

SUBCHAPTER G: OSSF ENFORCEMENT

§285.70, §285.71

Effective September 11, 2008

§285.70. Duties of Owners With Malfunctioning OSSFs.

(a) If the executive director or the authorized agent determines that an on-site sewage facility (OSSF) is malfunctioning, as defined in §285.2 of this title (relating to Definitions), the owner shall bring the OSSF into compliance by repairing the malfunction. The owner shall initiate repair of a malfunctioning OSSF no later than:

(1) the 30th day after the date which the owner is notified by the executive director or the authorized agent of the malfunctioning system, if the owner has not been notified of the malfunctioning system during the previous 12 months;

(2) the 20th day after the date on which the owner is notified by the executive director or the authorized agent of the malfunctioning system, if the owner has been notified of the malfunctioning system at least once during the previous 12 months; or

(3) the 10th day after the date on which the owner is notified by the executive director or the authorized agent of the malfunctioning system, if the owner has been notified of the malfunctioning system at least twice during the previous 12 months.

(b) If aerobic treatment system maintenance is provided by the homeowner, as described in §285.7(d)(4) of this title (relating to Maintenance Requirements), an authorized agent or the commission may require the homeowner to contract for maintenance of the on-site sewage disposal system using aerobic treatment for a single-family residence if the system is located in a county of at least 40,000 persons and:

(1) the authorized agent or commission determines that the owner has violated this chapter or a rule adopted or order or permit issued under this chapter and the owner fails to correct the violation no later than the 10th day after the date of receipt of notification by the permitting authority; or

(2) the owner commits another violation before the third anniversary of the initial violation of this chapter or rule adopted under the Texas Health and Safety Code, Chapter 366.

(c) If, under this section, an authorized agent or the commission requires the system's owner to contract for the maintenance of the system, the order, resolution, or rule may require the maintenance provider to:

(1) inspect the system at specified intervals;

(2) submit a report on each inspection to the authorized agent or commission; and

- (3) provide a copy of each report submitted to the system's owner.

Adopted August 20, 2008

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§285.71. Authorized Agent Enforcement of OSSFs.

(a) Complaints. The authorized agent shall investigate a complaint regarding an on-site sewage facility (OSSF) within 30 days after receipt of the complaint, notify the complainant of the findings, and take appropriate and timely action on all documented violations. Appropriate action may include criminal or civil enforcement action as necessary under the authority of their order, ordinance, or resolution, the Texas Water Code, Chapters 7 and 26, or the Texas Health and Safety Code, Chapters 341 and 366. This may include complaints against:

- (1) registered apprentices, maintenance technicians, licensed installers, site evaluators, maintenance providers, and designated representatives;

- (2) individuals performing the duties listed above not holding a current commission license or registration or failing to maintain a license or registration, including professional engineers and professional sanitarians;

- (3) owners in violation of this chapter or the authorized agent's order, ordinance, or resolution; or

- (4) owners of malfunctioning OSSFs on the owners' property.

(b) Conviction or court judgment under subsection (a)(1) and (2) of this section. Upon conviction or court judgment, the authorized agent shall send a copy of the conviction or court judgment to the executive director.

(c) Referral of complaints under subsection (a)(1) and (2) of this section. If there are unusual circumstances involved, or if the authorized agent is unable to take enforcement action, the authorized agent may refer complaints to the executive director in writing at any time after a documented investigation of the complaint has been completed.

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