

HEALTH AND SAFETY CODE

TITLE 5. SANITATION AND ENVIRONMENTAL QUALITY

SUBTITLE B. SOLID WASTE, TOXIC CHEMICALS, SEWAGE, LITTER, AND WATER

CHAPTER 366. ON-SITE SEWAGE DISPOSAL SYSTEMS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 366.001. POLICY AND PURPOSE. It is the public policy of this state and the purpose of this chapter to:

(1) eliminate and prevent health hazards by regulating and properly planning the location, design, construction, installation, operation, and maintenance of on-site sewage disposal systems;

(2) authorize the commission or authorized agent to impose and collect a permit fee for:

(A) construction, installation, alteration, repair, or extension of on-site sewage disposal systems; and

(B) tests, designs, and inspections of those systems;

(3) authorize the commission or authorized agent to impose a penalty for a violation of this chapter or a rule adopted under this chapter;

(4) authorize the commission to license or register certain persons; and

(5) allow the individual owner of a disposal system to install and repair the system in accordance with this chapter.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 880, Sec. 21, eff. Sept. 1, 2001.

Sec. 366.002. DEFINITIONS. In this chapter:

(1) "Authorized agent" means a local governmental entity authorized by the commission to implement and enforce rules under this chapter.

(2) "Commission" means the Texas Natural Resource Conservation Commission.

(3), (4) Repealed by Acts 2001, 77th Leg., ch. 880, Sec.

25(2), eff. Sept. 1, 2001.

(5) "Local governmental entity" means a municipality, county, river authority, or special district, including an underground water district, soil and water conservation district, or public health district.

(6) "Nuisance" means:

(A) sewage, human excreta, or other organic waste discharged or exposed in a manner that makes it a potential instrument or medium in the transmission of disease to or between persons; or

(B) an overflowing septic tank or similar device, including surface discharge from or groundwater contamination by a component of an on-site sewage disposal system, or a blatant discharge from an on-site sewage disposal system.

(7) "On-site sewage disposal system" means one or more systems of treatment devices and disposal facilities that:

(A) produce not more than 5,000 gallons of waste each day; and

(B) are used only for disposal of sewage produced on a site on which any part of the system is located.

(8) "Owner" means a person who owns a building or other property served by an on-site sewage disposal system.

(9) "Sewage" means waste that:

(A) is primarily organic and biodegradable or decomposable; and

(B) generally originates as human, animal, or plant waste from certain activities, including the use of toilet facilities, washing, bathing, and preparing food.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 1.038, eff. Aug. 12, 1991; Acts 1993, 73rd Leg., ch. 589, Sec. 1 to 3, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1127, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 880, Sec. 25(2), eff. Sept. 1, 2001.

Sec. 366.003. IMMUNITY. The commission, an authorized agent, or a designated representative is not liable for damages

resulting from the commission's or authorized agent's approval of the installation and operation of an on-site sewage disposal system.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995.

Sec. 366.004. COMPLIANCE REQUIRED. A person may not construct, alter, repair, or extend, or cause to be constructed, altered, repaired, or extended, an on-site sewage disposal system that does not comply with this chapter and applicable rules.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995.

Sec. 366.005. NOTICE OF UTILITY SERVICE CONNECTIONS. (a) An electric utility shall compile a list weekly for each county in this state of the addresses located in an unincorporated area of the county at which the electric utility has made new electric service connections during the preceding week. The electric utility shall submit the list to the county judge of the county, or to a county officer or employee designated by the county judge, who shall forward the list to each authorized agent having jurisdiction over an area in which an address on the list is included. The authorized agent may use the list for the purpose of implementing and enforcing rules under this chapter. This section does not apply to a reconnection of service to a location previously served.

(b) An electric utility may not be held liable for a claim arising from the provision of information under this section.

(c) Information provided by a utility under this section is confidential and not subject to disclosure under Chapter 552, Government Code, or otherwise, except as provided by this section.

(d) The county judge shall forward the list compiled under Subsection (a) to each appraisal district and each emergency communication district in the county.

(e) In this section:

(1) "Appraisal district" means a district established under Section 6.01, Tax Code.

