



Title 16 Texas Administrative Code Chapter 4 Roadmap

Revisions to Oil and Gas Waste Management Rules

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Subchapter A



Division 1 - General

Division 2 - Definitions

Division 3 - Operations Authorized by Rule

Division 4 - Requirements for all Permitted Waste Management Operations

Division 5 - Additional Requirements for Commercial Facilities

Division 6 - Additional Requirements for Permitted Pits

Division 7 - Additional Requirements for Landfarming & Landtreating

Division 8 - Additional Requirements for Reclamation Facilities

Division 9 - Miscellaneous Permits

Division 10 - Waste Transportation

Division 11 - Surface Water Protection

Subchapter B – Commercial Recycling



<https://texashistory.unt.edu/ark:/67531/metaph38447/>

Division 1 - General & Definitions

Division 2 - On-Lease Commercial Solid Recycling

Division 3 - Off-Lease or Centralized Solid Recycling

Division 4 - Stationery Commercial Solid Recycling

Division 5 - Off-Lease Commercial Fluid Recycling

Division 6 - Stationery Commercial Fluid Recycling

Division 7 - Beneficial Use of Drill Cuttings

Subchapter A

New (§3.8 and §3.57)

Subchapter B

- › Adds legislative requirements; and
- › Consistency with Subchapter A.

Subchapter F – NORM (*no changes*)



House Bill 2201: Flooding History



Subchapter A Division 6 address legislative requirements from:

House Bill 2201 **(87th Legislative Session, 2021)**

- › Amends Section 91.1017 of the Natural Resource Code
 - › 10-year flooding history;
 - › 4.153(a)(1)
 - › EPS Staff will evaluate 'good-faith' investigations
 - › Prior landowner inquiry (when available)
 - › Evaluation of 'flood-prone areas'

Subchapter B – Divisions 5 & 6



New rules and amendments to Subchapter B Divisions 5 & 6 address legislative requirements from:

House Bill 3516

(87th Legislative Session, 2021)

- › Encourage fluid recycling;
- › Establish standards for commercial recycling of fluids considering previously adopted rules;
- › Establish rule parameters; and
- › A method to evaluate a variance from adopted standards

Senate Bill 1541

(85th Legislative Session, 2017)

Amended Natural Resource Code:

- › Section 123.001, to add Subdivision 4 (treatment).
- › Chapter 123 Section 123.0015 addresses beneficial uses for drill cuttings.
 - Required the Commission to incorporate criteria for 'beneficial uses' of recycled drill cuttings; and
 - Defined 'legitimate commercial product'.

Changes to Direct Notice: Delivery Method



Direct (Mailed)

- Mailed
- Distance
 - Within 500-ft of fence line or boundary
 - Does not have to be contiguous
- Duration
 - 30-days required
- 30-day protest period
 - **Begins** when mailed at the USPS to last known address
- Full application
- Letter
 - Straightforward information
 - Assist in an understanding of the app

Subchapter A (§4.125)

- Division 4
- Applicable to Divisions 4 through 8
 - *May* be applied in Division 9

Subchapter B (§§4.238, 4.254, 4.270, & 4.286)

- Division's 3, 4, 5, and 6
- Divisions 3 & 5: direct only
 - §4.238: mailed/direct notice for Division 3 contains *minor errors*; should be the same as
 - §4.270: mailed/direct notice for Division 5
- Divisions 4 & 6: direct and indirect

Changes to Indirect Notice: Delivery Method



Indirect (Published)

- Additive to §4.125 (direct notice)
- Published
- Duration (inconsistency)
 - 1x/week for 2 consecutive weeks (published)
 - 30-days (mailed)
- 30-day protest period (2-weeks)
 - Aligns with mailed notice requirement
- Requirements for direct (inconsistency)
 - §4.125(d)(2) Full application & §4.125(d)(3) Letter
 - No specified filing location identified
 - Operator may voluntarily place at:
 - Library
 - County Courthouse

Subchapter A (§4.141)

- Division 5
- Applicable to Divisions 5 through 8
 - *May* be applied in Division 9

Subchapter B (§§4.254 & 4.286)

- Division's 4 & 6: direct and indirect
 - *Divisions 3 & 5: direct only*

Notice, Protest(s), and Final Timing



Once ADC, EPS **must** complete a Final Action within 90-days

1. Coordination of ADC letter and Operator's notice date(s)
2. Notice is **completed**: 30-day protest window
 - a. Mailed: when mailed to *last known* address
 - b. Published: last date of publication
3. Inform protestants and Operator
 - a. *No* hearing requested; denied per §1.201
4. Completes technical review
 - a. Draft permit & refer to Hearings; or
 - b. Deny application



A pen and ink drawing of the Bee County Courthouse, contributed by the Latchum family. Lady Justice sits atop the clock dome. She was designed by local architect W.C. Stephenson, who also built the courthouse. Four Corinthian columns grace its north entrance. A south annex was added in 1942. The courthouse was completely remodeled in 1949-1950, when an elevator, air-conditioning and eleven rooms were added with Robert Beasley as the architect. In 2006 during another large scale restoration, features original to the courthouse, such as the rotunda and district court balcony, as well as the details of the tile and marble, were carefully restored. Recorded as a Texas Historic Landmark in 2000, the courthouse is part of the Texas Historical Courthouse Preservation Program.

