

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



THE STATE OF TEXAS
COUNTY OF TRAVIS
I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY
OF A TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
DOCUMENT, WHICH IS FILED IN THE PERMANENT RECORDS

NOV 18 2021

OF THE COMMISSION GIVEN UNDER MY HAND AND THE
SEAL OF OFFICE ON
Laurie Harris
LAURIE HARRIS, CHIEF CLERK
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF THE	§	BEFORE THE EXECUTIVE
APPLICATION OF	§	DIRECTOR OF THE TEXAS
ANGELINA & NECHES RIVER AUTHORITY	§	COMMISSION ON
FOR A TEXAS HEALTH AND SAFETY	§	ENVIRONMENTAL
CODE §366.031 ORDER	§	QUALITY

On November 9, 2021, the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of Angelina & Neches River Authority 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 Angelina & Neches River Authority has satisfied the requirements of §366.031, THSC. The Commission finds that the Angelina & Neches River Authority Order should be approved.

FINDINGS OF FACT

1. Angelina & Neches River Authority drafted a proposed Order which regulates on-site sewage facilities.
2. On June 30, 2021 and July 1, 2021, Angelina & Neches River Authority caused notice to be published, in a newspaper regularly published and of general circulation, in the Angelina & Neches River Authority's area of jurisdiction, of a public meeting to be held on July 13, 2021.
3. Angelina & Neches River Authority held a public meeting to discuss its proposed Order on July 13, 2021.
4. The Angelina & Neches River Authority Order regulating on-site sewage facilities was adopted on August 3, 2021.
5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.
6. A certified copy of the Angelina & Neches River Authority 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 Angelina & Neches River Authority's intent to adopt a new Order was properly provided. TEXAS HEALTH & SAFETY CODE § 366.031 and TEXAS ADMINISTRATIVE CODE § 285.10.
4. Angelina & Neches River Authority agreed to the proposed Order in writing.
5. The proposed Order is uncontested.
6. The Angelina & Neches River Authority'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. Angelina & Neches River Authority is hereby authorized to implement its new Order regulating on-site sewage facilities.
2. Any amendments to the Angelina & Neches River Authority 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 Angelina & Neches River Authority's adopted Order, marked as Exhibit "A," to Angelina & Neches River Authority and all other parties and to issue the Order and cause it to be recorded in the files of the Commission.

Issued this date: November 9, 2021

A handwritten signature in black ink, appearing to read "T. G. Balu", is written over a horizontal line.

Executive Director
Texas Commission on Environmental Quality

EXHIBIT A

**ORDER ADOPTING RULES OF THE
ANGELINA & NECHES RIVER AUTHORITY
FOR ON-SITE SEWAGE FACILITIES**

PREAMBLE

WHEREAS, the Texas Commission on Environmental Quality (TCEQ) has established Rules for On-Site Sewage Facilities (OSSF) 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 (THSC), Chapter 366, which authorizes a local government to regulate the use of OSSF in its jurisdiction in order to abate or prevent pollution or injury to public health arising out of the use of OSSF; and

WHEREAS, due notice was given of a public meeting to determine whether the Board of Directors of the Angelina & Neches River Authority should enact an order controlling or prohibiting the installation or use of OSSF in the Sam Rayburn Reservoir Control Zone, Angelina County, and the portion of San Augustine County that lies within the Neches Basin; and

WHEREAS, the Board of Directors of the Angelina & Neches River Authority finds that the use of OSSF in the Sam Rayburn Reservoir Control Zone, Angelina County, and the portion of San Augustine County that lies within the Neches Basin is causing or may cause pollution, and is injuring or may injure the public health; and

WHEREAS, the Board of Directors of the Angelina & Neches River Authority has considered the matter and deems it appropriate to enact an Order adopting Rules regulating OSSF to abate or prevent pollution, or injury to public health in the Sam Rayburn Reservoir Control Zone, Angelina County, and the portion of San Augustine County that lies within the Neches Basin.

NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF DIRECTORS OF THE ANGELINA & NECHES RIVER AUTHORITY:

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 OSSF in the Sam Rayburn Reservoir Control Zone, Angelina County, and the portion of San Augustine County that lies within the Neches Basin is causing or may cause pollution or is injuring or may injure the public health;

SECTION 3. THAT an Order for the Angelina & Neches River Authority 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 OSSF Order for the Angelina & Neches River Authority approved by the Texas Commission on Environmental Quality dated October 19, 2015.

