

The Texas Commission on Environmental Quality (commission) adopts the amendments to §§30.3, 30.5, 30.7, 30.33, 30.231, and 30.244. The commission also adopts new §30.247. Sections 30.231 and 30.244 are adopted *with changes* to the proposed text as published in the September 30, 2005, issue of the *Texas Register* (30 TexReg 6178). Sections 30.3, 30.5, 30.7, 30.33, and 30.247 are adopted *without changes* to the proposed text and will not be republished.

#### BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED RULES

The adopted rules implement requirements in House Bill (HB) 2510, 79th Legislature, 2005, related to the regulation of on-site sewage disposal systems using aerobic treatment and the maintenance of those systems. The adopted rules also address implementation of enforcement for noncompliance. HB 2510 impacts two chapters within 30 TAC: Chapter 30, Occupational Licenses and Registrations, and Chapter 285, On-Site Sewage Facilities. This adoption addresses the revisions to Chapter 30. The changes to Chapter 285 will be addressed in a separate rulemaking (Rule Project Number 2005-040-285-CE).

This adopted rulemaking addresses the registration requirements for maintenance providers that provide service or maintenance of on-site sewage disposal systems using aerobic treatment.

The commission administers the On-Site Sewage Facility (OSSF) Licensing and Registration Program that currently includes licenses or registrations for Installer I, Installer II, Site-Evaluator, Apprentice, and Designated Representative.

The adopted rules create a registration program for maintenance providers defined as a person that services or maintains on-site sewage disposal systems using aerobic treatment for compensation.

The adopted program is being placed with other similar programs in Chapter 30, Subchapters A and G.

The adopted rules further define the commission's regulations regarding servicing or maintenance of OSSFs using aerobic treatment under Texas Health and Safety Code (THSC), Chapter 366. The purpose of the statute is to regulate maintenance providers and their ability to service and maintain on-site sewage disposal systems using aerobic treatment. The failure of an OSSF is the fundamental cause of OSSF-related public health hazards by providing a medium for the transmission of disease. The failure of an OSSF may be due to a number of reasons that include: inadequate soil texture, improper construction, improper planning, improper installation, and inadequate maintenance. Approximately 25% of all homes in Texas use an OSSF. In Fiscal Year 2004 alone, there were more than 41,000 newly permitted OSSFs in Texas. Of these, nearly 23,000 (53%) were aerobic systems.

The adopted rules specify requirements for maintenance providers to obtain an occupational registration to perform service and maintenance of on-site sewage disposal systems using aerobic treatment. The significant revisions in these rules include changes to the requirements for maintenance providers, enforcement proceedings, and training for maintenance providers.

## SECTION BY SECTION DISCUSSION

### *Subchapter A - Administration of Occupational Licenses and Registrations*

The adopted amendment to §30.3, Purpose and Applicability, would add on-site sewage facility maintenance providers as a profession regulated by the commission.

The adopted amendment to §30.5, General Provisions, would add THSC, §366.0515, to the list of statutes describing activities regulated by the commission.

The adopted amendment to §30.7, Definitions, would define the term “Maintenance provider” as a person that, for compensation, provides service or maintains on-site sewage disposal systems using aerobic treatment. Additionally, the adopted amendment to §30.7 would define the term “Person” as an individual, corporation, organization, government or governmental subdivision or agency, business trust, partnership, association, or any other legal entity, as referenced in 30 TAC §3.2, Definitions.

The commission also adopts corresponding changes throughout the amended rules to conform the language with this definition. Finally, the adopted amendment to §30.7 would define the term “Aerobic treatment system owner” as persons, that in their individual capacities own a single-family dwelling that is serviced by an on-site sewage disposal system using aerobic treatment.

The adopted amendment to §30.33, License or Registration Denial, Warning, Suspension, or Revocation, in accordance with THSC, §366.0515, would allow the executive director, in a manner provided by Texas Water Code (TWC), Chapter 7, Subchapter G, to revoke the registration of a maintenance provider for three or more violations of an order, resolution, or rule described by THSC, §366.0515.

*Subchapter G - On-Site Sewage Facilities Installers, Apprentices, Designated Representatives, and Site Evaluators*

The commission adopts a change to the title of Subchapter G to On-Site Sewage Facilities Installers, Apprentices, Designated Representatives, Maintenance Providers, and Site Evaluators.

The adopted amendment to §30.231, Purpose and Applicability, would add maintenance providers to those persons performing certain duties related to on-site sewage disposal systems using aerobic treatment. It would require that those persons that perform the tasks listed in §30.231(a)(5) meet the qualifications of this chapter, be registered according to Subchapter A, unless exempt under §30.244, and comply with the requirements of Chapter 285. It would also allow individuals that hold a Class “D” wastewater operator’s license as of September 1, 2006, and that perform maintenance-provider duties a transition period until September 1, 2008, to obtain an OSSF Installer II license or be employed by a maintenance company that employs at least one OSSF Installer II.

The adopted amendment to §30.244, Exemptions, would exempt the individual owner of a single-family dwelling from being required to be a licensed installer in order to install or repair an OSSF on the owner’s property. It would also exempt an aerobic treatment system owner, who elects to maintain the system, from the requirement to be registered with the agency as a maintenance provider.

The adopted new §30.247, Registration of Maintenance Providers, would detail the requirements for the initial registration and renewal registrations for persons that service or maintain on-site sewage

disposal systems using aerobic treatment or any part of an on-site sewage disposal system using aerobic treatment for compensation.

#### FINAL REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed the adopted rules in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the adopted rules do not meet the criteria for a major environmental rule. Texas Government Code, §2001.0225, defines a major environmental rule as one that is specifically intended to protect the environment, or reduce risks to human health from environmental exposure. The rules are intended to create a registration program for maintenance providers that will service and maintain on-site sewage disposal systems using aerobic treatment. The rules would define a maintenance provider as a person that, for compensation, services or maintains an on-site sewage disposal system using aerobic treatment. Training requirements and enforcement for noncompliance would be addressed. Protection of human health and the environment may be a by-product of the adopted rules, but it is not the specific intent of the adopted rules. Furthermore, the adopted rules would not adversely affect, in a material way, the economy, a section of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state because the rules would simply add registration requirements for maintenance providers and address training requirements and enforcement for noncompliance. The adopted rules do not meet the definition of a major environmental rule as defined in the Texas Government Code.

In addition, the new and amended sections are not subject to Texas Government Code, §2001.0225, because they do not meet the criteria specified in Texas Government Code, §2001.0225(a). Texas

Government Code, §2001.0225(a), applies to a rule adopted 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.

The adopted new and amended sections to Chapter 30 do not meet any of these requirements. First, there are no federal standards that these rules would exceed. The EPA does not have a federal program for OSSFs and does not establish requirements for states that implement their own OSSF programs. Second, the rules do not exceed an express requirement of state law but are being adopted to implement state law. Third, there is no delegation agreement that would be exceeded by these rules. Fourth, the commission adopts these rules to allow registration requirements for maintenance providers and address training requirements and enforcement for noncompliance in compliance with the statute. Therefore, the commission does not adopt the rules solely under the commission's general powers. These rules do not meet the criteria for a major environmental rule as defined by Texas Government Code, §2001.0225.

Public comments were solicited and one comment was received regarding the Regulatory Impact Analysis Determination. All comments are addressed in the RESPONSE TO COMMENTS section of this preamble.

#### TAKINGS IMPACT ASSESSMENT

The commission prepared a takings impact assessment for these adopted rules under Texas Government Code, §2007.043. The specific purpose of the adopted rules is to create a registration program for maintenance providers. The rules would define a maintenance provider as a person that, for compensation, services or maintains an on-site sewage disposal system using aerobic treatment. The adopted rules would substantially advance this specific purpose by setting forth the registration requirements for maintenance providers and by setting forth rules that address training requirements and enforcement for noncompliance. The adopted rules define maintenance provider, provide registration requirements for maintenance providers, and define the scope of activities related to an OSSF that the owner of a single-family dwelling may undertake. The adopted rules do not burden private real property and thus are not a taking.

#### CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed the adopted rules and found that they are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11(a)(6). Therefore, the adopted rules are not subject to the Texas Coastal Management Program.

#### PUBLIC COMMENT

The commission received comments from the Texas On-Site Wastewater Association (TOWA) and four individuals. TOWA generally supported the rulemaking; however, the individual commenters were

opposed to the rulemaking that eliminates Class “D” wastewater operators from performing maintenance-provider duties to on-site sewage disposal systems using aerobic treatment.

## RESPONSE TO COMMENTS

### *General*

One individual commented that the rules should allow service providers with a Designated Representative’s (DR) license to be approved to provide service to those homeowners who choose to have a service provider.