<https://texashistory.unt.edu/ark:/67531/metapht78871/>

Post-Notice Process: Protest, Hearing, & Permit



An application is protested



Operator may a hearing



Technical review finalized; draft permit - or - denial



Refer the application to Hearings



PFD presented at Conference



Permit Action Finalized

Subchapters A & B –Definitions



Subchapter A:

- › Simplified pit definitions
 - Division 3 Authorized Pits; or
 - Pit permit required
- › Redefined
 - › Commercial facility
 - › Non-commercial facility

Subchapter B:

- › Changes for consistency



§4.109 Exception



Exception

- › Written request
- › Equivalent in protection

1-year Special Exception

- › Available for *previously* authorized pits under §3.8
- › Pit does not meet Division 3 requirements

Webinar 1 Cliff Notes: Pits

- Division 4
 - Covers all permitted WMU's
 - Facility-based permit
 - Combined with Division 6
- Division 5
 - Commercial facility
 - Financial security



A former EPS permitted site that was turned over to State Managed Cleanup Staff in Site Remediation.

Subchapter A – Pits: Division 6 (1 of 2)



Division 6 – §4.150 framework:

- (a) – additive to Divisions 4 & 5
- (b) – authorized pits
- (c) – permissions and enforcement
- (d) – cessation of use
- (e) – containment
- (f) – unauthorized releases
- (g) – location restrictions
- (h) – property buffer

This violation has resulted in an automatic referral to the Legal Enforcement Section. The Legal Enforcement Section may assess administrative penalties in an amount of up to \$10,000 per day, per violation, in accordance with Texas Natural Resource Code §81.0531.



"The Commission will track the activities of the Environmental Permits and Support (EPS) Unit Compliance team on post-permitting matters related to various surface waste management facilities that are regulated by EPS."

Subchapter A – Pits: Division 6 (2 of 2)



The Preferred Alternative:

- Permit issuance
- Facility compliance
- Good relationships



"The Commission will track the activities of the Environmental Permits and Support (EPS) Unit Compliance team on post-permitting matters related to various surface waste management facilities that are regulated by EPS."

RAILROAD COMMISSION OF TEXAS OIL AND GAS DIVISION

PERMIT TO MAINTAIN AND USE A GEOTHERMAL RESOURCES WATER PIT

Attached please find the Quarterly Report for October 1 through December 31, 201

Executive Summary

Commercial Disposal Pit Req. (§4.153)

- HB 2201 (87th Legislative Session)
 - 'good faith' investigation of the 10-year flooding history
- Builds on requirements in §4.150 for location
 - Protect surface and subsurface waters
 - Prohibited locations (defined in Division 11)
 - Not in a location with an increased risk to surface or subsurface waters
- Include the dimensions of all trenches to separate and convey stormwater
 - Contact stormwater
 - Non-contact stormwater
- Minimum of 5-year post-closure monitoring is required



<https://texashistory.unt.edu/ark:/67531/metapth37208/>

Closure processes: **Dewater** | **Sampling/Analysis** | **Backfill** | **Reseed**

Pits: Design & Construction



Confusion in §4.151(a)(1)

- Rule refers to Authorized Pits
 - §4.114(2)(A) through (B) – Schedule A
 - Less prescriptive
 - §4.115(g) – Schedule B
 - Minimum baseline
 - Additive to §4.128 (Design & Construction)
- In addition to §4.128, information is required on:
 - ✓ Volumetrics;
 - ✓ Liners;
 - ✓ Stormwater designs;
 - ✓ Drawings;
 - ✓ Connecting trenches; and
 - ✓ Action Leakage Rate (ALR)
- Freeboard
- Brine pits
 - Primary and secondary liners; and
 - Leak Detection System
- Additional information from the Director



<https://texashistory.unt.edu/ark:/67531/metadc201211>
7/

Pits: Monitoring Permitted Pits



Monitoring (§4.152)

- Implement a routine monitoring plan that:
 1. Completed with annual visual inspections; or
 2. Installation of a double liner with LDS; or
 3. Propose an alternative
 - Must be at least as protective as option 1 or 2
- Liner failure
 - Permit Conditions will outline
 - Notify the District Director within 24-hours
 - Implement mitigation
 - Reduce waste below failure level
 - Disposal pits cannot have waste removed



M. Any permitted pit or cell not equipped with a leak detection system (LDS) must be emptied and visually inspected **annually** for deterioration and leaks. A record of each inspection and photographs of the interior of each pit must be maintained for the life of the pit and must be submitted to Technical Permitting in Austin as part of the **Quarterly Report** required in Permit Condition I.Y. The appropriate RRC District Office must be notified by phone or email at least **48 hours** before emptying the pit for inspection. The permittee must maintain a record of when each pit is inspected and the results of the inspection. This record must be maintained by the permittee for the life of the pit.

Subchapter A - Division 4



Engineering & Geological Information

(a) Necessary elements

- › *Soils;*
- › *Geology;*
- › *Groundwater; and*
- › *Other information deemed necessary.*

(b) Site investigation if the information is not available for subsection

PG and/or PE seal is required per Texas Occupation Code, Chapters 1002 or 1001



Design & Construction

Applications must contain:

- › Clear *facility outline*
- › All tanks and equipment

Stormwater management plan:

- › Control and manage *all* stormwater

Groundwater Monitoring

Factors in a determination:

- › Presence or absence of natural clays
- › Depths to subsurface waters

Prior to Operations:

- › Monitoring wells are in place
- › Tested
- › Approved by EPS

Freeboard + 25-year, 24-hour rainfall event = must be contained

Divisions 5-9 are in addition to Division 4.

§4.140 Commercial Facilities

The revised *Commercial* definition may have an impact.

Financial Security is required.

- Post-closure activities



§4.160

Applications also include requirements in Division 4.

§4.161 Design & Construction

- › §4.110(51)
 - › Landfarming cells *include* landtreating cells
- › §4.161(c)

The rule provides clear reasons for a *denial* of a site



§4.162 Operations

- › Estimated duration of activities
- › Total cumulative volumes of waste
- › Prohibits land application of contact stormwater *outside* of a cell

Subchapter A - Division 8



Reclamation Plants R-9

New

- › Current R-9 permits will expire on July 1, 2030.
 - › 5-year term
 - › Transferrable under §4.122
- › Renewal applications due at least 60 days before July 1, 2030.
- › Form changes will be discussed on:
 - April 16, 2025 (application processes)
 - April 23, 2025 (Form R-2)

Fluid Recycling Pits: (Div 5) and (Div 6)

Filing requirements:

- › Use a Commission prescribed form;
- › Two supplemental filings
- › Incomplete after a second filing;
 - › administratively denied
- › Final action within 90 days (complete application)
 - › protested

Fluid Recycling Pits: (Div 5) and (Div 6) ***Minimum Siting, Design & Construction***

Siting Standards:

- › Prohibited locations & mapping requirements

Design & Construction:

- › Max depth below of 22'
- › Liner requirements
- › Prevent run-on of non-contact stormwater,
- › Freeboard

Subchapter B – Divisions 7: HB 1541



Criteria for Beneficial Use of Drill Cuttings

Legitimate commercial use:

- Effective substitute
 - commercial product,
- Manufacturing uses;
- Replaces a product;
- Not disposal.



Legitimate commercial product:

- Sold for a specific use;
- Demonstrated commercial market.

§4.301

Activities permitted in Subchapter B Divisions 3 and 4 require operators to comply with the requirements under Division 7

Beneficial Use of Drill Cuttings relating to treatment and recycling.



Subchapter B – Divisions 7



Permitting Conditions (§4.301(b))

The Commission may approve a permit for recycling drill cuttings if:

Used in a legitimate commercial product, such as:

- Construction of oil and gas lease pads
- Construction of oil and gas lease roads

Or used in another product, if the applicant proves:

- It meets engineering and environmental standards (confirmed by a licensed Texas engineer)
- It is at least as protective of public health, safety, and the environment as non-recycled alternatives
- It does not pollute surface or subsurface water

§4.302 – Additional Permit Requirements for Beneficial Use of Drill Cuttings

Commercial Market

- Common use
 - Similar products
- Customer commitments
 - Annual volume details
- Other methods
 - Credible and verifiable.

Trial Run Requirements

- Notification
- Process
- Sampling
- Reporting
- Summary



During Trial

Run:

- No activity until approved;
- Notify Commission; and
- Need written approval.

Testing Requirements

Road and pad construction:

- ASTM 559-96;
- Analytical testing (800 cubic yards);
- Non-compliant material
 - reprocessed or
 - disposed per Commission rules.

EPS Emails



Chapter 4 Questions: EPSch4@rrc.texas.gov

EPS Permitting: enviro.permits@rrc.texas.gov

EPS Waste Haulers: whp@rrc.texas.gov

EPS Compliance: EPSCompl@rrc.texas.gov

Authorized Pit Registration: AuthPits@rrc.texas.gov