SECTION 5. ON-SITE SEWAGE FACILITY REGULATION AND ENFORCEMENT

The Angelina & Neches River Authority clearly understands that there are technical criteria, legal requirements, and administrative procedures and duties associated with regulating OSSF, and will fully enforce Chapter 366 of the Texas Health and Safety Code (THSC) 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 the Sam Rayburn Reservoir Control Zone, Angelina County, and the portion of San Augustine County that lies within the Neches Basin, except for areas regulated under an existing Order, Ordinance, or Resolution.

The areas under the Angelina & Neches River Authority's jurisdiction are described below.

(A) Sam Rayburn Reservoir Control Zone (Control Zone Rayburn)

- a. The regulated Control Zone Rayburn (CZR) is an area in the State of Texas within the Sam Rayburn Reservoir (Segment 0610) watershed lying between the take line and a line parallel to it 2,000 feet from the take line, in all areas where the take line approximates the 171-foot contour; otherwise, in all other areas, it is a zone within the Sam Rayburn Reservoir watershed lying between the 171-foot contour and a line parallel to it 2,000 feet from the 171-foot contour, measured horizontally away from the reservoir.
- b. The CZR includes the portions of Angelina, Nacogdoches, San Augustine, Sabine, and Jasper Counties that lie within the 2,000-foot zone.
- c. If any part of a subdivision lies within the regulated zone, the entire subdivision shall be considered to be within the regulated zone for purposes of application of these regulations.
- d. No on-site sewage facility shall be installed below the 176' MSL.

(B) San Augustine County

- a. The regulated area is the portion of San Augustine County that lies within the Neches Basin.
- b. The portion of San Augustine County lying within the CZR is excluded.
- c. The Angelina & Neches River Authority does not have regulatory authority in the portion of San Augustine County that lies within the Sabine River Basin, as this area falls outside of the Angelina & Neches River Authority's jurisdictional area.

(C) Angelina County

- a. The regulated area is the entirety of Angelina County.
- b. The portion of Angelina County lying within the CZR is excluded.

SECTION 7. ON-SITE SEWAGE FACILITY RULES

Any permit issued for an on-site sewage facility within the jurisdictional area of the Angelina & Neches River Authority 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 30, Subchapters A and G, and Chapter 285, promulgated by the Texas Commission on Environmental Quality for OSSF are hereby adopted, and all officials and employees of the Angelina & Neches River Authority 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 Chapter 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. AMENDMENTS

The Angelina & Neches River Authority, wishing to adopt more stringent Rules for its On-Site Sewage Facility Order, understands that the more stringent conflicting local Rule shall take precedence over the corresponding Texas Commission on Environmental Quality requirement. Listed below are the more stringent Rules adopted by the Angelina & Neches River Authority:

(A) Registration

- a. A person must be licensed or registered by TCEQ, as well as registered with ANRA, before engaging in any On-Site Sewage Facility related activity in the area of jurisdiction of this Order as an installer, designer, or maintenance provider.
- b. No fee shall apply to the registration.
- c. The ANRA registration application shall be submitted annually to ANRA on a standard form with attached evidence of current license or registration.
- d. Licensed individuals who are registered with ANRA will be included on a list of contractors maintained by ANRA and provided to the general public as part of ANRA's On-Site Sewage Facility application packet, as well as listed on ANRA's website. The Registrant, at their discretion, may decline to have their name listed on the list provided to the public, but this request must be made in writing.

- e. It is the responsibility of the Registrant to maintain required current registration information.
- f. Non-compliance of registration requirements shall result in the removal of the licensed individual from all lists of contractors provided to the general public. Non-compliance of registration requirements may result in the Designated Representative denying all permit applications from the non-registered individual, as deemed necessary by and upon approval of the ANRA General Manager.

(B) No Homeowner Installations

- a. All installations of OSSF shall be performed by a TCEQ Licensed Installer who is registered with ANRA.
- b. There shall be no property owner installations unless the property owner is also a TCEQ Licensed Installer and is registered with ANRA.

