

Hays Co. - OSSF Homeowner Maintenance

David B. Fusilier

From: Bob Pratt [bpratt@co.hays.tx.us]
Sent: Thursday, August 02, 2007 11:23 AM
To: Vince Van De Walle; Steve White; Stephen Jetton; Stan Burrier; Russell Cain; Ron Parker; Kyle DeHart; Jon Thompson; James Ashman; Fred Denney; Don Perry; dbalboa@austin.rr.com; David Fusilier; Dave McGhee; Chris Coffman; Andy Grubbs
Subject: FW: Chapter 285 Guidance from House Bill 2482
Attachments: Guidance Memo for DRs.pdf

From: Joseph Strouse [mailto:JSTROUSE@tceq.state.tx.us]
Sent: Thursday, August 02, 2007 10:15 AM
To: OSSF Discussion Group
Subject: Chapter 285 Guidance from House Bill 2482

← TCEQ On-Site
Program Mgr.

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Attached is a guidance document for implementing HB 2482. You can also download the final text of the bill here:

<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=80R&Bill=HB2482>

The final available version of HB 2482 on this page is the **Enrolled** version (at the bottom). You may also want to look at the Enrolled version's **Fiscal Note** which provides detail on the legislature's view of this bill.

As stated in the attached guidance, removing both the requirements for homeowner maintenance training and a homeowner's testing and reporting are effective on September 1, 2007.

A DR can still pursue nuisance violations, regardless of the county size. However, if there are 40,000 or more persons in your county, you can also pursue administrative penalties and, under the conditions described, require a repeat violator to enter into a maintenance contract.

If your jurisdiction's approved order has stricter requirements regarding these (or any other) issues, those provisions do not change after September 1st.

Also effective on September 1 is the removal of the minimum five-year timeframe for routine ATU inspections requirement. You will be able to routinely inspect any ATU at any time after September 1st.

Finally, we are beginning work on revising the Chapter 285 rules to both accommodate this law and address a number of issues in the rules not related to this law.

Thank you for your patience and diligent work to protect the environment.

Joe

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Guidance Document for Designated Representatives Effects of HB 2482

During the 2007 legislative session, HB 2482 was passed. The legislation amended and repealed certain sections of Chapter 366 of the Health and Safety Code covering maintenance, gave new directives regarding homeowner maintenance, and allowed the TCEQ to implement licensing and training requirements for those who maintain on-site sewage disposal systems for compensation.

The important effects of the legislation are as follows:

Homeowner Maintenance

- As of September 1, 2007, all homeowners will be allowed to maintain their own system, with no required training, unless the local order/ordinance prohibits homeowner maintenance. Additionally, these homeowners are neither required to report testing results to the permitting authority nor required to notify the permitting authority if they decide to maintain their own system.
- In a county with population of at least 40,000 people, homeowners maintaining their own system who violate any rule, statute or permit, must correct the violation within 10 days of notification by the permitting authority. If they do not correct the violation within 10 days, then they must enter into a contract for maintenance of the system. If the same owner commits another violation within three years of the first violation, then they must enter into a contract for maintenance within 10 days of notice of the violation.
- *In a county with population of less than 40,000 people, homeowners will be allowed to maintain their own system, even if the homeowners violate a rule, statute, or permit. If homeowners violate the rules, they are subject to the normal enforcement process, but they cannot be required to enter into a contract for maintenance of their system.*
- Designated Representatives may inspect any system at any time. Effective September 1, 2007, inspections can be required more than once every five years.

Maintenance Providers and Maintenance Companies

- *The rules regarding maintenance providers and maintenance companies will not change on September 1, 2007. The TCEQ will evaluate and potentially revise the rules where there are issues of maintenance licensing and training. Should the rules be revised, the changes would not become effective until the rules are adopted and become effective.*

In summary, the legislation means that on September 1, 2007, all single-family homeowners will be allowed to maintain their own system, without training, unless they live in an area where the Authorized Agent's order prohibits the practice. In counties with a population of 40,000 or more, homeowners who elect to maintain their own system may lose that right if they violate the rules. Under this legislation, homeowners in counties with a population less than 40,000 do not lose their right to maintain their system but are still subject to the TCEQ's enforcement process. Finally, there will be no changes on September 1, 2007 regarding license requirements for maintenance companies and maintenance providers.

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H.B. No. 2482

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AN ACT

relating to the requirements regarding persons who service or maintain on-site sewage disposal systems; imposing an administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 366.0515(a) and (g), Health and Safety Code, are amended to read as follows:

(a) Except as provided by Subsection (g), an [An] authorized agent or the commission may not condition a permit or the approval of a permit for an on-site sewage disposal system using aerobic treatment for a single-family residence on the system's owner contracting for the maintenance of the system.

(g) The owner of a single-family residence shall maintain the system directly or through a maintenance contract. If an authorized agent or the commission determines that an owner of a single-family residence located in a county with a population of at least 40,000 who maintains the owner's system directly has violated this chapter or a rule adopted or order or permit issued under this chapter, the owner, not later than the 10th day after the date of receipt of notification of the violation, shall correct the violation or enter into a contract for the maintenance of the system. If before the third anniversary of the date of the determination the owner is determined to have committed another violation of this chapter or a rule adopted under this chapter, the

1 owner, not later than the 10th day after the date of receipt of
2 notification of the subsequent violation, shall enter into a
3 contract for the maintenance of the system. An owner of a
4 single-family residence located in a county with a population of at
5 least 40,000 who maintains the owner's system directly and who
6 violates this chapter or a rule adopted or order or permit issued
7 under this chapter is also subject to an administrative penalty.
8 The commission may recover the penalty in a proceeding conducted as
9 provided by Subchapter C, Chapter 7, Water Code, or the authorized
10 agent may recover the penalty in a proceeding conducted under an
11 order or resolution of the agent. Notwithstanding Section 7.052,
12 Water Code, the amount of the penalty may not exceed \$100. [The
13 ~~commission shall adopt rules governing:~~

14 ~~[(1) the training in system maintenance to be provided~~
15 ~~to an owner who elects to maintain the system directly; and.~~

16 ~~[(2) the maintenance of a system by the owner of the~~
17 ~~system.]~~

18 SECTION 2. Section 366.071, Health and Safety Code, is
19 amended by adding Subsection (d) to read as follows:

20 (d) The commission may implement a program under Chapter 37,
21 Water Code, to register persons who service or maintain on-site
22 sewage disposal systems for compensation.

23 SECTION 3. Sections 366.0515(h), (i), (j), (n), and (o),
24 Health and Safety Code, are repealed.

25 SECTION 4. (a) The changes in law made by this Act apply
26 only to a violation committed on or after the effective date of this
27 Act. For purposes of this section, a violation is committed before

1 the effective date of this Act if any element of the violation
2 occurs before that date.

3 (b) A violation committed before the effective date of this
4 Act is covered by the law in effect when the violation was
5 committed, and the former law is continued in effect for that
6 purpose.

7 SECTION 5. This Act takes effect September 1, 2007.

H.B. No. 2482

President of the Senate

Speaker of the House

I certify that H.B. No. 2482 was passed by the House on April 26, 2007, by the following vote: Yeas 141, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2482 on May 25, 2007, by the following vote: Yeas 137, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2482 was passed by the Senate, with amendments, on May 22, 2007, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor