TEXAS ADMINISTRATIVE CODE
TITLE 16. ECONOMIC REGULATION
PART 1. RAILROAD COMMISSION OF TEXAS
CHAPTER 4. ENVIRONMENTAL PROTECTION

SUBCHAPTER A. OIL AND GAS WASTE MANAGEMENT
DIVISION 1. GENERAL

§4.101. Prevention of Pollution.

(a) No person conducting activities subject to regulation by the Railroad Commission of Texas may cause or allow pollution of surface or subsurface water in the state.

(b) This subchapter establishes, for the purpose of protecting public health, public safety, and the environment within the scope of the Commission's statutory authority, the minimum permitting, operating, monitoring, and closure standards and requirements for the management of wastes associated with activities governed by the Commission including those governed under:

(1) Texas Natural Resources Code Title 3, Subtitle B;

(2) Texas Natural Resources Code Title 3, Subtitle D, Chapters 121-123;

(3) Texas Natural Resources Code Title 5;

(4) Texas Health and Safety Code Chapter 382, Subchapter K; and

(5) Texas Water Code Chapters 26, 27 and 29.

(c) Other wastes described in subsection (b) of this section are included when this subchapter refers to oil and gas waste(s) and may be managed in accordance with the provisions of this subchapter at facilities authorized under this subchapter provided the wastes are nonhazardous and chemically and physically similar to oil and gas wastes.

(d) Hazardous waste as defined in §3.98 of this title (relating to Standards for Management of Hazardous Oil and Gas Waste) shall be managed in accordance with the provisions of §3.98 of this title.

(e) Used oil as defined in §3.98 of this title shall be managed in accordance with the provisions of 40 Code of Federal Regulations (CFR), Part 279.

Source Note: The provisions of this §4.101 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.102. Responsibility for Oil and Gas Wastes.

(a) The generator of oil and gas waste is responsible for characterizing the waste.

(1) The generator may use process knowledge to categorize the waste material in accordance with the categories listed in the definition of oil and gas waste in §4.110 of this title (relating to Definitions).

(2) Laboratory analysis of waste may be required for waste generated at a commercial facility, as that term is defined in §4.110 of this title, or when waste is transferred from one commercial facility to another.

(3) The generator of an oil and gas waste that is not exempt from regulation under Subtitle C of the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 USC §6901, et seq. as described in 40 CFR §261.4(b), shall determine if such waste is a hazardous oil and gas waste by applying process knowledge of the hazard characteristics of the waste in light of the materials or processes used or by testing the waste.

(b) No person, operator, generator, receiver, or carrier may utilize the services of a carrier to transport oil and gas wastes if the carrier is required to have a permit to transport such wastes but does not have a valid permit.

(c) No person, operator, generator, or carrier may utilize the services of a receiver to manage oil and gas wastes if the receiver is required to have a permit to manage such wastes but does not have such a permit.

(d) No receiver may utilize the services of a second receiver to manage oil and gas wastes if the second receiver is required to have a permit to manage such wastes but does not have a valid permit.

(e) Any person who utilizes the services of a carrier or receiver is under a duty to determine that the carrier or receiver holds the appropriate authority from the Commission to manage or transport oil and gas wastes.

(f) No generator, carrier, receiver, or any other person may improperly dispose of oil and gas wastes or cause or allow the improper disposal of oil and gas wastes. A generator causes or allows the improper disposal of oil and gas wastes if:

(1) the generator utilizes the services of a carrier or receiver who improperly disposes of the wastes; and

(2) the generator knew or reasonably should have known that the carrier or receiver was likely to improperly dispose of the wastes and failed to take reasonable steps to prevent the improper disposal.

(g) No person may manage oil and gas wastes in a manner that violates Commission rules.

(h) Pursuant to Texas Natural Resources Code §91.142(h), any person, operator, permittee, or entity conducting activities under the jurisdiction of the Commission shall notify the Commission if it files for bankruptcy.

Source Note: The provisions of this §4.102 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.103. Prohibited Waste Management Methods.

(a) Unless authorized by this subchapter, no person may manage oil and gas wastes without obtaining a permit to manage such wastes, except for the following methods:

(1) as authorized by §4.111 of this title (relating to Authorized Disposal Methods for Certain Wastes);

(2) as authorized by §3.91 of this title (relating to Cleanup of Soil Contaminated by a Crude Oil Spill);

(3) as authorized by §3.98 of this title (relating to Standards for Management of Hazardous Oil and Gas Waste); or

(4) by underground injection for disposal permitted pursuant to §3.9 of this title (relating to Disposal Wells) or §3.46 of this title (relating to Fluid Injection into Productive Reservoirs).

(b) The discharge of any waste under the jurisdiction of the Commission into any surface water defined under §4.110 of this title (relating to Definitions) is prohibited unless such discharge is authorized by and conducted in accordance with a Texas Pollutant Discharge Elimination System (TPDES) permit or authority issued by the Texas Commission on Environmental Quality (TCEQ) or another regulatory agency with jurisdiction over discharge of oil and gas wastes.

(c) No person may maintain or use any pit for storage of oil, oil products, or oil by-products.

(d) Except as authorized by this subchapter, no person may maintain or use any pit for storage of oil field fluids or for storage or disposal of oil and gas wastes without obtaining a permit to maintain or use the pit.

(e) Except as expressly provided by §3.30 of this title (relating to Memorandum of Understanding between the Railroad Commission of Texas (RRC) and the Texas Commission on Environmental Quality (TCEQ)), no person may dispose of oil and gas wastes at a facility not under the jurisdiction of the Commission unless the Director expressly authorizes such disposal in writing.

(f) Except for those recycling methods authorized for certain wastes by §4.112 of this title (relating to Authorized Recycling), no person may recycle any oil and gas wastes by any method without obtaining a permit.

Source Note: The provisions of this §4.103 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.104. Coordination Between the Commission and Other Regulatory Agencies.

(a) The Commission and TCEQ have adopted by rule a Memorandum of Understanding stating how the agencies will implement the division of jurisdiction over wastes. The MOU is adopted in §3.30 of this title (relating to Memorandum of Understanding between the Railroad Commission of Texas (RRC) and the Texas Commission on Environmental Quality (TCEQ)).

(b) Activities authorized or permitted by this subchapter may be subject to rules and regulations promulgated by the United States Environmental Protection Agency under the federal Clean Air Act or the TCEQ under the Texas Clean Air Act. The applicant shall obtain any required authority from other regulatory agencies prior to the receipt of waste authorized under this subchapter and provide evidence of such authority to the Commission upon request.

Source Note: The provisions of this §4.104 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.106. Fees.

Applications submitted under this subchapter may be subject to a fee and surcharge pursuant to §3.78 of this title (relating to Fees and Financial Security Requirements).

Source Note: The provisions of this §4.106 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.107. Penalties.

(a) Policy. Improved safety and environmental protection are the desired outcomes of any enforcement action. Encouraging operators to take appropriate voluntary corrective and future protective actions once a violation has occurred is an effective component of the enforcement process. Deterrence of violations through penalty assessments is also a necessary and effective component of the enforcement process. A rule-based enforcement penalty guideline to evaluate and rank oil- and natural gas-related violations is consistent with the central goal of the Commission's enforcement efforts to promote compliance. Penalty guidelines set forth in this section will provide a framework for more uniform and equitable assessment of penalties throughout the state, while also enhancing the integrity of the Commission's enforcement program.

(b) Only guidelines. This section complies with the requirements of Texas Natural Resources Code §81.0531 and §91.101, which provide the Commission with the authority to adopt rules, enforce rules, and issue permits relating to the prevention of pollution. The penalty amounts shown in the tables in this section are provided solely as guidelines to be considered by the Commission in determining the amount of administrative penalties for violations of provisions of Texas Natural Resources Code, Title 3; Texas Water Code, Chapters 26, 27, and 29, that are administered and enforced by the Commission; or the provisions of a rule adopted or order, license, permit, or certificate issued under Texas

Natural Resources Code, Title 3, or Texas Water Code, Chapters 26, 27, and 29. This rule does not contemplate automatic enforcement without cause. Operators may correct violations at a facility with approval of Commission staff before being referred to legal enforcement.

(c) Commission authority. The establishment of these penalty guidelines shall in no way limit the Commission's authority and discretion to cite violations and assess administrative penalties. The guideline minimum penalties listed in this section are for the most common violations cited; however, this is neither an exclusive nor an exhaustive list of violations that the Commission may cite. The Commission retains full authority and discretion to cite violations of Texas Natural Resources Code, Title 3; including Nat. Res. Code §91.101, which provides the Commission with the authority to adopt rules, enforce rules, and issue permits relating to the prevention of pollution; the provisions of Texas Water Code, Chapters 26, 27, and 29, that are administered and enforced by the Commission; and the provisions of a rule adopted or an order, license, permit, or certificate issued under Texas Natural Resources Code, Title 3, or Texas Water Code, Chapters 26, 27, and 29, and to assess administrative penalties in any amount up to the statutory maximum when warranted by the facts in any case, regardless of inclusion in or omission from this section.

(d) Factors considered. The amount of any penalty requested, recommended, or finally assessed in an enforcement action will be determined on an individual case-by-case basis for each violation, taking into consideration the following factors:

(1) the facility's history of previous violations;

(2) the operator's history of previous violations;

(3) the seriousness of the violation;

(4) any hazard to the health or safety of the public; and

(5) the demonstrated good faith of the operator charged.

(e) Typical penalties. Regardless of the method by which the guideline typical penalty amount is calculated, the total penalty amount will be within the statutory limit. A guideline of typical penalties for violations of Texas Natural Resources Code, Title 3; the provisions of Texas Water Code, Chapters 26, 27, and 29, that are administered and enforced by the Commission; and the provisions of a rule adopted or an order, license, permit, or certificate issued under Texas Natural Resources Code, Title 3, or Texas Water Code, Chapters 26, 27, and 29, are set forth in Table 1.

Figure: 16 TAC §4.107(e) ***[See Figure at end of this document.]***

(f) Penalty enhancements for certain violations. For violations that involve threatened or actual pollution; result in threatened or actual safety hazards; or result from the reckless or intentional conduct of the operator charged, the Commission may assess an enhancement of the guideline penalty amount. The enhancement may be in any amount in the range shown for each type of violation as shown in Table 2.

Figure: 16 TAC §4.107(f)) ***[See Figure at end of this document.]***

(g) Penalty enhancements for certain violators. For violations in which the operator charged has a history of prior violations within seven years of the current enforcement action at any facility regulated by the Commission, the Commission may assess an enhancement based on either the number of prior violations or the total amount of previous administrative penalties, but not both. The actual amount of any penalty enhancement will be determined on an individual case-by-case basis for each violation. The guidelines in Tables 3 and 4 are intended to be used separately. Either guideline may be used where applicable, but not both.

Figure 1: 16 TAC §4.107(g)

Figure 2: 16 TAC §4.107(g) ***[See Figures at end of this document.]***

(h) Penalty reduction for accelerated settlement before hearing. The recommended monetary penalty for a violation may be reduced by up to 50% if the operator charged agrees to an accelerated settlement before the Commission conducts an administrative hearing to prosecute a violation. Once the hearing is convened, the opportunity for the operator charged to reduce the basic monetary penalty is no longer available. The reduction applies to the basic penalty amount requested and not to any requested enhancements.

(i) Demonstrated good faith. In determining the total amount of any monetary penalty requested, recommended, or finally assessed in an enforcement action, the Commission may consider, on an individual case-by-case basis for each violation, the demonstrated good faith of the operator charged. Demonstrated good faith includes, but is not limited to, actions taken by the operator charged before the filing of an enforcement action to remedy, in whole or in part, a violation or to mitigate the consequences of a violation.

(j) Penalty calculation worksheet. The penalty calculation worksheet shown in Table 5 lists the guideline minimum penalty amounts for certain violations; the circumstances justifying enhancements of a penalty and the amount of the enhancement; and the circumstances justifying a reduction in a penalty and the amount of the reduction.

Figure: 16 TAC §4.107(j) ***[See Figure at end of this document.]***

Source Note: The provisions of this §4.107 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.108. Electronic Filing Requirements.

(a) A person shall file electronically any form or application for which the Commission has provided an electronic version or an electronic filing system. The person shall comply with all requirements, including but not limited to fees and security procedures, for electronic filing.

(b) The Commission deems a person that files electronically or on whose behalf is filed electronically any form, or hard copy if the Commission has not approved a digital format, as of the time of filing, to have knowledge of and to be responsible for the information filed.

(c) All electronic filings that a person submits or that are submitted on behalf of a person shall be transmitted in the manner prescribed by the Commission that is compatible with its software, equipment, and facilities.

(d) The Commission may provide notice electronically to a person, and may provide a person the ability to confirm electronically, the Commission's receipt of a filing submitted electronically by or on behalf of that person.

(e) The Commission deems that the signature of a person's authorized representative appears on each filing submitted electronically by or on behalf of the person, as if this signature actually appears, as of the time the filing is submitted electronically to the Commission.

(f) The Commission holds each person responsible, under the penalties prescribed in Texas Natural Resources Code, §91.143, for all forms, information, or data that a person files or that are filed on the person's behalf. The Commission charges each person with the obligation to review and correct, if necessary, all forms, information, or data that a person files or that are filed on the person's behalf.

Source Note: The provisions of this §4.108 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.109. Exceptions.

(a) An applicant or permittee may request an exception to the provisions of this subchapter by submitting to the Director a written request and demonstrating that the requested alternative is at least equivalent in the protection of public health and safety, and the environment, as the provision of this subchapter to which the exception is requested. The following provisions are ineligible for exceptions:

(1) the requirements related to financial security found in §§4.122, 4.140, 4.150, and 4.171 of this title (relating to Permit Renewals, Transfers, and Amendments; Additional Requirements for Commercial Facilities; Additional Requirements Applicable to Permitted Pits; and Standard Permit Provisions, respectively);

(2) the notice requirements found in §§4.122, 4.123, 4.125 and 4.141 of this title (relating to Permit Renewals, Transfers, and Amendments; Permit Modification, Suspension, and Termination; Notice and Opportunity to Protest; and Additional Notice Requirements for Commercial Facilities, respectively); and

(3) the requirements related to sampling and analysis found in §§4.124, 4.129, 4.131, 4.132, 4.163, and 4.164 of this title (relating to Requirements Applicable to All Permit Applications and Reports; Operation; Monitoring; Closure; Monitoring; and Closure, respectively).

(b) Each application for an exception to a rule in this subchapter shall be accompanied by the exception fee and surcharge required by §3.78(b)(4) and (n) of this title (relating to Fees and Financial Security Requirements).

(c) Notwithstanding subsections (a) and (b) of this section, until July 1, 2026 the director may grant special exceptions solely for the purpose of issuing permits for waste management units that were authorized pits pursuant to §3.8 of this title (relating to Water Protection) prior to July 1, 2025 but that are no longer authorized pursuant to this subchapter.

(d) The Director shall review each written request for an exception on a case-by-case basis.

(e) If the Director denies a request for an exception, the applicant or permittee may request a hearing consistent with the hearing provisions of this subchapter relating to hearings requests but shall not use the requested alternative until the alternative is approved by the Commission.

Source Note: The provisions of this §4.109 adopted to be effective July 1, 2025, 50 TexReg 33.

DIVISION 2. DEFINITIONS

§4.110. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

(1) 25-year, 24-hour rainfall event--The maximum 24-hour precipitation event, in inches, with a probable recurrence interval of once in 25 years, as defined by the National Weather Service and published by the National

Oceanic and Atmospheric Administration for the county in which the waste management activity is occurring.

(2) 100-year flood--A flood that has a 1.0% or greater chance of occurring in any given year.

(3) 100-year flood plain--The lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands, that are inundated by the 100-year flood, as determined from maps or other data from the U.S. Army Corps of Engineers or the Federal Emergency Management Agency (FEMA).

(4) Action leakage rate--The calculated volume of waste liquid that has bypassed the primary liner into the leak detection layer at a rate of gallons per acre per day that if exceeded indicates failure of the primary liner.

(5) Active cell--A waste management unit that has received oil and gas waste and has not completed closure.

(6) Active life--The period of time beginning when a waste management unit first receives waste and ending when closure of the waste management unit is complete.

(7) Activities associated with the exploration, development, and production of oil or gas or geothermal resources--Activities associated with:

(A) the drilling of exploratory wells, oil wells, gas wells, injection wells, disposal wells, or geothermal resource wells;

(B) the production of oil or gas or geothermal resources, including activities associated with:

(i) the drilling of injection water source wells that penetrate the base of usable quality water;

(ii) the drilling of cathodic protection holes associated with the cathodic protection of wells and pipelines subject to the jurisdiction of the Commission to regulate the production of oil or gas or geothermal resources;

(iii) the drilling of seismic holes and core holes subject to the jurisdiction of the Commission to regulate the exploration, development, and production of oil or gas or geothermal resources;

(iv) gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants;

(v) any underground natural gas storage facility, provided the terms "natural gas" and "storage facility" shall have the meanings set out in the Texas Natural Resources Code §91.173;

(vi) any underground hydrocarbon storage facility, provided the terms "hydrocarbons" and "underground hydrocarbon storage facility" shall have the meanings set out in the Texas Natural Resources Code §91.201; and

(vii) the storage, handling, reclamation, gathering, transportation, or distribution of oil or gas prior to the refining of such oil or prior to the use of such gas in any manufacturing process or as a residential or industrial fuel;

(C) the operation, abandonment, and proper plugging of wells subject to the jurisdiction of the Commission to regulate the exploration, development, and production of oil or gas or geothermal resources; and

(D) the management of oil and gas waste or any other substance or material associated with any activity listed in subparagraphs (A) - (C) of this paragraph, except for waste generated in connection with activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants if that waste is a hazardous waste as defined by the administrator of the United States Environmental Protection Agency (EPA) pursuant to the federal Solid Waste Disposal Act, as amended (42 USC §6901, et seq.).

(8) Affected person--A person who, as a result of the activity sought to be permitted, has suffered or may suffer actual injury or economic damage other than as a member of the general public or a competitor.

(9) Aquifer--A geological formation, group of formations, or portion of a formation capable of yielding significant quantities of groundwater to wells or springs.

(10) ASTM--ASTM International (successor to the American Society for Testing and Materials).

(11) Authorized--An activity that is permitted or allowed by a rule.

(12) Authorized pit--A reserve pit, mud circulation pit, completion/workover pit, makeup water pit, fresh mining water pit, water condensate pit, or produced water recycling pit that is permitted by rule and described and operated in accordance with Division 3 of this subchapter (relating to Operations Authorized by Rule).

(13) Basic sediment--A mixture of crude oil or lease condensate, water, sediment, and other substances or hydrocarbon-bearing materials that are concentrated at the bottom of tanks and pipeline storage tanks (also referred to as "basic sediment and water" or "tank bottoms").

(14) Brine pit--A pit used for storage of brine in connection with the solution mining of brine, the operation of an underground hydrocarbon storage facility, or other activities associated with oil and gas exploration, development, storage or production that involve the creation or use of a salt cavern.

(15) Buffer zone--The minimum distance allowed between a waste management unit and another feature, such as a property boundary, surface water, or water well.

(16) Carrier--A person who is permitted to transport oil and gas wastes. A carrier of another person's oil and gas wastes may be a generator of its own oil and gas wastes. A permitted waste hauler is a carrier.

(17) Coastal Management Program (CMP) rules--The enforceable rules of the Texas Coastal Management Program codified at 31 Texas Administrative Code Chapters 26 through 29.

(18) Coastal Natural Resource Area (CNRA)--One of the following areas defined in Texas Natural Resources Code §33.203: coastal barriers, coastal historic areas, coastal preserves, coastal shore areas, coastal wetlands, critical dune areas, critical erosion areas, gulf beaches, hard substrate reefs, oyster reefs, submerged land, special hazard areas, submerged aquatic vegetation, tidal sand or mud flats, water in the open Gulf of Mexico, and water under tidal influence.

(19) Coastal waters--Waters along the coast under the jurisdiction of the State of Texas, including tidal influence and waters of the open Gulf of Mexico.

(20) Coastal zone--The area within the boundary established in 31 Texas Administrative Code §27.1 (relating to Coastal Management Program Boundary).

(21) Commercial facility--A facility permitted under Division 4 of this subchapter (relating to Requirements for All Permitted Waste Management Operations), whose owner or operator receives compensation from others for the management of oil field fluids or oil and gas wastes and whose primary business purpose is to provide these services for compensation.

(22) Commission--The Railroad Commission of Texas.

(23) Completion/workover pit--A pit used for storage or disposal of spent completion fluids and solids, workover fluids and solids, and drilling fluids and solids, silt, debris, water, brine, oil scum, paraffin, or other materials which have been cleaned out of the wellbore of a well being completed, worked over, or plugged.

(24) Contact stormwater--Stormwater that has come into contact with any amount of oil and gas wastes or areas that contain or have contained oil and gas wastes. See also "Non-contact stormwater" and "Stormwater."

(25) Container--A means of primary containment used for the management of oil and gas waste such as a pit, sump, tank, vessel, truck, barge, or other receptacle.

(26) Critical area--A coastal wetland, an oyster reef, a hard substrate reef, submerged aquatic vegetation, or a tidal sand or mud flat as defined in Texas Natural Resources Code §33.203.

(27) Dewater--To remove free liquids from a media such that the remaining material passes a Paint Filter Liquids Test (EPA Method 9095B, as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication Number SW-846). See also "Free liquids".

(28) Director--The Director of the Oil and Gas Division or the Director's delegate.

(29) Discharge--To allow a liquid, gas, or other substance to flow out from where it has been confined.

(30) Disposal--The act of conducting, draining, discharging, emitting, throwing, releasing, depositing, burying, dumping, placing, abandoning, landfarming, allowing seepage, or causing or allowing any such act of disposal of any oil field fluid, oil and gas waste, or other substance or material subject to regulation by the Commission.

(31) Disposal pit--A pit used for the permanent storage of oil and gas waste.

(32) District Director--The Director of the Commission district where the management, disposal, or recycling of oil and gas wastes is located or the District Director's delegate.

(33) District Office--The Commission District Office in the Commission district where the waste management, disposal, and/or recycling is located.

(34) Drill cuttings--Bits of rock or soil cut from a subsurface formation by a drill bit during the process of drilling an oil or gas well or other wells within the Commission's jurisdiction and lifted to the surface by means of the circulation of drilling mud. The term includes any associated sand, silt, drilling fluid, spent completion fluid, workover fluid, debris, water, brine, oil scum, paraffin, or other material cleaned out of the wellbore.

(35) Drilling fluid--Any of a number of liquid and gaseous fluids and mixtures of fluids and solids (as solid suspensions, mixtures and emulsions of liquids, gases and solids) used in operations to drill boreholes into the earth.

(36) Electrical conductivity--A numerical expression of the ability of a material to carry a current, normally expressed in millimhos/centimeter (the reciprocal of resistivity). It is frequently used to estimate salinity in terms of total dissolved solids. In soil analysis, electrical conductivity may be used as one measure to evaluate a soil's ability to sustain plant growth.

(37) Environmental Protection Agency (EPA)--The United States Environmental Protection Agency.

(38) Facility--A site that shares a common area, common access, and a common purpose where oil field fluids or oil and gas wastes are managed. It may include one or more waste management units, may include permitted or authorized activities, and may be designated as either commercial or non-commercial.

(39) Free liquids--Liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

(40) Freeboard--The vertical distance between the top of a pit or berm and the highest point of the contents of the pit or berm.

(41) Fresh mining water pit--A pit used in conjunction with a brine mining injection well for storage of fresh water used for solution mining of brine.

(42) Generator--A person that generates oil and gas wastes.

(43) Geomembrane--An impermeable polymeric sheet material that is impervious to liquid and gas if it maintains its integrity and is used as an integral part of an engineered structure designed to limit the movement of liquid or gas in a system.

(44) Geotextile--A sheet material that is less impervious to liquid than a geomembrane but more resistant to penetration damage, and is used as part of an engineered structure or system to serve as a filter to prevent the movement of soil fines into a drainage system, to provide planar flow for drainage, to serve as a cushion to protect geomembranes, or to provide structural support.

(45) Groundwater--Subsurface water in a zone of saturation.

(46) Hydrocarbon condensate--Hydrocarbon liquids that condense from a natural gas stream.

(47) Inert oil and gas waste--Nonreactive, nontoxic, and essentially insoluble oil and gas wastes, including, but not limited to, concrete, glass, wood, metal, wire, plastic, synthetic liners, fiberglass, soil, dirt, clay, sand, gravel, brick, and trash. The term excludes asbestos or asbestos-containing waste, and oil and gas naturally occurring radioactive material (NORM) waste.

(48) Karst terrain--An area where karst topography, with its characteristic surface and/or subterranean features, is developed principally as the result of dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in karst terrains include, but are not limited to, sinkholes, sinking streams, caves, large springs, and blind valleys.

(49) Land application--A method for the permanent disposition of low-chloride aqueous oil and gas waste by which the liquid waste is applied directly to the ground surface in a controlled manner via sprinkler or other irrigation systems without tilling or mixing with the native soils and without runoff to surface water or infiltration to groundwater.

(50) Landfarming--An authorized or permitted waste management practice in which low chloride, water-based drilling fluids, or oil and gas wastes are mixed with, or tilled into, the native soils in such a manner that the waste will not migrate from the authorized or permitted landfarming cell.

(51) Landfarming cell--The bermed area into which oil and gas waste is applied to the land and includes landfarming and landtreatment cells.

(52) Landtreating--An authorized or permitted waste management practice in which oil-based drilling fluids, oil impacted soils, and oil and gas wastes are mixed with or tilled into the native soil to degrade oil, grease, or other organic wastes through biological processes and in such a manner that the waste will not migrate from the authorized or permitted landtreatment cell.

(53) Leak detection system--A system used to detect leaks below the liner of pits.

(54) Liner--A continuous layer of impervious materials, synthetic or natural, beneath and on the sides of a pit that restricts or prevents the downward or lateral release or migration of oilfield fluids or oil and gas wastes.

(55) Makeup water pit--A pit used in conjunction with a drilling rig, completion operations, or a workover for storage of water used to make up drilling fluid or completion fluid.

(56) Manage or management of oil and gas waste--The receiving, handling, storage, treatment, processing, transportation, reclamation, recycling, and/or disposal of oil and gas wastes.

(57) Manifest--An electronic or paper document used to track shipments of oil and gas waste that is authenticated by all parties (the generator, carrier, and receiver) in the transfer of oil and gas waste, and contains information on the waste type, source, quantity, and instructions for handling.

(58) Mined brine--Brine produced from a brine mining injection well by solution of subsurface salt formations. The term does not include saltwater produced incidentally to the exploration, development, and production of oil or gas or geothermal resources.

(59) Mud circulation pit--A pit used in conjunction with drilling rig for storage of drilling fluid currently being used in drilling operations.

(60) Natural gas or natural gas liquids processing plant--A plant whose primary function is the extraction of natural gas liquids from field gas, the fractionation of natural gas liquids, and the production of pipeline-quality gas for transportation by a natural gas transmission pipeline. The term does not include a separately located natural gas treating plant for which the primary function is the removal of carbon dioxide, hydrogen sulfide, or other impurities from the natural gas stream. A separator, dehydration unit, heater treater, sweetening unit, compressor, or similar equipment shall be considered a component of a natural gas or natural

gas liquids processing plant only if it is located at a plant the primary function of which is the extraction of natural gas liquids from field gas or fractionation of natural gas liquids.

(61) Naturally occurring radioactive material (NORM)--Naturally occurring materials not regulated under the Atomic Energy Act whose radionuclide concentrations have been increased by or as a result of human practices. NORM does not include the natural radioactivity of rocks or soils, or background radiation, but instead refers to materials whose radioactivity is concentrated by controllable practices (or by past human practices). NORM does not include source, byproduct, or special nuclear material.

(62) Non-commercial facility--A facility authorized or permitted under this chapter that is not a commercial facility as defined in paragraph (21) of this section.

(63) Non-contact stormwater--Stormwater that, by design or direction, has not come into contact with any oil or gas wastes and is not otherwise designated as contact stormwater pursuant to §4.110(24). See also "Contact stormwater" and "Stormwater."

(64) Oil and gas NORM waste--Any solid, liquid, or gaseous material or combination of materials (excluding source material, special nuclear material, and by-product material) that in its natural physical state spontaneously emits radiation, is discarded or unwanted, constitutes, is contained in, or has contaminated oil and gas waste, and prior to treatment or processing that reduces the radioactivity concentration, exceeds exemption criteria specified in 25 Texas Administrative Code §289.259(d) (relating to Licensing of Naturally Occurring Radioactive Material (NORM)).

(65) Oil and gas wastes--As defined in Texas Natural Resources Code §91.1011, the term:

(A) means waste that arises out of or incidental to the drilling for or producing of oil or gas, including waste arising out of or incidental to:

(i) activities associated with the drilling of injection water source wells which penetrate the base of useable quality water;

(ii) activities associated with the drilling of cathodic protection holes associated with the cathodic protection of wells and pipelines subject to the jurisdiction of the Commission;

(iii) activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants;

(iv) activities associated with any underground natural gas storage facility, provided the terms "natural gas" and "storage facility" shall have the meanings set out in Texas Natural Resources Code §91.173;

(v) activities associated with any underground hydrocarbon storage facility, provided the terms "hydrocarbons" and "underground hydrocarbon storage facility" shall have the meanings set out in Texas Natural Resources Code §91.201; and

(vi) activities associated with the storage, handling, reclamation, gathering, transportation, or distribution of oil or gas prior to the refining of such oil or prior to the use of such gas in any manufacturing process or as a residential or industrial fuel;

(B) includes salt water, brine, sludge, drilling mud, and other liquid, semiliquid, or solid waste material; but

(C) does not include waste arising out of or incidental to activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants if that waste is a hazardous waste as defined by the administrator of the United States Environmental Protection Agency pursuant to the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., as amended.

(66) Oil field fluids--Fluid used or reused in connection with activities associated with the exploration, development, and production of oil or gas or geothermal resources, fluids to be used or reused in connection with activities associated with the solution mining of brine, and mined brine. The term "oil field fluids" includes, but is not limited to, drilling fluids, completion fluids, surfactants, and other chemicals used in association with oil and gas activities, but does not include produced oil, condensate, gas, or water that is not oil and gas waste. Oil field fluids no longer used or reused in connection with activities associated with the exploration, development, and production of oil or gas or geothermal resources, and oil field fluids that have been abandoned, are considered an oil and gas waste.

(67) Operator--A person, acting for itself or as an agent for others, designated to the Railroad Commission of Texas as the person with responsibility for complying with the Commission's rules and regulations in any acts subject to the Commission's jurisdiction.

(68) Partially treated waste--Oil and gas waste that has been treated or processed with the intent of being recycled, but which has not been determined to meet the environmental and engineering standards for a recyclable product established by the Commission in this subchapter or in a permit issued pursuant to this subchapter.

(69) Person--A natural person, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

(70) Pit--A container for which earthen materials provide structure, shape, and foundation support. A container that includes a concrete floor or sidewall is a pit. A tank, as defined in paragraph (89) of this section, is not a pit.

(71) Pollution--The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any surface or subsurface water that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

(72) Primary containment--Measures put into place to confine, control, and secure a material to a defined space. See also "Container."

(73) Produced water--The water that was present in a subsurface formation and was brought to the surface during oil and gas exploration and production activities.

(74) Produced water recycling--The recycling of produced water and other aqueous fluid wastes produced from a wellbore during oil and gas exploration and production activities.

(75) Produced water recycling pit--An authorized pit used to manage produced water and other aqueous fluid wastes produced from a wellbore during oil and gas exploration and production activities.

(76) Public area--A dwelling, place of business, church, school, hospital, school bus stop, government building, any portion of a park, city, town, village, or other similar area that can expect to be populated.

(77) Public water system--A source of potable water for the public's use that has at least 15 service connections or serves at least 25 individuals for at least 60 days out of the year. This includes people that live in houses served by a system, but can also include employees, customers, or students.

(78) Pressure maintenance plant or repressurizing plant--A plant for processing natural gas for reinjection for reservoir pressure maintenance or repressurizing in a natural gas recycling project. These terms do not include a compressor station along a natural gas pipeline system or a pump station along a crude oil pipeline system.

(79) Receiver--A person who manages oil and gas waste that is received from a generator, another receiver, or carrier. A receiver of another operator's oil and gas wastes may be a generator of its own oil and gas wastes.

(80) Recyclable product--A reusable material that has been created from the treatment and/or processing of oil and gas waste as authorized or permitted by the Commission and that meets the environmental and engineering standards established by the permit or authorization for the intended use, and is used as a legitimate commercial product. A recyclable product is not a waste but may become a waste if it is abandoned or disposed of rather than recycled as authorized by the permit or authorization.

(81) Recycle--To process and/or use or re-use oil and gas wastes as a product for which there is a legitimate commercial use. This term also includes the actual use or re-use of oil and gas wastes. For the purpose of this chapter, the term "recycle" does not include injection pursuant to a permit issued under §3.46 of this title (relating to Fluid Injection into Productive Reservoirs).

(82) Reserve pit--A pit used in conjunction with drilling rig for collecting spent drilling fluids; cuttings, sands, and silts; and wash water used for cleaning drill pipe and other equipment at the well site. Reserve pits are sometimes referred to as slush pits or mud pits.

(83) Secondary containment--Measures put into place to contain spills and prevent them from contaminating the surrounding area, such as dikes, berms, or other barriers. See also "Container" and "Primary containment."

(84) Sensitive area--An area defined by the presence of factors, whether one or more, that make it vulnerable to pollution from oil and gas surface waste management activities. Factors that are characteristic of sensitive areas include the presence of shallow groundwater or pathways for communication with deeper groundwater; proximity to surface water, including lakes, rivers, streams, dry or flowing creeks, irrigation canals, water wells, stock tanks, and wetlands; proximity to natural wildlife refuges or parks; or proximity to commercial or residential areas.

(85) Solid oil and gas waste--Oil and gas waste that is determined not to contain "free liquids" as defined by EPA Method 9095B (Paint Filter Liquids Test), as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Publication Number SW-846).

(86) Storage or storing--The keeping, holding, accumulating, or aggregating of oil and gas waste for a temporary or indeterminate period.

(87) Stormwater--Water that falls onto and flows over the ground surface and does not infiltrate into the soil. See also "Contact stormwater" and "Non-contact stormwater."

(88) Surface and subsurface water--Groundwater, percolating, perched or otherwise, and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh, saline, or salt, navigable or non-navigable, and including the beds and banks of all

watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

(89) Tank--A rigid, non-concrete, non-earthen container that provides its own structure and shape.

(90) TCEQ--The Texas Commission on Environmental Quality or its successor agencies.

(91) Technical Permitting Section or Technical Permitting--The Technical Permitting Section within the Oil and Gas Division of the Railroad Commission of Texas, located in Austin, Texas.

(92) Treated fluid--Fluid oil and gas waste that has been treated to remove impurities such that the fluid can be reused or recycled. Treated fluid that is abandoned or disposed of is classified as an oil and gas waste. Once treated fluid is reused or recycled, it is not classified as an oil and gas waste.

(93) Unified Soil Classification System--The standardized system devised by the United States Army Corps of Engineers for classifying soil types.

(94) Waste management unit--A container, structure, pad, cell, or area in or on which oil and gas wastes are managed.

(95) Water condensate pit--A pit used for storage or disposal of water condensed from natural gas.

(96) Wetland--An area including a swamp, marsh, bog, prairie pothole, or similar area having a predominance of hydric soils that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that under normal circumstances supports the growth and regeneration of hydrophytic vegetation. The term "hydric soil" means soil that, in its undrained condition, is saturated, flooded, or ponded long enough during a growing season to develop an anaerobic condition that supports the growth and regeneration of hydrophytic vegetation. The term "hydrophytic vegetation" means a plant growing in water or a substrate that is at least periodically deficient in oxygen during a growing season as a result of excessive water content. The term "wetland" does not include irrigated acreage used as farmland; a man-made wetland of less than one acre; or a man-made wetland for which construction or creation commenced on or after August 28, 1989, and which was not constructed with wetland creation as a stated objective, including but not limited to an impoundment made for the purpose of soil and water conservation which has been approved or requested by soil and water conservation districts (Texas Water Code §11.502.).

Source Note: The provisions of this §4.110 adopted to be effective July 1, 2025, 50 TexReg 33.

DIVISION 3. OPERATIONS AUTHORIZED BY RULE

§4.111. Authorized Disposal Methods for Certain Wastes.

(a) Water condensate. A person may, without a permit, dispose of by land application water which has been condensed from natural gas and collected at gas pipeline drip stations or gas compressor stations. The disposal is authorized provided:

(1) the disposal is not a discharge to surface water and the waste will not reach surface water;

(2) prior to each land application event, representative samples are collected and analyzed for the list of parameters in the figure in this subsection;

(3) analytical methods used are documented and all parameters are in mg/liter unless otherwise specified;

(4) analyte concentrations do not exceed the concentration limits listed in the figure in this subsection;

(5) the water condensate is applied to the ground surface in such a manner that it will not leave the boundaries of the property; and

(6) the area where the water condensate will be land applied is at least 500 feet from a public water system well or intake, and 300 feet from any surface water or residential or irrigation water supply well.

Figure: 16 TAC §4.111(a) ***[See Figure at end of this document.]***

(b) Inert oil and gas wastes. A person may, without a permit, dispose of inert oil and gas wastes on the property on which the waste was generated provided disposal is by a method other than:

(1) disposal into surface water; or

(2) a method that may present other health and safety hazards such as burning.

(c) Low chloride water-based drilling fluid. A person may, without a permit, dispose of the following oil and gas wastes by landfarming: water-based drilling fluids with a chloride concentration of 3,000 mg/liter or less; drill cuttings, sands, and silts obtained while using water-based drilling fluids with a chloride concentration of 3,000 mg/liter or less; and wash water used for cleaning drill pipe and other equipment at the well site. The disposal is authorized in accordance with the following:

(1) the waste is landfarmed on the same lease or unit, easement, or right-of-way where it was generated;

(2) the person has obtained written permission to landfarm the waste from the surface owner of the area to be landfarmed;

(3) the slope of the area to be landfarmed is three percent or less, or any greater slope is approved in writing by the District Director;

(4) the area where the waste will be landfarmed is at least 500 feet from a public water system well or intake, 300 feet from any surface water or other types of wells, and in an area with subsurface water at depths of more than 100 feet below land surface;

(5) any accumulation of hydrocarbons on top of the waste to be landfarmed is removed from the waste prior to spreading;

(6) the waste to be landfarmed has a pH of not less than six nor more than nine standard units;

(7) the waste is spread evenly and in a manner that will not result in a depth of greater than six inches of solids or six inches of fluids (six inches over an acre = 5,172 barrels/acre);

(8) the waste is spread in a manner that will not result in pooling, ponding, or runoff of the waste and the waste is then disked into the soil as necessary to distribute the waste within the soil;

(9) immediately after landfarming the waste, the waste-soil mixture has an electrical conductivity that does not exceed the background level for undisturbed soil established before landfarm activities commenced or four millimhos/centimeter, whichever is greater; and

(10) immediately after landfarming the waste, the waste-soil mixture has a total petroleum hydrocarbon content of one percent or less by weight when sampled using EPA SW-846 418.1 or equivalent.

(d) Other oil and gas wastes. A person may, without a permit, dispose of the following oil and gas wastes by burial in a reserve pit or a completion/workover pit: solids from dewatered drilling mud and fluids generated during well drilling, completion, and workover activities, including drill cuttings, sand, silt, paraffin, and debris. The disposal is authorized provided:

(1) the wastes are disposed of at the same well site where they are generated;

(2) the wastes are dewatered;

(3) the burial complies with the closure requirements for authorized pits pursuant to §4.114 of this title (relating to Schedule A Authorized Pits); and

(4) the operator maintains documentation demonstrating closure requirements have been met. The operator shall maintain these records for at least three years from the date of closure and provide copies of these records to the Commission upon request.

Source Note: The provisions of this §4.111 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.112. Authorized Recycling.

(a) Produced water recycling is authorized if:

(1) produced water is recycled for use in drilling operations, completion operations, hydraulic fracturing operations, or as another type of oilfield fluid to be used in the wellbore of an oil, gas, geothermal, or service well;

(2) produced water recycling pits are operated in accordance with §4.113 and §4.115 of this title (relating to Authorized Pits, and Schedule B Authorized Pits); and

(3) recycling is limited to oil and gas waste; commingling of treated oil and gas waste with other treated fluid from sources outside of the Commission's jurisdiction may only be authorized at the Director's discretion.

(b) Treated fluid may be reused in any other manner without a permit from the Commission provided the reuse occurs pursuant to a permit issued by another state or federal agency.

(c) Fluid that meets the requirements of subsection (a) or (b) of this section is a recyclable product.

Source Note: The provisions of this §4.112 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.113. Authorized Pits.

(a) An operator may, without a permit, maintain or use reserve pits, mud circulation pits, completion/workover pits, makeup water pits, fresh mining water pits, water condensate pits, and produced water recycling pits if the pit complies with this division.

(b) Unless otherwise approved by the District Director after a showing that the contents of the pit will be confined in the pit at all times, all authorized pits shall be constructed, used, operated, and maintained at all times outside of a 100-year flood plain as that term is defined in §4.110 of this title (relating to Definitions). The operator may request a hearing if the District Director denies approval of the request to construct an authorized pit within a 100-year flood plain.

(c) An authorized pit that was constructed pursuant to and compliant with §3.8 of this title (relating to Water Protection) as that rule existed prior to July 1, 2025, is authorized to continue to operate subject to the following:

(1) Authorized pits that cause pollution shall be brought into compliance with or closed according to this division.

(2) By July 1, 2026, basic sediment pits, flare pits, and other unpermitted pits not authorized by this section shall be:

(A) permitted according to this subchapter; or

(B) closed according to this division.

(3) By January 1, 2026, an operator of a non-commercial fluid recycling pit shall:

(A) register the pit as a produced water recycling pit according to subsection (e) of this section and file the required financial security according to §4.115 of this tile (relating to Schedule B Authorized Pits); or

(B) close the pit according to this division.

(4) At the time of closure, authorized pits shall be closed according to this division.

(d) In the event of an unauthorized release of oil and gas waste, treated fluid, or other substances from any pit authorized by this section, the operator shall take any measures necessary to stop or control the release and report the release to the District Office within 24 hours of discovery of the release.

(e) The operator shall register all authorized pits with the Commission.

(1) The Director shall establish a registration system for authorized pits by July 1, 2025.

(A) New authorized pits constructed after July 1, 2025 shall register by mailing or emailing to Technical Permitting the registration form established by the Commission.

(B) By July 1, 2027, the Director will establish an online system for operators to register and for the Commission to maintain a record of authorized pits.

(C) The operator of an authorized pit shall register the pit using the online registration system once it is established by the Director.

(2) New pits shall be registered prior to operation of the pit.

(3) Authorized pits existing on July 1, 2025, shall be registered or closed within one year.

(4) Authorized pit registration shall include:

(A) the type of pit;

(B) the location of the pit including the lease name and number, drilling permit number or other Commission-issued identifier, and the latitude and longitude coordinates using the 1983 North American Datum (NAD);

(C) the pit dimensions and capacity in barrels;

(D) the expected depth to groundwater from the bottom of the pit; and

(E) for produced water recycling pits, the financial security required by §4.115 of this title.

(5) An authorized pit may be designated as more than one type of pit provided it meets the requirements in this section for each type of pit. An authorized pit of one type may be redesignated as an authorized pit of another type (for example, a reserve pit may be redesignated as a completion pit) provided the pit was constructed to meet the design and construction requirements of the pit type to which it will be redesignated.

Source Note: The provisions of this §4.113 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.114. Schedule A Authorized Pits.

Reserve pits, mud circulation pits, completion/workover pits, makeup water pits, fresh mining water pits, and water condensate pits are Schedule A authorized pits.

(1) Schedule A pit contents.

(A) Reserve pits and mud circulation pits. A person shall not deposit or cause to be deposited into a reserve pit or mud circulation pit any oil field fluids or oil and gas wastes other than the following:

(i) drilling fluids that are freshwater base, saltwater base, or oil base;

(ii) drill cuttings, sands, and silts separated from the circulating drilling fluids;

(iii) wash water used for cleaning drill pipe and other equipment at the well site;

(iv) drill stem test fluids; and

(v) blowout preventer test fluids.

(B) Completion/workover pits. A person shall not deposit or cause to be deposited into a completion/workover pit any oil field fluids or oil and gas wastes other than spent completion fluids, workover fluid, and the materials cleaned out of the wellbore of a well being completed, worked over, or plugged.

(C) Makeup water pits. A person shall not deposit or cause to be deposited into a makeup water pit any oil and gas wastes or any oil field fluids other than water used to make up drilling fluid or hydraulic fracturing fluid. Produced water shall not be placed in a makeup water pit.

(D) Fresh mining water pits. A person shall not deposit or cause to be deposited into a fresh mining water pit any oil and gas wastes or any oil field fluids other than water used for solution mining of brine.

(E) Water condensate pits. A person shall not deposit or cause to be deposited into a water condensate pit any oil field fluids or oil and gas wastes other than fresh water condensed from natural gas and collected at gas pipeline drips or gas compressor stations.

(2) Schedule A pit construction.

(A) All pits shall be designed, constructed, and maintained to prevent any migration of materials from the pit into adjacent subsurface soils, groundwater, or surface water at any time during the life of the pit.

(B) Any authorized pit that contains fluid with more than 3,000 mg/liter of total dissolved solids, or any authorized pit located in areas where groundwater is present within 50 feet of the bottom of the pit shall be lined.

(i) All liners shall have a hydraulic conductivity that is 1.0 x 10-7 cm/sec or less.

(ii) A liner may be constructed of either natural or synthetic materials.

(3) Schedule A pit closure. A person who maintains or uses a reserve pit, mud circulation pit, makeup water pit, fresh mining water pit, completion/workover pit, or water condensate pit shall ensure closure activities do not increase the potential for pollution.

(A) Schedule A pits shall be dewatered, backfilled, and compacted according to the following schedule.

(i) Reserve pits, mud circulation pits, and makeup water pits which contain fluids with a chloride concentration of 6,100 mg/liter or less shall be dewatered, backfilled, and compacted within one year of cessation of drilling operations.

(ii) Reserve pits, mud circulation pits, and makeup water pits which contain fluids with a chloride concentration in excess of 6,100 mg/liter shall be dewatered within 30 days and backfilled and compacted within one year of cessation of drilling operations.

(iii) All completion/workover pits used when completing a well shall be dewatered within 30 days of well completion and backfilled and compacted within 120 days of well completion. All completion/workover pits used when working over a well shall be dewatered within 30 days of completion of workover operations and backfilled and compacted within 120 days of completion of workover operations.

(iv) Fresh mining water pits and water condensate pits shall be dewatered, backfilled, and compacted within 120 days of final cessation of use of the pit.

(v) If a person constructs a sectioned reserve pit, each section of the pit shall be considered a separate pit for determining when a particular section shall be dewatered.

(B) A person who maintains or uses a reserve pit, mud circulation pit, makeup water pit, or completion/workover pit shall remain responsible for dewatering, backfilling, and compacting the pit within the time prescribed by subparagraph (A) of this paragraph, even if the time allowed for backfilling the pit extends beyond the expiration date or transfer date of the lease covering the land where the pit is located.

(C) The Director may require that a person who uses or maintains a reserve pit, mud circulation pit, makeup water pit, fresh mining water pit, completion/workover pit, or water condensate pit dewater and backfill the pit sooner than the time prescribed by subparagraph (A) of this paragraph if the Director determines that oil and gas wastes or oil field fluids are likely to escape from the pit or that the pit is being used for improper storage or disposal of oil and gas wastes or oil field fluids.

(D) Prior to backfilling any reserve pit, mud circulation pit, completion/workover pit, or water condensate pit authorized by this paragraph, the person maintaining or using the pit shall, in a permitted manner or in a manner authorized by §4.111 of this title (relating to Authorized Disposal Methods for Certain Wastes), dispose of all oil and gas wastes which are in the pit.

Source Note: The provisions of this §4.114 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.115. Schedule B Authorized Pits.

(a) Schedule B authorized pits. A produced water recycling pit is a Schedule B authorized pit.

(b) A produced water recycling pit may be located on a tract of land that is not on an oil and gas lease operated by the operator of the produced water recycling pit.

(c) Financial security requirements.

(1) Pursuant to Natural Resources Code §91.109(a), the operator of a produced water recycling pit shall maintain a performance bond or other form of financial security conditioned that the operator will operate and close the produced water recycling pit in accordance with this subchapter.