**The commission has undertaken this rulemaking to comply with HB 2510. HB 2510 is specific in outlining the requirements for those individuals performing maintenance-provider duties to on-site sewage disposal systems using aerobic treatment and does not include a provision to register DRs as maintenance providers unless the DR meets all the requirements. HB 2510 requires that the commission promulgate rules implementing the changes in law affected by HB 2510. No change was made to the rules.**

Two individuals commented that eliminating the Class “D” wastewater operators from performing maintenance-provider duties to on-site sewage disposal systems using aerobic treatment would create a tremendous hardship on not only the individuals currently holding contracts to provide these services, but also the system owners. Many OSSF service contracts are held by Class “D” wastewater operators who would not be able qualify to register as maintenance providers by September 1, 2006. Therefore,

individuals with a Class “D” wastewater operator license should be given an opportunity to obtain the appropriate license and not have their livelihood affected.

**The commission has added §30.231(c), which allows a transition period for an individual who holds a Class “D” wastewater operator license issued on or before August 31, 2006, that performs maintenance to on-site sewage disposal systems using aerobic treatment to be allowed to continue to perform maintenance-provider duties until August 31, 2008. To continue performing those duties after September 1, 2008, those individuals must obtain an OSSF Installer II license or be employed by a maintenance company that employs at least one OSSF Installer II. An individual who performs maintenance to on-site sewage disposal systems using aerobic treatment must register as required by Subchapter A of this chapter (Administration of Occupational Licenses and Registrations). Additionally, the transition period will allow the homeowners to seek a registered maintenance provider and alleviate any problems of having hundreds of homeowners with contracts currently in place that their maintenance provider would not be able to perform after September 1, 2006.**

One individual commented that the term “aerobic treatment” is not defined in the applicable rules. The individual commented that the regulatory system does not intend that meaningful operation and maintenance be conducted on the OSSF systems.

**Section 30.237 (Definitions) states that the definitions in Chapter 285 apply to Chapter 30, Subchapter G, and the term “aerobic treatment” is defined in Chapter 285.**

One individual asked what impact HB 2510 has on maintenance for dispersal systems, how will HB 2510 apply in regard to a system owner taking responsibility for system operation and maintenance in lieu of a maintenance contract, and what will the regulatory system need to do to translate the new licensure and training mandated by HB 2510 into an actual system of maintenance assurance that would give the system owner reason to believe there was merit in being required to carry a maintenance contract in the first place?

**These comments are beyond the scope of this rulemaking and should be addressed in the rulemaking for Chapter 285.**

TOWA commented that it believes HB 2510 will improve maintenance for advanced treatment systems, and hopefully will improve regulation through enforcement for noncompliance.

**The commission acknowledges TOWA's support of the rules.**

TOWA requested that its certified maintenance provider course be approved as a model and the training for the requirements of HB 2510. TOWA estimated this would save the State of Texas \$10,000 to \$40,000 for the cost of developing a training manual and course.

**The commission appreciates the comment; however, this comment is beyond the scope of this rulemaking. If these rules are adopted, TOWA may submit its course for review.**

TOWA commented that the commission overestimated the number of maintenance providers that would register with the agency. The commission estimated 2,500 to 4,000 registrants, where TOWA estimates 350 to 500, thus reducing the commission's estimated fee revenues. TOWA suggested that the commission contract with TOWA for the training, registration, and tracking of the maintenance providers.

**The commission has undertaken this rulemaking to comply with HB 2510. HB 2510 requires that the commission promulgate rules implementing the changes in law effected by HB 2510. If the number of registrants estimated by the commission were overestimated the commission may have to reevaluate the registration fees in the future; however, the estimated number of registrants does not have an impact on the rules.**

TOWA commented that the portion of these rules specifically exempting homeowners from contracting with a maintenance provider will dramatically increase the human resource demands and therefore increase costs to the authorized agents.

**The commission has undertaken this rulemaking to comply with HB 2510. HB 2510 requires that the commission promulgate rules implementing the changes in law affected by HB 2510. The homeowner exemption has no impact on the rules. The concerns raised by TOWA should be addressed during the comment period for the current Chapter 285 rulemaking.**

TOWA commented that while the narrow specifics of the rulemaking only seek to create a maintenance provider registration program, this rule revision is only a part of the rule revisions necessary to implement HB 2510. In implementing HB 2510, there will be a significant adverse effect on a section of the economy, jobs, the environment, and the public health and safety and as such the rule revisions, when taken as a whole, are a major environmental rule.

**The commission agrees the combined rules may have an effect on a section of the economy, jobs, the environment, and the public health and safety. However, the adopted rules will not adversely affect, in a material way, the economy, a section of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state because the rules would simply add registration requirements for maintenance providers and address training requirements and enforcement for noncompliance. The adopted rules do not meet the definition of a major environmental rule as defined in Texas Government Code, §2001.0225. No changes were made to the rules in response to this comment.**

TOWA commented that the definitions of “Aerobic treatment system owner” and “Maintenance provider” pave the way for individuals who own residential rental property to be exempted and therefore maintain all of the systems serving the houses they own. TOWA suggested an additional requirement that the owner also occupy the residence to eliminate the loophole.

**The commission appreciates the comment but declines to make the suggested changes to the new definition of “Aerobic treatment system owner” and “Maintenance provider.” The commission**

**determined that persons who in their individual capacities own one or more single-family dwellings should be allowed to maintain the on-site sewage disposal system using aerobic treatment as long as the property is not developed for sale or lease. This exception is described in §30.244.**

TOWA commented that “person” is not yet defined and since the term is referenced in another rulemaking, is managed by other contact persons, and is on a different schedule, the two rulemakings would be managed better if combined.

**The commission responds that the word “person” is defined in §3.2 as an individual, corporation, organization, government or governmental subdivision or agency, business trust, partnership, association, or any other legal entity. HB 2510 requires that the commission be prepared to accept applications for licenses or registrations described by THSC, §366.071(a), not later than March 1, 2006. To comply with this requirement, the commission must promulgate rules implementing the changes in law effected by HB 2510 by March 1, 2006. Because the shorter implementation time imposed by the legislature for the amendments to Chapter 30 was not imposed on Chapter 285, the commission elected not to combine the two rulemakings.**

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

**§§30.3, 30.5, 30.7, 30.33**

**STATUTORY AUTHORITY**

The amendments are adopted under the authority granted to the commission by the Texas Legislature in TWC, Chapters 5, 7, and 37 and THSC, Chapter 366. The amendments are also adopted under the general authority granted in TWC, §5.013, which establishes the general jurisdiction of the commission over other areas of responsibility as assigned to the commission under the TWC and other laws of the state; TWC, §5.102, which establishes the commission's authority necessary to carry out its jurisdiction; TWC, §5.103 and §5.105, which authorize the commission to adopt rules and policies necessary to carry out its responsibilities and duties under TWC, §5.013; and TWC, §7.002, which authorizes the commission to enforce provisions of the TWC and the THSC.

The adopted amendments implement TWC, §37.002, which requires the commission to adopt rules to establish registration requirements for maintenance providers that will service and maintain on-site sewage disposal systems using aerobic treatment under THSC, §366.0515, and to impose administrative and criminal penalties under TWC, §§7.173 - 7.175.

**§30.3. Purpose and Applicability.**

(a) The purpose of this chapter is to consolidate the administrative requirements and establish uniform procedures for the occupational licensing and registration programs prescribed by Texas Water Code, Chapter 37. This subchapter contains general procedures for issuing, renewing, denying, suspending, and revoking occupational licenses and registrations. Subchapters B - K of this chapter (relating to Backflow Prevention Assembly Testers; Customer Service Inspectors; Landscape Irrigators and Installers; 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, and Site Evaluators; Water Treatment Specialists; Underground Storage Tank On-Site Supervisor Licensing and Contractor Registration; Wastewater Operators and Operations Companies; and Public Water System Operators and Operations Companies) contain the program-specific requirements related to each program.

(b) This chapter applies to applications for issuance or renewal of licenses or registrations that are received on or after January 1, 2002, except that maintenance providers are not required to obtain a registration as a maintenance provider prior to September 1, 2006.

(c) The requirements of this chapter apply to the following occupational licenses and registrations:

(1) backflow prevention assembly testers;

(2) customer service inspectors;

- (3) landscape irrigators and installers;
- (4) leaking petroleum storage tank corrective action specialists and project managers;
- (5) municipal solid waste facility supervisors;
- (6) on-site sewage facility installers, designated representatives, apprentices, maintenance providers, and site evaluators;
- (7) water treatment specialists;
- (8) underground storage tank contractors and on-site supervisors;
- (9) wastewater operators and operations companies; and
- (10) public water system operators and operations companies.

