

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AGENDA ITEM REQUEST

For a Petition for Rulemaking

AGENDA REQUESTED: December 16, 2020

DATE OF REQUEST: December 7, 2020

INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Andreea Vasile, Agenda Coordinator, (512) 239-1806

CAPTION: **Docket No. 2020-1450-PET.** Consideration of a petition for rulemaking under Section 20.15 of 30 TAC Chapter 20, Rulemaking.

The petition was filed with the Texas Commission on Environmental Quality (commission) on November 12, 2020, by the Texas On-Site Wastewater Association, Inc. (petitioner). The petitioner requested that the commission initiate rulemaking to amend 30 TAC Chapter 30, Occupational Licenses and Registrations, Sections 30.1, 30.3, and 30.7 and Chapter 285, On-Site Sewage Facilities, Sections 285.2, 285.3, 285.7, 285.32-285.34, 285.38, 285.39, 285.50, 285.64, and 285.91, to better protect public health and the environment by revising 32 individual requests to create more consistency with industry terminology and standards. This includes adding language to more easily identify Responsible Parties, by including definitions of TCEQ licensed individuals, the creation of a new licensing/registration program for sludge pumpers by the commission, and general language updates for consistency. (Project Shannon Frazier, Cole Malley) (Project No. 2021-003-PET-NR).

Brent Wade

Director

Jaya Zyman, P.E.

Deputy Director

Craig Pritzlaff

Director

Kristi Mills-Jurach

Deputy Director

Andreea Vasile

Agenda Coordinator

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners

Date: December 7, 2020

Thru: Laurie Gharis, Chief Clerk
Toby Baker, Executive Director

From: Craig Pritzlaff, Director
Office of Compliance and Enforcement

Brent Wade, Director
Office of Waste

Subject: Consideration of a Petition for Rulemaking

Docket No.: 2020-1450-PET

Project No.: 2021-003-PET-NR

Who Submitted the Petition:

On November 12, 2020, the Texas Commission on Environmental Quality (commission) received a petition from the Texas On-Site Wastewater Association, Inc. (petitioner).

What the Petitioner Requests:

The petitioner requested that the commission amend 30 Texas Administrative Code (30 TAC) §§30.1, 30.3, and 30.7 of Chapter 30, Occupational Licenses and Registrations, §§285.2, 285.3, 285.7, 285.32-285.34, 285.38, 285.39, 285.50, 285.64, 285.91 of Chapter 285, On-Site Sewage Facility Rules Compilation, to better protect public health and the environment by revising 32 individual regulations/statutes to create more consistency with industry terminology and standards. This includes adding language to more easily identify Responsible Parties, including definitions of TCEQ licensed individuals, the creation of a new licensing/registration program for sludge pumpers by the commission and general language updates for consistency.

Recommended Action and Justification:

The executive director recommends rulemaking after stakeholder meetings to determine which sections of Chapters 30 and 285 rules should be addressed. The executive director has concluded that additional stakeholder input is needed to determine which of the petitioner's requested rule revisions are appropriate.

Therefore, the executive director recommends that the commission grant the petition and direct the executive director to initiate rulemaking if additional stakeholder input indicates that rulemaking is needed for these rules.

Applicable Law:

- Texas Government Code, §2001.021, which establishes the procedures by which an interested person may petition a state agency for the adoption of a rule;
- 30 TAC §20.15, which provides such procedures specific to the commission;
- Texas Health and Safety Code, §366.012, which provides the commission the authority to adopt rules governing the installation of Onsite Sewage Facilities;

Commissioners
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December 7, 2020

Re: Docket No. 2020-1450-PET

Agency Contacts:

Shannon Frazier, Project Manager, Program Support & Environmental Assistance Division,
(512) 239-6313
Harrison "Cole" Malley, Staff Attorney, (512) 239-1439
Andreea Vasile, Agenda Coordinator, (512) 239-1806

Attachment:

Petition

cc: Chief Clerk, 2 copies
Executive Director's Office
Jim Rizk
Morgan Johnson
Brody Burks
Office of General Counsel
Shannon Frazier
Andreea Vasile

TOWA respectfully submits this rule petition to:
Toby Baker, Executive Director
TCEQ
P.O. Box 13087,
Austin TX 78711-3087

Explanation: Amending this definition is critical to public and environmental health and safety. The word “service” is included in the statute from which this entire definition is derived. Without including this language verbatim, this rule does not reflect the intent of the statute 366.071.(a).

Proposed amendment to: Title 30, TAC Chapter 285

285.2. (12) Compensation – A payment to construct, alter, service, repair, extend, maintain, or install an on-site sewage facility. Payment may be in the form of cash, check, charge, or other form of monetary exchange or exchange of property or services for service rendered.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: Without the word “service” a segment of the OSSF industry (pump truck operators) are not regulated and required to be licensed or registered. This endangers Texans in the private and public sectors by allowing untrained individuals to perform services without proper training, background checks or licensing.

