

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes new Texas Administrative Code (TAC) §30.344 and §30.394 and the amendments to 30 TAC §§30.5, 30.7, 30.14, 30.18, 30.20, 30.24, 30.26, 30.28, 30.185, 30.340, 30.342, 30.350, 30.387, 30.390, and 30.392.

## **Background and Summary of the Factual Basis for the Proposed Rules**

### **Legislative Implementation**

House Bill (HB) 1845 amended Texas Water Code (TWC) Chapter 37, Occupational Licensing and Registration, to add TWC §37.0045 which requires the commission 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 amended Texas Occupations Code (TOC) by adding new Chapter 60, to allow licensing agencies to issue a digital license or certificate of registration in lieu of a physical paper license. The bill does not require rulemaking. However, the executive director (ED) will be amending 30 TAC §30.5 to explicitly state that the ED may issue a digital license in lieu of physical paper license.

Senate Bill (SB) 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. The ED has a reciprocity process for military service members and already complies with the intent of the bill to ease the burden on military families relocated to Texas. Therefore, no rulemaking is required in this regard. However, the bill also requires that the ED process applications and issue the license for qualified military service members, veterans, or spouses, within 30 days of

the receipt of application.

### **Staff Recommended Changes**

This rulemaking proposes to amend 30 TAC Chapter 30 to incorporate the operator resiliency training requirements. On June 8, 2021, the 87th Texas Legislature passed SB 3 to address preparing for, preventing, and responding to weather emergencies and power outages. In the aftermath of Winter Storm Uri, TCEQ was tasked to conduct an "after-action review" to evaluate the factors that impacted public water systems during the Winter Storm. The project team engaged stakeholders from the private and public sectors to discuss a variety of topics to enhance critical infrastructure resilience. One of the recommendations that came out of the after-action review was to require public water system operators to take resiliency training. The amendments to the rules will assist licensed operators, public water systems, and affected utilities prepare for, respond to, and recover from severe weather-related events. TCEQ has the authority to expand the requirements for minimum operator training under existing language in TWC, §37.002 and 30 TAC Chapter 30 Subchapter K. TCEQ's rule currently requires specific courses to be taken to qualify for specific license levels. This rulemaking would codify 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.

This rulemaking proposes to amend 30 TAC Chapter 30 to require all applicants for new and renewal licenses to subscribe to the Federal Bureau of Investigation's (FBI) fingerprinting to allow the commission to more timely meet the statutory requirement to automatically revoke a license or registration upon an individual's imprisonment following a criminal conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision, as stated in TOC §53.021(b). Currently, the ED does not have a way to timely know

when a licensee is imprisoned due to a felony conviction until they apply for a renewal application, which could potentially be three years after the conviction. Through the FBI fingerprint subscription, the ED will receive notification through the Criminal Justice Rap Back Program of Texas when a person who has fingerprints on file with the FBI is arrested or has criminal activity associated with those fingerprints. Additionally, this would allow the ED to verify out-of-state offenses to ensure applicant's self-attestations are complete and accurate to protect public safety.

This rulemaking also proposes to reduce 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 continuing education every three years to be eligible to renew their license. The regulated community has expressed difficulty in meeting this requirement based on the available TCEQ-approved training (note the commission does not develop or offer training for this license). The ED does not believe there would be any impact to the environment by reducing the training requirement.

The rulemaking also proposes minor updates to provide consistency with other licensing requirements and rules. These include updating occupational training terminology to be consistent with current training policies and technologies.

### **Section by Section Discussion**

The commission proposes to amend 30 TAC §30.5 to reflect the addition of TOC Chapter 60, Digital Licenses. The proposed amendment would add §30.5(g) to allow the ED to issue a digital

license in lieu of a physical paper license.

The commission proposes to amend 30 TAC §30.7 to update definitions to be consistent with current training technology, delivery methods, and approval procedures. Definitions in this section have been renumbered to account for the added definitions.

The commission proposes to amend 30 TAC §30.7(3) to remove the term "classroom" from the definition of 'approved classroom training providers'. This definition now incorporates all types of training, rather than just classroom training.

The commission proposes to amend existing 30 TAC §30.7(4) to remove the definition of "approved conference and webinar training providers" as this term is no longer relevant. The term "approved training provider" encompasses training providers for all types of training.

The commission proposes to amend existing 30 TAC §30.7(5) to remove the definition of "approved distance training providers" as this term is no longer relevant. The term "approved training provider" encompasses training providers for all types of training. Subsequent definitions have been renumbered.

The commission proposes to amend existing 30 TAC §30.7(6) (proposed §30.7(4)) to update the definition of "approved training" to add the term "registration" since training is used for obtaining or renewing both licenses and registrations.

The commission proposes to amend existing 30 TAC §30.7(7) (proposed §30.7(5)) to update the terms used for training delivery methods. The three types of approved training delivery

methods include in-person (occurs at the same place and time for the instructor and student), live-online (occurs at the same time for the instructor and student, but not at the same place), and self-paced training (occurs with a separation of both place and time between the instructor and student). The following terms were removed from this definition (conferences, seminars, workshops, training at association meetings) as they are considered types of training, rather than types of delivery methods.

The commission proposes to amend existing 30 TAC §30.7(8) (proposed §30.7(6)) to update the definition of "association" to add the term "registrations" since members could hold either licenses or registrations.

The commission proposes to add new 30 TAC §30.7(7) to include a definition for "association meetings" which refers to any in-person or online sessions conducted by an association that are delivered in-person, live-online, or a combination of both.

The commission proposes to add new 30 TAC §30.7(8) to include a definition for "classroom training". "Classroom training" refers to courses that are held in real-time and can be held in-person, live-online, or a combination of both.

The commission proposes to amend 30 TAC §30.7(9) to clarify that conferences may be delivered in-person, live-online, or a combination of both and must be conducted by a governmental entity, association, or accredited college.

The commission proposes to amend 30 TAC §30.7(10) to add the term "registration" since continuing education is required for renewal of both licenses and registrations.

The commission proposes to add new 30 TAC §30.7(11) to include a definition of "core training" which refers to courses that are required to obtain an occupational license or registration that are approved by the ED.

The commission proposes to amend existing 30 TAC §30.7(11) (proposed §30.7(12)) to update definition of "correspondence training". Correspondence training is a type of self-paced training that can be conducted as paper-based training, electronic-based (such as receiving a CD in the mail), or a combination of these systems.

The commission proposes to delete existing 30 TAC §30.7(12), the definition for "distance training". The term "self-paced training delivery method" (proposed §30.7(26) is proposed to replace the term "distance training" to be consistent with current training terminology.

The commission proposes to amend existing 30 TAC §30.7(13) to add the term "registrations" since a distributor can sell a product to individuals with either occupational licenses or registrations.

The commission proposes to add new 30 TAC §30.7(16) to define "in-person training delivery method" as an interactive instructor-led training delivered in real time at the same physical location as the student.

The commission proposes to add new 30 TAC §30.7(18) to define "live-online training delivery method" as training that occurs at the same time for the instructor and student, but not at the same place. Instructor-led classroom, conferences, or association meetings can be held using

this delivery method.

The commission proposes to add 30 TAC §30.7(22) to define "prerecorded training" as training that has been previously recorded or developed through an online platform that is not delivered in person or in real-time. This type of training occurs with a separation of both place and time between the instructor and student.

The commission proposes to amend existing 30 TAC §30.7(20) (proposed §30.7(24)) to clarify that a "qualified instructor" is an individual that is approved to teach a TCEQ-approved core occupational licensing course.

The commission proposes to add new 30 TAC §30.7(24) to define "qualified presenter" as an individual that is approved to teach continuing education training. This individual has the instructional and work-related experience, as well as subject matter expertise to answer students' questions and deliver the training.

The commission proposes to add new 30 TAC §30.7(26) to define "self-paced training delivery method" as training delivered with a separation of time and place between the instructor and learning resources and the learner. The term "self-paced training" replaces the term "distance training".

The commission proposes to amend existing 30 TAC §30.7(23) (proposed §30.7(28)) to add the term "hands-on" to clarify that a subject matter expert needs hands-on work-related experience.

The commission proposes to delete existing 30 TAC §30.7(24) to remove the term "technology-

based training". The term is no longer relevant and the terms "live-online training" or "self-paced training" replace this term.

The commission proposes to amend 30 TAC §30.7(26) (proposed §30.7(30)) to clarify that a "training provider" refers to an administrative entity and its designated personnel, not just an individual, responsible for delivering the training. This update is meant to clarify that the training provider is the company that develops the training, not the instructor or presenter.

The commission proposes to delete existing 30 TAC §30.7(27) to remove the term "webinar". The term is no longer relevant and has been incorporated into the term "live-online training".

The commission proposes to amend the title of 30 TAC §30.14 and §30.14(a) to change "registration" to "company registration" to clarify that this section applies only to company registrations and not individual registrations, which are proposed to be included in §30.18.

The commission proposes to amend 30 TAC §30.14(f) to clarify that an applicant for a new registration must not only resolve outstanding deficiencies, but also notify the executive director that the deficiencies have been resolved, within the established timeframe, before the application is considered expired. The timeframe has been adjusted from 60 to 120 days to be consistent with the timeframe allowed for an applicant for a new license to resolve deficiencies. The term "expired" replaces the term "void" to be consistent with the Occupational Licensing Section's terminology.

The commission proposes to add "individual registrations" to the title of 30 TAC §30.18 to clarify that the requirements in the section apply to both licenses and individual registrations.



Company registrations are covered in §30.164. The commission proposes to amend §30.18(a) to add "individual registrations" to the requirement for applications for a license to be made on a standard form. This section requires that the application be submitted prior to taking an exam. Since individual registrations have no examination requirement, "if applicable" was added.

The commission proposes to add 30 TAC §30.18(b) to require applicants for an initial license or individual registration to submit a set of fingerprints with their application, for the purpose of obtaining a criminal history record from the Texas Department of Public Safety (TXDPS) and FBI, unless a waiver is approved by the executive director to submit their criminal history information through an alternate method.

The commission proposes to add 30 TAC §30.18(c) to outline the fingerprinting requirement waiver process. An individual who is unable to get fingerprinted, may request a waiver from the executive director in writing. The proposed rule stipulates that an individual with out-of-state arrests or convictions is not eligible to request a waiver. The waiver must be accompanied by appropriate supporting documentation. Waivers are reviewed and approved on a case-by-case basis. If a waiver is approved, the individual must either attest that he/she does not have any criminal history or provide a TXDPS report or court documents to their criminal history. An approved waiver is only valid for three years. Additionally, the individual must notify the executive director if they are imprisoned due to a felony conviction, revocation of parole, or revocation of mandatory supervision during the period that the waiver is valid.

Under TOC §53.021(b), the executive director is required to automatically revoke a license or registration upon an individual's imprisonment following a criminal conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory

supervision. Currently, the executive director does not have a way to timely know when a licensee is imprisoned due to a felony conviction until they apply for a renewal application, which could potentially be three years after the conviction. This means that an individual whose license should have been revoked upon imprisonment due to a felony would have continued access to persons and property that the license provides and could potentially re-offend upon release. The fingerprint subscription provides access to the Criminal Justice Rap Back Program of Texas which notifies the executive director when a person who has fingerprints on file with the FBI is arrested or has criminal activity associated with those fingerprints. For this reason, the commission will be requiring that all applicants for new and renewal licenses and individual registrations submit fingerprints with the application, unless a waiver is approved by the executive director to submit their criminal history information through an alternate method.

As referenced in TOC §53.021(a), the commission has the authority to revoke, suspend, or deny a license or individual registration if the applicant was convicted of offenses that are directly related to the license, violent offenses, or sexually violent offense. This review is currently based on information provided by the applicant attesting to their criminal history and a report provided by the TXDPS. However, the TXDPS report only contains the applicant's in-state criminal history. The executive director does not have access to any out-of-state criminal history information unless the applicant attests to the out-of-state offenses, or the applicant chooses to utilize the fingerprint subscription option when applying.

