RD. #301 SAN ANTONIO, TX 78213	9/2/09
MATTHEW DIGGES		2047 W. Malone San Antonio, TX 78205	9-1-09
Wm MICHAEL ALDENP		4600 Villa NADA San Antonio, TX 78293	9.02.09
Al Rocha		2047 W. Malone S.A. TX 78205	9-02-09

Printed Name	Signature	Address	Date
Cory Harmon		12710 Shady Acres Dr. Buda, Tx 78610	09/02/09

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# Petition

to amend 30 TAC §290.46(j)(2)

## Reporting of Backflow Incidents

**Original**

**Petition to TCEQ for Rule Adoption**  
Regarding Reporting of Backflow Incidents

Date: July 9, 2009

Submitted to:

Executive Director  
Texas Commission on Environmental Quality  
PO Box 13087  
Austin, TX 78711-3087

Primary petitioners:

Fred Baird, Bac-Flo Unlimited  
Bruce Rathburn, American Backflow Prevention Association - National President  
John Stephen Fain, Cross-Connection Control Institute  
Byron Hardin, Hardin & Associates Consulting, LLC  
Danny Lytle, Water Protection Specialist, Texas Plumbing Inspector I-2133  
Cory Harmon, American Backflow Prevention Association - Cen-Tex Chapter Secretary

Object of proposed rule:

To require public water systems to report backflow incidents and to correct an error in an existing rule.

Proposed rule:

§290.46(j)(2) should be amended as follows:

§290.46(j)(2) As potential contaminant hazards are discovered, they shall be promptly eliminated to prevent possible contamination of the water supplied by the public water system. The existence of an unisolated health hazard, as identified in §290.47(i) of this title, shall be considered sufficient grounds for immediate termination of water service. Service can be restored only when the health hazard no longer exists, or until the health hazard has been isolated from the public water system in accordance with §290.44(h) of this title (relating to Water Distribution). All confirmed backflow incidents shall be reported to the executive director.

Authority under which proposed rule is to be promulgated:

Texas Health and Safety Code Title 5 (Sanitation and Environmental Quality) Chapter 341 (Minimum Standards of Sanitation and Health Protection Measures) Subchapter C (Sanitary Standards of Drinking Water; Protection of Public Water Supplies and Bodies of Water) §341.033(i) (Protection of Public Water Supplies) states "An owner, agent, manager,



operator, or other person in charge of a public water supply system that furnishes water for public or private use... shall maintain internal procedures to notify the commission immediately of the following events, if the event may negatively impact the production or delivery of safe and adequate drinking water:... a natural disaster, accident, or act that results in damage to the public water supply or wastewater system."

Allegation of injury or inequity from failure to adopt proposed rule:

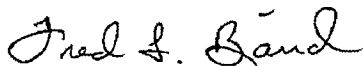
Backflow incident reporting

Although there are numerous reasons for the commission to require reporting of backflow incidents, there is one that stands out. If multiple water systems were to be contaminated through intentional or unintentional backflow incidents each water system would believe their incident was isolated. Intentional backflow incidents would include terrorism, while unintentional backflow incidents would include traveling equipment improperly connecting to public water systems. With the proposed backflow incident reporting requirement in place the commission could quickly know of and respond to the threat.

Correction of error in §290.46(j)(2)

§290.47(i) identifies a bedpan washer is a health hazard to a public water supply and should be properly isolated. The language currently in §290.46(j)(2) considers the mere existence of a bedpan washer grounds for immediate termination of water service. The petitioners believe this is an error. If a bedpan washer is properly isolated from the public water supply it can be an approved installation.