(C) Incorporated City Limits and Certificates of Convenience and Necessity (CCN)

- a. The installation of OSSF's within the incorporated limits of a city or the service area of a public sewer utility holding a valid Certificate of Convenience and Necessity requires the written consent of the city or sewer utility.
- b. OSSF's shall not be permitted or installed on property located within 200 feet of a public sewer system and where the OSSF would be physically located within 500 feet of a public sewer line.
- c. If a property owner connects to a public sewer system, any existing OSSF must be decommissioned (i.e., demolished and closed in place), and documentation must be provided to ANRA.
- d. Once a property owner has connected to a public sewer system, the property owner cannot revert back to the use of an OSSF.

(D) No Lot Size Exemptions

- a. A permit and inspection shall be required for the construction of, alteration to, extension to, or repair of any OSSF (including both residential and commercial systems) regardless of the acreage or size of the tract of land.

(E) Water Use Restrictions for Small Lots or Tracts

- a. For existing small lots or tracts subdivided before January 1, 1988, ANRA may institute water use restrictions. ANRA has the option to require a meter be attached to a private well, at the owner's expense, to verify compliance with any water use restrictions listed in the permit.
- b. Water use restrictions shall not be implemented which restrict the use of water for non-household consumption purposes, such as irrigation or livestock uses. Water use restrictions apply only to water that is discharged into the on-site sewage facility.

(F) Submittal Requirements for Planning Materials

- a. Planning materials for all OSSF shall be submitted by a Registered Professional Sanitarian or a Licensed Professional Engineer
- b. All site plans shall be drawn to a standard engineering scale and shall include an overall site plan drawn on a single page.
- c. Paper sizes should conform to standard U.S. paper sizes (ANSI/ASME Y14.1). Acceptable paper sizes are included in Table F-1.

Table F-1: Standard U.S. Paper Sizes

Name	in x in	mm X mm	Alias
ANSI A	8.5 x 11	216 x 279	Letter
ANSI B	17 x 11	432 x 279	Ledger
	11 x 17	279 x 432	Tabloid
ANSI C	17 x 22	432 x 559	
ANSI D	22 x 34	559 x 864	
ANSI E	34 x 44	864 x 1118	

- d. Site plans drawn for paper sizes larger than ANSI B shall also be submitted electronically as pdf files. The files should be generated or scanned at a resolution that provides a level of detail appropriate for professional review and archiving. Generally this will mean resolution independent vector files for electronic exports, and at least 300 dots per inch for scans.
- e. The site plan drawing(s) shall provide the exact placement of all existing and proposed development, wells (including wells on adjacent property), driveways, and all wastewater system components and showing features that require minimum separation distances in the area of the proposed On-Site Sewage Facility.
- f. ANRA's Designated Representative may require additional planning materials if, in their professional judgment, the additional materials are warranted for the specific instance.

(G) Excavations and Required Backfill Material

- a. No component of an on-site sewage facility shall be covered until an inspection by ANRA'S Designated Representative has been made. ANRA's Designated Representative can make exceptions in circumstances where there is eminent danger of the system being damaged or a public safety hazard; however, prior approval is required.
- b. All ends and other critical items shall not be covered until the Designated Representative has determined that the installation, construction, extension or repair complies with these Rules, Standards, or other special conditions specified in the permit.
- c. Excavations must be backfilled to the bottom of the lowest outlet of the tanks with appropriate fill of Class 3 soil or better so as to bed the treatment units and related piping to minimize movement and settling of units.
- d. Excavations must be backfilled from the bottom of the lowest outlet of the

tanks to the top of the system, with access to riser lids exposed and readily assessable, with appropriate fill of Class 2 soil or better so as to minimize settling of top soil. The backfill material shall be on the site in sufficient quantities to complete the job at the time of the construction inspection.

(H) Re-Inspection of OSSF

- a. A re-inspection fee may be assessed to the installer of record each time a re-inspection is required.
- b. If assessed, the re-inspection fee must be paid prior to the scheduling of the re-inspection.
- c. ANRA's Designated Representative may require, at their discretion, that the installer of record be present on-site during the re-inspection.