The commission proposes to amend existing 30 TAC §30.18(g) (proposed §30.18(h)) to clarify that an applicant for a new registration must not only resolve deficiencies, but to also notify the executive director that the deficiency has been resolved, within the prescribed timeframe. The term "expired" replaces the term "void" to clarify that an application expires if the

deficiencies have not been resolved.

The commission proposes to amend 30 TAC §30.20(d) and (e) to replace the term "void" with the term "expired" to clarify that an application expires if the deficiencies have not been resolved. An application expires after 365 days from the approval date of the application or failing the same examination four times.

The commission proposes to add 30 TAC §30.24(c) to require applicants for a renewal license or individual registration submit a set of fingerprints with their application, for the purpose of obtaining a criminal history record from TXDPS and FBI, unless a waiver is approved by the executive director to submit their criminal history information through an alternate method.

The commission proposes to add 30 TAC §30.24(d) to outline the fingerprinting requirement waiver process. An individual who is unable to get fingerprinted, may request a waiver from the executive director in writing. The proposed rule stipulates that an individual with out-of-state arrests or convictions is not eligible to request a waiver. The waiver must be accompanied by appropriate supporting documentation. Waivers are reviewed and approved on a case-by-case basis. If a waiver is approved, the individual must either attest that he/she does not have any criminal history or provide a TXDPS report or court documents to their criminal history. An approved waiver is only valid for three years. Additionally, the individual must notify the executive director if they are imprisoned due to a felony conviction, revocation of parole, or revocation of mandatory supervision during the period that the waiver is valid. The subsequent subsections have been renumbered.

The commission proposes to amend existing 30 TAC §30.24(r) (proposed §30.24(t)) to clarify

that an applicant for a renewal of a license or registration must not only resolve deficiencies, but to also notify the executive director that the deficiency has been resolved, within the timeframe. The term "expired" replaces the term "void" to be consistent with the Occupational Licensing section's terminology.

The commission proposes to amend 30 TAC §30.26(f) to add paragraph (4), as required by HB 4123. The amendment will require the executive director to issue a license to a military service member, military veteran, or military spouse that holds a current license in good standing with another jurisdiction that is substantially equivalent within 30 days. If the application is deficient or the ED has not received verification from the out-of-state jurisdiction that the license held out-of-state is substantially equivalent to the license the individual is applying for from the TCEQ, the executive director will not be able to issue a license within 30 days of receipt of application. In these circumstances, the executive director will issue a license or registration as soon as practicable after the deficiency has been resolved or the verification has been received.

The commission proposes to amend 30 TAC §30.28(b), (b)(3), and (b)(4) to update the terminology for types of training that the executive director may approve. The term "events" in §30.28(b) has replaced the term "delivery methods" to define the types of training events the executive director may approve. The types of delivery methods that the executive director may approve are included in new §30.28(c). The term "prerecorded training" has replaced the term "technology-based training" and the term "distance training" has been removed to be consistent with the proposed amendments to the definitions in §30.7.

The commission proposes to add 30 TAC §30.28(c) to clarify the types of delivery methods for

which the executive director may approve training. Training delivery methods include in-person (occurs at the same place and time for the instructor and student), live-online (occurs at the same time for the instructor and student, but not at the same place, and self-paced training (occurs with a separation of both place and time between the instructor and student), as defined in §30.7. Subsequent sections have been renumbered.

The commission proposes to amend existing 30 TAC §30.28(e)(7) (proposed §30.28(f)(7)) to clarify that a training provider must not only resolve deficiencies, but to also notify the executive director that the deficiency has been resolved, within the 60-day timeframe.

The commission proposes to amend existing 30 TAC §30.28(g) (proposed §30.28(h)) to the number of core courses for instructor qualifications as a basis for calculating fees for training applications. Separate instructor qualification fees are not required when submitted with an initial training application for a core course. However, after an initial training application is submitted and approved, a \$10 fee per instructor and core course will be assessed.

The commission proposes to amend existing 30 TAC §30.38(h) (proposed §30.38(i)) to require training providers to verify the identity of students. Additionally, the amendments replace the term "technology-based" with "self-paced" to be consistent with current training terminology.

The commission also proposes to update Figure: 30 TAC §30.28(g) (proposed Figure: 30 TAC §30.28(h)) to ensure the fee table for training applications is consistent with the proposed updates to the training terminology. The rows for "technology-based training" and "webinar" have been deleted since these terms are proposed to be deleted from this chapter. The new organization of the table makes it clearer which fee applies to which type of training. A new

row for Instructor Qualification has been added.

The commission proposes to amend existing 30 TAC §30.28(p) (proposed §30.28(q)) to remove reference to "webinars" as this term is proposed to be deleted in this chapter and replace the term "distance training" with "self-paced training". Additionally, the term "live-online" has been added as a type of delivery method that cannot be approved to teach required manual skills.

The commission proposes to amend 30 TAC §30.185, Qualification for License Renewal. The proposed amendment would reduce the number of continuing education hours required to renew a Leaking Petroleum Storage Tank Project Manager license. Currently, individuals are required to complete 32 hours of continuing education every three years to be eligible to renew their license. The regulated community has expressed difficulty in finding training that is approved for continuing education (CE) credit for this particular license. The commission does not develop or offer training for this license, it only approves training for CE credit. TCEQ believes that reducing the required CEs from 32 to 20 will address the lack of available TCEQ-approved training without any detrimental effects on the environment or to public health.

The commission proposes to amend 30 TAC §30.340 to implement new TWC §37.0045, Qualifications for Certain Licenses, created by HB 1845. The commission proposes to update Figure: 30 TAC §30.340(a) to add a row for the Provisional Class D License for wastewater operators to the table. The table lists the minimum requirements by wastewater operator license type. The Provisional Class D License has no education or work experience required and has 20 hours of required training.

The commission also proposes to update Figure: 30 TAC §30.340(f) to add the Provisional Class

D Wastewater License to the table. The table shows the required courses and elective courses for each type of wastewater operator license. The Provisional Class D Wastewater Operator License requires the Basic Wastewater Operation course and requires no elective courses. The proposed updates also clarify that the Basic Wastewater Operation course is required for Class B and Class A Wastewater Operators. This proposed change will provide consistency between the requirements for the Water and Wastewater operators, as Class B and Class A Water Operators are required to take the basic training course as shown in Figure: 30 TAC §30.390(f). This does not change the total hourly requirements for either license level shown in Figure §30.390(a).

The commission proposes to delete 30 TAC §30.342(a)(2) to eliminate the option for licensed wastewater operators to renew their license through examination in lieu of continuing education credits. Currently, licensed wastewater operators can either meet the continuing education requirements or pass the applicable exam again to be eligible to renew their license. The option to renew a license by taking the exam again was offered in the past to all license types, however this option was removed for all other licenses except for water and wastewater operators and is very rarely used. For consistency, and to ensure that all water operators take the required resiliency CEs, the option to renew through re-examination needs to be discontinued. To maintain consistency, this option will be discontinued for wastewater operators as well. Approximately 3 individuals, out of approximately 2,500, use this option to renew a wastewater operation license per year.

The commission proposes new 30 TAC §30.344 to implement new TWC §37.0045, Qualifications for Certain Licenses, as required by HB 1845. The commission proposes §30.344(a) to establish that the Wastewater D Provisional license may be issued to an individual

that does not possess a high school diploma or equivalent and has also completed the required training, passed the applicable examination, and acts under the direct supervision of a license holder. The commission proposes §30.344(b) to establish that the provisional license is valid for two years and that the application fee is \$74. The commission proposes §30.344(c) to establish that provisional licenses are not renewable or reobtainable. The commission proposes §30.344(d) to establish that a provisional license holder whose license expires must submit proof of a high school diploma or equivalent and apply for a Class D operator or higher prior to the expiration date of the provisional license, to be able to continue to work as a licensed wastewater operator. An advantage of applying for the Class D operator prior to the expiration date of the provisional license, is that the individual would not have to retake the Class D Operator exam, as it is the same exam. However, if the provisional license expires before the individual applies for the Class D license, the individual would need to re-test.

The commission proposes to amend 30 TAC §30.350(e) to restructure Figure: 30 TAC §30.350(e) to make it easier to determine which license type is required based on the treatment technology and permitted flow. No changes to the requirements were made.

The commission proposes to add proposed 30 TAC §30.387(8) and (9) to add definitions for "resiliency continuing education training" and "resiliency overview course". The "resiliency continuing education" refers to any training on resiliency topics that TCEQ approves to count toward the resiliency training that is required to renew a water operator license. The "resiliency overview course" refers to the overview of the resiliency topics, as outlined by the ED, that is required for a new or upgraded water operator license starting on April 1, 2024. The requirement was implemented as part of an agency policy and is being codified in rule through this rulemaking. The resiliency overview course can be taken as a stand-alone course or as part



of the Basic Waterworks Operations core course, if the course has been updated to include the resiliency overview topics. Subsequent sections have been renumbered.

The commission proposes to amend 30 TAC §30.390 to implement new TWC §37.0045, Qualifications for Certain Licenses, required by HB 1845, and incorporate the resiliency training requirement, as recommended by the Winter Storm Uri After Action Review. The commission proposes to update Figure: 30 TAC §30.390(a) to add the Provisional Class D License for water operators to the table. The table lists the minimum requirements by water operator license type. The Provisional Class D License has no education or work experience required and has 22 hours of required training. Additionally, the training credit hours required for each license type was increased by 2 to account for the resiliency overview core course requirement. Starting on April 1, 2024, individuals who apply for a new water operator license and have not taken an updated core course with the resiliency component are required to take the Resiliency Overview Course for an additional two hours. Once the Resiliency Overview Course has been completed, it does not need to be repeated if the individual applies for another license level.

The commission also proposes to update Figure: 30 TAC §30.390(f) to add the Provisional Class D Water Operator License to the table. The table shows the required courses and elective courses for each type of water operator license. The Provisional Class D Water Operator License requires the Basic Waterworks Operation and the Resiliency Overview courses and requires no elective courses. The updated table also adds the Resiliency Overview course as core course requirement for all water operator license levels. This requirement has already been implemented and applies to applications received on or after April 1, 2024. The standalone Resiliency Overview Course is required if the individual did not take the updated Basic Waterworks Operation that incorporates resiliency overview topics into the course.

The commission proposes to amend 30 TAC §30.390(g) to clarify that an individual who previously held a Class A, B, or C license would not be eligible to apply for a Class D Water Operator license if the individual currently operates facilities listed in §30.390(g)(1)-(5). This is consistent with the requirements for the Wastewater Operator D license.

The commission proposes to amend 30 TAC §30.392 to implement the resiliency requirements for renewing a water operator license, as recommended by the Winter Storm Uri After Action Review. The commission proposes to amend §30.392(a)(1) to specify that two of the required 30 CE credit hours must be approved as resiliency training.

The commission proposes to delete 30 TAC §30.392(a)(2) to eliminate the option for licensed water operators to renew their license through examination. Currently, licensed water operators can either meet the continuing education requirements or pass the applicable exam again to be eligible to renew their license. The option to renew a license by taking the exam again was offered in the past to all license types, however this option was removed for all other licenses except for water and wastewater operators. To ensure that all water operators take the required resiliency CEs, the option to renew through re-examination needs to be discontinued. To maintain consistency, this option will be discontinued for water operators as well.

Approximately 5 licensees use this option annually to renew their license.

The commission proposes to add 30 TAC §30.392(e) to establish that applicants whose license expires on or after April 1, 2024, are required to take the Resiliency Overview Course as part of the continuing education requirement to renew a license. An individual must take the Resiliency Overview Course once to meet the resiliency training requirement. After that, the individual

may repeat the course for continuing education hours. Although not stated in the rule, TCEQ policy will allow these individuals two renewal cycles to complete the course. For example, if an individual's license expires on May 1, 2024, that individual would have until the next renewal cycle (May 1, 2027) to take the Resiliency Overview Course.

The commission proposes new 30 TAC §30.394 to implement new TWC §37.0045, Qualifications for Certain Licenses, as a result of HB 1845. The commission proposes §30.394(a) to establish that the Water Operator D provisional license may be issued to an individual that does not possess a high school diploma or equivalent and has also completed the required training, passed the applicable examination, and acts under the direct supervision of a license holder. The commission proposes §30.394(b) to establish that the provisional license is valid for two years and that the application fee is \$74. The commission proposes §30.394(c) to establish that provisional licenses are not renewable or reobtainable. The commission proposes §30.394(d) to establish that a provisional license holder whose license expires must submit proof of a high school diploma or equivalent and apply for a Class D operator or higher prior to the expiration date of the provisional license, to be able to continue to work as a licensed water operator. An advantage of applying for the Class D operator prior to the expiration date of the provisional license, is that the individual would not have to retake the Class D Operator exam. However, if the provisional license expires before the individual applies for the Class D license, the individual would need to re-test.

#### **Fiscal Note: Costs to State and Local Government**

Kyle Girten, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rules are in effect, fiscal impacts are anticipated for TCEQ as a result of implementation of the proposed rule. Proposed changes to 30 TAC §30.18, which would

require applicants to submit fingerprints for the purposes of obtaining a criminal history record unless they receive a waiver from TCEQ, would lead to cost savings for the agency. TCEQ pays \$1 for a TXDPS report each time individuals apply for new licenses or renewals. TXDPS waives this fee for the DPS reports reviewed within 30 days of the date that fingerprinting subscriptions are obtained by the applicant. Currently, TCEQ runs approximately 25,000 reports per year for new licenses and renewals, so it is estimated that \$25,000 will be saved each of the first three years after the proposed rules are in effect. In years four and five, which would be after the first licensing cycle after the fingerprinting requirement is implemented, it is estimated that savings would be approximately \$6,000 per year because savings would only apply to new applicants. Existing licensees will have already been fingerprinted by this time, so TCEQ will be responsible for the \$1 fee in years four and five for these new applicants.

Proposed changes to 30 TAC §§30.340, 30.344, and 30.394, which would create new Provisional Class D Licenses for water and wastewater operators that do not have a high school diploma or its equivalent, would result in increased revenue for TCEQ. TCEQ would receive \$74 as an application fee for each applicant. It cannot be estimated how many total applicants will apply for this license.

The rulemaking is not anticipated to result in any fiscal implications for other state or local government entities.

### **Public Benefits and Costs**

Mr. Girten determined that for each year of the first five years the proposed rules are in effect, the public benefit will be compliance and consistency with state law, specifically HB 1845, HB 2453, and SB 422 from the 88th Regular Legislative Session (2023). Additionally, proposed

changes to 30 TAC §30.390 and §30.394, which would require resiliency training for water operators, would assist licensed operators, public water systems, and affected utilities with preparing for, responding to, and recovering from severe weather-related events. This may assist with reducing the frequency with which water supplies are compromised during and following severe weather-related events. Lastly, the proposed rulemaking to require fingerprinting for applicants would improve public safety. Currently, TCEQ relies on applicants to attest to out-of-state offenses. The fingerprinting requirement would result in TCEQ having direct access to national criminal history information, and this would provide greater assurance that the agency has accurate information and can revoke a license or registration when necessary.

The proposed rulemaking would also benefit individuals without a high school diploma or its equivalent by making it possible for these individuals to obtain a provisional Class D Water and/or Wastewater Operator license. This would offer such individuals a means to enter the water and/or wastewater profession while working to obtain their high school diploma or its equivalent.

The proposed rulemaking would result in costs for individuals applying for a new license or individuals seeking a renewal of an existing license. These individuals would be responsible for a one-time fee, currently set at \$40, to get their fingerprints. In most cases, the employer is likely to pay this fee or reimburse the applicant for this cost. Individuals that receive a waiver from fingerprinting requirements from TCEQ would not incur this cost.

### **Local Employment Impact Statement**

The commission reviewed this proposed rulemaking and determined that a Local Employment

Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect.

#### **Rural Communities Impact Assessment**

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities.

#### **Small Business and Micro-Business Assessment**

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rule for the first five-year period the proposed rules are in effect.

#### **Small Business Regulatory Flexibility Analysis**

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rule does not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

#### **Government Growth Impact Statement**

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation of new employee positions,

eliminate current employee positions, nor require an increase or decrease in fees paid to the agency. The proposed rulemaking amends an existing regulation, and it does not create, expand, repeal, or limit this regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rule should not impact positively or negatively the state's economy.

#### **Draft Regulatory Impact Analysis Determination**

The commission reviewed this rulemaking action in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the proposed rules are not subject to that statute because the proposed rules do not meet the criteria for "major environmental rules" as defined in Texas Government Code, §2001.0225(g)(3). Texas Government Code, §2001.0225 applies only to rules that are specifically intended to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Texas Government Code, §2001.0225 does not apply because the proposed rules would only modify existing licensing and registration requirements.

The purpose of the proposed rules is to implement HB 1845, HB 2453, and SB 422 (88th Texas Legislature).

The specific intent of the proposed rules is: to ensure consistency between the rules and their applicable statutes as amended by recent legislation; 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; to issue a digital license or certificate of

registration in lieu of a physical paper license; and 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.

Furthermore, even if the proposed rules did meet the definition of a major environmental rule, the proposed rules are not subject to Texas Government Code, §2001.0225, because they do not meet any of the four applicability requirements specified in Texas Government Code, §2001.0225(a). Texas Government Code, §2001.0225(a) applies to rules proposed by an agency, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law.

In this case, the proposed rules do not meet any of these requirements: there are no federal standards for the occupational licenses and registrations program administered by the commission; the rules do not exceed an express requirement of state law; there is no delegation agreement that would be exceeded by the rules; and the proposed rules would implement HB 1845 and HB 2453 and SB 422 (88th Texas Legislature).

Written comments on the Draft Regulatory Impact Analysis Determination may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.



### **Takings Impact Assessment**

The commission has prepared a takings impact assessment for these proposed rules pursuant to Texas Government Code, §2007.043. The specific purpose of these proposed rules is: to ensure consistency between the rules and their applicable statutes as amended by recent legislation; 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; to issue a digital license or certificate of registration in lieu of a physical paper license; and 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.

The proposed regulations do not affect a landowner's rights in private real property because this proposed rulemaking does not burden, restrict, or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulations. The proposed rules do not constitute a taking because they would not burden private real property.

### **Consistency with the Coastal Management Program**

The commission reviewed the proposed rules and found that they are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(a)(6). Therefore, the proposed rules are not subject to the Texas Coastal Management Program.

Written comments on the consistency of this rulemaking may be submitted to the contact

person at the address listed under the Submittal of Comments section of this preamble.

### **Announcement of Hearing**

The commission will hold a hybrid virtual and in-person public hearing on this proposal in Austin on October 10, 2024, at 2:00 p.m. in building F, room 2210 at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing at 1:30 p.m.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by Tuesday, October 8, 2024. To register for the hearing, please email [Rules@tceq.texas.gov](mailto:Rules@tceq.texas.gov) and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on Wednesday, October 9, 2024, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

<https://events.teams.microsoft.com/event/9911ca85-b213-403e-bf2f-bb1182a11080@871a83a4-a1ce-4b7a-8156-3bcd93a08fba>

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-

800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

### **Submittal of Comments**

Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to *fax4808@tceq.texas.gov*. Electronic comments may be submitted at:

<https://tceq.commentinput.com/comment/search>. File size restrictions may apply to comments being submitted via the TCEQ Public Comments system. All comments should reference Rule Project Number 2024-004-030-WS. The comment period closes on October 14, 2024. Please choose one of the methods provided to submit your written comments.

Copies of the proposed rulemaking can be obtained from the commission's website at [https://www.tceq.texas.gov/rules/propose\\_adopt.html](https://www.tceq.texas.gov/rules/propose_adopt.html). For further information, please contact Rebecca Morigan, Occupational Licensing & Registration Division, 512-239-2463.

**SUBCHAPTER A: ADMINISTRATION OF OCCUPATIONAL LICENSES AND REGISTRATIONS**

**§§30.5, 30.7, 30.14, 30.18, 30.20, 30.24, 30.26, 30.28**

**Statutory Authority**

These amendments are proposed under the authority granted to the Texas Commission on Environmental Quality (commission) in Texas Water Code (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 are also proposed under TWC, §37.002, which provide the commission’s specific authority to adopt rules governing occupational licenses and registrations; TWC, §§26.0301, 37.003, 37.005, and 37.006; Texas Health and Safety Code, §§341.033, 341.034, 361.027, and 366.071, and Texas Occupations Code (TOC), §1903.251.

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

**§30.5. General Provisions.**

(a) A person must be licensed or registered by the commission before engaging in an activity, occupation, or profession described by Texas Water Code, §§26.0301, 26.345, 26.452, 26.456, Texas Health and Safety Code, §§341.033, 341.034, 361.027, 366.071, 366.0515, or Texas Occupations Code, §1903.251 and §1904.051. The commission shall issue a license or

registration only after an applicant has met the minimum requirements for a license or registration as specified in this chapter.

(b) A person shall not advertise or represent themselves to the public as a holder of a license or registration unless that person possesses a current license or registration. A person shall not advertise or represent to the public that it can perform services for which a license or registration is required unless it holds a current license or registration, or unless it employs individuals who hold current licenses.

(c) The executive director may contract with persons to provide services required by this chapter. The commission may authorize contractors to collect reasonable fees for the services provided.

(d) Licenses and registrations are not transferable.

(e) New licenses shall not be issued to employees of the commission who have regulatory authority over the rules of this chapter. Commission employees may maintain a license if that license was issued prior to employment with the commission.

(f) Prohibited Employment.

(1) Individuals subject to registration under the Texas Code of Criminal Procedure, Chapter 62 because of a reportable conviction or adjudication for which an affirmative finding is entered under Texas Code of Criminal Procedure, Article 42.015(b) or Section 5(e)(2), Article 45.12, and licensed after September 1, 2013, may not, for compensation,

provide or offer to provide any type of service in the residence of another person unless the provision of service will be supervised.

(2) For purposes of this subsection.

(A) "Residence" means a structure primarily used as a permanent dwelling and land that is contiguous to that permanent dwelling.

(B) "Supervision" means direct, continuous visual observation of the individual at all times.

(g) The executive director may issue a digital license or registration in lieu of a paper certificate or pocket card.

### **§30.7. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

(1) Aerobic treatment system owner--Persons that in their individual capacities own a single-family dwelling that is serviced by an on-site sewage disposal system using aerobic treatment.

(2) Approved application--An application submitted to the Occupational Licensing Section that contains all the information the executive director has deemed necessary to be accurately processed and that the executive director has determined to be approved.

(3) Approved [classroom] training providers--Entities that have been approved by the executive director to provide [classroom] training after demonstration of hands-on subject matter expertise, knowledge of and experience with educational principles, and effective instructional designs.

[(4) Approved conference and webinar training providers--Governmental entities or their designated agents, associations, or colleges as listed by accrediting agencies that are recognized by the United States Department of Education and that have been approved by the executive director to provide conference and webinar training.]

[(5) Approved distance training providers--Governmental entities or their designated agents, associations, or colleges as listed by accrediting agencies that are recognized by the United States Department of Education and that have] been approved by the executive director to provide distance training after demonstrating comparable subject matter expertise, knowledge of and experience with educational principles, and effective instructional designs.]

