

HB2510: Impacts on the Maintenance Provider

Texas Onsite Wastewater Treatment
Research Council

Presented by: Tim Taylor

Jeff A. Snowden, P.E.

History

- Interim Study by House Committee
 - Enforcement lacking
 - Maintenance Training & License needed
- HB2510 Written by Chair of Env. Reg. Comm.
 - Class C misdemeanor for violations
 - Maintenance training
 - Maintenance license
- Senate Amendment
 - No homeowner reqmts, no mandatory maintenance
 - TOWA, et al, sought h.o. requirements and to retain mandatory maintenance.

Legislative Action

- 79th Texas legislature, 2005, passed HB 2510, directed TCEQ to develop rules regarding:
 - implement a maintenance registration program,
 - training for the maintenance provider and
 - training for homeowners to maintain their system
 - Class C misdemeanor for violating orders
 - Remove the 40,000 exemption
 - Phase the Wastewater D license out of OSSF

Texas Commission on Environmental Quality

- TCEQ developed rules for implementation
 - Maintenance Training & Registration
 - Homeowners, 6 hours
 - Providers, 16 hours
 - Manufacturer Certification
 - Removed 40,000 exemption
 - Phasing Wastewater D out of OSSF
- And some technical issues
 - Soil substitution
 - Mounds

Homeowner Training

- If the owner of an OSSF using aerobic treatment for a single-family residence elects to maintain the system
 - An owner must obtain specific on-site maintenance training for the system from:
 - Manufacturer or
 - Installer certified by the manufacturer
 - Training for the homeowner of an aerobic OSSF must
 - Be given within 30 calendar days of the date when requested by the homeowner.
 - Training must be completed a minimum of 30 days prior to the end of the existing maintenance contract.

Homeowner Training

- A manufacturer or installer shall train the owner of the aerobic OSSF when requested by the owner
- Timeframe for training
 - Within 30 calendar days of the date when requested by the homeowner.
 - Completed a minimum of 30 days prior to the end of the existing agreement.
- Failure to provide training to a homeowner may result in penalties

Homeowner Training

- Failure to provide the owner with training within the specified time frame may result in removal of the manufacturer's product(s) from the list of approved systems.
- Failure to provide the owner with approved training within the specified time frame may result in penalties to the installer. Such penalties may include revocation of the installer's license and registration as a maintenance provider.

Homeowner Training

- The specific on-site maintenance training for owners of aerobic systems must:
 - a) provide for six hours of training, be provided and completed in a timely manner that allows the owner to be trained and comply with the requirements of training and maintenance
 - b) include the importance to public health and safety of proper maintenance of this system
 - c) a demonstration of the procedure for performing scheduled maintenance.
 - d) http://www.tceq.state.tx.us/assets/public/compliance/compliance_support/regulatory/ossf/forms/Homeowner_Maintenance_Course_Outline.pdf

Homeowner Training

- Within 30 days of completion of homeowner training:
 - The manufacturer or installer shall provide both the owner and the permitting authority with:
 - a written certificate or letter, signed by the manufacturer or installer, stating that the owner has received and completed the required training.

Homeowner Training

- Maintenance of an aerobic system by a homeowner is subject to any inspection and reporting requirements imposed by an authorized agent or the commission applicable to a maintenance company that contracts to maintain a system.

Homeowner Training

- If the residence is sold
 - the new homeowner, not later than the 30th day after the date the owner takes possession of the property, must either:
 - Obtain the training required to maintain the system under the homeowner exception
 - from an installer certified by the manufacturer of the system or
 - from the manufacturer.
 - Contract with a maintenance company for the maintenance of the system.

Maintenance Provider

- Maintenance Provider – A person or business that maintains on-site sewage facilities (OSSF).
- This definition includes all maintenance providers.