(2) "Electric utility" means an investor-owned

utility, electric cooperative corporation, river authority, or municipally owned utility that provides distribution service to retail customers of electricity.

(3) "Emergency communication district" means a district established under Chapter 772.

Added by Acts 1997, 75th Leg., ch. 1127, Sec. 2, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 15, Sec. 1, eff. May 3, 1999; Acts 1999, 76th Leg., ch. 333, Sec. 1, eff. Sept. 1, 1999.

Sec. 366.006. CERTAIN LEASED LAND OWNED BY FEDERAL GOVERNMENT. (a) If a tract of land owned by the federal government contains separately leased individual parts, each leased part is considered a separate tract of land for purposes of this chapter or a rule adopted under this chapter.

(b) The commission may adopt rules as necessary to administer this section.

Added by Acts 2021, 87th Leg., R.S., Ch. 258 (H.B. 1680), Sec. 1, eff. September 1, 2021.

SUBCHAPTER B. GENERAL POWERS AND DUTIES OF COMMISSION AND AUTHORIZED AGENTS

Sec. 366.011. GENERAL SUPERVISION AND AUTHORITY. The commission or authorized agents:

(1) have general authority over the location, design, construction, installation, and proper functioning of on-site sewage disposal systems; and

(2) shall administer this chapter and the rules adopted under this chapter.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995.

Sec. 366.012. RULES CONCERNING ON-SITE SEWAGE DISPOSAL SYSTEMS. (a) To assure the effective and efficient administration of this chapter, the commission shall:

(1) adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the:

(A) review and approval of on-site sewage disposal systems; and

(B) temporary waiver of a permit for an emergency repair; and

(2) adopt rules under this chapter that:

(A) encourage the use of economically feasible alternative techniques and technologies for on-site sewage disposal systems that can be used in soils not suitable for conventional on-site sewage disposal;

(B) address the separation of graywater, as defined by Section 341.039, in a residence served by an on-site sewage disposal system;

(C) allow for an adjustment in the size required of an on-site sewage disposal system if the system is used in conjunction with a graywater system that complies with the rules adopted under Section 341.039;

(D) require on-site sewage disposal systems, including risers and covers, installed after September 1, 2012, to be designed to prevent access to the system by anyone other than:

(i) the owner of the system; or

(ii) a person described by Section 366.071(a) or (b);

(E) for a county with a population of at least 350,000 and not more than 370,000 that is adjacent to the Gulf of Mexico and adjacent to a county with a population of at least 3.3 million, allow for the installation of aerobic drip emitter systems on subdivided or platted properties less than one-half acre in size serving single-family residences supplied by a public drinking water system if site-specific planning materials have been:

(i) submitted by a licensed engineer or registered sanitarian; and

(ii) approved by the appropriate authorized agent; and

(F) for a county with a population of more than 40,000 and less than 50,000 that borders the Red River along the Oklahoma state line and has a major interstate road running through it, allow for the installation of aerobic drip emitter systems on

subdivided or platted properties less than one-half acre in size, serving single-family residences supplied by a public drinking water system if site-specific planning materials have been:

(i) submitted by a licensed engineer or registered sanitarian; and

(ii) approved by the appropriate authorized agent.

(b) In rules adopted under this chapter, the commission shall include definitions and detailed descriptions of good management practices and procedures for the construction of on-site sewage disposal systems that:

(1) justify variation in field size or in other standard requirements;

(2) promote the use of good management practices or procedures in the construction of on-site sewage disposal systems;

(3) require the use of one or more specific management practices or procedures as a condition of approval of a standard on-site sewage disposal system if, in the opinion of the commission or authorized agent, site conditions or other problems require the use of additional management practices or procedures to ensure the proper operation of an on-site sewage disposal system; and

(4) make available general, operational information to the public.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 880, Sec. 22, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 689, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 220 (H.B. 240), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 545 (H.B. 1902), Sec. 2, eff. June 16, 2015.

Acts 2023, 88th Leg., R.S., Ch. 1018 (H.B. 4087), Sec. 1, eff. September 1, 2023.