(4) [(6)] Approved training--Training which provides the knowledge and skills necessary to perform occupational job tasks and is used for obtaining or renewing a license or registration, as determined by the executive director.

(5) [(7)] Approved training delivery method--Methods approved by the executive director that currently include in-person, live-online, self-paced, and may include other technologies approved by the executive director. [instructor-led classroom training,

conferences, seminars, workshops, training at association meetings, distance training, or technology-based training.]

(6) [(8)] Association--The term association as used in the context of this chapter is an industry-related non-profit association whose members hold licenses or registrations issued by the commission or whose members are required to employ or contract with individuals who hold licenses or registrations issued by the commission.

(7) Association meetings--Sessions conducted by an Association that may be delivered in-person, live-online, or a combination of both.

(8) Classroom training--Training that is an instructor-led course held in real-time in a classroom environment and may be held in-person, live-online, or a combination of both.

(9) Conference--The term conference as used in the context of this chapter includes TCEQ-approved conferences, seminars, workshops, symposiums, expos, and any other such training venues and may be delivered in-person, live-online, or a combination of both and conducted by a governmental entity or their designated agents, associations, or colleges as listed by accrediting agencies that are recognized by the United States Department of Education.

(10) Continuing education--Job-related training credit approved by the executive director used for renewal of licenses or registrations.



(11) Core training--Courses required to obtain an occupational license or registration that are approved by the executive director.

(12) [(11)] Correspondence training--The term correspondence training as used in the context of this chapter is self-paced [distance] training that can either be paper-based and conducted through a postal system, electronic-based, [and conducted through a website,] or a blend of these delivery systems.

[(12) Distance training-- The acquisition of knowledge that occurs through various technologies with a separation of place and time between the instructor(s) or learning resources and the learner.]

(13) Distributor--Any person or nongovernmental organization that sells a product primarily to individuals maintaining occupational licenses or registrations administered by the agency.

(14) High school diploma--An earned high school diploma from a United States high school, an accredited secondary school equivalent to that of United States high school, or a passing score on the general education development (GED) test that indicates a high school graduation level.

(15) Home school diploma--An earned diploma from a student who predominately receives instruction in a general elementary or secondary education program that is provided by the parent, or by a person in parental authority, in or through the child's home.

(16) In-person training delivery method-- Training that is interactive instructor-led and delivered in real time at the same physical location.

(17) [(16)] License--An occupational license issued by the commission to a person authorizing the person to engage in an activity covered by this chapter.

(18) Live-online training delivery method-- Training that is delivered virtually in real time as either instructor-led classroom, conference, or association meeting.

(19) [(17)] Maintenance provider--A person that, for compensation, provides service or maintenance for one or more on-site sewage disposal systems using aerobic treatment.

(20) [(18)] Manufacturer--For the purpose of this subchapter any person, company, or nongovernmental organization that produces a product for sale primarily to individuals who maintain occupational licenses that are administered by the agency.

(21) [(19)] Person--As defined in §3.2 of this title (relating to Definitions).

(22) Prerecorded training--Training that has previously been recorded or developed through a virtual or online platform and is not delivered in person nor in real time.

(23) [(20)] Qualified instructor--An individual approved to teach a TCEO-approved core occupational licensing or registration course who has instructional experience,

work-related experience, and subject matter expertise that enables the individual to communicate course information in a relevant, informed manner and to answer students' questions.

(24) Qualified presenter--An individual approved to present TCEO-approved continuing education training who has instructional experience, work-related experience, and subject matter expertise that enables the individual to answer students' questions and to communicate course information in a relevant, informed manner.

(25) [(21)] Registration--An occupational registration issued by the commission to a person authorizing the person to engage in an activity covered by this chapter.

(26) Self-paced training delivery method--Training that is delivered using various technologies with a separation of place and time between the instructor or learning resources and the learner. Self-paced training may include correspondence training, prerecorded training, and other technologies approved by the executive director.

(27) [(22)] Service provider--Any person, company, or nongovernmental organization that provides a service for its own profit to individuals who maintain occupational licenses that are administered by the agency.

(28) [(23)] Subject matter expert--A person having a minimum of three years of hands-on work-related experience and expert knowledge in a particular content area or areas as relates to training.

[(24) Technology-based training--The term technology-based training as used in the context of this chapter includes training offered through computer equipment or through a website (also known as on-line training or e-learning).]

(29) [(25)] Training credit--Hours awarded by the executive director for successful completion of approved training.

(30) [(26)] Training provider--An administrative entity and its designated personnel who are [or individual] responsible for obtaining approval of training, providing acceptable delivery of approved training, ensuring that qualified instructors or subject matter experts are utilized in the delivery, support, and development of training and monitoring, recording, and reporting attendance accurately and promptly as required by the executive director.

[(27) Webinar--Interactive training delivered live via the Internet as a combination of conference training and distance training where the learner is separated by place from the learning source.]

**§30.14. Applications for Initial Company Registration.**

(a) Applications for initial company registrations shall be made on a standard form approved by the executive director. The application must be submitted to the executive director with the appropriate fee.

(b) Supplemental information for each individual program shall be submitted according to the specific requirements for each program.

(c) All statements and qualifications provided by the applicant or on the behalf of the applicant are subject to verification by the executive director.

(d) All statements, qualifications, and attachments provided by the applicant relating to an application shall be true, accurate, complete, and contain no misrepresentation or falsification.

(e) Misrepresentation or falsification of any information may be grounds for denial of an application and for enforcement action.

(f) All applications must be completed in full. All deficiencies must be resolved, and the applicant must notify the executive director that the deficiency has been resolved [corrected] within 120 [60] days of notification, or the application shall be considered expired [void].

(g) The executive director shall determine whether an applicant meets the requirements of this subchapter. If all requirements have been met, the executive director shall issue the registration. The registration shall be valid for the term specified in Subchapters B - L of this chapter (relating to Backflow Prevention Assembly Testers, Customer Service Inspectors, Landscape Irrigators, Installers, Irrigation Technicians and Irrigation Inspectors, Leaking Petroleum Storage Tank Corrective Action Project Managers and Specialists, Municipal Solid Waste Facility Supervisors, On-Site Sewage Facilities Installers, Apprentices, Designated Representatives, Maintenance Providers, Maintenance Technicians, and Site Evaluators. Water Treatment Specialists, Underground Storage Tank On-Site Supervisor Licensing and Contractor Registration, Wastewater Operators and Operations Companies, Public Water System Operators

and Operations Companies, Visible Emissions Evaluator Training and Certification, respectively.) The effective date of the registration shall be the date the executive director issues the registration.

**§30.18. Applications for an Initial License and Individual Registrations.**

(a) Applications for initial licenses and individual registrations shall be made on a standard form provided by the executive director. The application must be submitted to the executive director with the fee according to §30.30 of this title (relating to Terms and Fees for Licenses and Registrations). The application must be submitted to the executive director before the applicant may take the examination, if applicable.

(b) Applicants must submit a set of fingerprints for the purpose of obtaining a criminal history record from the Texas Department of Public Safety (TXDPS) and the Federal Bureau of Investigation, unless a waiver is approved by the executive director to allow an applicant to submit a criminal history via a different method.

(c) An individual unable to get fingerprinted may request a waiver from fingerprinting in writing from the executive director to be reviewed on a case-by-case basis.

(1) An individual who has any out-of-state arrests or convictions is not eligible for a waiver.

(2) Waiver requests shall be accompanied by appropriate documentation to support the waiver request.

(3) If a waiver is approved, the individual must either attest that they do not have a criminal history or provide a Texas DPS report or court documents attesting to their criminal history.

(4) If a waiver is approved, it is valid for three years.

(5) If a waiver is approved, the individual must notify the executive director if they are imprisoned due to a felony conviction, revocation of parole, or revocation of mandatory supervision during the period that the waiver is valid.

(c) [(b)] Supplemental information for each individual program shall be submitted according to the specific requirements for each program.

(d) [(c)] An approved application shall be valid for one year from the date of application approval.

(e) [(d)] All statements and qualifications provided by each applicant or on the behalf of the applicant are subject to verification by the executive director.

(f) [(e)] All statements, qualifications, and attachments provided by the applicant relating to an application shall be true, accurate, complete, and contain no misrepresentation or falsification.

(g) [(f)] Misrepresentation or falsification of any information may be grounds for denial of an application and for enforcement action.

(h) [(g)] All applications must be completed in full. All deficiencies must be resolved, and the applicant must notify the executive director that the deficiency has been resolved, [corrected] within 120 days of notification, or the application shall be considered expired [void].

(i) [(h)] An applicant must furnish evidence of any training credit, proof of education, or work experience when requested. Diplomas from non-accredited high schools will be evaluated by the executive director on a case-by-case basis and will be considered based on the following submitted information:

(1) transcript;

(2) documentation of actual coursework;

(3) time spent on coursework or program; and

(4) any additional documentation the executive director might reasonably request or that would assist the applicant in demonstrating the proof of their education claim.

(j) [(i)] The executive director shall determine whether an applicant meets the requirements of this subchapter. If all requirements have been met, the executive director shall issue the license. The license shall be valid for the term specified in Subchapters B - L of this chapter (relating to Backflow Prevention Assembly Testers; Customer Service Inspectors; Landscape Irrigators, Irrigation Technicians, and Irrigation Inspectors; Leaking Petroleum Storage Tank Corrective Action Project Managers and Specialists; Municipal Solid Waste Facility



Supervisors; On-Site Sewage Facilities Installers, Apprentices, Designated Representatives, Maintenance Providers, Maintenance Technicians, and Site Evaluators; Water Treatment Specialists; Underground Storage Tank On-Site Supervisor Licensing and Contractor Registration; Wastewater Operators and Operations Companies; Public Water System Operators and Operations Companies; and Visible Emissions Evaluator Training and Certification, respectively.) The effective date of the license shall be the date the executive director issues the license.

**§30.20. Examinations.**

(a) The executive director shall prescribe the content of licensing examinations. Examinations shall be based on laws, rules, job duties, and standards relating to the particular license. The contents of any examination required for licensure under this chapter are confidential and examinees may not share them with anyone.

(b) Examinations shall be graded and the results forwarded to the applicant no later than 45 days after the examination date. The minimum passing score for an examination is 70%.

(c) An individual with an approved application who fails an examination may not repeat an examination until receiving notification of examination results for that particular examination.

(d) The application expires [becomes void] either after 365 days from date of application or failing the same examination four times, whichever occurs first. If an application expires

[becomes void] a new fee and a new application must be submitted before the applicant may take the same examination again.

(e) Any scores for repeat examinations taken after an application expires [becomes void] will not be applied to the issuance of the license.

(f) Any qualified applicant with a physical, mental, or developmental disability may request reasonable accommodations to take an examination.

(g) Examinations shall be given at places and times approved by the executive director.

(h) Examinees must comply with all written and verbal instructions of the proctor and shall not:

(1) bring any unauthorized written material, in either printed or electronic formats, into the examination room;

(2) bring any electronic devices, including any device with a camera, into the examination room;

(3) share, copy, or in any way reproduce any part of the examination;

(4) engage in any deceptive or fraudulent act; or

(5) solicit, encourage, direct, assist, or aid another person to violate any provision of this section or compromise the confidentiality of the examination.

(i) The executive director shall provide an analysis of an examination when requested in writing by the applicant. The executive director shall ensure that an examination analysis does not compromise the fair and impartial administration of future examinations.

(j) An individual who wishes to observe a religious holy day on which the individual's religious beliefs prevent the individual from taking an examination scheduled by the agency on that religious holy day shall be allowed to take the examination on an alternate date.

(k) The executive director may deny an individual the opportunity to take a licensing examination on the grounds that the individual has been convicted of an offense, other than an offense punishable as a Class C misdemeanor, that:

(1) directly relates to the duties and responsibilities of the licensed occupation;

(2) is an offense listed in Texas Code of Criminal Procedure, Article 42.12, Section 3g; or

(3) is a sexually violent offense, as defined by Texas Code of Criminal Procedure, Article 62.001.