**§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, 26.3573, 26.452, 26.456, 34.007, or 37.003, or Texas Health and Safety Code, §§341.033, 341.034, 341.102, 341.103, 361.027,

366.014, 366.071, or 366.0515. 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 may 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 may 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 transferrable.

(e) New licenses shall not be issued to employees of the commission who have regulatory authority over the rules of this chapter.

**§30.7. Definitions.**

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

(1) **Approved training event**--Instructor-led classroom training, conferences, seminars, workshops, association meetings, distance learning, or technology-based training that provides the knowledge and skills needed to perform occupational job tasks that have been reviewed and approved by the executive director.

(2) **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.

(3) **Continuing education**--Job-related training approved by the executive director used for renewal of licenses and registrations.

(4) **License**--An occupational license issued by the commission to a person authorizing the person to engage in an activity covered by this chapter.

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

(6) **Person**--As defined in §3.2 of this title (relating to Definitions).

(7) **Registration**--An occupational registration issued by the commission to a person authorizing the person to engage in an activity covered by this chapter.

(8) **Training credit**--Hours of credit allowed by the executive director for attendance at an approved training event.

**§30.33. License or Registration Denial, Warning, Suspension, or Revocation.**

(a) The executive director may deny an initial or renewal application for:

(1) insufficiency. The executive director shall notify the applicant of the executive director's intent to deny the application and advise the applicant of the opportunity to file a motion for reconsideration under §50.39 of this title (relating to Motion for Reconsideration). The executive director may determine an application is insufficient for the following reasons:

(A) failing to meet the licensing or registration requirements of this chapter;

(B) being in default on loans guaranteed by Texas Guaranteed Student Loan Corporation (TGSLC) (the executive director shall proceed as described in Texas Education Code, Chapter 57) if identified by TGSLC and the application is for a renewal license or registration; or

(C) if an out-of-state licensing program does not have requirements substantially equivalent to those of this chapter;

(2) cause. After notice and opportunity for a hearing, the commission may deny an application for a license or registration by an applicant who:

(A) provides fraudulent information or falsifies the application;

(B) has a poor compliance history as a licensee in another state; or

(C) has a history in this or another agency program of violations of statutes or rules adopted under those statutes;

(D) makes an intentional misstatement or misrepresentation of fact in information required to be maintained or submitted to the commission by the applicant;

(E) fails to keep and transmit records as required by a statute within the commission's jurisdiction or a rule adopted under such a statute; or

(F) is indebted to the state for a fee, penalty, or tax imposed by a statute within the commission's jurisdiction or a rule adopted under such a statute.

(b) If a person causes, contributes to, or allows a violation of this chapter, the executive director may issue a warning letter. The letter shall be placed in the person's permanent file maintained by the executive director. This letter shall be a warning that further violations or offenses by the person

may be grounds for suspension, revocation, enforcement action, or some combination . A warning is not a prerequisite for initiation of suspension, revocation, or enforcement proceedings.

(c) After notice and opportunity for a hearing, the commission may suspend or revoke a license or registration on any of the grounds in Texas Water Code, §7.303(b), or suspend or revoke a maintenance provider registration on any of the grounds in Texas Health and Safety Code, §366.0515(m). A license may also be suspended if a person is identified by the Office of the Attorney General as being delinquent on child support payments (upon receipt of a final order suspending a license or registration, the executive director shall proceed as described in Texas Family Code, Chapter 232).

(d) A license or registration may be suspended for a period of up to one year, depending upon the seriousness of the violations. A license or registration shall be revoked automatically upon a second suspension.

(e) The commission may revoke a license or registration for a designated term or permanently. If a license or registration is revoked a second time, the revocation shall be permanent.

(f) The following procedures for renewal apply to persons that have had their license or registration suspended.

(1) If a license or registration expiration date falls within the suspension period, a person may renew the license or registration during the suspension period according to §30.24 of this title (relating to License and Registration Applications for Renewal) and the applicable subchapters.

(2) After the suspension period has ended, the license or registration shall be automatically reinstated unless the person failed to renew the license or registration during the suspension period.

(g) Persons that have had their license or registration revoked shall not have their license or registration automatically reinstated after the revocation period. After the revocation period has ended, a person may apply for a new license or registration according to this chapter.