(I) Re-Design of OSSF

- a. If a design for an On-Site Sewage Facility is rejected by the Designated Representative, a new design must be submitted.
- b. A re-design fee may be required for the review of the resubmitted design. If assessed, the fee must be paid by prior to the issuance of a permit.
- c. Minor changes may not require a re-design fee, but substantial changes may require the payment of the re-design fee. ANRA's Designated Representative will determine if the changes to the design are minor or substantial. The Designated Representative has authority to issue or waive the fee depending upon the level of additional review required.
- d. A re-design fee, as well as submittal of a new design, shall be required prior to the issuance of a permit if the installation varies from the approved design.

(J) Refund of Permit Application Fees

- a. There will be no refund of permit application fees after 5 days.

(K) Required Testing for Non-Single Family Residential OSSF's

- a. ANRA may require that the testing for each non-single family residential OSSF as specified in 30 TAC §285.91 be conducted under the direct supervision of the Designated Representative.
- b. Testing requirements contained in 30 TAC §285.91 (4) shall have the following substitutions:
 - i. E. coli shall be substituted for fecal coliform.
 - ii. One BOD₅, TSS and E. coli grab sample shall be required within each calendar year, and one Total Chlorine residual shall be required each calendar quarter.
 - iii. The Maximum Acceptable Test Results for E. coli shall be equal to the Secondary Contact Recreation Standard 2 as contained in 30 TAC §307.7 (b) (1) (A) (iii) at 630 MPN per 100 ml.

(L) Permitting Procedures and Additional Requirements

- a. The ANRA Board of Directors, or the ANRA General Manager as delegated by the Board of Directors, may from time to time adopt procedural requirements for applications, permitting, and inspections for OSSF.

SECTION 11. DUTIES AND POWERS

The OSSF Designated Representative (DR) (30 TAC § 285.2(17)) of the Angelina & Neches River Authority must be certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities.

SECTION 12. COLLECTION OF FEES

All fees collected for permits and/or inspections shall be made payable to the Angelina & Neches River Authority. A fee of \$10 will also be collected for each on-site sewage facility permit to be paid to the credit of the TCEQ Water Resources Management Account as required by the THSC, Chapter 367.

SECTION 13. APPEALS

Persons aggrieved by an action or decision of the Designated Representative may appeal such action or decision to the General Manager of the Angelina & Neches River Authority. Persons aggrieved by an action or decision of the General Manager may appeal such action or decision to the Board of Directors of the Angelina & Neches River Authority.

SECTION 14. ENFORCEMENT PLAN

The Angelina & Neches River Authority clearly understands that, at a minimum, it must follow the requirements in 30 TAC § 285.71 Authorized Agent Enforcement of OSSFs.

This Order adopts and incorporates all applicable penalty provisions related to OSSF, which includes, but is not limited to, those found in Chapters 341 and 366 of the THSC, Chapters 7, 26 and 37 of the TWC and 30 TAC Chapters 30, Subchapters A and G, and 285.

SECTION 15. SEVERABILITY

It is hereby declared to be the intention of the Board of Directors of the Angelina & Neches River Authority 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 judgement 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 Board of Directors of the Angelina & Neches River Authority without incorporation in this Order of such unconstitutional phrases, clause, sentence, paragraph, or

section.

SECTION 16. RELINQUISHMENT OF ORDER

If the Angelina & Neches River Authority decides that it no longer wishes to regulate OSSF in its area of jurisdiction, the Angelina & Neches River Authority, as the authorized agent, and the TCEQ shall follow the procedures outlined in 30 TAC § 285.10 (d) (1) through (4).

After relinquishing its OSSF authority, the authorized agent understands that it may be subject to charge-back fees in accordance with 30 TAC § 285.10 (d) (5) and §285.14 after the date that delegation has been relinquished.

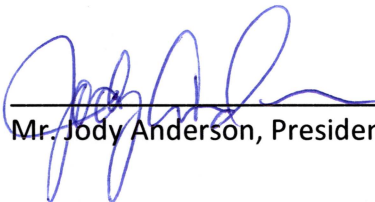
SECTION 17. EFFECTIVE DATE

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 3rd DAY OF August 2021

APPROVED:


Mr. Jody Anderson, President

ATTEST:


Mr. Dale Morton, Secretary - Treasurer