(l) The executive director may deny an individual the opportunity to take a licensing examination on the grounds that:

(1) the individual was charged with:

(A) any offense described by Texas Code of Criminal Procedure, Article 62.001(5); or

(B) an offense other than an offense described by subparagraph (A) of this paragraph if:

(i) the individual has not completed the period of supervision, or the individual completed the period of supervision less than five years before the date the individual applied for the license; or

(ii) a conviction for the offense would make the individual ineligible for the license by operation of law; and

(2) after consideration of the factors described by Texas Occupations Code, §§53.021(d), 53.022, and 53.023(a), the executive director determines that:

(A) the individual may pose a continued threat to public safety; or

(B) employment of the individual in the licensed occupation would create a situation in which the individual has an opportunity to repeat the prohibited conduct.

(m) After notice and opportunity for a hearing, the commission may deny or revoke any license or registration held by a person who violates any of the provisions of this section. The commission may file a criminal complaint against any individual who removes or attempts to remove any portion of the examination, reproduces without permission any part of the examination, or who engages in any fraudulent act relating to the examination process.

(n) The commission shall follow the notification requirements in §30.36 of this title (relating to Notice) prior to denying an individual the opportunity to take a licensing examination based on the individual's prior conviction of an offense.

**§30.24. License and Registration Applications for Renewal.**

(a) A license or registration may not be renewed if it has been:

(1) expired for more than 30 days and an application has not been received by the executive director or postmarked within 30 days after the expiration date of the license or registration;

(2) revoked; or

(3) replaced by a higher class of license.

(b) Applications for renewal must be made on a standard form provided by the executive director.

(1) The executive director shall mail a renewal notification at least 60 days before the license or registration expires to the most recent address provided to the executive director. If a person does not receive a renewal notification, the person is not relieved of the responsibility to timely submit a renewal application.

(2) The person is responsible for ensuring that the completed renewal application, the renewal fee, and other required information are submitted to the executive director by the expiration date of the license or registration.

(c) Applicants for a license or individual registration must submit a set of fingerprints for the purpose of obtaining a criminal history record from the Texas Department of Public Safety TXDPS and the Federal Bureau of Investigation unless a waiver is approved by the executive director to allow an applicant to submit a criminal history via a different method.

(d) An individual unable to get fingerprinted may request a waiver from fingerprinting in writing from the executive director to be reviewed on a case-by-case basis.

(1) An individual who has any out-of-state arrests or convictions is not eligible for a waiver.

(2) Waiver requests shall be accompanied by appropriate documentation to support the waiver request.

(3) If a waiver is approved, the individual must either attest that he/she has no criminal history or provide a Texas DPS report or court documents attesting to their criminal history.

(4) If a waiver is approved, it is valid for three years.

(5) If a waiver is approved, the individual must notify the ED within 30 days if they are imprisoned due to a felony conviction, revocation of parole, or revocation of mandatory supervision during the period that the waiver is valid.

(e) [(c)] All statements, qualifications, and attachments provided by the applicant that relate to a renewal application shall be true, accurate, complete, and contain no misrepresentation or falsification.

(f) [(d)] Approved training to renew a license must be successfully completed after the issuance date and before the expiration date of the current license. Any training credits completed in excess of the amount required for the renewal period shall not be carried over to the next renewal period.

(g) [(e)] An individual who holds a license prescribed by Texas Water Code, §26.0301, or Texas Health and Safety Code, §341.033 or §341.034, specifically the holder of a Class A or Class B public water system operator or Class A or B wastewater treatment facility operator license may certify compliance with continuing education requirements prior to or at the time the license is renewed by submitting a continuing education certification form available from the executive director.

(h) [(f)] The executive director may renew a license or registration if the application is received by the executive director or is postmarked within 30 days after the expiration date of the license or registration, and the person meets the requirements for renewal by the expiration date of the license or registration and pays all appropriate fees. This subsection does not extend the validity period of the license or registration nor grant the person authorization to perform duties requiring a license or registration. This subsection only allows an additional 30 days after the expiration of the license or registration for the person to submit the renewal application, any supporting documentation, and appropriate fees.

(i) [(g)] An individual whose license renewal application is not received by the executive director or is not postmarked within 30 days after the license expiration date may not renew the license and must meet the current education, training, and experience requirements, submit a new application with the appropriate fee, and pass the examination. A person whose registration renewal application is not received by the executive director or is not postmarked within 30 days after the expiration date may not renew the registration and must submit a new application with the appropriate fee and meet all applicable requirements for a new registration.

(i) [(h)] Persons failing to renew their license or registration in a timely manner due to serving as a military service member may renew their license within two years of returning from active duty by submitting the following:

- (1) a completed renewal application;



(2) a copy of the military orders substantiating the military service during the time the license expired; and

(3) the applicable license renewal fee.

(k) [(i)] For good cause the executive director may extend the two years period for a military service member seeking to renew their license. Good cause may include, but is not limited to, hospitalization or injury to the licensee.

(l) [(j)] Completion of the required continuing education will be waived for the renewal cycle for military service members outside of this state who were unable to complete the requirements.

(m) [(k)] These procedures apply only to military service members who are outside this state and not to military contractors.

(n) [(l)] All licensees must notify the executive director of any change in the previously submitted application information within ten days from the date the change occurs.

(o) [(m)] All registration holders must notify the executive director of any change in the previously submitted application information within ten days after the month in which the change occurs.

(p) [(n)] Licenses and registrations that have renewal cycles in transition shall follow the renewal requirements in the applicable subchapter.

(q) [(o)] The executive director shall determine whether an applicant meets the renewal requirements of this subchapter. If all requirements have been met, the executive director shall renew the license or registration.

(r) [(p)] The license or registration shall be valid for the term specified.

(s) [(q)] If the application does not meet the requirements, the executive director shall notify the applicant in writing of the deficiencies.

(t) [(r)] All deficiencies must be resolved, and the applicant must notify the executive director that the deficiency has been resolved [corrected] within 30 days of date printed on the notification, or the renewal application shall be considered expired [void] after the license expiration date.

(u) [(s)] A person whose license or registration has expired shall not engage in activities that require a license or registration until the license or registration is renewed or a new license or registration has been obtained.

(v) [(t)] The commission shall follow the notification requirements in §30.36 of this title (relating to Notice) prior to denying an individual the opportunity to renew a license based on the individual's prior conviction of an offense.

**§30.26. Recognition of Licenses from Out-of-State; Licenses for Military Service Members,**

**Military Veterans, or Military Spouses.**

(a) Except for landscape irrigators the executive director may waive qualifications, training, or examination for individuals with a good compliance history who hold a current license from another state, territory, or country if that state, territory, or country has requirements equivalent to those in this chapter.

(b) A license may be issued after review and approval of the application, receipt of the appropriate fee, and verification of the license from the corresponding state, territory, or country.

(c) The executive director may waive any of the prerequisites for obtaining a landscape irrigator license, if the applicant is licensed as an irrigator in another jurisdiction that has a reciprocity agreement with the State of Texas.

(d) The executive director may require the applicant to provide information about other occupational licenses and registrations held by the person, including:

(1) the state in which the other license or registration was issued;

(2) the current status of the other license or registration; and

(3) whether the other license or registration was ever denied, suspended, revoked, surrendered, or withdrawn.

(e) To maintain a license that was issued on the basis of reciprocity, applicants must comply with the renewal requirements of this subchapter. Reciprocity will not be granted for the issuance of lower level licenses of the same type as the one that was initially issued on the basis of reciprocity.

(f) Military Service Members, Military Veterans, or Military Spouses.

(1) The executive director shall issue a license to an applicant who is a military service member, military veteran, or military spouse and:

(A) holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license; or

(B) within the five years preceding the application date held the license in this state.

(2) A license issued under this subsection shall be valid for the term specified in §30.18(i) of this title (relating to Applications for an Initial License).

(3) The executive director shall notify the license holder of the requirements for renewing a license issued under this subsection as specified in §30.24(b)(1) of this title (relating to License and Registration Applications for Renewal).

(4) The executive director shall issue a license to an individual who meets the requirements in § 30.26(f)(1) within 30 days of receipt of application unless:

(1) the application is deficient; or

(2) the executive director has not received verification from the out-of-state jurisdiction.

(g) In lieu of the standard method(s) of demonstrating competency for a particular license, and based on the applicant's circumstances, the alternative methods for demonstrating competency may include, but not be limited to, any combination of the following as determined by the executive director:

(1) education;

(2) continuing education;

(3) examinations (written, practical, or a combination of written and practical);

(4) letters of good standing;

(5) letters of recommendation;

(6) work experience; or

(7) other methods or options as determined by the executive director.

(h) Military service members or military veterans. The executive director shall credit verified military service, training, or education toward the licensing requirements.

(1) Verified military service, training, or education shall not be credited toward an examination requirement.

(2) The executive director may not apply this credit provision to an applicant who:

(A) holds a restricted license issued by another jurisdiction; or

(B) has an unacceptable criminal history.

**§30.28. Approval of Training.**

(a) The executive director shall approve training that provides the knowledge or skills necessary to obtain or maintain licenses or registrations that are issued by the commission. This training shall be directly related to tasks performed by persons whose duties require a license or registration in a program that is administered by the commission.

(b) The executive director may approve specific training events [delivery methods], to include:

(1) classroom training;

(2) conferences;

(3) prerecorded training; [technology-based training]

(4) correspondence training [courses or similar distance training];

(5) association meetings that include training sessions containing subject matter related to the particular license; or

(6) other professional activities, such as the publication of articles.

(c) The executive director may approve specific training delivery methods to include:

(1) in-person;

(2) live-online; or

(3) self-paced training.

(d) [(c)] The executive director shall award training credit for successful completion of approved training used for obtaining or renewing a license.

(e) [(d)] The executive director shall determine the occupational program(s) and number of hours of training credit that will be granted for approved training. The executive director may:

(1) use the provider's subject matter experts' qualifications to determine the program(s); and

(2) request field testing data from training providers to validate the hours requested.

(f) [(e)] Training providers who submit applications for approval must:

(1) utilize a standard form and method provided by the executive director;

(2) include the applicable fee found in the chart contained in subsection (g) of this section;

(3) include supplemental information and materials according to the specific requirements for each method of training as approved by the executive director;

(4) include supplemental materials and information edited by subject matter experts;

(5) include samples of certificates of completion, including information as required by the executive director;

(6) document approval from the publisher to reprint text, pictures, graphics, tables, data, and any other information that is copyrighted or obtained from a source that is not



an original creation of the training provider. The training materials submitted shall include appropriate references; and

(7) resolve [respond]any deficiencies and notify the executive director when deficiencies have been resolved, within 60 days of the notification provided by the executive director or the application will become void and the fee forfeited.

(g)[(f)] The executive director shall determine whether a provider meets the requirements of this subchapter.

(h)[(g)] Fees for training applications will be calculated based on the number of requested training credit hours, number of core courses for instructor qualifications, or type of association meetings using the following table. If the requested hours are significantly different than the actual hours of training awarded, the executive director may request an adjustment in the fee from the applicant. If the applicant does not provide the adjusted fee, the application will not be processed, resulting in denial of training approval. Fees are nonrefundable whether the training is approved or not approved.

