

Texas Administrative Code

[TITLE 30](#)

ENVIRONMENTAL QUALITY

[PART 1](#)

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

[CHAPTER 285](#)

ON-SITE SEWAGE FACILITIES

[SUBCHAPTER B](#)

LOCAL ADMINISTRATION OF THE OSSF PROGRAM

RULE §285.10

Delegation to Authorized Agents

(a) Responsibility of the authorized agent. An authorized agent is responsible for the proper implementation of this chapter in its area of jurisdiction.

(1) An authorized agent shall administer its on-site sewage facility (OSSF) program according to the OSSF order, ordinance, or resolution approved by the executive director.

(2) An authorized agent shall enforce this chapter and Texas Health and Safety Code (THSC), Chapter 366.

(b) Requirements and procedures.

(1) Upon request from a local governmental entity, the executive director shall forward a description of the delegation process and provide a copy of the executive director's model order, ordinance, or resolution.

(2) If the OSSF program is delegated to a municipality, the jurisdiction of the authorized agent will be limited to the municipality's incorporated area.

(3) To receive delegation as an authorized agent, a local governmental entity shall draft an order, ordinance, or resolution that meets the requirements of this chapter and THSC, §366.032. The local governmental entity shall use the model order, ordinance, or resolution as a guide for developing its order, ordinance, or resolution.

(4) If the local governmental entity proposes more stringent standards than those in this chapter, the local governmental entity shall submit the proposed order, ordinance, or resolution to the executive director for review and comment before publishing notice.

(A) Each more stringent requirement shall be justified based on greater public health and safety protection. The written justification shall be submitted to the executive director with the draft order, ordinance, or resolution.

(B) The executive director shall review the draft order, ordinance, or resolution and provide written comments to the local governmental entity within 30 days of receipt.

(C) If the local governmental entity's draft order, ordinance, or resolution meets the requirements of this chapter, the executive director will notify the local governmental entity in writing to continue the process outlined in this subsection.

(D) If the local governmental entity's draft order, ordinance, or resolution does not meet the requirements of this chapter, the executive director will not continue the review process until all requirements have been met. The executive director will notify the local governmental entity in writing of all deficiencies.

(5) If the local governmental entity proposes using the model order, ordinance, or resolution without more stringent standards, or if the executive director has approved the draft order, ordinance, or resolution with more stringent standards, the local governmental entity shall hold a public meeting to discuss the proposed order, ordinance, or resolution.

(A) The local governmental entity shall publish notice of a public meeting that will be held to discuss the adoption of the proposed order, ordinance, or resolution. The notice must be published in a regularly published newspaper of general circulation in the entity's area of jurisdiction.

(B) The public notice shall include the time, date, and location of the public meeting.

(C) The public notice shall be published at least 72 hours before the public meeting, but not more than 30 days before the meeting.

(6) The local governmental entity shall provide the executive director with the following:

(A) a copy of the public notice as it appeared in the newspaper;

(B) a publisher's affidavit from the newspaper in which the public notice was published;

(C) a certified copy of the minutes of the meeting when the order, ordinance, or resolution was adopted; and

(D) a certified copy of the order, ordinance, or resolution that was passed by the entity.

(7) Upon receiving the information listed in paragraph (6) of this subsection, the executive director shall have 30 days to review the materials to ensure the local governmental entity has complied with the requirements of this chapter and THSC, Chapter 366.

(A) After the review has been completed and all the requirements have been met, the executive director shall sign the order approving delegation and notify the local governmental entity by mail.

(B) If the executive director determines during the review that the materials do not comply with the requirements of this section, the executive director will issue a letter to the local governmental entity detailing the deficiencies.

(8) The local governmental entity's order, ordinance, or resolution shall be effective on the date the order approving delegation is signed by the executive director.

(9) Any appeal of the executive director's decision shall be done according to §50.39 of this title (relating to Motion for Reconsideration).

(c) Amendments to existing orders, ordinances, or resolutions.

(1) To ensure that the authorized agent's program is consistent with current commission rules, the executive director may require periodic amendments of OSSF orders, ordinances, or resolutions.

(2) An authorized agent may initiate an amendment. The authorized agent shall use the procedures in subsection (b) of this section.

(3) The amendment shall be effective on the date the amendment is approved by the executive director.

(d) Relinquishment of delegated authority by authorized agent.

(1) When an authorized agent decides to relinquish authority to regulate OSSFs, the following shall occur:

(A) the authorized agent shall inform the executive director by certified mail at least 30 days before publishing notice of intent to relinquish authority;

(B) the authorized agent shall hold a public meeting to discuss its intent to relinquish the delegated authority;

(i) the authorized agent shall publish notice of a public meeting that will be held to discuss its intent to relinquish the delegated authority. The notice must be published in a regularly published newspaper of general circulation in the entity's area of jurisdiction;

(ii) the public notice shall include the time, date, and location of the public meeting;

(iii) the public notice shall be published at least 72 hours before the public meeting, but not more than 30 days before the meeting;

(C) the authorized agent must, either at the meeting discussed in subparagraph (B) of this paragraph, or at another meeting held within 30 days after the first meeting, formally decide whether to repeal the order, ordinance, or resolution; and

(D) the authorized agent shall forward to the executive director copies of the public notice, a publisher's affidavit of public notice, and a certified copy of the minutes of the meeting in which the authorized agent formally acted.

(2) Before the executive director will process a relinquishment order, the authorized agent and the executive director shall determine the exact date the authorized agent shall surrender its delegated authority. Until that date, the authorized agent will retain all authority and responsibility for the delegated program.

(3) The executive director shall process the request for relinquishment within 30 days of receipt of the copies of documentation required in paragraph (1)(D) of this subsection. After processing the request for relinquishment, the executive director will issue an order and shall assume responsibility for the OSSF program.

(4) On or after the date determined by the authorized agent and the executive director, the authorized agent shall repeal its order, ordinance, or resolution. Within ten days after the authorized agent repeals its order, ordinance, or resolution, the authorized agent shall forward a certified copy of the repeal to the executive director.

(5) Authorized agents who relinquish their OSSF authority may be subject to fees according to §285.14 of this title (relating to Charge-back Fee) after the date that delegation has been relinquished, unless the authorized agent has relinquished its OSSF authority due to a material change in this chapter.

Source Note: The provisions of this §285.10 adopted to be effective June 13, 2001, 26 TexReg 4115; amended to be effective August 29, 2002, 27 TexReg 7917

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