

Bryan W. Shaw, Ph.D, *Chairman*  
Buddy Garcia, *Commissioner*  
Carls Rubinstein, *Commissioner*  
Mari R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
*Protecting Texas by Reducing and Preventing Pollution*

December 21, 2011

The Honorable Hugh Taylor  
County Judge  
Harrison County  
200 West Houston, Room 315  
Marshall, Texas 75670

Re: On-Site Sewage Facilities Order for Harrison County

Dear Judge Taylor:

Enclosed is a certified copy of an order issued by the Commission regarding the referenced matter.

Should you have any questions, please contact Mr. Agustin Chavez, of the Texas Commission on Environmental Quality On-Site Sewage Facilities Program, MC-235 at 512-239-4775.

Sincerely,

A handwritten signature in cursive script that reads "Tracy Miller".

Tracy Miller, Water Team Leader  
Program Support Section, MC-174  
Field Operations Support Division

Enclosures: Certified Order  
Recipient Mail List

APPLICATION BY HARRISON COUNTY  
TO AMEND THEIR ON-SITE SEWAGE FACILITY ORDER

The Honorable Hugh Taylor  
County Judge  
Harrison County  
200 West Houston, Room 315  
Marshall, Texas 75670

Mr. James Hester, DR  
OSSF Officer  
Harrison County  
3800 Five Notch Road  
Marshall, Texas 75672

TCEQ - Region 5  
Attn: Bill Riedel

Agustin Chavez, PE, OSSF Program  
Field Operations Support Division, MC- 235

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF THE APPLICATION  
OF THE COUNTY OF HARRISON  
FOR A TEXAS HEALTH AND SAFETY  
CODE §366.031 ORDER

§ BEFORE THE EXECUTIVE  
§ DIRECTOR OF THE TEXAS  
§ COMMISSION ON  
§ ENVIRONMENTAL  
QUALITY

On December 16, 2011 the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of the County of Harrison for an Order pursuant to §366.031, Texas Health and Safety Code (THSC), and 30 Texas Administrative Code (TAC) §285.10 of the rules of the Commission.

No person has requested a public hearing on the application, therefore the Executive Director, on behalf of the Commission, is satisfied that the County of Harrison has satisfied the requirements of §366.031, THSC. The Commission finds that the County of Harrison Order should be approved.

## FINDINGS OF FACT

1. The County of Harrison drafted a proposed Order which regulates on-site sewage facilities.
2. On August 4, 2011, the County of Harrison caused notice to be published, in a newspaper regularly published and of general circulation, in the County of Harrison area of jurisdiction, of a public meeting to be held on August 8, 2011.
3. The County of Harrison held a public meeting to discuss its proposed Order on August 8, 2011.
4. The County of Harrison Order regulating on-site sewage facilities was adopted on August 8, 2011.
5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.
6. A certified copy of the County of Harrison Order was submitted to the Commission.
7. The Order is at least equivalent to the standards of the Commission.

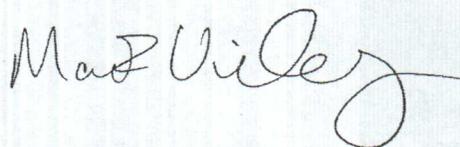
## CONCLUSIONS OF LAW

1. The Commission has jurisdiction to issue Orders designating local governmental entities as authorized agents. TEXAS WATER CODE ch. 5 and TEXAS HEALTH & SAFETY CODE ch. 366.
2. The Commission may delegate uncontested matters to the Executive Director provided the required notice was given, the applicant agrees to the action and the application is uncontested. TEXAS WATER CODE § 5.122.
3. Notice of the County of Harrison's intent to adopt a new County Order was properly provided. TEXAS HEALTH & SAFETY CODE § 366.031 and TEXAS ADMINISTRATIVE CODE § 285.10.
4. The County of Harrison agreed to the proposed Order in writing.
5. The proposed Order is uncontested.
6. The County of Harrison's proposed Order incorporates the Commission's rules on abatement or prevention of pollution and prevention of injury to the public health; meets the Commission's minimum requirements for on-site sewage disposal systems. TEXAS HEALTH & SAFETY CODE § 366.032.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY THAT:

1. The County of Harrison is hereby authorized to implement its new County Order regulating on-site sewage facilities.
2. Any amendments to the County of Harrison Order must be approved by the Commission.
3. The Office of Chief Clerk of the Commission is directed to forward a copy of this Order and the County of Harrison's adopted Order, marked as Exhibit "A," to the County of Harrison and all other parties and to issue the Order and cause it to be recorded in the files of the Commission.