(2) For each produced water recycling pit an operator shall file financial security in one of the following forms:

(A) a blanket performance bond; or

(B) a letter of credit or cash deposit in the same amount as required for a blanket performance bond.

(3) An operator required to file financial security under paragraph (1) of this subsection shall file one of the following types and amounts of financial security.

(A) A person operating five or less pits may file a performance bond, letter of credit, or cash deposit in an amount equal to $1.00 per barrel of total pit capacity.

(B) A person operating more than five pits may file a performance bond, letter of credit, or cash deposit in an amount equal to:

(i) the greater of $1.00 per barrel of water for ten percent of an operator's total produced water recycling pit capacity or $1,000,000; or

(ii) $200,000 per pit, capped at $5,000,000.

(4) The operator shall submit required financial security at the time the operator registers the produced water recycling pit.

(5) The operator shall submit bonds and letters of credit on forms prescribed by the Commission.

(d) Non-commercial fluid recycling pits authorized prior to July 1, 2025. Non-commercial fluid recycling pits that were authorized pursuant to and compliant with §3.8 of this title (relating to Water Protection) as that rule existed prior to July 1, 2025 are authorized as

produced water recycling pits under this section, provided the operator registers the pit and files the required financial security by January 1, 2026.

(e) Produced water recycling pit contents. A person shall not deposit or cause to be deposited into a produced water recycling pit any oil field fluids or oil and gas wastes other than those fluids described in §4.110(75) of this title (relating to Definitions) and any fluids authorized by the Director pursuant to §4.112(a)(3) of this title (relating to Authorized Recycling).

(f) General location requirements for produced water recycling pits. No produced water recycling pit shall be located:

(1) on a barrier island or a beach;

(2) within 300 feet of surface water;

(3) within 500 feet of any public water system well or intake;

(4) within 300 feet of any domestic water well or irrigation water well, other than a well that supplies water for drilling or workover operations or any other process for which the pit is authorized;

(5) within a 100-year flood plain; or

(6) within 500 feet of a public area.

(g) General design and construction requirements for produced water recycling pits. All produced water recycling pits shall comply with the following requirements.

(1) The operator shall design and construct a produced water recycling pit to ensure the confinement of fluids to prevent releases.

(2) A produced water recycling pit shall be large enough to ensure adequate storage capacity of the volume of material to be managed and to maintain two feet of freeboard plus the capacity to contain the volume of precipitation from a 25-year, 24-hour rainfall event.

(3) A produced water recycling pit shall be designed and constructed to prevent non-contact stormwater runoff from entering the pit. A berm, ditch, proper sloping, or other diversion shall surround a produced water recycling pit to prevent run-on of any surface waters including precipitation.

(4) A produced water recycling pit shall have a properly constructed foundation and interior slopes consisting of a firm, unyielding base, smooth and free of rocks, debris, sharp edges, or irregularities to prevent the liner's rupture or tear. The operator shall construct a produced water recycling pit so that the slopes are no steeper than three horizontal feet to one vertical foot (3H:1V). The District Director may approve an alternative to the slope requirement if the operator demonstrates that it can construct and operate the produced water recycling pit in a safe manner to prevent pollution of surface and subsurface water and protect public health, public safety, and the environment.

(5) Produced water recycling pits shall be lined.

(A) The liner shall be constructed of materials that have sufficient chemical and physical properties, including thickness, to prevent failure during the expected life of the produced water recycling pit due to pressure gradients (including static head and external hydrogeologic forces), physical contact with material in the pit or other materials to which the liner may be expected to be exposed, climatic conditions, stress of installation, and use.

(B) All of the pit shall be lined, including the dike or berm, and the liner shall be properly anchored or keyed into the native substrate to prevent erosion or washout of the dike, berm, or liner.

(C) A liner may be constructed of either natural or synthetic materials.

(D) A liner constructed of natural materials shall meet the following requirements:

(i) A natural liner shall only be used for a produced water recycling pit with an active life of less than one year.

(ii) A natural liner shall be constructed of a minimum of two feet of compacted fat clay, placed in continuous six-inch lifts compacted to a 95% standard proctor as defined in ASTM D698 and having a hydraulic conductivity of 1.0 x 10 7 cm/sec or less. Where natural liner materials are used, the operator shall perform appropriate testing to ensure compliance with these requirements and shall maintain copies of the test results for the life of the pit.

(iii) A produced water recycling pit with a natural liner shall not be used for waste disposal pursuant to §4.111 of this title (relating to Authorized Disposal Methods for Certain Wastes) unless the pit also has a synthetic liner.

(E) A synthetic liner shall meet the following requirements:

(i) A synthetic liner shall be placed upon a firm, unyielding foundation or base capable of providing support to the liner, smooth and free of rocks, debris, sharp edges, or irregularities to prevent the liner's rupture or tear.

(ii) A synthetic liner shall be underlain by a geotextile where needed to reduce localized stress, strain, or protuberances that may otherwise compromise the liner's integrity.

(iii) A synthetic liner shall be made of an impermeable geomembrane capable of resisting pressure gradients above and below the liner to prevent failure of the liner.

(iv) A synthetic liner shall have a breaking strength of 40 pounds per inch using test method ASTM D882.

(v) A synthetic liner shall have a puncture resistance of at least 15 pounds force using test method ASTM D4833.

(vi) The length of synthetic liner seams shall be minimized, and the seams shall be oriented up and down, not across, a slope. The operator shall use factory welded seams where possible. Prior to field seaming, the operator shall overlap liners four to six inches. The operator shall minimize the number of field seams in corners and irregularly shaped areas. Qualified personnel shall field weld and test liner seams. A synthetic liner shall have a seam strength, if applicable, of at least 15 pounds per inch using test method ASTM D751 or ASTM D6392.

(h) General operating requirements for produced water recycling pits. All produced water recycling pits shall be operated in accordance with the following requirements.

(1) Freeboard of at least two feet plus capacity to contain the volume of precipitation from a 25-year, 24-hour rainfall event shall always be maintained in produced water recycling pits.

(2) Equipment, machinery, waste, or other materials that could reasonably be expected to puncture, tear, or otherwise compromise the integrity of the liner shall not be used or placed in lined pits.

(3) Operators shall establish an inspection program to ensure compliance with the applicable provisions of this section taking into consideration the nature of the pit and frequency of use.

(4) If the operator does not propose to empty the produced water recycling pit and inspect the pit liner on at least an annual basis, the operator shall install a double liner and leak detection system. A leak detection system shall be installed between a primary and secondary liner. The leak detection system shall be monitored monthly to determine if the primary liner has failed. The primary liner has failed if the volume of water passing through the primary liner exceeds the action leakage rate, as calculated using accepted procedures, or 1,000 gallons per acre per day, whichever is larger.

(5) The operator of a produced water recycling pit shall keep records to demonstrate compliance with the pit liner integrity requirements and shall make the records available to the Commission upon request.

(6) Free oil shall not be allowed to accumulate on or in a produced water recycling pit.

(i) General closure requirements for produced water recycling pits. All produced water recycling pits shall comply with the following closure requirements.

(1) Prior to closure of the pit, the operator shall dewater the pit.

(2) Prior to closure of the pit, all waste shall be removed from the pit unless the requirements of subsection (k) of this section are met.

(j) Closure requirements for produced water recycling pits if all waste is removed for disposal.

(1) The contents of the pit, including synthetic liners, if applicable, shall be removed for disposal at an authorized or permitted waste facility.

(2) The operator shall verify whether oil and gas waste has migrated beyond the pit floor and sidewalls.

(3) The operator shall collect one five-point composite soil sample for each acre of pit surface area. The five-point composite sample shall be collected from the native soil on the pit floor. A fraction of an acre of pit surface area will require a composite sample.

(A) The samples shall be analyzed for the constituents and using the methods identified in the figure in this subsection to determine whether the constituent concentrations exceed the limit in the figure or background concentrations.

(B) If the operator intends to use background soil concentrations as a closure standard, then constituent concentrations in background soil shall be determined before or during pit construction. To establish background concentrations, the operator shall:

(i) sample soil in the pit floor locations before or during pit construction;

(ii) collect one five-point composite soil sample for each acre of pit surface area. The five-point composite sample shall be collected from the native soil on the pit floor. A fraction of an acre of pit surface area will require a composite sample; and

(iii) analyze the soil samples for the constituents listed in the figure in this subsection.

(C) If the concentration of the constituents exceeds the limits in the figure in this subsection or the concentrations determined from background sampling and analysis, the operator shall notify the District Director within 24 hours of discovery of the constituent exceedance.

(i) The District Director may refer the matter to the Site Remediation Unit in Austin.

(ii) The operator shall follow instructions provided by the District Director or Site Remediation regarding further investigation, remediation, monitoring, closure, and reporting.

(D) If the concentration of the constituents does not exceed the limits in the figure in this subsection or background concentrations, the operator shall proceed with closure.

(i) The operator shall backfill the pit with non-waste containing, uncontaminated, earthen material.

(ii) The backfill shall be compacted in a manner that minimizes future consolidation, desiccation, and subsidence.

(iii) The operator shall mound or slope the former pit site to encourage runoff and discourage ponding.

(iv) The operator shall, where necessary to ensure ground stability and prevent significant erosion, vegetate the former pit site in a manner consistent with natural vegetation in undisturbed soil in the vicinity of the pit.

(E) The operator shall notify the District Director a minimum of seven days prior to closure of the produced water recycling pit and shall maintain documentation for a period of three years to demonstrate that the requirements of this section have been met.

Figure: 16 TAC §4.114(j)(3)(E) ***[See Figure at end of this document.]***

(k) Closure requirements for produced water recycling pits if waste will be buried in place pursuant to §4.111 of this title.

(1) The operator shall ensure that any oil and gas waste, including synthetic liners, that will be disposed of in the pit as authorized by §4.111 of this title is buried in a manner such that the waste will remain below the natural ground surface and be confined to the original dimensions of the pit.

(2) The operator shall determine the suitability of the waste material or mixture for disposal in the pit.

(A) The operator shall collect one five-point composite waste material or mixture sample for each acre of pit surface area. A fraction of an acre of pit surface area will require a composite sample.

(B) The samples shall be analyzed for the constituents and using the methods identified in the figure in this subsection to determine whether the constituent concentrations are below the limit in the figure or background concentrations.

(C) If the operator intends to use background soil concentrations as a closure standard, then constituent concentrations in background soil shall be determined before or during pit construction. To establish background concentrations, the operator shall:

(i) sample soil in the pit floor locations before or during pit construction;

(ii) collect one five-point composite soil sample for each acre of pit surface area. The five-point composite sample shall be collected from the native soil on the pit floor. A fraction of an acre of pit surface area will require a composite sample; and

(iii) analyze the soil samples for the constituents listed in the figure in this subsection.

(3) Waste material that meets the constituent limits in the figure in subsection (j) of this section or background concentrations may be buried in the pit without additional disposal considerations.

(4) Untreated waste material that does not meet the constituent limits in the figure in subsection (j) of this section may be buried by containment in a pit if:

(A) the pit has a double liner with a leak detection system or has a single liner for which the operator demonstrates the liner is intact and maintains the liner intact;

(B) the waste material is covered with a geonet to support the overburden fill material; and

(C) the pit is backfilled, sufficiently compacted, and contoured to prevent water infiltration into the waste zone.

(5) Treated waste material that meets the constituent limits in the figure in this subsection based on the distance from the bottom of the pit to the shallowest groundwater may be buried in the pit. Liners in the pit may be removed from the pit or disposed of in the pit upon closure.

(6) The operator shall proceed with closure as follows:

(A) The operator shall backfill the pit with non-waste containing, uncontaminated, earthen material.

(B) The backfill shall be compacted in a manner that minimizes future consolidation, desiccation, and subsidence.

(C) The operator shall mound or slope the burial pit site to encourage runoff and discourage ponding.

(D) The operator shall, where necessary to ensure ground stability and prevent significant erosion, vegetate the former pit site in a manner consistent with natural vegetation in undisturbed soil in the vicinity of the pit.

(7) The operator shall notify the District Director a minimum of seven days prior to closure of the produced water recycling pit and shall maintain documentation for a period of three years to demonstrate that the requirements of this section have been met.

(8) The Commission may require the operator to close a produced water recycling pit in a manner other than the manner described in this section if it determines that oil and gas wastes or oil field fluids are likely to escape from the pit, that oil and gas wastes or oil field fluids may cause or are causing pollution, and/or that the pit is being used in a manner inconsistent with Commission rules.

Figure: 16 TAC §4.115(k)(8) ***[See Figure at end of this document.]***

(9) If groundwater monitoring wells are required

pursuant to subsection (l) of this section, then groundwater monitoring shall continue on the same terms for at least five years after the produced water recycling pit has been closed.

(l) Groundwater monitoring requirements for Schedule B authorized pits.

(1) For all Schedule B authorized pits, the operator shall evaluate whether groundwater is likely to be present within 100 feet of the ground surface. The operator shall review readily available public information to evaluate whether groundwater is likely to be present within 100 feet of the ground surface. The presence of a water well within a one-mile radius of the pit that produced or produces water from a depth of 100 feet or less indicates groundwater is likely to be present within 100 feet of the ground surface. If the operator cannot determine whether groundwater is likely to be present within 100 feet of the ground surface based on a review of readily available public information, the operator shall obtain location-specific subsurface information to establish the presence or absence of groundwater within 100 feet of the ground surface.

(2) Operators of Schedule B authorized pits located in areas where groundwater is not likely to be present within 100 feet of the ground surface are not required to perform groundwater monitoring.

(3) Operators of Schedule B authorized pits located in areas where groundwater is likely to be present within 100 feet of the ground surface are required to perform groundwater monitoring in accordance with paragraph (4) of this subsection unless:

(A) the pit has a double synthetic liner with an operational leak detection system; or

(B) the pit has a liner and an active life of less than one year.

(4) When groundwater monitoring is required under this subsection, the operator shall install at least three groundwater monitoring wells, at least two of which are installed in a hydrologic downgradient location relative to the pit and at least one of which is installed in an upgradient location relative to the pit.

(5) The following is required for each soil boring or groundwater monitoring well drilled.

(A) The drilling method shall allow for periodic or continuous collection of soil samples for field screening and soil characterization in order to adequately characterize site stratigraphy and groundwater bearing zones.

(B) The groundwater monitoring wells shall be completed by a certified water well driller in accordance with 16 TAC Part 4, Chapter 76 (Water Well Drillers and Water Well Pump Installers).

(C) The groundwater monitoring wells shall be completed to penetrate the shallowest groundwater zone, and the completion shall isolate that zone from any deeper groundwater zone.

(D) The screened interval of the groundwater monitoring wells shall be designed to intercept at least five feet of groundwater.

(E) The groundwater monitoring well screen shall extend above the static water level.

(F) The sand pack size shall be compatible with the well screen slot size, as well as the local lithology.

(G) The groundwater monitoring well heads shall be protected from damage by vehicles and heavy equipment.

(H) The groundwater monitoring wells shall be maintained in good condition with a lockable watertight expansion cap.

(I) The groundwater monitoring wells shall be able to provide a sample that is representative of the groundwater underlying the site for the duration of pit operations.

(J) The operator shall retain the following information for three years after the monitoring wells are plugged:

(i) a soil boring lithological log for the well, with the soils described using the Unified Soil Classification System (USCS) (equivalent to ASTM D 2487 and ASTM D 2488); the method of drilling; well specifications; slotted screen type and slot size; riser and screen length; bentonite and cement intervals; total depth; and the depth of the first encountered groundwater or saturated soils;

(ii) a well installation diagram, detailing construction specifications for each well;

(iii) a survey elevation for each well head reference point to the top of the casing relative to a real or arbitrary on-site benchmark or relative to mean sea level;

(iv) a table with recorded depth to water, depth to top of casing, and adjusted depth to water data;

(v) an updated Site Plan and a potentiometric surface map showing static water levels, the calculated gradient, and the estimated direction of groundwater flow; and

(vi) the laboratory analytical reports and the corresponding chain of custody from each groundwater sampling event.

(6) The operator shall sample the wells after installation of the wells is complete and shall then sample the wells on a quarterly schedule.

(7) The wells shall be monitored and/or sampled for the following parameters: the static water level, pH, and concentrations of benzene, total petroleum

hydrocarbons, total dissolved solids, soluble cations (calcium, magnesium, potassium, and sodium), and soluble anions (bromides, carbonates, chlorides, nitrates, and sulfates).

(8) If any of the parameters identified in paragraph (7) of this subsection indicate pollution:

(A) the operator shall notify the District Director by phone or email within 24 hours of receiving the analytical results; and

(B) the District Director will determine whether additional remediation, monitoring, or other actions are required.

(m) Transfers. To transfer a Schedule B authorized pit, the new operator of the pit shall:

(1) file a registration with the Commission 30 days in advance of the effective date of the transfer; and

(2) submit the financial security required by this section by the effective date of the transfer.

Source Note: The provisions of this §4.115 adopted to be effective July 1, 2025, 50 TexReg 33.

DIVISION 4. REQUIREMENTS FOR ALL PERMITTED WASTE MANAGEMENT OPERATIONS

§4.120. General Requirements for All Permitted Operations.

(a) A waste management activity or facility that is not authorized under Division 3 of this subchapter shall require a permit.

(b) If an activity or facility requires a permit, then all waste management units associated with the activity or facility, including pits authorized by sections §4.113, §4.114, or §4.115 of this title (relating to Authorized Pits, Schedule A Authorized Pits, and Schedule B Authorized Pits) must be included in the permit. Authorized activities require a permit if associated with a permitted activity or facility.

(c) The Commission may issue a permit to manage oil and gas wastes only if the Commission determines that the activity will not result in the endangerment of human health or the environment, the waste of oil, gas, or geothermal resources, or pollution of surface or subsurface water.

(d) This division establishes the permit requirements applicable to all permitted waste management operations. Any person engaged in waste management authorized by permit shall comply with the requirements in this division.

(e) A person applying for or acting under a Commission permit to manage oil and gas waste may be required to maintain a performance bond or other form of financial security conditioned that the permittee will operate and close the management facility in accordance with state law, Commission rules, and the permit to operate the facility.

(f) In addition to the requirements in this division, any person engaged in the following waste management operations shall comply with the requirements of the following, as applicable.

(1) Requirements applicable to commercial facilities are found in Division 5 of this subchapter (relating to Additional Requirements for Commercial Facilities).

(2) Requirements applicable to permitted pits are found in Division 6 of this subchapter (relating to Additional Requirements for Permitted Pits).

(3) Requirements applicable to landfarming and landtreating are found in Division 7 of this subchapter (relating to Additional Requirements for Landfarming and Landtreating).

(4) Requirements for reclamation operations are found in Division 8 of this subchapter (relating to Additional Requirements for Reclamation Plants).

(5) Miscellaneous permit requirements applicable to emergency permits, minor permits, and all other activities not otherwise authorized or addressed in this subchapter are found in Division 9 of this subchapter (relating to Miscellaneous Permits).

(6) Requirements applicable to oil and gas waste characterization, documentation, manifests, and transportation are found in Division 10 of this subchapter (relating to Requirements for Oil and Gas Waste Transportation).

(g) With regard to permits issued pursuant to Divisions 4 through 9 of this subchapter, the Director may impose additional permit conditions necessary to protect human health and the environment, to prevent the waste of oil, gas, or geothermal resources, or to prevent pollution of surface or subsurface water.

Source Note: The provisions of this §4.120 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.121. Permit Term.

(a) Unless otherwise provided, a permit issued pursuant to Divisions 4 through 9 of this subchapter shall be valid for a term of not more than five years.

(b) Any permit issued by the Commission under §3.8 of this title (relating to Water Protection) prior to July 1, 2025 shall remain in effect until it expires on its own terms, is renewed pursuant to the requirements of this subchapter, or is modified, suspended, or terminated by the Commission pursuant to §4.123 of this title (relating to Permit Modification, Suspension, and Termination).

(c) A permit shall remain in effect while a renewal application that was filed in a timely manner is pending review and evaluation by the Commission.

Source Note: The provisions of this §4.121 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.122. Permit Renewals, Transfers, and Amendments.

(a) Compliance with rules in effect at the time of permit renewals, transfers, or amendments. To ensure compliance with the rules in effect at the time of a request to renew, transfer, or amend a permit, the Commission may review and revise permit conditions when it receives the request. When transitioning permits that were issued under §3.8 of this title (relating to Water Protection) prior to July 1, 2025 into permits that are issued under this subchapter, the Commission:

(1) will not require the operator to relocate existing permitted waste management units to conform to new siting requirements;

(2) will not require the operator to retrofit existing waste management units to conform to new standards if those waste management units are constructed and operating in compliance with their current permits;

(3) may require the operator to add to or improve the groundwater water monitoring systems at existing facilities; and

(4) may require the operator to combine all waste management units at a facility under one permit.

(b) Permit renewal. Permits issued pursuant to this subchapter may be renewed in accordance with the following requirements.

(1) The permittee shall file an application for a renewal permit at least 60 days before the expiration date specified in the permit. Bundling permit renewals with transfers and/or amendments is encouraged.

(2) For any permit required to file financial security in accordance with §3.78 of this title (relating to Fees and Financial Security Requirements), the permittee shall file an updated closure cost estimate. The cost closure estimate shall include an estimate of the cost to conduct a NORM survey upon closure of the facility, as well as the cost to remove and dispose of NORM contaminated waste and the decontamination of associated tanks and equipment pursuant to Subchapter F of this chapter (relating to Oil and Gas NORM). The permittee shall conduct a NORM survey before the renewal is approved if a NORM survey has not been conducted within the last five years.

(3) Permit renewal applications are subject to the notice requirements of §4.125 of this title (relating to Notice and Opportunity to Protest).

(4) The Director may require additional information specific to the type of facility, facility location, and management operations occurring at the facility before approving the renewal.

(5) The permit shall not be renewed unless the facility is compliant with Commission rules and permit conditions, as verified by a facility and records inspection.

(6) Permit renewals will be issued for a maximum of five years from the date of issuance.

(c) Permit transfer. Permits issued pursuant to this subchapter may be transferred in accordance with the following requirements.

(1) A permittee may request to transfer a permit to a new operator by notifying the Director in writing at least 60 days before the transfer takes place. Bundling permit transfers with renewals and/or amendments is encouraged.

(2) For any permit required to file financial security in accordance with §3.78 of this title, the transferee shall file a new closure cost estimate. The cost closure estimate shall include an estimate of the cost to conduct a NORM survey upon closure of the facility, as well as the cost to remove and dispose of NORM contaminated waste and the decontamination of associated tanks and equipment pursuant to Subchapter F of this chapter. The transferee shall conduct a NORM survey before the transfer is approved if a NORM survey has not been conducted within the last five years. The transferee shall file the required financial security in the approved amount with the Commission before the permit is transferred.

(3) If the proposed transferee operator does not own the surface property, the transferee operator shall provide evidence of the proposed transferee's authority to operate the facility in accordance with §4.126(b) of this title (relating to Location and Real Property Information).

(4) A request to transfer a commercial permit associated with a Form P-4 (Certificate of Compliance and Transportation Authority) shall be submitted on Form P-4. A request to transfer a commercial permit not associated with a Form P-4 shall be submitted in writing to the Director.

(5) The Director may require additional information specific to the type of facility, facility location, and management operations occurring at the facility before approving the transfer.

(6) The permit shall not be transferred unless the facility is compliant with Commission rules and permit conditions, as verified by a facility and records inspection.

(7) Permit transfers will be issued through the current permitted expiration date and may be issued for a maximum of five years if combined with a permit amendment and/or permit renewal.

(d) Permit amendment. Permits issued pursuant to this subchapter may be amended in accordance with the following requirements.

(1) A permit amendment is required before a permittee may conduct any activities other than those activities specifically authorized by the permit.

(2) The permittee shall file an application for amendment at least 90 days before the proposed new operations are scheduled to commence. Bundling permit amendments with transfers and/or renewals is encouraged. The application shall include the following information as applicable.

(A) For pit permit amendments that change the pit construction, dimensions, or capacity, the permittee shall submit appropriate diagrams, cross-sections, and other supporting information.

(B) For any permit required to file financial security in accordance with §3.78 of this title, if the amendments to the permit would increase the cost of closure, the permittee shall submit an updated closure cost estimate.

(C) Permit amendment applications are subject to the notice requirements of §4.125 of this title (relating to Notice and Opportunity to Protest). However, the Director may reduce or waive notice requirements for amendments that reflect minimal impact to facility operations, waste management volumes, closure cost estimates, or potential for pollution to surface or subsurface waters. The Director shall establish criteria for a determination of minimal impact and the criteria shall be published on the Commission's website and in appropriate guidance documents.

(D) The Director may request any additional information reasonably necessary to prevent pollution.

(3) The Director may require additional information specific to the type of facility, facility location, and management operations occurring at the facility before approving the amendment.

(4) The permit amendment shall not be approved unless the facility is compliant with Commission rules and permit conditions, as verified by a facility and records inspection.

(5) Permit amendments will be issued through the current permitted expiration date and may be issued for a maximum of five years if combined with a permit transfer and/or permit renewal.

Source Note: The provisions of this §4.122 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.123. Permit Modification, Suspension, and Termination.

(a) A permit issued pursuant to this subchapter, or a permit issued pursuant to §3.8 of this title (relating to Water Protection) before July 1, 2025, may be modified, suspended, or terminated by the Commission for good cause after notice and opportunity for hearing.

(b) A finding of any of the following facts shall constitute good cause:

(1) pollution of surface or subsurface water is occurring or is likely to occur as a result of the permitted operations;

(2) waste of oil, gas, or geothermal resources is occurring or is likely to occur as a result of the permitted operations;

(3) continued operation of the facility presents an imminent danger to human health or property;

(4) the permittee has violated the terms and conditions of the permit or Commission rules;

(5) the permittee misrepresented any material fact during the permit issuance process;

(6) a material change of conditions has occurred in the permitted operations;

(7) the information provided in the application has changed materially; or

(8) the permittee failed to give the notice required by the Commission during the permit issuance, amendment, or renewal process.

Source Note: The provisions of this §4.123 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.124. Requirements Applicable to All Permit Applications and Reports.

(a) Unless otherwise specified by rule, a permit application shall be filed with the Technical Permitting Section. The application shall be filed by mail, hand delivery, or by an electronic process approved by the Director. A permit application shall be considered filed with the Commission on the day it is date-stamped by the Commission's office in Austin.

(b) The permit application shall contain information addressing each applicable application requirement and all information necessary to initiate the final review by the Technical Permitting Section, including all information required by this division and the applicable provisions of Divisions 5 through 9 of this subchapter, as described in §4.120 of this title (relating to General Requirements for All Permitted Operations).

(c) When a Commission prescribed application form exists, either in paper or electronic form, an applicant shall apply on the prescribed form according to the form instructions. When a Commission prescribed application form does not exist, the permit application shall contain a signature, printed name, contact telephone number or email address, the date of signing, and the following certification: "I certify that I am authorized to make this application, that this application was prepared by me or

under my supervision and direction, and that the data and facts stated herein are true, correct, and complete to the best of my knowledge."

(d) The permit application shall contain the following information for the applicant:

(1) the applicant's organization name;

(2) the applicant's organization report (P-5) number;

(3) the applicant's physical address, and mailing address if different;

(4) the name, telephone number, and email address of a contact person for the application, which can be someone within the applicant's organization or an agent;

(5) the identifying name of the proposed facility; and

(6) a general narrative description of the proposed management of oil and gas wastes at the facility.

(e) The technical data in the permit application shall comply with the following requirements.

(1) All geographic coordinates submitted to the Technical Permitting Section shall use the North American Datum (NAD) 83, in decimal degrees to six decimal places of longitude and latitude.

(2) All maps, plans, and diagrams submitted to the Technical Permitting Section shall be drawn to scale and include a scale, north arrow, title block, and legend. Maps shall be of material suitable for a permanent record and shall be on sheets 8-1/2 inches by 11 inches or, alternatively, 8-1/2 inches by 14 inches or 11 inches by 17 inches folded to standard letter size.

(3) All chemical laboratory analyses submitted to the Technical Permitting Section are required to be performed in accordance with the following.

(A) All chemical laboratory analyses shall be conducted using appropriate EPA methods or standard methods by an independent National Environmental Laboratory Accreditation Program certified laboratory neither owned nor operated by the permittee. Any sample collected for chemical laboratory analysis shall be collected and preserved in a manner appropriate for that analytical method as specified in 40 Code of Federal Regulations (CFR) Part 136. All geotechnical testing shall be performed by a laboratory certified to conduct geotechnical testing according to the standards specified by ASTM and certified by a professional engineer licensed in Texas.

(B) All chemical laboratory analytical results shall include the full laboratory analytical report and the corresponding chain of custody.

(4) All NORM screening surveys submitted to the Technical Permitting Section shall be performed using a properly calibrated scintillation meter with a sodium iodide detector (or equivalent), with the results reported in microroentgens per hour. The manufacturer's specifications and relevant calibration records shall be submitted to the Technical Permitting Section for all devices used for NORM detection. All equipment, including piping, pumps, and vessels shall be surveyed. Readings shall be taken around the circumference of the pits and to the extent possible, over the pits. The ground surrounding the equipment and pits shall be surveyed in a systematic grid pattern. At a minimum, the following information shall be reported:

(A) the date of the survey;

(B) the instrument used and the last calibration date;

(C) a background reading;

(D) a facility diagram showing where all readings, including the background, were taken;

(E) the readings (in microroentgens per hour); and

(F) the full name of the person conducting the survey.

(f) The application shall include a stormwater management plan that contains plans and diagrams to segregate, manage, and dispose of all contact stormwater and non-contact stormwater at the facility.

Source Note: The provisions of this §4.124 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.125. Notice and Opportunity to Protest.

(a) Purpose. Applicants are encouraged to engage with their communities early in the waste facility planning process to inform the community of the plan to construct a facility and allow those who may be affected by the proposed activities to express their concerns. The purpose of the notice required by this section is to inform notice recipients:

(1) that an applicant has filed a permit application with the Commission, seeking authorization to conduct an activity or operate a facility; and

(2) of the requirements for filing a protest if an affected person seeks to protest the permit application.

(b) Timing of notice. The applicant shall provide notice after staff determines that an application is complete pursuant to §1.201(b) of this title (relating to Time Periods for Processing Applications and Issuing Permits Administratively). The date notice is completed begins a 30-day period in which an affected person may file a protest of the application with the Commission.

(c) Notice recipients. The applicant shall provide notice to:

(1) the surface owners of the tract on which the facility will be located;

(2) the surface owners of tracts adjacent to the tract on which the facility will be located;

(3) the surface owners of tracts located within 500 feet of the facility's fence line or boundary, even if the

surface owner's tract is not adjacent to the tract on which the facility is located;

(4) the city clerk or other appropriate city official if any part of the tract on which the facility will be located lies within the municipal boundaries of the city;

(5) the Commission's District Office; and

(6) any other person or class of persons that the Director determines should receive notice of an application.

(d) Method and contents of notice. Unless otherwise specified in this subchapter, the applicant shall provide direct notice to the persons specified in subsection (c) of this section as follows.

(1) The applicant shall provide notice by registered or certified mail. Notice is completed upon deposit of the document postpaid and properly addressed to the person's last known address with the United States Postal Service.

(2) The notice of the permit application shall consist of a complete copy of the application and any attachments. The copy shall be of the application and attachments after staff determines the application is complete pursuant to §1.201(b) of this title but before the final review is completed.

(3) The notice shall include a letter that contains:

(A) the name of the applicant;

(B) the date of the notice;

(C) the name of the surface owners of the tract on which the proposed facility will be located;

(D) the location of the tract on which the proposed facility will be located including a legal description of the tract, latitude/longitude coordinates of the proposed facility, county, original survey, abstract number, and the direction and distance from the nearest municipality or community;

(E) the types of fluid or waste to be managed at the facility;

(F) a statement that an affected person may protest the application by filing a written protest with the Commission within 30 calendar days of the date notice is completed;

(G) a statement that a protest shall include the protestant's name, mailing address, telephone number, and email address;

(H) the address to which protests may be mailed or the location and instructions for electronic submittal of a protest if the Commission implements an electronic means for filing protests;

(I) the definition of "affected person" pursuant to §4.110 of this title (relating to Definitions); and

(J) the signature of the operator, or representative of the operator, and the date the letter was signed.

(4) If the Director determines that the applicant, after diligent efforts, has been unable to ascertain the name and address of one or more persons required by this section to be notified, then the Director may authorize the applicant to notify such persons by publishing notice of the application in accordance with the procedure and contents required by §4.141 of this title (relating to Additional Notice Requirements for Commercial Facilities). The Director will consider the applicant to have made diligent efforts to ascertain the names and addresses of surface owners required to be notified if the applicant has examined the current county tax rolls and investigated other reliable and readily available sources of information.

(e) Proof of notice.

(1) After the applicant provides the notice required by this section, the applicant shall submit to the Commission proof of delivery of notice which shall consist of:

(A) a copy of the signed and dated letters required by subsection (d)(3) of this section;

(B) the registered or certified mail receipts; and

(C) a map showing the property boundaries, surface owner names, and parcel numbers of all notified parties.

(2) If the Director authorizes notice by publication in accordance with subsection (d)(4) of this section, the applicant shall provide the following as proof of notice:

(A) an affidavit from the newspaper publisher that states the dates on which the notice was published and the county or counties in which the newspaper is of general circulation; and

(B) the tear sheets for each published notice.

(f) Protest process. Any statement of protest to an application must be filed with the Commission within 30 calendar days from the date notice is completed or from the last date of publication if notice by publication is authorized by the Director.

(1) The Technical Permitting Section shall notify the applicant if the Commission receives an affected person's timely protest. A timely protest is a written protest date-stamped as received by the Commission within 30 calendar days of the date notice is completed or within 30 calendar days of the last date of publication, whichever is later.

(2) The applicant shall have 30 days from the date of the Technical Permitting Section's notice of receipt of protest to respond, in writing, by either requesting a hearing or withdrawing the application. If the applicant fails to timely file a written response, the Technical Permitting Section shall consider the application to have been withdrawn.

(3) The Technical Permitting Section shall refer all protested applications to the Hearings Division if a timely protest is received and the applicant requests a hearing.

(4) The Commission shall provide notice of any hearing convened under this subsection to all affected persons and persons who have requested notice of the hearing.

(5) If the Director has reason to believe that a person entitled to notice of an application has not received notice as required by this section, then the Technical Permitting Section shall not take action on the application until notice is provided to such person.

(6) The Commission may issue a permit if no timely protests from affected persons are received.

Source Note: The provisions of this §4.125 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.126. Location and Real Property Information.

(a) The permit application shall contain the following information for the facility:

(1) the location of the proposed facility, including the physical address and geographic coordinates of the center of the facility; and

(2) a description of the property on which the facility is located, including:

(A) for each surface owner of the property, the application shall include the name, mailing address, and telephone number of each surface owner, or if any owner is not an individual, the name, mailing address, and telephone number of the contact person for that owner; and

(B) a legal description of the property, including the survey name, abstract number, and size in acres.

(b) A permit application shall include a statement regarding the authority by which the operator has the right to permit and operate the facility. Proper authority may include, but is not limited to:

(1) ownership of the property where the proposed facility is located;

(2) a leasehold interest in the oil and gas estate;

(3) written consent of the surface owner; or

(4) any other authority the Director determines is appropriate.

(c) The application shall include a general location map which shows the facility including the items listed in paragraphs (1)-(7) of this subsection and any other pertinent information regarding the regulated facility and associated activities. Maps shall be on a scale of not less than one inch equals 2,000 feet unless the size of a smaller facility is not discernable at that scale. The map shall show the following:

(1) a scale and north arrow showing the tract size in square feet or acres, the section/survey lines, and the survey name and abstract number;

(2) the location of each regulated feature in decimal degrees to six decimal places of longitude and latitude;

(3) a clear outline of the proposed facility's boundaries;

(4) the distance to the nearest property line or public road;

(5) the tracts of land adjacent to the facility requiring notice as prescribed by the Commission;

(6) the name of the surface owners of such adjacent tracts; and

(7) other information requested by the Director reasonably related to the prevention of pollution.

Source Note: The provisions of this §4.128 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.127. Engineering and Geologic Information.

(a) A permit application shall include descriptions of the following elements and specify the sources of information:

(1) the identification of the soil and subsoil by typical name and description of the approximate proportion of grain sizes, texture, consistency, moisture condition, permeability, and other pertinent characteristics;

(2) the subsurface geology, including an assessment of the presence and characteristics of permeable and impermeable strata;

(3) the subsurface hydrogeology, including the depth to the shallowest groundwater, an assessment of groundwater quality, the direction of groundwater flow, groundwater use in the area, and any major and minor aquifers (as defined by the Texas Water Development Board) in the facility area; and

(4) any engineering, geological, or other information which the Director deems necessary to show that issuance of the permit will not result in the endangerment of human health and the environment, the waste of oil, gas, or geothermal resources, the pollution of surface or subsurface water, or a threat to the public health or safety.

(b) If information is not available to address subsection (a) of this section, a site investigation including soil boring, sampling, and analysis is required.

(c) If otherwise required under Texas Occupations Code, Chapter 1001, relating to Texas Engineering Practice Act, or Chapter 1002, relating to Texas Geoscientists Practice Act, respectively, a professional engineer or geoscientist licensed in Texas shall conduct the geologic and hydrologic evaluations required under

this section and shall affix the appropriate seal on the resulting reports of such evaluations.
Source Note: The provisions of this §4.127 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.128. Design and Construction.

(a) Application. The following information shall be submitted with each permit application:

(1) a facility diagram clearly showing the items listed in subparagraphs (A)-(G) of this paragraph and any other pertinent information regarding the facility and associated activities. Diagrams shall be on a scale that shows the entire facility and activities within the Commission's jurisdiction on a single page. The diagram shall show the following:

(A) a clear outline of the proposed facility, areas where oil and gas waste will be managed, and property boundaries;

(B) all wells, pits, areas where oil and gas waste will be managed, and any other activity under the jurisdiction of the Commission that may occur at the proposed facility;

(C) the location of all tanks and equipment;

(D) all berms, dikes, or secondary containment;

(E) all fences, roads, and paved areas;

(F) the shortest distance between the facility and waste management unit boundary to the nearest property line or public road; and

(G) the location of any pipelines within the facility boundaries;

(2) a description of the type and thickness of liners (e.g., fiberglass, steel, concrete), if any, for all tanks, silos, pits, and storage areas or cells;

(3) for storage areas where tanks and/or liners are not used, credible engineering and/or geologic information demonstrating that tanks or liners are not necessary for the protection of surface and subsurface water;

(4) a map view and two perpendicular cross-sectional views of pits and/or storage areas or cells to be constructed, showing the bottom, sides, and dikes and the dimensions of each; and

(5) a plan to control and manage all stormwater runoff and to retain wastes during wet weather, including the location and dimensions of dikes and/or storage basins that would collect stormwater during a 25-year, 24-hour rainfall event, and all calculations made to determine the required capacity and design.

(b) Design and construction requirements. All permittees shall comply with the following requirements.

(1) The permittee shall post signs at each entrance to the facility. The sign shall be readily visible and show the operator's name, facility name, and permit number in letters and numerals at least three inches in height.

(2) Dikes or containment structures shall be constructed around all areas managing oil and gas wastes. All earthen dikes surrounding pits and constructed as perimeter berms shall be compacted or constructed of material that meets 95% Standard Proctor (ASTM D698) or 90-92% Modified Proctor (ASTM D1557) density and meets a permeability of 1 x 10-7 cm/sec or less when compacted. During construction, successive lifts shall not exceed nine inches in thickness, and the surface between lifts shall be scarified to achieve a good seal. These structures shall be used to divert non-contact stormwater around the waste management unit and contain and isolate contact stormwater within the bermed area.

(3) Secondary containment shall be provided for all above-ground storage tanks. Secondary containment for a minimum of 120% total storage capacity is recommended. Secondary containment that will contain the largest tank's maximum capacity plus two feet of freeboard and capacity to contain the volume of precipitation from a 25-year, 24-hour rainfall event is acceptable.

(4) Contact stormwater shall be collected within 24 hours of accessibility and disposed of in an authorized manner.

(5) The facility shall maintain security to prevent unauthorized access. Fencing shall be required unless terrain or vegetation prevents vehicle or livestock access except through entrances with lockable gates. Access shall be secured by

(A) a 24-hour attendant; or

(B) if not attended, a six-foot-high security fence and locked gate to prevent vehicle or livestock access.

(6) All liner systems shall be installed and maintained in a manner that will prevent pollution and/or the escape of the contents of the pit.
Source Note: The provisions of this §4.128 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.129. Operation.

(a) Application. All permit applications shall include the following operating information:

(1) a description of the sources and types of wastes to be received;

(2) a description of plans for waste sampling and analysis;

(3) a description of all waste management operations including receipt, handling, storage, treatment, recycling, reclamation, and disposal, and the location of each operation;

(4) a description of how wastes will be transferred between waste management units within the facility;

(5) a description of any operational limitations, including the maximum amount of oil field fluids or oil and gas wastes that will be stored in any area at one time less the volume required to maintain the required two feet of freeboard and the volume of precipitation from a 25-year, 24-hour rainfall event;

(6) a description of plans to prevent, report, and control unauthorized access;

(7) a list of all chemicals to be used and their associated safety data sheets;

(8) plans for routine inspections, maintenance, and monitoring;

(9) a description of plans to prevent, report, and control spills and leaks;

(10) plans for controlling contact and non-contact stormwater runoff;

(11) plans for managing incoming wastes during wet weather;

(12) a description of plans for recordkeeping, including records of waste receipts and dispositions; and

(13) safety data sheets for any chemical or component proposed to be used in the treatment of waste at the facility.

(b) Operating requirements. Each facility shall be operated in accordance with the following requirements.

(1) The permittee shall only accept waste it is permitted to receive. The permittee shall only accept waste transported and delivered by a Commission-permitted waste hauler permitted pursuant to Division 10 of this subchapter (relating to Requirements for Oil and Gas Waste Transportation).

(2) No waste, treated or untreated, shall be placed directly on the ground.

(3) All storage tanks, equipment, and on-site containment shall be maintained in a leak-free condition. If inspection of a tank, on-site containment, or storage vessel reveals deterioration or leaks, the tank, on-site containment, or storage vessels shall be repaired or replaced before resuming use.

(4) Any spill of waste, chemical, or any other material shall be collected and containerized within 24 hours and processed through the treatment system or disposed of in an authorized manner.

(5) Any chemical used in the treatment process shall be stored in vessels designed for the safe storage of the chemical and these vessels shall be maintained in a leak-free condition.

(6) Any soil additives, stabilizers, bio-accelerators, or treatment chemicals shall be approved by the Director prior to use at the facility. Use of the chemical or component is contingent upon Director approval. All chemicals and components shall be stored according to the manufacturer's specifications.

Source Note: The provisions of this §4.129 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.130. Reporting.

(a) The permittee shall maintain for a period of at least three years records of each Waste Profile Form and Waste Manifest described in §4.190 and §4.191 of this title (relating to Oil and Gas Waste Characterization and Documentation, and Oil and Gas Waste Manifests, respectively) that the permittee generated or received.

(b) The permittee shall make all records required by this section available for review and/or copying upon request.

(c) If a permit requires submittal of monthly, quarterly, semi-annual, or annual reports, the report shall be submitted on a form prescribed by the Commission. If a Commission prescribed report form does not exist, the report shall contain a signature, printed name, contact telephone number or email address, the date of signing, and the following certification: "I certify that I am authorized to make this report, that this report was prepared by me or under my supervision and direction, and that the data and facts stated herein are true, correct, and complete to the best of my knowledge."

(d) If a permit requires submittal of monthly, quarterly, semi-annual, or annual reports, the report shall be submitted in accordance with the following requirements.

(1) If a permit requires quarterly reports, the quarterly reporting periods shall be January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31 of each year.

(2) If a permit requires quarterly, semi-annual, or annual reports, reports shall be made on a Commission-designated form or electronic filing system and submitted to the Technical Permitting Section and the Commission District Office no later than the 30th day of the month following each reporting period.

(3) If a permit requires monthly reports, the report shall be made on a Commission-designated form or electronic filing system and submitted to Technical Permitting Section and the District Office no later than the 15th day of the month following each reporting period.

(4) Reports may be filed with the Commission in paper form until one year after the date the Commission has the technological capability to receive electronic filings, at which time reports shall be filed electronically in a digital format acceptable to the Commission.

Source Note: The provisions of this §4.130 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.131. Monitoring.

(a) Application. The following information shall be submitted with each permit application:

(1) a plan and schedule for conducting periodic inspections, including plans to inspect pits, equipment, processing, and storage areas; and

(2) a potentiometric contour map showing static water levels and the estimated direction of groundwater flow and the calculated gradient.

(b) Groundwater monitoring requirements.

(1) If shallow groundwater is present within 100 feet below ground surface, groundwater monitoring wells may be required for some facilities, including but not limited to: brine pits, disposal pits, reclamation plants, commercial waste separation facilities, commercial recycling facilities, and commercial landfarming or landtreating facilities. Factors that the Commission will consider in assessing whether groundwater monitoring is required include:

(A) the volume and characteristics of the oil and gas waste to be managed at the facility;

(B) depth to and quality of groundwater within 100 feet below ground surface; and

(C) presence or absence of natural clay layers in subsurface soils.

(2) If the Director requires the operator to install groundwater monitoring wells, the operator shall comply with the following.

(A) The operator shall submit a plan for the installation, sampling, and analysis of monitoring wells at the facility. The plan shall include information on the monitor well drilling method. A mud rotary drilling method shall not be used unless the depth to water has been established.

(B) The monitor wells shall be able to provide representative samples of groundwater underlying the site for the duration of facility operations. If a monitor well is not capable of providing a representative sample, the operator shall notify the Technical Permitting Section.

(C) If groundwater is not observed during drilling of the monitor wells, the soil boring shall be advanced to 100 feet. Borings shall be left open for a minimum of 24 hours to determine if groundwater is present.

(D) If shallow groundwater is present within 100 feet below ground surface at the site, a minimum of three groundwater monitoring wells shall be installed. Wells shall be spaced around the facility or pit, close to the facility operational area, with at least two wells on the estimated down-gradient side of the operational area. Additional wells may be required for larger facilities.

(E) The monitor wells shall be completed by a certified water well driller in accordance with 16 Texas Administrative Code, Part 4, Chapter 76 (relating to Water Well Drillers and Water Well Pump Installers).

(F) The monitor wells shall be completed to penetrate the shallowest groundwater zone, and the completion shall isolate that zone from any deeper groundwater zone.

(G) The screened interval of the groundwater monitoring wells shall be designed to intercept at least five feet of groundwater.

(H) The groundwater monitoring well screen shall extend above the static water level.

(I) The sand pack size shall be compatible with the well screen slot size, as well as the local lithology.

(J) The groundwater monitoring well heads shall be protected from damage by vehicles and heavy equipment.

(K) The groundwater monitoring wells shall be maintained in good condition with a lockable watertight expansion cap.

(L) After installation of the wells is complete, the applicant shall submit the following information:

(i) a soil boring lithologic log for each well, with the soils described using the Unified Soil Classification System (equivalent to ASTM D 2487 and 2488). The log shall also include the method of drilling, well specifications, slot size, riser and screen length, bentonite and cement intervals, total depth, and the top of the first encountered water or saturated soils; and

(ii) a survey elevation for each well head reference point (top of casing) relative to a real or arbitrary on-site benchmark and relative to mean sea level. Surveys shall be conducted by a licensed land surveyor.

(3) The applicant shall submit any other information necessary to address each of the operating requirements detailed in paragraph (4) of this subsection.

(4) If the Director requires the permittee to install groundwater monitoring wells, the permittee shall comply with the following requirements.

(A) The facility shall not manage oil and gas wastes at the facility until the groundwater monitoring wells are installed, the permittee submits the initial sample results to Technical Permitting Section, and Technical Permitting Section informs the permittee, in writing, that it may commence active operations.

(B) The permittee shall sample the wells after installation of the wells is complete and shall thereafter sample the wells in accordance with the schedule approved by the Technical Permitting Section, or as otherwise required by the Director.

(C) The following measurements and analyses shall be reported to Technical Permitting Section after any sampling event no later than 15 days after the

permittee receives the laboratory analysis results: the static water level, pH, and concentrations of benzene, toluene, ethylbenzene, and xylenes (BTEX), total petroleum hydrocarbons, total dissolved solids, soluble cations (calcium, magnesium, potassium, and sodium), and soluble anions (bromides, carbonates, chlorides, nitrates, and sulfates).