Figure: 30 TAC §30.28(h)[§30.28(g)]

<u>Training Type</u>	<u>Fee Amount</u>
<u>Association Meetings</u>	
<u>Single event training session up to two hours. Sessions over two hours are considered conference</u>	<u>\$10.00 per training credit hour</u>
<u>Annual review for an association with a single chapter, section, or district with 12 or less meetings per year</u>	<u>\$100 per annual review application</u>
<u>Annual review for an association with multiple chapters, sections,</u>	<u>\$400 per annual review application</u>

<u>or districts with 12 or less meetings per year</u>	
<b>Conferences</b>	
<u>All conferences</u>	<u>\$10.00 per training credit hour or a minimum of \$50 whichever is greater</u>
<b>Classroom Training</b>	
<u>Using existing approved manuals. May be in-person or live-online.</u>	<u>\$10.00 per training credit hour or a minimum of \$50 whichever is greater</u>
<u>With new manuals and new materials. May be in-person or live-online.</u>	<u>\$25 per training credit hour or a minimum of \$100 whichever is greater</u>
<b>Self-Paced Training</b>	
<u>All self-paced training</u>	<u>\$25 per training credit hour or a minimum of \$100 whichever is greater</u>
<b>Instructor Qualification Fee</b>	
<u>Fee not required when submitted with an initial training application for a core course.</u>	<u>\$10 per core course</u>

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<b>Type of Delivery Method</b>	<b>Fee Amount</b>
<b>Association Meetings</b> - training sessions up to two hours (over two hours, see conferences)	\$10.00 per training credit hour
<b>Association Meetings</b> - annual review for single chapter, section, or district with 12 or less meetings per year	\$100 per annual review application
<b>Association Meetings</b> - annual review for multiple chapters, sections, or districts with 12 or less meetings per year	\$400 per annual review application
<b>Conferences</b>	\$10.00 per training credit hour or a minimum of \$50 whichever is greater
<b>Classroom Training</b> - using existing approved manuals	\$10.00 per training credit hour or a minimum of \$50 whichever is greater
<b>Classroom Training</b> - with new manuals and new materials	\$25 per training credit hour or a minimum of \$100 whichever is greater
<b>[Technology-Based Training</b>	\$25 per training credit hour or a minimum of \$100 whichever is greater]

<b>Correspondence Courses</b>	\$25 per training credit hour or a minimum of \$100 whichever is greater
<b>[Webinar</b>	\$50 for initial review, then \$10.00 per training credit hour for subsequent applications]

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(i) [(h)] Training delivered to meet the requirements for obtaining or renewing a license must:

- (1) be approved by the executive director before the training begins;
- (2) provide the knowledge or skills necessary to perform one or more of the occupation's critical job tasks as determined by a job analysis or training needs assessment;
- (3) not promote or endorse the products, product lines, or services of a manufacturer, distributor, or service provider or used as an opportunity for advertisement;
- (4) provide the means to accomplish the learning objectives identified for the training;
- (5) contain learning aids, such as visual aids and graphics. Training must be interactive in order to enhance learning and attain learning objectives;
- (6) include regular monitoring of student comprehension throughout the training and provide feedback from the training provider, instructor, or subject matter expert to the student;

(7) verify student's identity;

(8) [(7)] be monitored for successful student completion;

(9) [(8)] track student time and progress toward completing learning objectives;

and

(10) [(9)] utilize, at a minimum, subject matter experts and instructional design experts or effective qualified instructors to develop training materials for approval.

Additionally, development of self-paced [technology-based] training must also utilize qualified subject matter experts in self-paced [technology] delivery methods.

(j) [(i)] Training shall not be advertised as approved until notice of approval is received from the executive director.

(k) [(j)] Training may not be held in a place of business of a product manufacturer, distributor, or service provider directly related to the occupational license for which the training provider seeks approval.

(l) [(k)] Once training is approved, training providers may offer the training without notification to the executive director.

(m) [(l)] Training is considered approved until the content changes, or until the executive director notifies the training provider that changes in the content or delivery of the training are required.

(n)[(m)] If a training provider changes the delivery method of the training, the training must be submitted for review and approval by the executive director.

(o)[(n)] The executive director may:

(1) deny applications for training courses that contain extensive errors or do not meet the requirements of this section;

(2) conduct an administrative review for application completeness and a technical review for compliance with applicable agency rules;

(3) monitor, recall, reevaluate, and/or rescind approval of topics or training materials;

(4) require training providers to update training delivery methods or training materials to ensure that the content reflects current technology and practices;

(5) deny an application after determination that another delivery method is more conducive for the training material; and

(6) recall training for reevaluation which may result in rescinding any previous approval.

(p)[(o)] The executive director's grounds for recalling, rescinding, suspending, or denying approval include, but are not limited to:

- (1) the training does not conform to current accepted industry standard practices or agency rules;
- (2) the training does not conform to the materials or method as approved;
- (3) the subject matter is not related to critical job tasks performed by licensees;
- (4) an instructor is not qualified to teach the subject matter;
- (5) an instructor is ineffective in the delivery of the subject matter;
- (6) the training promotes or endorses products, product lines, or services from a manufacturer, distributor, or service provider;
- (7) the training credits for successfully completed training are not electronically submitted within 14 business days of course completion;
- (8) the records, rosters, or application materials have been falsified;
- (9) the training provider does not comply with a training recall;

(10) the training provider is not active or training has not been conducted for three or more years; or

(11) the training environment is not conducive to learning.

(q)[(p)] The following types of training will not be approved or awarded training credit:

(1) self-paced [distance] training [or webinars] that is [are] repeated during the renewal period; or

(2) self-paced [distance training] and live-online training that is intended to teach required manual skills. ; [or]

[(3) webinar training that is submitted to qualify an applicant for an initial license.]

(r)[(q)] Approved training providers shall:

(1) ensure the executive director has the most current electronic edition of training materials;

(2) keep manuals and training content updated to reflect rule changes;

(3) submit approved training material that references rules for reapproval within 180 days of any new rule adoption that pertains to that training;

(4) submit material with substantial changes, including a summary, list, or other indication of changes, for review and reapproval by the executive director;

(5) allow the executive director staff or their agents access to training in order to audit training content, manner of delivery, and the effectiveness and qualifications of instructors and subject matter experts;

(6) be responsible for the content and delivery of the training;

(7) retain accurate training records for a minimum of five years;

(8) maintain records of training approval throughout the entire period the training provider actively delivers training;

(9) ensure that instructors and subject matter experts are qualified and provide the executive director with qualifications when requested;

(10) notify students of all fees associated with completing the training and obtaining credit for training before and during the training;

(11) accurately present to students the approved training credit along with any other criteria for obtaining full or partial training credit;



(12) provide students with approved copies of texts, manuals, or other training materials to use during the training and for future reference required by the delivery method and as approved by the executive director;

(13) verify participation;

(14) provide acceptable procedures for student identity verification;

(15) maintain procedures to protect student identity and personal information;

(16) provide students access to subject matter experts to answer technology-related and content-related questions within one business day from the time of request; and

(17) electronically report the students' successfully completed training credit hours per procedures provided and approved by the executive director, not to exceed approved training credit hours, within 14 business days of training completion.

(s)[(r)] Printed training material must be presented in an original manner and must be relevant to the critical job tasks and knowledge for the occupational licensees.

(t)[(s)] Public information copied from websites or other sources is not acceptable as training materials unless modified to be applicable to the target audience and the method of delivery.

**SUBCHAPTER E: LEAKING PETROLEUM STORAGE TANK CORRECTIVE ACTION PROJECT  
MANAGERS AND SPECIALISTS**

**§30.185**

**Statutory Authority**

These amendments are proposed under the authority granted to the commission in Texas Water Code (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 adopted rules incorporate additional recommended changes to 30 TAC 30.

**§30.185. Qualifications for License Renewal.**

(a) To renew a license, an individual must:

(1) meet the requirements in Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations); and

(2) complete 20 [32] hours of approved continuing education.

(b) With the exception of professional engineers and professional geoscientist, an application for renewal of a corrective action project manager license is complete when the executive director has received an application for renewal on a form provided by the executive director, completed in a manner acceptable to the executive director, and is accompanied with

the required training certificate indicating 20 [32] hours of continuing education; and payment of applicable fees specified in §30.30 of this title (relating to Terms and Fees for Licenses and Registrations).

**SUBCHAPTER J: WASTEWATER OPERATORS AND OPERATIONS COMPANIES**

**§§30.340, 30.342, 30.344, 30.350**

**Statutory Authority**

These amendments are proposed under the authority granted to the commission in Texas Water Code (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.

The adopted rules implement TWC, §37.0045 as added by HB 1845.

**§30.340. Qualifications for Initial License.**

(a) To obtain a license, an individual must have met the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations), the following requirements for each class of license, and pass an examination.

**Figure: 30 TAC §30.340(a) [30 TAC §30.340(a)]**

<b><u>License</u></b>	<b><u>Education</u></b>	<b><u>Required Work Experience</u></b>	<b><u>Required Training</u></b>
<u>Provisional Class D License</u>	<u>None</u>	<u>None</u>	<u>20 hours</u>
<u>Class D or Class I</u>	<u>High School diploma (HSD) or Equivalent</u>	<u>None</u>	<u>20 hours</u>
<u>Class C or Class II</u>	<u>HSD or equivalent</u>	<u>2 years</u>	<u>60 hours</u>
<u>Class B or Class III</u>	<u>Bachelor's HSD or</u>	<u>2 years</u>	<u>100 hours</u>
		<u>5 years</u>	<u>100 hours</u>

	<u>equivalent</u>		
<u>Class A</u>	<u>Master's</u>	<u>4 years</u>	<u>160 hours</u>
	<u>Bachelor's</u>	<u>5 years</u>	<u>160 hours</u>
	<u>HSD or equivalent</u>	<u>8 years</u>	<u>160 hours</u>

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<b>License</b>	<b>Education</b>	<b>Required Work Experience</b>	<b>Required Training</b>
Class D or Class I	High School diploma (HSD) or Equivalent	None	20 hours
Class C or Class II	HSD or equivalent	2 years	60 hours
Class B or Class III	Bachelor's HSD or equivalent	2½ years 5 years	100 hours 100 hours
Class A	Master's  Bachelor's HSD or equivalent	4 years 5 years 8 years	160 hours 160 hours 160 hours

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(b) At least one-half of the total experience required for a wastewater treatment license must be in actual domestic wastewater treatment facility operation or maintenance duties. Related experience, which involves tasks similar to those required for operation of wastewater treatment facilities, will count at a rate of 50% toward meeting the total experience requirement. For laboratory experience to be applicable, the laboratory must be owned and operated by the permittee and the laboratory technician must consult daily with operational personnel.

(c) Wastewater collection system experience must be in actual wastewater collection system operation or maintenance duties. Credit for wastewater experience that is not directly connected with collection system operation or maintenance shall be approved if the experience

involves tasks that are similar to that required for the operation and maintenance of collection systems. Each year of related experience shall count as 1/2 year of experience. Each year of experience in collection system operation and maintenance shall only count as 1/2 year of experience toward a wastewater treatment facility operator license.

(d) Individuals who request to substitute a bachelor's or master's degree for experience at the Class A, Class B, or Class III level must have a major in chemistry, biology, engineering, microbiology, bacteriology, or another similar discipline approved by the executive director.

(e) For each license, applicants may substitute either college hours or training credit hours to meet the experience requirement:

(1) 16 semester hours or an additional 20 hours of training credits are equal to six months of the required work experience;

(2) Class C and Class II applicants may only substitute up to one year of the required work experience; and

(3) Class A, Class B, and Class III applicants may only substitute up to two years of the required work experience.

(f) The hours of training credit required for a license must be in approved courses, which include the following or their equivalents.

