

New Texas Railroad Commission Rules: Challenges and Permitting for the E&P Industry

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I. General Background

On December 17, 2024, the Railroad Commission of Texas (RRC) adopted new comprehensive regulations governing the handling, storage, treatment, and disposal of oil and gas waste. The rules were published January 3, 2025, in the Texas Register and become effective on July 1, 2025. They codify formerly informal guidance and *ad hoc* permitting practices and also update existing oil and gas waste regulations to align with technological advancements.

Oil and gas waste is generally exempt from federal regulation under the Resource Conservation and Recovery Act (RCRA), though states retain the authority to regulate these materials. In Texas, the RRC has that responsibility. Despite significant changes in industry practices, regulations surrounding oil and gas wastes have not been meaningfully updated since the 1980s.

The new rules update the requirements applicable to waste generated from oil and gas activities, such as drilling, production, completions, treatment, and other field operations, and associated disposal activities, such as recycling, onsite waste treatment, and commercial disposal operations. Additionally, they extend regulatory oversight to waste generated from other operations under the RRC's jurisdiction that are chemically and physically similar to oil and gas wastes, such as wastes from geothermal energy production, carbon sequestration, and brine mining wells. Though the rules do not affect the RRC's regulations for injection and disposal wells, they may impact certain waste management and recycling activities conducted at or in conjunction with injection and disposal wells.

II. Oil and Gas Waste Pits

Significantly, the rules update the requirements for reserve pits, mud circulating pits, completion/workover pits, makeup water pits, and produced water recycling pits, among others — the earthen pits dug next to drilling rigs wherein byproducts of oilfield operations are stored, managed, treated, and frequently permanently buried.

The new rules impose, for the first time, a registration requirement on pits commonly used in the oil and gas exploration and development industry. New qualifying pits must register with the RRC prior to operating beginning on July 1, 2025. An existing qualifying pit that is compliant with pit construction requirements in effect prior to July 1, 2025, has a one-year "grace period," but must register or be closed by July 1, 2026. Produced water recycling pits will be subject to financial security requirements, triggering the need for performance bonds, letters of credit,

or cash deposits to secure pit closure obligations. Existing produced water recycling pits that file required financial security, must register by January 1, 2026. Pits that do not qualify for registration, such as basic sediment pits, and flare pits, also must be permitted or closed by July 1, 2026.

In response to comments to 2023's draft rules, the RRC eliminated *universal* pit liner requirements, groundwater monitoring, and closure requirements for authorized pits in the final rules. Pit liners are now only required if (i) groundwater is present within 50 feet or contains fluid with more than 3000mg of total dissolved solids, or (ii) the pit is used to treat and recycle produced water. Siting restrictions are generally limited to a prohibition on construction in a 100-year flood plain, although additional location restrictions apply to produced water recycling pits, including restrictions regarding proximity to water wells or public areas. Produced water recycling pits, upon closure, will be subject to soil sampling and potential release reporting obligations.

A particularly contentious issue during rulemaking involved whether notice to or approval from landowners and/or regulators should be required. Historically, reserve pits have neither been subject to permitting requirements, nor has their use on private property required landowner permission or notification. In its final rules, the RRC declined to impose landowner notice or consent requirements on private property, stating that it lacked the statutory authority to impose such requirements, and that landowner notification is ultimately a matter of private agreement between the surface owner and the operator. Thus, unlike facilities subject to formal permitting, such as commercial disposal or recycling facilities, landowner notice, and publication are not imposed on reserve pit operators.

III. Commercial Disposal Facilities

The new waste rules include revisions and additions to the standards applicable to commercial waste management facilities, including oil and gas waste landfills. Commercial facilities must now comply with updated siting, design, and operational requirements. Specifically, the rules impose an expanded buffer requirement and prohibit operations in floodplains or near water wells unless they can demonstrate adequate protective measures. Design standards include requirements for engineered liners with low hydraulic conductivity, leachate collection systems, and stormwater controls. Additionally, commercial disposal facilities are now required to provide increased financial security, implement groundwater monitoring programs, maintain detailed records, and submit periodic reports to the RRC. Existing facilities must assess their current operations and make necessary adjustments to comply with the revised requirements related to financial assurance, monitoring and reporting, and operational (e.g., spill prevention) and closure plans. Absent expansion or significant operational changes, existing facilities are not required to demonstrate compliance with the revised siting and design standards.

IV. Recycling Permitting

The rules expand and clarify the regulatory framework for recycling oil and gas waste, particularly produced water and drill cuttings. The rules categorize recycling operations into five distinct divisions based on the type of waste treated, the location of the recycling activities, and how the treated product will be used. Each division imposes distinct permitting requirements, operational duration maximums, technical standards, product quality standards, monitoring and reporting obligations, and potential financial assurance and public participation requirements.

The rules promote produced water recycling and beneficial reuse of drill cuttings. Operators may recycle produced

water on their own lease (a Division 1 activity) without obtaining a specific permit, provided the recycled fluids are reused in permitted oil and gas operations. The new rules provide specific criteria for the reuse of treated drill cuttings, with operational requirements depending on the location of recycling and use (Divisions 2-5).

This is a notable shift from prior regulations, which generally required permits for recycling activities regardless of location and lacked clear standards around permissible reuse. The division-specific approach provides a more predictable regulatory framework for operators and streamlines the process for reuse.

V. Transportation

The new rules will have significant operational and compliance implications for Texas oil and gas operators. As previously discussed, they introduce a more complex and formalized regulatory structure. In addition to the regulations discussed above, the rules also introduce comprehensive transportation requirements, including waste characterization and documentation requirements, detailed manifesting, special waste authorizations, and enhanced recordkeeping requirements for waste haulers. This program replaces the prior minimal tracking standards.

VI. Conclusion

Because operators will face increased documentation, tracking, and potential public notice obligations, the industry will need to reassess internal systems to ensure alignment with the new standards. The new public participation provisions require all permit applicants to provide notice to the surface owners of the tracts of land that the facility is located on, adjacent to, or within 500 feet of; commercial waste management facilities — including landfills and recycling operations — must also publish notice in a local newspaper. In addition to the enhanced notice requirements, the rules establish new opportunities for permit protests and hearings, thereby introducing new procedural risks and the potential for delay.

While the additional standards may increase the cost and complexity of permitting for new or expanded commercial facilities, they also reduce regulatory uncertainty and may streamline the review process by clearly defining the RRC's expectations upfront. These enhanced obligations are likely to have the greatest operational impact on facilities handling higher volumes, operating long-term, or treating waste for off-site reuse — particularly where proximity to groundwater or public interfaces increases regulatory scrutiny.

The real impact of the new waste rules will likely depend on RRC implementation and enforcement. The effective date — July 1 — is rapidly approaching, with no formal phase-in period. The anticipated release dates for draft forms and draft guidance documents, originally anticipated by the end of April, have been postponed. Now, a June timeframe exists for publication of forms, and July 1 is targeted for guidance. The RRC hosted weekly webinar series covering the updated rules that began on April 2. The final two webinar sessions discussed permitting under the updated rules and were scheduled for May 7. Further training sessions on the finalized guidance are to be provided in the following months. In the interim, companies should treat the impending waste rules as both a compliance priority and an opportunity to evaluate their waste management strategies.

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