(D) If any of the parameters identified in subparagraph (C) of this paragraph indicate pollution, or the potential failure of the liner system, the Commission may require additional monitoring events and/or may require analysis of additional parameters.

Source Note: The provisions of this §4.131 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.132. Closure.

(a) Application. A permit application shall include a detailed plan for closure when operations at the facility or pit terminate. The closure plan shall include a general plan to:

(1) remove all wastes;

(2) demolish and/or remove any liners;

(3) remove dikes;

(4) backfill any excavations and contour and reseed disturbed areas;

(5) sample and analyze soil and, if applicable, groundwater throughout the facility;

(6) if applicable, plug groundwater monitoring wells; and

(7) have financial security released once post closure activities are completed and approved by the Technical Permitting Section.

(b) Closure requirements. The permittee shall close the facility or pit in accordance with the following requirements.

(1) The permittee shall notify the Technical Permitting Section and the District Office in writing at least 45 days prior to commencement of any closure operations.

(2) The permittee shall submit a detailed closure plan to the Technical Permitting Section at least 30 days prior to commencement of any closure activity. The Technical Permitting Section must approve the detailed closure plan before the permittee may initiate closure operations. The permittee shall comply with the closure plan approved by the Technical Permitting Section. The closure plan shall include the following information:

(A) the processing and removal of all wastes, chemicals, and waste-related materials from the facility for authorized reuse or disposal in an authorized manner;

(B) the removal and salvage of all equipment, if possible, or disposal of all equipment in an authorized manner;

(C) unless otherwise authorized, the cleaning and demolishment of all equipment and storage areas, including concrete pads, at the facility; and the disposal in an authorized manner of all rubble, wash-water, and rinsate;

(D) the excavation, removal, and disposal of all contaminated soils from beneath the liners and concrete pads;

(E) a soil sampling plan; and

(F) if required by the Director, a post-closure monitoring plan.

(3) Once the permittee has removed all waste, equipment, concrete pads, contaminated soil, and any other material in accordance with the closure plan, the permittee shall conduct soil sampling in accordance with the approved soil sampling plan. Soil samples shall be analyzed for the parameters in the permit and/or soil sampling plan and submitted to the Technical Permitting Section no later than 30 days after the permittee receives the laboratory results. The Technical Permitting Section may require the permittee to conduct additional closure operations if the soil sample results exceed the authorized limits and/or the Technical Permitting Section determines that additional remediation is required to prevent pollution caused or contributed to by operations at the facility.

(4) The permittee shall grade the pits, on site storage tanks, on site storage areas, and any other facility location to prevent rainfall from collecting at these locations.

(5) If the Director required a post-closure plan, the permittee shall conduct post-closure monitoring in accordance with the post-closure monitoring plan approved by Technical Permitting Section.

Source Note: The provisions of this §4.132 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.134. Application Review and Administrative Decision.

The Technical Permitting Section reviews applications submitted under this subchapter in accordance with §1.201 of this title (relating to Time Periods for Processing Applications and Issuing Permits Administratively).

Source Note: The provisions of this §4.134 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.135. Hearings.

(a) The applicant may request a hearing upon receipt of notice that:

(1) the application has been denied by the Director;

(2) the Director has determined the application to be administratively complete but a timely protest to the application has been received; or

(3) the Director has determined that additional permit conditions are required to prevent pollution and the applicant disagrees with the Director's determination.

(b) A request for hearing shall be made to the Technical Permitting Section within 30 days of the date of the notice of administrative denial or notice of a timely protest. If the Director receives a request for a hearing, the Director shall refer the matter to the Hearings Division for assignment of a hearings examiner who shall conduct the hearing in accordance with Chapter 1 of this title (relating to Practice and Procedure).

Source Note: The provisions of this §4.135 adopted to be effective July 1, 2025, 50 TexReg 33.

DIVISION 5. ADDITIONAL REQUIREMENTS FOR COMMERCIAL FACILITIES

§4.140. Additional Requirements for Commercial Facilities.

(a) In addition to the requirements of this division, all applicants for commercial facilities and permittees of commercial facility permits shall comply with Division 4 of this subchapter (relating to Requirements for All Permitted Waste Management Operations) and any other sections of this subchapter applicable to the applicant's or permittee's management of oil and gas wastes.

(b) A facility authorized or permitted as a non-commercial facility prior to July 1, 2025 but that meets the definition of a commercial facility in §4.110 of this title (relating to Definitions) as of July 1, 2025 shall comply with the requirements of this division or request an exception on or before July 1, 2026.

(c) A facility that meets the definition of a commercial facility in §4.110 of this title is considered a commercial facility under §3.78 of this title (relating to Fees and Financial Security Requirements), and therefore, an applicant for a commercial facility permit shall submit the financial security required by Texas Natural Resources Code §91.109 and §3.78 of this title for each permit renewal, amendment, and/or transfer.

(d) A commercial facility shall not manage oil and gas waste or otherwise begin active operation until the required financial security is approved and accepted by the Commission.

(e) Pursuant to §3.78 of this title, the amount of the financial security shall be the maximum dollar amount necessary to close the facility.

(f) The full financial security shall be maintained:

(1) until all post-closure activities are completed and approved by the Technical Permitting Section; and

(2) while the facility has been referred to and remedial actions are being overseen by the Site Remediation Unit in the Oil and Gas Division.

(g) To determine the maximum dollar amount necessary to close the facility, a professional engineer licensed in Texas shall prepare or supervise the preparation of a closure-cost estimate (CCE).

(1) In addition to the assumptions and calculations specified in §3.78 of this title, the professional engineer shall make the following assumptions when determining the dollar amount necessary to close the facility.

(A) The facility is in compliance with permit conditions.

(B) The facility will be closed according to the permit or approved closure plan, including the sampling and analysis of soils to confirm compliance.

(C) None of the operator's other equipment or facilities (e.g., disposal wells, pits, trucks, bulldozers, and employees) are available at the time of closure.

(D) The facility is at maximum capacity. All tanks and pits are full of waste. Disposal pits are fully constructed.

(E) Storage tanks and pits contain basic sediment and water in normal operating proportions, with a minimum volume of at least 10% basic sediment.

(2) The CCE shall not include a salvage or no cost value for any material or equipment at the facility.

(3) The CCE shall include costs for sampling and analysis of soil for the areas around each waste management unit, including tank batteries, pads, and former pits.

(4) The CCE shall show unit costs for all material, equipment, services, and labor needed to close the facility. Units and fees used shall be appropriate for the type of waste material to be disposed of. For example, disposal units for saltwater shall be reported in oil barrels rather than gallons. Solids held within permitted containments shall be reported in cubic yards. The CCE shall be specific and shall state the source or basis for the specific unit cost, including the following:

(A) the permitted waste hauler to be used and the hauler's mileage rate;

(B) the distance that waste will be transported for disposal;

(C) the name of each facility where waste will be taken and the disposal costs for that facility;

(D) the source of any material being brought to the facility, such as clean fill material;

(E) calculations for earth-moving equipment time and cost needed to move the fill dirt if fill dirt will be taken from the facility;

(F) the total labor costs, including the titles and billing rates for personnel; and

(G) the quantity of each unit cost item and how the total quantity was determined (for example, cubic yards of material divided by size of load equals total number of loads).

(5) The CCE shall include maps and illustrations such as facility plans and photographs that show the current condition of the facility, and/or the condition of the facility upon reaching maximum permit conditions.

(6) For facilities with groundwater monitoring wells, the CCE shall include costs to plug and abandon all monitoring wells.

(7) For facilities that will require post-closure monitoring, the CCE shall include costs for a minimum of five years of well maintenance and monitoring. The length of monitoring shall be determined by the Director.

(8) The CCE shall show all calculations used to arrive at total maximum closure costs.

(9) For all estimates submitted for existing facilities, a NORM screening survey of the facility shall be submitted. NORM screening surveys shall be performed using a properly calibrated scintillation meter with a sodium iodide detector (or equivalent), with the results reported in microroentgens per hour. Manufacturer's specifications and relevant calibration records shall be submitted to Technical Permitting Section in Austin for all devices used for NORM detection. All equipment, including piping, pumps, and vessels shall be surveyed. Readings shall be taken around the circumference of the pits and to the extent possible, over the pits. The ground surrounding the equipment and pits shall be surveyed in a systematic grid pattern. At a minimum, the following information shall be reported:

(A) the date of the survey;

(B) the instrument used and the last calibration date;

(C) a background reading;

(D) a facility diagram showing where all readings, including the background, were taken; and

(E) the readings (in microroentgens per hour).

(10) If fill dirt will be excavated from the property to achieve closure, a restrictive covenant shall be submitted with the CCE. If the restrictive covenant requirements are not provided, the CCE shall assume that fill dirt is purchased from a commercial supplier. For a restrictive covenant, the following requirements shall be met whether the operator owns or leases the property:

(A) The operator shall provide a letter from the property owner specifically stating that the owner agrees that the material, which is described with specificity as to location, type and amount consistent with what is in the closure plan, will be available for closure whether the operator or the state performs closure, and agreeing to a restrictive covenant that reserves use of the material for closure.

(B) The operator shall submit an unsigned draft restrictive covenant on the form provided by the Commission. Once the Commission approves the closure cost and closure plan, the operator will be notified to submit a signed original of the restrictive covenant. The Commission will sign its portion of the restrictive covenant and return it to the operator for filing in the real property records of the county where the property is located. Once filed in the real property records, the operator shall provide the Commission with a certified copy.

(C) If the facility operator leases the property, the operator shall provide to the Commission a copy of an amendment or addendum to the lease between the operator and the surface owner with a clause that specifically reserves use of material and states that the reservation shall inure to the Commission (as third-party beneficiary of this provision) if the Commission must initiate actions to close the facility.

(D) The operator shall submit supporting documentation showing that the dimensions of the restrictive covenant area can realistically store a stockpile in the amount needed. If soil will be excavated from the restrictive covenant area rather than stockpiled, the depth of the excavation is limited to what can be graded to prevent stormwater from ponding in the excavated area.

(11) After the CCE has been calculated, an additional 10% of that amount shall be added to the total amount of the CCE to cover contingencies.

(h) A permit application for a commercial facility shall include a detailed plan for closure of the facility when operations terminate and include the required elements of §4.132 of this title (relating to Closure). The closure plan shall address how the applicant intends to:

(1) remove waste, partially treated waste, and/or recyclable product from the facility;

(2) close all pits, treatment equipment, and associated piping and other storage or waste processing equipment;

(3) remove dikes and equipment;

(4) contour and reseed disturbed areas;

(5) sample and analyze soil and groundwater throughout the facility; and

(6) plug groundwater monitoring wells.

Source Note: The provisions of this §4.140 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.141. Additional Notice Requirements for Commercial Facilities.

(a) In addition to the notice requirements detailed in §4.125 of this title (relating to Notice and Opportunity to Protest), an applicant for a commercial facility permit shall also provide notice by publication.

(b) The permit applicant shall publish notice of the application in a newspaper of general circulation in the county in which the proposed facility will be located at least once each week for two consecutive weeks, with the first publication occurring not earlier than the date staff determines that an application is complete pursuant to §1.201(b) of this title (relating to Time Periods for Processing Applications and Issuing Permits Administratively) but before the final review is completed.

(c) The published notice shall:

(1) be entitled "Notice of Application for Commercial Oil and Gas Waste Facility" if the proposed facility is a commercial facility;

(2) provide the date the applicant filed the application with the Commission;

(3) identify the name of the applicant;

(4) provide the location of the tract on which the proposed facility will be located including the legal description of the property, latitude/longitude coordinates of the proposed facility, county, name of the original survey and abstract number, and location and distance in relation to the nearest municipality or community;

(5) identify the owner or owners of the property on which the proposed facility will be located;

(6) identify the type of fluid or solid waste to be managed at the facility;

(7) identify the proposed disposal, treatment, or storage method;

(8) state that affected persons may protest the application by filing a protest with the Commission within 30 calendar days of the last date of publication;

(9) include the definition of "affected person" pursuant to §4.110 of this title (relating to Definitions); and

(10) provide the address to which protests shall be mailed. If the Commission implements an electronic means for filing protests, then the location to instructions for electronic submittal shall be included.

(d) The applicant shall submit to the Commission proof that notice was published as required by this section. Proof of publication shall consist of:

(1) an affidavit from the newspaper publisher that states the dates on which the notice was published and the county or counties in which the newspaper is of general circulation; and

(2) the tear sheets for each published notice.

Source Note: The provisions of this §4.141 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.142. Operating Requirements Applicable to Commercial Facilities.

(a) An application for commercial facility shall include a detailed waste acceptance plan to ensure that the waste received at the facility has been fully and correctly documented by the generator and carrier, and characterized by the generator, including supporting laboratory analysis if necessary, and to ensure that prohibited oil field fluids, prohibited oil and gas wastes, and/or non-jurisdictional wastes are not received at the facility.

(b) The operator shall develop and maintain a site-specific spill control plan that details the processes in place to control and contain oil and gas waste in the event of a spill or release. The spill control plan shall be maintained on-site and made available to the Commission upon request.

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

Source Note: The provisions of this §4.142 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.143. Design and Construction Requirements for Commercial Facilities.

Prior to commencement of operations at a commercial facility, the permittee shall provide the Director with drawings documenting the as-built condition of the facility, including all equipment and waste management units.

Source Note: The provisions of this §4.143 adopted to be effective July 1, 2025, 50 TexReg 33.

DIVISION 6. ADDITIONAL REQUIREMENTS FOR PERMITTED PITS

§4.150. Additional Requirements Applicable to Permitted Pits.

(a) In addition to the requirements of this division, all permitted pits are required to comply with Division 4 of this subchapter (relating to Requirements for All Permitted Waste Management Operations). Commercial pits are also required to comply with Division 5 of this subchapter (relating to Additional Requirements for Commercial Facilities).

(b) If at any time a pit no longer meets the requirements for authorized pits under §4.113 of this title

(relating to Authorized Pits), the operator of the pit shall apply for a pit permit pursuant to the requirements of this division.

(c) No person may use a pit without the express permission of the permittee. A person who uses a pit without the express permission of the permittee may be subject to legal enforcement action regardless of whether the person maintains an active Organization Report pursuant to §3.1 of this title (relating to Organization Report; Retention of Records; Notice Requirements.)

(d) Any person using or maintaining a pit without the required permit shall be immediately required to cease usage and close the pit in accordance with §4.154 of this title (relating to Closure of Permitted Pits). Any person using or maintaining a pit without the required permit may be subject to enforcement action regardless of whether the person maintains an active Organization Report pursuant to §3.1 of this title.

(e) Permitted pits are subject to containment requirements to prevent pollution of surface or subsurface water and will be included as permit conditions at the sole discretion of the Commission.

(f) In the event of an unauthorized release of oil and gas waste, treated fluid, or other substances from any pit permitted by this subchapter, the operator shall take any measures necessary to stop or control the release and report the release to the District Office within 24 hours.

(g) Unless the Director approves a written request for an exception, no pit shall be located:

(1) on a barrier island or a beach;

(2) within 300 feet of surface water, including wetlands;

(3) within 500 feet of any public water system well or intake;

(4) within 300 feet of any domestic water well or irrigation water well, other than a well that supplies water for drilling or workover operations for which the pit is authorized;

(5) within a 100-year flood plain; or

(6) within 500 feet of a public area.

(h) A minimum 50-foot buffer zone shall be maintained between the boundaries of the property and the outer edge or toe of the pit walls or berms.

Source Note: The provisions of this §4.150 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.151. Design and Construction of Permitted Pits.

(a) Application.

(1) Unless otherwise provided by permit, all permitted pits shall comply with the general construction requirements applicable to authorized pits in Division 3 of this subchapter (relating to Operations Authorized by Rule).

(2) In addition to the information required by §4.128 of this title (relating to Design and Construction), the facility diagram submitted with the application shall include the following information:

(A) the maximum length, width, and depth of the pit in feet;

(B) the maximum depth of the pit below grade in feet;

(C) the maximum and minimum height of walls or dikes above grade in feet;

(D) the dimensions of the dikes including the width at the base, height, and slope;

(E) the maximum volume of the pit in barrels and cubic yards;

(F) the maximum volume of the pit minus the volume to maintain the required freeboard in barrels and cubic yards;

(G) the volume of the pit below natural grade in barrels and cubic yards;

(H) information on the pit liner type and thickness, installation methods, and manufacturer's specification sheets;

(I) a plan view drawing of each pit, including all dimensions, and any trenches or structures used to separate and convey contact and non-contact stormwater;

(J) two perpendicular, sectional views of each pit showing the bottom, sides, dikes, and natural grade, including all dimensions; and

(K) the surface area and action leakage rate calculation for any pit with a leak detection system, that is prepared and sealed by a professional engineer licensed in Texas. The action leakage rate calculations shall include:

(i) all assumptions and dimensions used;

(ii) the size of the pump and pipes that will be used in the leak detection system; and

(iii) calculations demonstrating that the system is designed to sufficiently withdraw and manage the expected leakage rate.

(3) The permittee shall provide any other information necessary to address the operating requirements detailed in subsection (b) of this section.

(b) Operating requirements.

(1) Signage. The permittee shall post a sign at each permitted pit. The sign shall show the permit number in letters and numerals at least three inches in height.

(2) Freeboard. Unless otherwise required by permit or rule, the permittee shall maintain all pits such that each pit maintains a freeboard of at least two feet plus the capacity to contain the volume of precipitation from a 25-year, 24-hour rainfall event.

(3) Liners.

(A) Equipment, machinery, waste, or other materials that could reasonably be expected to puncture, tear, or otherwise compromise the integrity of the liner shall not be used or placed in lined pits.

(B) Unless the permit specifically provides otherwise, the liner for any permitted pit required to be lined shall comply with the general requirements for lining in Division 3 of this subchapter (relating to Operations Authorized by Rule), except that the thickness of a high-density polyethylene liner in a permitted pit shall be a minimum of 60 mil and, for any other type of synthetic liner, a minimum of 30 mil.

(C) A brine pit permitted under this subchapter shall be constructed with a primary and secondary liner and a leak detection system.

(4) Additional requirements as determined by Director. Any pit permits issued pursuant to this subchapter may contain additional requirements concerning design and construction including requirements relating to construction materials, dike or berm design, liner material, liner thickness, procedures for installing liners, overflow warning devices, leak detection devices, monitor wells, and fences that the Director determines are necessary to prevent pollution.

Source Note: The provisions of this §4.151 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.152. Monitoring of Permitted Pits.

(a) A pit permit application shall include a monitoring plan that establishes a procedure for the permittee to routinely monitor the integrity of the liner of a pit. The permittee shall comply with this section by implementing one of the following monitoring methods.

(1) The permittee shall empty the pit and conduct a visual inspection on an annual basis. The permittee shall photograph the interior of the pit and otherwise record each inspection. The permittee shall maintain the photographs and records from each inspection for the life of the pit and supply these records to the Commission upon request.

(2) The permittee shall install a double liner and leak detection system between the primary and secondary liner. The leak detection system shall be monitored on a daily or weekly basis as specified in the permit to determine if the primary liner has failed.

(3) The permittee may implement an alternative monitoring procedure if the permittee demonstrates that the alternative monitoring is at least as protective of surface and subsurface waters as the procedures outlined in paragraphs (1) and (2) of this subsection and if the alternative monitoring procedure is approved by the Director.

(b) The permittee shall monitor all pits for liner failure in accordance with the monitoring plan approved by the Commission pursuant to subsection (a) of this section. The permittee shall consider the following when implementing the monitoring plan.

(1) Failure of the primary liner in a double liner and leak detection system occurs if:

(A) a volume of fluid is withdrawn from the leak detection system that is greater than the calculated action leakage rate, the standard action leakage rate of 1,000 gallons per acre per day (GPAD) for pits that manage fluid waste, or 100 gallons per acre per day (GPAD) for pits that manage solid oil and gas wastes;

(B) any failure in the leak detection and return system or any component of the system occurs; or

(C) any detected damage to or leakage from the secondary liner occurs.

(2) The failure of a liner system may be indicated through results of groundwater monitoring.

(3) If liner failure is discovered at any time, the permittee shall:

(A) notify the Director and the District Director by phone or email within 24 hours of the failure;

(B) coordinate subsequent response actions with the input and approval of the District Director; and

(C) mitigate the potential for a release from the pit.

(i) Except as provided in clause (ii) of this subparagraph, mitigation requires reducing the waste level to below the elevation of the liner failure and then repairing the liner. The permittee shall notify the District Director once the repair is complete. The District Director shall inspect the repair before the permittee may place the pit back in active operation.

(ii) For disposal pits, waste should not be removed. The permittee shall take other appropriate steps to prevent release or pollution. Any steps must be approved by the District Director. The permittee shall notify the District Director once the mitigation steps and repairs are complete. The District Director shall inspect the pit before the permittee may place the pit back in active operation.

Source Note: The provisions of this §4.152 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.153. Commercial Disposal Pits.

(a) Siting.

(1) An application for a pit at a commercial disposal facility shall include documentation of a good faith investigation of the 10-year flooding history of the property to determine whether the facility is located in a flood-prone area.

(2) In addition to the requirements of §4.150 of this title (relating to Additional Requirements Applicable to

Permitted Pits), a commercial disposal pit shall not be located in:

(A) an area in which the disposal pit is not sufficiently isolated to prevent pollution of surface or subsurface waters;

(B) a prohibited location defined in Division 11 of this subchapter (relating to Requirements for Surface Water Protection); or

(C) any other location where there is an increased risk to surface or subsurface waters.

(3) An application for a commercial disposal pit shall include information to demonstrate that the pit will not be located in an area prohibited under paragraph (2) of this subsection.

(b) Design and construction. An application for a disposal pit permit shall include:

(1) the dimensions of all disposal pits;

(2) the locations and dimensions of all trenches used to separate and convey contact stormwater and non-contact stormwater;

(3) the maximum waste elevations and final cover; and

(4) details of the final cover anchor trench and final cover composition.

(c) Closure. Unless otherwise required by permit or if the Director determines that such post-closure monitoring is necessary to prevent pollution, a post-closure monitoring period of no less than five years is required for any commercial disposal pit and any facility where a commercial disposal pit is located.

Source Note: The provisions of this §4.153 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.154. Closure of Permitted Pits.

In addition to the requirements outlined in §4.132 of this title (relating to Closure), the permittee is required to comply with the following when operations at the pit terminate.

(1) Unless otherwise required by permit, all pits shall be dewatered and emptied within 120 days of cessation of use.

(2) After the soil sampling analysis has been approved by the Director, the pit shall be backfilled and compacted within 120 days.

(3) Once backfilled, the pit shall be reseeded with vegetation natural to the geographic region to prevent erosion after pit closure. Use of treated produced water to establish a natural vegetative cover for the region requires prior approval from the Director pursuant to §4.184 or §4.185 of this title (relating to Permitted Recycling, and Pilot Programs, respectively).

Source Note: The provisions of this §4.154 adopted to be effective July 1, 2025, 50 TexReg 33.

DIVISION 7. ADDITIONAL REQUIREMENTS FOR LANDFARMING AND LANDTREATING

§4.160. Additional Requirements for Landfarming and Landtreating Permits.

In addition to the requirements of this division, all applications for landfarming and landtreating permits and all permittees conducting landfarming or landtreating shall comply with Division 4 of this subchapter (relating to Requirements for All Permitted Waste Management Operations).

Source Note: The provisions of this §4.160 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.161. Design and Construction Requirements for Landfarming and Landtreating Permits.

(a) Application for landfarming and landtreating permits.

(1) The facility diagram submitted with the permit application shall include:

(A) two perpendicular, sectional views of all landfarming cells to be constructed, showing the bottom, sides, and dikes or berms of the cell with dimensions indicated; and

(B) the locations and dimensions of all areas where landfarming and landtreating will occur, dikes, well locations, fences, and access roads, taking into consideration the following restrictions:

(i) a minimum 50-foot buffer zone shall be maintained between the boundaries of the property and the treatment cells, measured from the toe of the constructed berm to the property boundary; and

(ii) a minimum 300-foot buffer zone shall be maintained between the toe of the constructed berms and any drainage features or surface waters.

(2) The applicant shall submit information to demonstrate that the area has at least 20 inches of tillable soil that is suitable for the application, treatment, and disposal of oil and gas waste.

(3) The applicant shall submit information sufficient for the Director to determine whether the proposed facility will pose a threat of pollution or a threat to public health or safety. The Director will consider the following factors when determining whether the proposed facility presents a threat of pollution or a threat to public health or safety:

(A) the volume and characteristics of the oil and gas waste to be managed at the landfarming facility;

(B) depth to and quality of the shallowest groundwater;

(C) distance to the nearest property line or public road;

(D) proximity to coastal natural resources, sensitive areas as defined by §4.110 of this title (relating to Definitions), water supplies, and/or public, domestic, or irrigation water wells; and

(E) any other factors reasonably necessary to determine whether issuance of the permit will pose a threat of pollution or a threat to public health or safety.

(b) Berm construction. All berms shall be constructed and maintained:

(1) to fully enclose each landfarming cell area;

(2) to a height of at least 36 inches above land surface with a slope no steeper than a one to three (vertical to horizontal) ratio on each side;

(3) so that at least two feet of freeboard plus capacity to contain the volume of precipitation from a 25-year, 24-hour rainfall event is available; and

(4) as otherwise required by the permit.

(c) Reasons for denial. The Director shall deny an application for a landfarming or landtreating permit if the proposed facility location is:

(1) within a 100-year flood plain;

(2) within 300 feet of surface water bodies;

(3) within 300 feet of domestic or irrigation water wells;

(4) within 500 feet of public water system wells or intakes;

(5) on unsuitable soils for depth or treatment of oil and gas waste;

(6) within any other sensitive area as defined by §4.110 of this title;

(7) within 500 feet of a public area; or

(8) non-compliant with Commission rules and permit conditions, as verified by a facility and records inspection.

Source Note: The provisions of this §4.161 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.162. Operating Requirements for Landfarming and Landtreating Permits.

(a) Application. The applicant shall submit the following operating information with each application for landfarming permit:

(1) the estimated chloride concentration of the waste to be accepted at the facility;

(2) the procedure by which waste will be mixed into the soil;

(3) waste to soil application rates;

(4) the frequency of soil tilling;

(5) the maximum depth to which waste will be tilled;

(6) documentation on any soil amendments or microbes to be used;

(7) plans for monitoring and testing the landfarming area, and other appropriate procedures to ensure the treatment of organic constituents and prevention of pollution;

(8) the estimated duration of landfarming activities;

(9) the total cumulative volume of waste, in barrels, to be landfarmed over the active life of the operation or active cells; and

(10) the total cumulative height of waste, in inches, to be landfarmed over the active life of the operation or active cells.

(b) Operating requirements. A landfarming or landtreating permittee shall comply with the following requirements.

(1) Prior to waste application, the permittee shall thoroughly disk the entire landfarming or landtreating area and shall otherwise prepare the area by adding fertilizer, lime, and/or other agricultural chemicals, if needed.

(2) A landfarming or landtreating permittee shall comply with the following waste application requirements.

(A) The permittee shall apply the waste to each landfarming cell to prevent the pooling or migration of the waste outside of the approved landfarming cell and to prevent the waste from entering any watercourses or drainageways, including any drainage ditch, dry creek, flowing creek, river, or any other surface water.

(B) The total cumulative volume of waste applied to any landfarming cell over its lifetime shall not exceed the permitted volume.

(C) The permittee shall maintain freeboard of at least two feet plus capacity to contain the volume of precipitation from a 25-year, 24-hour rainfall event.

(D) The permittee shall ensure that the waste is uniformly dispersed across the landfarming or landtreating area and the waste is fully and evenly incorporated into the top six inches of soil. The waste shall be mixed with the soil within 24 hours of waste application. Any active cell shall be disked once a month thereafter until the cell is closed in accordance with the permit.

(E) The permittee is prohibited from applying waste to the cells during periods of rainfall.

(3) Any standing or pooled rainwater or other liquid in a landfarming cell or within the perimeter berm shall be removed within 72 hours and disposed of in an authorized manner. Contact stormwater may be disked into a landfarming cell with prior written approval from the Director.

(4) Land application of contact stormwater outside of a permitted landfarming cell is prohibited.

(5) Any spills of waste or any other materials shall be promptly containerized and disposed of in an authorized manner.

(6) Vehicle access into each cell shall be at a location where the stormwater surface flow cannot enter the treatment cells.

Source Note: The provisions of this §4.162 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.163. Monitoring.

(a) The operator shall monitor three soil zones in each landfarming cell at the following frequency:

(1) the surface treatment zone from the ground surface to a depth of 12 inches below land surface shall be sampled and analyzed quarterly;

(2) the waste treatment zone from 12 to 24 inches below land surface shall be sampled and analyzed quarterly; and

(3) the compliance monitoring zone from 24 to 36 inches below land surface shall be sampled and analyzed annually.

(b) The operator shall collect samples from each active cell as follows:

(1) The District Office shall be notified by phone or email at least 48 hours prior to any sampling event.

(2) Each active cell shall be divided into four-acre plots or other plot size as defined in the permit.

(3) The applicant shall take at least one composite sample for each treatment zone in each plot by subdividing each plot into four equal-sized quadrants.

(A) One composite sample of the surface treatment zone in each plot shall be made from four individual grab samples collected from the surface treatment zone of each quadrant.

(B) One composite sample of the waste treatment zone in each plot shall be made from four individual grab samples collected from the waste treatment zone of each quadrant.

(C) One composite sample of the compliance monitoring zone in each plot shall be made from four individual grab samples collected from the compliance monitoring zone of each quadrant.

(c) The operator shall analyze samples from each active cell according to the analysis requirements specified in the permit.

(d) If any composite sample exceeds any limitations specified by the permit or in the figure in this subsection, the operator shall remediate the parcel where the sample was collected as follows.

(1) The plot shall be tilled.

(2) The operator shall collect a composite sample from the four quadrants of the plot and re-analyze the sample for the parameter for which the limitations were exceeded.

(3) The operator shall re-till and resample the plot no less than once per month until the sample analyses indicate that the parameter limitations are not exceeded.

(4) If the parcel exceeds the limitation after six months of sampling, that plot is not authorized to accept additional waste until a sample analysis does not exceed the particular limitation.

Figure: 16 TAC §4.163(d) ***[See Figure at end of this document.]***

(e) Documentation of the sampling and analysis shall be filed with the Technical Permitting Section and the District Office as part of the quarterly report required by the permit. A summary of the soil sampling required by the permit shall include:

(1) a map drawn to scale with coordinates of the sampling locations;

(2) a table indicating the results of the parameters sampled;

(3) the date of sampling;

(4) the approximate depth of the sample below land surface and corresponding zone; and

(5) copies of the laboratory analytical reports and the corresponding chain of custody.

Source Note: The provisions of this §4.163 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.164. Closure.

(a) The permittee shall notify the Technical Permitting Section and the District Office in writing at least 45 days prior to commencing closure of any landfarming cell.

(b) The permittee shall submit a detailed closure plan to the Technical Permitting Section. The Technical Permitting Section must approve the closure plan before the permittee may commence closure of any cell. The composite samples required by §4.163 of this title (relating to Monitoring) shall not exceed the limitations specified by permit before the Technical Permitting Section will approve closure of the cell.

(c) Once the Technical Permitting Section approves closure of a cell, the permittee shall level any berms and grade the area in accordance with the following requirements.

(1) All landfarming cells shall be graded and contoured to prevent rain from collecting or pooling at the former cell locations after closure; and

(2) To the extent practicable, all landfarming cells shall be contoured to original grade and reseeded and/or revegetated with ground cover appropriate for the geographic region.

Source Note: The provisions of this §4.164 adopted to be effective July 1, 2025, 50 TexReg 33.

DIVISION 8. ADDITIONAL REQUIREMENTS

FOR RECLAMATION PLANTS

§4.170. Additional Requirements for Reclamation Plants.

(a) Applicability.

(1) This section is applicable to reclamation of tank bottoms and other oil and gas wastes generated through activities associated with the exploration, development, and production (including transportation) of crude oil and other waste materials containing oil, as those activities are defined in §4.110 of this title (relating to Definitions).

(2) Removal of tank bottoms or other oil and gas wastes from any producing lease tank, pipeline storage tank, or other production facility, for reclaiming by any person, is prohibited unless such person has either obtained a permit to operate a reclamation plant or is an authorized person. Applicants for a reclamation plant operating permit shall file the appropriate form with the Technical Permitting Section. For purposes of this division, an "authorized person" is a tank bottoms cleaner or transporter that is under contract for disposition of untreated tank bottoms or other oil and gas wastes to a person who has obtained a permit to operate a reclamation plant.

(3) The removal of tank bottoms or other oil and gas wastes from any facility for which monthly reports are not filed with the Commission shall be authorized in writing by an Oil Movement Letter issued by the Director or District Director prior to such removal. A written request for such authorization shall be sent to the District Director, and shall detail the location, description, estimated volume, and specific origin of the material to be removed as well as the name of the reclaimer and intended destination of the material. If the authorization is denied, the applicant may request a hearing.

(4) No person shall remove basic sediment from any producing lease tank, pipeline storage tank, or other production facility unless authorized to do so by a waste hauler permit pursuant to Division 10 of this subchapter (relating to Requirements for Oil and Gas Waste Transportation).

(5) Unless expressly authorized by permit, no person shall reclaim basic sediment and waste without a reclamation plant permit.

(6) A reclamation plant is a commercial facility and is subject to Division 5 of this subchapter (relating to Additional Requirements for Commercial Facilities).

(7) Reclamation plant permits that were issued pursuant to §3.57 of this title (relating to Reclaiming Tank Bottoms, Other Hydrocarbon Wastes, and Other Waste Materials) before July 1, 2025 shall expire five years from July 1, 2025. Permits may be renewed pursuant to §4.122 of this title (relating to Permit Renewals, Transfers, and Amendments).

(8) This section does not apply where basic sediment is recycled or processed on-site by the operator and returned to a tank or vessel at the same lease or facility.

(9) This section does not apply to the recycling of drilling mud. This section does apply to unrefined hydrocarbons recovered from such mud that are sent to a permitted reclamation plant.

(10) All reclamation plants shall be permitted. Satellite reclamation facilities, including waste storage facilities, are strictly prohibited.

(b) Application.

(1) In addition to the requirements of this division, all applicants for reclamation plant permits and permittees operating reclamation plants shall comply with the following:

(A) Division 4 of this subchapter (relating to Requirements for all Permitted Waste Management Operations);

(B) Division 5 of this subchapter (relating to Additional Requirements for Commercial Facilities); and

(C) Division 6 of this subchapter (relating to Additional Requirements for Permitted Pits).

(2) Each application for reclamation plant permit shall include:

(A) a list of the waste types to be received;

(B) a detailed description of the treatment process, equipment, and pits, storage, or on-site containment at the facility;

(C) a description of the reclamation process rates and on-site storage capacity of waste and reclaimed material; and

(D) the spill control plan for the facility.

(3) Applicants for a reclamation plant permit shall file the application on the Commission-prescribed form or electronic system.

Source Note: The provisions of this §4.170 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.171. Standard Permit Provisions.

(a) Reclamation plant permits shall be issued for a term of not more than five years.

(b) Reclamation plant permits may be renewed, transferred, or amended pursuant to §4.122 of this title (relating to Permit Renewals, Transfers, and Amendments). Reclamation plant permits are subject to the financial security requirements in §4.140 of this title (relating to Additional Requirements for Commercial Facilities) and may be subject to fees in accordance with §4.106 of this title (relating to Fees).

(c) If the waste hauler transporting tank bottoms or other oil and gas wastes to the reclamation plant does not

comply with Division 10 of this subchapter (relating to Requirements for Oil and Gas Waste Transportation), the reclamation plant permittee shall not accept the tank bottoms or other oil and gas wastes and shall report the violation to the District Office no later than 24 hours after the violation occurs.

(d) The receipt of any tank bottoms or other oil and gas wastes from outside the state of Texas shall be submitted on monthly reports to the Commission.

(e) The receipt of any waste materials other than tank bottoms or other oil and gas wastes shall be authorized in writing by the Commission prior to receipt. The Commission may require the reclamation plant operator to submit an analysis of the waste materials prior to a determination of whether to authorize receipt. If the request for authorization is denied, the applicant may request a hearing.

(f) All wastes generated by reclaiming operations shall be disposed of in accordance with this subchapter, §3.9 of this title (relating to Disposal Wells), or §3.46 of this title (relating to Fluid Injection into Productive Reservoirs).

(g) All reclamation facilities shall have in-person 24-hour security monitoring.

(h) Reclamation plant permits shall include enforceable limits on the processing capacity of treatment equipment and the storage volumes of waste and reclaimed oil.

Source Note: The provisions of this §4.171 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.172. Minimum Permit Provisions for Operations.

(a) The following provisions apply to any removal of tank bottoms or other oil and gas wastes from any oil producing lease tank, pipeline storage tank, or other production facility.

(1) Tank bottoms and other oil and gas wastes shall be reclaimed using the methods authorized in the permit.

(2) An authorized representative of the operator of a reclamation plant shall execute a manifest in accordance with §3.85 of this title (relating to Manifest To Accompany Each Transport of Liquid Hydrocarbons by Vehicle) upon each removal of tank bottoms or other oil and gas wastes from any oil producing lease tank, pipeline storage tank, or other production facility. In addition to the information required pursuant to §3.85 of this title, the operator of the reclamation plant or other authorized person shall also include on the manifest:

(A) the Commission identification number of the lease or facility from which the material is removed; and

(B) the gross and net volume of the material as determined by the required shakeout test.

(3) The operator of the reclamation plant or other authorized person shall complete the manifest before leaving the lease or facility from which the liquid hydrocarbons are removed and shall retain a copy for three years.

(4) The operator of the reclamation plant or other authorized person shall keep a copy of the manifest in the vehicle transporting the material.

(b) The operator of a reclamation plant or other authorized person shall conduct a shakeout test on all tank bottoms or other oil and gas wastes upon removal from any producing lease tank, pipeline storage tank, or other production facility to determine the crude oil and/or lease hydrocarbon condensate content. The shakeout test shall be conducted in accordance with the most current API or ASTM method.

(c) Pursuant to §4.190 of this title (relating to Oil and Gas Waste Characterization and Documentation), waste characterization and profiling shall be performed before the waste is accepted at the reclamation plant.

Source Note: The provisions of this §4.172 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.173. Minimum Permit Provisions for Reporting.

(a) An operator of a reclamation plant shall file a monthly report documenting the volumetric throughput of waste and reclaimed hydrocarbons.

(b) The Commission may establish a form or electronic system for filing monthly reports for reclamation plants.

(c) For wastes taken to a reclamation plant the following provisions shall apply.

(1) The net crude oil content or lease condensate from a producing lease's tank bottom as indicated by the shakeout test shall be used to calculate the amount of oil to be reported as a disposition on the monthly production report. The net amount of crude oil or lease condensate from tank bottoms taken from a pipeline facility shall be reported as a delivery on the monthly transporter report.

(2) For other oil and gas wastes, the net crude oil content or lease condensate of the wastes removed from a tank, treater, firewall, pit, or other container at an active facility, including a pipeline facility, shall also be reported as a disposition or delivery from the facility.

(d) The net crude oil content or lease condensate of any tank bottoms or other oil and gas wastes removed from an active facility, including a pipeline facility, and disposed of on site or delivered to a site other than a reclamation plant shall also be reported as a delivery or disposition from the facility. All such disposal shall be in accordance with this subchapter and §§3.9 and 3.46 of this title (relating to Disposal Wells; and Fluid Injection into Productive Reservoirs, respectively). Operators may be required to obtain a minor permit for such disposal

pursuant to §4.182 of this title (relating to Minor Permits). Prior to approval of the minor permit, the Commission may require an analysis of the disposable material to be performed.
Source Note: The provisions of this §4.173 adopted to be effective July 1, 2025, 50 TexReg 33.

DIVISION 9. MISCELLANEOUS PERMITS

§4.180. Activities Permitted as Miscellaneous Permits.

This division contains permit requirements for some activities not otherwise addressed in this subchapter. Unless otherwise specified in this division or by the Director, the requirements of Divisions 4 through 8 of this subchapter do not apply to activities permitted under this division.
Source Note: The provisions of this §4.180 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.181. Emergency Permits.

(a) If the District Director determines that expeditious issuance of the permit will prevent or is likely to prevent the waste of oil, gas, or geothermal resources or the pollution of surface or subsurface water, the District Director may issue an emergency permit.

(b) An application for an emergency permit to use or maintain a pit or to dispose of oil and gas wastes shall be filed with the District Office. Notice of the application is not required.

(c) If warranted by the nature of the emergency, the District Director may issue an emergency permit based upon an oral application, or may orally authorize an activity before issuing a written permit authorizing that activity.

(d) An emergency permit is valid for up to 30 days, but may be modified, suspended, or terminated by the District Director at any time for good cause.
Source Note: The provisions of this §4.181 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.182. Minor Permits.

(a) If the District Director determines that an application is for a permit to store only a minor amount of oil field fluids or to store or dispose of only a minor amount of oil and gas waste, the District Director may issue a minor permit provided the permit does not authorize an activity which results in waste of oil, gas, or geothermal resources or pollution of surface or subsurface water.

(b) An application for a minor permit shall be filed with the Commission in the District Office. Notice of the application shall be given as required by the District Director. The District Director may determine that notice of the application is not required.

(c) A minor permit is valid for 60 days, but a minor permit which is issued without notice of the application may be modified, suspended, or terminated by the District Director at any time for good cause.
Source Note: The provisions of this §4.182 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.184. Permitted Recycling.

(a) For non-commercial recycling not otherwise authorized by this subchapter, the Director may authorize such recycling by permit. In determining appropriate permit conditions, the Director shall review the general permit requirements outlined in Division 4 of this subchapter (relating to Requirements for All Permitted Waste Management Operations) and determine which permit requirements, if any, are necessary to prevent pollution of surface and subsurface water. The Director shall consider the source of the waste, the anticipated constituents of concern, the volume of waste, the location, and the proposed reuse of the treated waste.

(b) Commercial recycling shall be permitted in accordance with Subchapter B of this title (relating to Commercial Recycling).
Source Note: The provisions of this §4.184 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.185. Pilot Programs.

(a) For any recycling activities not otherwise authorized by rule or permit in this subchapter, an operator may propose a pilot program.

(b) A pilot program is a program implemented to assess:

(1) whether the recycled product can be reused in certain activities that are safe and protective of human health and the environment;

(2) the efficiency and effectiveness of the recycling project; or

(3) the appropriate regulatory requirements of a permitted recycling program.

(c) If the Director finds that the proposed pilot program does not present a threat of pollution and encourages recycling of oil and gas wastes, the Commission may authorize a pilot program. The duration of the pilot program shall be sufficient to evaluate the pilot program objectives, which may include sufficient time to take an appropriate non-food based crop from seed through one complete growing cycle.

(1) If the Commission determines that the proposed pilot program prevents pollution and promotes the beneficial reuse of oil and gas waste, the Commission

may authorize the recycling by permit pursuant to §4.184 of this title (relating to Permitted Recycling).

(2) If the Commission determines that more time is needed to fulfill the objectives of the pilot program, the Commission may extend the pilot program in increments of no more than one year.

Source Note: The provisions of this §4.185 adopted to be effective July 1, 2025, 50 TexReg 33.

DIVISION 10. REQUIREMENTS FOR OIL AND GAS WASTE TRANSPORTATION

§4.190. Oil and Gas Waste Characterization and Documentation.

(a) The generator of oil and gas waste is responsible for characterizing and documenting the waste prior to transportation.

(b) A generator of any waste subject to Commission jurisdiction shall document the waste characterization by completing and retaining a Waste Profile Form that documents the characteristics of each waste stream generated.

(1) A Waste Profile Form shall be made available by the Commission or an operator may use its own form that includes at least the following information for each oil and gas waste stream:

(A) the generator name and P-5 operator number, including the contact information of the person preparing the waste profile;

(B) a generator-assigned identifier (name and/or number) specific to the generated waste;

(C) a description of the waste, including physical and chemical characteristics and constituents;

(D) the basis for the characterization, which shall be made in accordance with §4.102(a) of this title (relating to Responsibility for Oil and Gas Wastes); and

(E) other information pertinent to characterization.

(2) A generator may establish standard waste profiles for common types of oil and gas waste that are often found at oil and gas sites, such as spent water-based drilling mud, oil-based cuttings, oil-contaminated soil, domestic septage, and rubbish.

(3) A generator of waste that chooses to dispose of or recycle such waste shall provide the Waste Profile Form to the waste hauler and receiver.

(4) The receiver of the oil and gas waste shall include the waste profile information in the periodic reporting requirements as described in the facility permit conditions.

Source Note: The provisions of this §4.190 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.191. Oil and Gas Waste Manifests.

(a) Oil and gas waste that is transported by vehicle from the lease, unit, or other oil or gas property or facility where it is generated to an off-lease facility that manages oil and gas waste shall:

(1) be accompanied by a paper manifest that meets the requirements of this section; or

(2) be documented and tracked by an electronic manifest system that meets the requirements of this section and is accessible to the Commission and all parties involved in the management of the waste.

(b) The Commission shall establish a standard oil and gas waste manifest that may be used in Texas, or operators may use their own forms provided they include at least the following information:

(1) identity of the waste generator, including operator name, Commission-issued operator number, and detailed contact information;

(2) identity of the property or facility where the oil and gas waste was generated, using Commission-issued identifiers including:

(A) operator name and Commission-assigned operator number of the generator;

(B) lease name and Commission-assigned lease number;

(C) facility name and Commission-assigned number, or the latitude and longitude of the waste origin if a Commission-assigned identifier is not available; and

(D) county name;

(3) the corresponding waste profile identifier prepared by the generator as required in §4.190 of this title (relating to Oil and Gas Waste Characterization and Documentation);

(4) identity of the facility to which the oil and gas waste is delivered including the identifier issued by the appropriate regulatory agency and detailed contact information for the facility;

(5) transporter name and waste hauler permit number with driver signature;

(6) type and volume of oil and gas waste transported;

(7) date of shipment;

(8) name and signature of generator; and

(9) date of acceptance with waste receiver signature.

(c) The generator of the oil and gas waste, the waste hauler, and the receiver shall keep for a period of three years from the date of shipment copies or electronic records of all manifests.

(d) Oil and gas waste that is moved by pipeline is not required to be accompanied by a manifest but an operator of an oil and gas waste pipeline system is required to:

(1) meter or document the fluid flow for mass balance into and out of the system;

(2) maintain the metering or documentation records for three years; and

(3) provide the records to the Commission upon request.

(e) A commercial facility receiver that refuses to accept a load of waste that is not correctly characterized or manifested shall notify Technical Permitting immediately. The notification shall include information necessary to identify the waste hauler and generator, if available.

Source Note: The provisions of this §4.191 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.192. Trans-jurisdictional Waste Transfers.

(a) Section 3.30(e) of this title (relating to Memorandum of Understanding between the Railroad Commission of Texas (RRC) and the Texas Commission on Environmental Quality (TCEQ)) provides a means by which certain RRC-jurisdictional waste may be managed at an appropriate TCEQ-regulated facility and by which certain TCEQ-jurisdictional waste may be managed at an appropriate RRC-regulated facility. Other statutes, rules, and permits may also authorize waste between jurisdictions.

(b) Waste transfers across jurisdictional authorities must be reported to the Commission beginning December 31, 2026.

(1) TCEQ-jurisdictional waste or waste from another jurisdiction being received by a Commission-regulated facility shall be reported as follows:

(A) If the receiving facility is required by permit or rule to file a quarterly report with the Commission, then the quarterly report must identify and quantify the waste received from other jurisdictions.

(B) If the receiving facility is not required by permit to file a quarterly report with the Commission, then the receiving facility shall file a monthly report within 30 days of the end of each calendar month in which non-jurisdictional waste was received. The monthly report shall summarize the identity and quantity of waste received from the other jurisdiction and shall include a copy of all waste manifests and waste characterization documentation.

(2) RRC-jurisdictional waste that is transferred to be managed at a facility regulated by TCEQ or another authority shall be reported to the Commission by the generator of the waste within 30 days of the waste transfer and shall include a copy of all waste manifests and waste characterization documentation.

(c) Beginning December 31, 2026, special waste authorization is required for all waste transfers that are not otherwise authorized by statute, rule, or permit. The generator of the waste is required to obtain the special waste authorization from the appropriate authorities.

(d) The Commission shall create a Special Waste Authorization Form suitable for these purposes.

Source Note: The provisions of this §4.192 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.193. Oil and Gas Waste Haulers.