Sec. 366.013. INSTALLATION AND USE OF WATER SOFTENERS AND REVERSE OSMOSIS SYSTEMS. (a) Except as provided by Subsection (b),

an owner may install or use a water softener that discharges effluent into an on-site sewage disposal system only if the installed water softener:

- (1) conserves water by design;
- (2) regenerates using a demand-initiated regeneration control device, commonly known as a DIR device; and
- (3) is clearly labeled as being equipped with a DIR device, with the label affixed to the outside of the system so that it may be inspected and easily read.

(b) An owner may use a water softener that discharges effluent into an on-site sewage disposal system and that does not meet the requirements of Subsection (a) if the water softener was installed before September 1, 2003. The owner must replace the water softener with a water softener that meets the requirements of Subsection (a) if the owner:

- (1) replaces the water softener; or
- (2) installs a new on-site sewage disposal system for the building or other property served by the existing system.

(c) An owner may install and use a point-of-use reverse osmosis system that discharges effluent into an on-site sewage disposal system.

(d) An owner may install and use a point-of-entry reverse osmosis system that discharges effluent into an on-site sewage disposal system if the calculated volume of effluent:

- (1) does not cause hydraulic overloading; or
- (2) has been adequately addressed in the design of the on-site sewage disposal system.

(e) This section does not apply to an aerobic, nonstandard, or proprietary on-site sewage treatment system unless the water softener drain line to the system bypasses the treatment system and flows into the pump tank or directly into the discharge method.

(f) The commission by rule shall adopt and implement standards for the use of water softeners and reverse osmosis systems in a building or other property served by an on-site sewage disposal system.

Added by Acts 2003, 78th Leg., ch. 966, Sec. 1, eff. Sept. 1, 2003.

Sec. 366.014. DESIGNATED PERSON. Subject to the requirements of Section 366.071(b), the commission or an authorized agent may designate a person to:

(1) review permit applications, site evaluations, or planning materials; or

(2) inspect on-site sewage disposal systems.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 589, Sec. 4, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 333, Sec. 59, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 880, Sec. 23, eff. Sept. 1, 2001.

Sec. 366.016. EMERGENCY ORDERS. The commission or authorized agent may issue an emergency order concerning an on-site sewage disposal system under Section 5.513, Water Code.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1072, Sec. 38, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 12.011, eff. September 1, 2009.

Sec. 366.017. REQUIRED REPAIRS; PENALTY. (a) The commission or authorized agent may require a property owner to repair a malfunctioning on-site sewage disposal system on the owner's property:

(1) not later than the 30th day after the date on which the owner is notified by the commission or authorized agent of the malfunctioning system if the owner has not been notified of the malfunctioning system during the preceding 12 months;

(2) not later than the 20th day after the date on which the owner is notified by the commission or authorized agent of the malfunctioning system if the owner has been notified of the malfunctioning system once during the preceding 12 months; or

(3) not later than the 10th day after the date on which the owner is notified by the commission or authorized agent of the malfunctioning system if the owner has been notified of the

malfunctioning system at least twice during the preceding 12 months.

(b) The property owner must take adequate measures as soon as practicable to abate an immediate health hazard.

(c) The property owner may be assessed an administrative or a civil penalty under Chapter 7, Water Code, for each day that the on-site sewage disposal system remains unrepaired.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1072, Sec. 39, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1127, Sec. 3, eff. Sept. 1, 1997.

SUBCHAPTER C. DESIGNATION OF LOCAL GOVERNMENTAL ENTITY AS
AUTHORIZED AGENT

Sec. 366.031. DESIGNATION. (a) The commission shall designate a local governmental entity as an authorized agent if the governmental entity:

(1) notifies the commission that the entity wants to regulate the use of on-site sewage disposal systems in its jurisdiction;

(2) in accordance with commission procedures, holds a public hearing and adopts an order or resolution that complies with Section 366.032; and

(3) submits the order or resolution to the commission.

(b) The commission in writing may approve the local governmental entity's order or resolution, and the designation takes effect only when the order or resolution is approved.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995.

Sec. 366.032. ORDER OR RESOLUTION; REQUIREMENTS. (a) The local governmental entity's order or resolution must:

(1) incorporate the commission's rules on abatement or prevention of pollution and the prevention of injury to the public health;

(2) meet the commission's minimum requirements for

on-site sewage disposal systems; and

(3) include a written enforcement plan.

(b) If the order or resolution adopts more stringent standards for on-site sewage disposal systems than this chapter or the commission's standards and provides greater public health and safety protection, the authorized agent's order or resolution prevails over this chapter or the standards.

(c) An authorized agent must obtain commission approval of substantive amendments to the agent's order or resolution.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995.

Sec. 366.033. DELEGATION TO LOCAL GOVERNMENTAL ENTITIES. The commission shall delegate to local governmental entities responsibility for the implementation and enforcement of applicable rules.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995.

Sec. 366.034. INVESTIGATION OF AUTHORIZED AGENTS. (a) The commission shall:

(1) conduct not more often than once a year an investigation of each authorized agent to determine the authorized agent's compliance with this chapter; and

(2) prepare an annual report concerning the status of the local governmental entity's regulatory program.

(b) If the commission determines that an authorized agent does not consistently enforce the commission's minimum requirements for on-site sewage disposal systems, the commission shall hold a hearing and determine whether to continue the designation as an authorized agent.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995.

Sec. 366.035. MANDATORY APPLICATION FOR AND MAINTENANCE OF DESIGNATION. A local governmental entity that applies to the Texas Water Development Board for financial assistance under a program

for economically distressed areas must take all actions necessary to receive and maintain a designation as an authorized agent of the commission.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 127, eff. Sept. 1, 1991.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995.

Sec. 366.036. COUNTY MAP. (a) If the commission designates a local governmental entity as its authorized agent and if the entity intends to apply to the Texas Water Development Board for financial assistance under a program for economically distressed areas, the commissioners court of the county in which the entity is located shall prepare a map of the county area outside the limits of municipalities. The entity shall give to the commissioners court a written notice of the entity's intention to apply for the assistance. The map must show the parts of the area in which the different types of on-site sewage disposal systems may be appropriately located and the parts in which the different types of systems may not be appropriately located.

(b) The commissioners court shall file the map in the office of the county clerk.

(c) The commissioners court, at least every five years, shall review the map and make changes to it as necessary to keep the map accurate.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 127, eff. Sept. 1, 1991.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995.

SUBCHAPTER D. PERMITS; FEES

Sec. 366.051. PERMITS. (a) A person must hold a permit and an approved plan to construct, alter, repair, extend, or operate an on-site sewage disposal system.

(b) If the on-site sewage disposal system is located in the jurisdiction of an authorized agent, the permit is issued by the authorized agent; otherwise, the permit is issued by the commission.

(c) A person may not begin to construct, alter, repair, or extend an on-site sewage disposal system that is owned by another person unless the owner or owner's representative shows proof of a permit and approved plan from the commission or authorized agent. Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995.

Sec. 366.0512. MULTIPLE TREATMENT SYSTEMS. A multiple system of treatment devices and disposal facilities may be permitted as an on-site disposal system under this chapter if the system:

- (1) is located on a tract of land of at least 100 acres in size;
- (2) produces not more than 5,000 gallons a day on an annual average basis;
- (3) is used only on a seasonal or intermittent basis; and
- (4) is used only for disposal of sewage produced on the tract of land on which any part of the system is located.

Added by Acts 2001, 77th Leg., ch. 965, Sec. 20.03, eff. Sept. 1, 2001.

Sec. 366.0513. PERMITS FOR CERTAIN TEMPORARY SYSTEMS.

(a) An authorized agent may issue a permit to authorize the use of a temporary on-site sewage disposal system that:

- (1) operates in conjunction with the pumping and hauling of wastewater produced by the system; and
- (2) serves a property that:
 - (A) has been subdivided for residential use; and
 - (B) is of insufficient size to accommodate on-site disposal of all wastewater in compliance with this chapter.

(b) A permit issued under this section:

- (1) may authorize the use of a system and the associated pumping and hauling activities described by Subsection (a) for not more than six months from the date of issuance; and
- (2) may not be renewed.

Added by Acts 2023, 88th Leg., R.S., Ch. 1018 (H.B. 4087), Sec. 2,

eff. September 1, 2023.

Sec. 366.0515. MAINTENANCE CONTRACT AND PERFORMANCE BOND.

(a) Except as provided by Subsection (g), 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.