Submitted by:
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TOWA respectfully submits this rule petition to:
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Explanation: Amending to this definition with “or maintenance provider” and “or maintenance technician” specifically identifies that the maintenance provider is responsible to demonstrate direct communication with the maintenance technician in the field.

Proposed amendment to: Title 30, TAC Chapter 285

285.2. (18) Direct communication – The demonstrated ability of an installer or maintenance provider and the apprentice or maintenance technician to communicate immediately with each other in person, by telephone, or by radio.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: The installer is required to demonstrate direct communication with the apprentice in the field, it is fair and just to require the maintenance provider to demonstrate direct communication with the maintenance technician, protecting him, the public and the environment.

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Explanation: Adding the definition “Dry Wash or Drainage Way” is critical in defining what these topographical features are and how they relate to the design and installation considerations of an OSSF.

Proposed amendment to: Title 30, TAC Chapter 285

285.2. (Add definition) Dry Wash or Drainage Way – A dry wash or drainage way is a depression of elevation on a property being used for an On-Site Wastewater System installation. Such a depression will be designated as dry wash or drainage way if there is no standing water in this area except after a rain event enough to produce rainwater runoff. Such rainwater runoff should drain within 72 hours except for such temporary pools that might remain longer.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: This added definition would remove a great deal of ambiguity between designated representatives, authorized agents, designers, site evaluators and installers. It would help to unify interpretation of the statewide rules already in effect. If this definition is not included in our rules the property owner will ultimately pay more for design and installation of OSSF’s on properties with these features.

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Explanation: Amending this definition with “or Person” completes this definition by using both descriptions being used in the rules and the statute 366.071.(a).

Proposed amendment to: Title 30, TAC Chapter 285

285.2. (31) Individual or Person – A single living human being.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: The amendment provides the definition with more clarity and completeness to ensure enforcement.

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Explanation: Adding the definition “Intermittent Stream” is critical in defining what this topographical feature is and how it relates to the design and installation considerations of an OSSF.

Proposed amendment to: Title 30, TAC Chapter 285

285.2. (Add definition) Intermittent Stream – An intermittent stream must be a listed (named) or named tributary on either FEMA flood plain maps or local county CAD maps.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: This added definition would remove a great deal of ambiguity between designated representatives, authorized agents, designers, site evaluators and installers. It would help to unify interpretation of the statewide rules already in effect. If this definition is not included in our rules the property owner will ultimately pay more for design and installation of OSSF’s on properties with these features.

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Explanation: Adding the definition “Pumper Technician” is critical in defining who a licensed or registered pump truck operator is. This language is needed to properly identify a segment of the OSSF industry that should be regulated and required to be licensed or registered.

Proposed amendment to: Title 30, TAC Chapter 285

285.2. (Add definition) Pumper Technician – An Individual who holds a valid registration issued by the executive director to provide pumping services.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: Unregistered individuals are a public health and public safety threat to hundreds of thousands of Texans in the private and public sectors. By allowing these persons to continue performing pumping services without proper training, background checks or licensing, these individuals pose an environmental danger to surface waters and ground waters of Texas.

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Explanation: Adding the definition “Pumping services” is critical in defining specifically what a licensed or registered pump truck operator does. This language is needed to properly identify a specific segment of the OSSF industry performing these pumping services that should be regulated and required to be licensed or registered.

Proposed amendment to: Title 30, TAC Chapter 285

285.2. (Add definition) Pumping services – Access of an OSSF for the removal of sludge and scum by transferring the wastewater contaminants with a hose and pump to a TCEQ registered sludge transporter vehicle.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: Pumping services have the potential to pose a public health and safety threat to people and an environmental threat to surface waters and ground waters of Texas if left to individuals without the proper training, licensing, or registration.

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Explanation: 285.4.(b)(2) currently allows for more than one property to be used for single family dwelling. Defining what a “site” is in our “on-site” rules is well overdue and will provide site evaluators, designers, authorized agents, and owners with a legal description of what a site is.

Proposed amendment to: Title 30, TAC Chapter 285

282.2. (Add definition) Site – One or more contiguous properties or tracts owned by the same individual(s).

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: Adding the definition of a “Site” will eliminate the costly need for owners to spend thousands of dollars for a replat, because in some cases the authorized agent will not allow an OSSF to be designed on one or more contiguous tracts without having the two tracts replat as one. This is an undue burden on Texas homeowners that will continue if this amendment is not approved.

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Explanation: This amendment is necessary because weather or other construction restraints can prohibit the installation of an OSSF from being performed during the one-year valid period from the date of issuance.

