

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners

Date: July 17, 2015

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

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

Docket No.: 2015-0829-RUL

Subject: Commission Approval for Proposed Rulemaking
Chapter 290, Public Drinking Water
HB 1146: Volunteer Operators for Public Water Systems
Rule Project No. 2015-020-290-OW

Background and reason(s) for the rulemaking:

House Bill (HB) 1146, passed by the 84th Texas Legislature, 2015, authored by Representative Kyle Kacal, amends §341.033 and §341.034 of the Texas Health and Safety Code (THSC) to allow public water systems to use volunteer licensed operators. HB 1146 requires the TCEQ to adopt rules necessary to implement §341.033(a-1) and §341.034(a) no later than December 1, 2015. This rulemaking proposes amendments to 30 TAC Chapter 290, §290.46 and §290.47.

Scope of the rulemaking:

A.) Summary of what the rulemaking will do:

The proposed rulemaking will:

- clarify existing rules allowing public water systems to use volunteer licensed operators;
- require a volunteer to be licensed by the executive director; and
- require an owner or manager of a water system that is operated by a volunteer to maintain a record of each volunteer; contact information for the volunteer; and the time period for which the volunteer is responsible for operating the water system.

B.) Scope required by federal regulations or state statutes:

The revisions to THSC, §341.033(a-1) and §341.034(a) requires rulemaking to revise §290.46 and §209.47 to implement the statutory requirement. There are no changes to federal regulations proposed.

C.) Additional staff recommendations that are not required by federal rule or state statute:

There are no additional staff recommendations not required by federal rule or state statute.

Statutory authority:

Texas Water Code (TWC), §5.102, §5.103 and §5.105; and THSC, §341.033 and §341.034.

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Effect on the:

A.) Regulated community:

The proposed rulemaking is applicable to community and non-transient non-community public water systems which account for approximately 5,533 water systems statewide. Owners of public water systems may realize cost savings by opting to use a volunteer operator instead of paying for operator services. The proposed rulemaking does not create a group of affected persons who were not affected previously. Currently, Chapter 290 requires public water systems to provide licensed operators for the maintenance and operation of their systems and to maintain records of work performed by licensed operators.

B.) Public:

The public will benefit by allowing public water systems more flexibility in obtaining licensed operators.

C.) Agency programs:

None; this is clarification of existing rules.

Stakeholder meetings:

There are no stakeholder meetings planned for this rulemaking; however, a rulemaking public hearing will be conducted on September 14, 2015. Interested stakeholders will be updated through the Drinking Water Advisory Working Group.

Potential controversial concerns and legislative interest:

None anticipated. The 84th Texas Legislature unanimously supported passage of HB 1146.

Will this rulemaking affect any current policies or require development of new policies?

No.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?

Without approval, Chapter 290 will be inconsistent with state statutes. If not adopted in this rulemaking, these rule changes could be included in the next Chapter 290 rulemaking.

Key points in the proposal rulemaking schedule:

Anticipated proposal date: August 5, 2015

Anticipated *Texas Register* publication date: August 21, 2015

Anticipated public hearing date (if any): September 14, 2015

Anticipated public comment period: August 21, 2015 - September 21, 2015

Anticipated adoption date: November 18, 2015

Agency contacts:

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Attachments

HB 1146

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