

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners

Date: September 15, 2017

Thru: Bridget C. Bohac, Chief Clerk
Richard A. Hyde, P.E., Executive Director

From: Ramiro Garcia, Jr., Deputy Director
Office of Compliance and Enforcement

Subject: Consideration of a Petition for Rulemaking

Docket No.: 2017-1198-PET

Project No.: 2017-042-PET-NR

Who Submitted the Petition:

On August 14, 2017, the Texas Commission on Environmental Quality (commission) received a petition from the Irrigator Advisory Council (petitioner).

What the Petitioner Requests:

The petitioner requested that the commission amend 30 Texas Administrative Code (TAC) Chapter 344, Landscape Irrigation, §344.52, concerning Installation of Backflow Prevention Devices, to revise the acceptable methods for backflow prevention. The petitioner recommends eliminating authorization of “double check valves” in irrigation systems and recommends adding reference to “spill resistant vacuum breakers” as an authorized alternative. The petitioner also recommends inserting requirements for in-line filter or strainers per manufacturer’s recommendation. In addition, the petitioner requests the commission amend references from the term “backflow prevention devices” to the term “backflow prevention assemblies” to align with 30 TAC Chapter 290, Public Drinking Water.

Recommended Action and Justification:

The Executive Director recommends approval of the petition to initiate rulemaking with stakeholder involvement. Through the stakeholder process, the Executive Director will further evaluate the technical merits of the proposal to ensure adequate environmental protection is achieved. This petitioner also requests amending a section of same subchapter, §344.50, as petition 2017-041-PET-NR. The Executive Director recommends considering both petitions with a single rulemaking for Chapter 344.

The Executive Director understands that the petitioner is considering submittal of additional petitions for this chapter. Therefore, the Executive Director recommends approval of opening Chapter 344 in its entirety for amendment and stakeholder involvement.

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
- Texas Health and Safety Code, §341.033 and §341.034, which establish the minimum sanitation and health protection measures for public drinking water supplies

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- Texas Occupations Code, §1903.053, which defines the commission's power and duties regarding irrigators
- Texas Water Code (TWC), §5.013, which establishes the general jurisdiction of the commission over other areas of responsibility as assigned to the commission under the TWC and other laws of the state
- TWC §§5.101 - 5.103 and §§37.001 - 37.015, which establish the commission's authority necessary to carry out its jurisdiction
- 30 TAC §20.15, which provides such procedures specific to the commission
- 30 TAC §344.52, Installation of Backflow Prevention Device

Agency Contacts:

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Attachment:

Petition

cc: Chief Clerk, 2 copies
Executive Director's Office
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