Issued this date: December 16, 2011



Executive Director  
Texas Commission on Environmental Quality

EXHIBIT A

**ORDER ADOPTING RULES OF HARRISON COUNTY, TEXAS  
FOR ON-SITE SEWAGE FACILITIES  
PREAMBLE**

WHEREAS, the Texas Commission on Environmental Quality has established Rules for on-site sewage facilities to provide the citizens of this State with adequate public health protection and a minimum of environmental pollution; and

WHEREAS, the Legislature has enacted legislation, codified as Texas Health and Safety Code, Chapter 366, which authorizes a local government to regulate the use of on-site sewage facilities in its jurisdiction in order to abate or prevent pollution or injury to public health arising out of the use of on-site sewage facilities; and

WHEREAS, due notice was given of a public meeting to determine whether the Commissioners Court of Harrison County, Texas should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in the County of Harrison, Texas; and

WHEREAS, the Commissioners Court of Harrison County, Texas finds that the use of on-site sewage facilities in Harrison County, Texas is causing or may cause pollution, and is injuring or may injure the public health; and

WHEREAS, the Commissioners Court of Harrison County, Texas has considered the matter and deems it appropriate to enact an Order adopting Rules regulating on-site sewage facilities to abate or prevent pollution, or injury to public health in Harrison County, Texas.

**NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF HARRISON COUNTY, TEXAS:**

**SECTION 1.** THAT the matters and facts recited in the preamble hereof are hereby found and determined to be true and correct;

**SECTION 2.** THAT the use of on-site sewage facilities in Harrison County, Texas is causing or may cause pollution or is injuring or may injure the public health;

**SECTION 3.** THAT an Order for Harrison County, Texas be adopted entitled "On-Site Sewage Facilities", which shall read as follows:

**AN ORDER ENTITLED ON-SITE SEWAGE FACILITIES**

**SECTION 4. CONFLICTS**

This Order repeals and replaces any other On-site Sewage Facility order for Harrison County.

**EXHIBIT**

AUG 08 2011

APPROVED

" B "

## **SECTION 5. CHAPTER 366**

The County of Harrison, Texas clearly understands that there are technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, and will full enforce Chapter 366 of the Texas Health and Safety Code (H&SC) and Chapters 7 and 37 of the Texas Water Code (TWC), and associated rules referenced in Section 8 of this Order.

## **SECTION 6. AREA OF JURISDICTION**

The Rules shall apply to all the area lying in Harrison County, Texas, except for the area regulated under an existing order, ordinance, or resolution.

## **SECTION 7. ON-SITE SEWAGE FACILITY RULES**

Any permit issued for an on-site sewage facility within the jurisdictional area of Harrison County, Texas must comply with the Rules adopted in Section 8 of this Order.

## **SECTION 8. ON-SITE SEWAGE FACILITY RULES ADOPTED**

The Rules, Title 30 Texas Administrative Code (TAC) Chapter 285 and Chapter 30, attached hereto, promulgated by the Texas Commission on Environmental Quality for on-site sewage facilities are hereby adopted, and all officials and employees of Harrison County, Texas having duties under said Rules are authorized to perform such duties as are required of them under said Rules.

## **SECTION 9. INCORPORATION BY REFERENCE**

The Rules, 30 TAC Chapters 30 and 285 and all future amendments and revisions thereto are incorporated by reference and are thus made a part of these Rules.

## **SECTION 10. DUTIES AND POWERS**

The OSSF Inspectors of Harrison County, Texas, (Designated Representative) must be certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities.

## **SECTION 11. COLLECTION OF FEES**

All fees collected for permits and/or inspections shall be made payable to Harrison County Environmental Health in Harrison County, Texas. There will be no refunds of permit fees, and all fees due under THSC Chapter 367 will be remitted as required by law.

**SECTION 12. APPEALS**

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the Commissioners Court of Harrison County, Texas.

**SECTION 13. PENALTIES**

This Order adopts and incorporates all applicable penalty provisions related to on-site sewage facilities, which includes, but is not limited to, those found in Chapters 341 and 366 of the Texas Health and Safety Code, Chapters 7, 26, and 37 of the Texas Water Code and 30 TAC Chapters 30 and 285 and following requirements as agents in 30 TAC §285.71.

**SECTION 14. SEVERABILITY**

It is hereby declared to be the intention of the Commissioners Court of Harrison County, Texas, that the phrases, clauses, sentences, paragraphs, and sections of this Order are severable, and if any phrase, clause, sentence, paragraph, or section of this Order should be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses sentences, paragraphs, or sections of this Order, since the same would have been enacted by the Commissioners Court without incorporation in this Order of such unconstitutional phrases, clause, sentence, paragraph, or section.

**SECTION 15. EFFECTIVE DATE**

This Order shall be in full force and effect from and after its date of approval as required by law and upon the approval of the Texas Commission on Environmental Quality.

AND IT IS SO ORDERED:

PASSED AND APPROVED THIS 8<sup>th</sup> DATE OF August, 20 11

APPROVED:

[Signature]  
County Judge

ATTEST:

[Signature]  
County Clerk



PATSY COX, COUNTY CLERK  
COUNTY, TEXAS, HEREBY CERTIFIES THAT THE  
FORGOING, CONSISTING OF 3 PAGES, IS A  
TRUE CORRECT AND FULL COPY OF THE INSTRUMENT  
HEREWITH SET OUT AS APPEARS OF RECORD IN THE  
COUNTY CLERK'S OFFICE OF HARRISON COUNTY,  
TEXAS, THIS 23 DAY OF Nov 2011

- Exhibit B

PATSY COX, COUNTY CLERK

BY [Signature] DEPUTY