**Figure: 30 TAC §30.340(f) [30 TAC §30.340(f)]**

<b><u>License</u></b>	<b><u>Required Courses</u></b>	<b><u>Elective Courses</u></b>
<u>Provisional Class D</u>	<u>Basic Wastewater Operation</u>	<u>None</u>
<u>Class D</u>	<u>Basic Wastewater Operation</u>	<u>None</u>
<u>Class C</u>	<u>Basic Wastewater Operation</u> <u>Activated Sludge or Wastewater Treatment</u> <u>plus one elective course</u>	<u>Wastewater Collection</u> <u>Wastewater Laboratory</u> <u>Water Utility Calculations</u> <u>Water Utility Safety</u>
<u>Class B</u>	<u>Basic Wastewater Operation</u> <u>Activated Sludge or Wastewater Treatment</u> <u>Wastewater Collection</u> <u>Wastewater Laboratory</u> <u>Water Utility Safety</u> <u>plus one elective course</u>	<u>Intermediate Wastewater Laboratory</u> <u>Water Utility Calculations</u> <u>Water Utility Management</u>
<u>Class A</u>	<u>Basic Wastewater Operation</u> <u>Activated Sludge or Wastewater Treatment</u> <u>Wastewater Collection</u> <u>Wastewater Laboratory</u> <u>Water Utility Management</u> <u>Water Utility Safety</u> <u>plus one elective course</u>	<u>Intermediate Wastewater Laboratory</u> <u>Water Utility Calculations</u> <u>Wastewater Technology</u> <u>Advanced Management</u>
<u>Class I</u>	<u>Wastewater Collection</u>	<u>None</u>
<u>Class II</u>	<u>Basic Wastewater Operation</u> <u>Wastewater Collection</u> <u>plus one elective course</u>	<u>Water Utility Safety</u> <u>Pump and Motor Maintenance</u>
<u>Class III</u>	<u>Basic Wastewater Operation</u> <u>Wastewater Collection</u> <u>Water Utility Safety</u> <u>Pump and Motor Maintenance</u> <u>plus one elective course</u>	<u>Intermediate Wastewater Laboratory</u> <u>Water Utility Management</u> <u>Water Utility Calculations</u> <u>Pre-treatment Facility Inspection</u>

<b><u>License</u></b>	<b><u>Required Courses</u></b>	<b><u>Elective Courses</u></b>
<u>Class D</u>	<u>Basic Wastewater Operation</u>	<u>None</u>
<u>Class C</u>	<u>Basic Wastewater Operation</u> <u>Activated Sludge or Wastewater Treatment</u> <u>plus one elective course</u>	<u>Wastewater Collection</u> <u>Wastewater Laboratory</u> <u>Water Utility Calculations</u> <u>Water Utility Safety</u>

Class B	Activated Sludge or Wastewater Treatment Wastewater Collection Wastewater Laboratory Water Utility Safety plus one elective course	Intermediate Wastewater Laboratory Water Utility Calculations Water Utility Management
Class A	Activated Sludge or Wastewater Treatment Wastewater Collection Wastewater Laboratory Water Utility Management Water Utility Safety plus one elective course	Intermediate Wastewater Laboratory Water Utility Calculations Wastewater Technology Advanced Management
Class I	Wastewater Collection	None
Class II	Basic Wastewater Operation Wastewater Collection plus one elective course	Water Utility Safety Pump and Motor Maintenance
Class III	Basic Wastewater Operation Wastewater Collection Water Utility Safety Pump and Motor Maintenance plus one elective course	Intermediate Wastewater Laboratory Water Utility Management Water Utility Calculations Pre-treatment Facility Inspection

(g) An individual who previously held a Class D license or higher may not apply for a new Class D license if the individual currently operates any activated sludge type facilities, any trickling filter or rotating biological contractor facilities with a permitted daily average flow of 100,000 gallons per day or greater, or any facility that uses a subsurface area drip dispersal system as defined in §222.5 of this title (relating to Definitions) for disposal of its effluent. A trickling filter or rotating biological contractor is a secondary aerobic process that uses microbiological organisms attached to a fixed substrate.

**§30.342. Qualifications for License Renewal.**

(a) To renew a license, an individual must have



[ (1) met the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations) and completed a total amount of approved continuing education equal to that of ten hours per year the license is valid; or ]

[ (2) met the requirements of Subchapter A of this chapter and passed the examination for the license. ]

(b) The basic wastewater operation course may not be used to renew a Class B or A license.

(c) Class D licenses are not renewable for operators of:

(1) any activated sludge type facilities;

(2) any trickling filter or rotating biological contractor (RBC) facilities with a permitted daily average flow of 100,000 gallons per day or greater. A trickling filter or RBC facility is a facility that uses secondary aerobic biological processes for treatment of sewage;

(3) any facility that uses a subsurface area drip dispersal system as defined in §222.5 of this title (relating to Definitions) for disposal of its effluent.

(d) To renew an active converted perpetual license, an individual must have met the requirements of this section, with the exception of the renewal fee.

**§30.344. Provisional Licenses**

(a) A provisional license for a Class D license may be issued to an individual that does not possess a high school diploma or equivalent and who:

(1) has completed the required training;

(2) passed the applicable examination; and

(3) acts under the direct supervision of a license holder.

(b) A provisional license shall have:

(1) a validity period of two years; and

(2) an application fee of \$74.00.

(c) Provisional licenses are not renewable and not reobtainable.

(d) To continue to work as a licensed operator the provisional license holder must, before the expiration date of the provisional license:

(1) submit proof of a high school diploma or equivalent; and

(2) apply for a Class D license or higher.

**§30.350. Classification of Wastewater Treatment Facilities, Wastewater Collection Systems, and Licenses Required.**

(a) Operators of remote or mobile sludge processing facilities are required to hold a valid Class D or higher license.

(b) Operators of domestic wastewater treatment facilities owned and located on industrial sites that are regulated by industrial-type wastewater disposal permits are required to be licensed, only if the point of discharge is separate from any other industrial outfalls and the domestic wastewater is not mixed with other industrial wastewater before discharge.

(c) An individual first entering the field of wastewater treatment or collection may be employed as an operator-in-training for a period up to one year. An operator-in-training must perform all process control tasks in the presence of a licensed operator.

(d) Each holder of a wastewater disposal permit for a wastewater treatment facility shall employ or contract with one or more licensed wastewater treatment facility operators holding the appropriate level of license or wastewater system operations companies holding a valid registration and employing licensed wastewater treatment facility operators holding the appropriate level of license.

(e) Domestic wastewater treatment facilities will be classified in accordance with the following criteria.

**Figure: 30 TAC §30.350(e) [30 TAC §30.350(e)]**

<u>Permitted Daily Average Flow</u>	<u>Category</u>
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<b><u>No Discharge Treatment Systems</u></b>	
<u>All flows with a disposal system other than a subsurface area drip dispersal system</u>	<u>D</u>
<u>All flows with subsurface area drip dispersal systems</u>	<u>C</u>
<b><u>Pond Systems Preceded by Imhoff Tanks, Primary Clarifiers, or Facultative Lagoons</u></b>	
<u>1.0 million gallons per day (MGD) or less</u>	<u>D</u>
<u>Greater than 1.0 MGD</u>	<u>C</u>
<b><u>Activated Sludge- Extended Aeration Mode and Oxidation Ditch System</u></b>	
<u>0.10 MGD or less</u>	<u>D</u>
<u>Greater than 0.10 MGD to 1.0 MGD</u>	<u>C</u>
<u>Greater than 1.0 MGD to 10.0 MGD</u>	<u>B</u>
<u>Greater than 10.0 MGD</u>	<u>A</u>
<b><u>Activated Sludge- Modes Other than Extended Aeration</u></b>	
<u>0.050 MGD or less</u>	<u>D</u>
<u>Greater than 0.050 MGD to 1.0 MGD</u>	<u>C</u>
<u>Greater than 1.0 MGD to 10.0 MGD</u>	<u>B</u>
<u>Greater than 10.0 MGD</u>	<u>A</u>
<b><u>Trickling Filter, Rotating Biological Contactor, or Other Fixed Film Processes</u></b>	
<u>0.50 MGD or less</u>	<u>D</u>
<u>Greater than 0.50 MGD to 2.0 MGD</u>	<u>C</u>
<u>Greater than 2.0 MGD to 10.0 MGD</u>	<u>B</u>
<u>Greater than 10.0 MGD</u>	<u>A</u>

<b>Treatment System</b>	<b>Permitted Daily Average Flow</b>	<b>Category</b>
No Discharge Treatment Systems	All flows with a disposal system other than a subsurface area drip dispersal system	D
	All flows with subsurface area drip dispersal systems	C
Pond Systems Preceded by Imhoff Tanks, Primary Clarifiers, or Facultative Lagoons	1.0 million gallons per day (MGD) or less	D
	Greater than 1.0 MGD	C
Activated Sludge (Extended Aeration Mode) and Oxidation Ditch Systems	0.10 MGD or less	D
	Greater than 0.10 MGD to 1.0 MGD	C
	Greater than 1.0 MGD to 10.0 MGD	B
	Greater than 10.0 MGD	A

Activated Sludge (Modes other than Extended Aeration)	0.050 MGD or less Greater than 0.050 MGD to 1.0 MGD Greater than 1.0 MGD to 10.0 MGD Greater than 10.0 MGD	D C B A
Trickling Filter, Rotating Biological Contactor, or other Fixed Film Processes	0.50 MGD or less Greater than 0.50 MGD to 2.0 MGD Greater than 2.0 MGD to 10.0 MGD Greater than 10.0 MGD	D C B A

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(f) Category D wastewater treatment facilities shall be reclassified as Category C facilities if any of the following conditions exist:

(1) a Category D facility incorporating anaerobic sludge digestion, except Imhoff tanks with sludge drawn off to drying beds;

(2) a Category D facility whose permit requires nutrient reduction; or

(3) a Category D facility whose permit requires the final effluent to meet a daily average biochemical oxygen demand<sup>5</sup> or total suspended solids concentration less than ten milligrams per liter.

(g) A wastewater treatment facility having a combination of treatment processes that are in different categories shall be assigned the higher category.

(h) The executive director may increase the treatment facility classification for facilities which include unusually complex processes or present unusual operation or maintenance conditions.

(i) The chief operator of each wastewater treatment facility must possess a license equal to or higher than that of the category of treatment facility.

(j) Each category of facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher. The licensed chief operator or operator holding the required level of license or higher must be available by telephone or pager seven days per week.

(k) When shift operation of the wastewater treatment facility is necessary, each shift must be operated by an operator in charge who is licensed at not less than one level below the category of the facility.

(l) Either the licensed chief operator or licensed operator in charge must be present for scheduled commission inspections.

(m) A licensed wastewater treatment facility operator may perform all duties relating to the operation and maintenance of both wastewater treatment facilities and wastewater collection systems. It is not necessary to hold both types of licenses. A licensed collection system operator may perform only those duties relating to the operation and maintenance of wastewater collection systems.

(n) Each classified wastewater collection system must employ at least one licensed operator who holds a license class equal to or higher than that category of system. Wastewater collection system operation and maintenance activities shall be supervised and inspected daily

by an on-site licensed wastewater operator. Wastewater collection systems shall be classified as follows.

**Figure: 30 TAC §30.350(n)**

<b>Category of Collection System</b>	<b>Daily Average Flow</b>	<b>Minimum Class of Operator Required</b>
Category I	Less than 100,000 gallons per day (gpd)	Class I or Class D
Category II	100,000 gpd to 1 million gallons per day (MGD)	Class II or Class C
Category III	Over 1 MGD	Class III or Class B

**SUBCHAPTER K: PUBLIC WATER SYSTEM OPERATORS AND OPERATIONS COMPANIES**

**§§30.387, 30.390, 30.392, 30.394**

**Statutory Authority**

These amendments are proposed under the authority granted to the commission in Texas Water Code (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.

The adopted rules implement TWC, §37.0045 as added by HB 1845.

**§30.387. Definitions.**

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Chief operator--An individual who has overall responsibility for the operation of a public water system.

(2) Honorary license--License converted from a perpetual license that has been discontinued by the commission. This honorary license does not award the licensee the authority to perform process control duties in production or distribution of drinking water for public water systems.