(a) Prohibitions. A person who transports oil and gas waste for hire by any method other than by pipeline shall not haul or dispose of oil and gas waste off a lease, unit, or other oil or gas property where it is generated without a valid oil and gas waste hauler permit. A permittee under this division shall not gather oil, gas, or geothermal resources unless otherwise authorized by Commission rules. An oil and gas waste hauler shall not transport oil, gas, or geothermal resources in the same vehicle being used to transport oil and gas wastes other than volumes of skim oil normally present in produced water or other oil and gas wastes.

(b) Exclusions.

(1) Hauling of inert waste, asbestos-containing material regulated under the Clean Air Act (42 USC §§7401 et seq.), polychlorinated biphenyl (PCB) waste regulated under the Toxic Substances Control Act (15 USC §§2601 et seq), or hazardous oil and gas waste subject to regulation under §3.98 of this title (relating to Standards for Management of Hazardous Oil and Gas Waste) is excluded from this section.

(2) Hauling of oil and gas NORM waste that is not exempt from Subchapter F of this title (relating to Oil and Gas NORM) and that exceeds the exemption criteria specified in 25 Texas Administrative Code §289.259(d)(1), (2), and (3) (relating to Licensing of Naturally Occurring Radioactive Material (NORM)), is excluded from this section.

(c) Application. An application for an oil and gas waste hauler permit shall be made in an electronic system established by the Commission. The application shall include:

(1) the permit application fee required by §3.78 of this title (relating to Fees and Financial Security Requirements);

(2) vehicle identification information to support Commission issuance of an approved vehicle list;

(3) an affidavit from the operator of each commission-permitted waste facility the hauler intends to use stating that the hauler has permission to use the waste facility system;

(4) a certification by the hauler that the vehicles listed on the application are designed so that they will not leak during transportation. The certification shall include a statement that vehicles used to haul oil and gas waste are designed to transport oil and gas wastes and

shall be operated and maintained to prevent the escape of oil and gas waste; and

(5) any other information required by the Commission.

(d) Permit term.

(1) An oil and gas waste hauler permit may be issued for a term not to exceed one year.

(2) A waste hauler permittee may not apply to renew a permit using the permittee's assigned permit number and by paying the fee required by §3.78 of this title until a minimum of 60 days before the expiration date specified in the permit.

(3) A waste hauler permittee shall apply for a new waste hauler permit number if the permittee submits a renewal application more than six months after the expiration of its permit.

(e) Permit conditions. Each oil and gas waste hauler shall operate in strict compliance with the instructions and conditions stated on the permit, which are restated as follows.

(1) This permit, unless suspended or revoked for cause shown, shall remain valid until the expiration date specified in this permit.

(2) Each vehicle used by a permittee shall be marked on both sides and the rear with the permittee's name and permit number in characters not less than three inches high. For the purposes of this permit, "vehicle" means any truck tank, trailer tank, tank car, vacuum truck, dump truck, garbage truck, or other container in which oil and gas waste will be hauled by the permittee.

(3) Each vehicle shall carry a copy of the permit including those parts of the Commission-issued attachments listing approved vehicles. This permit authority is limited to those vehicles shown on the Commission-issued list of approved vehicles.

(4) This permit is issued pursuant to the information furnished on the Commission-prescribed application form, and any change in conditions shall be reported to the Commission on an amended application form. The permit authority will be revised as required by the amended application.

(5) This permit authority is limited to hauling, handling, and disposal of oil and gas waste.

(6) This permit authorizes the permittee to use Commission-permitted waste facilities provided the waste facilities are permitted to receive the specific type of waste being hauled.

(7) This permit also authorizes the permittee to use a waste facility operated under authority of a minor permit issued by the Commission.

(8) This permit authorizes the permittee to transport hazardous oil and gas waste to any facility in accordance with the provisions of §3.98 of this title (relating to Standards for Management of Hazardous Oil and Gas Waste) provided the shipment is accompanied by a manifest that meets the requirements of §3.98(o) or (w) of this title as applicable.

(9) This permit authorizes the transportation of non-hazardous oil and gas waste to a disposal facility permitted by another state agency, another state, or an agency of the federal government, provided the shipment is accompanied by a manifest, run ticket, or shipping paper and the person submits a copy of such manifest, run ticket, or shipping paper showing the information specified in §4.191 of this title (relating to Oil and Gas Waste Manifests) to the appropriate Commission District Office within 30 days of shipment.

(10) Each vehicle shall be operated and maintained at all times in such a manner as to prevent spillage, leakage, or other escape of oil and gas waste during transportation on or off any facility regulated by the Commission. Vehicles used to haul oil and gas waste shall be designed to transport oil and gas wastes and shall be operated and maintained to prevent the escape of oil and gas waste.

(11) Each vehicle shall be made available for inspection upon request by the Commission.

Source Note: The provisions of this §4.193 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.194. Recordkeeping.

(a) Generators, waste haulers, and receivers shall keep all waste profiles, manifests, and other documentation for a period of at least three years. The person keeping any records required by this section shall make the records available to the Commission upon request.

(b) Upon discovering any significant discrepancy in waste descriptions, volumes, place of origin, disposal locations or destinations, or other information based on personal observation or information contained in the manifest or electronic system, the receiver shall submit to the Commission, the generator, and the waste hauler a letter describing the discrepancy and a copy of the manifest or electronic system documentation.

Source Note: The provisions of this §4.194 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.195. Waste Originating Outside of Texas.

Oil and gas waste that is generated outside of Texas and transported into Texas by surface vehicle for management shall be accompanied by documentation including the name of the generator, the location of origin, and any operator and facility identifiers issued by the appropriate regulatory agency of that state to ensure the origin of the waste is accurately identified and possession of the waste is tracked.

Source Note: The provisions of this §4.195 adopted to be effective July 1, 2025, 50 TexReg 33.

DIVISION 11. REQUIREMENTS FOR SURFACE WATER PROTECTION

§4.196. Surface Water Pollution Prevention.

(a) An operator shall not pollute the waters of the Texas offshore and adjacent estuarine zones (saltwater bearing bays, inlets, and estuaries) or damage aquatic life therein.

(b) All activities under the jurisdiction of the Commission shall be conducted in such a manner to preclude the pollution of the waters of the Texas offshore and adjacent estuarine zones. The following procedures shall be utilized to prevent pollution.

(1) No oil or other hydrocarbons in any form or combination with other materials or constituent shall be disposed of into the Texas offshore and adjacent estuarine zones.

(2) All deck areas on drilling platforms, barges, workover unit, and associated equipment both floating and stationary subject to contamination shall be either curbed and connected by drain to a collecting tank, sump, or enclosed drilling slot in which the containment will be treated and disposed of without causing hazard or pollution; or else drip pans, or their equivalent, shall be placed under any equipment which might reasonably be considered a source from which pollutants may escape into surrounding water. These drip pans shall be piped to collecting tanks, sumps, or enclosed drilling slots to prevent overflow or prevent pollution of the surrounding water.

(3) Solid wastes such as cans, bottles, any form of trash, or ashes of combustible waste shall be transported to shore in appropriate containers.

(4) Drilling muds which contain oil shall be transported to shore or a designated area for disposal.

(5) Fluids produced from offshore wells shall be mechanically contained in adequately pressure-controlled piping or vessels from producing well to disposition point. Oil and water separation facilities at offshore and onshore locations shall contain safeguards to prevent discharge of pollutants to the Texas offshore and adjacent estuarine zones.

(6) Any person observing water pollution shall report such sighting, noting size, material, location, and current conditions to the ranking operating personnel. Immediate action shall be taken or notification made to eliminate further pollution. The operator shall then transmit the report to the appropriate Commission District Office.

(7) Immediate corrective action shall be taken in all cases where pollution has occurred. An operator responsible for the pollution shall remove immediately such oil, oil field waste, or other pollution materials from the waters and the shoreline where it is found. Such removal operations will be at the expense of the responsible operator.

(c) The Commission may suspend producing and/or drilling operations from any facility if the provisions of this rule are being violated.

(d) The requirements of this section shall also apply to all oil, gas, or geothermal resource operations conducted on the inland and fresh waters of the State of Texas, such as lakes, rivers, and streams.

Source Note: The provisions of this §4.196 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.197. Consistency with the Texas Coastal Management Program.

(a) Applicability. The provisions of this section apply only to activities that occur in the coastal zone and that are subject to the Coastal Management Program (CMP) rules in 31 Texas Administrative Code Chapters 26 through 29.

(1) Disposal of oil and gas waste in pits. The following provisions apply to oil and gas waste disposal pits located in the coastal zone.

(A) No commercial oil and gas waste disposal pit constructed after October 25, 1995, shall be located in any coastal natural resources area (CNRA).

(B) All oil and gas waste disposal pits shall be designed to prevent releases of pollutants that adversely affect coastal waters or critical areas.

(2) Development in critical areas. The provisions of this paragraph apply to issuance under §401 of the federal Clean Water Act, United States Code, Title 33, §1341, of certifications of compliance with applicable water quality requirements for federal permits authorizing development affecting critical areas. Prior to issuing any such certification, the Commission shall confirm that the requirements of 31 Texas Administrative Code §26.23(a)(1) - (7) (relating to Policies for Development in Critical Areas) have been satisfied. The Commission shall coordinate its efforts under this section with those of other appropriate state and federal agencies.

(3) Dredging and dredged material disposal and placement. The provisions of this section apply to issuance under §401 of the federal Clean Water Act, United States Code, Title 33, §1341, of certifications of compliance with applicable water quality requirements for federal permits authorizing dredging and dredged material disposal and placement in the coastal zone. Prior to issuing any such certification, the Commission shall confirm that the requirements of 31 Texas Administrative Code §26.25 (relating to Policies for

Dredging and Dredged Material and Placement) have been satisfied.

(b) Consistency determinations. The provisions of this subsection apply to issuance of determinations required under 31 Texas Administrative Code §29.30 (relating to Agency Consistency Determination) for the following actions listed in 31 Texas Administrative Code §29.11(a)(3) (relating to Actions and Rules Subject to the Coastal Management Program): permits to dispose of oil and gas waste in a pit; and certifications of compliance with applicable water quality requirements for federal permits for development in critical areas and dredging and dredged material disposal and placement in the coastal area.

(1) The Commission shall issue consistency determinations under this subsection as an element of the permitting process for permits to dispose of oil and gas waste in a pit.

(2) Prior to issuance of a permit or certification covered by this subsection, the Commission shall determine if the proposed activity will have a direct and significant adverse effect on any CNRA identified in the provisions of subsection (a) of this section that are applicable to such activity.

(A) If the Commission determines that issuance of a permit or a certification covered by this subsection would not result in direct and significant adverse effects to any coastal natural resource area (CNRA) identified in the provisions of subsection (a) of this section that are applicable to the proposed activity, the Commission shall issue a written determination of no direct and significant adverse effect which shall read as follows: "The Railroad Commission has reviewed this proposed action for consistency with the Coastal Management Program (CMP) goals and policies, and has found that the proposed action will not have a direct and significant adverse effect on any coastal natural resource area (CNRA) identified in the applicable policies."

(B) If the Commission determines that issuance of a permit or certification covered by this paragraph would result in direct and significant adverse effects to a CNRA identified in the provisions of subsection (a) of this section that are applicable to the proposed activity, the Commission shall determine whether the proposed activity would meet the applicable requirements of subsection (a) of this section.

(i) If the Commission determines that the proposed activity would meet the applicable requirements of subsection (a) of this section, the Commission shall issue a written consistency determination which shall read as follows: "The Railroad Commission has reviewed this proposed action for consistency with the Texas Coastal Management Program (CMP) goals and policies, and has determined that the proposed action is consistent with the applicable CMP goals and policies."

(ii) If the Commission determines that the proposed activity would not meet the applicable requirements of subsection (a) of this section, the Commission shall not issue the permit or certification.

(c) Thresholds for referral. Any Commission action that is not identified in this subsection shall be deemed not to exceed thresholds for referral for purposes of the CMP rules. Pursuant to 31 Texas Administrative Code §29.32 (relating to Requirements for Referral of a Proposed Agency Action), the thresholds for referral of consistency determinations issued by the Commission are as follows:

(1) for oil and gas waste disposal pits, any permit to construct a pit occupying five acres or more of any CNRA that has been mapped or that may be readily determined by a survey of the site;

(2) for certification of federal permits for development in critical areas:

(A) in the bays and estuaries between Pass Cavallo in Matagorda Bay and the border with the Republic of Mexico, any certification of a federal permit authorizing disturbance of:

(i) ten acres or more of submerged aquatic vegetation or tidal sand or mud flats; or

(ii) five acres or more of any other critical area; and

(B) in all areas within the coastal zone other than the bays and estuaries between Pass Cavallo in Matagorda Bay and the border with the Republic of Mexico, any certification of a federal permit authorizing disturbance of five acres or more of any critical area; and

(3) for certification of federal permits for dredging and dredged material disposal or placement, certification of a permit authorizing removal of more than 10,000 cubic yards of dredged material from a critical area.

Source Note: The provisions of this §4.197 adopted to be effective July 1, 2025, 50 TexReg 33.

TEXAS ADMINISTRATIVE CODE
TITLE 16. ECONOMIC REGULATION
PART 1. RAILROAD COMMISSION OF TEXAS
CHAPTER 4. ENVIRONMENTAL PROTECTION

SUBCHAPTER B. COMMERCIAL RECYCLING
DIVISION 1. GENERAL; DEFINITIONS

§4.201. Purpose.

(a) This subchapter establishes, for the purpose of protecting public health, public safety, and the environment within the scope of the Commission's statutory authority, the minimum permitting and operating standards and requirements for commercial recycling of wastes associated with activities governed by the Commission including those governed under:

(1) Texas Natural Resources Code Title 3, Subtitle B;

(2) Texas Natural Resources Code Title 3, Subtitle D, Chapters 121-123;

(3) Texas Natural Resources Code Title 5;

(4) Texas Health and Safety Code Chapter 382, Subchapter K; and

(5) Texas Water Code Chapters 26, 27 and 29.

(b) Other wastes described in subsection (a) of this section are included when this subchapter refers to oil and gas waste(s) and may be managed in accordance with the provisions of this subchapter at facilities authorized under this subchapter provided the wastes are nonhazardous and chemically and physically similar to oil and gas wastes.

(c) No person conducting activities subject to this subchapter may cause or allow pollution of surface or subsurface water in the state.

(d) The provisions of this subchapter do not supersede other Commission regulations relating to oil field fluids or oil and gas waste.

Source Note: The provisions of this §4.201 adopted to be effective December 4, 2006, 31 TexReg 9711; amended to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.202. Applicability and Exclusions.

(a) The provisions of this subchapter apply to the following categories of commercial recycling:

(1) on-lease commercial recycling of solid oil and gas waste;

(2) off-lease or centralized commercial solid oil and gas waste recycling;

(3) stationary commercial solid oil and gas waste recycling;

(4) off-lease commercial recycling of fluid; and

(5) stationary commercial recycling of fluid.

(b) The provisions of this subchapter do not apply to recycling methods authorized for certain wastes by Subchapter A of this chapter or §3.98 of this title (relating to Standards for Management of Hazardous Oil and Gas Waste).

(c) The permitting provisions of this subchapter do not apply to the recycling of fluid received at a commercial disposal well operated pursuant to permit issued under §3.9 of this title (relating to Disposal Wells) or §3.46 of this title (relating to Fluid Injection into Productive Reservoirs). Such recycling is authorized by this subchapter provided:

(1) the operator of the disposal well treats, or contracts with a person for the treatment of the fluid;

(2) the operator of the disposal well is responsible for all activities, including the recycling, that occurs on the lease;

(3) the operator has obtained the applicable permits for pits or waste management units at the lease;

(4) the operator has obtained financial security in accordance with §3.78 of this title (relating to Fees and Financial Security Requirements);

(5) the operator provides written notification to the District Office seven days before recycling operations are expected to begin and includes information on how fluids will be controlled and contained during recycling operations; and

(6) the operator provides written notification to the District Office within seven days of concluding recycling operations.

(d) The provisions of this subchapter are in addition to the permitting requirements of Subchapter A of this chapter, which requires a permit for any pit not specifically authorized in Division 3 of Subchapter A of this chapter.

(e) The provisions of this subchapter do not authorize discharge of oil and gas waste.

(f) The provisions of this subchapter do not apply to recycling facilities regulated by the Texas Commission on Environmental Quality or its predecessor or successor agencies, another state, or the federal government.

(g) Permits issued pursuant to this subchapter prior to July 1, 2025, shall remain in effect pursuant to the rules in existence at the time the permits were issued and the requirements of the permits themselves, including the requirements for permit renewal. However, the Director may consider the operational, monitoring, and closure requirements on a case-by-case basis.

Source Note: The provisions of this §4.202 adopted to be effective December 4, 2006, 31 TexReg 9711; amended to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.203. Responsibility for Management of Waste to be Recycled.

(a) Permit required. A person who operates a commercial recycling facility shall obtain a permit from

the Commission under this subchapter before engaging in such operation.

(b) Hauling of waste. A waste hauler transporting and delivering oil and gas waste for commercial recycling permitted pursuant to this subchapter shall be permitted by the Commission as an Oil and Gas Waste Hauler pursuant to §4.193 of this title (relating to Oil and Gas Waste Haulers).

(c) Responsibility of generator and carrier. No generator or carrier may knowingly use the services of a commercial recycling facility unless the facility has a permit issued under this subchapter. A person who uses the services of a commercial recycling facility has a duty to determine that the commercial recycling facility has all permits required by statute or Commission rule.

Source Note: The provisions of this §4.203 adopted to be effective December 4, 2006, 31 TexReg 9711; amended to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.204. Definitions.

Unless a word or term is defined differently in this section, the definitions in Subchapter A of this chapter, §3.98 of this title (relating to Standards for Management of Hazardous Oil and Gas Waste), and §4.603 of this title (relating to Definitions), shall apply in this subchapter. In addition, the following words and terms when used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise:

(1) Adjoining--Every tract of property surrounding the tract of property upon which the activity sought to be permitted will occur, including those tracts that meet only at a corner point.

(2) Administratively complete--A complete application that the Director has determined meets all the administrative and technical requirements of the subchapter such that a permit shall be issued administratively or, if the application was protested, that the application will be referred to the Hearings Division.

(3) Berm (or dike)--A manmade barrier surrounding a pit, waste management unit, or facility, that is designed, constructed, and maintained to segregate materials, including waste and stormwater runoff, inside and outside of a pit, waste management unit, or facility.

(4) Commercial recycling facility--A facility whose owner or operator receives compensation from others for the storage, handling, treatment, and recycling of oil and gas wastes and the primary business purpose of the facility is to provide these services for compensation, whether from the generator of the waste, another receiver, or the purchaser of the recyclable product produced at the facility. The term includes recycling of solid oil and gas wastes on or off lease.

(5) Complete application--An application that contains information addressing each application requirement of the subchapter and all information necessary to initiate the final review by the Director.

(6) EPA Method 1312, Synthetic Precipitation Leaching Procedure (SPLP)--An analytical method used to evaluate the potential for leaching of metals and/or benzene into surface and subsurface water.

(7) Legitimate commercial product--A product of a type customarily sold to the general public for a specific use and for which there is a demonstrated commercial market.

(8) Legitimate commercial use--Use or reuse of a recyclable product as authorized or defined in a permit issued pursuant to this subchapter:

(A) as an effective substitute for a commercial product or as an ingredient to make a commercial product; or

(B) as a replacement for a product or material that otherwise would have been purchased; and

(C) in a manner that does not constitute disposal.

(9) Louisiana Department of Natural Resources Leachate Test Method--An analytical method designed to simulate water leach effects on treated oil and gas wastes included in "Laboratory Manual for the Analysis of E&P Waste," Louisiana Department of Natural Resources, May 2005.

(10) Off-lease or centralized commercial solid oil and gas waste recycling facility--A commercial recycling facility that is capable of being moved from one location to another, but which is generally in operation in one location for a period of time longer than one year, but less than two years that shall recycle solid oil and gas waste.

(11) Off-lease commercial fluid recycling facility--A commercial recycling facility that is capable of being moved from one location to another, but which is generally in operation in one location for a period of time longer than one year, but less than two years that shall recycle wellbore fluid produced from an oil or gas well, including produced formation fluid, workover fluid, and completion fluid, including fluids produced from the hydraulic fracturing process.

(12) On-lease commercial solid oil and gas waste recycling--Commercial recycling performed on an oil or gas lease or well site using equipment that moves from one location to another, at which all materials and wastes are stored in authorized pits and/or tanks, and restricted in the:

(A) amount of time, generally less than one year, operations occur at any one location;

(B) volume and source of the waste that may be processed at any one location;

(C) the type and characteristics of the waste; and

(D) size of the area used for recycling.

(13) Stationary commercial recycling facility--A commercial recycling facility in an immobile, fixed

location for a period of greater than two years that recycles solid oil and gas waste or wellbore fluid produced from an oil or gas well, including produced formation fluid, workover fluid, and completion fluid, including fluids produced from the hydraulic fracturing process.

(14) Treatment--The process of reconditioning oil and gas waste to a reusable form.

(15) Treatment of drill cuttings--A manufacturing, mechanical, thermal, or chemical process other than sizing, shaping, diluting, or sorting.

Source Note: The provisions of this §4.204 adopted to be effective December 4, 2006, 31 TexReg 9711; amended to be effective February 3, 2011, 36 TexReg 410; amended to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.205. Exceptions.

(a) Except for the requirements related to financial security found in §§4.239(b), 4.255(b), 4.271(b), and 4.287(b) of this title; the notice requirements found in §§4.238, 4.254, 4.270, and 4.286 of this title; and the requirements related to sampling and analysis found in §§4.221, 4.222, 4.223, 4.242, 4.243, 4.258, 4.259, 4.274, 4.275, 4.290, and 4.291 of this title, an applicant or permittee may request an exception to the provisions of this subchapter by submitting to the Director a written request and demonstrating that the requested alternative is at least equivalent in the protection of public health and safety, and the environment, as the provision of this subchapter to which the exception is requested.

(b) Each application for an exception to a rule in this subchapter shall be accompanied by the exception fee and surcharge required by §3.78(b)(4) and (n) of this title (relating to Fees and Financial Security Requirements).

(c) The Director shall review each written request on a case-by-case basis.

(1) If the Director determines that a request for an exception to a rule in Divisions 5 or 6 of this subchapter (relating to Requirements for Off-Lease Commercial Recycling of Fluid, and Requirements for Stationary Commercial Recycling of Fluid, respectively) is substantially similar to previous exceptions approved by the Commission, the Director shall approve the requested exception.

(2) If the Director denies a request for an exception, the applicant or permittee may request a hearing consistent with the hearing provisions of this subchapter relating to hearings requests but shall not use the requested alternative until the alternative is approved by the Commission.

Source Note: The provisions of this §4.205 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.206. Administrative Decision on Permit Application.

(a) If the Commission does not receive a protest to an application submitted under this subchapter, the Director may administratively approve the application if the application otherwise complies with the requirements of this subchapter.

(b) The Director may administratively deny the application if it does not meet the requirements of this subchapter or other laws, rules, or orders of the Commission. The Director shall provide the applicant written notice of the basis for administrative denial.

(c) The applicant may request a hearing upon receipt of notice of administrative denial. A request for hearing shall be made to the Director within 30 days of the date on the notice of administrative denial. If the Director receives a request for a hearing, the Director shall refer the matter to the Docket Services Section of the Hearings Division for assignment of a hearings examiner who shall conduct the hearing in accordance with Chapter 1 of this title (relating to Practice and Procedure).

Source Note: The provisions of this §4.206 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.207. Protests and Hearings.

(a) If a person who receives notice or other affected person files a proper protest with the Technical Permitting Section, the Director shall give the applicant written notice of the protest and of the applicant's right to either request a hearing on the application or withdraw the application. The applicant shall have 30 days from the date of the Director's notice to respond, in writing, by either requesting a hearing or withdrawing the application. In the absence of a timely written response from the applicant, the Director shall consider the application to have been withdrawn.

(b) Even if there is no protest filed, the Director may refer an application to a hearing if the Director determines that a hearing is in the public interest. In determining whether a hearing is in the public interest, the Director will consider the characteristics and volume of oil and gas waste to be managed at the facility; the potential risk posed to surface and subsurface water; and any other factor identified in this subchapter relating to siting, construction, and operation of the facility.

(c) Before a hearing on a permit application for a commercial recycling facility, the Commission shall provide notice of the hearing to all affected persons, and other persons or governmental entities who express, in writing, an interest in the application.

Source Note: The provisions of this §4.207 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.208. General Standards for Permit Issuance.

(a) A permit for a commercial recycling facility issued pursuant to this subchapter shall provide that the facility shall only receive, store, handle, treat, or recycle waste:

(1) under the jurisdiction of the Commission;

(2) that is not a hazardous waste as defined by the administrator of the Environmental Protection Agency pursuant to the federal Solid Waste Disposal Act, as amended (42 United States Code, §6901, et seq.); and

(3) that is not oil and gas naturally occurring radioactive (NORM) waste as defined in §4.603 of this title (relating to Definitions).

(b) A permit issued pursuant to this subchapter may be issued only if the Director or the Commission determines that:

(1) the storage, handling, treatment, and/or recycling of oil and gas wastes and other substances and materials will not result in the waste of oil, gas, or geothermal resources, the pollution of surface or subsurface water, a threat to public health and safety; and

(2) the recyclable product can meet engineering and environmental standards the Commission establishes in the permit or in this subchapter for its intended use.

(c) All chemical laboratory analyses shall be performed using appropriate Environmental Protection Agency methods or standard methods by an independent National Environmental Laboratory Accreditation Program certified laboratory neither owned nor operated by the permittee. Any sample collected for chemical laboratory analysis shall be collected and preserved in a manner appropriate for that analytical method as specified in 40 Code of Federal Regulations (CFR) Part 136. All geotechnical testing shall be performed by a laboratory certified to conduct geotechnical testing according to the standards specified by the ASTM International (ASTM) and certified by a professional engineer licensed in Texas.

Source Note: The provisions of this §4.208 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.209. Permit Renewal.

Permits issued pursuant to this subchapter may be renewed, but are not transferable to another operator without the written approval of the Director.

Source Note: The provisions of this §4.209 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.210. Modification, Suspension, and Termination.

A permit granted pursuant to this subchapter may be modified, suspended, or terminated by the Commission for good cause after notice and opportunity for hearing. A finding of any of the following facts shall constitute good cause:

(1) pollution of surface or subsurface water is occurring or is likely to occur as a result of the permitted operations;

(2) waste of oil, gas, or geothermal resources is occurring or is likely to occur as a result of the permitted operations;

(3) the permittee has violated the terms and conditions of the permit or Commission rules;

(4) the permittee misrepresented any material fact during the permit issuance process;

(5) a material change of conditions has occurred in the permitted operations;

(6) the information provided in the application has changed materially; or

(7) the permittee failed to give the notice required by the Commission during the permit issuance or renewal process.

Source Note: The provisions of this §4.210 adopted to be effective April 15, 2013, 38 TexReg 233

§4.211. Penalties.

(a) Policy. Improved safety and environmental protection are the desired outcomes of any enforcement action. Encouraging operators to take appropriate voluntary corrective and future protective actions once a violation has occurred is an effective component of the enforcement process. Deterrence of violations through penalty assessments is also a necessary and effective component of the enforcement process. A rule-based enforcement penalty guideline to evaluate and rank oil- and natural gas-related violations is consistent with the central goal of the Commission's enforcement efforts to promote compliance. Penalty guidelines set forth in this section will provide a framework for more uniform and equitable assessment of penalties throughout the state, while also enhancing the integrity of the Commission's enforcement program.

(b) Only guidelines. This section complies with the requirements of Texas Natural Resources Code §81.0531 and §91.101, which provide the Commission with the authority to adopt rules, enforce rules, and issue permits relating to the prevention of pollution. The penalty amounts shown in the tables in this section are provided solely as guidelines to be considered by the Commission in determining the amount of administrative penalties for violations of provisions of Texas Natural Resources Code, Title 3; Texas Water Code, Chapters 26, 27, and 29, that are administered and enforced by the Commission; or the provisions of a rule adopted or order, license, permit, or certificate issued under Texas Natural Resources Code, Title 3, or Texas Water Code,

Chapters 26, 27, and 29. This rule does not contemplate automatic enforcement without cause. Operators may correct violations at a facility with approval of Commission staff before being referred to legal enforcement.

(c) Commission authority. The establishment of these penalty guidelines shall in no way limit the Commission's authority and discretion to cite violations and assess administrative penalties. The guideline minimum penalties listed in this section are for the most common violations cited; however, this is neither an exclusive nor an exhaustive list of violations that the Commission may cite. The Commission retains full authority and discretion to cite violations of Texas Natural Resources Code, Title 3; including Nat. Res. Code §91.101, which provides the Commission with the authority to adopt rules, enforce rules, and issue permits relating to the prevention of pollution; the provisions of Texas Water Code, Chapters 26, 27, and 29, that are administered and enforced by the Commission; and the provisions of a rule adopted or an order, license, permit, or certificate issued under Texas Natural Resources Code, Title 3, or Texas Water Code, Chapters 26, 27, and 29, and to assess administrative penalties in any amount up to the statutory maximum when warranted by the facts in any case, regardless of inclusion in or omission from this section.

(d) Factors considered. The amount of any penalty requested, recommended, or finally assessed in an enforcement action will be determined on an individual case-by-case basis for each violation, taking into consideration the following factors:

(1) the facility's history of previous violations;

(2) the operator's history of previous violations;

(3) the seriousness of the violation;

(4) any hazard to the health or safety of the public; and

(5) the demonstrated good faith of the operator charged.

(e) Typical penalties. Regardless of the method by which the guideline typical penalty amount is calculated, the total penalty amount will be within the statutory limit. A guideline of typical penalties for violations of Texas Natural Resources Code, Title 3; the provisions of Texas Water Code, Chapters 26, 27, and 29, that are administered and enforced by the Commission; and the provisions of a rule adopted or an order, license, permit, or certificate issued under Texas Natural Resources Code, Title 3, or Texas Water Code, Chapters 26, 27, and 29, are set forth in Table 1.

Figure: 16 TAC §4.211(e) ***[See Figure at end of this document.]***

(f) Penalty enhancements for certain violations. For violations that involve threatened or actual pollution; result in threatened or actual safety hazards; or result from the reckless or intentional conduct of the operator charged, the Commission may assess an enhancement of the guideline penalty amount. The enhancement may be in any amount in the range shown for each type of violation as shown in Table 2.

Figure: 16 TAC §4.211(f) ***[See Figure at end of this document.]***

(g) Penalty enhancements for certain violators. For violations in which the operator charged has a history of prior violations within seven years of the current enforcement action at any facility regulated by the Commission, the Commission may assess an enhancement based on either the number of prior violations or the total amount of previous administrative penalties, but not both. The actual amount of any penalty enhancement will be determined on an individual case-by-case basis for each violation. The guidelines in Tables 3 and 4 are intended to be used separately. Either guideline may be used where applicable, but not both.

Figure 1: 16 TAC §4.211(g)

Figure 2: 16 TAC §4.211(g) ***[See Figures at end of this document.]***

(h) Penalty reduction for accelerated settlement before hearing. The recommended monetary penalty for a violation may be reduced by up to 50% if the operator charged agrees to an accelerated settlement before the Commission conducts an administrative hearing to prosecute a violation. Once the hearing is convened, the opportunity for the operator charged to reduce the basic monetary penalty is no longer available. The reduction applies to the basic penalty amount requested and not to any requested enhancements.

(i) Demonstrated good faith. In determining the total amount of any monetary penalty requested, recommended, or finally assessed in an enforcement action, the Commission may consider, on an individual case-by-case basis for each violation, the demonstrated good faith of the operator charged. Demonstrated good faith includes, but is not limited to, actions taken by the operator charged before the filing of an enforcement action to remedy, in whole or in part, a violation or to mitigate the consequences of a violation.

(j) Penalty calculation worksheet. The penalty calculation worksheet shown in Table 5 lists the guideline minimum penalty amounts for certain violations; the circumstances justifying enhancements of a penalty and the amount of the enhancement; and the circumstances justifying a reduction in a penalty and the amount of the reduction.

Figure: 16 TAC §4.211(j) ***[See Figure at end of this document.]***

Source Note: The provisions of this §4.211 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

DIVISION 2. REQUIREMENTS FOR ON-LEASE COMMERCIAL SOLID OIL AND GAS WASTE RECYCLING

§4.212. General Permit Application Requirements for On-Lease Commercial Solid Oil and Gas Waste Recycling Facilities.

(a) An application for a permit for on-lease solid oil and gas waste commercial recycling shall be filed on a Commission prescribed form with the Technical Permitting Section, and on the same day the applicant shall mail or deliver a copy of the application to the Commission District Office for the county in which the facility is to be located. The Technical Permitting Section shall not begin final review of an application unless the Director has determined that the application is complete in accordance with §1.201(b) of this title (relating to Time Periods for Processing Applications and Issuing Permits Administratively).

(b) The permit application shall contain the applicant's name; organizational report number; physical office address and, if different, mailing address; telephone number; and the name of a contact person.

(c) The permit application shall contain information addressing each applicable application requirement of this division and all information necessary to initiate the final review by the Director. The Director shall neither administratively approve an application nor refer an application to hearing unless the Director has determined that the application is administratively complete. If the Director determines that an application is incomplete, the Director shall notify the applicant in writing and shall describe the specific information required to complete the application. An applicant may make no more than two supplemental filings to complete an application. After the second supplemental submission, if the application is complete, the Director shall either approve or deny the application. If the application is still incomplete after the second supplemental submission, the Director shall administratively deny the application. The Director shall notify the applicant in writing of the administrative decision and, in the case of an administrative denial, the applicant's right to request a hearing on the application as it stands at the time of administrative denial.

(d) The permit application shall contain the following certification signed and dated by an authorized representative of the applicant: "I certify that I am authorized to make this application, that this application was prepared by me or under my supervision and direction, and that the data and facts stated herein are true, correct, and complete to the best of my knowledge."

(e) A person shall file electronically any form or application for which the Commission has provided an electronic version or an electronic filing system or by hard copy if no digital format acceptable to the Commission has been enacted. The operator or person shall comply with all requirements, including but not limited to fees and security procedures, for electronic filing.

Source Note: The provisions of this §4.212 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.213. Minimum Engineering and Geologic Information.

(a) The Director may require a permit applicant for on-lease commercial solid oil and gas waste recycling to provide the Commission with engineering or other information which the Director deems necessary to show that issuance of the permit will not result in the waste of oil, gas, or geothermal resources, the pollution of surface or subsurface water, or a threat to the public health or safety.

(b) Engineering and geologic work products prepared for the application shall be sealed by a professional engineer or geoscientist licensed in Texas as required by the Texas Occupations Code, Chapters 1001 and 1002, respectively.

Source Note: The provisions of this §4.213 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.214. Minimum Design and Construction Information.

A permit application for on-lease commercial solid oil and gas waste recycling shall include:

(1) a facility diagram of receiving, processing, and storage areas and all equipment (e.g., pug mill), tanks, silos, and dikes.

(2) a description of the type and thickness of liners (e.g., fiberglass, steel concrete), if any, for all tanks, silos, pits, and storage areas/cells;

(3) a map view and two perpendicular cross-sectional views of typical pits and/or storage areas/cells to be constructed, showing the bottom, sides, and dikes, showing the dimensions of each; and

(4) a plan to control and manage stormwater runoff and to retain wastes during wet weather, including the location and dimensions of dikes and/or storage basins that would collect, at a minimum, stormwater during a 25-year, 24-hour rainfall event, and all calculations made to determine the required capacity and design.

Source Note: The provisions of this §4.214 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.215. Minimum Operating Information.

A permit application for on-lease commercial solid oil

and gas waste recycling shall include the following operating information:

(1) a list of Commission districts for which the applicant seeks authority for on-lease commercial solid oil and gas waste recycling;

(2) the estimated maximum volume of untreated oil and gas waste and partially treated oil and gas waste to be stored;

(3) the estimated maximum volume and time that the recyclable product will be stored;

(4) a general description of the recycling process to be employed; a flow diagram showing the process and identifying all equipment and chemicals or additives (e.g., asphalt emulsion, quicklime, Portland cement, fly ash, etc.) to be used in the process; and the Material Safety Data Sheets for any chemical or additive;

(5) a description of all inert material (e.g., brick, rock, gravel, caliche) to be stored and used as aggregate in the treatment process; and

(6) a description of any testing to be performed to demonstrate that the proposed processing will result in a recyclable product that meets the engineering and environmental standards for the proposed use.

Source Note: The provisions of this §4.215 adopted to be effective April 15, 2013, 38 TexReg 2334.

§4.216. Minimum Monitoring Information.

A permit application for on-lease commercial solid oil and gas waste recycling shall include:

(1) a sampling plan for the partially treated waste to ensure compliance with permit conditions; and

(2) a plan and schedule for conducting periodic inspections, including plans to inspect equipment, processing, and storage areas.

Source Note: The provisions of this §4.216 adopted to be effective April 15, 2013, 38 TexReg 2334.

§4.217. Minimum Closure Information.

A permit application for on-lease commercial solid oil and gas waste recycling shall include a detailed plan for closure of the site when operations terminate. The closure plan shall address how the applicant intends to:

(1) remove waste, partially treated waste, and/or recyclable product from the site;

(2) close all storage areas/cells;

(3) remove dikes; and

(4) contour and reseed disturbed areas.

Source Note: The provisions of this §4.217 adopted to be effective April 15, 2013, 38 TexReg 2334.

§4.218. General Permit Provisions for On-Lease Commercial Solid Oil and Gas Waste Recycling.

(a) A permit for on-lease commercial solid oil and gas waste recycling issued pursuant to this division shall specify the Commission districts within which recycling is authorized, shall be valid for a term of not more than five years, and shall authorize operations at any one lease for no more than one year. Permits issued pursuant to this division may be renewed, but are not transferable to another operator without the written approval of the Director. Any request for transfer of the permit shall be filed with the Technical Permitting Section on a Commission prescribed form at least 60 days before the permittee requests the transfer to take place.

(b) A permit for on-lease commercial solid oil and gas waste recycling shall include a condition requiring that the permittee obtain written permission from the surface owner of the lease upon which recycling will take place and notify the Commission District Office 72 hours before operations commence on each lease.

Source Note: The provisions of this §4.218 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.219. Minimum Siting Information.

(a) A permit for on-lease commercial solid oil and gas waste recycling may be issued only if the Director or the Commission determines that the operations will pose no unreasonable risk of pollution or threat to public health or safety.

(b) A pit permitted pursuant to this division is prohibited:

(1) within a 100-year flood plain;

(2) within a sensitive area as defined by §4.110 of this title (relating to Definitions);

(3) within 300 feet of surface water, domestic supply wells, or irrigation water wells;

(4) within 500 feet of any public water system wells or intakes;

(5) where there has been observable groundwater within 100 feet of the ground surface unless the pit design includes a geosynthetic clay liner (GCL) tested using fluids likely to be encountered in the operations of the facility and the test results demonstrated the GCL can sustain a hydraulic conductivity of 1.0 x 10-7cm/sec or less;

(6) within 1,000 feet of a permanent residence, school, hospital, institution, or church in existence at the time of initial permitting; or

(7) within 500 feet of a wetland.

(c) A permit application for on-lease commercial solid oil and gas waste recycling shall include:

(1) a description of the proposed facility site and surrounding area;

(2) the name, physical address and, if different, mailing address, and telephone number of every owner of the tract on which the facility is to be located. If any owner is not an individual, the applicant shall include the name of a contact person for that owner;

(3) the depth to the shallowest subsurface water and the direction of groundwater flow at the proposed site, and the source of this information;

(4) the average annual precipitation and evaporation at the proposed site and the source of this information;

(5) the identification of the soil and subsoil by typical name and description of the approximate proportion of grain sizes, texture, consistency, moisture condition, and other pertinent characteristics, and the source of this information;

(6) a copy of a county highway map with a scale and north arrow showing the location of the proposed facility; and

(7) a United States Geological Survey (USGS) topographic map or an equivalent topographic map which shows the facility including the items listed in subparagraphs (A) - (K) of this paragraph and any other pertinent information regarding the regulated facility and associated activities. Maps shall be on a scale of not less than one inch equals 2,000 feet. The map shall show the following:

(A) a scale and north arrow showing the tract size in square feet or acres, the section/survey lines, and the survey name and abstract number;

(B) a clear outline of the proposed facility's boundaries;

(C) the location of any pipelines within 500 feet of the facility;

(D) the distance from the facility's outermost perimeter boundary to public and private water wells, residences, schools, churches, and hospitals that are within 500 feet of the boundary;

(E) for disposal only, the location of all residential and commercial buildings within a one-mile radius of the facility boundary;

(F) all water wells within a one-mile radius of the facility boundary;

(G) the location of the 100-year flood plain and the source of the flood plain information;

(H) surface water bodies within the map area;

(I) the location of any major and minor aquifers within the map area;

(J) the boundaries of any prohibited areas defined under §4.153 of this title (relating to Commercial Disposal Pits); and

(K) any other information requested by the Director reasonably related to the prevention of pollution.

(d) Factors that the Commission will consider in assessing potential risk from on-lease commercial solid oil and gas waste recycling include:

(1) the volume and characteristics of the oil and gas waste, partially treated waste and recyclable product to be stored, handled, treated and recycled at the facility;

(2) proximity to coastal natural resources or sensitive areas as defined by §4.110 of this title; and

(3) any other factors the Commission deems reasonably necessary in determining whether or not issuance of the permit will pose an unreasonable risk.

(e) All siting requirements in this section for on-lease commercial solid oil and gas waste recycling refer to conditions at the time the equipment and tanks used in the recycling are placed.

Source Note: The provisions of this §4.219 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.220. Minimum Permit Provisions for Design and Construction.

(a) A permit issued pursuant to this division for on-lease commercial solid oil and gas waste recycling shall contain any requirement that the Director or the Commission determines to be reasonably necessary to ensure that:

(1) the design and construction of storage areas, containment dikes, and processing areas minimize contact of oil and gas waste and partially recycled waste with the ground surface, and prevent pollution of surface and subsurface water;

(2) the pollution of surface and subsurface water from spills, leachate, and/or discharges from the facility is prevented by:

(A) prohibiting the unauthorized discharge of oil and gas waste and other substances or materials, including contaminated stormwater runoff, to the land surface at and adjacent to the facility or to surface and subsurface water;

(B) requiring that the operator control and remediate spills; and

(C) requiring that the operator make regular inspections of the facility; and

(3) the design and construction of the facility allows for monitoring for, and detection of, any migration of oil and gas waste or other substance or material.

(b) All storage cells at the site shall be:

(1) located above the top of the seasonal high water table;

(2) designed to prevent stormwater runoff from entering the area; and

(3) surrounded by berms with a minimum width at base of three times the height and the berms constructed such that the height, slope, and construction material are structurally sound and do not allow seepage.

(c) A permit for on-lease commercial solid oil and gas waste recycling issued pursuant to this division shall require that the operator notify the Commission District Office prior to commencement of construction, including construction of any dikes, and again upon completion of construction, and that the permittee may commence

operations under the permit 72 hours after notice to the District Office.

Source Note: The provisions of this §4.220 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.221. Minimum Permit Provisions for Operations.

(a) A permit for on-lease commercial solid oil and gas waste recycling issued pursuant to this division shall contain requirements the Commission determines to be reasonably necessary to ensure that:

(1) only wastes and other materials authorized by the permit generated on-lease, including requirements that the permittee test incoming oil and gas waste and keep records of amounts of wastes; and

(2) the processing operation and resulting recyclable product meet the environmental and engineering standards established in the permit.

(b) A permit for on-lease commercial solid oil and gas waste recycling issued under this division may require the permittee to perform a trial run in accordance with the following procedure.

(1) The permittee shall notify the Commission District Office for the county in which the facility is located prior to commencement of the trial run.

(2) The permittee shall sample and analyze the partially treated waste that results from the trial run, and submit to the Director for review a report of the results of the trial run prior to commencing operations.

(3) The permittee shall demonstrate the ability to successfully process a 1,000 cubic yard batch of solid oil and gas waste.

(A) The Technical Permitting Section and the District Office shall be notified in writing at least 72 hours before waste processing begins.

(B) Samples of the partially treated waste shall be collected from every 200 cubic yards of an 800 cubic yard batch and analyzed for wetting and drying durability by ASTM D 559-96, modified to provide that samples are compacted and molded from finished partially treated waste. The total weight loss after 12 cycles shall not exceed 15 percent.

(C) A written report of the trial run shall be submitted to the Technical Permitting Section and the District Office within 60 days of receipt of the analyses required in this section. The following information shall be included:

(i) a summary of the trial run and description of the process;

(ii) the actual volume of waste material processed;

(iii) the volume and type of stabilization material used;

(iv) the type of waste and description of the waste material; and

(v) copies of all chemical and geotechnical laboratory analytical reports and chain of custody sheets for the samples specified in subparagraph (B) of this paragraph.

(D) The final processed material shall meet the limitations of this section.

(4) The Director shall approve the trial run if the report demonstrates that the recyclable product meets or exceeds the environmental and engineering standards established in the permit.

(5) The permittee shall not use the recyclable product until the Director approves the trial run report.

(c) A permit for on-lease commercial solid oil and gas waste recycling issued pursuant to this division shall include any requirements, including limits on the volumes of oil and gas waste, partially treated waste, and recyclable product stored at the site, that the Technical Permitting Section determines to be reasonably necessary to ensure that the permittee does not accumulate oil and gas waste, partially treated waste, and/or recyclable product at the facility without actually processing the oil and gas waste and putting the recyclable product to legitimate commercial use.

(d) Excess stormwater collected within a bermed area shall be removed and disposed of in an authorized manner.

(e) Appropriate measures shall be taken to control dust at all times.

(f) Processed material meeting or exceeding the engineering parameters listed in §4.222(d) of this title (relating to Minimum Permit Provisions for Monitoring) is suitable for use on lease roads, drilling pads, tank batteries, compressor station pads, and county roads.

Source Note: The provisions of this §4.221 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.222. Minimum Permit Provisions for Monitoring.

(a) A permit for on-lease commercial solid oil and gas waste recycling issued pursuant to this division shall include monitoring requirements the Director or Commission determines to be reasonably necessary to ensure that the recyclable product meets the environmental and engineering standards established by the Director or the Commission and included in the permit.

(b) Consistent with the requirements of §4.208 of this title (relating to General Standards for Permit Issuance), the Director or the Commission shall establish and include in the permit for on-lease commercial solid oil and gas waste recycling the parameters for which the partially treated waste is to be tested, and the limitations on those parameters based on:

(1) the type of oil and gas waste; and

(2) the intended use for the recyclable product.

(c) A permit for on-lease commercial solid oil and gas waste recycling may require laboratory testing. A permit that requires laboratory testing shall require that the permittee use an independent third party laboratory to analyze a minimum standard volume of partially treated waste for parameters established in this subchapter or in a permit issued by the Commission.

(d) A permit for on-lease commercial solid oil and gas waste recycling issued pursuant to this division from which the recycled product will be used as road base or other similar uses shall include a requirement that a minimum of one sample from each 200 cubic yards of partially treated waste be collected and analyzed for every 800 cubic yard composite for the following minimum parameters and meet the following limits: Figure: 16 §4.222(d) ***[See Figure at end of this document.]***

(e) Recordkeeping and reporting requirements.

(1) Recordkeeping requirements.

(A) Records shall be kept of all waste treated for a period of three years from the date of treatment.

(B) These records shall include the following:

(i) name of the generator;

(ii) source of the waste (lease number or gas I.D. number and well number, or API number);

(iii) date the waste was treated at the drill site;

(iv) volume of the waste treated at the drill site;

(v) name of the carrier;

(vi) identification of the receiving site including the lease number or gas I.D. number and well number, API number, or county road number;

(vii) documentation that the landowner of the receiving location has been notified of the use of the recyclable product on the landowner's property if used on private land; and

(viii) documentation indicating the approximate location where recyclable product is used including a topographic map showing the location of the area.

(2) Reporting requirements. The permittee shall provide the Commission, on a quarterly basis, a copy of the records required in this section.

Source Note: The provisions of this §4.222 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.223. Minimum Permit Provisions for Closure.

A permit for on-lease commercial solid oil and gas waste recycling issued pursuant to this division shall include closure standards and any requirement reasonably necessary to ensure that the permittee can meet the standards. The Commission shall determine the closure standards for a particular facility based on the type of materials stored, handled and treated. A permit may include requirements for removal of all waste, partially treated waste, and recyclable product; removal of dikes, storage, liners, and equipment; recontouring of the land; collection and analyzing of soil and groundwater samples; and post-closure monitoring.