(b) Except as provided by Subsection (a), an authorized agent by order or resolution or the commission by rule may condition approval of a permit for an on-site sewage disposal system on the system's owner contracting for the maintenance of the system. If a maintenance contract is required, the owner of the on-site sewage disposal system must submit to the permitting authority:

(1) a signed contract for the maintenance of the on-site sewage disposal system; and

(2) if the on-site sewage disposal system is located in a county with a population of more than 2.8 million, a performance bond obtained from the person with whom the owner of the on-site sewage disposal system has contracted for maintenance of the system.

(c) A performance bond required by Subsection (b) must be:

(1) solely for the protection of the owner of the on-site sewage disposal system;

(2) conditioned on the faithful performance of the maintenance of the on-site sewage disposal system in accordance with plans, specifications, laws, regulations, and ordinances of the state and the authorized agent;

(3) in an amount reasonably related to the cost that the owner of the on-site sewage disposal system would incur if the maintenance company did not adhere to maintenance standards or comply with applicable statutes, rules, or ordinances;

(4) executed by a corporate surety in accordance with Section 1, Chapter 87, Acts of the 56th Legislature, Regular Session, 1959 (Article 7.19-1, Vernon's Texas Insurance Code);

(5) in a form approved by the permitting authority;
and

(6) payable to the owner of the on-site sewage disposal system.

(d) If the owner of the on-site sewage disposal system enters into a new maintenance contract or revises the original maintenance contract, the owner must submit a copy of the new or revised maintenance contract and a new performance bond to the permitting authority not later than the 30th day after the date on which the original contract terminates or is modified.

(e) The permitting authority may establish and collect a reasonable fee to cover the cost of administering the performance bond program.

(f) The installer of an on-site sewage disposal system shall provide the owner of the system with information regarding maintenance of the system at the time the system is installed.

(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 owner, not later than the 10th day after the date of receipt of notification of the subsequent violation, shall enter into a contract for the maintenance of the system. 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 and who violates this chapter or a rule adopted or order or permit issued under this chapter is also subject to an administrative penalty. The commission may recover the penalty in a proceeding conducted as provided by Subchapter C, Chapter 7, Water Code, or the authorized agent may recover the penalty in a proceeding conducted under an order or resolution of the agent. Notwithstanding Section

7.052, Water Code, the amount of the penalty may not exceed \$100.

(h) Repealed by Acts 2007, 80th Leg., R.S., Ch. 892, Sec. 3, eff. September 1, 2007.

(i) Repealed by Acts 2007, 80th Leg., R.S., Ch. 892, Sec. 3, eff. September 1, 2007.

(j) Repealed by Acts 2007, 80th Leg., R.S., Ch. 892, Sec. 3, eff. September 1, 2007.

(k) If, under Subsection (b), an authorized agent or the commission conditions approval of a permit for an on-site sewage disposal system using aerobic treatment on the system's owner contracting for the maintenance of the system, the order, resolution, or rule may require the maintenance company 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 under Subdivision (2) to the system's owner.

(1) A maintenance company that violates a provision of an order, resolution, or rule described by Subsection (k) is subject to an administrative penalty. The commission may recover the penalty in a proceeding conducted as provided by Subchapter C, Chapter 7, Water Code, or the authorized agent may recover the penalty in a proceeding conducted under an order or resolution of the agent. Notwithstanding Section 7.052, Water Code, the amount of the penalty for the first violation of that order, resolution, or rule is \$200, and the amount of the penalty for each subsequent violation is \$500.

(m) If a maintenance company violates an order, resolution, or rule described by Subsection (k) three or more times, the commission, in the manner provided by Subchapter G, Chapter 7, Water Code, may revoke the license or registration of the maintenance company or any person employed by the maintenance company issued under:

(1) Section 26.0301, Water Code;

(2) Chapter 37, Water Code; or

(3) Section 366.071 of this code.

(n) Repealed by Acts 2007, 80th Leg., R.S., Ch. 892, Sec. 3,

eff. September 1, 2007.

(o) Repealed by Acts 2007, 80th Leg., R.S., Ch. 892, Sec. 3, eff. September 1, 2007.