Proposed amendment to: Title 30, TAC Chapter 285

285.3. General Requirements (d)(1) An authorization to construct is valid for ~~one~~ two calendar years from the date of its issuance. If the installer does not request a construction inspection by the permitting authority within ~~one~~ two years of the issuance of the authorization to construct, the authorization to construct expires, and the owner will be required to submit a new application and application fee before an OSSF can be installed. A new application and application fee are not required if the owner decides not to install an OSSF.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: Extending the ATC validity period to two years from date of issuance will provide homeowners and business's a much more fair and workable permitting process.

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Explanation: This amendment will clarify the ten acre exemption that allows no planning materials to be submitted and no permit or inspection is required. The rules do **not** exempt the owner from meeting (Subchapter D: Construction, and Installation Standards For OSSFs). This additional statement should clarify which rules are exempt and which rules are still required to be followed.

Proposed amendment to: Title 30, TAC Chapter 285

285.3. (f)(2) No planning materials, permit, or inspection are required for an OSSF for a single family dwelling located on a tract of land that is ten acres or larger and:

- (A) the OSSF is not causing a nuisance or polluting groundwater;
- (B) all parts of the OSSF are at least 100 feet from the property line;
- (C) the effluent is disposed of on the property; and
- (D) the single family dwelling is the only dwelling located on that tract of land.

All Chapter 285 Subchapter D: Construction, and Installation Standards must be adhered to for an OSSF for a single family dwelling even when no permit, or inspection are required.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: This has been a common misconception by many authorized agents. We continue to receive calls from property owners of ten acres or more with failing systems, saying they were told by an authorized agent they can do whatever they want on ten acres or more. If this language is not used it allows a public health threat and a threat to the surface waters and ground waters of Texas to continue from improperly designed, constructed and installed failing OSSF's.

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Explanation: Amending this rule by adding a single word “visible” will allow owners to more easily locate the tag for maintenance provider contact information in the case of an alarm or failure of the OSSF. It also provides designated representatives and auditors the ability to easily locate the maintenance inspection tag for verification that maintenance inspections are being documented at the site.

Proposed amendment to: Title 30, TAC Chapter 285

285.7. (2) To provide the owner with a record of the maintenance check, the maintenance provider shall install a visible weather resistant tag, or some other form of visible weather resistant identification, on the system at the beginning of each maintenance contract. This identification shall:

- (A) identify the maintenance provider;
- (B) list the telephone number of the maintenance provider;
- (C) specify the start date of the contract; and
- (D) be either punched or indelibly marked with the date the system was checked at the time of each maintenance check, including any maintenance check in response to owner complaints.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: Currently some maintenance providers place the tag inside the motor cover or the control panel. This makes it difficult for the owner or designated representative to locate the tag. Placing the maintenance tag inside the control panel creates an electrical shock hazard, if we continue to allow this it is only a matter of time before someone is seriously injured or killed.

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Explanation: Amending the rule by adding this language will allow proper maintenance of all OSSF's by providing appropriate secure access. Requiring the riser to be two inches above grade helps prevent rainwater from entering the OSSF during heavy rainfall events.

Proposed amendment to: Title 30, TAC Chapter 285

285.32. (b)(1)(D) Inspection or cleanout ports. All septic tanks shall have inspection or cleanout ports located on the tank top over the inlet and outlet devices. Each inspection or cleanout port shall be offset to allow for pumping of the tank. The ports may be configured in any manner as long as the smallest dimension of the opening is at least 12 inches and is large enough to provide for maintenance and for equipment removal. Septic tanks buried more than 12 inches below the ground surface shall have risers over the port openings. The risers shall extend from the tank surface to a minimum of two inches above grade ~~no more than six inches below the ground~~. The risers shall be sealed to the tank. The risers shall have inside diameters which are equal to or larger than the inspection or cleanout ports. The risers shall be fitted with removable raintight ~~watertight~~ caps and prevent unauthorized access.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: Continuing to allow access ports to be buried leads to many OSSF's not being pumped on a timely basis and ultimately failure of the OSSF contaminating surface waters and groundwaters of Texas. Continuing to allow risers to be installed at grade creates infiltration issues during heavy rainfall events, potentially causing OSSF's to be hydraulically overloaded and discharging untreated effluent.

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Explanation: Amending the rule by adding this language provides the authorized agent and the installer a means to communicate by phone or email that Subchapter D: Construction and Installation Standards for OSSF's are being followed. This will provide a level of safety far exceeding current inspection requirements by some authorized agents.