Maintenance Provider

- An individual must be certified by the manufacturer of an OSSF using aerobic treatment to:
 - maintain the system under a maintenance contract with the owner of the system or
 - provide training to the owner in maintenance of the system,
- Satisfactorily complete a TCEQ approved course for persons who provide aerobic system maintenance

Maintenance Provider-continued

- Must hold or be employed by a maintenance company in which at least one employee holds an Installer II license
- Meet all of the manufacturer's criteria and requirements for entering into a business relationship, and
- Satisfactorily complete any other reasonable requirements imposed for certification by the manufacturer

Maintenance Provider Duties – A maintenance provider shall:

1. possess a current registration from the executive director and a current certification from the manufacturer;
2. employ at least one individual who is licensed as an Installer II and who is certified by the manufacturer of the on-site sewage facility (OSSF) system as qualified to provide maintenance services, or, if the company is a sole proprietorship, then the owner shall possess a current Installer II license and shall be certified by the manufacturer;

Maintenance Provider Duties – Continued:

3. ensure maintenance of accurate records of permitting, fees, inspections, and reports;
4. satisfy the requirements of the maintenance contract between the homeowner of the OSSF system and the maintenance company
5. maintain a current address and phone number with the executive director and submit any change in address or phone number to the executive director in writing within 30 days after the date of the change;

Maintenance Provider Duties – Continued

6. 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 has contracted to provide maintenance, according to §285.7 of this title, and
7. provide maintenance training to any homeowner of an aerobic on-site sewage system when requested, according to §285.7 of this title.

A maintenance provider must register with the Texas Commission on Environmental Quality to function as a maintenance provider. The registration requirements are:

Maintenance Provider - Registration Requirements

1. A person acting as a sole proprietor [having no employees] can perform maintenance duties with a single registration as a maintenance provider so long as that person also holds a current license with the TCEQ as an OSSF installer II or a Class “D” wastewater operator license. If a class “D” wastewater operator license is used, the following conditions will apply:

Maintenance Provider – Class D Registration Requirements

➤ Conditions for Class “D” Wastewater

Operators

- A person that holds a Class “D” wastewater operator license issued on or before August 31, 2006, and that performs maintenance to on-site sewage disposal systems using aerobic treatment shall be allowed to continue to perform maintenance-provider duties until August 31, 2008.

Class D Requirements Continued:

- An Individual who performs maintenance to on-site sewage disposal systems using aerobic treatment shall obtain a registration as required by TCEQ Subchapter A. To continue performing those duties after September 1, 2008, those individuals shall obtain an on-site sewage facility (OSSF) Installer II license or be employed by a registered maintenance company that employs at least one OSSF Installer II.

Maintenance Provider - Registration Requirements –Cont.

- A person employing one or more individuals performing maintenance duties are considered to be a company and are required to be registered as an OSSF maintenance company in addition to this application for a maintenance provider.
- If you perform maintenance to on-site sewage disposal systems using aerobic treatment and you do not hold an Installer II or a Class “D” wastewater operator license, you must be employed by a registered maintenance company that employs at least one OSSF Installer II.

Maintenance Provider - Registration Requirements –Cont.

- A \$70.00 application fee is required with this application. NO additional fees are necessary for multiple manufacturer certifications. The check or money order should be made payable to “Texas Commission on Environmental Quality.”

Other Requirements

- Removed 40,000 exemption
 - All systems using aerobic treatment must have Maintenance Agreements
- Wastewater D phases out Sept. 1, 2008
 - Thereafter, must be an Installer II, or be employed by an Installer II.

The Negatives

Employee Registration

- 16 hour course
- \$70 fee per employee
- Cannot do maintenance 'til registered

➤ Employee Certification

- Travel to manufacturer's training
- Cannot be registered until certified

The Positives

- Didn't lose the maintenance industry
- Real maintenance training
- Standardization of Practice
 - Liability reduction
- More units for maintenance
 - < 40,000 counties must require agreements
 - Installers hiring maintenance providers
- DRs must enforce rules - all of them
 - Class C misdemeanor

Questions?

- Misconceptions?
- Unaware of the whole story?
- Afraid of losing business to homeowners?

HB2510: Impacts on the Maintenance Provider

Texas Onsite Wastewater
Treatment Research Council

Jeff A. Snowden, P.E.