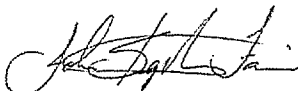
Respectfully submitted by:



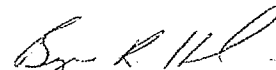
Fred Baird  
PO Box 690053  
San Antonio, TX 78269



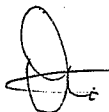
Bruce Rathburn  
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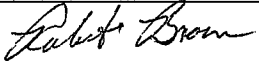



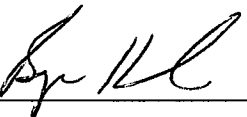


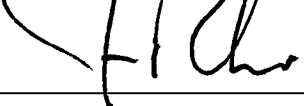
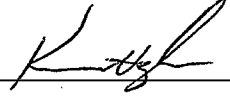
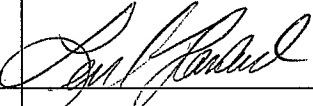

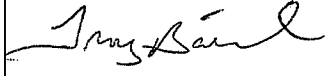
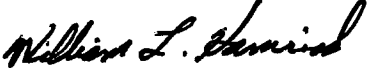



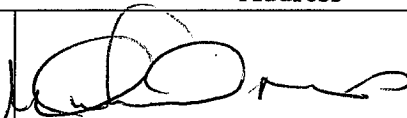


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PO Box 79  
Manor, TX 78653



Cory Harmon  
12710 Shady Acres Dr.  
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## Supporting Petitioners

Printed Name	Signature	Address	Date
Robert Brown		1525 Baker Rd Burleson, TX 76028	9-2-09
Paul McDowell		1121 MERCEDES STREET BENBROOK, TX 76126	9/2/09
TOM NGUYEN		7000 ARMORE, 2 <sup>ND</sup> FL HOUSTON, TX 77054	9/2/09
Bonnie Retzburn		12103 Peach Crossing Helotes, TX 78023	9/2/09
Bryan Hardin		153 SIMMONS DR Coppell TX 75019	9/2/09
FRED BAIRD		23437 Goodnight Loving San Antonio, TX 78255	09/02/09
Perry Ratcliff		PO Box 113 Walburg, TX 78673	9-2-09
Jerry Lewis		P.O. Box 1661 Keller, TX 76244	09-09-09
Kenneth Dylkes		1710 Dri. Atwood Dr. Seguin TX 78155	9-2-09
LEO KLANDRUP		6209 Wood Creek Cove Temple, TX 76782	9-2-09
CATHERINE WINGERS		41657 FM 3159 Canyon Lake, TX 78133	9/2/9
Troy Baird		125 Cave Circle Boerne, TX 78006	9/2/09
WILLIAM HAURICK		2186 JACKSON KELLER RD. #301 SAN ANTONIO, TX 78213	9/2/09
Matthew Digges		2047 W. Malone San Antonio, TX 78205	9-2-09

Printed Name	Signature	Address	Date
WM MICHAEL Alberq	4600 Villa Nava San Antonio, TX		9.2.09
Cory Harmon	12710 Shady Acres Dr. Buda, TX 78610		09/02/09
Al Rocha	2047 N. MALONE SA, TX		9/02/09

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# Petition

to amend 30 TAC §290.47(a) Appendix A

**Recognition as a Superior or  
Approved Public Water System**

**Original**

**Petition to TCEQ for Rule Adoption**  
Regarding Recognition of a Superior Public Water System

Date: July 9, 2009

Submitted to:

Executive Director  
Texas Commission on Environmental Quality  
PO Box 13087  
Austin, TX 78711-3087

Primary petitioners:

Fred Baird, Bac-Flo Unlimited  
Bruce Rathburn, American Backflow Prevention Association - National President  
John Stephen Fain, Cross-Connection Control Institute  
Byron Hardin, Hardin & Associates Consulting, LLC  
Danny Lytle, Water Protection Specialist, Texas Plumbing Inspector I-2133  
Cory Harmon, American Backflow Prevention Association - Cen-Tex Chapter Secretary

Object of proposed rule:

To encourage Public Water Systems to voluntarily comply with 30 TAC §290.44(h) by adding a requirement to those listed in §290.47 Appendix A for recognition as a "Superior Public Water System."

Proposed rule:

§290.47 Appendix A should be amended by adding the following subsection:

§290.47(a)(1)(J) The system shall have an approved backflow prevention program in accordance with §290.44(h) of this title.