Source Note: The provisions of this §4.223 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.224. Permit Renewal.

Before the expiration of a permit issued pursuant to this division, the permittee may submit an application to renew the permit on a Commission prescribed form. An application for renewal of an existing permit issued pursuant to this division shall be submitted in writing a minimum of 60 days before the expiration date of the permit and shall include the operator's permit number and facility identification number assigned by the Technical Permitting Section. The application for renewal shall include details of proposed changes or shall state that there are no changes proposed that would require amendment of the permit other than the expiration date.

Source Note: The provisions of this §4.224 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

DIVISION 3. REQUIREMENTS FOR OFF-LEASE OR CENTRALIZED COMMERCIAL SOLID OIL AND GAS WASTE RECYCLING

§4.230. General Permit Application Requirements for Off-Lease or Centralized Commercial Solid Oil and Gas Waste Recycling.

(a) An application for a permit for off-lease or centralized commercial solid oil and gas waste recycling shall be filed on a Commission prescribed form with the Technical Permitting Section, and on the same day the applicant shall mail or deliver a copy of the application to the Commission District Office for the county in which the facility is to be located. The Technical Permitting Section shall not administratively begin final review of an application unless the Director has determined that the application is complete in accordance with §1.201(b) of this title (relating to Time Periods for Processing Applications and Issuing Permits Administratively).

(b) The permit application shall contain the applicant's name; organizational report number; physical office address and, if different, mailing address; facility address; telephone number; and the name of a contact person.

(c) The permit application shall contain information addressing each applicable application requirement of this division and all information necessary to initiate the final review by the Director. The Director shall neither

administratively approve an application nor refer an application to hearing unless the Director has determined that the application is administratively complete. If the Director determines that an application is incomplete, the Director shall notify the applicant in writing and shall describe the specific information required to complete the application. An applicant may make no more than two supplemental filings to complete an application. After the second supplemental submission, if the application is complete, the Director shall either approve or deny the application. If the application is still incomplete after the second supplemental submission, the Director shall administratively deny the application. The Director shall notify the applicant in writing of the administrative decision and, in the case of an administrative denial, the applicant's right to request a hearing on the application as it stands at the time of administrative denial. An application that was administratively denied may be refiled with the Commission on a Commission prescribed form and shall contain all information necessary to initiate the final review by the Director.

(d) The permit application shall contain the following certification signed and dated by an authorized representative of the applicant: "I certify that I am authorized to make this application, that this application was prepared by me or under my supervision and direction, and that the data and facts stated herein are true, correct, and complete to the best of my knowledge."

(e) A person shall file electronically any form or application for which the Commission has provided an electronic version or an electronic filing system or by hard copy if no digital format acceptable to the Commission has been enacted. The operator or person shall comply with all requirements, including but not limited to fees and security procedures, for electronic filing.

Source Note: The provisions of this §4.230 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.231. Minimum Engineering and Geologic Information.

(a) The Director may require a permit applicant for off-lease or centralized commercial solid oil and gas waste recycling to provide the Commission with engineering, geological, or other information which the Director deems necessary to show that issuance of the permit will not result in the waste of oil, gas, or geothermal resources, the pollution of surface or subsurface water, or a threat to the public health or safety.

(b) Engineering and geologic work products prepared for the application shall be sealed by a professional engineer or geoscientist licensed in Texas as required by the Texas Occupations Code, Chapters 1001 and 1002, respectively.

Source Note: The provisions of this §4.231 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.232. Minimum Siting Information.

(a) A permit application for off-lease or centralized commercial solid oil and gas waste recycling shall include:

(1) a description of the proposed facility site and surrounding area;

(2) the name, physical address and, if different, mailing address, and telephone number of every owner of the tract on which the facility is to be located. If any owner is not an individual, the applicant shall include the name of a contact person for that owner;

(3) the depth to the shallowest subsurface water and the direction of groundwater flow at the proposed site, and the source of this information;

(4) the average annual precipitation and evaporation at the proposed site and the source of this information;

(5) the identification of the soil and subsoil by typical name and description of the approximate proportion of grain sizes, texture, consistency, moisture condition, and other pertinent characteristics, and the source of this information;

(6) a copy of a county highway map with a scale and north arrow showing the location of the proposed facility; and

(7) a United States Geological Survey (USGS) topographic map or an equivalent topographic map which shows the facility including the items listed in subparagraphs (A) - (K) of this paragraph and any other pertinent information regarding the regulated facility and associated activities. Maps shall be on a scale of not less than one inch equals 2,000 feet. The map shall show the following:

(A) a scale and north arrow showing the tract size in square feet or acres, the section/survey lines, and the survey name and abstract number;

(B) a clear outline of the proposed facility's boundaries;

(C) the location of any pipelines within 500 feet of the facility;

(D) the distance from the facility's outermost perimeter boundary to public and private water wells, residences, schools, churches, and hospitals that are within 500 feet of the boundary;

(E) for disposal only, the location of all residential and commercial buildings within a one-mile radius of the facility boundary;

(F) all water wells within a one-mile radius of the facility boundary;

(G) the location of the 100-year flood plain and the source of the flood plain information;

(H) surface water bodies within the map area;

(I) the location of any major and minor aquifers within the map area;

(J) the boundaries of any prohibited areas defined under §4.153 of this title (relating to Commercial Disposal Pits); and

(K) any other information requested by the Director reasonably related to the prevention of pollution.

(b) A pit permitted pursuant to this division is prohibited:

(1) where there has been observable groundwater within 100 feet of the ground surface unless the pit design includes a geosynthetic clay liner (GCL) tested using fluids likely to be encountered in the operations of the facility and the test results demonstrated the GCL can sustain a hydraulic conductivity of 1.0 x 10-7cm/sec or less;

(2) within a sensitive area as defined by §4.110 of this title (relating to Definitions);

(3) within 300 feet of surface water, domestic supply wells, or irrigation water wells;

(4) within 500 feet of any public water system wells or intakes;

(5) within 1,000 feet of a permanent residence, school, hospital, institution, or church in existence at the time of the initial permitting;

(6) within 500 feet of a wetland; or

(7) within a 100-year floodplain.

(c) Factors that the Commission will consider in assessing potential risk from on off-lease or centralized commercial solid oil and gas waste recycling include:

(1) the volume and characteristics of the oil and gas waste, partially treated waste, and recyclable product to be stored, handled, treated and recycled at the facility;

(2) proximity to coastal natural resources or sensitive areas as defined by §4.110 of this title; and

(3) any other factors the Commission deems reasonably necessary in determining whether or not issuance of the permit will pose an unreasonable risk.

(d) All siting requirements in this section for on-lease off-lease or centralized commercial solid oil and gas waste recycling refer to conditions at the time the equipment and tanks used in the recycling are placed.

Source Note: The provisions of this §4.232 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.233. Minimum Real Property Information.

(a) A permit application for off-lease or centralized commercial solid oil and gas waste recycling shall include a copy of the signed lease agreement between the applicant and the owner of the tract upon which the facility is to be located.

(b) A permit application for off-lease or centralized commercial solid oil and gas waste recycling shall identify the location of the facility by including a plat or plats showing:

(1) a scale and north arrow showing the tract size in square feet or acres, the section/survey lines, and the survey name and abstract number;

(2) the site coordinates in degrees, minutes, and seconds of longitude and latitude;

(3) a clear outline of the proposed facility's boundaries;

(4) all tracts adjoining the tract upon which the facility is to be located;

(5) the name of the surface owner or owners of such adjoining tracts; and

(6) the distance from the facility's outermost perimeter boundary to water wells, residences, schools, churches, or hospitals that are within 500 feet of the boundary.

Source Note: The provisions of this §4.233 adopted to be effective April 15, 2013, 38 TexReg 2334.

§4.234. Minimum Design and Construction Information.

(a) A permit application for an off-lease or centralized commercial solid oil and gas waste recycling facility shall include the layout and design of the facility by including a plat drawn to scale with north arrow to top of the map showing the location and information on the design and size of all receiving, processing, and storage areas and all equipment (e.g., pug mill), tanks, silos, monitor wells, dikes, fences, and access roads.

(b) A permit application for an off-lease or centralized commercial solid oil and gas waste recycling facility also shall include:

(1) a description of the type and thickness of liners (e.g., fiberglass, steel concrete), if any, for all tanks, silos, pits, and storage areas/cells;

(2) for storage areas where tanks and/or liners are not used, credible engineering and/or geologic information demonstrating that tanks or liners are not necessary for the protection of surface and subsurface water;

(3) a map view and two perpendicular cross-sectional views of pits and/or storage areas/cells to be constructed, showing the bottom, sides, and dikes, showing the dimensions of each;

(4) a plan to control and manage stormwater runoff and to retain incoming wastes during wet weather, including the location and dimensions of dikes and/or storage basins that would collect, at a minimum, stormwater from the facility during a 25-year, 24-hour rainfall event, and all calculations made to determine the required capacity and design; and

(5) if the application is for a stationary commercial recycling facility, a plan for the installation of monitoring wells at the facility unless waived by the Technical Permitting Section under §4.241 (d) of this title (relating to Minimum Permit Provisions for Operations).

Source Note: The provisions of this §4.234 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.235. Minimum Operating Information.

A permit application for off-lease or centralized commercial solid oil and gas waste recycling shall include the following operating information:

(1) the estimated maximum volume of untreated oil and gas waste and partially treated oil and gas waste to be stored at the facility;

(2) the estimated maximum volume and time that the recyclable product will be stored at the facility;

(3) a plan to control unauthorized access to the facility;

(4) a detailed waste acceptance plan that:

(A) identifies anticipated volumes and specific types of wastes (e.g., oil-based drilling fluid and cuttings, crude oil-contaminated soils, production tank bottoms, hydraulic fracturing flowback fluid, produced water, etc.) to be accepted at the facility for treatment and recycling; and

(B) provides for testing of wastes to be processed to ensure that only oil and gas waste authorized by this division or the permit will be received at the facility;

(5) plans for keeping records of the source and volume of wastes accepted for recycling in accordance with the permit, including maintenance of records of the source of waste received by well number, API number, lease or facility name, lease number and/or gas identification number, county, and Commission district;

(6) a general description of the recycling process to be employed; a flow diagram showing the process and identifying all equipment and chemicals or additives (e.g., asphalt emulsion, quicklime, Portland cement, fly ash, etc.) to be used in the process; and the Material Safety Data Sheets for any chemical or additive;

(7) a description of all inert material (e.g., brick, rock, gravel, caliche) to be stored at the facility and used as aggregate in the treatment process;

(8) a description of any testing to be performed to demonstrate that the proposed processing will result in a recyclable product that meets the engineering and environmental standards for the proposed use; and

(9) an estimate of the duration of operation of the proposed facility.

Source Note: The provisions of this §4.235 adopted to be effective April 15, 2013, 38 TexReg 2334.

§4.236. Minimum Monitoring Information.

A permit application for off-lease or centralized commercial solid oil and gas waste recycling shall include:

(1) a sampling plan for the partially treated waste to ensure compliance with permit conditions;

(2) a plan for sampling any monitoring wells at a commercial recycling facility as required by the permit and this division; and

(3) a plan and schedule for conducting periodic inspections, including plans to inspect equipment, processing, and storage areas.

Source Note: The provisions of this §4.236 adopted to be effective April 15, 2013, 38 TexReg 2334.

§4.237. Minimum Closure Information.

(a) A permit application for off-lease or centralized commercial solid oil and gas waste recycling shall include a detailed plan for closure of the facility when operations terminate. The closure plan shall address how the applicant intends to:

(1) remove waste, partially treated waste, and/or recyclable product from the facility;

(2) close all storage areas/cells;

(3) remove dikes; and

(4) contour and reseed disturbed areas.

(b) A permit application for a stationary commercial recycling facility also shall include in the closure plan information addressing how the applicant intends to:

(1) sample and analyze soil and groundwater throughout the facility; and

(2) plug groundwater monitoring wells.

Source Note: The provisions of this §4.237 adopted to be effective April 15, 2013, 38 TexReg 2334.

§4.238. Notice.

(a) Purpose. Applicants are encouraged to engage with their communities early in the commercial recycling facility planning process to inform the community of the plan to construct an off-lease or centralized commercial solid oil and gas waste recycling facility and allow those who may be affected by the proposed activities to express their concerns. The purpose of the notice required by this section is to inform notice recipients:

(1) that an applicant has filed a permit application with the Commission, seeking authorization to conduct an activity or operate a facility; and

(2) of the requirements for filing a protest if an affected person seeks to protest the permit application.

(b) Timing of notice. The applicant shall provide notice after staff determines that an application for an off-lease or centralized commercial solid oil and gas waste recycling facility is complete pursuant to §1.201(b) of this title (relating to Time Periods for

Processing Applications and Issuing Permits Administratively). The date notice is completed begins a 30-day period in which an affected person may file a protest of the application with the Commission.

(c) Notice recipients. The applicant shall provide notice to:

(1) the surface owners of the tract on which the commercial recycling facility will be located;

(2) the surface owners of tracts located within a distance of 1/2-mile from the fence line or edge of the facility as shown on the plat required under §4.233(b) of this title (relating to Minimum Real Property Information) of the facility's fence line or boundary, even if the surface owner's tract is not adjacent to the tract on which the commercial recycling facility is located;

(3) the city clerk or other appropriate city official if any part of the tract on which the commercial recycling facility will be located lies within the municipal boundaries of the city;

(4) the Commission's District Office; and

(5) any other person or class of persons that the Director determines should receive notice of an application.

(d) Method and contents of notice. Unless otherwise specified in this subchapter, the applicant shall provide direct notice to the persons specified in subsection (c) of this section as follows.

(1) The applicant shall provide notice by registered or certified mail. Notice is completed upon deposit of the document postpaid and properly addressed to the person's last known address with the United States Postal Service.

(2) The notice of the permit application shall consist of a complete copy of the application and any attachments. The copy shall be of the application and attachments after staff determines the application is complete pursuant to §1.201(b) of this title but before the final review is completed.

(3) The notice shall include a letter that contains:

(A) the name of the applicant;

(B) the date of the notice;

(C) the name of the surface owners of the tract on which the proposed commercial recycling facility will be located;

(D) the location of the tract on which the proposed commercial recycling facility will be located including a legal description of the tract, latitude/longitude coordinates of the proposed facility, county, original survey, abstract number, and the direction and distance from the nearest municipality or community;

(E) the types of solids to be recycled at the commercial recycling facility;

(F) the recycling method proposed and the proposed end-use of the recycled material;

(G) a statement that an affected person may protest the application by filing a written protest with the Commission within 30 calendar days of the date notice is completed;

(H) a statement that a protest shall include the protestant's name, mailing address, telephone number, and email address;

(I) the address to which protests may be mailed or the location and instructions for electronic submittal of a protest if the Commission implements an electronic means for filing protests;

(J) the definition of "affected person" pursuant to §4.110 of this title (relating to Definitions); and

(K) the signature of the operator, or representative of the operator, and the date the letter was signed.

(4) If the Director finds that a person to whom the applicant was required to give notice of an application has not received such notice, then the Director shall not take action on the application until the applicant has made reasonable efforts to give such person notice of the application and an opportunity to file a protest to the application with the Commission.

(e) Proof of notice. After the applicant provides the notice required by this section, the applicant shall submit to the Commission proof of delivery of notice which shall consist of:

(1) a copy of the signed and dated letters required by subsection (d)(3) of this section;

(2) the registered or certified mail receipts; and

(3) a map showing the property boundaries, surface owner names, and parcel numbers of all notified parties.

(f) Protest process. Any statement of protest to an application must be filed with the Commission within 30 calendar days from the date notice is completed or from the last date of publication if notice by publication is authorized by the Director.

(1) The Technical Permitting Section shall notify the applicant if the Commission receives an affected person's timely protest. A timely protest is a written protest date-stamped as received by the Commission within 30 calendar days of the date notice is completed.

(2) The applicant shall have 30 days from the date of the Technical Permitting Section's notice of receipt of protest to respond, in writing, by either requesting a hearing or withdrawing the application. If the applicant fails to timely file a written response, the Technical Permitting Section shall consider the application to have been withdrawn.

(3) The Technical Permitting Section shall refer all protested applications to the Hearings Division if a timely protest is received and the applicant requests a hearing.

(4) The Commission shall provide notice of any hearing convened under this subsection to all affected

persons and persons who have requested notice of the hearing.

(5) If the Director has reason to believe that a person entitled to notice of an application has not received notice as required by this section, then the Technical Permitting Section shall not take action on the application until notice is provided to such person.

(6) The Commission may issue a permit if no timely protests from affected persons are received.

Source Note: The provisions of this §4.238 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.239. General Permit Provisions.

(a) A permit for an off-lease or centralized commercial solid oil and gas waste recycling facility issued pursuant to this division shall be valid for a term of not more than two years. Permits issued pursuant to this division may be renewed, but are not transferable to another operator without the written approval of the Director.

(b) A permit for an off-lease centralized commercial solid oil and gas waste recycling facility issued pursuant to this division shall require that, prior to operating, the facility comply with the financial security requirements of Texas Natural Resources Code, §91.109, relating to Financial Security for Persons Involved in Activities Other than Operation of Wells, as implemented by §3.78 of this title (relating to Fees and Financial Security Requirements).

(c) A permit for an off-lease centralized commercial solid oil and gas waste recycling facility shall include a condition requiring that the permittee notify the surface owner of the tract upon which recycling will take place and the Commission District Office before recycling operations commence.

Source Note: The provisions of this §4.239 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.240. Minimum Permit Provisions for Siting.

(a) A permit for an off-lease centralized commercial solid oil and gas waste recycling facility may be issued only if the Director or the Commission determines that the facility is to be located in an area where there is no unreasonable risk of pollution or threat to public health or safety.

(b) An off-lease centralized commercial solid oil and gas waste recycling facility permitted pursuant to this division is prohibited within a 100-year flood plain.

(c) Factors that the Commission will consider in assessing potential risk from an off-lease centralized commercial solid oil and gas waste recycling facility include:

(1) the volume and characteristics of the oil and gas waste, partially treated waste and recyclable product to be stored, handled, treated and recycled at the facility;

(2) distance to any surface water body, wet or dry;

(3) depth to and quality of the shallowest groundwater;

(4) distance to the nearest property line or public road;

(5) proximity to coastal natural resources or sensitive areas as defined by §4.110 of this title (relating to Definitions), or water supplies, and/or public, domestic, or irrigation water wells; and

(6) any other factors the Commission deems reasonably necessary in determining whether or not issuance of the permit will pose an unreasonable risk.

(d) All siting requirements in this section for an off-lease centralized commercial solid oil and gas waste recycling facility refer to conditions at the time the facility is constructed.

Source Note: The provisions of this §4.240 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.241. Minimum Permit Provisions for Design and Construction.

(a) A permit issued pursuant to this division for an off-lease centralized commercial solid oil and gas waste recycling facility shall contain any requirement that the Director or the Commission determines to be reasonably necessary to ensure that:

(1) the design and construction of storage areas, containment berms, and processing areas minimize contact of oil and gas waste and partially recycled waste with the ground surface, and prevent pollution of surface and subsurface water;

(2) the pollution of surface and subsurface water from spills, leachate, and/or discharges from the facility is prevented by:

(A) prohibiting the unauthorized discharge of oil and gas waste and other substances or materials, including contaminated stormwater runoff, from the facility to the land surface at and adjacent to the facility or to surface and subsurface water;

(B) requiring that the operator control spills at the facility; and

(C) requiring that the operator make regular inspections of the facility; and

(3) the design and construction of the facility allows for monitoring for, and detection of, any migration of oil and gas waste or other substance or material from the facility.

(b) A permit issued for a stationary commercial recycling facility pursuant to this division shall require that the permittee:

(1) install monitoring wells in accordance with 16 Texas Administrative Code, Part 4, Chapter 76, relating to Water Well Drillers and Water Well Pump Installers, if required by the Technical Permitting Section; and

(2) submit to the Technical Permitting Section a soil boring log and other information for each well, unless waived by the Technical Permitting Section under §4.241(d) of this title (relating to Minimum Permit Provisions for Operations).

(c) The soil boring log and other information required in subsection (b) of this section shall:

(1) describe the soils using the Unified Soils Classification System (equivalent to ASTM D 2487 and 2488);

(2) identify the method of drilling, total depth, and the top of the first encountered water or saturated soils;

(3) include a well completion diagram for each monitoring well;

(4) include a survey elevation for each wellhead reference point; and

(5) include a potentiometric map showing static water levels and the direction of groundwater flow.

(d) The Commission or the Director may waive any or all of the requirements in subsections (b) and (c) of this section if the permittee demonstrates that an on-site boring to a minimum depth of 100 feet recovers no water during a 24-hour test.

(e) A permit for an off-lease centralized commercial solid oil and gas waste recycling facility issued pursuant to this division shall require that the permittee notify the Commission District Office for the county in which the facility is located prior to commencement of construction, including construction of any dikes, and again upon completion of construction and that the permittee may commence operations under the permit only after the facility has been inspected by the Commission to ensure that construction of all elements of the facility is consistent with the representations in the application and the requirements of the permit.

(f) A permit for an off-lease centralized commercial solid oil and gas waste recycling facility issued pursuant to this division that requires the installation of monitoring wells shall require that the permittee comply with subsections (b) and (c) of this section prior to commencing recycling operations.

Source Note: The provisions of this §4.241 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.242. Minimum Permit Provisions for Operations.

(a) A permit for an off-lease centralized commercial solid oil and gas waste recycling facility issued pursuant to this division shall contain requirements the Commission determines to be reasonably necessary to ensure that:

(1) only wastes and other materials authorized by the permit are received at the facility, including requirements that the permittee test incoming oil and gas waste and keep records of amounts and sources of incoming wastes; and

(2) the processing operation and resulting recyclable product meet the environmental and engineering standards established in the permit.

(b) A permit for an off-lease centralized commercial solid oil and gas waste recycling facility issued under this division may require the permittee to perform a trial run in accordance with the following procedure.

(1) The permittee shall notify the Commission District Office for the county in which the facility is located prior to commencement of the trial run.

(2) The permittee shall sample and analyze the partially treated waste that results from the trial run, and submit to the Director for review a report of the results of the trial run prior to commencing operations.

(3) The Director shall approve the trial run if the report demonstrates that the recyclable product meets or exceeds the environmental and engineering standards established in the permit.

(4) The permittee shall not use the recyclable product until the Director approves the trial run report.

(c) A permit for an off-lease centralized commercial solid oil and gas waste recycling facility issued pursuant to this division shall include any requirements, including limits on the volumes of oil and gas waste, partially treated waste, and recyclable product stored at the facility, that the Commission determines to be reasonably necessary to ensure that the permittee does not speculatively accumulate oil and gas waste, partially treated waste, and/or recyclable product at the facility without actually processing the oil and gas waste and putting the recyclable product to legitimate commercial use.

Source Note: The provisions of this §4.242 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.243. Minimum Permit Provisions for Monitoring.

(a) A permit for an off-lease centralized commercial solid oil and gas waste recycling facility issued pursuant to this division shall include monitoring requirements the Director or Commission determines to be reasonably necessary to ensure that the recyclable product meets the environmental and engineering standards established by the Director or the Commission and included in the permit.

(b) Consistent with the requirements of §4.208 of this title (relating to General Standards for Permit Issuance), the Director or the Commission shall establish and include in the permit for an off-lease centralized

commercial solid oil and gas waste recycling facility the parameters for which the partially treated waste is to be tested, and the limitations on those parameters based on:

(1) the type of oil and gas waste to be accepted at the commercial recycling facility; and

(2) the intended use for the recyclable product.

(c) A permit for an off-lease centralized commercial solid oil and gas waste recycling facility may require laboratory testing. A permit that requires laboratory testing shall require that the permittee use an independent third party laboratory to analyze a minimum standard volume of partially treated waste for parameters established in this division or in a permit issued by the Commission.

(d) A permit for an off-lease centralized commercial solid oil and gas waste recycling facility issued pursuant to this division from which the recycled product will be used as road base or other similar uses shall include a requirement that a minimum of one sample from each 200 cubic yards of partially treated waste be collected and analyzed for every 800 cubic yards composite for the following minimum parameters and meet the following limits:

Figure: 16 TAC §4.243(d) ***[See Figure at end of this document.]***

Source Note: The provisions of this §4.243 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.244. Minimum Permit Provisions for Closure.

A permit for an off-lease centralized commercial solid oil and gas waste recycling facility issued pursuant to this division shall include closure standards and any requirement reasonably necessary to ensure that the permittee can meet the standards. The Commission shall determine the closure standards for a particular facility based on the type of materials stored, handled and treated at the facility, and the design and construction of the facility. A permit may include requirements for removal of all waste, partially treated waste, and recyclable product; removal of dikes, storage, liners, and equipment; recontouring of the land; collection and analyzing of soil and groundwater samples from the facility property; and post-closure monitoring.

Source Note: The provisions of this §4.244 adopted to be effective April 15, 2013, 38 TexReg 2334.

§4.245. Permit Renewal.

Before the expiration of a permit issued pursuant to this division, the permittee may submit an application to renew the permit. An application for renewal of an existing permit issued pursuant to this division shall be submitted in writing a minimum of 60 days before the expiration date of the permit and shall include the permittee's permit number. The application shall comply with the requirements of §4.230 of this title (relating to General Permit Application Requirements for Off-Lease or Centralized Commercial Solid Oil and Gas Waste Recycling), and the notice requirements of §4.238 of this title (relating to Notice). The Director may require the applicant to comply with any of the requirements of §§4.231 - 4.237 of this title (relating to Minimum Engineering and Geologic Information; Minimum Siting Information; Minimum Real Property Information; Minimum Design and Construction Information; Minimum Operating Information; Minimum Monitoring Information; and Minimum Closure Information), depending on any changes made or planned to the construction, operation, monitoring, and/or closure of the facility.

Source Note: The provisions of this §4.245 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

DIVISION 4. REQUIREMENTS FOR STATIONARY COMMERCIAL SOLID OIL AND GAS WASTE RECYCLING FACILITIES

§4.246. General Permit Application Requirements for a Stationary Commercial Solid Oil and Gas Waste Recycling Facility.

(a) An application for a permit for a stationary commercial solid oil and gas waste recycling facility shall be filed on a Commission prescribed form with the Technical Permitting Section, and on the same day the applicant shall mail or deliver a copy of the application to the Commission District Office for the county in which the facility is to be located. The Technical Permitting Section shall not administratively begin final review of an application unless the Director has determined that the application is complete in accordance with §1.201(b) of this title (relating to Time Periods for Processing Applications and Issuing Permits Administratively).

(b) The permit application shall contain the applicant's name; organizational report number; physical office address and, if different, mailing address; facility address; telephone number; and the name of a contact person. A permit for a stationary commercial recycling facility also shall contain the facility address.

(c) The permit application shall contain information addressing each applicable application requirement of this division and all information necessary to initiate the final review by the Director. The Director shall neither administratively approve an application nor refer an application to hearing unless the Director has determined that the application is administratively complete. If the Director determines that an application is incomplete, the Director shall notify the applicant in writing and shall describe the specific information required to complete the application. An applicant may

make no more than two supplemental filings to complete an application. After the second supplemental submission, if the application is complete, the Director shall either approve or deny the application. If the application is still incomplete after the second supplemental submission, the Director shall administratively deny the application. The Director shall notify the applicant in writing of the administrative decision and, in the case of an administrative denial, the applicant's right to request a hearing on the application as it stands at the time of administrative denial. An application that was administratively denied may be refiled with the Commission on a Commission prescribed form and shall contain all information necessary to initiate the final review by the Director.

(d) The permit application shall contain the following certification signed and dated by an authorized representative of the applicant: "I certify that I am authorized to make this application, that this application was prepared by me or under my supervision and direction, and that the data and facts stated herein are true, correct, and complete to the best of my knowledge."

(e) A person shall file electronically any form or application for which the Commission has provided an electronic version or an electronic filing system or by hard copy if no digital format acceptable to the Commission has been enacted. The operator or person shall comply with all requirements, including but not limited to fees and security procedures, for electronic filing.

Source Note: The provisions of this §4.246 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.247. Minimum Engineering and Geologic Information.

(a) The Director may require a permit applicant for a stationary commercial solid oil and gas waste recycling facility to provide engineering, geological, or other information which the Director deems necessary to show that issuance of the permit will not result in the waste of oil, gas, or geothermal resources, the pollution of surface or subsurface water, or a threat to the public health or safety.

(b) Engineering and geologic work products prepared for the application shall be sealed by a professional engineer or geoscientist licensed in Texas as required by the Texas Occupations Code, Chapters 1001 and 1002, respectively.

Source Note: The provisions of this §4.247 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.248. Minimum Siting Information.

(a) A permit application for a stationary commercial solid oil and gas waste recycling facility shall include:

(1) a description of the proposed facility site and surrounding area;

(2) the name, physical address and, if different, mailing address, and telephone number of every owner of the tract on which the facility is to be located. If any owner is not an individual, the applicant shall include the name of a contact person for that owner;

(3) the depth to the shallowest subsurface water and the direction of groundwater flow at the proposed site, and the source of this information;

(4) the average annual precipitation and evaporation at the proposed site and the source of this information;

(5) the identification of the soil and subsoil by typical name and description of the approximate proportion of grain sizes, texture, consistency, moisture condition, and other pertinent characteristics, and the source of this information;

(6) a copy of a county highway map with a scale and north arrow showing the location of the proposed facility; and

(7) a United States Geological Survey (USGS) topographic map or an equivalent topographic map which shows the facility including the items listed in subparagraphs (A) - (K) of this paragraph and any other pertinent information regarding the regulated facility and associated activities. Maps shall be on a scale of not less than one inch equals 2,000 feet. The map shall show the following:

(A) a scale and north arrow showing the tract size in square feet or acres, the section/survey lines, and the survey name and abstract number;

(B) a clear outline of the proposed facility's boundaries;

(C) the location of any pipelines within 500 feet of the facility;

(D) the distance from the facility's outermost perimeter boundary to public and private water wells, residences, schools, churches, and hospitals that are within 500 feet of the boundary;

(E) for disposal only, the location of all residential and commercial buildings within a one-mile radius of the facility boundary;

(F) all water wells within a one-mile radius of the facility boundary;

(G) the location of the 100-year flood plain and the source of the flood plain information;

(H) surface water bodies within the map area;

(I) the location of any major and minor aquifers within the map area;

(J) the boundaries of any prohibited areas defined under §4.153 of this title (relating to Commercial Disposal Pits); and

(K) any other information requested by the Director reasonably related to the prevention of pollution.

(b) A pit permitted under this division is prohibited:

(1) where there has been observable groundwater within 100 feet of the ground surface unless the pit design includes a geosynthetic clay liner (GCL) tested using fluids likely to be encountered in the operations of the facility and the test results demonstrated the GCL can sustain a hydraulic conductivity of 1.0 x 10-7cm/sec or less;

(2) within a sensitive area as defined by §4.110 of this title (relating to Definitions);

(3) within 300 feet of surface water, domestic supply wells, or irrigation water wells;

(4) within 500 feet of any public water system wells or intakes;

(5) within 1,000 feet of a permanent residence, school, hospital, institution, or church in existence at the time of the initial permitting;

(6) within 500 feet of a wetland; or

(7) within a 100-year floodplain.

(c) Factors that the Commission will consider in assessing potential risk from stationary commercial solid oil and gas waste recycling include:

(1) the volume and characteristics of the oil and gas waste, partially treated waste and recyclable product to be stored, handled, treated and recycled at the facility;

(2) proximity to coastal natural resources or sensitive areas as defined by §4.110 of this title; and

(3) any other factors the Commission deems reasonably necessary in determining whether or not issuance of the permit will pose an unreasonable risk.

(d) All siting requirements in this section for stationary commercial solid oil and gas waste recycling refer to conditions at the time the equipment and tanks used in the recycling are placed.

Source Note: The provisions of this §4.248 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.249. Minimum Real Property Information.

(a) A permit application for a stationary commercial solid oil and gas waste recycling facility shall include a copy of the signed lease agreement between the applicant and the owner of the tract upon which the facility is to be located.

(b) A permit application for a stationary commercial solid oil and gas waste recycling facility shall identify the location of the facility by including a plat or plats showing:

(1) a scale and north arrow showing the tract size in square feet or acres, the section/survey lines, and the survey name and abstract number;

(2) the site coordinates in degrees, minutes, and seconds of longitude and latitude;

(3) a clear outline of the proposed facility's boundaries;

(4) all tracts adjoining the tract upon which the facility is to be located;

(5) the name of the surface owner or owners of such adjoining tracts; and

(6) the distance from the facility's outermost perimeter boundary to water wells, residences, schools, churches, or hospitals that are within 500 feet of the boundary.

Source Note: The provisions of this §4.249 adopted to be effective April 15, 2013, 38 TexReg 2334.

§4.250. Minimum Design and Construction Information.

(a) A permit application for a stationary commercial solid oil and gas waste recycling facility shall include the layout and design of the facility by including a plat drawn to scale with north arrow to top of the map showing the location and information on the design and size of all receiving, processing, and storage areas and all equipment (e.g., pug mill), tanks, silos, monitor wells, dikes, fences, and access roads.

(b) A permit application for a stationary commercial solid oil and gas waste recycling facility also shall include:

(1) a description of the type and thickness of liners (e.g., fiberglass, steel concrete), if any, for all tanks, silos, pits, and storage areas/cells;

(2) for storage areas where tanks and/or liners are not used, credible engineering and/or geologic information demonstrating that tanks or liners are not necessary for the protection of surface and subsurface water;

(3) a map view and two perpendicular cross-sectional views of pits and/or storage areas/cells to be constructed, showing the bottom, sides, and dikes, showing the dimensions of each;

(4) a plan to control and manage stormwater runoff and to retain incoming wastes during wet weather, including the location and dimensions of dikes and/or storage basins that would collect, at a minimum, stormwater from the facility during a 25-year, 24-hour rainfall event, and all calculations made to determine the required capacity and design; and

(5) a plan for the installation of monitoring wells at the facility.

Source Note: The provisions of this §4.250 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.251. Minimum Operating Information.

A permit application for a stationary commercial solid oil and gas waste recycling facility shall include the following operating information:

(1) the estimated maximum volume of untreated oil and gas waste and partially treated oil and gas waste to be stored at the facility;

(2) the estimated maximum volume and time that the recyclable product will be stored at the facility;

(3) a plan to control unauthorized access to the facility;

(4) a detailed waste acceptance plan that:

(A) identifies anticipated volumes and specific types of wastes (e.g., oil-based drilling fluid and cuttings, crude oil-contaminated soils, production tank bottoms, etc.) to be accepted at the facility for treatment and recycling; and

(B) provides for testing of wastes to be processed to ensure that only oil and gas waste authorized by this division or the permit will be received at the facility;

(5) plans for keeping records of the source and volume of wastes accepted for recycling in accordance with the permit, including maintenance of records of the source of waste received by well number, API number, lease or facility name, lease number and/or gas identification number, county, and Commission District Office;

(6) a general description of the recycling process to be employed; a flow diagram showing the process and identifying all equipment and chemicals or additives (e.g., asphalt emulsion, quicklime, Portland cement, fly ash, etc.) to be used in the process; and the Safety Data Sheets (SDS) for any chemical or additive;

(7) a description of all inert material (e.g., brick, rock, gravel, caliche) to be stored at the facility and used as aggregate in the treatment process;

(8) a description of any testing to be performed to demonstrate that the proposed processing will result in a recyclable product that meets the engineering and environmental standards for the proposed use; and

(9) an estimate of the duration of operation of the proposed facility.

Source Note: The provisions of this §4.251 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.252. Minimum Monitoring Information.

A permit application for a stationary commercial solid oil and gas waste recycling facility shall include:

(1) a sampling plan for the partially treated waste to ensure compliance with permit conditions;

(2) a plan for sampling any monitoring wells at the facility as required by the permit and this division; and

(3) a plan and schedule for conducting periodic inspections, including plans to inspect equipment, processing, and storage areas.

Source Note: The provisions of this §4.252 adopted to be effective April 15, 2013, 38 TexReg 2334.

§4.253. Minimum Closure Information.

A permit application for a stationary commercial solid oil and gas waste recycling facility shall include a detailed plan for closure of the facility when operations terminate. The closure plan shall address how the applicant intends to:

(1) remove waste, partially treated waste, and/or recyclable product from the facility;

(2) close all storage areas/cells;

(3) remove dikes;

(4) contour and reseed disturbed areas;

(5) sample and analyze soil and groundwater throughout the facility; and

(6) plug groundwater monitoring wells.

Source Note: The provisions of this §4.253 adopted to be effective April 15, 2013, 38 TexReg 2334.

§4.254. Notice.

(a) Purpose. Applicants are encouraged to engage with their communities early in the commercial recycling facility planning process to inform the community of the plan to construct stationary commercial solid oil and gas waste recycling facility and allow those who may be affected by the proposed activities to express their concerns. The purpose of the notice required by this section is to inform notice recipients:

(1) that an applicant has filed a permit application with the Commission, seeking authorization to conduct an activity or operate a facility; and

(2) of the requirements for filing a protest if an affected person seeks to protest the permit application.

(b) Timing of notice. The applicant shall provide notice after staff determines that an application for a stationary commercial solid oil and gas waste recycling facility is complete pursuant to §1.201(b) of this title (relating to Time Periods for Processing Applications and Issuing Permits Administratively). The date notice is completed begins a 30-day period in which an affected person may file a protest of the application with the Commission.

(c) Notice recipients. The applicant shall provide notice to:

(1) the surface owners of the tract on which the commercial recycling facility will be located;

(2) the surface owners of tracts located within a distance of 1/2-mile from the fence line or edge of the facility as shown on the plat required under §4.249(b) of this title (relating to Minimum Real Property Information) of the facility's fence line or boundary, even if the surface owner's tract is not adjacent to the tract on which the commercial recycling facility is located;

(3) the city clerk or other appropriate city official if any part of the tract on which the commercial recycling

facility will be located lies within the municipal boundaries of the city;

(4) the Commission's District Office; and

(5) any other person or class of persons that the Director determines should receive notice of an application.

(d) Method and contents of notice. Unless otherwise specified in this subchapter, the applicant shall provide direct notice to the persons specified in subsection (c) of this section as follows.

(1) The applicant shall provide notice by registered or certified mail. Notice is completed upon deposit of the document postpaid and properly addressed to the person's last known address with the United States Postal Service.

(2) The notice of the permit application shall consist of a complete copy of the application and any attachments. The copy shall be of the application and attachments after staff determines the application is complete pursuant to §1.201(b) of this title but before the final review is completed.

(3) The notice shall include a letter that contains:

(A) the name of the applicant;

(B) the date of the notice;

(C) the name of the surface owners of the tract on which the proposed commercial recycling facility will be located;

(D) the location of the tract on which the proposed commercial recycling facility will be located including a legal description of the tract, latitude/longitude coordinates of the proposed facility, county, original survey, abstract number, and the direction and distance from the nearest municipality or community;

(E) the types of solids to be recycled at the commercial recycling facility;

(F) the recycling method proposed and the proposed end-use of the recycled material;

(G) a statement that an affected person may protest the application by filing a written protest with the Commission within 30 calendar days of the date notice is completed;

(H) a statement that a protest shall include the protestant's name, mailing address, telephone number, and email address;

(I) the address to which protests may be mailed or the location and instructions for electronic submittal of a protest if the Commission implements an electronic means for filing protests;

(J) the definition of "affected person" pursuant to §4.110 of this title (relating to Definitions); and

(K) the signature of the operator, or representative of the operator, and the date the letter was signed.

(4) If the Director finds that a person to whom the applicant was required to give notice of an application has not received such notice, then the Director shall not take action on the application until the applicant has made reasonable efforts to give such person notice of the application and an opportunity to file a protest to the application with the Commission.

(e) Proof of notice. After the applicant provides the notice required by this section, the applicant shall submit to the Commission proof of delivery of notice which shall consist of:

(1) a copy of the signed and dated letters required by subsection (d)(3) of this section;

(2) the registered or certified mail receipts; and

(3) a map showing the property boundaries, surface owner names, and parcel numbers of all notified parties.

(f) Notice by publication. In addition to the notice required by subsection (d) of this section, an applicant for a stationary commercial solid oil and gas waste recycling commercial facility permit shall also provide notice by publication.

(g) Newspaper of general circulation. The permit applicant shall publish notice of the application in a newspaper of general circulation in the county in which the proposed facility will be located at least once each week for two consecutive weeks, with the first publication occurring not earlier than the date staff determines that an application is complete pursuant to §1.201(b) of this title (relating to Time Periods for Processing Applications and Issuing Permits Administratively) but before the final review is completed.

(h) Contents of published notice. The published notice shall:

(1) be entitled "Notice of Application for Commercial Solid Oil and Gas Waste Recycling Facility" if the proposed facility is a commercial facility;

(2) provide the date the applicant filed the application with the Commission;

(3) identify the name of the applicant;

(4) provide the location of the tract on which the proposed facility will be located including the legal description of the property, latitude/longitude coordinates of the proposed facility, county, name of the original survey and abstract number, and location and distance in relation to the nearest municipality or community;

(5) identify the owner or owners of the property on which the proposed facility will be located;

(6) identify the type of fluid or solid waste to be managed at the facility;

(7) identify the proposed recycling method;

(8) state that affected persons may protest the application by filing a protest with the Commission within 30 calendar days of the last date of publication;

(9) include the definition of "affected person" pursuant to §4.110 of this title (relating to Definitions); and

(10) provide the address to which protests shall be mailed. If the Commission implements an electronic means for filing protests, then the location to instructions for electronic submittal shall be included.

(i) Proof of notice. The applicant shall submit to the Commission proof that notice was published as required by this section. Proof of publication shall consist of:

(1) an affidavit from the newspaper publisher that states the dates on which the notice was published and the county or counties in which the newspaper is of general circulation; and

(2) the tear sheets for each published notice.

(j) Protest process. Any statement of protest to an application must be filed with the Commission within 30 calendar days from the date notice is completed or from the last date of publication if notice by publication is authorized by the Director.

(1) The Technical Permitting Section shall notify the applicant if the Commission receives an affected person's timely protest. A timely protest is a written protest date-stamped as received by the Commission within 30 calendar days of the date notice is completed or within 30 calendar days of the last date of publication, whichever is later.

(2) The applicant shall have 30 days from the date of the Technical Permitting Section's notice of receipt of protest to respond, in writing, by either requesting a hearing or withdrawing the application. If the applicant fails to timely file a written response, the Technical Permitting Section shall consider the application to have been withdrawn.

(3) The Technical Permitting Section shall refer all protested applications to the Hearings Division if a timely protest is received and the applicant requests a hearing.

(4) The Commission shall provide notice of any hearing convened under this subsection to all affected persons and persons who have requested notice of the hearing.

(5) If the Director has reason to believe that a person entitled to notice of an application has not received notice as required by this section, then the Technical Permitting Section shall not take action on the application until notice is provided to such person.

(6) The Commission may issue a permit if no timely protests from affected persons are received.

(k) Director review. If the Director has reason to believe that a person to whom the applicant was required to give notice of an application has not received such notice, then the Director shall not take action on the application until the applicant has made reasonable efforts to give such person notice of the application and an opportunity to file a protest to the application with the Commission.

Source Note: The provisions of this §4.254 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.255. General Permit Provisions.

(a) A permit for a stationary commercial solid oil and gas waste recycling facility issued pursuant to this division shall be issued for a term of not more than five years. Permits issued pursuant to this division may be renewed, but are not transferable to another operator without the written approval of the Director.

(b) A permit for a stationary commercial solid oil and gas waste recycling facility issued pursuant to this division shall require that, prior to operating, a stationary commercial solid oil and gas waste recycling facility comply with the financial security requirements of Texas Natural Resources Code, §91.109, relating to Financial Security for Persons Involved in Activities Other than Operation of Wells, as implemented by §3.78 of this title (relating to Fees and Financial Security Requirements).

(c) A permit for a stationary commercial solid oil and gas waste recycling facility shall include a condition requiring that the permittee notify the surface owner of the tract upon which recycling will take place and the Commission District Office before recycling operations commence on each tract.

Source Note: The provisions of this §4.255 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.256. Minimum Permit Provisions for Siting.

(a) A permit for a stationary commercial solid oil and gas waste recycling facility may be issued only if the Director or the Commission determines that the facility is to be located in an area where there is no unreasonable risk of pollution or threat to public health or safety.

(b) A stationary commercial solid oil and gas waste recycling facility permitted pursuant to this division is prohibited:

(1) within a 100-year flood plain, in a streambed, or in a sensitive area as defined by §4.110 of this title (relating to Definitions); or

(2) within 300 feet of surface water or public, domestic, or irrigation water wells.

(c) Factors that the Commission will consider in assessing potential risk from a stationary commercial solid oil and gas waste recycling facility include:

(1) the volume and characteristics of the oil and gas waste, partially treated waste and recyclable product to be stored, handled, treated and recycled at the facility;

(2) depth to and quality of the shallowest groundwater;

(3) distance to the nearest property line or public road;

(4) proximity to coastal natural resources or sensitive areas as defined by §4.110 of this title, or surface water and/or public, domestic, or irrigation water wells; and

(5) any other factors the Commission deems reasonably necessary in determining whether or not issuance of the permit will pose an unreasonable risk.

(d) All siting requirements in this section for a stationary commercial solid oil and gas waste recycling facility refer to conditions at the time the facility is constructed.

Source Note: The provisions of this §4.256 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.257. Minimum Permit Provisions for Design and Construction.

(a) A permit issued pursuant to this division for a stationary commercial solid oil and gas waste recycling facility shall contain any requirement that the Director or the Commission determines to be reasonably necessary to ensure that:

(1) the design and construction of storage areas, containment dikes, and processing areas minimize contact of oil and gas waste and partially recycled waste with the ground surface, and prevent pollution of surface and subsurface water;

(2) the pollution of surface and subsurface water from spills, leachate, and/or discharges from the facility is prevented by:

(A) prohibiting the unauthorized discharge of oil and gas waste and other substances or materials, including contaminated stormwater runoff, from the facility to the land surface at and adjacent to the facility or to surface and subsurface water;

(B) requiring that the permittee control and remediate spills at the facility; and

(C) requiring that the permittee make regular inspections of the facility; and

(3) the design and construction of the facility allows for monitoring for, and detection of, any migration of oil and gas waste or other substance or material from the facility.

(b) A permit issued for a stationary commercial solid oil and gas waste recycling facility pursuant to this division shall require that the permittee, unless waived by the Technical Permitting Section under §4.257(d) of this title (relating to Minimum Permit Provisions for Operations):

(1) install monitoring wells in accordance with 16 Texas Administrative Code, Part 4, Chapter 76, relating to Water Well Drillers and Water Well Pump Installers, if required by the Technical Permitting Section; and

(2) submit to the Technical Permitting Section a soil boring log and other information for each well, if required by the Technical Permitting Section.

(c) The soil boring log and other information required in subsection (b) of this section shall:

(1) describe the soils using the Unified Soils Classification System (equivalent to ASTM D 2487 and 2488);

(2) identify the method of drilling, total depth, and the top of the first encountered water or saturated soils;

(3) include a well completion diagram for each monitoring well;

(4) include a survey elevation for each wellhead reference point; and

(5) include a potentiometric map showing static water levels and the direction of groundwater flow.

(d) The Commission or the Director may waive any or all of the requirements in subsections (b) and (c) of this section if the permittee demonstrates that an on-site boring to a minimum depth of 100 feet recovers no water during a 24-hour test.

(e) A permit for a stationary commercial solid oil and gas waste recycling facility issued pursuant to this division shall require that the permittee notify the Commission District Office for the county in which the facility is located prior to commencement of construction, including construction of any berms, and again upon completion of construction and that the permittee may commence operations under the permit only after the facility has been inspected by the Commission to ensure that construction of all elements of the facility is consistent with the representations in the application and the requirements of the permit.

(f) A permit for a stationary commercial solid oil and gas waste recycling facility issued pursuant to this division that requires the installation of monitoring wells shall require that the permittee comply with subsections (b) and (c) of this section prior to commencing recycling operations.

Source Note: The provisions of this §4.257 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.258. Minimum Permit Provisions for Operations.

(a) A permit for a stationary commercial solid oil and gas waste recycling facility issued pursuant to this division shall contain requirements the Commission determines to be reasonably necessary to ensure that:

(1) only wastes and other materials authorized by the permit are received at the facility, including requirements that the permittee test incoming oil and gas waste and keep records of amounts and sources of incoming wastes; and

(2) the processing operation and resulting recyclable product meet the environmental and engineering standards established in the permit.