Added by Acts 1997, 75th Leg., ch. 1127, Sec. 4, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1129 (H.B. 2510), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 892 (H.B. 2482), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 892 (H.B. 2482), Sec. 3, eff. September 1, 2007.

Sec. 366.052. PERMIT NOT REQUIRED FOR ON-SITE SEWAGE DISPOSAL ON CERTAIN SINGLE RESIDENCES. (a) Sections 366.051, 366.053, 366.054, and 366.057 do not apply to an on-site sewage disposal system of a single residence that is located on a land tract that is 10 acres or larger in which the field line or sewage disposal line is not closer than 100 feet of the property line.

(b) Effluent from the on-site sewage disposal system on a single residence:

- (1) must be retained in the specified limits;
- (2) may not create a nuisance; and
- (3) may not pollute groundwater.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995.

Sec. 366.053. PERMIT APPLICATION. (a) Application for a permit must:

- (1) be made on a form provided by the commission or authorized agent; and
- (2) include information required by the commission or authorized agent to establish that the individual sewage disposal system complies with this chapter and rules adopted under this chapter.

(b) The commission shall adopt rules and procedures for the submission, review, and approval or rejection of permit applications.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995.

Sec. 366.054. NOTICE FROM INSTALLER. An installer may not begin construction, alteration, repair, or extension of an on-site sewage disposal system unless the installer notifies the commission or authorized agent of the date on which the installer plans to begin work on the system.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995.

Sec. 366.055. INSPECTIONS. (a) The commission or authorized agent shall review a proposal for an on-site sewage disposal system and make inspections of the system as necessary to ensure that the on-site sewage disposal system is in substantial compliance with this chapter and the rules adopted under this chapter.

(b) An on-site sewage disposal system may not be used unless it is inspected and approved by the commission or the authorized agent.

(c) A holder of a permit issued under this chapter shall notify the commission, the authorized agent, or a designated representative not later than the fifth working day before the proposed date of the operation of an installation that the installation is ready for inspection.

(d) The inspection shall be made on a date and time mutually agreed on by the holder of a permit and the commission, the authorized agent, or a designated representative.

(e) An installation inspection shall be made not later than the second working day, excluding holidays, after the date on which notification that the installation is completed and ready for inspection is given to the commission, the authorized agent, or a designated representative.

(f) The owner, owner's representative, or occupant of the property on which the installation is located shall give the commission, the authorized agent, or a designated representative reasonable access to the property at reasonable times to make

necessary inspections.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995.

Sec. 366.056. APPROVAL OF ON-SITE SEWAGE DISPOSAL SYSTEM.

(a) The commission or authorized agent may approve or disapprove the on-site sewage disposal system depending on the results of the inspections under Section 366.055.

(b) If a system is not approved under this section, the on-site sewage disposal system may not be used until all deficiencies are corrected and the system is reinspected and approved by the commission or authorized agent.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995.

Sec. 366.057. PERMIT ISSUANCE. (a) The commission shall issue or authorize the issuance of permits and other documents.

(b) A permit and approved plan to construct, alter, repair, extend, or operate an on-site sewage disposal system must be issued in the name of the person who owns the system and must identify the specific property location or address for the specific construction, alteration, extension, repair, or operation proposed by the person.

(c) The commission may not issue a permit to construct, alter, repair, or extend an on-site sewage disposal system if the issuance of a permit conflicts with other applicable laws or public policy under this chapter.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995.

Sec. 366.058. PERMIT FEE. (a) The commission by rule shall establish and collect a reasonable permit fee to cover the cost of issuing permits under this chapter and administering the permitting system. The commission may also use the fee to cover any other costs incurred to protect water resources in this state, including assessment of water quality, reasonably related to the activities of any of the persons required to pay a fee under the statutes

listed in Section 5.701(q), Water Code.

(b) The commission at its discretion may provide variances to the uniform application of the permit fee.

(c) Fees collected under this section shall be deposited to the credit of the water resource management account.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 333, Sec. 60, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 965, Sec. 3.08, eff. Sept. 1, 2001.

Sec. 366.059. PERMIT FEE PAID TO DEPARTMENT OR AUTHORIZED AGENT. (a) The permit fee shall be paid to the authorized agent or the commission, whichever performs the permitting function.