Proposed amendment to: Title 30, TAC Chapter 285

285.32(b)(1)(F) Installation of tanks. For gravity disposal systems, septic tanks must be installed with at least a 12-inch drop in elevation from the bottom of the outlet pipe to the bottom of the disposal area. A minimum of four inches of sand, sandy loam, clay loam, or pea gravel, free of rock larger than ½ inch in diameter, shall be placed under and around all tanks, except poured-in-place concrete tanks. Unless otherwise approved by the permitting authority, tank excavations shall be left open until they have been inspected by the permitting authority. For public safety, the installer may take pictures or video of sand in bottom of hole as well as backfill with suitable materials to lowest penetration in tank. Flow equalization and mid seam tanks excluded, only inlet or outlet pipes. Installer must inspect for leaks around penetration(s) for flow equalization and mid seam tanks before backfilling around these penetrations or seams. Pictures or video may be used as verification to permitting authority that proper backfill requirements are met in lieu of leaving the tank excavations open when the permitting authority is unable to timely inspect during the day of excavation phase of construction. Tank excavations must be backfilled with soil or pea gravel that is free of rock larger than ½ inch in diameter. Class IV soils and gravel larger than one-half inch in diameter are not acceptable for use as backfill material. If the top of a septic tank extends above the ground surface, soil may be mounded over the tank to maintain slope to the drainfield.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: Currently some authorized agents require the excavation to be left open until inspection of the backfill. When the inspection cannot be made at the time of excavation, this creates an unsafe worksite which in most cases is in a residential neighborhood. This puts everyone in the area in a high fall risk situation needlessly, especially children and pets. Over the years we've had several reports of injuries due to falls in open excavations. If this amendment is not implemented more injuries or death are inevitable. We are in the public health public safety business, lets keep it safe!

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Explanation: Amendment of this rule is required, because of the hydraulic lifting force created when a tank is filled with water up into the riser. This lifting force has the potential to break the butyl seal between the tank and the lid. In some cases, the concrete lid is cracked or broken. When leak test is required filling the tank to the inside level of the tank lid is sufficient to verify that the tank does not leak.

Proposed amendment to: Title 30, TAC Chapter 285

285.32 (b)(1)(H) Leak Testing. At the discretion of the permitting authority, leak testing using water filled to the inside level of the tank lid ~~or to the top of the tank riser(s)~~ may be required.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: If this language is not removed, some authorized agents will continue requiring tanks to be filled up into the risers. This can potentially create infiltration or exfiltration at the butyl seal that was not present before testing. At the very least it may cause leaks and possibly does far greater structural damage if the lid is cracked or broken. This form of extreme leak testing potentially endangers anyone's safety when walking on a tank lid that has been hydraulically stressed.

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Explanation: Amendment of this rule is required, because of the hydraulic lifting force created when a tank is filled with water up into the riser. This lifting force has the potential to break the butyl seal between the tank and the lid. In some cases, the concrete lid is cracked or broken. When leak test is required filling the tank to the inside level of the tank lid is sufficient to verify that the tank does not leak.

Proposed amendment to: Title 30, TAC Chapter 285

285.32 (2) Installation. Proprietary treatment systems shall be installed according to this subchapter. If the manufacturer has installation specifications that are more stringent than given in this subchapter, the manufacturer shall submit these specifications to the executive director for review. If approved by the executive director, the treatment systems may be installed according to these more stringent specifications. Any subsequent changes to these manufacturer's installation specifications must be approved by the executive director before installation. Inspection, cleanout ports, or maintenance ports shall have risers installed according to the riser installation provisions in subsection (b)(1)(D) of this section. Tank excavations shall be backfilled according to the backfill provisions in subsection (b)(1)(F) of this section. At the discretion of the permitting authority, leak testing using water filled to the inside level of the tank lid ~~or to the top of the riser(s)~~ may be required.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

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Explanation: Amendment to the incorrect formula that does not reflect the actual capacity of the graveless pipe technology. The new formulas to size these products correctly are shown and sizing charts for ease of use are included.

Proposed amendment to: Title 30, TAC Chapter 285

285.33(c)(1)(C) Drainfield sizing. ~~To determine~~ When determining appropriate drainfield sizing for eight-inch diameter gravel-less pipe and ten-inch diameter gravel-less pipe: Design the eight-inch gravel-less pipe system using 2.2 square feet per running foot. This is even if the product is installed in a three-foot-wide trench; Design the ten-inch gravel-less pipe using 2.8 square feet per running foot. This is even if the product installed in a three-foot-wide trench. Absorptive (bottom width of the trench) area must consist of the widest dimension of the product plus two inches. The product shall receive sidewall credit for the height of the gravel-less pipe only. Use a drainfield width of W = 2.0 feet for an eight-inch diameter gravel-less pipe, and an excavation width of W = 2.5 for a ten-inch gravel-less pipe. Gravel-less pipe shall only be sized using the formula without water saving devices. Use Tables V.(a) and V(b) for drainfield sizing.

$$L = A/(W+2)$$

A = absorptive area as calculated in subsection (b)(1)(A)(vii) of this section

W = excavation width

Table V.(a) Criteria for Eight Inch Gravel-less Pipe

8" Graveless Pipe Sizing Chart	8" Graveless Pipe gets 2.2 square feet per running foot credit and sized without water saving devices		
Bedrooms	Class 1b soil	Class II soil	Class III soil
1 -2	270 LF	409 LF	512 LF
3	359 LF	546 LF	682 LF
4	449 LF	682 LF	853 LF
5	539 LF	819 LF	1,023 LF
6	628 LF	955 LF	1,194 LF
Each additional	90 LF	137 LF	171 LF

