

SUBCHAPTER B: ADMINISTRATIVE PROCEDURES

**§§222.31, 222.33, 222.35, 222.37, 222.39,
222.41, 222.43, 222.45
Effective July 5, 2006**

§222.31. Application Process.

(a) An owner of a subsurface area drip dispersal system shall apply for a permit in accordance with the provisions of this section for any subsurface area drip dispersal system that did not have an application for a subsurface area drip dispersal system permit that had been declared administratively complete or was authorized by a permit in effect at the time of the adoption of these rules.

(b) A permittee who holds a valid permit for a subsurface area drip dispersal system issued prior to July 31, 2006, and who wishes to renew that permit shall apply for a permit according to the requirements of this chapter upon the expiration date of the current permit.

(c) A permittee who holds a valid permit for a subsurface area drip dispersal system issued prior to July 31, 2006, and who wishes to amend that permit shall apply for a permit amendment according to the requirements of this chapter.

(d) Application for a permit shall be made on forms provided by the executive director. Applicants shall comply with §§305.41, 305.43, 305.44, 305.46, and 305.47 of this title (relating to Applicability; Who Applies; Signatories to Applications; Designation of Material as Confidential; and Retention of Application Data).

(e) Upon receiving an administratively complete application for a permit, the executive director shall:

(1) inspect the location of the proposed subsurface area drip dispersal system to evaluate the local conditions and the probable effect of the subsurface area drip dispersal system;

(2) forward a copy of the permit application to the Department of State Health Services for the purpose of soliciting comments on the application; and

(3) allow 30 days for the Department of State Health Services to submit comments on the permit application.

(f) The applicant shall submit an application that demonstrates compliance with the technical requirements set forth in this chapter and shall demonstrate compliance with the requirements of Subchapter C of this chapter (relating to Siting Requirements and Effluent Limitations).

(g) The applicant shall include the site preparation plan in the permit application packet. The site preparation plan shall comply with the requirements of §222.75 of this title (relating to Site Preparation Plan).

(h) The applicant shall provide such additional information in support of the application as may be necessary, as determined by the executive director, for an adequate technical review of the application.

(i) Each applicant and permittee shall comply with §§305.61 and 305.63 - 305.68 of this title (relating to Applicability; Renewal; Transfer of Permits; Permit Denial; Suspension and Revocation; Revocation and Suspension Upon Request or Consent; and Action and Notice on Petition for Revocation or Suspension).

(j) The permittee must file the application for renewal of an existing permit no later than 180 days before the expiration date of the current permit. Upon request, the executive director may grant an exception to this requirement, but in no case may the executive director grant permission for applications to be submitted later than the expiration date of the existing permit.

(k) Except as provided in §222.33(b) of this title (relating to Public Notice), notice, public comment, and hearing on applications shall be conducted in accordance with commission rules governing individual permits issued under Texas Water Code, Chapter 26. Each permittee shall comply with §305.125 of this title (relating to Standard Permit Conditions).

(l) A permittee who holds a valid permit for a subsurface area drip dispersal system under Texas Water Code, Chapter 26 issued prior to July 31, 2006, may apply for and be granted a variance from the site requirements and design criteria in this chapter, if the subsurface area drip dispersal system is:

- (1) not in need of repair;
- (2) not causing pollution as determined by the executive director;
- (3) not causing soil saturation or a build-up of waterborne constituents within the soil;
- (4) not prohibited by §213.8 of this title (relating to Prohibited Activities);
- (5) not prohibited by §331.8 of this title (relating to Prohibition of Motor Vehicle Waste Disposal Wells and Large Capacity Cesspools); and

(6) the permittee is not a poor performer or repeat violator as defined in §60.3(a) of this title (relating to Use of Compliance History) or has other compliance history issues that may indicate the lack of ability of the permittee to comply with the permit and commission rules.

(m) The executive director may grant a period of up to three years, in accordance with §305.127(3)(A) of this title (relating to Conditions to be Determined for Individual Permits) to meet the requirements that were the basis for a denial of a variance to a permittee that applies for and is denied a variance, provided that the system meets the requirements in subsection (l) of this section.

§222.33. Public Notice.

(a) For the purpose of public notices, subsurface area drip dispersal systems shall be subject to the same public notice provisions required for wastewater discharge permits described in §39.403(b)(2) of this title (relating to Applicability).

(b) Applicants for subsurface area drip dispersal system permits shall comply with the regulations regarding public notice of applications for wastewater discharge permits found in Chapter 39 of this title (relating to Public Notice).

Adopted June 14, 2006

Effective July 5, 2006

§222.35. Requests for Reconsideration and Contested Case Hearing and Public Comment.

Chapter 55, Subchapters D - F of this title (relating to Applicability and Definitions; Public Comment and Public Meetings; and Requests for Reconsideration or Contested Case Hearing) will apply to applications for permits authorizing subsurface area drip dispersal systems.

Adopted June 14, 2006

Effective July 5, 2006

§222.37. Compliance History.

(a) A compliance history will be prepared and evaluated in accordance with Chapter 60 of this title (relating to Compliance History) for each of the following entities that have activities that are subject to regulation by the commission:

(1) the owner of the wastewater treatment facility supplying effluent to the subsurface area drip dispersal system;

(2) the owner of the land where a wastewater treatment facility supplying effluent to the subsurface area drip dispersal system is located;

(3) the owner of the subsurface area drip dispersal system;

(4) the owner of the land where a subsurface area drip dispersal system is located;

(5) each business entity that is related to the applicant(s). Business entities are related for the purposes of this requirement, if the business entities share:

(A) the same owner(s) or partial owner(s); or

(B) the same member(s) of a partnership; or

(6) each business entity that is managed by the permittee.

(b) If the owner of a subsurface area drip dispersal system is a governmental body or a subdivision of that governmental body, a compliance history will be prepared for that governmental body, such as:

- (1) a city;
- (2) a county;
- (3) a branch of military service;
- (4) a state or federal agency, commission, or department; or
- (5) a quasi-governmental agency created by federal or state legislatures.

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§222.39. Term of the Permit.

The term of the permit shall not exceed ten years, in accordance with §305.127 of this title (relating to Conditions To Be Determined for Individual Permits).

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§222.41. Right of Entry.

Inspection and entry shall be allowed under Texas Water Code, Chapters 26 - 28 and 32, Texas Health and Safety Code, §§361.032, 361.033, 361.037, and 401.063, and 40 Code of Federal Regulations, §122.41(i). The statements in Texas Water Code, §26.014 and §32.151, that commission entry of a facility shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection is not grounds for denial or restriction of entry to any part of the facility, but merely describes the commission's duty to observe appropriate rules and regulations during an inspection.

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Effective July 5, 2006

§222.43. Construction Notices to Regional Offices.

(a) The permittee shall notify the appropriate Texas Commission on Environmental Quality (TCEQ) regional office at least 30 days prior to the date field layout and/or construction startup is scheduled to begin.

(b) If soils are to be imported, the permittee shall notify the TCEQ regional office at least 30 days prior to completion of the soil importing project.

(c) The permittee shall notify the appropriate TCEQ regional office at least 30 days prior to the date that construction is projected to be complete.

(d) The permittee shall notify the appropriate TCEQ regional office within 30 days after operation of the subsurface area drip dispersal system begins.

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Effective July 5, 2006

§222.45. Local Health Department Notification.

(a) Before commencing operation of the subsurface area drip dispersal system, the permittee must submit a copy of the permit to the health department with jurisdiction in the area where the system is located.

(b) The permittee must retain proof of delivery for the duration of the permit.

Adopted June 14, 2006

Effective July 5, 2006