

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** April 4, 2013

Thru: Bridget C. Bohac, Chief Clerk
Zak Covar, Executive Director

From: L'Oreal W. Stepney, P.E., Deputy Director
Office of Water

Subject: Consideration of a Petition for Rulemaking

Docket No.: 2013-0557-RUL

Project No.: 2013-024-PET-NR

Who Submitted the Petition:

On March 11, 2013, the Texas Commission on Environmental Quality (TCEQ) received a petition for rulemaking from Fiber Technology Corporation (Petitioner).

What the Petitioner Requests:

The petitioner proposes amending 30 TAC §290.43(c) in order "to ensure that engineers have an opportunity to evaluate a new technology in water storage" and "to avoid confusion about the generic wording of bolted tanks" related to potable water storage facilities.

Specifically, the petitioner requests the following changes. New language has been underlined and deleted language is shown in ~~strikeout~~.

§290.43(c) Design and construction of clearwells, standpipes, ground storage tanks, and elevated tanks. All facilities for potable water storage shall be covered and designed, fabricated, erected, tested, and disinfected in strict accordance with current American Water Works Association (AWWA) standards and shall be provided with the minimum number, size and type of roof vents, man ways, drains, sample connections, access ladders, overflows, liquid level indicators, and other appurtenances as specified in these rules. Steel Bolted tanks shall be designed, fabricated, erected, and tested in strict accordance with current AWWA Standard D103 and FRP Bolted Panel tanks shall be designed, fabricated, erected, and tested in strict accordance with current AWWA Standard D121. The roof of all tanks shall be designed and erected so that no water ponds at any point on the roof ~~and~~, in addition, no area of pitched roofs ~~the roof~~ shall have a slope of less than 0.75 inch per foot and modular panel based roofs have a convex panel design allowing complete drainage.

Recommended Action and Justification:

The executive director recommends denial of the petition on the grounds that the current rule already provides for design and construction of potable water storage facilities based

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upon current AWWA standards and that existing agency rules allow for the evaluation of new technologies through an exception process.

The proposed amendment is unnecessary because adding another AWWA standard would be redundant. Existing §290.43(c) provides that "***all facilities for potable water storage shall be covered and designed, fabricated, erected, tested, and disinfected in strict accordance with current American Water Works Association (AWWA) standards***" (emphasis added). The petitioner's recommended rule change is redundant because any currently approved AWWA standard of design, fabrication, erection, testing and disinfection is permissible.

The petitioner requests revision to the tank roof slope requirement by confining it to "pitched roofs" and concluding that modular panel-based roofs have a design allowing complete drainage. The AWWA Standard D121 does not contain a specific roof slope requirement. The slope of 0.75 inch per foot has been demonstrated to allow adequate drainage without ponding for all tank materials. Further, engineers have opportunities to evaluate new technologies in water storage in conformity with existing TCEQ rules. Engineers may seek to utilize new technology that may have a different slope through the exception process in §290.39(l). Long-standing ponding of water could harm tank integrity and seep through the roof to the treated water. Inadequate data exists regarding other roof slopes; therefore, the exception process for evaluation of new technology is appropriate and protective of public health.

In 1978, a TCEQ predecessor agency, the Texas Department of Health amended its rules to allow for the use of 100,000 gallons or less bolted galvanized steel tanks meeting American Petroleum Institute (API) specifications when equipped with proper appurtenances. API tanks less than 100,000 gallons had a shell thicknesses less than what was required by AWWA. In 1988, that agency's rules were again amended to require that all bolted tanks regardless of size be designed, fabricated, erected and tested in strict accordance with "***current AWWA Standard D103***" (emphasis added). If the commission decides to initiate rulemaking to amend §290.43(c), the executive director recommends that the amendment be limited solely to deleting the sentence that references AWWA Standard D103, similar to the following revision, because the rule already permits any currently approved AWWA standard. Deleted language is shown in ~~strikeout~~.

§290.43(c) Design and construction of clearwells, standpipes, ground storage tanks, and elevated tanks. All facilities for potable water storage shall be covered and designed, fabricated, erected, tested, and disinfected in strict accordance with current American Water Works Association (AWWA) standards and shall be provided with the minimum number, size and type of roof vents, man ways, drains, sample connections, access ladders, overflows, liquid level indicators, and other appurtenances as specified in these rules. ~~Bolted tanks shall be designed, fabricated, erected, and tested in strict accordance with current AWWA Standard D103.~~ The roof of all tanks shall be designed and erected so that no water ponds at any point

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on the roof and, in addition, no area of the roof shall have a slope of less than 0.75 inch per foot.

Applicable Law:

- 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
- 30 TAC §20.15, which provides such procedures specific to the commission
- Texas Health and Safety Code, §341.031, which grants the TCEQ authority to adopt and enforce rules governing drinking water standards
- Texas Water Code, §5.103, which sets forth the TCEQ's general rulemaking authority
- Texas Water Code, §5.105, which allows the TCEQ to establish and approve general policy by rule

Agency contacts:

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Ruth Takeda, Staff Attorney, 239-6635

Michael Parrish, Texas Register Coordinator, 239-2548

Attachment

Petition

cc: Chief Clerk, 2 copies
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