(b) A permit for a stationary commercial solid oil and gas waste recycling facility issued under this division

may require the permittee to perform a trial run in accordance with the following procedure.

(1) The permittee shall notify the District Office for the county in which the facility is located prior to commencement of the trial run.

(2) The permittee shall demonstrate the ability to successfully process a 1,000 cubic yard batch of solid oil and gas waste.

(A) The Technical Permitting Section and the District Office shall be notified in writing at least 72 hours before waste processing begins.

(B) Samples of the partially treated waste shall be collected and analyzed as required by §4.243 of this title (relating to Minimum Permit Provisions for Monitoring).

(C) Samples shall be collected from every 200 cubic yards of an 800 cubic yard batch and analyzed for wetting and drying durability by ASTM D 559-96, modified to provide that samples are compacted and molded from finished partially treated waste. The total weight loss after 12 cycles may not exceed 15 percent.

(3) The permittee shall sample and analyze the partially treated waste that results from the trial run, and submit to the Director for review a report of the results of the trial run prior to commencing operations.

(4) The Director shall approve the trial run if the report demonstrates that the recyclable product meets or exceeds the environmental and engineering standards established in the permit.

(5) The permittee shall not use the recyclable product until the Director approves the trial run report.

(6) A written report of the trial run shall be submitted to the Technical Permitting Section and the District Office within 60 days of receipt of the analyses required in §4.243 of this title. The following information shall be included:

(A) the actual volume of waste material processed;

(B) the volume of stabilization material used;

(C) copies of all lab analyses required by §4.243 of this title; and

(D) the results of the analysis required under paragraph (2)(C) of this subsection.

(7) The final recyclable material shall meet the limitations of §4.243 of this title.

(c) A permit for a stationary commercial solid oil and gas waste recycling facility issued pursuant to this division shall include any requirements, including limits on the volumes of oil and gas waste, partially treated waste, and recyclable product stored at the facility, that the Commission determines to be reasonably necessary to ensure that the permittee does not speculatively accumulate oil and gas waste, partially treated waste, and/or recyclable product at the facility without actually processing the oil and gas waste and putting the recyclable product to legitimate commercial use.

Source Note: The provisions of this §4.258 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.259. Minimum Permit Provisions for Monitoring.

(a) A permit for a stationary commercial solid oil and gas waste recycling facility issued pursuant to this division shall include monitoring requirements the Director or Commission determines to be reasonably necessary to ensure that the recyclable product meets the environmental and engineering standards established by the Director or the Commission and included in the permit.

(b) Consistent with the requirements of §4.208 of this title (relating to General Standards for Permit Issuance), the Director or the Commission shall establish and include in the permit for a stationary commercial solid oil and gas waste recycling facility the parameters for which the partially treated waste is to be tested, and the limitations on those parameters based on:

(1) the type of oil and gas waste to be accepted at the commercial recycling facility; and

(2) the intended use for the recyclable product.

(c) A permit for a stationary commercial solid oil and gas waste recycling facility may require laboratory testing. A permit that requires laboratory testing shall require that the permittee use an independent third party laboratory to analyze a minimum standard volume of partially treated waste for parameters established in this division or in a permit issued by the Commission.

(d) A permit for a stationary commercial solid oil and gas waste recycling facility issued pursuant to this division from which the recycled product will be used as road base or other similar uses shall include a requirement that a minimum of one sample from each 200 tons of partially treated waste be collected and analyzed for every 800 ton composite for the following minimum parameters and meet the following limits: Figure: 16 TAC §4.259(d) ***[See Figure at end of this document.]***

(e) Groundwater monitor wells.

(1) Groundwater monitor wells, if required, shall be monitored for the following parameters after installation and quarterly thereafter:

(A) static water level;

(B) benzene;

(C) total petroleum hydrocarbons (TPH);

(D) total dissolved solids (TDS);

(E) chlorides;

(F) bromides;

(G) sulfates;

(H) nitrates;

(I) carbonates;

(J) calcium;

(K) magnesium;

(L) sodium; and

(M) potassium.

(2) Copies of the sampling and analytical results shall be filed semi-annually with the Technical Permitting Section and the District Office.

Source Note: The provisions of this §4.259 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.260. Minimum Permit Provisions for Closure.

A permit for a stationary commercial solid oil and gas waste recycling facility issued pursuant to this division shall include closure standards and any requirement reasonably necessary to ensure that the permittee can meet the standards. The Commission shall determine the closure standards for a particular facility based on the type of materials stored, handled and treated at the facility, and the design and construction of the facility. A permit may include requirements for removal of all waste, partially treated waste, and recyclable product; removal of dikes, storage, liners, and equipment; recontouring of the land; collection and analyzing of soil and groundwater samples from the facility property; and post-closure monitoring.

Source Note: The provisions of this §4.260 adopted to be effective April 15, 2013, 38 TexReg 2334.

§4.261. Permit Renewal.

Before the expiration of a permit issued pursuant to this division, the permittee may submit an application to renew the permit on a Commission prescribed form. An application for renewal of an existing permit issued pursuant to this division shall be submitted in writing a minimum of 60 days before the expiration date of the permit and shall include the permittee's permit number. The application shall comply with the requirements of §4.246 of this title (relating to General Permit Application Requirements for a Stationary Commercial Solid Oil and Gas Waste Recycling Facility), and the notice requirements of §4.254 of this title (relating to Notice). The Director may require the applicant to comply with any of the requirements of §§4.247 - 4.253 of this title (relating to Minimum Engineering and Geologic Information; Minimum Siting Information; Minimum Real Property Information; Minimum Design and Construction Information; Minimum Operating Information; Minimum Monitoring Information; and Minimum Closure Information), depending on any changes made or planned to the construction, operation, monitoring, and/or closure of the facility.

Source Note: The provisions of this §4.261 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

DIVISION 5. REQUIREMENTS FOR OFF-LEASE COMMERCIAL RECYCLING OF FLUID

§4.262. General Permit Application Requirements for Off-Lease Commercial Recycling of Fluid.

(a) An application for a permit for off-lease commercial recycling of fluid shall be filed on a Commission prescribed form with the Technical Permitting Section, and on the same day the applicant shall mail or deliver a copy of the application to the Commission District Office for the county in which the facility is to be located. The Technical Permitting Section shall not administratively begin final review of an application unless the Director has determined that the application is complete in accordance with §1.201(b) of this title (relating to Time Periods for Processing Applications and Issuing Permits Administratively).

(b) The permit application shall contain the applicant's name; organizational report number; physical office address and, if different, mailing address; facility address; telephone number and the name of a contact person. A permit for a stationary commercial recycling facility also shall contain the facility address.

(c) The permit application shall contain information addressing each applicable application requirement of this division and all information necessary to initiate the final review by the Director. The Director shall determine that the application is administratively complete prior to administratively approving an application or referring an application to hearing. If the Director determines that an application is incomplete, the Director shall notify the applicant in writing and shall describe the specific information required to complete the application.

(1) An applicant may make no more than two supplemental filings to complete an application.

(2) After the second supplemental submission, if the application is complete, the Director shall act on the application. The Director's action on the application shall be:

(A) approval if the application meets the requirements of this division and the application has not been protested;

(B) referral to the Hearings Division if the application meets the requirements of this division and the application has been protested; or

(C) denial if the application does not meet the requirements of this division.

(3) If after the second supplemental submission the application is still incomplete, the Director shall administratively deny the application. An application that was administratively denied may be refiled with the Commission on a Commission prescribed form and shall contain all information necessary to initiate the final review by the Director.

(4) The Director shall notify the applicant in writing of the administrative decision and, in the case of an

administrative denial, the applicant's right to request a hearing on the application as it stands at the time of administrative denial.

(d) The Director shall approve or deny a complete application for a permit issued under this division that does not include a request for an exception to the requirements of this division not later than the 90th day after the date the complete application was received by the Commission, unless a protest is filed with the Commission, in which case the Commission may extend the amount of time to approve or deny the application in order to allow for a public hearing on the application pursuant to Chapter 1 of this title (relating to Practice and Procedure). If the Director does not approve or deny the application before that date, the permit application is considered approved, and the applicant may operate under the terms specified in the application for a period of one year.

(e) The permit application shall contain the following certification signed and dated by an authorized representative of the applicant: "I certify that I am authorized to make this application, that this application was prepared by me or under my supervision and direction, and that the data and facts stated herein are true, correct, and complete to the best of my knowledge."

(f) A person shall file electronically any form or application for which the Commission has provided an electronic version or an electronic filing system or by hard copy if no digital format acceptable to the Commission has been enacted. The operator or person shall comply with all requirements, including but not limited to fees and security procedures, for electronic filing.

Source Note: The provisions of this §4.262 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.263. Minimum Engineering and Geologic Information.

(a) A permit applicant for off-lease commercial recycling of fluid shall include engineering, geological, or other information necessary to:

(1) describe the subsurface geology underlying the facility to a depth of at least 100 feet, including the identification of the soil and subsoil by typical name and description of the approximate proportion of grain sizes, texture, consistency, moisture condition, permeability, and other pertinent characteristics;

(2) describe the subsurface hydrogeology underlying the facility to a depth of at least 100 feet, including an assessment of the presence and characteristics of permeable and impermeable strata; and

(3) evaluate the geology, hydrogeology, and proposed engineering design to show that issuance of the permit will not result in the waste of oil, gas, or geothermal resources, the pollution of surface or subsurface water, or a threat to the public health or safety.

(b) Information for engineering and geological site characterization may be obtained from available information or from a site investigation including installation of soil borings, soil and groundwater sampling, and soil and groundwater analysis. Site-specific investigation information is considered more reliable and, therefore, will have a greater effect on the permit determination.

(c) If an operator intends to establish and later rely on actual background concentrations of contaminants in environmental media, then the operator shall collect site-specific soil and groundwater samples for analysis and include these findings with the application.

(d) Engineering and geologic work products prepared for the application shall be sealed by a professional engineer or geoscientist licensed in Texas as required by the Texas Occupations Code, Chapters 1001 and 1002, respectively.

Source Note: The provisions of this §4.263 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.264. Minimum Siting Information.

(a) A pit permitted under this division is prohibited:

(1) where there has been observable groundwater within 100 feet of the ground surface unless the pit design includes a geosynthetic clay liner (GCL) tested using fluids likely to be encountered in the operations of the facility and the test results demonstrated the GCL can sustain a hydraulic conductivity of 1.0 x 10-7cm/sec or less;

(2) within a sensitive area as defined by §4.110 of this title (relating to Definitions);

(3) within 300 feet of surface water, domestic supply wells, or irrigation water wells;

(4) within 500 feet of any public water system wells or intakes;

(5) within 1,000 feet of a permanent residence, school, hospital, institution, or church in existence at the time of the initial permitting;

(6) within 500 feet of a wetland; or

(7) within a 100-year floodplain.

(b) A permit application for off-lease commercial recycling of fluid shall include:

(1) a description of the proposed facility site and surrounding area;

(2) the name, physical address and, if different, mailing address, and telephone number of every owner of the tract on which the facility is to be located. If any owner is not an individual, the applicant shall include the name of a contact person for that owner;

(3) the depth to the shallowest subsurface water and the direction of groundwater flow at the proposed site, and the source of this information;

(4) the average annual precipitation and evaporation at the proposed site and the source of this information;

(5) the identification of the soil and subsoil by typical name and description of the approximate proportion of grain sizes, texture, consistency, moisture condition, and other pertinent characteristics, and the source of this information;

(6) a copy of a county highway map with a scale and north arrow showing the location of the proposed facility; and

(7) a United States Geological Survey (USGS) topographic map or an equivalent topographic map which shows the facility including the items listed in subparagraphs (A)-(K) of this paragraph and any other pertinent information regarding the regulated facility and associated activities. Maps shall be on a scale of not less than one inch equals 2,000 feet. The map shall show the following:

(A) a scale and north arrow showing the tract size in square feet or acres, the section/survey lines, and the survey name and abstract number;

(B) a clear outline of the proposed facility's boundaries;

(C) the location of any pipelines within 500 feet of the facility;

(D) the distance from the facility's outermost perimeter boundary to public and private water wells, residences, schools, churches, and hospitals that are within 500 feet of the boundary;

(E) for disposal only, the location of all residential and commercial buildings within a one-mile radius of the facility boundary;

(F) all water wells within a one-mile radius of the facility boundary;

(G) the location of the 100-year flood plain and the source of the flood plain information;

(H) surface water bodies within the map area;

(I) the location of any major and minor aquifers within the map area;

(J) the boundaries of any prohibited areas defined under §4.153 of this title (relating to Commercial Disposal Pits); and

(K) any other information requested by the Director reasonably related to the prevention of pollution.

(c) Factors that the Commission will consider in assessing potential risk from off-lease commercial recycling of fluid include:

(1) the volume and characteristics of the oil and gas waste, partially treated waste and recyclable product to be stored, handled, treated and recycled at the facility;

(2) proximity to coastal natural resources or sensitive areas as defined by §4.110 of this title; and

(3) any other factors the Commission deems reasonably necessary in determining whether or not issuance of the permit will pose an unreasonable risk.

(d) All siting requirements in this section for off-lease commercial recycling of fluid refer to conditions at the time the equipment and tanks used in the recycling are placed.

Source Note: The provisions of this §4.264 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.265. Minimum Real Property Information.

(a) A permit application for off-lease commercial recycling of fluid shall include a copy of the signed lease agreement between the applicant and the owner of the tract upon which the facility is to be located.

(b) A permit application for off-lease commercial recycling of fluid shall identify the location of the facility by including a plat or plats showing:

(1) a scale and north arrow showing the tract size in square feet or acres, the section/survey lines, and the survey name and abstract number;

(2) the site coordinates in degrees, minutes, and seconds of longitude and latitude;

(3) a clear outline of the proposed facility's boundaries;

(4) all tracts adjoining the tract upon which the facility is to be located;

(5) the name of the surface owner or owners of such adjoining tracts; and

(6) the distance from the facility's outermost perimeter boundary to water wells, residences, schools, churches, or hospitals that are within 500 feet of the boundary.

Source Note: The provisions of this §4.265 adopted to be effective April 15, 2013, 38 TexReg 2334.

§4.266. Minimum Design and Construction Information.

(a) A pit permitted under this division shall be designed, built, and maintained as follows.

(1) The pit shall contain the material placed in the pit and prevent releases, overflow, or failure.

(2) The maximum depth from the natural surface elevation shall not exceed 22 feet.

(3) The foundation and interior slopes shall consist of a firm, unyielding base, smooth and free of rocks, debris, sharp edges, or irregularities to prevent the liner's rupture or tear. All interior and exterior surfaces of the pit shall be smooth drum rolled.

(4) The pit sides and berms shall have interior and exterior grades no steeper than three horizontal feet to one vertical foot (3H:1V). The top of the berm shall be wide enough to provide adequate room for inspection,

maintenance, and any other structural or construction requirements.

(A) Fill for berms shall be placed and compacted in continuous lifts with a maximum loose lift thickness of 10 inches, compacted to eight inches.

(B) Berm fill shall be compacted to at least 95% of maximum dry density determined by the Standard Proctor (ASTM D698) and at moisture content within +2% to -2% of optimum moisture content as determined by a standard proctor soil test on samples from the source area. One nuclear density test shall be conducted for each 2,500 cubic yards, and the applicant shall provide compaction testing results upon completion.

(5) Both primary and secondary liners in a pit shall be geomembrane liners composed of ASTM GRI-13 compliant materials and be impervious, synthetic material that is resistant to ultraviolet light, petroleum hydrocarbons, salts, and acidic and alkaline solutions. Each pit shall incorporate, at a minimum, a liner system as follows:

(A) The primary liner shall be constructed with a minimum 60-mil high density polyethylene (HDPE) for any pit under this subsection permitted after July 1, 2025.

(B) A leak detection system shall be placed between the primary and secondary geomembrane liners that shall consist of 200-mil biplanar geonet or geo-composite equivalent. The leak detection system shall consist of a properly designed drainage and collection and removal system placed above the secondary geomembrane liner in depressions and sloped to facilitate the earliest possible leak detection. The leak detection system shall be designed with the capability of removing a minimum of 1,000 gallons of leachate per acre per day or an alternative action leakage rate shall be calculated.

(C) The secondary liner shall be constructed with a minimum 40-mil HDPE for any pit under this subsection permitted after July 1, 2025. If the depth to groundwater is less than 100 feet below the ground surface, the secondary liner shall include a geosynthetic clay liner.

(D) A geotextile (felt) liner shall be placed under the secondary liner and in contact with the prepared ground surface.

(6) The edges of all liners shall be anchored in the bottom of a compacted earth-filled trench that is at least 24 inches deep and shall be performed in accordance with the manufacturer's instructions.

(7) Field seams in geosynthetic material shall be performed in accordance with the manufacturer's instructions and include the following considerations:

(A) Field seams in geosynthetic material shall be minimized and oriented perpendicular to the slope of the berm, not parallel.

(B) Prior to field seaming, the operator shall overlap liners a minimum of four to six inches. The operator shall minimize the number of field seams and corners and irregularly shaped areas. There shall be no horizontal seams within five feet of the slope's toe.

(C) Qualified personnel shall perform field seam welding and testing. Documented quality assurance/quality control testing reports shall be maintained for the life of the liner.

(8) At a point of discharge into or suction from the pit, the operator shall ensure that the liner is protected from excessive hydrostatic force or mechanical damage.

(9) All piping and equipment that is in contact with the liner shall be secured to prevent liner wear and damage.

(10) There shall be no penetrations of the liner system.

(11) The pit shall be designed to prevent run-on of any non-contact stormwater, precipitation, or surface water. The pit shall be surrounded by a berm, ditch, or other diversion to prevent run-on of any non-contact stormwater, precipitation, or surface water.

(12) The pit shall be designed to operate with a minimum two feet of freeboard plus the capacity to contain the volume of precipitation from a 25-year, 24-hour rainfall event.

(b) Tanks and treatment equipment shall be located within a secondary containment system.

(c) A permit application for off-lease commercial recycling of fluid shall include the layout and design of the facility by including a plat drawn to scale with north arrow to top of the map showing the location and information on the design and size of all receiving, processing, and storage areas and all equipment, tanks, silos, monitor wells, dikes, fences, and access roads.

(d) A permit application for off-lease commercial recycling of fluid also shall include:

(1) a description of the type and thickness of liners (e.g., fiberglass, steel concrete), if any, for all tanks, silos, pits, and storage areas/cells;

(2) for storage areas where tanks and/or liners are not used, credible engineering and/or geologic information demonstrating that tanks or liners are not necessary for the protection of surface and subsurface water;

(3) a map view and two perpendicular cross-sectional views of pits and/or storage areas/cells to be constructed, showing the bottom, sides, and dikes, showing the dimensions of each;

(4) a plan to control and manage storm water runoff and to retain incoming wastes during wet weather, including the location and dimensions of berms and/or storage basins that would collect stormwater from the facility, at a minimum, during a 25-year, 24-hour rainfall event, and all calculations made to determine the required capacity and design; and

(5) a plan for the installation of monitoring wells at the facility.

Source Note: The provisions of this §4.266 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.267. Minimum Operating Information.

A permit application for off-lease commercial recycling of fluid shall include the following operating information:

(1) the estimated maximum volume of untreated oil and gas waste and partially treated oil and gas waste to be stored at the facility;

(2) the estimated maximum volume and time that the recyclable product will be stored at the facility;

(3) a plan to control unauthorized access to the facility;

(4) a detailed waste acceptance plan that:

(A) identifies anticipated volumes and specific types of oil and gas wastes (e.g., hydraulic fracturing flowback fluid and/or produced water) to be accepted at the facility for treatment and recycling; and

(B) provides for testing of wastes to be processed to ensure that only oil and gas waste authorized by this division or the permit will be received at the facility;

(5) plans for keeping records of the source and volume of wastes accepted for recycling in accordance with the permit, including maintenance of records of the source of waste received by well number, API number, lease or facility name, lease number and/or gas identification number, county, and Commission district;

(6) a general description of the recycling process to be employed; a flow diagram showing the process and identifying all equipment and chemicals or additives to be used in the process; and the Safety Data Sheets (SDS) for any chemical or additive;

(7) a description of any testing to be performed to demonstrate that the proposed processing will result in a recyclable product that meets the health, safety, and environmental standards for the proposed use; and

(8) an estimate of the duration of operation of the proposed facility.

Source Note: The provisions of this §4.267 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.268. Minimum Monitoring Information.

A permit application for off-lease commercial recycling of fluid shall include:

(1) a sampling plan for the partially treated waste to ensure compliance with permit conditions and reuse requirements;

(2) a plan for sampling any monitoring wells at an off-lease commercial recycling of fluid facility as required by the permit and this division; and

(3) a plan to verify that fluid oil and gas wastes are confined to the facility pits, tanks, and processing areas, and a schedule for conducting periodic inspections, including plans to inspect pits and liner systems, equipment, processing, and other waste storage areas.

Source Note: The provisions of this §4.268 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.269. Minimum Closure Information.

(a) A permit application for off-lease commercial recycling of fluid shall include a closure cost estimate (CCE) sealed by a professional engineer licensed in Texas.

(1) The CCE shall show all assumptions and calculations used to develop the estimate. The following assumptions are required:

(A) The facility is in compliance with permit conditions.

(B) The facility will be closed according to the permit or approved closure plan, under which collecting pits shall be dewatered, emptied and demolished prior to backfilling; all remaining waste will be disposed of at an authorized facility; and the facility will be restored to its native state unless otherwise authorized by the permit.

(C) None of the operator's equipment or facilities that may have otherwise been available at the time of closure (e.g., disposal wells, land treatment facilities, trucks, bulldozers, and employees) are available to assist in the closure.

(D) The facility is at maximum capacity. All tanks and pits are full of waste.

(E) Storage tanks and pits contain basic sediment and water in normal operating proportions, with a minimum volume of at least 10% basic sediment.

(2) The CCE shall not assess a salvage value for any material or equipment at the facility.

(3) The CCE shall include costs for sampling and analysis of soil for the areas around each waste management unit, including tank batteries, pads, and all former pits unless closure of an individual pit was previously approved by the Technical Permitting Section.

(4) The CCE shall show unit costs for all material, equipment, services, and labor needed to close the facility. Units and fees used shall be appropriate for the type of waste material to be disposed. For example, disposal units for saltwater shall be reported in oil barrels rather than gallons. The CCE shall be specific and shall state the source or basis for the specific unit cost, including the following:

(A) the permitted waste hauler to be used and the hauler's mileage rate;

(B) the distance that waste will be transported for disposal;

(C) the name of each facility where waste will be taken and the disposal costs for that facility;

(D) the source of any material being brought to the facility, such as clean fill material;

(E) calculations for earth-moving equipment time and cost needed to move the fill dirt if fill dirt will be taken from the property;

(F) the total labor costs, including the titles and billing rates for personnel; and

(G) the quantity of each unit cost item and how the total quantity was determined (for example, cubic yards of material divided by size of load equals total number of loads).

(5) The CCE shall include maps and illustrations such as facility plans and photographs that show the current condition of the facility, and/or the condition of the facility upon reaching maximum permit conditions.

(6) For facilities with groundwater monitoring wells, the CCE shall include costs to plug and abandon the monitoring wells.

(7) For facilities that will require post-closure monitoring, the CCE shall include costs for a minimum of five years of monitoring.

(8) The CCE shall show all calculations used to arrive at total maximum closure costs.

(9) For all estimates submitted for existing facilities, a NORM screening survey of the facility shall be submitted. NORM screening surveys shall be performed using a properly calibrated scintillation meter with a sodium iodide detector (or equivalent), with the results reported in microroentgens per hour. Manufacturer's specifications and relevant calibration records shall be submitted to the Technical Permitting Section for all devices used for NORM detection. All equipment, including piping, pumps, and vessels shall be surveyed. Readings shall be taken around the perimeter of all pits and to the extent possible, over the pits. The ground surrounding the equipment and pits shall be surveyed in a systematic grid pattern. At a minimum, the following information shall be reported:

(A) the date of the survey;

(B) the instrument used and the last calibration date;

(C) a background reading;

(D) a site diagram showing where all readings, including the background, were taken; and

(E) the readings (in microroentgens per hour).

(10) If fill dirt will be excavated from the property to achieve closure, a restrictive covenant shall be submitted with the CCE. If the restrictive covenant requirements are not provided, the CCE shall assume that fill dirt is purchased from a commercial supplier. For a restrictive covenant, the following requirements shall be met whether the operator owns or leases the property:

(A) The operator shall provide a letter from the property owner specifically stating that the owner agrees that the material, which is described with specificity as to location, type and amount consistent with what is in the closure plan, will be available for closure whether the operator or the state performs closure, and agreeing to a restrictive covenant that reserves use of the material for closure.

(B) The operator shall submit an unsigned draft restrictive covenant on a Commission prescribed form. Once the Commission approves the closure cost and closure plan, the operator will be notified to submit a signed original of the restrictive covenant. The Commission will sign its portion of the restrictive covenant and return it to the operator for filing in the real property records of the county where the property is located. Once filed in the real property records, the operator shall provide the Commission with a certified copy.

(C) If the facility operator leases the property, the operator shall provide to the Commission a copy of an amendment or addendum to the lease between the operator and the surface owner with a clause that specifically reserves use of material and states that the reservation shall inure to the Commission (as third party beneficiary of this provision) if the Commission must initiate actions to close the facility.

(D) The operator shall submit supporting documentation showing that the dimensions of the restrictive covenant area can realistically store a stockpile in the amount needed. If soil will be excavated from the restrictive covenant area rather than stockpiled, the supporting documentation shall show the depth of the excavation is limited to what can be graded to prevent storm water from ponding in the excavated area.

(11) After the CCE has been calculated, an additional 10% of that amount shall be added to the total amount of the CCE to cover contingencies.

(b) A permit application for off-lease commercial recycling of fluid shall include a detailed plan for closure of the facility when operations terminate and include the required elements of §4.276 of this title (relating to Minimum Permit Provisions for Closure). The closure plan shall address how the applicant intends to:

(1) remove waste, partially treated waste, and/or recyclable product from the facility;

(2) close all storage pits, treatment equipment, and associated piping and other storage or waste processing equipment;

(3) remove berms and equipment;

(4) contour and reseed disturbed areas with geographically appropriate vegetation including the source of water intended to establish the reseeded areas of the facility;

(5) sample and analyze soil and groundwater throughout the facility; and

(6) plug groundwater monitoring wells.

Source Note: The provisions of this §4.269 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.270. Notice.

(a) Purpose. Applicants are encouraged to engage with their communities early in the commercial recycling facility planning process to inform the community of the plan to construct a facility for off-lease commercial recycling of facility and allow those who may be affected by the proposed activities to express their concerns. The purpose of the notice required by this section is to inform notice recipients:

(1) that an applicant has filed a permit application with the Commission, seeking authorization to conduct an activity or operate a facility; and

(2) of the requirements for filing a protest if an affected person seeks to protest the permit application.

(b) Timing of notice. The applicant shall provide notice after staff determines that an application for a facility for off-lease commercial recycling of fluid is complete pursuant to §1.201(b) of this title (relating to Time Periods for Processing Applications and Issuing Permits Administratively). The date notice is completed begins a 30-day period in which an affected person may file a protest of the application with the Commission.

(c) Notice recipients. The applicant shall provide notice to:

(1) the surface owners of the tract on which the commercial recycling facility will be located;

(2) the surface owners of tracts located within a distance of 1/2-mile from the fence line or edge of the facility as shown on the plat required under §4.265(b) of this title (relating to Minimum Real Property Information) of the facility's fence line or boundary, even if the surface owner's tract is not adjacent to the tract on which the commercial recycling facility is located.

(3) the city clerk or other appropriate city official if any part of the tract on which the commercial recycling facility will be located lies within the municipal boundaries of the city;

(4) the Commission's District Office; and

(5) any other person or class of persons that the Director determines should receive notice of an application.

(d) Method and contents of notice. Unless otherwise specified in this subchapter, the applicant shall provide direct notice to the persons specified in subsection (c) of this section as follows.

(1) The applicant shall provide notice by registered or certified mail. Notice is completed upon deposit of the document postpaid and properly addressed to the person's last known address with the United States Postal Service.

(2) The notice of the permit application shall consist of a complete copy of the application and any attachments. The copy shall be of the application and attachments after staff determines the application is complete pursuant to §1.201(b) of this title but before the final review is completed.

(3) The notice shall include a letter that contains:

(A) the name of the applicant;

(B) the date of the notice;

(C) the name of the surface owners of the tract on which the proposed commercial recycling facility will be located;

(D) the location of the tract on which the proposed commercial recycling facility will be located including a legal description of the tract, latitude/longitude coordinates of the proposed facility, county, original survey, abstract number, and the direction and distance from the nearest municipality or community;

(E) the types of fluids to be recycled at the commercial recycling facility;

(F) the recycling method proposed and the proposed end-use of the recycled material;

(G) a statement that an affected person may protest the application by filing a written protest with the Commission within 30 calendar days of the date notice is completed;

(H) a statement that a protest shall include the protestant's name, mailing address, telephone number, and email address;

(I) the address to which protests may be mailed or the location and instructions for electronic submittal of a protest if the Commission implements an electronic means for filing protests;

(J) the definition of "affected person" pursuant to §4.110 of this title (relating to Definitions); and

(K) the signature of the operator, or representative of the operator, and the date the letter was signed.

(4) If the Director finds that a person to whom the applicant was required to give notice of an application has not received such notice, then the Director shall not take action on the application until the applicant has made reasonable efforts to give such person notice of the application and an opportunity to file a protest to the application with the Commission.

(e) Proof of notice. After the applicant provides the notice required by this section, the applicant shall submit to the Commission proof of delivery of notice which shall consist of:

(1) a copy of the signed and dated letters required by subsection (d)(3) of this section;

(2) the registered or certified mail receipts; and

(3) a map showing the property boundaries, surface owner names, and parcel numbers of all notified parties.

(f) Protest process. Any statement of protest to an application must be filed with the Commission within 30 calendar days from the date notice is completed or from the last date of publication if notice by publication is authorized by the Director.

(1) The Technical Permitting Section shall notify the applicant if the Commission receives an affected person's timely protest. A timely protest is a written protest date-stamped as received by the Commission within 30 calendar days of the date notice is completed.

(2) The applicant shall have 30 days from the date of the Technical Permitting Section's notice of receipt of protest to respond, in writing, by either requesting a hearing or withdrawing the application. If the applicant fails to timely file a written response, the Technical Permitting Section shall consider the application to have been withdrawn.

(3) The Technical Permitting Section shall refer all protested applications to the Hearings Division if a timely protest is received and the applicant requests a hearing.

(4) The Commission shall provide notice of any hearing convened under this subsection to all affected persons and persons who have requested notice of the hearing.

(5) If the Director has reason to believe that a person entitled to notice of an application has not received notice as required by this section, then the Technical Permitting Section shall not take action on the application until notice is provided to such person.

(6) The Commission may issue a permit if no timely protests from affected persons are received.

Source Note: The provisions of this §4.270 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.271. General Permit Provisions.

(a) A permit for off-lease commercial recycling of fluid issued pursuant to this division shall be valid for a term of not more than two years. Permits issued pursuant to this division may be renewed, but are not transferable to another operator without the written approval of the Director.

(b) A permit issued pursuant to this division shall require that, prior to operating, off-lease commercial recycling of fluid comply with the financial security requirements of Texas Natural Resources Code, §91.109, relating to Financial Security for Persons Involved in Activities Other than Operation of Wells, as implemented by §3.78 of this title (relating to Fees and Financial Security Requirements).

(c) A permit for off-lease commercial recycling of fluid shall include a condition requiring that the permittee notify the surface owner of the tract upon which recycling will take place and the Commission District Office before recycling operations commence on each tract.

Source Note: The provisions of this §4.271 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.272. Minimum Permit Provisions for Siting.

(a) A permit for off-lease commercial recycling of fluid may be issued only if the Director or the Commission determines that the facility is to be located in an area where there is no unreasonable risk of pollution or threat to public health or safety.

(b) Off-lease commercial recycling of fluid permitted pursuant to this division is prohibited:

(1) within a 100-year flood plain, in a streambed, or in a sensitive area as defined by §4.110 of this title (relating to Definitions); or

(2) within 300 feet of surface water or public, domestic, or irrigation water wells.

(c) Factors that the Commission will consider in assessing potential risk from off-lease commercial recycling of fluid include:

(1) the volume and characteristics of the oil and gas waste, partially treated waste and recyclable product to be stored, handled, treated and recycled at the facility;

(2) distance to any surface water body, wet or dry;

(3) depth to and quality of the shallowest groundwater;

(4) distance to the nearest property line or public road;

(5) proximity to coastal natural resources, sensitive areas as defined by §4.110 of this title, or water supplies, and/or public, domestic, or irrigation water wells; and

(6) any other factors the Commission deems reasonably necessary in determining whether or not issuance of the permit will pose an unreasonable risk.

(d) All siting requirements in this section refer to conditions at the time the facility is constructed.

Source Note: The provisions of this §4.272 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.273. Minimum Permit Provisions for Design and Construction.

(a) A permit issued pursuant to this division shall contain any requirement that the Director or the Commission determines to be reasonably necessary to ensure that:

(1) the design and construction of storage areas, containment dikes, and processing areas minimize contact of oil and gas waste and partially recycled waste with the ground surface, and prevent pollution of surface and subsurface water;

(2) the pollution of surface and subsurface water from spills, leachate, and/or discharges from the facility is prevented by:

(A) prohibiting the unauthorized discharge of oil and gas waste and other substances or materials, including contaminated stormwater runoff, from the facility to the land surface at and adjacent to the facility or to surface and subsurface water;

(B) requiring that the permittee control spills at the facility; and

(C) requiring that the permittee make regular inspections of the facility; and

(3) the design and construction of the facility allows for monitoring for, and detection of, any migration of oil and gas waste or other substance or material from the facility.

(b) A permit issued for off-lease commercial recycling of fluid pursuant to this division shall require that the permittee, unless waived by the Technical Permitting Section under §4.273(d) of this title (relating to Minimum Permit Provisions for Operations):

(1) install monitoring wells in accordance with 16 Texas Administrative Code, Part 4, Chapter 76, relating to Water Well Drillers and Water Well Pump Installers if required by the Technical Permitting Section; and

(2) if required by the Technical Permitting Section, submit a soil boring log and other information for each well.

(c) The soil boring log and other information required in subsection (b) of this section shall:

(1) describe the soils using the Unified Soils Classification System (equivalent to ASTM D 2487 and 2488);

(2) identify the method of drilling, total depth, and the top of the first encountered water or saturated soils;

(3) include a well completion diagram for each monitoring well;

(4) include a survey elevation for each wellhead reference point; and

(5) include a potentiometric map showing static water levels and the direction of groundwater flow.

(d) The Commission or the Director may waive any or all of the requirements in subsections (b) and (c) of this section if the permittee demonstrates that an on-site boring to a minimum depth of 100 feet recovers no water during a 24-hour test.

(e) A permit for off-lease commercial recycling of fluid issued pursuant to this division shall require that the permittee notify the Commission District Office for the county in which the facility is located prior to commencement of construction, including construction of any berms, and again upon completion of construction and that the permittee may commence operations under the permit only after the facility has been inspected by the Commission to ensure that construction of all elements of the facility is consistent with the representations in the application and the requirements of the permit.

(f) An operator shall not locate material excavated during construction:

(1) within 100 feet of a continuously flowing watercourse or significant watercourse;

(2) within 200 feet from a lakebed, sinkhole, stock pond or lake (measured from the ordinary high-water mark), or any other watercourse;

(3) within 100 feet of a wetland; or

(4) within a 100-year floodplain.

(g) The following requirements apply to signage, fencing, and security.

(1) A sign shall be posted at each entrance to the facility. The sign shall be readily visible and show the operator's name, facility name, and permit number in letters and numerals at least three inches in height.

(2) A sign shall be posted identifying the permit number of each pit using letters and numerals at least three inches in height. The signs shall clearly state that the fluid within the pit is not potable or suitable for consumption.

(3) The facility shall maintain security to prevent unauthorized access. Security shall be maintained by a 24-hour attendant or a six-foot-high security fence and locked gate when unattended.

(h) Any pit associated with an off-lease commercial fluid recycling facility permitted pursuant to this division after July 1, 2025, shall comply with the requirements of §4.265(a) of this title (relating to Minimum Design and Construction Information).

Source Note: The provisions of this §4.273 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.274. Minimum Permit Provisions for Operations.

(a) A permit for off-lease commercial recycling of fluid issued pursuant to this division shall contain requirements the Commission determines to be reasonably necessary to ensure that:

(1) only wastes and other materials authorized by the permit are received at the facility, including requirements that the permittee test incoming oil and gas waste and keep records of amounts and sources of incoming wastes; and

(2) the processing operation and resulting recyclable product meet the environmental and engineering standards established in the permit.

(b) A permit for a facility issued under this division may require the permittee to perform a trial run in accordance with the following procedure.

(1) The operator shall notify the Commission District Office for the county in which the facility is located prior to commencement of the trial run.

(2) The operator shall sample and analyze the partially treated waste that results from the trial run, and submit to the Director for review a report of the results of the trial run prior to commencing operations.

(3) The Director shall approve the trial run if the report demonstrates that the recyclable product meets or exceeds the environmental and engineering standards established in the permit.

(4) The operator shall not use the recyclable product until the Director approves the trial run report.

(c) A permit issued pursuant to this division shall include any requirements, including limits on the volumes of oil and gas waste, partially treated waste, and recyclable product stored at the facility, that the Commission determines to be reasonably necessary to ensure that the permittee does not speculatively accumulate oil and gas waste, partially treated waste, and/or recyclable product at the facility without actually processing the oil and gas waste and putting the recyclable product to legitimate commercial use.

(d) A permit issued pursuant to this division shall include a requirement that the operator of the facility comply with the requirements of §3.56 of this title (relating to Scrubber Oil and Skim Hydrocarbons), if applicable.

(e) Oil shall not accumulate on top of the produced or treated water stored in the tanks and pits. Any oil on top of the liquids shall be skimmed off and handled in accordance with Commission rules. Any recovered oil shall be recorded and filed with the Commission on the appropriate forms or through an electronic filing system when implemented by the Commission.

Source Note: The provisions of this §4.274 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.275. Minimum Permit Provisions for Monitoring.

(a) Operational monitoring.

(1) The operator shall inspect the pits, tanks, and processing equipment weekly. The operator shall maintain a current log of such inspections and make the log available for review by the Commission upon request.

(2) The leak detection system shall be monitored on a weekly basis to determine if the primary liner has failed. The primary liner has failed if the volume of water passing through the primary liner exceeds the action leakage rate, as calculated using accepted procedures, or 1,000 gallons per acre per day, whichever is smaller.

(3) The operator of the pit shall keep records to demonstrate compliance with the pit liner integrity requirements and shall make the records available to the Commission upon request.

(4) If the primary liner is compromised below the fluid level in the pit, the operator shall remove all fluid above the damage or leak within 48 hours of discovery, notify the District Office, and repair the damage or replace the primary liner with a liner meeting the same levels of protection, at a minimum. The pit shall not be returned to service until the liner has been repaired or replaced and inspected by the District Office.

(5) If the pit's primary liner is compromised above the fluid level in the pit, the operator shall repair the damage or initiate replacement of the primary liner, with a liner meeting the same levels of protection, at a minimum, within 48 hours of discovery or seek an extension of time from the District Office.

(6) If groundwater monitoring wells are required, no waste shall be received at the facility until all permitted groundwater monitoring wells have been completed, developed, and sampled. The documentation of these activities shall be provided to the Commission within 30 days after installation of groundwater monitoring wells. Groundwater samples will be analyzed for the parameters in Figure 1.

Figure: 16 TAC §4.275(a)(6) ***[See Figure at end of this document.]***

(7) If an operator has determined the background analyte concentrations in soil and/or groundwater, those site-specific background levels shall be signed and sealed by a professional geoscientist or professional engineer licensed in Texas and, if accepted by the Director, may be included in the permit as appropriate monitoring standards.

(b) Recyclable product monitoring.

(1) A permit for off-lease commercial recycling fluid issued pursuant to this division shall include monitoring requirements the Director or Commission determines to be reasonably necessary to ensure that the recyclable product meets the environmental and engineering standards established by the Director or the Commission and included in the permit.

(2) A permit under this division for use of the treated fluid for any purpose other than re-use as makeup water for hydraulic fracturing fluids to be used in other wells may require laboratory testing. A permit that requires laboratory testing shall require that the permittee use an independent third party laboratory to analyze a minimum standard volume of partially treated waste for parameters established in this division or in a permit issued by the Commission.

(c) Quarterly reporting. A permit issued under this division shall include provisions for filing quarterly reports documenting the fluid volumes into and out of the system in a form and manner prescribed by the Director.

Source Note: The provisions of this §4.275 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.276. Minimum Permit Provisions for Closure.

(a) Notifications.

(1) The operator shall notify the Commission within 60 days after the cessation of operations.

(2) The operator shall notify the Commission 45 days before the commencement of closure activities.

(b) Time requirements for closure.

(1) Once the operations have ceased, the operator shall complete closure of the facility within one year.

(2) The Commission may grant an extension to close the facility not to exceed one additional year, provided all fluid has been removed and the operator attests to its plans for future operation.

(3) If the operator intends to use the pit for a purpose other than recycling, then the operator shall have that use approved or permitted by the Commission in accordance with the appropriate rules.

(c) Fluid and waste removal.

(1) The operator shall remove all fluids from the treatment equipment and tanks within 60 days of the date the operations cease. The contents of all tanks, vessels, or other containers shall be disposed of in an authorized manner. All equipment shall be removed and salvaged, if possible, or disposed of in an authorized manner.

(2) The operator shall remove all fluids from pits within six months of the date operations cease.

(3) All wastes, including the pit liners, shall be removed and disposed of in an authorized manner.

(4) Any concrete areas and access roads shall be cleaned and demolished, and the concrete rubble and wash water shall be disposed of in an authorized manner.

(5) All visibly contaminated soils shall be excavated and removed. The contaminated soil shall be disposed of in an authorized manner.

(d) Confirmation sampling and analysis.

(1) After the removal of wastes and visibly contaminated soils, grab samples shall be collected from around and underneath each pit, processing area, and waste storage, and the samples shall be analyzed for the parameters listed in Figure 1. The Commission may require samples from areas underneath concrete.
Figure: 16 TAC §4.276(d)(1) ***[See Figure at end of this document.]***

(2) The minimum number of grab samples required is as follows:

(A) for pits, five samples per acre of surface area, with a minimum of four samples; and

(B) for areas containing treatment equipment and storage tanks, five samples per acre of surface area.

(3) Any soil sample that exceeds the parameter limitations specified in Figure 1 in this subsection or in site-specific limitations established in the permit is considered waste and shall be disposed of at an authorized disposal facility.

(4) If any soil samples exceed the parameter limitations specified in Figure 1 in this subsection or in site-specific limitations established in the permit, the operator shall prepare and submit a plan for confirmation, delineation, and remediation, if necessary.

(e) The facility shall be restored to a safe and stable condition that blends with the surrounding land. Topsoil and subsoils shall be replaced and contoured so as to achieve erosion control, long-term stability, and preservation of surface water flow patterns at locations where any surface water entered or exited the property boundary prior to waste management or recycling activities at the facility. Final surface grading of the pits and the storage tank battery areas shall be accomplished in such a manner that water will not collect at these former locations. The site shall be re-vegetated as appropriate for the geographic region and include a planned water source to establish the re-vegetated areas.

(f) Within 60 days of closure completion, the operator shall submit a closure report, including required attachments, to document all closure activities including sampling results and the details on any backfilling, capping, or covering, where applicable. The closure report shall certify that all information in the report and attachments is correct, and that the operator has complied with all applicable closure requirements and conditions specified in Commission rules or directives.

(g) The operator shall notify the Commission when closure and re-vegetation are complete. The Commission shall not release financial security to the operator until all post-closure activities are approved by the Commission.

(h) The Commission will inspect the site and verify compliance with closure requirements.

Source Note: The provisions of this §4.276 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.277. Permit Renewal.

Before the expiration of a permit issued pursuant to this division, the permittee may submit an application to renew the permit on a Commission prescribed form. The application for renewal of an existing permit issued pursuant to this division shall be submitted in writing a minimum of 60 days before the expiration date of the permit and shall include the permittee's permit number. The application shall comply with the requirements of §4.262 of this title (relating to General Permit Application Requirements for Off-Lease Commercial Recycling of Fluid), and the notice requirements of §4.270 of this title (relating to Notice). The Director may require the applicant to comply with any of the

requirements of §§4.263 - 4.269 of this title (relating to Minimum Engineering and Geologic Information; Minimum Siting Information; Minimum Real Property Information; Minimum Design and Construction Information; Minimum Operating Information; Minimum Monitoring Information; and Minimum Closure Information), depending on any changes made or planned to the construction, operation, monitoring, and/or closure of the facility.

Source Note: The provisions of this §4.277 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

DIVISION 6. REQUIREMENTS FOR STATIONARY COMMERCIAL RECYCLING OF FLUID

§4.278. General Permit Application Requirements for a Stationary Commercial Fluid Recycling Facility.

(a) An application for a permit for a stationary commercial fluid recycling facility shall be filed with the Technical Permitting Section on a Commission prescribed form, and on the same day the applicant shall mail or deliver a copy of the application to the Commission District Office for the county in which the facility is to be located. The Technical Permitting Section shall not administratively begin final review of an application unless the Director has determined that the application is complete in accordance with §1.201(b) of this title (relating to Time Periods for Processing Applications and Issuing Permits Administratively).

(b) The permit application shall contain the applicant's name; organizational report number; physical office address and, if different, mailing address; facility address; telephone number; and the name of a contact person.

(c) The permit application shall contain information addressing each applicable application requirement of this division and all information necessary to initiate the final review by the Director. The Director shall neither administratively approve an application nor refer an application to hearing unless the Director has determined that the application is administratively complete. If the Director determines that an application is incomplete, the Director shall notify the applicant in writing and shall describe the specific information required to complete the application.

(1) An applicant may make no more than two supplemental filings to complete an application.

(2) After the second supplemental submission, if the application is complete, the Director shall act on the application. The Director's action on the application shall be:

(A) approval if the application meets the requirements of this division and the application has not been protested;

(B) referral to the Hearings Division if the application meets the requirements of this division and the application has been protested; or

(C) denial if the application does not meet the requirements of this division.

(3) If after the second supplemental submission the application is still incomplete, the Director shall administratively deny the application. An application that was administratively denied may be refiled with the Commission on a Commission prescribed form and shall contain all information necessary to initiate the final review by the Director.

(4) The Director shall notify the applicant in writing of the administrative decision and, in the case of an administrative denial, the applicant's right to request a hearing on the application as it stands at the time of administrative denial.

(d) The Director shall approve or deny a complete application for a permit issued under this division that does not include a request for an exception to the requirements of this division not later than the 90th day after the date the complete application was received by the Commission, unless a protest is filed with the Commission, in which case the Commission may extend the amount of time to approve or deny the application in order to allow for a public hearing on the application pursuant to Chapter 1 of this title (relating to Practice and Procedure). If the Director does not approve or deny the application before that date, the permit application is considered approved and the applicant may operate under the terms specified in the application for a period of one year.

(e) The permit application shall contain the following certification signed and dated by an authorized representative of the applicant: "I certify that I am authorized to make this application, that this application was prepared by me or under my supervision and direction, and that the data and facts stated herein are true, correct, and complete to the best of my knowledge."

(f) A person shall file electronically any form or application for which the Commission has provided an electronic version or an electronic filing system or by hard copy if no digital format acceptable to the Commission has been enacted. The operator or person shall comply with all requirements, including but not limited to fees and security procedures, for electronic filing.

Source Note: The provisions of this §4.278 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.279. Minimum Engineering and Geologic Information.

(a) A permit applicant for a stationary commercial

fluid recycling facility shall include engineering, geological, or other information necessary to:

(1) describe the subsurface geology underlying the facility to a depth of at least 100 feet, including the identification of the soil and subsoil by typical name and description of the approximate proportion of grain sizes, texture, consistency, moisture condition, permeability, and other pertinent characteristics;

(2) describe the subsurface hydrogeology underlying the facility to a depth of at least 100 feet, including an assessment of the presence and characteristics of permeable and impermeable strata; and

(3) evaluate the geology, hydrogeology, and proposed engineering design to show that issuance of the permit will not result in the waste of oil, gas, or geothermal resources, the pollution of surface or subsurface water, or a threat to the public health or safety.

(b) Information for engineering and geological site characterization may be obtained from available information or from a site investigation including installation of soil borings, soil and groundwater sampling, and soil and groundwater analysis. Site-specific investigation information is considered more reliable and, therefore, will have a greater effect on the permit determination.