**SUBCHAPTER G: ON-SITE SEWAGE FACILITIES INSTALLERS,  
APPRENTICES, DESIGNATED REPRESENTATIVES, MAINTENANCE  
PROVIDERS, AND SITE EVALUATORS**

**§§30.231, 30.244, 30.247**

**STATUTORY AUTHORITY**

The amendments and new section are adopted under the authority granted to the commission by the Texas Legislature in TWC, Chapters 5, 7, and 37 and THSC, Chapter 366. The amendments and new section are also adopted under the general authority granted in TWC, §5.013, which establishes the general jurisdiction of the commission over areas of responsibility as assigned to the commission under the TWC and other laws of the state; TWC, §§5.102, 5.103, and 5.105, which authorize the commission to adopt rules and policies necessary to carry out its responsibilities and duties under TWC, §5.013; and TWC, §7.002, which authorizes the commission to enforce provisions of the TWC and the THSC.

The new and amended sections implement TWC, §37.002, which requires the commission to adopt rules to establish registration requirements for maintenance providers that will service and maintain on-site sewage disposal systems using aerobic treatment under THSC, §366.0515, and to impose administrative and criminal penalties under TWC, §§7.173 - 7.175.

**§30.231. Purpose and Applicability.**

(a) The purpose of this subchapter is to establish qualifications for issuing and renewing licenses and registrations for a person that:

- (1) constructs any part of an on-site sewage facility;
- (2) performs the duties of a designated representative;
- (3) performs the duties of a site evaluator;
- (4) performs the duties of an apprentice; or
- (5) performs the duties of a maintenance provider.

(b) A person that performs any of the tasks listed in subsection (a) of this section must meet the qualifications of this subchapter and be licensed or registered according to Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations), unless exempt under §30.244 of this title (relating to Exemptions), and must comply with the requirements of Chapter 285 of this title (relating to On-Site Sewage Facilities).

(c) A person that holds a Class “D” wastewater operator’s license issued on or before August 31, 2006, and that performs maintenance to on-site sewage disposal systems using aerobic treatment shall be allowed to continue to perform maintenance-provider duties until August 31, 2008. To

continue performing those duties after September 1, 2008, those individuals shall obtain an on-site sewage facility (OSSF) Installer II license or be employed by a maintenance company that employs at least one OSSF Installer II. An individual who performs maintenance to on-site sewage disposal systems using aerobic treatment shall register as required by Subchapter A of this chapter.

(d) Licenses, registrations, and certificates of registrations issued prior to January 1, 2002, remain in effect until they expire, or are replaced or revoked by the commission.

**§30.244. Exemptions.**

(a) Persons that in their individual capacities:

(1) own a single-family dwelling are not required to be a licensed installer in order to install or repair an on-site sewage facility (OSSF) on the individual's property. This provision does not apply to property that is to be developed for sale or lease. If the owner compensates a person to construct any portion of an OSSF, the individual performing the work shall be a licensed installer. The owner shall meet all permitting, construction, and maintenance requirements of the permitting authority. The site evaluation must be performed by an individual who possesses either a current site evaluator or a professional engineer license;

(2) own a single-family dwelling that is serviced by an on-site sewage disposal system using aerobic treatment are not required to be a licensed installer in order to install or repair an OSSF

servicing that single-family dwelling. Such person must meet all permitting, construction, and maintenance requirements of the permitting authority. If that person compensates a person to construct any portion of an OSSF, the individual performing the work must be a licensed installer. This provision does not apply to property that is developed for sale or lease;

(3) elect to maintain the on-site sewage disposal system using aerobic treatment. The aerobic treatment system owner is not required to register with the agency as a maintenance provider, but must comply with the requirements of Chapter 285 of this title (relating to On-Site Sewage Facilities).

(b) A licensed electrician who installs the electrical components, or a person that delivers a treatment or pump tank and sets the tank or tanks into an excavation, is not required to have an installer license.

(c) A professional engineer may perform site evaluations without obtaining a site evaluator license.

**§30.247. Registration of Maintenance Providers.**

(a) A maintenance provider must be registered with the executive director.

(b) To register as required by Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations), a person must:

(1) meet the requirements of Subchapter A of this chapter;

(2) submit a completed application and a \$70 fee to the executive director on a form approved by the executive director;

(3) submit documentation by the manufacturer of an on-site sewage disposal system using aerobic treatment that the applicant is certified to maintain the on-site sewage facility systems under a maintenance contract; and

(4) any additional information required by the executive director.

(c) To renew a maintenance-provider registration, a maintenance provider must every two years:

(1) meet the requirements in Subchapter A of this chapter; and

(2) submit a completed renewal application and a \$70 fee to the executive director on a form approved by the executive director.