Authority under which proposed rule is to be promulgated:

Texas Health and Safety Code Title 5 (Sanitation and Environmental Quality) Chapter 341 (Minimum Standards of Sanitation and Health Protection Measures) Subchapter C (Sanitary Standards of Drinking Water; Protection of Public Water Supplies and Bodies of Water) §341.0352 (Advertised Quality of Water) states "A water supply system owner, manager, or operator or an agent of a water supply system owner, manager, or operator may not advertise or announce a water supply as being of a quality other than the quality that is disclosed by the commission's latest rating."

Allegation of injury or inequity from failure to adopt proposed rule:

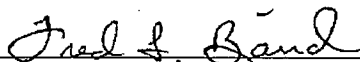
The Environmental Protection Agency's Cross-Connection Control Manual states that "There are numerous, well-documented cases where cross-connections have been responsible for contamination of drinking water, and have resulted in the spread of disease."

Small public water systems often times do not get the same scrutiny from the regulatory agency as larger public water systems, especially in the area of backflow prevention. Yet all customers of public water systems deserve the peace of mind that their drinking water is protected from backflow.

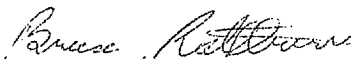
Given the fact that there are approximately 12,892 public water systems in the state of Texas it is impractical for TCEQ staff to ensure that each has an adequate backflow program. Also, some public water systems may find it a strain on their budgets to have an adequate backflow program.

Therefore it is the petitioners' contention that TCEQ should offer public water systems an incentive to comply with the backflow regulations. Since it is desirable for a public water system to attain recognition as a "Superior Public Water System," the incentive should be that a backflow prevention program is a requirement for "Superior Public Water System" status.

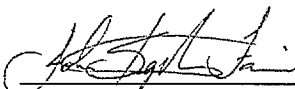
Respectfully submitted by:



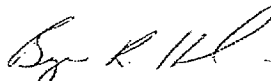
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Bryan, Texas 77805-3051



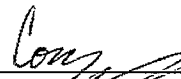
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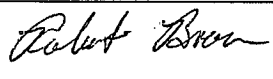


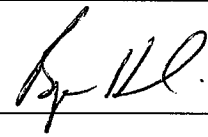

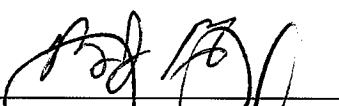
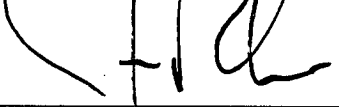
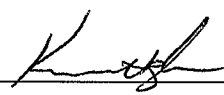
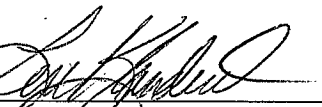

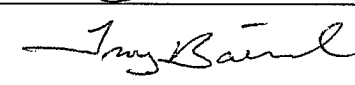
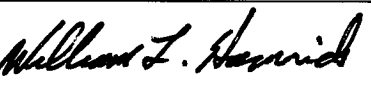
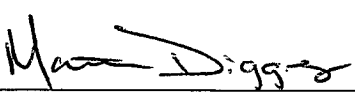
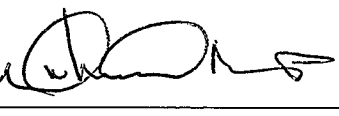




Danny Lytle  
PO Box 79  
Manor, TX 78653



Cory Harman  
12710 Shady Acres Dr.  
Buda, TX 78610

## Supporting Petitioners

Printed Name	Signature	Address	Date
ROBERT Brown		1525 Baker Rd Burleson, TX 76028	9-2-09
TOM NGUYEN		7000 ARDMORE, 2 <sup>ND</sup> FL HOUSTON, TX 77054	9/2/09
Bruce Rothbura		12103 Peach Crossing Helotes, TX 78023	9/2/09
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MATTHEW Diggles		2047 W. Malone San Antonio, TX 78205	9-2-09
Wm. Michael Albers		4000 Villa NAVA SAN ANTONIO, TX 78233	9/2/09

Printed Name	Signature	Address	Date
Cory Harmon		12710 Shady Acres Dr. Buda, Tx 78610	09/02/09
Al Rocha		2047 W. MALONE SA, TX 78205	09/02/09