

October 15, 2024

Rules Coordinator  
Railroad Commission of Texas  
Office of General Counsel  
P.O. Drawer 12967  
Austin, Texas 78711-2967  
Via Email: rulescoordinator@rrc.texas.gov

RE: Draft Rules for Formal Comment, 16 TAC 3.8 and Chapter 4, Subchapters A and B

Dear Rules Coordinator,

Waste Management, Inc. (WM) provides a wide array of comprehensive environmental solutions for oil and gas production companies, including the collection, treatment, recycling and disposal of wastewater and drill cuttings at our commercial landfill sites.

First, WM would like to acknowledge that the Railroad Commission of Texas (the Commission) has put a significant amount of work into developing the proposed changes to current 16 TAC 3.8 that will make up new 16 TAC Chapter 4, Subchapters A and B. We greatly appreciate the many discussions the agency has had with industry and other stakeholders who will be impacted by this rulemaking. The Commission has very thoughtfully proposed updates to a rule that has not been revised in more than four decades, and we applaud your efforts.

On behalf of WM, please find below our comments regarding the formal proposal.

**Preamble** – *Effective Date; Need Additional Time*

More time will probably be needed to communicate and conduct training for industry, and to implement electronic reporting forms.

**4.102(a)** – *Waste Characterization; Training for Operators*

The Commission should provide seminars across the RRC Districts to educate generators, haulers, and receivers on the new regulations for waste characterization, manifests and profiles.

**4.102(a)(1)** – *Utilization of Process Knowledge for Categorizing Waste Material*

The use of “may” means lab testing is not required. The Commission should provide clear guidelines on what constitutes process knowledge.

Documentation of the basis for process knowledge, i.e. process description, analytical results, etc., needs to be kept onsite and produced upon request.

**4.102(a)(2)** – *Laboratory Analysis for Waste Generated at a Commercial Facility*

The use of the word “may” means lab analysis is not required for waste generated at a commercial facility. The Commission should provide clear guidelines for when lab analysis of waste is needed.

**4.102(a)(3)** – *Laboratory Analysis for Potentially Hazardous Waste*

The use of the word “may” means lab analysis is not required for waste that is not exempt from RCRA to determine if such waste is hazardous. The Commission should provide clear guidelines for when lab analysis of waste is needed.

**4.102(e)** – *Waste Hauler Permit; Confirming Active Permit*

The Waste Hauler Permit process requires an updated on-line system so that the electronic manifest can validate an active permit. Commercial disposal facilities should not be responsible for the hauler’s permit compliance.

The Commission should also hold seminars to educate haulers on new requirements.

Waste Hauler Permit field inspections would also improve compliance.

**4.108** – *Electronic Filing Requirements*

Information on the profile should be included on the manifest.

**4.110(77)** – *Definition of Public Area*

The proposed definition of Public Area is the same definition used in 3.36, Oil, Gas, or Geothermal Resource Operation in Hydrogen Sulfide Areas. 3.36 offers additional protection when H<sub>2</sub>S conditions are within certain distances to a public area and should govern safety concerns associated with hydrogen sulfide operations in relation to public areas.

For that reason, the Commission should omit public road, park and “other similar area that can expect to be populated” from this definition and instead reference 3.36.

**4.110(84)** – *Definition of Secondary Containment*

Secondary containment requirements should be consistent with TCEQ and EPA’s requirements: *In determining the method, design, and capacity for secondary containment, you need only to address the typical failure mode, and the most likely quantity of oil that would be discharged. Secondary containment may be either active or passive in design.*”

**4.128(b)(1)** – *Signage at Entrance*

What will be gained from changing the height of letters and numbers on signs from three inches to six inches? This new requirement will require new signs, sign holders, posts, etc. at all disposal facilities and will be costly for operators when signage already exists.

**4.128(b)(2)** – *Dikes and Containment Structures Must Be Compacted*

The new compaction requirements under this section seem excessive. What will be gained from this change?

**4.128(b)(3)** – *Secondary Containment Requirements*

Double wall, above-ground fuel tanks that are inspected monthly should be considered acceptable secondary containment.

**4.128(b)(5)** – *Security to Prevent Unauthorized Access*

To provide clarification, this provision could read:

“The facility shall maintain security to prevent unauthorized access. Access to active areas shall be secured by:

- a six-foot-high security fence, and
- a 24-hour attendant at an unlocked gate or
- locked gate when unattended to prevent unauthorized access.

Fencing shall be required unless terrain or vegetation prevents unauthorized access except through entrances with lockable gates.”

**4.130(c)** – *Certification of Electronic Forms*

How will the referenced certification be accomplished electronically?

The term “application” in the certification should be “report”.

**4.142(c)** – *Operating Requirements Applicable to Commercial Facilities*

Recommend the provision be revised to read:

“The operator shall develop and maintain a stormwater management plan to prevent stormwater from running onto the facility, the unauthorized discharge of contact stormwater, or deleterious impacts of contact stormwater from the facility to adjoining properties. The stormwater management plan shall be maintained on-site and made available to the Commission upon request.”

This provision also seems to imply that a perimeter berm is required at all commercial facilities and it may be unnecessary. A management plan will dictate what is necessary.

#### **4.152(b)(3)(B) – Monitoring of Permitted Pits**

If the pit is a disposal pit and cannot be emptied, as an alternative, we recommend implementing closure of the pit to prevent infiltration, continued leachate removal and continued removal of liquid from the leak detection system.

#### **4.190(a) and 4.190(b)(1) – Oil and Gas Waste Characterization and Documentation**

We recommend that the Commission provide training to generators across the District Offices on how to properly characterize and document waste.

We request that the Waste Profile Form information be included in the electronic manifest. The use of one form will be the best way to improve compliance.

#### **4.190(b)(3) – Oil and Gas Waste Characterization and Documentation**

We request that the Waste Profile Form information be included in the electronic manifest. The use of one form will be the best way to improve compliance.

#### **4.191(a)(2) – Electronic Manifest System**

As noted in our comments above, the electronic manifest is a great solution for improving compliance. We recommend the implementation of an electronic manifest system be made a Commission priority.

#### **4.193(a) – Waste Hauler Prohibitions**

An electronic manifest that can verify the Waste Hauler Permit status would ensure haulers are properly permitted.

#### **4.193(c)(3) – Waste Hauler Permit Application**

While the Waste Hauler Permit process needed to be streamlined, we do not see the reason for disposal facilities to be part of the Waste Hauler Application process. An updated on-line system needs to be made available. Disposal facilities should not be responsible for the hauler's permit compliance. Education of haulers, a streamlined process, a fully electronic process with the electronic manifest which validates the Waste Hauler Permit, and field inspections will improve compliance.

#### **4.194(b) – Recordkeeping; Discrepancies**

This provision requires that the receiver report discrepancies in waste characterization and documentation, manifests, and waste hauler status to the Commission. If all receivers are not diligent in reporting the discrepancies, generators and waste haulers could potentially take more loads to those receivers that are not as diligent in reporting discrepancies. Thus, the receivers that are diligent could be penalized because they comply with the provision and reject the load because of the discrepancies.

How is the Commission going to ensure that all receivers comply with this provision?

WM greatly appreciates the work of the Commission in addressing these important issues. If you should have any questions, I can be reached directly via email at [shutchin@wm.com](mailto:shutchin@wm.com). Thank you.

Sincerely,

Scott Hutchings  
Director of Government Affairs  
Waste Management, Inc.

cc: Chairman Christi Craddick  
Commissioner Wayne Christian  
Commissioner Jim Wright