

Texas Natural Resource Conservation Commission

INTEROFFICE MEMORANDUM

To: Commissioners **Date:** July 5, 2002

Thru: LaDonna Castañuela
Chief Clerk

From: Randolph Wood, Deputy Director
Office of Environmental Policy, Analysis, and Assessment

Subject: Consideration of a Petition for Proposed Rulemaking

Caption: **Docket No. 2002-0883-RUL.** Consideration of a petition for rulemaking filed by the Texas Water Quality Association requesting that the commission revise Chapter 285, On-Site Sewage Facilities, to allow owners of on-site sewage facilities (OSSFs) to install and use household water softeners that discharge effluent into the OSSF, provided the water softeners meet certain criteria; to allow owners of OSSFs to install and use household water softeners that do not meet the specified criteria, provided the calculated volume of effluent meets certain criteria; to allow owners of OSSFs to install and use Point of Use (under sink unit) Reverse Osmosis systems that discharge effluent into an OSSF; and to allow owners of OSSFs to install and use whole house reverse osmosis systems that discharge effluent into the OSSF, provided the calculated volume of effluent meets certain criteria. (Kathy Brown, Warren Samuelson, Kathy Ramirez) (Rule Log No. 2002-058-PET-WT)

Who Submitted the Petition:

On June 10, 2002, the commission received a petition from the Texas Water Quality Association.

What the Petitioner Requests:

The Texas Water Quality Association requested that the commission revise §285.39(d) to allow owners of on-site sewage facilities (OSSFs) to install and use:

- household water softeners that discharge effluent into the OSSF, provided the water softeners regenerate through a Demand Initiated Regeneration (DIR) control device; regenerate not more frequently than 2.5 times per week; and do not produce total effluent to the OSSF in excess of 250 gallons per week;
- household water softeners that do not meet the specified criteria, provided the calculated volume of effluent does not cause hydraulic overloading or has otherwise been addressed in the design of the OSSF;

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- Point of Use (under sink unit) Reverse Osmosis systems that discharge effluent into an OSSF; and
- whole house reverse osmosis systems that discharge effluent into the OSSF, provided the calculated volume of effluent does not cause hydraulic overloading or has otherwise properly been addressed in the design of the OSSF.

Recommended Action and Justification:

Staff recommends that rule changes proposed by the Texas Water Quality Association regarding installation and use of household water softeners and reverse osmosis systems by owners of OSSFs be considered as a petition for rulemaking. The commission is required to act within 60 days after receiving a petition by denying the petition in writing, stating the reasons for denial, or by initiating rulemaking. To meet this deadline, the commission must take action no later than the August 7, 2002, agenda.

Staff recommends approval of the petition regarding installation and use of household water softeners and reverse osmosis systems by owners of OSSFs under defined conditions.

In May 2001, the commission adopted a new set of OSSF rules. In this rulemaking, owners of OSSFs were prohibited from allowing back flush from water softeners and reverse osmosis systems from entering any portion of the OSSF because of concerns about the impact the back flush water could have on the function of the OSSF. The chemical make up of the back flush may alter the soils. Additionally, the back flush impacts the hydraulic loading on OSSFs.

Staff has determined, however, that there is no safe place to discharge this back flush water without creating a nuisance or creating a large expense to owners to meet other agency requirements. There are many areas of the state where some type of water softening is necessary to provide usable and palatable drinking water. Therefore, there is a need to develop language that will allow water softener and reverse osmosis system back flush to be discharged into OSSFs under the most efficient criteria possible.

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 and 30 TAC §20.15, which provides such procedures specific to the TNRCC.

Texas Health and Safety Code (THSC), §366.011, which establishes that the commission or authorized agents have general authority over the location, design, construction, installation, and proper functioning of on-site sewage disposal systems; and establishes that the commission or authorized agents shall administer Chapter 366 and the rules adopted under this chapter.

THSC, §366.012(a)(1), which requires the commission to adopt rules governing the installation of on-site sewage disposal systems.

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THSC, §366.053(b), which requires the commission to adopt rules for permitting.

THSC, §366.058, which requires adoption of rules addressing permit fees.

Texas Water Code (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, §5.103 and §5.105, which authorizes the commission to adopt rules and policies necessary to carry out its responsibilities and duties under the TWC, §5.013(15).

TWC, §7.002, which authorizes the commission to enforce provisions of the TWC and the THSC.

Affected Public:

The revisions proposed in the petition would directly affect citizens who desire to install a water softener or reverse osmosis system and use an OSSF system. Service providers, businesses, and manufacturers of water treatment equipment and OSSF equipment would also be affected. Additionally, authorized agents who permit most of the OSSFs would be directly affected.

Affected Agency Programs:

Compliance Support Division, On-Site Sewage Facility Program

Agency Contacts:

Warren Samuelson, Compliance Support Division, 239-4799

Kathy Brown, Environmental Law Division, 239-3417

Kathy Ramirez, Policy and Regulations Division, 239-6757

Joyce Spencer, Texas Register/Administrative Support Team, 239-5017

Attachment: Petition for rulemaking from the Texas Water Quality Association

cc: 7 copies to the Chief Clerk for distribution