(3) Military operator-in-training--An individual who is an active duty member of the military of the United States and has successfully completed the Bioenvironmental



Engineering Apprentice (BEA) or equivalent military training, as determined by the executive director, and collects microbiological samples and determines disinfection residuals for military facilities' water distribution systems. This individual may not perform any other process control duties in the water distribution or treatment facilities of a military installation.

(4) Operator-in-charge--An individual who has overall responsibility for the operation of a public water system in the absence of the chief operator.

(5) Operator-in-training--An unlicensed individual entering the field of public water system operation for the first time who has less than one year of experience and is in training to perform process control duties in production or distribution of public drinking water.

(6) Public water system operations company--A person or other nongovernmental entity that provides operations services to one or more public water systems on a contractual basis.

(7) Public water system operator--Licensed operator who performs process control duties in production or distribution of drinking water.

(8) Resiliency continuing education training--training on one or more resiliency topics that is approved by the executive director to count toward the resiliency training required to renew a license.

(9) Resiliency Overview Course—the core training that provides an overview of the resiliency topics outlined by the executive director that can be taken as a stand-alone course or as part of the updated Basic Waterworks Operations core course.

(10) [(8)] Work experience--The actual performance of job tasks in a public water supply system that are considered essential for the treatment or distribution of drinking water.

**§30.390. Qualifications for Initial License.**

(a) To obtain a license, an individual must meet the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations), and the following requirements for each class of license, and pass an examination.

**Figure: 30 TAC §30.390(a) [30 TAC §30.390(a)]**

<b><u>License</u></b>	<b><u>Education</u></b>	<b><u>Work Experience</u></b>	<b><u>Training Credits</u></b>
<u>Provisional Class D</u>	<u>None</u>	<u>None</u>	<u>22 hours</u>
<u>Class D</u>	<u>High School Diploma (HSD) or equivalent</u>	<u>None</u>	<u>22 hours</u>
<u>Class C, Distribution, Groundwater, Surface water</u>	<u>HSD or equivalent</u>	<u>2 years</u>	<u>62 hours</u>
<u>Class B, Distribution and Groundwater</u>	<u>Bachelor's HSD or equivalent</u>	<u>2½ years</u>	<u>122 hours</u>
		<u>5 years</u>	<u>122 hours</u>
<u>Class B, Surface water</u>	<u>Bachelor's HSD or equivalent</u>	<u>2½ years</u>	<u>146 hours</u>
		<u>5 years</u>	<u>146 hours</u>
<u>Class A</u>	<u>Master's Bachelor's</u>	<u>4 years</u>	<u>186 hours</u>
		<u>5 years</u>	<u>186 hours</u>

	<u>HSD or equivalent</u>	<u>8 years</u>	<u>186 hours</u>
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License	Education	Work Experience	Training Credits
Class D	High School Diploma (HSD) or equivalent	None	20 hours
Class C, Distribution, Groundwater, Surface water	HSD or equivalent	2 years	60 hours
Class B, Distribution and Groundwater	Bachelor's HSD or equivalent	2½ years 5 years	120 hours 120 hours
Class B, Surface water	Bachelor's HSD or equivalent	2½ years 5 years	144 hours 144 hours
Class A	Master's Bachelor's HSD or equivalent	4 years 5 years 8 years	184 hours 184 hours 184 hours

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(b) An individual who applies for a Class C, B, or A license, and relies on a bachelor's or master's degree to meet the educational requirements, must have a bachelor's or master's degree with a major in chemistry, biology, engineering, microbiology, bacteriology, or other similar discipline approved by the executive director.

(c) An individual who applies for a Class C or B license must obtain at least one-half of the total work experience requirement in the specific field for the license that is requested:

(1) for Class C and B surface water licenses, the experience must be obtained through operations activities at the production or treatment facilities for surface water or groundwater under the direct influence of surface water;

(2) for Class C and B groundwater licenses, the experience must be obtained through operations activities at the production or treatment facilities for groundwater source or groundwater under the direct influence of surface water; or

(3) for Class C and B distribution licenses, at least one-half of the required experience must be obtained as a result of operations activities at treated water storage, pumping, or distribution facilities; and

(4) once the work experience has been met from paragraphs (1), (2), or (3) of this subsection, the executive director may count any remaining experience to meet up to 50% of the remaining requirement.

(d) For all classes of licenses, laboratory experience must:

(1) be obtained at a laboratory that is owned and operated by the public water system; and

(2) involve daily consultation with individuals who perform process control duties in production or distribution of drinking water for the water system.

(e) For each license, applicants may substitute either college hours or training credits to meet the experience requirement:

(1) 16 semester hours or an additional 20 hours of training credits are equal to six months of the experience;

(2) Class C applicants may only substitute up to one year of the required work experience; and

(3) Class B and Class A applicants may only substitute up to two years of the required work experience.

(f) Training credits must be in approved courses that include the following or equivalent.

Figure: 30 TAC §30.390(f) [30 TAC §30.390(f)]

<b><u>License</u></b>	<b><u>Core Training Courses</u></b>	<b><u>Elective Training Courses</u></b>
<u>Provisional Class D</u>	<u>Basic Waterworks Operation</u> <u>Resiliency Overview</u>	<u>None</u>
<u>Class D</u>	<u>Basic Waterworks Operation</u> <u>Resiliency Overview</u>	<u>None</u>
<u>Class C</u> <u>Surface Water</u>	<u>Basic Waterworks Operation</u> <u>Resiliency Overview</u> <u>Surface Water Production I</u> <u>Surface Water Production II</u>	<u>None</u>
<u>Class C</u> <u>Groundwater</u>	<u>Basic Waterworks Operation</u> <u>Resiliency Overview</u> <u>Groundwater Production</u> <u>Plus one elective course</u>	<u>Water Distribution</u> <u>Water Laboratory</u> <u>Water Utility Safety</u> <u>Water Utility Calculations</u> <u>Chlorinator Maintenance</u> <u>Pump and Motor Maintenance</u>

		<u>Valve and Hydrant Maintenance</u>
<u>Class C</u> <u>Water Distribution</u>	<u>Basic Waterworks Operation</u> <u>Resiliency Overview</u> <u>Water Distribution</u> <u>Plus one elective course</u>	<u>Water Laboratory</u> <u>Water Utility Safety</u> <u>Water Utility Calculations</u> <u>Chlorinator Maintenance</u> <u>Pump and Motor Maintenance</u> <u>Valve and Hydrant Maintenance</u>
<u>Class B</u> <u>Surface Water</u>	<u>Basic Waterworks Operation</u> <u>Resiliency Overview</u> <u>Surface Water Production I</u> <u>Surface Water Production II</u> <u>Water Distribution</u> <u>Water Utility Safety</u> <u>Water Laboratory</u> <u>Water Utility Management</u>	<u>None</u>
<u>Class B</u> <u>Groundwater</u>	<u>Basic Waterworks Operation</u> <u>Resiliency Overview</u> <u>Groundwater Production</u> <u>Water Laboratory</u> <u>Water Distribution</u> <u>Water Utility Safety</u> <u>Plus one elective course</u>	<u>Water Utility Management</u> <u>Water Utility Calculations</u> <u>Chlorinator Maintenance</u> <u>Pump and Motor Maintenance</u> <u>Valve and Hydrant Maintenance</u>
<u>Class B</u> <u>Water Distribution</u>	<u>Basic Waterworks Operation</u> <u>Resiliency Overview</u> <u>Water Distribution</u> <u>Water Utility Safety</u> <u>Pump and Motor Maintenance</u> <u>Valve and Hydrant Maintenance</u> <u>Plus one elective course</u>	<u>Water Utility Management</u> <u>Water Utility Calculations</u> <u>Chlorinator Maintenance</u> <u>Water Laboratory</u>
<u>Class A</u>	<u>Basic Waterworks Operation</u> <u>Resiliency Overview</u> <u>Surface Water Production I</u> <u>Surface Water Production II</u> <u>Groundwater Production</u> <u>Water Distribution</u> <u>Water Laboratory</u> <u>Water Utility Management</u> <u>Water Utility Safety</u>	<u>Plus additional training to meet the 184-hour requirement</u>

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<b>License</b>	<b>Core Training Courses</b>	<b>Elective Training Courses</b>
Class D	Basic Waterworks Operation	None

Class C Surface Water	Basic Waterworks Operation Surface Water Production I Surface Water Production II	None
Class C Groundwater	Basic Waterworks Operation Groundwater Production Plus one elective course	Water Distribution Water Laboratory Water Utility Safety Water Utility Calculations Chlorinator Maintenance Pump and Motor Maintenance Valve and Hydrant Maintenance
Class C Water Distribution	Basic Waterworks Operation Water Distribution Plus one elective course	Water Laboratory Water Utility Safety Water Utility Calculations Chlorinator Maintenance Pump and Motor Maintenance Valve and Hydrant Maintenance.
Class B Surface Water	Basic Waterworks Operation Surface Water Production I Surface Water Production II Water Distribution Water Utility Safety Water Laboratory Water Utility Management	None
Class B Groundwater	Basic Waterworks Operation Groundwater Production Water Laboratory Water Distribution Water Utility Safety Plus one elective course	Water Utility Management Water Utility Calculations Chlorinator Maintenance Pump and Motor Maintenance Valve and Hydrant Maintenance
Class B Water Distribution	Basic Waterworks Operation Water Distribution Water Utility Safety Pump and Motor Maintenance Valve and Hydrant Maintenance Plus one elective course	Water Utility Management Water Utility Calculations Chlorinator Maintenance Water Laboratory
Class A	Basic Waterworks Operation Surface Water Production I Surface Water Production II Groundwater Production Water Distribution Water Laboratory Water Utility Management Water Utility Safety	Plus additional training to meet the 184 hour requirement

(g) An individual who previously held a Class D license or higher shall not apply for a new Class D license if the individual:

(1) currently operates facilities at groundwater treatment systems of 250 connections or more;

(2) currently operates facilities at groundwater treatment systems serving a population of 750 or more;

(3) currently operates facilities at surface water treatment systems;

(4) currently operates facilities at groundwater systems under the influence of surface water;

(5) performs supervisor, crew chief, or foremen duties for distribution systems that have over 250 connections; or

(6) operates multiple groundwater systems and the cumulative number of connections exceeds 250.

**§30.392. Qualifications for License Renewal.**

(a) To renew a license, an individual must have:

(1) met the requirements of Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations) and completed a total amount of



approved continuing education equal to that of ten hours per year the license is valid, two of which must qualify as resiliency training for licenses that expire on or after April 1, 2024; or

[ (2) met the requirements of Subchapter A of this chapter and passed the examination for the license.]

(b) The basic water training course shall not be used to renew a Class B or A license.

(c) Class D licenses are not renewable for licensed operators:

(1) at groundwater treatment systems of 250 connections or more;

(2) at groundwater treatment systems serving a population of 750 or more;

(3) at surface water treatment systems;

(4) at groundwater systems under the influence of surface water;

(5) who are supervisors, crew chiefs, or foremen of distribution systems that have over 250 connections; or

(6) who operate multiple groundwater systems and the cumulative number of connections exceeds 250.

(d) To renew an active converted perpetual license, an individual must have met the requirements of this section, with the exception of the renewal fee.

(e) Individuals with a license that expires on or after April 1, 2024, are required to take the Resiliency Overview Course once as part of the continuing education requirement to renew a license.

**§390.394. Provisional Licenses.**

(a) A provisional license for a Class D license may be issued to an individual that does not possess a high school diploma or equivalent who:

(1) has completed the required training;

(2) passed the applicable examination; and

(3) acts under the direct supervision of a license holder.

(b) A provisional license shall have:

(1) a validity period of two years; and

(2) an application fee of \$74.00.

(c) Provisional licenses are not renewable and not reobtainable.

(d) To continue to work as a licensed operator, the provisional license holder must, before the expiration date of the provisional license:

(1) submit proof of a high school diploma or equivalent; and

(2) apply for a Class D license or higher.