(b) The commission may assess a reasonable and appropriate charge-back fee, not to exceed \$500, to a local governmental entity for which the commission issues permits for administrative costs relating to the permitting function that are not covered by the permit fees collected. The commission shall base the amount of a charge-back fee under this subsection on the actual cost of issuing a permit under this section. The commission may assess a charge-back fee to a local governmental entity under this subsection if the local governmental entity is an authorized agent that:

(1) has repealed the order, ordinance, or resolution that established the entity as an authorized agent; or

(2) has had its authorization as an authorized agent revoked by the commission.

(c) Fees collected under this section shall be deposited to the credit of the water resource management account.

(d) The commission may not assess a charge-back fee to a local governmental entity if the local governmental entity has repealed the order, ordinance, or resolution that established the entity as an authorized agent or has lost its designation as an authorized agent due to material change in the commission's rules under this chapter.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995;

Acts 1997, 75th Leg., ch. 333, Sec. 61, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 965, Sec. 3.09, eff. Sept. 1, 2001.

SUBCHAPTER E. REGISTRATION OF INSTALLERS

Sec. 366.071. OCCUPATIONAL LICENSING AND REGISTRATION. (a) A person who constructs, installs, alters, extends, services, maintains, or repairs an on-site sewage disposal system or any part of an on-site sewage disposal system for compensation must hold a license or registration issued by the commission under Chapter 37, Water Code.

(b) A person designated by an authorized agent under Section 366.014 must hold a license issued by the commission under Chapter 37, Water Code.

(c) A person who conducts preconstruction site evaluations, including visiting a site and performing a soil analysis, a site survey, or other activities necessary to determine the suitability of a site for an on-site sewage disposal system must hold a license issued by the commission under Chapter 37, Water Code, unless the person is licensed by the Texas Board of Professional Engineers and Land Surveyors as an engineer.

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

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 589, Sec. 5, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 11.113, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 880, Sec. 24.

Amended by:

Acts 2005, 79th Leg., Ch. 1129 (H.B. 2510), Sec. 2, eff. September 1, 2006.

Acts 2005, 79th Leg., Ch. 1129 (H.B. 2510), Sec. 4, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 892 (H.B. 2482), Sec. 2, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1232 (H.B. 1523), Sec. 2.09, eff. September 1, 2019.

SUBCHAPTER F. PENALTIES

Sec. 366.092. INJUNCTION OR CIVIL SUIT. (a) If it appears that a person has violated, is violating, or is threatening to violate any provision of this chapter, or any rule, permit, or other order of the commission issued pursuant to this chapter, an authorized agent or, at the request of the commission, the attorney general may bring a civil suit for:

(1) mandatory or prohibitory injunctive relief, as warranted by the facts;

(2) a civil penalty as provided by this chapter; or

(3) both injunctive relief and civil penalty.

(b) Repealed by Acts 1997, 75th Leg., ch. 1072, Sec. 60(b)(4), eff. Sept. 1, 1997.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 589, Sec. 7, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 1127, Sec. 5, eff. Sept. 1, 1997.

Sec. 366.0922. COMMISSION ENFORCEMENT AT LOCAL GOVERNMENT REQUEST. A local government may request that the commission initiate an enforcement action under this chapter through a petition filed with the commission. If the commission chooses to initiate an enforcement action on behalf of a local government, civil penalties recovered shall be divided between the local government and the state based on the proportion of resources expended by each entity in the course of enforcement action.

Added by Acts 1993, 73rd Leg., ch. 589, Sec. 8, eff. Aug. 30, 1993. Amended by Acts 1997, 75th Leg., ch. 1127, Sec. 6, eff. Sept. 1, 1997.

Sec. 366.0923. FEES AND COSTS RECOVERABLE. If an authorized agent or the state prevails in a suit under this subchapter, it may recover reasonable attorney's fees, court costs, and reasonable investigative costs incurred in relation to the proceeding.

Added by Acts 1993, 73rd Leg., ch. 589, Sec. 8, eff. Aug. 30, 1993.

Amended by Acts 1997, 75th Leg., ch. 1127, Sec. 7, eff. Sept. 1, 1997.