Table V.(b) Criteria for Ten Inch Gravel-less Pipe

10" Graveless Pipe Sizing Chart	10" Graveless Pipe gets 2.8 square feet per running foot credit and sized without water saving devices		
Bedrooms	Class 1b soil	Class II soil	Class III soil
1 -2	212 LF	322 LF	402 LF
3	282 LF	429 LF	536 LF
4	353 LF	536 LF	670 LF
5	423 LF	643 LF	804 LF
6	494 LF	750 LF	938 LF
Each additional	71 LF	108 LF	134 LF

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: Allowing the incorrect formulas to continue being used will result in failures from improperly sized graveless drainfields. These failing drainfields have the potential for contamination of surface waters and ground waters of Texas.

Submitted by:
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TOWA respectfully submits this rule petition to:
Toby Baker, Executive Director
TCEQ
P.O. Box 13087,
Austin TX 78711-3087

Explanation: This amendment allows our rules to stay up with current drip tubing technology. With this amendment the rule continues to require a properly sized filter to meet the manufacturer's requirements.

Proposed amendment to: Title 30, TAC Chapter 285

285.33. (3) Drip irrigation. Drip irrigation systems using secondary treatment may be used in all soil classes including Class IV soils. The system must be equipped with a filtering device ~~capable of filtering particles larger than 100 microns and~~ that meets the manufacturer's requirements.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: The deleted segments are not applicable to today's technology, potentially causing more frequent maintenance and undue expense to the owners of drip irrigation systems.

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TOWA respectfully submits this rule petition to:
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Explanation: Amending this rule allows it to stay up with current technology. The term “commercial irrigation” has not been used in our on-site industry for decades.

Proposed amendment to: Title 30, TAC Chapter 285

285.33. (d)(2)(G)(iii)(I) For systems controlled by a ~~commercial irrigation~~ timer and required to spray between midnight and 5:00 a.m., there shall be at least one day of storage between the alarm-on level and the pump-on level, and a storage volume of one-third the daily flow between the alarm-on level and the inlet to the pump tank.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: This amendment will prevent a newly assigned designated representative that only knows what he or she is reading in the rules, from requiring an installer to install a “commercial irrigation” timer the installer doesn’t have access to and is not needed. If not amended this could cost homeowners undue burden and expense for no practical reason.

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Explanation: Amending this rule allows it to stay up with current technology. The term “commercial irrigation” has not been used in our on-site industry for decades.

Proposed amendment to: Title 30, TAC Chapter 285

285.33. (d)(2)(G)(iii)(II) For systems not controlled by a ~~commercial irrigation~~ timer, the minimum dosing volume shall be at least one-half the daily flow, and a storage volume of one-third the daily flow between the alarm-on level and the inlet to the pump tank.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: This amendment will prevent a newly assigned designated representative that only knows what he or she is reading in the rules, from requiring an installer to install a “commercial irrigation” timer the installer doesn’t have access to and is not needed. If not amended this could cost homeowners undue burden and expense for no practical reason.

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Explanation: Amending this rule is necessary because color-coded fittings are not available. PVC fitting manufacturers have never made a color-coded fitting.

Proposed amendment to: Title 30, TAC Chapter 285

285.33. (d)(2)(G)(v) Color coding of distribution system. All new distribution piping, ~~fittings~~, valve box covers, and sprinkler tops shall be permanently colored purple to identify the system as a reclaimed water system according to Chapter 210 of this title (relating to Use of Reclaimed Water).

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: This amendment will prevent a newly assigned designated representative that only knows what he or she is reading in the rules from requiring an installer to install “color coded fittings” that the installer does not have access to. If not amended this could cost homeowners undue burden and expense for no practical reason.

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Explanation: This amendment clarifies that drip irrigation can be installed on slopes greater than 2%. This section of the rules pertains to mound drainfields and the statement is mainly for new designers and authorized agents.

Proposed amendment to: Title 30, TAC Chapter 285

285.33. (d)(3)(iii) For sites with greater than 2% slopes and solid bedrock, saturated zones, or class IV horizons within two feet of the native soil surface, the length to width ratio of the distribution area must be at least 7:1. For sites with greater than 2% slopes and no solid bedrock, saturated zones, or class IV horizons within two feet of the native soil surface, the length to width ratio of the distribution area must be at least 4:1. No length to width ratio is required on a site with 2% slope or less. Excluding drip irrigation as the distribution system.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: There has been some confusion reported in the past with new designers and authorized agents on this section of the rules. This language is needed to prevent an owner from being misinformed of their disposal options on sites with slopes greater than 2%.

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Explanation: Amendment of this rule is required, because of the hydraulic lifting force created when a tank is filled with water up into the riser. This lifting force has the potential to break the butyl seal between the tank and the lid. In some cases, the concrete lid is cracked or broken. When a leak test is required filling the tank to the inside level of the tank is sufficient to verify that the tank does not leak.

Proposed amendment to: Title 30, TAC Chapter 285

285.34. (b)(1) Pump tank criteria. When effluent must be pumped to a disposal area, an appropriate pump shall be placed in a separate water-tight tank or chamber. A check valve may be required if the disposal area is above the pump tank. The pump tank shall be equipped to prevent siphoning. The tank shall be provided with an audible and visible high water alarm. If an electrical alarm is used, the power circuit for the alarm shall be separate from the power circuit for the pump. Batteries may be used for back-up power supply only. All electrical components shall be listed and labeled by Underwriters Laboratories (UL). At the discretion of the permitting authority, leak testing using water filled to the inside level of the tank ~~lid or to the top of the riser(s)~~ may be required.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: If this language is not removed, some authorized agents will continue requiring tanks to be filled up into the risers. This can potentially create infiltration or exfiltration at the butyl seal that was not present before testing. At the very least it may cause leaks and possibly does far greater structural damage if the lid is cracked or broken. This form of extreme leak testing potentially endangers anyone's safety when walking on a tank lid that has been hydraulically stressed.

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TOWA respectfully submits this rule petition to:
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Explanation: This amendment is for clarification and will help registered sanitarians, engineers and designated representatives understand the type of flow being discussed in this rule.

Proposed amendment to: Title 30, TAC Chapter 285

285.34. (b)(3) Pump specifications. A single pump may be used for hydraulic flows equal to or less than 1,000 gallons per day. Dual pumps are required for hydraulic flows greater than 1,000 gallons per day. A dual pump system shall have the “alarm on” level below the “second pump on” level, and shall have a lock-on feature in the alarm circuit so that once it is activated it will not go off when the second pump draws the liquid level below the “alarm on” level. All audible and visible alarms shall have a manual “silence” switch. The pump switch-gear shall be set such that each pump operates as the first pump on an alternating basis. All pumps shall be rated by the manufacturer for pumping sewage or sewage effluent.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: We must continue advancing the technical language in our rules to provide designers and designated representatives a better understand of the OSSF industry. We will be neglecting our responsibility to the people of this state, if we do not amend this rule.

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TOWA respectfully submits this rule petition to:
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Explanation: Amendment of this rule more properly differentiates when and where rigid conduit is to be installed. By adding the language “when buried” it specifies that rigid conduit must be used when buried.

Proposed amendment to: Title 30, TAC Chapter 285

285.34. (c) Electrical wiring. All electrical wiring shall conform to the requirements the National Electric Code (1999) or under any other standards approved by the executive director. Additionally, all external wiring shall be installed in approved, rigid, non-metallic gray code electrical conduit when buried. The conduit shall be buried according to the requirements in the National Electrical Code and terminated at a main circuit breaker panel or sub-panel. Connections shall be in approved junction boxes. All electrical components shall have an electrical disconnect within direct vision from the place where the electrical device is being serviced. Electrical disconnects must be weatherproof (approved for outdoor use) and have maintenance lockout provisions.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: Over the years as our industry has developed better construction practices and standards, but we have seen some extremely poor electrical practices used by many installers. This amendment will further advance the installer and designated representatives understanding of the National Electrical Codes as they pertain to OSSF’s. This amendment is necessary to provide a higher level of public safety regarding the electrical components of an OSSF.

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TOWA respectfully submits this rule petition to:
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Explanation: Amending the rule by adding this language will allow proper maintenance of all OSSF's by providing appropriate secure access. Requiring the riser to be two inches above grade helps prevent rainwater from entering the OSSF during heavy rainfall events.

Proposed amendment to: Title 30, TAC Chapter 285

285.38. (c) ~~With the exception of septic tanks, all~~ All inspection and cleanout ports shall have risers over the port openings which extend to a minimum of two inches above the ground surface. A secondary plug, cap, or other suitable restraint system shall be provided below the riser cap to prevent tank entry if the cap is unknowingly damaged or removed.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: Continuing to allow access ports to be buried leads to many OSSF's not being pumped on a timely basis and ultimately failure of the OSSF contaminating surface waters and groundwaters of Texas. Continuing to allow risers to be installed at grade creates infiltration issues during heavy rainfall events, potentially causing OSSF's to be hydraulically overloaded and discharging untreated effluent.

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TOWA respectfully submits this rule petition to:
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Explanation: Amending the rule by deleting this language will allow proper maintenance of all OSSF's by providing appropriate secure access. Requiring the riser to be two inches above grade helps prevent rainwater from entering the OSSF during heavy rainfall events.

