

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** February 7, 2025

Thru: Laurie Gharis, Chief Clerk
Kelly Keel, Executive Director

From: Beth Seaton, Director
Office of Waste

Docket No.: 2024-0923-RUL

Subject: Commission Approval for Rulemaking Adoption
Chapter 30, Occupational Licenses and Registrations
Implementation of Occupational Licensing Legislative Updates and Staff
Recommended Updates
Rule Project No. 2024-004-030-WS

Background and reason(s) for the rulemaking:

If approved, this rulemaking will amend 30 Texas Administrative Code (TAC) Chapter 30, Occupational Licensing and Registration, to implement changes to statute made during the 88th Legislative Session and incorporate additional recommended changes, as discussed in more detail below.

Legislative Changes

House Bill (HB) 1845 added §37.0045 to Texas Water Code (TWC) Chapter 37. It requires the agency to establish, by rule, a provisional occupational license for Class D wastewater operators and public water system operators for persons without a high school diploma or equivalent.

HB 2453 added Chapter 60 to the Texas Occupations Code (TOC). It allows licensing agencies to issue a digital license or certificate of registration in lieu of a physical paper license.

Senate Bill 422 amended TOC Chapter 55 to allow military service members to engage in a business or occupation for which a license is required, without a Texas license, provided the military service member holds a current license in good standing from another jurisdiction. TCEQ already has a reciprocity process for military service members relocated to Texas; however, rulemaking is necessary to implement the requirement that TCEQ process applications and issue the license for qualified military service members, veterans, or spouses, within 30 days of receipt.

Other Recommended Changes

This rulemaking codifies in rule the new requirements for public water system operators to comply with the resiliency training requirements for new and renewal of public water system operator licenses, as recommended by the Winter Storm Uri After-Action review.

This rulemaking also reduces the number of continuing education (CE) credits required to renew the Leaking Petroleum Storage Tank Project Manager license from 32 hours to 20 hours. Currently, individuals are required to complete 32 hours of CE every three years to be eligible to renew their license. The regulated community has expressed difficulty in meeting this requirement based on the current limited availability of TCEQ-approved training (note TCEQ does not develop or offer training for this license). Staff believes that reducing the required CEs from 32 to 20 will address

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the lack of available TCEQ-approved training without any detrimental effects on the environment or to public health.

This rulemaking also updates training terminology to be consistent with current training technology and policies.

Other minor updates to 30 TAC Chapter 30 were made, as necessary, to provide consistency with other licensing requirements and rules.

Scope of the rulemaking:

A.) Summary of what the rulemaking will do:

This rulemaking implements changes to statute made during the 88th Legislative Session and incorporates additional recommended changes, as described above.

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

- Establish the minimum requirements for provisional level D licenses for water and wastewater licenses. An individual without a high school diploma or equivalent that has completed the required training, passed the applicable exam, acts under the direct supervision of a licensed operator, and passes the criminal history review, is eligible for a non-renewable Provisional Water D or Provisional Wastewater D license that is valid for two years. This provisional license provides the individual time to obtain their high school diploma or equivalent to be eligible for a renewable Water D or Wastewater D license or higher.
- State that TCEQ may issue a digital license in lieu of physical paper license.
- Memorialize the requirement that TCEQ process applications and issue the license for qualified military service members, veterans, or spouses, within 30 days.

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

- Require all licensed public water system operators to take resiliency training for new and renewal licenses to equip water system personnel with additional knowledge and skills in preparation for and in response to emergency events.
- Reduce the number of CE credits required to renew the Leaking Petroleum Storage Tank Project Manager (LPST) license from 32 hours to 20 hours.
- Update training terminology to be consistent with current training technology and policies.

Statutory authority:

These amendments will be adopted under the authority granted to the commission in TWC, §5.012, which provides that the commission is the agency responsible for implementing the constitution and laws of the state relating to conservation of natural resources and protection of the environment; and §5.103 and §5.105, which establish the commission's general authority to adopt rules.

These amendments will also be adopted under TWC, §37.002, which provide the commission's specific authority to adopt rules governing occupational licenses and registrations; §§26.0301, 37.003, 37.005, and 37.006 of TWC; §§341.033, 341.034, 361.027, and 366.071, Health and Safety Code, and §1903.251, TOC.