(c) If an operator intends to establish and later rely on actual background concentrations of contaminants in environmental media, then the operator shall collect site-specific soil and groundwater samples for analysis and include these findings with the application.

(d) Engineering and geologic work products prepared for the application shall be sealed by a professional engineer or geoscientist licensed in Texas as required by the Texas Occupations Code, Chapters 1001 and 1002, respectively.

Source Note: The provisions of this §4.279 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.280. Minimum Siting Information.

(a) A pit permitted under this division shall not be located:

(1) where there has been observable groundwater within 100 feet of the ground surface unless the pit design includes a geosynthetic clay liner (GCL) tested using fluids likely to be encountered in the operations of the facility and the test results demonstrated the GCL can sustain a hydraulic conductivity of 1.0 x 10-7cm/sec or less;

(2) within a sensitive area as defined by §4.110 of this title (relating to Definitions);

(3) within 300 feet of surface water, domestic supply wells, or irrigation water wells;

(4) within 500 feet of any public water system wells or intakes.

(5) within 1,000 feet of a permanent residence, school, hospital, institution, or church in existence at the time of the initial permitting;

(6) within 500 feet of a wetland; or

(7) within a 100-year floodplain.

(b) A permit application for a stationary commercial fluid recycling facility shall include:

(1) a description of the proposed facility site and surrounding area;

(2) the name, physical address and, if different, mailing address, and telephone number of every owner of the tract on which the facility is to be located. If any owner is not an individual, the applicant shall include the name of a contact person for that owner;

(3) the depth to the shallowest subsurface water and the direction of groundwater flow at the proposed site, and the source of this information;

(4) the average annual precipitation and evaporation at the proposed site and the source of this information;

(5) the identification of the soil and subsoil by typical name and description of the approximate proportion of grain sizes, texture, consistency, moisture condition, and other pertinent characteristics, and the source of this information;

(6) a copy of a county highway map with a scale and north arrow showing the location of the proposed facility; and

(7) a United States Geological Survey (USGS) topographic map or an equivalent topographic map which shows the facility including the items listed in subparagraphs (A) - (K) of this paragraph and any other pertinent information regarding the regulated facility and associated activities. Maps shall be on a scale of not less than one inch equals 2,000 feet. The map shall show the following:

(A) a scale and north arrow showing the tract size in square feet or acres, the section/survey lines, and the survey name and abstract number;

(B) a clear outline of the proposed facility's boundaries;

(C) the location of any pipelines within 500 feet of the facility;

(D) the distance from the facility's outermost perimeter boundary to public and private water wells, residences, schools, churches, and hospitals that are within 500 feet of the boundary;

(E) for disposal only, the location of all residential and commercial buildings within a one-mile radius of the facility boundary;

(F) all water wells within a one-mile radius of the facility boundary;

(G) the location of the 100-year flood plain and the source of the flood plain information;

(H) surface water bodies within the map area;

(I) the location of any major and minor aquifers within the map area;

(J) the boundaries of any prohibited areas defined under §4.153 of this title (relating to Commercial Disposal Pits); and

(K) any other information requested by the Director reasonably related to the prevention of pollution.

(c) Factors that the Commission will consider in assessing potential risk from stationary commercial fluid recycling include:

(1) the volume and characteristics of the oil and gas waste, partially treated waste and recyclable product to be stored, handled, treated and recycled at the facility;

(2) proximity to coastal natural resources or sensitive areas as defined by §4.110 of this title; and

(3) any other factors the Commission deems reasonably necessary in determining whether or not issuance of the permit will pose an unreasonable risk.

(d) All siting requirements in this section for stationary commercial fluid recycling refer to conditions at the time the equipment and tanks used in the recycling are placed.

Source Note: The provisions of this §4.280 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.281. Minimum Real Property Information.

(a) A permit application for a stationary commercial fluid recycling facility shall include a copy of the signed lease agreement between the applicant and the owner of the tract upon which the facility is to be located.

(b) A permit application for a stationary commercial fluid recycling facility shall identify the location of the facility by including a plat or plats showing:

(1) a scale and north arrow showing the tract size in square feet or acres, the section/survey lines, and the survey name and abstract number;

(2) the site coordinates in degrees, minutes, and seconds of longitude and latitude;

(3) a clear outline of the proposed facility's boundaries;

(4) all tracts adjoining the tract upon which the facility is to be located;

(5) the name of the surface owner or owners of such adjoining tracts; and

(6) the distance from the facility's outermost perimeter boundary to water wells, residences, schools, churches, or hospitals that are within 500 feet of the boundary.

Source Note: The provisions of this §4.281 adopted to be effective April 15, 2013, 38 TexReg 2334.

§4.282. Minimum Design and Construction Information.

(a) A pit permitted under this division shall be designed, built, and maintained as follows.

(1) The pit shall contain the material placed in the pit and prevent releases, overflow, or failure.

(2) The maximum depth from the natural surface elevation shall not exceed 22 feet.

(3) The foundation and interior slopes shall consist of a firm, unyielding base, smooth and free of rocks, debris, sharp edges, or irregularities to prevent the liner's rupture or tear. All interior and exterior surfaces of the pit shall be smooth drum rolled.

(4) The pit sides and berms shall have interior and exterior grades no steeper than three horizontal feet to one vertical foot (3H:1V). The top of the berm shall be wide enough to provide adequate room for inspection, maintenance, and any other structural or construction requirements.

(A) Fill for berms shall be placed and compacted in continuous lifts with a maximum loose lift thickness of 10 inches, compacted to eight inches.

(B) Berm fill shall be compacted to at least 95% of maximum dry density determined by the Standard Proctor (ASTM D698) and at moisture content within +2% to -2% of optimum moisture content as determined by a standard proctor soil test on samples from the source area. One nuclear density test shall be conducted for each 2,500 cubic yards, and the applicant shall provide compaction testing results upon completion.

(5) Both primary and secondary liners in a pit shall be geomembrane liners composed of ASTM GRI-13 compliant materials and be impervious, synthetic material that is resistant to ultraviolet light, petroleum hydrocarbons, salts, and acidic and alkaline solutions. Each pit shall incorporate, at a minimum, a liner system as follows:

(A) The primary liner shall be constructed with a minimum 60-mil high density polyethylene (HDPE) for any pit under this subsection permitted after July 1, 2025.

(B) A leak detection system shall be placed between the primary and secondary geomembrane liners that shall consist of 200-mil biplanar geonet or geo-composite equivalent. The leak detection system shall consist of a properly designed drainage and collection and removal system placed above the secondary geomembrane liner in depressions and sloped to facilitate the earliest possible leak detection. The leak detection system shall be designed with the capability of removing a minimum of 1,000 gallons of leachate per acre per day or an alternative action leakage rate shall be calculated.

(C) The secondary liner shall be constructed with a minimum 40-mil HDPE for any pit under this subsection permitted after July 1, 2025. If the depth to groundwater

is less than 100 feet below the ground surface, the secondary liner shall include a geosynthetic clay liner.

(D) A geotextile (felt) liner shall be placed under the secondary liner and in contact with the prepared ground surface.

(6) The edges of all liners shall be anchored in the bottom of a compacted earth-filled trench that is at least 24 inches deep and shall be performed in accordance with the manufacturer's instructions.

(7) Field seams in geosynthetic material shall be performed in accordance with the manufacturer's instructions and include the following considerations:

(A) Field seams in geosynthetic material shall be minimized and oriented perpendicular to the slope of the berm, not parallel.

(B) Prior to field seaming, the operator shall overlap liners a minimum of four to six inches. The operator shall minimize the number of field seams and corners and irregularly shaped areas. There shall be no horizontal seams within five feet of the slope's toe.

(C) Qualified personnel shall perform field seam welding and testing. Documented quality assurance/quality control testing reports shall be maintained for the life of the liner.

(8) At a point of discharge into or suction from the pit, the operator shall ensure that the liner is protected from excessive hydrostatic force or mechanical damage.

(9) All piping and equipment that is in contact with the liner shall be secured to prevent liner wear and damage.

(10) There shall be no penetrations of the liner system.

(11) The pit shall be designed to prevent run-on of any non-contact stormwater, precipitation, or surface water. The pit shall be surrounded by a berm, ditch, or other diversion to prevent run-on of any non-contact stormwater, precipitation, or surface water.

(12) The pit shall be designed to operate with a minimum two feet of freeboard plus the capacity to contain the volume of precipitation from a 25-year, 24-hour rainfall event.

(b) Tanks and treatment equipment shall be located within a secondary containment system.

(c) A permit application for a stationary commercial fluid recycling facility shall include the layout and design of the facility by including a plat drawn to scale with north arrow to top of the map showing the location and information on the design and size of all receiving, processing, and storage areas and all equipment, tanks, silos, monitor wells, dikes, fences, and access roads.

(d) A permit application for a commercial fluid recycling facility also shall include:

(1) a description of the type and thickness of liners (e.g., fiberglass, steel concrete), if any, for all tanks, silos, pits, and storage areas/cells;

(2) for storage areas where tanks and/or liners are not used, credible engineering and/or geologic information demonstrating that tanks or liners are not necessary for the protection of surface and subsurface water;

(3) a map view and two perpendicular cross-sectional views of pits and/or storage areas/cells to be constructed, showing the bottom, sides, and berms, showing the dimensions of each;

(4) a plan to control and manage stormwater runoff and to retain incoming wastes during wet weather, including the location and dimensions of dikes and/or storage basins that would collect, at a minimum, stormwater from the facility during a 25-year, 24-hour rainfall event, and all calculations made to determine the required capacity and design; and

(5) a plan for the installation of monitoring wells at the facility.

Source Note: The provisions of this §4.282 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.283. Minimum Operating Information.

A permit application for a stationary commercial fluid recycling facility shall include the following operating information:

(1) the estimated maximum volume of untreated oil and gas waste and partially treated oil and gas waste to be stored at the facility;

(2) the estimated maximum volume and time that the recyclable product will be stored at the facility;

(3) a plan to control unauthorized access to the facility;

(4) a detailed waste acceptance plan that:

(A) identifies anticipated volumes and specific types of oil and gas wastes (e.g., hydraulic fracturing flowback fluid and/or produced water) to be accepted at the facility for treatment and recycling; and

(B) provides for testing of wastes to be processed to ensure that only oil and gas waste authorized by this division or the permit will be received at the facility;

(5) plans for keeping records of the source and volume of wastes accepted for recycling in accordance with the permit, including maintenance of records of the source of waste received by well number, API number, lease or facility name, lease number and/or gas identification number, county, and Commission district;

(6) a general description of the treatment process to be employed; a flow diagram showing the process and identifying all equipment and chemicals or additives to be used in the process; and the Safety Data Sheets (SDS) for any chemical or additive;

(7) a description of any testing to be performed to demonstrate that the proposed processing will result in a recyclable product that meets the health, safety, and environmental standards for the proposed use; and

(8) an estimate of the duration of operation of the proposed facility.

Source Note: The provisions of this §4.283 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.284. Minimum Monitoring Information.

A permit application for a stationary commercial fluid recycling facility shall include:

(1) a sampling plan for the partially treated waste to ensure compliance with permit conditions and reuse requirements;

(2) a plan for monitoring groundwater based on the subsurface geology and hydrogeology, which may include the installation and sampling of monitoring wells; and

(3) a plan to verify that fluid oil and gas wastes are confined to the facility pits, tanks, and processing areas, and a schedule for conducting periodic inspections, including plans to inspect pits and liner systems, equipment, processing, and other waste storage areas.

Source Note: The provisions of this §4.284 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.285. Minimum Closure Information.

(a) A permit application for a stationary commercial fluid recycling facility shall include a closure cost estimate (CCE) sealed by a professional engineer licensed in Texas.

(1) The CCE shall show all assumptions and calculations used to develop the estimate. The following assumptions are required:

(A) The facility is in compliance with permit conditions.

(B) The facility will be closed according to the permit or approved closure plan, under which collecting pits shall be dewatered, emptied and demolished prior to backfilling; all remaining waste will be disposed of at an authorized facility; and the facility will be restored to its native state unless otherwise authorized by the permit.

(C) None of the operator's equipment or facilities that may have otherwise been available at the time of closure (e.g., disposal wells, land treatment facilities, trucks, bulldozers, and employees) are available to assist in the closure.

(D) The facility is at maximum capacity. All tanks and pits are full of waste.

(E) Storage tanks and pits contain basic sediment and water in normal operating proportions, with a minimum volume of at least 10% basic sediment.

(2) The CCE shall not assess a salvage value for any material or equipment at the facility.

(3) The CCE shall include costs for sampling and analysis of soil for the areas around each waste management unit, including tank batteries, pads, and all former pits unless closure of an individual pit was previously approved by the Technical Permitting Section.

(4) The CCE shall show unit costs for all material, equipment, services, and labor needed to close the facility. Units and fees used shall be appropriate for the type of waste material to be disposed. For example, disposal units for saltwater shall be reported in oil barrels rather than gallons. The CCE shall be specific and shall state the source or basis for the specific unit cost, including the following:

(A) the permitted waste hauler to be used and the hauler's mileage rate;

(B) the distance that waste will be transported for disposal;

(C) the name of each facility where waste will be taken and the disposal costs for that facility;

(D) the source of any material being brought to the facility, such as clean fill material;

(E) calculations for earth-moving equipment time and cost needed to move the fill dirt if fill dirt will be taken from the property;

(F) the total labor costs, including the titles and billing rates for personnel; and

(G) the quantity of each unit cost item and how the total quantity was determined (for example, cubic yards of material divided by size of load equals total number of loads).

(5) The CCE shall include maps and illustrations such as facility plans and photographs that show the current condition of the facility, and/or the condition of the facility upon reaching maximum permit conditions.

(6) For facilities with groundwater monitoring wells, the CCE shall include costs to plug and abandon the monitoring wells.

(7) For facilities that will require post-closure monitoring, the CCE shall include costs for a minimum of five years of monitoring.

(8) The CCE shall show all calculations used to arrive at total maximum closure costs.

(9) For all estimates submitted for existing facilities, a NORM screening survey of the facility shall be submitted. NORM screening surveys shall be performed using a properly calibrated scintillation meter with a sodium iodide detector (or equivalent), with the results reported in microroentgens per hour. Manufacturer's specifications and relevant calibration records shall be submitted to the Technical Permitting Section for all devices used for NORM detection. All equipment, including piping, pumps, and vessels shall be surveyed. Readings shall be taken around the perimeter of all pits and to the extent possible, over the pits. The ground

surrounding the equipment and pits shall be surveyed in a systematic grid pattern. At a minimum, the following information shall be reported:

(A) the date of the survey;

(B) the instrument used and the last calibration date;

(C) a background reading;

(D) a site diagram showing where all readings, including the background, were taken; and

(E) the readings (in microroentgens per hour).

(10) If fill dirt will be excavated from the property to achieve closure, a restrictive covenant shall be submitted with the CCE. If the restrictive covenant requirements are not provided, the CCE shall assume that fill dirt is purchased from a commercial supplier. For a restrictive covenant, the following requirements shall be met whether the operator owns or leases the property:

(A) The operator shall provide a letter from the property owner specifically stating that the owner agrees that the material, which is described with specificity as to location, type and amount consistent with what is in the closure plan, will be available for closure whether the operator or the state performs closure, and agreeing to a restrictive covenant that reserves use of the material for closure.

(B) The operator shall submit an unsigned draft restrictive covenant on a Commission prescribed form. Once the Commission approves the closure cost and closure plan, the operator will be notified to submit a signed original of the restrictive covenant. The Commission will sign its portion of the restrictive covenant and return it to the operator for filing in the real property records of the county where the property is located. Once filed in the real property records, the operator shall provide the Commission with a certified copy.

(C) If the facility operator leases the property, the operator shall provide to the Commission a copy of an amendment or addendum to the lease between the operator and the surface owner with a clause that specifically reserves use of material and states that the reservation shall inure to the Commission (as third party beneficiary of this provision) if the Commission must initiate actions to close the facility.

(D) The operator shall submit supporting documentation showing that the dimensions of the restrictive covenant area can realistically store a stockpile in the amount needed. If soil will be excavated from the restrictive covenant area rather than stockpiled, the supporting documentation shall show the depth of the excavation is limited to what can be graded to prevent storm water from ponding in the excavated area.

(11) After the CCE has been calculated, an additional 10% of that amount shall be added to the total amount of the CCE to cover contingencies.

(b) A permit application for a stationary commercial fluid recycling facility shall include a detailed plan for closure of the facility when operations terminate and include the required elements of §4.292 of this title (relating to Minimum Permit Provisions for Closure). The closure plan shall address how the applicant intends to:

(1) remove waste, partially treated waste, and/or recyclable product from the facility;

(2) close all pits, treatment equipment, and associated piping and other storage or waste processing equipment;

(3) remove berms and equipment;

(4) contour and reseed disturbed areas with geographically appropriate vegetation including the source of water intended to establish the reseeded areas of the facility;

(5) sample and analyze soil and groundwater throughout the facility; and

(6) plug groundwater monitoring wells.

Source Note: The provisions of this §4.285 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.286. Notice.

(a) Purpose. Applicants are encouraged to engage with their communities early in the commercial recycling facility planning process to inform the community of the plan to construct stationary commercial fluid recycling facility and allow those who may be affected by the proposed activities to express their concerns. The purpose of the notice required by this section is to inform notice recipients:

(1) that an applicant has filed a permit application with the Commission, seeking authorization to conduct an activity or operate a facility; and

(2) of the requirements for filing a protest if an affected person seeks to protest the permit application.

(b) Timing of notice. The applicant shall provide notice after staff determines that an application stationary commercial fluid recycling facility is complete pursuant to §1.201(b) of this title (relating to Time Periods for Processing Applications and Issuing Permits Administratively). The date notice is completed begins a 30-day period in which an affected person may file a protest of the application with the Commission.

(c) Notice recipients. The applicant shall provide notice to:

(1) the surface owners of the tract on which the commercial recycling facility will be located;

(2) the surface owners of tracts located within a distance of 1/2-mile from the fence line or edge of the facility as shown on the plat required under §4.249(b) of this title (relating to Minimum Real Property Information) of the facility's fence line or boundary,

even if the surface owner's tract is not adjacent to the tract on which the commercial recycling facility is located;

(3) the city clerk or other appropriate city official if any part of the tract on which the commercial recycling facility will be located lies within the municipal boundaries of the city;

(4) the Commission's District Office; and

(5) any other person or class of persons that the Director determines should receive notice of an application.

(d) Method and contents of notice. Unless otherwise specified in this subchapter, the applicant shall provide direct notice to the persons specified in subsection (c) of this section as follows.

(1) The applicant shall provide notice by registered or certified mail. Notice is completed upon deposit of the document postpaid and properly addressed to the person's last known address with the United States Postal Service.

(2) The notice of the permit application shall consist of a complete copy of the application and any attachments. The copy shall be of the application and attachments after staff determines the application is complete pursuant to §1.201(b) of this title but before the final review is completed.

(3) The notice shall include a letter that contains:

(A) the name of the applicant;

(B) the date of the notice;

(C) the name of the surface owners of the tract on which the proposed commercial recycling facility will be located;

(D) the location of the tract on which the proposed commercial recycling facility will be located including a legal description of the tract, latitude/longitude coordinates of the proposed facility, county, original survey, abstract number, and the direction and distance from the nearest municipality or community;

(E) the types of fluids to be recycled at the commercial recycling facility;

(F) the recycling method proposed and the proposed end-use of the recycled material;

(G) a statement that an affected person may protest the application by filing a written protest with the Commission within 30 calendar days of the date notice is completed;

(H) a statement that a protest shall include the protestant's name, mailing address, telephone number, and email address;

(I) the address to which protests may be mailed or the location and instructions for electronic submittal of a protest if the Commission implements an electronic means for filing protests;

(J) the definition of "affected person" pursuant to §4.110 of this title (relating to Definitions); and

(K) the signature of the operator, or representative of the operator, and the date the letter was signed.

(4) If the Director finds that a person to whom the applicant was required to give notice of an application has not received such notice, then the Director shall not take action on the application until the applicant has made reasonable efforts to give such person notice of the application and an opportunity to file a protest to the application with the Commission.

(e) Proof of notice. After the applicant provides the notice required by this section, the applicant shall submit to the Commission proof of delivery of notice which shall consist of:

(1) a copy of the signed and dated letters required by subsection (d)(3) of this section;

(2) the registered or certified mail receipts; and

(3) a map showing the property boundaries, surface owner names, and parcel numbers of all notified parties.

(f) Notice by publication. In addition to the notice required by subsection (d) of this section, an applicant for a stationary commercial fluid recycling facility permit shall also provide notice by publication.

(g) Newspaper of general circulation. The permit applicant shall publish notice of the application in a newspaper of general circulation in the county in which the proposed facility will be located at least once each week for two consecutive weeks, with the first publication occurring not earlier than the date staff determines that an application is complete pursuant to §1.201(b) of this title (relating to Time Periods for Processing Applications and Issuing Permits Administratively) but before the final review is completed.

(h) Contents of published notice. The published notice shall:

(1) be entitled "Notice of Application for Commercial Fluid Recycling Facility" if the proposed facility is a commercial facility;

(2) provide the date the applicant filed the application with the Commission;

(3) identify the name of the applicant;

(4) provide the location of the tract on which the proposed facility will be located including the legal description of the property, latitude/longitude coordinates of the proposed facility, county, name of the original survey and abstract number, and location and distance in relation to the nearest municipality or community;

(5) identify the owner or owners of the property on which the proposed facility will be located;

(6) identify the type of fluid waste to be managed at the facility;

(7) identify the proposed recycling method;

(8) state that affected persons may protest the application by filing a protest with the Commission within 30 calendar days of the last date of publication;

(9) include the definition of "affected person" pursuant to §4.110 of this title (relating to Definitions); and

(10) provide the address to which protests shall be mailed. If the Commission implements an electronic means for filing protests, then the location to instructions for electronic submittal shall be included.

(i) Proof of notice. The applicant shall submit to the Commission proof that notice was published as required by this section. Proof of publication shall consist of:

(1) an affidavit from the newspaper publisher that states the dates on which the notice was published and the county or counties in which the newspaper is of general circulation; and

(2) the tear sheets for each published notice.

(j) Protest process. Any statement of protest to an application must be filed with the Commission within 30 calendar days from the date notice is completed or from the last date of publication if notice by publication is authorized by the Director.

(1) The Technical Permitting Section shall notify the applicant if the Commission receives an affected person's timely protest. A timely protest is a written protest date-stamped as received by the Commission within 30 calendar days of the date notice is completed or within 30 calendar days of the last date of publication, whichever is later.

(2) The applicant shall have 30 days from the date of the Technical Permitting Section's notice of receipt of protest to respond, in writing, by either requesting a hearing or withdrawing the application. If the applicant fails to timely file a written response, the Technical Permitting Section shall consider the application to have been withdrawn.

(3) The Technical Permitting Section shall refer all protested applications to the Hearings Division if a timely protest is received and the applicant requests a hearing.

(4) The Commission shall provide notice of any hearing convened under this subsection to all affected persons and persons who have requested notice of the hearing.

(5) If the Director has reason to believe that a person entitled to notice of an application has not received notice as required by this section, then the Technical Permitting Section shall not take action on the application until notice is provided to such person.

(6) The Commission may issue a permit if no timely protests from affected persons are received.

(k) Director review. If the Director has reason to believe that a person to whom the applicant was required to give notice of an application has not received such notice, then the Director shall not take action on the application until the applicant has made reasonable efforts to give such person notice of the application and an opportunity to file a protest to the application with the Commission.

Source Note: The provisions of this §4.286 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.287. General Permit Provisions.

(a) A permit for a stationary commercial fluid recycling facility issued pursuant to this division shall be valid for a term of not more than five years. Permits issued pursuant to this division may be renewed, but are not transferable to another operator without the written approval of the Director.

(b) A permit issued pursuant to this division shall require that, prior to operating, the facility shall comply with the financial security requirements of Texas Natural Resources Code, §91.109, relating to Financial Security for Persons Involved in Activities Other than Operation of Wells, as implemented by §3.78 of this title (relating to Fees and Financial Security Requirements).

(c) A permit for a stationary commercial fluid recycling facility shall include a condition requiring that the permittee notify the surface owner of the tract upon which recycling will take place and the Commission District Office before recycling operations commence on each tract.

Source Note: The provisions of this §4.287 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.288. Minimum Permit Provisions for Siting.

(a) A permit for a stationary commercial fluid recycling facility may be issued only if the Director or the Commission determines that the facility is to be located in an area where there is no unreasonable risk of pollution or threat to public health or safety.

(b) A stationary commercial fluid recycling facility permitted pursuant to this division is prohibited within a 100-year flood plain.

(c) Factors that the Commission will consider in assessing potential risk from a stationary commercial fluid recycling facility include:

(1) the volume and characteristics of the oil and gas waste, partially treated waste and recyclable product to be stored, handled, treated and recycled at the facility;

(2) distance to any surface water body, wet or dry;

(3) depth to and quality of the shallowest groundwater;

(4) distance to the nearest property line or public road;

(5) proximity to coastal natural resources, sensitive areas as defined by §4.110 of this title (relating

to Definitions), or water supplies, and/or public, domestic, or irrigation water wells; and

(6) any other factors the Commission deems reasonably necessary in determining whether or not issuance of the permit will pose an unreasonable risk.

(d) All siting requirements in this section refer to conditions at the time the facility is constructed.

Source Note: The provisions of this §4.288 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.289. Minimum Permit Provisions for Design and Construction.

(a) A permit issued pursuant to this division for a stationary commercial fluid recycling facility shall contain any requirement that the Director or the Commission determines to be reasonably necessary to ensure that:

(1) the design and construction of storage areas, containment dikes, and processing areas minimize contact of oil and gas waste and partially recycled waste with the ground surface, and prevent pollution of surface and subsurface water;

(2) the pollution of surface and subsurface water from spills, leachate, and/or discharges from the facility is prevented by:

(A) prohibiting the unauthorized discharge of oil and gas waste and other substances or materials, including contaminated storm water runoff, from the facility to the land surface at and adjacent to the facility or to surface and subsurface water;

(B) requiring that the permittee control spills at the facility; and

(C) requiring that the permittee make regular inspections of the facility; and

(3) the design and construction of the facility allows for monitoring for, and detection of, any migration of oil and gas waste or other substance or material from the facility.

(b) A permit issued for a stationary commercial recycling facility pursuant to this division shall require that the permittee, unless waived by the Technical Permitting Section under §4.289(d) of this title (relating to Minimum Permit Provisions for Operations):

(1) install monitoring wells in accordance with 16 Texas Administrative Code, Part 4, Chapter 76, relating to Water Well Drillers and Water Well Pump Installers, if required by the Technical Permitting Section; and

(2) if required by the Technical Permitting Section, submit a soil boring log and other information for each well.

(c) The soil boring log and other information required in subsection (b) of this section shall:

(1) describe the soils using the Unified Soils Classification System (equivalent to ASTM D 2487 and 2488);

(2) identify the method of drilling, total depth, and the top of the first encountered water or saturated soils;

(3) include a well completion diagram for each monitoring well;

(4) include a survey elevation for each wellhead reference point; and

(5) include a potentiometric map showing static water levels and the direction of groundwater flow.

(d) The Commission or the Director may waive any or all of the requirements in subsections (b) and (c) of this section if the permittee demonstrates that an on-site boring to a minimum depth of 100 feet recovers no water during a 24-hour test.

(e) A permit for a stationary commercial fluid recycling facility issued pursuant to this division shall require that the permittee notify the Commission District Office for the county in which the facility is located prior to commencement of construction, including construction of any berms, and again upon completion of construction and that the permittee may commence operations under the permit only after the facility has been inspected by the Commission to ensure that construction of all elements of the facility is consistent with the representations in the application and the requirements of the permit.

(f) An operator shall not locate material excavated during construction:

(1) within 100 feet of a continuously flowing watercourse or significant watercourse;

(2) within 200 feet from a lakebed, sinkhole, stock pond or lake (measured from the ordinary high-water mark) or any other watercourse;

(3) within 100 feet of a wetland; or

(4) within a 100-year floodplain.

(g) The following requirements apply to signage, fencing, and security.

(1) A sign shall be posted at each entrance to the facility. The sign shall be readily visible and show the operator's name, facility name, and permit number in letters and numerals at least three inches in height.

(2) A sign shall be posted identifying the permit number of each pit using letters and numerals at least three inches in height. The signs shall clearly state that the fluid within the pit is not potable or suitable for consumption.

(3) The facility shall maintain security to prevent unauthorized access. Security shall be maintained by a 24-hour attendant or a six-foot-high security fence and locked gate when unattended.

(h) Any pit associated with a stationary commercial fluid recycling facility permitted pursuant to this division after July 1, 2025, shall comply with the requirements of

§4.282(a) of this title (relating to Minimum Design and Construction Information).
Source Note: The provisions of this §4.289 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.290. Minimum Permit Provisions for Operations.

(a) A permit for a stationary commercial fluid recycling facility issued pursuant to this division shall contain requirements the Commission determines to be reasonably necessary to ensure that:

(1) only wastes and other materials authorized by the permit are received at the facility, including requirements that the permittee test incoming oil and gas waste and keep records of amounts and sources of incoming wastes; and

(2) the processing operation and resulting recyclable product meet the environmental and engineering standards established in the permit.

(b) A permit for a stationary commercial fluid recycling facility issued under this division may require the permittee to perform a trial run in accordance with the following procedure.

(1) The operator shall notify the Commission District Office for the county in which the facility is located prior to commencement of the trial run.

(2) The operator shall sample and analyze the partially treated waste that results from the trial run and submit to the Director for review a report of the results of the trial run prior to commencing operations.

(3) The Director shall approve the trial run if the report demonstrates that the recyclable product meets or exceeds the environmental and engineering standards established in the permit.

(4) The operator shall not use the recyclable product until the Director approves the trial run report.

(c) A permit issued pursuant to this division shall include any requirements, including limits on the volumes of oil and gas waste, partially treated waste, and recyclable product stored at the facility, that the Commission determines to be reasonably necessary to ensure that the permittee does not speculatively accumulate oil and gas waste, partially treated waste, and/or recyclable product at the facility without actually processing the oil and gas waste and putting the recyclable product to legitimate commercial use.

(d) A permit issued pursuant to this division shall include a requirement that the operator of the facility comply with the requirements of §3.56 of this title (relating to Scrubber Oil and Skim Hydrocarbons), if applicable.

(e) Oil shall not accumulate on top of the produced or treated water stored in the tanks and pits. Any oil on top of the liquids shall be skimmed off and handled in accordance with Commission rules. Any recovered oil shall be recorded and filed with the Commission on the appropriate forms or through an electronic filing system when implemented by the Commission.
Source Note: The provisions of this §4.290 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.291. Minimum Permit Provisions for Monitoring.

(a) Operational monitoring.

(1) The operator shall inspect the pits, tanks, and processing equipment weekly. The operator shall maintain a current log of such inspections and make the log available for review by the Commission upon request.

(2) The leak detection system shall be monitored on a weekly basis to determine if the primary liner has failed. The primary liner has failed if the volume of water passing through the primary liner exceeds the action leakage rate, as calculated using accepted procedures, or 1,000 gallons per acre per day, whichever is smaller.

(3) The operator of the pit shall keep records to demonstrate compliance with the pit liner integrity requirements and shall make the records available to the Commission upon request.

(4) If the primary liner is compromised below the fluid level in the pit, the operator shall remove all fluid above the damage or leak within 48 hours of discovery, notify the District Office, and repair the damage or replace the primary liner with a liner meeting the same levels of protection, at a minimum. The pit shall not be returned to service until the liner has been repaired or replaced and inspected by the District Office.

(5) If the pit's primary liner is compromised above the fluid level in the pit, the operator shall repair the damage or initiate replacement of the primary liner, with a liner meeting the same levels of protection, at a minimum, within 48 hours of discovery or seek an extension of time from the District Office.

(6) If groundwater monitoring wells are required, no waste shall be received at the facility until all permitted groundwater monitoring wells have been completed, developed, and sampled. The documentation of these activities shall be provided to the Commission within 30 days after installation of groundwater monitoring wells. Groundwater samples will be analyzed for the parameters in Figure 1.
Figure: 16 TAC §4.291(a)(6) ***[See Figure at end of this document.]***

(7) If an operator has determined the background analyte concentrations in soil and/or groundwater, those site-specific background levels shall be signed and sealed by a professional geoscientist or professional engineer licensed in Texas and, if accepted by the

Director, may be included in the permit as appropriate monitoring standards.

(b) Recyclable product monitoring.

(1) A permit for a stationary commercial fluid recycling facility pursuant to this division may include requirements the Director or Commission determines to be reasonably necessary to ensure that the recyclable product meets the environmental and engineering standards established by the Director or the Commission and included in the permit.

(2) A permit under this division for use of the treated fluid for any purpose other than as makeup water for hydraulic fracturing fluids or other down-hole uses may require laboratory testing. A permit that requires laboratory testing shall require that the permittee use an independent third party laboratory to analyze a minimum standard volume of partially treated waste for parameters established in this division or in a permit issued by the Commission.

(c) Quarterly reporting. A permit issued under this division shall include provisions for filing quarterly reports documenting the fluid volumes into and out of the system in a form and manner prescribed by the Director.

Source Note: The provisions of this §4.291 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.292. Minimum Permit Provisions for Closure.

(a) Notifications.

(1) The operator shall notify the Commission within 60 days after the cessation of operations.

(2) The operator shall notify the Commission 45 days before the commencement of closure activities.

(b) Time requirements for closure.

(1) Once the operations have ceased, the operator shall complete closure of the facility within one year.

(2) The Commission may grant an extension to close the facility not to exceed one additional year, provided all fluid has been removed and the operator attests to its plans for future operation.

(3) If the operator intends to use the pit for a purpose other than recycling, then the operator shall have that use approved or permitted by the Commission in accordance with the appropriate rules.

(c) Fluid and waste removal.

(1) The operator shall remove all fluids from the treatment equipment and tanks within 60 days of the date the operations cease. The contents of all tanks, vessels, or other containers shall be disposed of in an authorized manner. All equipment shall be removed and salvaged, if possible, or disposed of in an authorized manner.

(2) The operator shall remove all fluids from pits within six months of the date operations cease.

(3) All wastes, including the pit liners, shall be removed and disposed of in an authorized manner.

(4) Any concrete areas and access roads shall be cleaned and demolished, and the concrete rubble and wash water shall be disposed of in an authorized manner.

(5) All visibly contaminated soils shall be excavated and removed. The contaminated soil shall be disposed of in an authorized manner.

(d) Confirmation sampling and analysis.

(1) After the removal of wastes and visibly contaminated soils, grab samples shall be collected from around and underneath each pit, processing area, and waste storage, and the samples shall be analyzed for the parameters listed in Figure 1. The Commission may require samples from areas underneath concrete.
Figure: 16 TAC §4.292(d)(1) ***[See Figure at end of this document.]***

(2) The minimum number of grab samples required is as follows:

(A) for pits, five samples per acre of surface area, with a minimum of four samples; and

(B) for areas containing treatment equipment and storage tanks, five samples per acre of surface area.

(3) Any soil sample that exceeds the parameter limitations specified in Figure 1 in this subsection or in site-specific limitations established in the permit is considered waste and shall be disposed of at an authorized disposal facility.

(4) If any soil samples exceed the parameter limitations specified in Figure 1 in this subsection or in site-specific limitations established in the permit, the operator shall prepare and submit a plan for confirmation, delineation, and remediation, if necessary.

(e) The facility shall be restored to a safe and stable condition that blends with the surrounding land. Topsoil and subsoils shall be replaced and contoured so as to achieve erosion control, long-term stability, and preservation of surface water flow patterns at locations where any surface water entered or exited the property boundary prior to waste management or recycling activities at the facility. Final surface grading of the pits and the storage tank battery areas shall be accomplished in such a manner that water will not collect at these former locations. The site shall be re-vegetated as appropriate for the geographic region and include a planned water source to establish the re-vegetated areas.

(f) Within 60 days of closure completion, the operator shall submit a closure report, including required attachments, to document all closure activities including sampling results and the details on any backfilling, capping, or covering, where applicable. The closure report shall certify that all information in the report and attachments is correct, and that the operator has complied with all applicable closure requirements and conditions specified in Commission rules or directives.

(g) The operator shall notify the Commission when closure and re-vegetation are complete. The Commission shall not release financial security to the operator until all post-closure activities are approved by the Commission.

(h) The Commission will inspect the site and verify compliance with closure requirements.

Source Note: The provisions of this §4.292 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

§4.293. Permit Renewal.

Before the expiration of a permit issued pursuant to this division, the permittee may submit an application to renew the permit on a Commission prescribed form. An application for renewal of an existing permit issued pursuant to this division shall be submitted in writing a minimum of 60 days before the expiration date of the permit and shall include the permittee's permit number. The application shall comply with the requirements of §4.278 of this title (relating to General Permit Application Requirements for a Stationary Commercial Fluid Recycling Facility), and the notice requirements of §4.286 of this title (relating to Notice). The Director may require the applicant to comply with any of the requirements of §§4.279 - 4.285 of this title (relating to Minimum Engineering and Geologic Information; Minimum Siting Information; Minimum Real Property Information; Minimum Design and Construction Information; Minimum Operating Information; Minimum Monitoring Information; and Minimum Closure Information), depending on any changes made or planned to the construction, operation, monitoring, and/or closure of the facility.

Source Note: The provisions of this §4.293 adopted to be effective April 15, 2013, 38 TexReg 2334; amended to be effective July 1, 2025, 50 TexReg 33.

DIVISION 7. BENEFICIAL USE OF DRILL CUTTINGS

§4.301. Activities Related to the Treatment and Recycling for Beneficial Use of Drill Cuttings.

(a) The Commission encourages recycling of oil and gas waste. In addition to the requirements of Divisions 3 and 4 of this subchapter (relating to Requirements for Off-Lease or Centralized Commercial Solid Oil and Gas Waste Recycling, and Requirements for Stationary Commercial Solid Oil and Gas Waste Recycling Facilities, respectively), operators performing activities permitted under those divisions shall comply with the requirements of this division for activities related to the treatment and recycling for beneficial use of drill cuttings.

(b) The Commission may approve a permit for the treatment and recycling for beneficial use of drill cuttings if the treated drill cuttings are used:

(1) in a legitimate commercial product for the construction of oil and gas lease pads or oil and gas lease roads;

(2) in another type of legitimate commercial product if the applicant can demonstrate that the product:

(A) meets the engineering requirements for the proposed use as determined by a professional engineer licensed in Texas;

(B) is at least as protective of public health, public safety, and the environment as the use of an equivalent product made without treated drill cuttings; and

(C) does not cause or contribute to the pollution of surface or subsurface water.

(c) The application shall provide any other information requested by the Commission to determine the legitimacy and safety of an application.

Source Note: The provisions of this §4.301 adopted to be effective July 1, 2025, 50 TexReg 33.

§4.302. Additional Permit Requirements for Activities Related to the Treatment and Recycling for Beneficial Use of Drill Cuttings.

(a) An applicant for a permit to treat and recycle drill cuttings for beneficial use shall show that there is a demonstrated commercial market for the treated drill cuttings. The applicant may make this showing by providing:

(1) evidence that the same product made with drill cuttings or a product that is substantially similar is commonly used in the area where the product is created;

(2) evidence of actual commitments from customers who intend to use the product made with drill cuttings, including information regarding the volume of product the customers intend to use annually; or

(3) other credible and verifiable means consistent with the rules in this chapter.

(b) An applicant for a permit to treat and recycle drill cuttings for beneficial use shall perform a trial run in accordance with the following procedure.

(1) The applicant shall notify the Commission District Office for the county in which the facility is located prior to commencement of the trial run.

(2) The applicant shall demonstrate the ability to successfully process a 1,000 cubic yard batch of drill cuttings before the facility receives or processes any additional drill cuttings.

(3) The applicant shall collect samples of the treated drill cuttings from every 200 cubic yards of the first 1,000 cubic yard batch.

(4) Samples collected shall be analyzed and shall not exceed the parameters specified in Figure 1 or Figure 2 in subsection (c) of this section, as applicable.

(5) A written report of the results from the trial run prepared by a professional engineer licensed in Texas shall be submitted to the District Office and the Technical Permitting Section within 60 days of receipt of the analytical requirement in §4.258 of this title (relating to Minimum Permit Provisions for Operations). The report shall include:

(A) a summary of the trial run and description of the process;

(B) the actual volume of drill cuttings processed;

(C) the type of waste and description of the waste material;

(D) the volume and type of each stabilization material used; and

(E) copies of all chemical and geotechnical laboratory analytical reports and chain of custody sheets for the samples required in paragraph (3) of this subsection, as applicable.

(6) The applicant shall notify the District Office for the county in which the facility is located and the Technical Permitting Section at least 72 hours before processing begins. No additional drill cuttings shall be received or processed while the results of the trial run are being reviewed by the Technical Permitting Section. Any legitimate commercial product produced during the trial run shall not be used until the Technical Permitting Section has received the trial run reports and provides written confirmation that the trial run requirements have been met.

(c) In addition to the permit standards under this subchapter, beneficial uses for treated and recycled drill cuttings shall meet the following criteria.

(1) For use of treated and recycled drill cuttings in a legitimate commercial product for the construction of oil and gas lease pads and oil and gas lease roads, the following requirements shall apply.

(A) Bench scale tests shall be performed as needed to determine optimum mixing composition. If the composition mixture changes from the treated drill cuttings produced during the trial run, the treated drill cuttings shall be analyzed for wetting and drying durability by ASTM 559-96, modified to provide samples that are compacted and molded from finished treated drill cuttings. Total weight loss after 12 cycles shall not exceed 15%.

(B) A sample of the treated drill cuttings shall be tested for the parameters listed in Figure 1 in this subsection for the trial run required by subsection (b) of this section and for every 800 cubic yard batch of treated drill cuttings produced thereafter. Each 800 cubic yard sample shall be composed of a composite of four sub-samples obtained at 200 cubic yard intervals. Each sample shall have a complete chain of custody and shall be analyzed for the parameters on Figure 1 in this subsection.

(C) Any treated drill cuttings not meeting the limitations specified in Figure 1 in this subsection shall be returned to the mixing cycle, reprocessed, and reanalyzed until the drill cuttings meet the required parameters or shall be disposed of in accordance with Commission rules.

Figure: 16 TAC §4.302(c)(1) ***[See Figure at end of this document.]***

(2) The Commission may require that use of treated drill cuttings in legitimate commercial products other than those described in paragraph (1) of this subsection comply with criteria in addition to those specified in this section.

Source Note: The provisions of this §4.302 adopted to be effective July 1, 2025, 50 TexReg 33.

TEXAS ADMINISTRATIVE CODE
TITLE 16. ECONOMIC REGULATION
PART 1. RAILROAD COMMISSION OF TEXAS
CHAPTER 4. ENVIRONMENTAL PROTECTION

SUBCHAPTER D. RAILROAD COMMISSION OF TEXAS VOLUNTARY CLEANUP PROGRAM

§4.401. Purpose.

The purpose of the voluntary cleanup program is to provide an incentive to clean up property contaminated by activities under Railroad Commission jurisdiction by removing the liability to the state of lenders, developers, owners, and operators who did not cause or contribute to contamination released at the site. The program is restricted to voluntary actions but does not replace other voluntary actions.

Source Note: The provisions of this §4.401 adopted to be effective June 10, 2002, 27 TexReg 4936.

§4.405. Definitions.

The following words and terms when used in this subchapter shall have the following meanings unless the context clearly indicates otherwise.

(1) Applicant--A person who is eligible to participate in the voluntary cleanup program and who submits the required forms, information, and fee for doing so.

(2) Assistant director--The administrative head of the Site Remediation Section.

(3) Certificate of completion--The document executed by the Commission upon satisfactory completion of obligations under a Voluntary Cleanup Agreement.

(4) Completion--The cleanup of a site to the point that no more response actions are necessary.

(5) Commission--The Railroad Commission of Texas, the director of the Oil and Gas Division, or a staff delegate of the division director.

(6) Conditional certificate of completion--The document executed by the Commission upon a participant's satisfactory conditional completion of obligations under a Voluntary Cleanup Agreement.

(7) Conditional completion--The cleanup of a site to the point that further response actions are limited to maintenance of engineering or institutional controls and/or the continued successful operation of long-term remediation systems.

(8) Contaminant--A waste, pollutant, or other substance or material regulated by or that results from an activity under the jurisdiction of the Commission under Texas Natural Resources Code, Chapters 91 or 141, or the Texas Water Code.

(9) Division--The Oil and Gas Division of the Commission.

(10) Eligible applicant--An applicant who did not cause or contribute to the contaminants on the site that is the subject of the voluntary cleanup agreement and whose application the Site Remediation Section has accepted.

(11) Participant--An eligible applicant with whom the Commission has entered into a voluntary cleanup agreement.

(12) Response action--The control, cleanup, or removal of a contaminant from the environment.

(13) Responsible person--Any operator or other person required by law, rules of the Commission, or a valid order of the Commission to control or clean up the oil and gas wastes or other substances or materials.

(14) Site Remediation Section--Those Commission staff, individually or collectively, who are employed in the Site Remediation Section, or its successor, of the Oil and Gas Division.

(15) Voluntary cleanup--A response action taken under and in compliance with this subchapter.

Source Note: The provisions of this §4.405 adopted to be effective June 10, 2002, 27 TexReg 4936.

§4.410. Eligibility for the Voluntary Cleanup Program.

(a) Any site that is contaminated with a contaminant is eligible for participation in the voluntary cleanup program except the portion of a site that is the subject of a Commission order to control or clean up the contaminants. On application from an eligible applicant, the Commission may dismiss an order that would otherwise render a site or portion of a site ineligible for the program.

(b) Any person who is not a responsible person as that term is defined in §4.405(13) of this title (relating to Definitions) is eligible to participate in the voluntary cleanup program.

Source Note: The provisions of this §4.410 adopted to be effective June 10, 2002, 27 TexReg 4936.

§4.415. Application to Participate in the Voluntary Cleanup Program.

(a) A person applying to participate in the voluntary cleanup program shall submit to the Site Remediation Section an application to participate in the voluntary cleanup program and an application fee as required by subsection (b) of this section.

(b) A person submitting an application to participate in the voluntary cleanup program shall:

(1) use the application form provided by the Commission;

(2) provide the following information:

(A) general information concerning:

(i) the applicant and the applicant's capability, including the applicant's financial capability, to perform the voluntary cleanup;

(ii) the site; and

(iii) the names, addresses, and telephone numbers of all surface and mineral owners and mineral operators of property where the contamination came to be located;

(B) other background information requested by the Site Remediation Section based on the particular circumstances of the site in question;

(C) an environmental assessment of the actual or threatened release of the contaminant or contaminants at the site that includes, at a minimum, the information set forth in subsection (c) of this section; and

(D) if the applicant is not the surface owner of the site, written authorization from all surface owners of the site agreeing to the applicant's participation in the program;

(3) submit the application fee of $1,000; and

(4) follow any schedule set by the Site Remediation Section.

(c) The environmental assessment required by subsection (b)(2)(C) of this section shall include, at a minimum:

(1) a legal description of the site;

(2) a description of the physical characteristics of the site; and

(3) to the extent known by the applicant:

(A) the operational history of the site;

(B) information concerning the nature and extent of any relevant contamination or release at the site and immediately contiguous to the site, and wherever the contamination came to be located; and

(C) relevant information concerning the potential for human exposure to contamination at the site.

Source Note: The provisions of this §4.415 adopted to be effective June 10, 2002, 27 TexReg 4936.

§4.420. Acceptance or Rejection of an Application.

(a) The Site Remediation Section shall process applications in the order in which they are received.

(b) The Commission may accept an application if it:

(1) is submitted by a person eligible to participate in the program, pursuant to §4.410(b) of this title (relating to Eligibility for the Voluntary Cleanup Program);

(2) pertains to an eligible site, pursuant to §4.410(a) of this title;

(3) includes all of the information required by §4.415 of this title (relating to Application to Participate in the Voluntary Cleanup Program), provided the information does not indicate that either the person or the site is ineligible;

(4) demonstrates that the applicant has the financial capability to pay for all costs of the response action, including but not limited to the direct costs of the response action and the reasonable costs attributable to the oversight of the response action likely to be incurred by the Commission;

(5) includes written authorization from all surface owners of the site agreeing to the applicant's participation in the program, or proof that the applicant is the surface owner of the site; and

(6) includes the application fee.

