

# IAC Stakeholder Meeting

July 15, 2015  
1:30 - 3:00 p.m.

Texas Commission on Environmental Quality  
12100 Park 35 Circle  
Building E, Room 201 S  
Austin, TX 78753



# *Stakeholder Meeting Agenda*

- Overview – Why are we here?
- Statute 1903.251
- Rule @ 30 TAC 30.120
- Purpose/Intent of the Inspector Affidavit
- Conflict of Interest (Inspectors and Irrigators)
- Open Discussion
  - Stakeholder Concerns
  - Potential Solutions
  - What's Next?

# Why are we here?

- Opportunity for TCEQ to:
  - ✓ Clarify the Inspector requirements/limitations as discussed in the IAC meeting
  - ✓ Communicate statutory implications – when a license surrender must occur and why
  - ✓ Express legal concerns regarding the process of moving between licenses and license status – “Parking” and associated conflict of interests

# Why are we here?

**Opportunity for Stakeholders to express their concerns and offer solutions related to:**

**Surrendering inspector license**

**Retake inspector exam**

**Reapplying for license**

**Other?**

# Occupations Code 1903.251



sells, designs, installs, maintains, alters, repairs, or services an irrigation system;



provides consulting services relating to an irrigation system;



connects an irrigation system to a private or public, raw or potable water supply system or any water supply; or



inspects an irrigation system for a municipality or water district.

# Occupations Code 1903.251 cont.

A person is **ineligible** for a license under Subsection (a)(4) if the person engages in or has a financial or advisory interest in an entity that engages in an activity under Subsection (a)(1), (2), or (3).

**This is the MAIN source of the conflict of interest**

# Occupations Code 1903.251

The statute is written as a limiting piece of legislation as it focuses on the those who are ineligible for the inspector license first.

The word **ineligible** is important. This is what prevents “Parking” the Inspector license.

# 30 Texas Administrative Code 30.120

- To obtain an irrigation inspector license, an individual must meet the requirements in Subchapter A and successfully complete:
  - the basic irrigator training course;
  - an approved backflow prevention assembly testing training course; and
  - an approved water conservation or water audit course; or
  - an approved landscape irrigation inspection course.
- Pass the applicable examination.



# 30 Texas Administrative Code 30.120

An individual is **ineligible** to obtain an irrigation inspector license if the individual engages in or has financial or advisory interest in an entity that:

1

sells, designs, installs, maintains, alters, repairs, or services an irrigation system;

2

provides consulting services relating to an irrigation system; or

3

connects an irrigation system to any water supply.

# 30 Texas Administrative Code 30.120

As you can see, this rule as it stands today *mimics* the Statute and as such the rule *can't* be changed without a legislative change in the statute

Only option for a change involves two steps:

- 1) Change statute via legislation
- 2) Change rule via rule making

# Purpose and Intent of the Affidavit



The affidavit was a way to allow someone to keep their Irrigation/Technician License and its license # but to park it while having an Irrigation Inspector License.



It was a way for the licensee to legally declare that it won't operate as an irrigator while operating as an inspector



The statute does not allow one to exercise an Irrigator License and park the Inspector License. "Ineligible for Inspector"



Therefore, this is a one way opportunity.

# License Options



**ALLOWED**

Active Irrigator **OR**  
Active Inspector  
But not both at the same time

Active Inspector **AND** Inactive  
(Parked) Irrigator  
Affidavit required for this option.



**NOT  
ALLOWED**

Active Irrigator **AND**  
Active Inspector  
simultaneously

Active Irrigator **AND**  
Inactive Inspector

# Content of the Irrigation Inspector Affidavit

An individual is **ineligible** to obtain an irrigation inspector license if the individual engages in or has financial or advisory interest in an entity that holds the following:

These  
restrictions  
apply to:

- Landscape Irrigator License;  
or
- Landscape Irrigation  
Technician License.

# Content of the Irrigation Inspector Affidavit (cont.)

- I understand that should I decide to use my Landscape Irrigator License or Landscape Irrigation Technician License, while holding the Irrigation Inspector License, I **will immediately surrender my Irrigation Inspector License to the TCEQ prior to** using either the Landscape Irrigator License or Landscape Irrigation Technician License.

# Content of the Irrigation Inspector Affidavit (cont.)

- I also understand that upon issuance of my Irrigation Inspector License, I **must relinquish ownership of any interest** that I may have in any landscape irrigation company or business.



# Purpose and Intent of Affidavit (cont.)

The reason is based on conflict of interest. The following are examples of conflicts of interest.



Inspecting your own design work



Inspecting your own installation/maintenance work



Inspecting your company's work



Inspecting your competition's work (also an ethical issue)



Concurrent License Use

# Inspecting Your Own Design Work

As employee or owner of company XYZ and licensed irrigator, you designed the system installed at 123 State Street in July of 2015.

In September 2015, you've been hired by the city to inspect the very same system

Can you legally and ethically inspect the system on 123 State Street?

Is there a Conflict of Interest (COI)?



# Inspecting your Own Installation/Maintenance Work

As employee of company XYZ and licensed irrigator, you installed the system at 123 State Street in August of 2015.

In September 2015, you've been hired by the city to inspect systems.

Can you inspect 123 State Street?

Is there a COI?

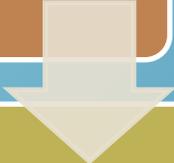


# Inspecting your Competition's Work

A competitor installed a system at 123 State Street in July of 2015.



In September 2015, you've been hired by the city to inspect systems.



Can you legally and ethically inspect the system at 123 State Street?



Is there a COI?

# Concurrent License Use

In September 2015, as a licensed inspector with a parked Irrigator license, you inspected the system at 123 State Street.

In October 2015, while still a licensed inspector, you are contacted to provide maintenance on the system at 123 State Street.

Can you maintain that system?

If you maintain that system, what could happen?

Is there a COI?

# Conclusions

It is clear, from a legal and ethical perspective, that a Licensed Irrigator or Technician *can not also* hold an Inspector License.

Additionally, the language in the statute makes it clear that anyone who has any “interests” in other Irrigator Licenses is **ineligible** to hold an Inspector License

# Where does that leave us...

## If nothing changes:

Inspectors must surrender their license upon using their Irrigator or Irrigator Technician License

There may be some potential solutions for the short and long term that can be considered and can be further discussed today

Objective of this meeting is to get your thoughts

# Stakeholders Concerns



Retaking Exam



Paying Fee



Time involved in processing the license



Impacts on business



Other?

# *In the Short Term...*

- Potential Short Term Options to Explore:

# *In the Long Term...*

- Potential Long Term Options to Explore:

# Where do we go from here?



Another stakeholder meeting?



Further explore options presented here and regroup?

# Questions?

## Contact Information:

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