Proposed amendment to: Title 30, TAC Chapter 285

~~285.38. (d) All septic tanks buried more than 12 inches below the ground shall have risers over the port openings. The risers shall extend from the tank surface to no more than six inches below the ground. A secondary plug, cap, or other suitable restraint system shall be provided below the riser cap to prevent tank entry if the cap is unknowingly damaged or removed.~~

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: Continuing to allow access ports to be buried leads to many OSSF's not being pumped on a timely basis and ultimately failure of the OSSF contaminating surface waters and groundwaters of Texas. Continuing to allow risers to be installed at or below grade creates infiltration issues during heavy rainfall events, potentially causing OSSF's to be hydraulically overloaded and discharging untreated effluent.

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Explanation: This amended language “raintight” is necessary to clarify that a riser cap cannot truly be watertight without an exorbitant expense. Access ports are routinely opened, closed, and secured. It is illogical to expect them to be watertight and an unnecessary expense and burden to be required of the owner.

Proposed amendment to: Title 30, TAC Chapter 285

285.38. (d)(3) Risers must be fitted with removable raintight ~~watertight~~ caps and protected against unauthorized intrusions. Acceptable protective measures include:

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: Yes, we need the riser cap to be secured preventing unauthorized access and be able provide vector controls to keep insects, bugs, and snakes out of the tank as much as practical. We also need to prevent the system from being hydraulically overloaded from rainwater entering the tank, but if rising water from heavy prolonged rains flood the site the OSSF will need to have a maintenance inspection performed and possibly pumped by a registered sludge transporter. Requiring riser caps to be watertight is an undue burden and exorbitant expense on the owners of OSSF's in Texas.

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TOWA respectfully submits this rule petition to:
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Explanation: Amending the language in this rule will coincide with other sections of chapter 285 and is necessary to be consistent in our terminology.

Proposed amendment to: Title 30, TAC Chapter 285

285.39. (b) Owners shall have the on-site sewage facility (OSSF) treatment-tanks pumped on a regular basis in order to prevent sludge accumulation from spilling over to the next tank or the outlet device. Owners of an OSSF treatment tanks shall engage only persons registered or licensed to access an OSSF and the pump truck is registered with the executive director to transport the OSSF treatment-tank contents.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: Using the proper terminology is critical when it comes to the enforcement against unregistered or unlicensed individuals accessing an on-site sewage disposal system. Unregistered individuals are a public health and public safety threat to hundreds of thousands of Texans in the private and public sectors. If this amendment is not passed, it says we are willing to allow these individuals to continue this activity.

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TOWA respectfully submits this rule petition to:
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Explanation: Amending this rule with “or owner” clarifies the rule and is consistent with language in other rules in chapter 285 that require an owner to contract with a maintenance provider.

Proposed amendment to: Title 30, TAC Chapter 285

285.64. (a)(5) perform maintenance on each OSSF system under executed contract, keep a maintenance record, and submit maintenance reports to the permitting authority and the owner of the OSSF for whom the installer or owner has contracted to provide maintenance, according to §285.7 of this title.

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: This amendment is needed to show the owner has a right to and is responsible for contracting with a maintenance provider of their choice once the two-year initial contract is up.

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TOWA respectfully submits this rule petition to:
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Explanation: These amendments need to be listed on Table X as related to setbacks for ease in locating by the designers, authorized agents and site evaluators. These amendments coincide with the definitions added in Chapter 285.2.

Proposed amendment to: Title 30, TAC Chapter 285

285.91 Tables. (10) Table X. Minimum Required Separation Distances for On-Site Sewage Facilities.

FROM	Tanks	Soil Absorption Systems, & Unlined ET Beds	Lined Evapotranspiration Beds	Sewer Pipe With Watertight Joints	Surface Application (Edge of Spray Area)	Drip Irrigation
Foundations, Buildings, Surface Improvements, Property Lines, <u>Dry Wash or Drainage Way</u> Swimming Pools, and Other Structures	5	5	5	5 Pipe may run beneath driveways and sidewalks or up to surface improvements if it is Schedule 80 pipe or sleeved in Schedule 40 pipe Pipe containing secondary effluent has no setbacks from building foundations	No Separation Distances Except: Property lines - 20 ⁶ Swimming Pools - 25	No Separation Distances Except ⁴ : Property Lines - 5
Slopes Where Seeps may Occur, <u>Intermittent Streams</u> and detention ponds	5	25	5	10	10	10 when Ra< 0.1 25 when Ra>0.1

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: These amendments to Table X would remove a great deal of ambiguity between designated representatives, authorized agents, designers, site evaluators and installers. It would help to unify interpretation of the statewide rules already in effect. If these amendments are not included in our rules the property owner will ultimately pay more for design and installation of OSSF's on properties with these features.

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TOWA respectfully submits this rule petition to:
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Explanation: This amendment will be beneficial to licensees and TCEQ equally. The Titles and Chapters below provide the TCEQ the authority to implement the proposed multiple licenses on a single card with one renewal date.