The adopted rules implement TWC, §37.045 as added by HB 1845; 30 TOC §60.002 as added by HB 2453; and 30 TOC §55.0041 and §55.005(a) as amended by SB 422.

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Effect on the:

A.) Regulated community:

Individuals without a high school degree or equivalent will be able to enter the public drinking water and wastewater treatment occupations. Applicants for these provisional licenses undergo the same application and criminal history review process as any other license.

When digital licenses for all environmental occupations are issued, licensed individuals will no longer be required to carry paper pocket-cards and instead will be able to view their digital license on their phones or other devices.

Additionally, military service members, veterans, and spouses who are qualified for a license will have their applications processed and licenses issued within 30 days, as long as their applications are not deficient.

Licensed individuals will be required to take resiliency training as part of the requirement to obtain or renew a public water system operator occupational license.

LPST licensed individuals will have less difficulty finding and taking the required amount of continuing education credits.

B.) Public:

The public will benefit from additional water and wastewater operators entering the field and be able to view licenses digitally. Applicants for new and renewal licenses may see a slight increase in the application approval processing times during periods when a high volume of applications from veterans are received, as they would be required to be prioritized.

The public will also benefit from licensed water operators that are better equipped and qualified to respond to emergency events.

C.) Agency programs:

The agency may see an increase in the overall number of license applications received, as more provisional license applications are submitted. The Occupational Licensing Section will have restrictions on the processing time for certain applications from military service members, veterans, and spouses and will have to prioritize those licenses over others. Staff will also need to verify that the resiliency requirements have been met for new and renewal applications for Water Operator licenses as part of the application review process and will need to review and approve additional resiliency training courses, providers, and instructors. Staff will likely issue fewer deficiencies to individuals applying to renew their LPST Project Manager license, as they're more likely to meet the training requirements.

By issuing digital licenses, instead of physical paper, the agency would save capital and maintenance costs associated with the license tabber machine, printer, ink, and paper.

Stakeholder meetings:

An informal stakeholder meeting was held on March 7, 2024, to solicit input on the proposed rule changes that are not direct implementation of statutory changes.

Public Involvement Plan

A public involvement plan is required for this rulemaking.

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Alternative Language Requirements

Spanish language documents will be required for this rulemaking.

Public comment:

The commission offered a public hearing on October 10, 2024. The comment period closed on October 14, 2024. The commission received comments from five commenters. One commenter expressed support for implementing HBs 1845 and 2453, the resiliency requirement, reducing the CE credit requirement for the Leaking Petroleum Storage Tank Project Manager license, and updating training terminology. Four of the commenters were against the fingerprinting requirement, one was against the resiliency requirement for renewing a license, and one was against the provisional license. One commenter suggested that fingerprinting should not be required for individuals that have undergone fingerprinting for another state agency.

Significant changes from proposal:

The proposed rulemaking included provisions to require applicants for new and renewal licenses to undergo FBI fingerprinting for a criminal history review unless granted a waiver. TCEQ is withdrawing these provisions to further evaluate stakeholder feedback on this issue. Applicants will continue to have the option to utilize FBI fingerprinting as one of the methods for completing the criminal history review required for licensure.

Potential controversial concerns and legislative interest:

TCEQ depends on other states, countries, or territories to provide the information TCEQ needs to verify if a military service member, veteran, or spouse is eligible for a license through reciprocity, which may take more than 30 days.

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

The rulemaking codifies changes to statute and Occupational Licensing policies and will not require the development of new policies.

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

While TCEQ has developed a resiliency policy, the rulemaking will codify the policy and establish its implementation, and enforceability.

Staff have worked to approve additional training for the Leaking Petroleum Storage Tank Project Manager license type; however, the regulated community continues to communicate that finding sufficient training to meet the current number of required CEs is difficult. An alternative would be leaving the current required 32 CEs unchanged, however, an unintended consequence might be fewer individuals qualifying for renewal of their license without an added benefit to public health and the environment.

Key points in the adoption rulemaking schedule:

Texas Register proposal publication date: September 13, 2024

Anticipated *Texas Register* adoption publication date: March 14, 2025

Anticipated effective date: March 19, 2025

Six-month *Texas Register* filing deadline: March 13, 2025

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Attachments:

HB 1845
HB 2453
SB 422

cc: Chief Clerk, 2 copies
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