Proposed amendment to: Title 30, TAC Chapter 285 & Chapter 30

Statutory Authority

This amendment is proposed by the under:

285.50. SUBCHAPTER F: LICENSING AND REGISTRATION REQUIREMENTS FOR INSTALLERS, APPRENTICES, DESIGNATED REPRESENTATIVES, SITE EVALUATORS, MAINTENANCE PROVIDERS, AND MAINTENANCE TECHNICIANS

30.1 AUTHORITY

30.3 PUPRPOSE AND APPLICABILITY 30.3(b)(6)

WATER CODE, TITLE 2. WATER ADMINISTRATION, SUBLTITLE F. CHAPTER 37.

Sec. 37.002. RULES. The commission shall adopt any rules necessary to:

(1) establish occupational licenses and registrations prescribed by Sections [26.0301](#), [26.3573](#), [26.452](#), and [26.456](#) of this code, Sections [341.033](#), [341.034](#), [361.027](#), and [366.071](#), Health and Safety Code, and Section [1903.251](#), Occupations Code;

(2) establish classes and terms of occupational licenses and registrations; and

(3) administer the provisions of this chapter and other laws governing occupational licenses and registrations under the commission's jurisdiction.

Allegation: The average on-site professional holds (2) or more licenses many hold (3). TOWA proposes that multiple license held by an individual be represented on a single card with one renewal date. This will be a huge benefit to the licensee by reducing the number of Continuing Education Units (CEU) lost. Currently dates of expiration are often staggered, and licensees end up losing CEU's due to these staggered dates.

TCEQ would continue to collect the \$111.00 renewal fee per license while greatly reducing the workload on staff reviewing multiple renewal applications. This method is currently used by Texas Department of Licensing and Regulation (TDLR) for water well drillers and would decrease the workload while simplifying the renewal process.

We understand that making these amendments will increase the workload on TCEQ staff for a brief period but would be a long-term reduction in the day to day workload on TCEQ staff.

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TOWA respectfully submits this rule petition to:
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Explanation: Amending this definition with “or Individual” completes this definition by using both descriptions being used in Chapter 285 rules and the statute 366.071.(a). This amendment is also needed to correct a reference error.

Proposed amendment to: Title 30, TAC Chapter 30

30.7 (19) Person or Individual – A single living human being. ~~As defined in §3.2 of this title (relating to Definitions).~~

Statutory Authority

This amendment is proposed under Health and Safety Code Chapter 366, On-Site Sewage Disposal Systems §366.012. Rules Concerning On-Site Sewage Disposal Systems. To assure the effective and efficient administration of this chapter, the commission shall: adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the: review and approval of on-site sewage disposal systems.

Allegation: The amendment provides the definition with more clarity and completeness to ensure enforcement.

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Texas Commission on Environmental Quality



**DECISION OF THE COMMISSION
REGARDING THE PETITION FOR RULEMAKING
FILED BY THE TEXAS ON-SITE WASTEWATER ASSOCIATION, INC.**

Docket No. 2020-1450-PET
Rule Project No. 2021-003-PET-NR

On December 16, 2020, the Texas Commission on Environmental Quality (Commission) considered the petition for rulemaking filed by the Texas On-Site Wastewater Association, Inc. (petitioner). The petitioner filed the request on November 12, 2020, requesting that the commission initiate rulemaking to amend 30 TAC § 30.1 Authority, 30 TAC § 30.3 Purpose and Applicability, 30 TAC § 30.7 Definitions, 30 TAC § 285.2 Definitions, 30 TAC § 285.3 General Requirements, 30 TAC § 285.7 Maintenance Requirements, 30 TAC § 285.32 Criteria for Sewage Treatment Systems, 30 TAC § 285.33 Criteria for Effluent Disposal Systems, 30 TAC § 285.34 Other Requirements, 30 TAC § 285.38 Prevention of Unauthorized Access to On-Site Sewage Facilities (OSSFs), 30 TAC § 285.39 On-Site Sewage Facilities Maintenance and Management Practices, 30 TAC § 285.50 General Requirements, 30 TAC § 285.64 Duties and Responsibilities of Maintenance Providers and Maintenance Technicians, and 30 TAC § 285.91 Tables, to better protect public health and the environment by revising 32 individual regulations to create more consistency with industry terminology and standards. This includes adding language to more easily identify Responsible Parties, including definitions of TCEQ licensed individuals, the creation of a new licensing/registration program for sludge pumpers by the commission, and general language updates for consistency.

IT IS THEREFORE ORDERED BY THE COMMISSION, pursuant to Administrative Procedure Act, Texas Government Code, § 2001.021 and Texas Water Code, § 5.102 and § 5.103, to initiate rulemaking after stakeholder involvement concerning the issues raised in the petition.

This Decision constitutes the decision of the Commission required by the Texas Government Code, § 2001.021(c).

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Jon Niermann, Chairman

Date Signed