(c) The Commission may reject an application to participate in the voluntary cleanup program if:

(1) a state or federal enforcement action is pending that concerns the remediation of the contaminant or contaminants described in the application;

(2) a federal grant requires an enforcement action at the site;

(3) the application is incomplete or inaccurate; or

(4) the application fails to meet the requirements of subsection (b) of this section.

(d) If the Commission rejects the application, the Commission shall:

(1) not later than the 45th day after the Site Remediation Section receives the application, notify the applicant in writing that the application has been rejected;

(2) explain the reasons for rejection of the application; and

(3) inform the applicant that the Commission will refund half the application fee unless the applicant indicates a desire to resubmit the application.

(e) If the Commission rejects an application because it is incomplete or inaccurate, then not later than the 45th day after the Site Remediation Section receives the application, the Assistant Director shall notify the applicant in writing of all information needed to make the application complete or accurate. If the applicant resubmits the application not later than the 45th day after the Assistant Director issues notice that the application has been rejected, the applicant shall not submit an additional application fee. This waiver of the application fee applies only to the first re-submission within 45 days of notice of an incomplete application. An applicant who re-submits an application after the 45th day shall submit the application fee required by §4.415(b)(3) of this title.

Source Note: The provisions of this §4.420 adopted to be effective June 10, 2002, 27 TexReg 4936; amended to be effective February 3, 2011, 36 TexReg 410.

§4.425. Voluntary Cleanup Agreement.

(a) Before the Site Remediation Section evaluates any plan or report detailing the cleanup goals and proposed response action methods, the eligible applicant shall enter into a voluntary cleanup agreement with the Commission that sets forth the terms and conditions of the evaluation of the reports and the implementation of work plans.

(b) A voluntary cleanup agreement shall:

(1) include provisions by which the participant commits to pay the Commission all reasonable costs:

(A) incurred by the Commission for review and oversight of the participant's work plan and reports and for the Commission's field activities;

(B) attributable to the voluntary cleanup agreement including direct and indirect costs of overhead, salaries, equipment, utilities, and legal, management, and support costs; and

(C) that exceed the amount of the application fee submitted to the Commission by the applicant as required by §4.415 of this title (relating to Application to Participate in the Voluntary Cleanup Program);

(2) identify all statutes and rules with which the participant shall comply;

(3) identify all state and federal standards, requirements, criteria, or limitations to which the response action would otherwise be subject if a state or federal permit were required;

(4) describe any work plan or report that the participant is required to submit for review by the Commission, including a final report that provides all information necessary to verify that all work contemplated by the voluntary cleanup agreement has been completed;

(5) include a schedule for the participant to submit and for the Site Remediation Section to review the information required by paragraph (4) of this subsection;

(6) identify specific tasks, deliverables, and schedules for conducting and completing the response action, including terms specifying negotiating periods between reports and consequences for failure to meet deadlines in the agreement;

(7) state the technical standards to be applied by the Site Remediation Section in evaluating the work plans and reports with reference to the proposed future land use to be achieved; and

(8) be signed by both the participant or the participant's authorized representative and the Assistant Director.

(c) If the eligible applicant and the Commission do not reach an agreement on or before the 30th day after good faith negotiations have begun:

(1) either the eligible applicant or the Commission may withdraw from the negotiations, in which event the Commission shall retain the application fee; or

(2) the eligible applicant and the Commission may continue negotiating.

(d) The Commission shall not initiate an enforcement action against a participant who is in compliance with this section for the contamination or release that is the subject of the voluntary cleanup agreement or for activity that resulted in the contamination or release that is the subject of a voluntary cleanup agreement.

Source Note: The provisions of this §4.425 adopted to be effective June 10, 2002, 27 TexReg 4936.

§4.430. Termination of Agreement and Cost Recovery.

(a) At any time and for any reason, either the Commission or the participant may terminate a voluntary cleanup agreement by giving to the other written notice 15 days prior to the stated termination date. The participant shall pay and the Commission shall recover only those costs incurred or obligated by the Commission before notice of termination of becomes effective. The Commission shall retain the application fee.

(b) Termination of the agreement does not affect any right the Commission has under other law to recover its costs. The Commission shall not issue a certificate of completion to a participant in a voluntary cleanup agreement that is terminated.

(c) If the participant does not pay to the Commission the Commission's costs under a voluntary cleanup agreement before the 31st day after the date the person receives notice that the costs are due and owing, the Commission may request that the attorney general bring an action in the name of the state in Travis County to recover the amount owed plus reasonable legal expenses, including attorneys' fees, witness costs, court costs, and deposition costs, pursuant to Texas Natural Resources Code, §91.657(c).

Source Note: The provisions of this §4.430 adopted to be effective June 10, 2002, 27 TexReg 4936.

§4.435. Voluntary Cleanup Work Plans and Reports.

(a) After signing a voluntary cleanup agreement, the participant shall prepare and submit to the Site Remediation Section the work plans and reports required by the agreement.

(b) The Site Remediation Section shall review and evaluate the work plans and reports for accuracy, quality, and completeness. The Site Remediation Section may approve or not approve a voluntary cleanup work plan or report. If the Site Remediation Section does not approve a work plan or report, the Site Remediation Section shall, within the deadline established by the Voluntary Cleanup Agreement, notify the participant of the specific additional information or commitments needed to obtain approval.

(c) At any time during the evaluation of a work plan or report, the Site Remediation Section may request additional or corrected information.

(d) After considering future land use, the Site Remediation Section may approve work plans and reports submitted under this section that do not require cleanup or removal of all contaminants at a site if the partial response actions for the property:

(1) will be completed in a manner that protects human health and the environment;

(2) will not cause, contribute, or exacerbate discharges, releases, or threatened releases that are not required to be cleaned up or removed under the work plan; and

(3) will not interfere with or substantially increase the cost of response actions to address any remaining contaminants.

Source Note: The provisions of this §4.435 adopted to be effective June 10, 2002, 27 TexReg 4936.

§4.440. Certificate of Completion and Conditional Certificate of Completion.

(a) If the Site Remediation Section determines that a participant has completed a voluntary cleanup approved under this subchapter, the Commission shall certify that the action has been completed by issuing the participant a certificate of completion.

(b) The certificate of completion shall:

(1) acknowledge the protection from liability provided by §4.445 of this title (relating to Persons Released from Liability);

(2) indicate the proposed future land use;

(3) include a legal description of the site and the names of the site's surface and mineral owners and mineral operators at the time the application to participate in the voluntary cleanup program was filed; and

(4) include an Affidavit of Completion on a form prescribed by the Commission. The affidavit of completion is a sworn statement made by the participant that is attached to and becomes part of the certificate of completion issued by the Commission. The affidavit shall:

(A) identify the site and its surface and mineral owners and mineral operators;

(B) identify the response actions performed including, if appropriate, any reliance on engineering or institutional controls;

(C) declare that the degree of inquiry used in determining the appropriate response actions, the response actions, and reporting were consistent with industry standards; and

(D) state that the certificate of completion has not been acquired by fraud, misrepresentation, or knowing failure to disclose material information.

(c) If the Site Remediation Section determines that the participant has substantially completed a voluntary cleanup approved under this subchapter, and that oversight and maintenance of controls and remediation systems provide a strong likelihood of success with minimal maintenance and reporting, the Commission may issue a conditional certificate of completion. The conditional certificate of completion shall:

(1) acknowledge the protection from liability provided by §4.445 of this title (relating to Persons Released from Liability);

(2) indicate the proposed future land use;

(3) include a legal description of the site and the names of the site's surface and mineral owners and mineral operators at the time the application to participate in the voluntary cleanup program was filed;

(4) identify the oversight and maintenance activities and results the person must perform, reach, and maintain for the conditional certificate to remain in force;

(5) include a schedule of activities;

(6) identify responses in case of remedy failure; and

(7) include an Affidavit of Response Action Implementation. The Affidavit of Response Action Implementation is a sworn statement made by the participant and that is attached to and becomes part of the conditional certificate of completion issued by the commission. In addition to all of the elements identified in subsection (b)(4) of this section, the Affidavit of Response Action Implementation shall include a schedule the participant's post closure monitoring activities and reporting to the Railroad Commission of Texas with an estimated date of completion, and identify contingencies that the participant is obligated to implement if any response action fails in whole or in part.

(d) If the Site Remediation Section determines that the participant has not completed a voluntary cleanup approved under this subchapter, the Assistant Director shall so notify the participant, the current surface and mineral owners and the mineral operators of the site that is the subject of the cleanup.

Source Note: The provisions of this §4.440 adopted to be effective June 10, 2002, 27 TexReg 4936.

§4.445. Persons Released from Liability.

(a) A person who is not a responsible person, as that term is defined in §4.405 of this title (relating to Definitions), at the time the person applies to participate in a voluntary cleanup does not become a responsible person solely because the person signs the application or the voluntary cleanup agreement.

(b) A participant who is not a responsible person at the time the Commission issues a certificate of completion under §4.440 of this title (relating to Certificate of Completion and Conditional Certificate of Completion) is released, as of the date of the certificate, from all liability to the state for cleanup of contaminants specified in the voluntary cleanup agreement for areas of the site covered by the certificate, except for releases and consequences that the participant causes.

(c) The release from liability provided by this subchapter does not apply to a person who:

(1) caused or contributed to the contamination at the site covered by the certificate;

(2) acquires a certificate of completion by fraud, misrepresentation, or knowing failure to disclose material information;

(3) knows at the time the person acquires an interest in the site for which the certificate of completion was issued that the certificate was acquired by fraud, misrepresentation, or knowing failure to disclose material information; or

(4) changes the land use from the use specified in the certificate of completion if the new use may result in increased risks to human health or the environment.

Source Note: The provisions of this §4.445 adopted to be effective June 10, 2002, 27 TexReg 4936.

§4.450. Federal, State, or Local Permits.

(a) A state or local permit is not required for a voluntary cleanup under this subchapter. A participant shall coordinate a voluntary cleanup with ongoing federal and state waste programs.

(b) Any participant conducting a voluntary cleanup shall comply with any state or federal standard, requirement, criterion, or limitation to which the response action would otherwise be subject if a state or federal permit were required.

Source Note: The provisions of this §4.450 adopted to be effective June 10, 2002, 27 TexReg 4936.

SUBCHAPTER F. OIL AND GAS NORM

§4.601. Purpose.

(a) This subchapter establishes requirements for the identification of equipment contaminated with oil and gas Naturally Occurring Radioactive Material (NORM), and the disposal of oil and gas NORM waste for the purpose of protecting public health, safety, and the environment.

(b) The provisions of this subchapter do not supersede other Commission regulations relating to oil and gas waste management, including disposal.

(c) The provisions of this subchapter do not supercede the applicable rules of the Texas Department of Health (TDH), including but not limited to 25 TAC §289.202 (relating to Standards for Protection Against Radiation from Radioactive Material) and 25 TAC §289.259 (relating to Licensing of Naturally Occurring Radioactive Material (NORM)).

Source Note: The provisions of this §4.601 adopted to be effective March 3, 2003, 28 TexReg 1838.

§4.602. Exclusions and Exemptions.

(a) Exclusions. Activities involving the recycling of oil and gas NORM waste; the decontamination of equipment and facilities that are contaminated with oil and gas NORM waste as a result of activities other than disposal of oil and gas NORM waste; the possession, use, transfer, transport, and/or storage of oil and gas NORM waste; and worker protection standards associated with such activities are under the jurisdiction of the TDH.

(b) Exemptions. The following activities are exempt from the requirements of this subchapter:

(1) disposal of produced water by injection into a well permitted under §3.9 of this title (relating to Disposal Wells) or §3.46 of this title (relating to Fluid Injection into Productive Reservoirs);

(2) disposal of produced water by discharge to surface waters and in accordance with a discharge permit issued under §3.8 of this title (relating to Water Protection); and

(3) disposal of equipment that has been decontaminated in accordance with a license issued by the TDH and that meets the exemption criteria of 25 TAC §289.259(d) (relating to Licensing of Naturally Occurring Radioactive Material (NORM)).

Source Note: The provisions of this §4.602 adopted to be effective March 3, 2003, 28 TexReg 1838.

§4.603. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Background radiation--Radiation at the ground surface from:

(A) cosmic sources;

(B) non-technologically enhanced naturally occurring radioactive material, including radon, except as a decay product of source or special nuclear material; or

(C) global fallout as it exists in the environment from the testing of nuclear explosive devices.

"Background radiation" does not include sources of radiation from radioactive materials regulated by the TDH.

(2) Commission--The Railroad Commission of Texas or its designee.

(3) Disposal--Engaging in the act of discharging, depositing, injecting, dumping, spilling, leaking, or placing of any oil and gas NORM waste into or on any land or water, or causing or allowing any such act, so that such waste, or any constituent thereof, may enter the environment or be emitted into the air or discharged into any waters, including subsurface waters. For purposes of this subchapter, disposal of oil and gas NORM waste includes its management at the site*(e.g.,*lease, unit, or facility) where disposal will occur when undertaken for the explicit purpose of facilitating disposal at that site. The term does not include decontamination activities,

except for in-place mixing of oil and gas NORM waste to remedy historical contamination of the land surface and decontamination of equipment and facilities that become contaminated solely through disposal operations. In addition, the term does not include activities, including processing or treatment, that occur at a location other than the disposal site.

(4) Equipment--Oil and gas equipment used for production or disposal, including but not limited to pipes (tubulars), tanks, vessels, pumps, valves, flow lines, and connectors such as tees and elbows, provided that such equipment is or has been in contact with oil and gas waste or produced fluids or substances.

(5) Microroentgens per hour (μR/hr)--A measurement of exposure from x-ray and gamma ray radiation in air.

(6) NORM--Naturally occurring radioactive material.

(7) NORM-contaminated equipment--Equipment that, at any accessible point, exhibits a minimum radiation exposure level greater than 50 μR/hr including background radiation level.

(8) Oil and gas waste--Oil and gas waste as defined in §3.8 of this title (relating to Water Protection).

(9) Oil and gas NORM waste--Any solid, liquid, or gaseous material or combination of materials (excluding source material, special nuclear material, and by-product material) that:

(A) in its natural physical state spontaneously emits radiation;

(B) is discarded or unwanted;

(C) constitutes, is contained in, or has contaminated oil and gas waste; and

(D) prior to treatment or processing that reduces the radioactivity concentration, exceeds exemption criteria specified in 25 TAC §289.259(d) (relating to Licensing of Naturally Occurring Radioactive Material (NORM)).

(10) Person--A natural person, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

(11) Picocuries per gram (pCi/g)--A measure of the radioactivity in one gram of a material. One picocurie is that quantity of radionuclide(s) that decays at the rate of 3.7×10^{-2} disintegrations per second.

(12) Radiation survey instrument--An instrument used to detect and measure radiation exposure levels from 1 μR/hr through at least 500 μR/hr.

Source Note: The provisions of this §4.603 adopted to be effective March 3, 2003, 28 TexReg 1838.

§4.605. Identification of Equipment Contaminated with NORM.

(a) Except as provided in subsection (b) of this section, within two years of the effective date of this rule, each person who owns or operates equipment used for production or disposal including each person who owns or operates equipment associated with a commercial facility, as defined in §3.78 (relating to Fees and Financial Security Requirements), shall identify NORM-contaminated equipment with the letters "NORM" by securely attaching a clearly visible waterproof tag or marking with a legible waterproof paint or ink. Employers whose employees speak languages other than English may add to the tag the translation of the acronym "NORM" in those languages as long as the acronym "NORM" is also on the tag.

(b) Within six months of the effective date of this rule, each person whom the Commission has notified that the person owns or operates NORM-contaminated equipment shall, on each lease that is the subject of the Commission notice, identify NORM-contaminated equipment with the letters "NORM" by securely attaching a clearly visible waterproof tag or marking with a legible waterproof paint or ink. Employers whose employees speak languages other than English may add to the tag the translation of the acronym "NORM" in those languages as long as the acronym "NORM" is also on the tag.

(c) For an interconnected equipment system such as a wellhead, flowline, or facility piping system, the owner or operator of the system may identify the system as a whole with tags or markings that provide notice to workers on that system that the equipment in the system may be NORM-contaminated. The owner or operator shall identify NORM-contaminated equipment that is removed from an interconnected equipment system:

(1) as individual pieces of equipment as provided in subsection (a) of this section, or

(2) as groups of equipment that are kept in a common container or are wrapped, bound or tied securely together. Grouped equipment shall be tagged or marked to provide notice that any piece of equipment in the group may be NORM-contaminated.

(d) Radiation survey instruments used to determine whether equipment is NORM-contaminated shall comply with regulations adopted by the TDH in 25 TAC §289.259(e) (relating to Licensing of Naturally Occurring Radioactive Material (NORM)).

Source Note: The provisions of this §4.605 adopted to be effective March 3, 2003, 28 TexReg 1838; amended to be effective November 24, 2004, 29 TexReg 10732.

§4.608. Worker Protection Standards.

Any employer of persons engaged in activities involving the disposal of oil and gas NORM waste shall comply with applicable provisions, as determined by TDH, of 25 TAC §289.202 (relating to Standards for Protection Against Radiation from Radioactive Material) adopted effective October 1, 2000, including but not limited to:

(1) implementing a radiation protection program as provided in 25 TAC §289.202(e);

(2) controlling the occupational dose to all employees as provided in 25 TAC §289.202(f) - (m);

(3) conducting surveys and monitoring as provided in 25 TAC §289.202(p) and (q);

(4) assuring respiratory protection and implement controls to restrict internal exposure in restricted areas as provided in 25 TAC §289.202(v) - (x);

(5) posting signs and labels as provided in 25 TAC §289.202(z) - (dd);

(6) keeping records of radiation protection programs and of special exposures as provided in 25 TAC §289.202(ll) - (nn), (pp) - (rr), and (vv); and

(7) keeping reports as provided in 25 TAC §289.202(ww) - (zz) and (aaa).

Source Note: The provisions of this §4.608 adopted to be effective March 3, 2003, 28 TexReg 1838.

§4.611. Prohibited Disposal.

No person may dispose of oil and gas NORM waste except as provided in this subchapter. Disposal of oil and gas NORM waste other than produced water by discharge to surface or subsurface waters, as defined in §3.8 of this title (relating to Water Protection), shall be prohibited. Disposal of oil and gas NORM waste by spreading on public or private roads also shall be prohibited.

Source Note: The provisions of this §4.611 adopted to be effective March 3, 2003, 28 TexReg 1838.

§4.614. Authorized Disposal Methods.

(a) Purpose. This section authorizes the methods for disposing of oil and gas NORM waste without a permit.

(b) Disposal in plugged and abandoned well. A person may dispose of oil and gas NORM waste by placing it between plugs in a well that is being plugged and abandoned, provided that:

(1) No person may dispose of oil and gas NORM waste at a lease or unit other than the lease or unit where the oil and gas NORM waste was generated unless prior to commencement of disposal operations, the surface owner of the lease or unit where the disposal occurs provides written consent for the disposal.

(2) The oil and gas NORM waste shall be placed in the well at a depth at least 250 feet below the base of usable quality water in compliance with §3.14 of this title (relating to Plugging).

(3) If the oil and gas NORM waste is encased in a tubing string, the tubing shall be:

(A) placed, not dropped, in the well; and

(B) left with an assembly that allows ready retrieval, if the string is not secured in cement.

(4) A cement plug shall be set immediately above the oil and gas NORM waste and the plug shall be either:

(A) above a cement retainer;

(B) above a cast iron bridge plug; or

(C) tagged to locate its position.

(5) The cement of the surface plug shall be color dyed with red iron oxide.

(6) A permanent marker that shows the three-bladed radiation symbol specified in 25 TAC §289.202(z) (relating to Standards for Protection Against Radiation from Radioactive Material), adopted effective October 1, 2000, without regard to color, shall be welded to the steel plate at the top of the well casing.

(7) The operator shall state on Form W-3A, Intent to Plug and Abandon:

(A) the physical nature (such as pipe scale, contaminated soil, basic sediment, equipment, pipe, pumps, or valves) of the oil and gas NORM waste;

(B) the volume of oil and gas NORM waste;

(C) the radioactivity level of the oil and gas NORM waste (in pCi/g of Radium-226 combined with Radium-228 and any other NORM radionuclides for soil or other media (such as pipe scale, contaminated soil, basic sediment, etc.), or in μR/hr for equipment (such as pipes, pumps and valves);

(D) the operator(s) of the lease, unit, or facility at which oil and gas NORM waste was generated; and

(E) the source(s), if known, of the oil and gas NORM waste by Commission district; field; lease, unit, or facility; and producing formation.

(8) If the oil and gas NORM waste is encased in tubing, the operator shall state on Form W-3A, Intent to Plug and Abandon:

(A) the size, grade, weight per foot, and outside diameter of the tubing;

(B) the subsurface depth of both the top and bottom of the tubing;

(C) the diameter of the retrieval assembly; and

(D) whether the tubing is free in the hole or is secured by cement, a bridge plug, or a cement retainer.

(9) The operator shall submit Form W-3A to the Commission's district office for the location of the oil and gas NORM waste disposal site.

(c) Burial. Except as otherwise provided in this subsection, a person may dispose of oil and gas NORM waste by burial at the same site where the oil and gas NORM waste was generated, provided that, prior to burial, the oil and gas NORM waste has been treated or processed such that the radioactivity concentration does not exceed 30 pCi/g Radium-226 combined with Radium-228 or 150 pCi/g of any other NORM radionuclide within the treated or processed waste. Such treatment or processing, if it occurs at the disposal site, is considered to fall within the definition of disposal because it is necessary to facilitate disposal. This subsection does not authorize any person to bury NORM-contaminated equipment.

(d) Landfarming. A person may dispose of oil and gas NORM waste at the same site where the oil and gas NORM waste was generated by applying it to and mixing it with the land surface, provided that after such application and mixing the radioactivity concentration in the area where the oil and gas NORM waste was applied and mixed does not exceed 30 pCi/g Radium-226 combined with Radium-228 or 150 pCi/g of any other radionuclide.

(e) Disposal at a licensed facility. A person may dispose of oil and gas NORM waste at a facility that has been licensed by the United States Nuclear Regulatory Commission, the State of Texas, or another state if such facility is authorized under its license to receive and dispose of such waste.

(f) Injection. Injection of oil and gas NORM waste that meets exemption criteria of 25 TAC §289.259 (relating to Licensing of Naturally Occurring Radioactive Materials (NORM)), as a result of treatment or processing at a facility licensed by the TDH (hereinafter referred to as a "specifically licensed facility") into a well permitted under §3.9 of this title (relating to Disposal Wells) is authorized under this section, provided that the requirements of this subsection are met.

(1) Prior to injecting treated or processed oil and gas NORM waste, the operator of the injection well shall notify the Commission in writing that the operator plans to inject oil and gas NORM waste that meets the exemption criteria of 25 TAC §289.259 as a result of treatment or processing at a specifically licensed facility. The operator shall include a copy of the TDH license for each facility where oil and gas NORM waste that will be injected is treated or processed in order to meet the exemption criteria of 25 TAC §289.259.

(2) Prior to injecting oil and gas NORM waste that has been treated or processed to meet the exemption criteria of 25 TAC §289.259, the injection well operator shall verify that the waste meets the exemption criteria by obtaining from the specifically licensed facility documentation regarding NORM surveys or other analyses conducted to ensure that the treated or processed oil and gas NORM waste meets the exemption criteria of 25 TAC §289.259.

Source Note: The provisions of this §4.614 adopted to be effective March 3, 2003, 28 TexReg 1838.

§4.617. Permit for Injection.

(a) Applicability. With the exceptions of produced water and oil and gas NORM waste that meets the exemption criteria of 25 TAC §289.259 (relating to Licensing of Naturally Occurring Radioactive Material (NORM)) as a result of treatment or processing at a facility specifically licensed by the TDH, no person may dispose of oil and gas NORM waste by injection into a well without a permit issued under §3.9 of this title (relating to Disposal Wells) that specifically allows disposal of oil and gas NORM waste. The provisions of this section apply in the case of oil and gas NORM waste disposal permits issued under §3.9.

(b) Standards for permit issuance. The Commission shall issue a permit to dispose of oil and gas NORM waste under §3.9 of this title (relating to Disposal Wells) only if the Commission determines that the subject oil and gas NORM waste will be disposed of in a manner that protects public health, safety, and the environment. Any permit to dispose of oil and gas NORM waste issued pursuant to §3.9 shall contain construction and operating requirements that are reasonably necessary to protect public health, safety, and the environment.

(c) NORM information. In addition to the application requirements of §3.9 of this title (relating to Disposal Wells), an applicant for a permit to inject oil and gas NORM waste shall include the information specified in this subsection. The Commission may require the applicant to provide any such additional information as may be necessary to show that the proposed disposal protects public health, safety, and the environment.

(1) The applicant shall describe the physical nature (such as pipe scale, contaminated soil, or basic sediment) of the oil and gas NORM waste to be disposed of;

(2) The applicant shall state the total volume of oil and gas NORM waste to be disposed of or the proposed rate of oil and gas NORM waste disposal; and

(3) The applicant shall state the maximum measured radioactivity level of the oil and gas NORM waste (in pCi/g of Radium-226 combined with Radium-228, and any other NORM radionuclide) that will be disposed of.

(d) Notice requirements. An applicant for a permit to inject oil and gas NORM waste under §3.9 of this title (relating to Disposal Wells) shall provide notice as required in that section and shall include in such notice the information required in subsection (c) of this section.

Source Note: The provisions of this §4.617 adopted to be effective March 3, 2003, 28 TexReg 1838.

§4.620. Permit for Surface Disposal.

(a) Applicability. Except in the case of onsite disposal that meets the requirements of §4.614(c) and (d) of this title (relating to Authorized Disposal Methods), no person may dispose of oil and gas NORM waste by burying it or by applying it to and mixing it with the land surface without first obtaining a permit under §3.8 of this title (relating to Water Protection). The provisions of this section apply in the case of permits for such surface or near-surface disposal methods.

(b) Standards for permit issuance. The Commission shall issue a permit to dispose of oil and gas NORM waste under §3.8 of this title only if the Commission determines that the subject oil and gas NORM waste will

be disposed of in a manner that protects public health, safety, and the environment. Any permit to dispose of oil and gas NORM waste issued pursuant to §3.8 of this title shall contain construction and operating requirements that are reasonably necessary to protect public health, safety, and the environment. In addition, the Commission shall issue a permit for burial of oil and gas NORM waste only if, prior to burial, the oil and gas NORM waste has been treated or processed so that the radioactivity concentration does not exceed 30 pCi/g Radium-226 combined with Radium-228 or 150 pCi/g of any other NORM radionuclide. The Commission shall issue a permit to dispose of oil and gas NORM waste by applying it to and mixing it with the land surface only if, after such application and mixing, the radioactivity concentration in the area where the oil and gas NORM waste was applied and mixed will not exceed 30 pCi/g Radium-226 combined with Radium-228 or 150 pCi/g of any other NORM radionuclide.

(c) NORM information. In addition to the application requirements of §3.8 of this title, an applicant for surface or near-surface disposal of oil and gas NORM waste shall include the information specified in this paragraph. The Commission may require the applicant to provide any such additional information as may be necessary to show that the proposed disposal will protect public health, safety, and the environment.

(1) The applicant shall describe the physical nature (such as pipe scale, contaminated soil, basic sediment) of the oil and gas NORM waste to be disposed of.

(2) The applicant shall state the total volume of oil and gas NORM waste to be disposed of or the proposed rate of oil and gas NORM waste disposal.

(3) If the oil and gas NORM waste has been treated or processed to reduce the radioactivity concentration under a specific license issued by the TDH, the applicant shall state the maximum measured radioactivity level (in pCi/g of Radium-226 combined with Radium-228 for soil or other media such as pipe scale, contaminated soil, basic sediment, etc.). If the oil and gas NORM waste will be treated or processed at the disposal site to reduce the radioactivity concentration, the applicant shall state the maximum measured radioactivity level (in pCi/g of Radium-226 combined with Radium-228, and any other NORM radionuclide, for soil or other media such as pipe scale, contaminated soil, basic sediment, etc.).

(4) The applicant shall include the background radioactivity concentration (in pCi/g of Radium-226 combined with Radium-228) of the disposal area.

(5) The applicant shall describe all methods to be used to control dust from the oil and gas NORM waste during disposal.

(6) The applicant shall include written authorization from the surface owner, if different from the applicant, for disposal of oil and gas NORM waste on the surface owner's property.

(d) Notice requirements. The applicant shall give notice of an application for a permit to dispose of oil and gas NORM waste under this section as required in §3.8 of this title and such notice shall include the information required in subsection (c)(1) - (5) of this section.

Source Note: The provisions of this §4.620 adopted to be effective March 3, 2003, 28 TexReg 1838; amended to be effective February 3, 2011, 36 TexReg 410.

§4.623. Alternatives.

The Commission may approve alternatives to the provisions of §4.617 and §4.620 of this title (relating to Permit for Injection, and Permit for Surface Disposal) for good cause if the applicant demonstrates to the Commission's satisfaction that the alternatives will protect public health, safety, and the environment. An operator requesting to use an alternative method shall submit the request in writing. The Commission shall review the request within 30 days and shall approve or deny the request in writing.

Source Note: The provisions of this §4.623 adopted to be effective March 3, 2003, 28 TexReg 1838.

§4.626. Recordkeeping.

(a) Retention period. A person shall retain current records relating to the radiation exposure levels of equipment and the disposal of oil and gas NORM waste for at least five years. Such records shall include the information specified in this section and in §4.605 of this title (relating to Identification of Equipment Contaminated with NORM).

(b) Equipment. The owner or operator of the lease, unit, or facility shall maintain records of the radiation exposure levels of equipment, the date the exposure levels were determined, and the location and identification of the equipment.

(c) Waste generation. The operator of the lease, unit, or facility at which oil and gas NORM waste was generated shall maintain records that include:

(1) the identity of the property where the oil and gas NORM waste was generated, including the Commission district; field; lease, unit, or facility; and producing formation, if known;

(2) the identity of the facility, site, or well where the oil and gas NORM waste was disposed of;

(3) the physical nature (such as pipe scale, contaminated soil, basic sediment, or equipment) of the oil and gas NORM waste;

(4) the volume of oil and gas NORM waste the person disposed of at that facility, site, or well; and

(5) the radioactivity level(s) of the oil and gas NORM waste (in pCi/g of Radium-226 combined with Radium-228 and any other NORM radionuclide for soil

and other media such as pipe scale, contaminated soil, basic sediment, etc., or in μR/hr for equipment).

(d) Disposal. Each person who disposes of oil and gas NORM waste shall maintain records that include the identity of the operator of the lease, unit, or facility at which the oil and gas NORM was generated and the information required under subsection (b) or (c) of this section.

(e) Extension during investigation. Each operator shall retain any documents or records that contain information pertinent to the resolution of any pending Commission enforcement proceeding beyond any time period specified in this subchapter until the resolution of the proceeding.

(f) Examination and reporting. Any person who keeps records required by this subchapter shall make the records available for examination and copying by the Commission during reasonable working hours. Upon request of the Commission, the person who keeps the records shall file such records with the Commission.

Source Note: The provisions of this §4.626 adopted to be effective March 3, 2003, 28 TexReg 1838; amended to be effective February 3, 2011, 36 TexReg 410.

§4.629. Inspection.

The Commission shall have access to properties subject to the requirements of this subchapter as provided in Texas Natural Resources Code, Title 3, Subtitle B, Chapter 88, §88.091 and §88.092.

Source Note: The provisions of this §4.629 adopted to be effective March 3, 2003, 28 TexReg 1838.

§4.632. Penalties and Certificate of Compliance.

A person who violates any requirement in this subchapter may be subject to the penalties and remedies specified in the Texas Natural Resources Code, Title 3, and subject to revocation of the certificate of compliance for any well as provided in §3.73 of this title (relating to Pipeline Connection; Cancellation of Certificate of Compliance; Severance).

Source Note: The provisions of this §4.632 adopted to be effective March 3, 2003, 28 TexReg 1838; amended to be effective November 24, 2004, 29 TexReg 10732.

§4.635. Memorandum of Understanding between the Railroad Commission of Texas (RRC) and the Texas Department of State Health Services (DSHS) Regarding Radiation Control Functions.

(a) Purpose. The purpose of this Memorandum of Understanding (MOU) is to delineate areas of respective jurisdiction and to coordinate the respective responsibilities and duties of the DSHS and the RRC in the regulation of sources of radiation in accordance with Texas Health and Safety Code (HSC), §401.414, to provide a consistent approach and to avoid duplication. Nothing in this MOU shall be construed to reduce the statutory authority of either agency.

(b) Definitions. The words and terms used in this section shall have the same meaning as defined in HSC, §401.003, unless the context clearly indicates otherwise. Oil and gas NORM (naturally occurring radioactive material) waste is defined in HSC, §401.003(27), as solid, liquid, or gaseous material or combination of materials, excluding source material, special nuclear material, and by-product material, that:

(1) in its natural physical state spontaneously emits radiation;

(2) is discarded or unwanted;

(3) is not exempt by DSHS rule adopted under HSC, §401.106; and

(4) constitutes, is contained in, or has contaminated oil and gas waste as that term is defined in Texas Natural Resources Code, §91.1011.

(c) General agency jurisdiction. The jurisdictional authority for each agency is as follows.

(1) RRC jurisdiction. In accordance with HSC, §401.415 (relating to Oil and Gas Naturally Occurring Radioactive Material (NORM) Waste), the RRC has sole authority:

(A) to regulate and issue licenses, permits, and orders for the disposal of oil and gas NORM waste; and

(B) in order to protect public health and safety and the environment, to require the owner or operator of oil and gas equipment used in exploration, production, or disposal to determine whether the equipment contains or is contaminated with oil and gas NORM waste and identify any equipment determined to contain or be contaminated with oil and gas NORM.

(2) DSHS jurisdiction. The DSHS has jurisdiction to regulate and license the possession, receipt, use, handling, transfer, transport, and storage of all radioactive material in accordance with HSC, §401.003(3)(A). The DSHS has sole jurisdiction to regulate and register or license the use or service of electronic products as defined in HSC, §401.003(9). HSC, §401.106, gives the DSHS the authority, through rulemaking by the executive commissioner of the Texas Health and Human Services Commission, to exempt a source of radiation or a kind of use or user from licensing or registration requirements.

(d) Jurisdiction over specific activities and wastes. Each agency has the following responsibilities.

(1) Disposal activities. The RRC has jurisdiction over the disposal of oil and gas NORM waste. For purposes of this MOU, disposal is defined in §4.603(3) of this title (relating to Definitions) as "engaging in the act of discharging, depositing, injecting, dumping, spilling, leaking, or placing of any oil and gas NORM waste into or on any land or water, or causing or allowing any such act, so that such waste, or any

constituent thereof, may enter the environment or be emitted into the air or discharged into any waters, including subsurface waters. For purposes of this subchapter, disposal of oil and gas NORM waste includes its management at the site (e.g., lease, unit, or facility) where disposal will occur when undertaken for the explicit purpose of facilitating disposal at that site. The term does not include decontamination activities, except for in-place mixing of oil and gas NORM waste to remedy historical contamination of the land surface and decontamination of equipment and facilities that become contaminated solely through disposal operations. In addition, the term does not include activities, including processing or treatment, that occur at a location other than the disposal site."

(2) Decontamination activities. The DSHS has jurisdiction over decontamination activities, except for in-place mixing of oil and gas NORM waste to remedy historical contamination of the land surface and decontamination of equipment and facilities that become contaminated solely through disposal operations.

(3) Transportation activities. The DSHS has jurisdiction over the transportation of oil and gas NORM waste.

(4) Radioactive logging tools. The DSHS has jurisdiction over radioactive logging tools used during normal operations by the licensee. The RRC and the DSHS have jurisdiction over radioactive logging tools that are abandoned down hole.

(5) Radioactive tracers. The DSHS has jurisdiction over radioactive tracers used in normal operations by the licensee. The RRC has jurisdiction over Class II injection wells into which well logging screen out wastes (well returns) may be disposed in accordance with 25 TAC §289.253(u)(3) (relating to Radiation Safety Requirements for Well Logging Service Operations and Tracer Studies).

(6) NORM contaminated equipment. The DSHS has jurisdiction over NORM-contaminated equipment, except as stated in subsection (c)(1) of this section, and with respect to the RRC requirements for identification of equipment contaminated with oil and gas NORM in §4.605 of this title (relating to Identification of Equipment Contaminated with NORM).

(7) Recycling/scrap yards. The RRC has jurisdiction over the disposal of NORM-contaminated scale from oil and gas equipment that is managed at a pipe yard, scrap yard, or recycling facility. However, the decontamination of NORM-contaminated pipe and other equipment at any facility is under the jurisdiction of the DSHS. A DSHS-specific license is required to perform the removal of NORM-contaminated scale on the ground at a pipe yard, scrap yard, or recycling facility in accordance with 25 TAC §289.259(i) (relating to Licensing of Naturally Occurring Radioactive Material (NORM)). The removed NORM waste requires disposal in accordance with RRC regulations.

(e) Coordination of regulatory activities. The DSHS and the RRC shall coordinate with each other in the following activities.

(1) The DSHS and the RRC each agree to work together to ensure that complete regulation is maintained for radioactive materials and other sources of radiation associated with oil and gas exploration, development, and production operations. The DSHS and the RRC each agree to coordinate rulemaking activities between the two agencies and the Texas Radiation Advisory Board (TRAB) to ensure consistency of regulation in accordance with HSC, 401.020. In addition, the RRC agrees to coordinate with the DSHS in the preparation of the annual evaluation and report to the Legislative Budget Board as required under the Texas Government Code, §2110.006 and §2110.007. The DSHS and the RRC each agree to seek, and consider, advice from the TRAB on issues that involve management or disposal of NORM waste generated in connection with oil or gas exploration, development, or production operations.

(2) The DSHS and the RRC each agree to coordinate rulemaking activities that pertain to the requirements of the agreement between the State of Texas and the United States Nuclear Regulatory Commission, as amended, and to ensure that rules and guidelines are compatible with federal regulatory programs. Each agency agrees to coordinate with the other by providing information on any proposed legislation relating to the regulation of radioactive substances.

(3) The DSHS and the RRC each agree to meet as needed to discuss possible changes in this MOU and to encourage increased communication between the agencies.

(4) The DSHS and the RRC each agree to coordinate with the other agency with respect to activities involving radioactive sources that are lodged, abandoned, or lost down hole. Prior to approving abandonment procedures, tool recovery, well re-entry, and corrective action when a radioactive source has been breached or radiation otherwise escapes the source, the RRC will assure coordination with and concurrence from DSHS.

(f) Coordination of enforcement and incident response activities. The DSHS has responsibility for enforcement of the conditions of its licenses and rules. The RRC has jurisdiction for enforcement of the conditions of its permits and rules. Each agency will refer to the other agency any complaints received that are the responsibility of the other agency. When deemed appropriate by both agencies, the RRC and the DSHS may jointly enforce permit and license terms and conditions, make joint inspections and incident investigations, and cooperate on enforcement actions.

Each agency shall retain the authority to undertake separate enforcement or legal actions.

(g) Mutual assistance. The DSHS and the RRC may each request from the other agency short-term assistance of personnel or resources when there is need for such assistance, such as for performing training, environmental or public health or safety monitoring, or technical reviews. Each agency will provide the requested assistance to the extent possible without disrupting its own required activities.

(h) Miscellaneous.

(1) The RRC and the DSHS agree to revise their respective rules and procedures as needed to implement this MOU.

(2) If any provision of this MOU is held to be invalid, the remaining provisions shall not be affected.

(i) Effective date. This MOU will take effect after approval by both agencies and 20 days after the date on which it is filed in the Office of the Secretary of State in accordance with the provisions of Texas Government Code, §2001.036. This MOU will remain in effect until rescinded by either agency.

Source Note: The provisions of this §4.635 adopted to be effective January 2, 2012, 36 TexReg 9323.

Figure: 16 TAC §4.107(e)

Table 1. Penalty Guideline

Rule	General Description	Guideline Minimum Penalty Amount or Range
DIVISION 1. GENERAL		
	§4.101 Prevention of Pollution	
16 TAC §4.101(a)	Pollution of surface or subsurface water	$2,500 to $10,000
	§4.102 Responsibility for Oil and Gas Wastes	
16 TAC §4.102(a)(1)(2)(3)	Failure to provide and perform field testing as required by the Commission	$2,500
16 TAC §4.102(b)(c)(d)(f)(1)(2)	Failure to utilize the services of a carrier with a valid permit	$2,500
16 TAC §4.102(g)	Manage oil and gas wastes in a manner that violates Commission rules.	$2,500
	§4.103 Prohibited Waste Management Methods	
16 TAC §4.103(a)	Manage oil and gas wastes without a permit.	$2,500
16 TAC §4.103(b)	Improper disposal of oil and gas waste; enhance for actual or threatened pollution: Dry pit area	$500 base penalty plus $0.30/sq.ft.
16 TAC §4.103(b)	Improper disposal of oil and gas waste; enhance for actual or threatened pollution: Wet pit area	$500 base penalty plus $0.50/sq.ft.
16 TAC §4.103(c)(d)(e)(f)	Use of prohibited pits: Fresh water pit area	$2,500 base plus $0.25/sq.ft.
16 TAC §4.103(c)(d)(e)(f)	Use of prohibited pits: Salt water or other fluid area	$2,500 base plus $0.75/sq.ft.
DIVISION 3. OPERATIONS AUTHORIZED BY RULE		
	§4.111 Authorized Disposal Methods for Certain Wastes	
16 TAC §4.111(a)(b)(c)(d)	Improper waste disposal method for water condensate, inert oil and gas, low chloride water-based drilling fluid, and other oil and gas wastes that pertain land apply and landfarming	$2,500
16 TAC §4.111(d)(4)	Failure to maintains documentation for 3 years demonstrating closure requirements have been met	$1,000
	§4.112 Authorized Recycling	
16 TAC §4.112 (a)(1)	Improper use of the recycled treated fluid	$2,500

16 TAC §4.112 (a)(3)	Recycling of unauthorized oil and gas waste	$2,500
	§4.113 Authorized Pits	
16 TAC §4.113(a)	Failure to maintain authorized pits in compliance with the Commission	$5,000
16 TAC §4.113 (e)(5)	Improper use of pits other than what they are designated for	$2,500
	§4.114 Schedule A Authorized Pits	
16 TAC §4.114(1)(A)	Reserve pits: Fresh water pit area	$2,500 base plus $0.25/sq.ft.
16 TAC §4.114(1)(A)	Reserve pits: Salt water or other fluid area	$2,500 base plus $0.75/sq.ft
16 TAC §4.114(1)(B)(2)(A)(B)(i)(ii)	Workover and other pits: Dry	$2,500
16 TAC §4.114(1)(B)(2)(A)(B)(i)(ii)	Workover and other pits: Wet	$5,000
	§4.115 Schedule B Authorized Pits	
16 TAC §4.115	Produced water pit: Fresh water pit area	$2,500 base plus $0.25/sq.ft.
16 TAC §4.115	Produced water pit: Salt water or other fluid area	$2,500 base plus $0.75/sq.ft
DIVISION 4. REQUIREMENTS FOR ALL PERMITTED WASTE MANAGEMENT OPERATIONS		
	§4.122 Permit Renewals, Transfers, and Amendments	
16 TAC §4.122(b)(1)	Failure to apply for a renewal, transfer or amendments permits within Commission's time frames.	$1,000
	§4.123 Permit Modification, Suspension, and Termination	
16 TAC §4.123(b)(4)	The permittee has violated the terms and conditions of the permit or Commission rules	$5,000
16 TAC §4.123(b)(9)	The permittee failed to give the notice required by the Commission during the permit issuance, amendment, or renewal process	$1,000
	§4.128 Design and Construction	
16 TAC §4.128(b)(1)	Failure to only accept waste transported and delivered by a Commission-permitted waste hauler	$2,500
	§4.129 Operation	

16 TAC §4.129(b)(1)	Failure to receive only authorized waste	$2,500
16 TAC §4.129(b)(2)	Treated or untreated, waste placed directly on the ground	$2,500
16 TAC §4.129(b)(3)	Failure to maintained storage tanks, equipment, and on-site containment in a leak-free condition	$2,500
16 TAC §4.129(b)(4)	Failure to dispose spill of waste, chemical, or any other material within 24 hours in an authorized manner	$2,500
	§4.130 Reporting	
16 TAC §4.130 (d)	Failure to submit of monthly, quarterly, semi-annual, or annual reports, containing all requested information within the Commission's timeframe	$1,000
	§4.131 Monitoring	
16 TAC §4.131 (b)(4)(D)	Failure to report or indicate potential pollution, or the potential failure of the liner system to the Commission	$2,500
	§4.132 Closure	
16 TAC §4.132 (a)(b)(1)(2)(A)(B)(C)(D)(E) (F)	Failure to follow recommended closure procedures	$2,500
DIVISION 5. ADDITIONAL REQUIREMENTS FOR COMMERCIAL FACILITIES		
	§4.142 Operating Requirements Applicable to Commercial Facilities	
16 TAC §4.142(c)	Failure to develop and maintain a stormwater management plan to prevent stormwater from running onto the facility	$2,500
DIVISION 6. ADDITIONAL REQUIREMENTS FOR PERMITTED PITS		
	§4.150 Additional Requirements Applicable to Permitted Pits	
16 TAC §4.150(e)	Failure to comply with containment requirements to prevent pollution of surface or subsurface water	$2,500
16 TAC §4.150(f)	Failure to report unauthorized release of oil and gas waste, treated fluid, or other substances from any pit	$2,500
	§4.151 Design and Construction of Permitted Pits	
16 TAC §4.151(b)(1)	Failure to comply with sign requirements.	$1,000
16 TAC §4.151(b)(2)	Failure to comply with freeboard requirements	$2,500
16 TAC §4.151(b)(3)	Failure to comply with liner requirements	$2,500
16 TAC §4.151(b)(3)(A)	Failure to maintain the integrity of the liner	$2,500

16 TAC §4.151(b)(3)(C)	Brine pit permitted not constructed with a primary and secondary liner and a leakage detection system	$2,500
	§4.152 Monitoring of Permitted Pits	
16 TAC §4.152(a)(2)	Failure to install appropriate leak detection system	$2,500
16 TAC §4.152(b)(3)(A)(B)	Failure to monitor and report and repair all pits for liner failure	$2,500
	§4.153 Commercial Disposal Pits	
16 TAC §4.153(c)	Failure to monitor the pits after a post-closure period of no less than five years	$2,500
	§4.154 Closure of Permitted Pits	
16 TAC §4.154(1)	Failure to dewater and empty the pit within 120 days of cessation of use	Dry: $2,500 base plus $0.25 sq. ft.; wet: $2,500 base plus $0.75 sq. ft.
16 TAC §4.154(2)	Failure to backfill and compacted the pit in a timely manner	Dry: $2,500 base plus $0.25 sq. ft.; wet: $2,500 base plus $0.75 sq. ft.
16 TAC §4.154(3)	Failure to reseeded with vegetation natural to the region after closure	$1,000
DIVISION 7. ADDITIONAL REQUIREMENTS FOR LANDFARMING		
	§4.161 Design and Construction Requirements for Landfarming and Landtreating Permits	
16 TAC §4.161(a)	Failure to obtain a Landfarm permit	$5,000
	§4.162 Operating Requirements for Landfarming and Landtreating Permits	
16 TAC §4.162(a) (b)	Failure comply and follow the operating requirements for Landfarm permit	$5,000
	§4.163 Monitoring	
16 TAC §4.163(a)(b)(c)(d)(e)	Failure to collect, test, monitor, analyze, remediate according to the requirements in the permit.	$1,000
	§4.164 Closure	
16 TAC §4.164(a)	Failure to notify the Commission at least 45 days prior to commencing closure activities	$1,000
DIVISION 8. ADDITIONAL REQUIREMENTS FOR RECLAMATION PLANTS		

	§4.170 Additional Requirements for Reclamation Plants	
16 TAC §4.170(a) (9)	Failure to obtain a permit to reclaim unrefined hydrocarbons recovered from drilling mud	$5,000
	§4.171 Standard Permit Provisions	
16 TAC §4.171(b)	Failure to renew, transfer, or amend reclamation plant permits	$2,500
16 TAC §4.171(g)	Improper monitoring of a reclamation plant	$2,500
16 TAC §4.171(h)	Use of a satellite facility which is prohibited	$2,500
16 TAC §4.171(i)	Unpermitted reclamation using tanks	$2,500
	§4.172.Minimum Permit Provisions for Operations	
16 TAC §4.172(a)(1)	Failure to use authorized permit methods to reclaim tank bottoms and other oil and gas wastes	$2,500
	§4.173 Minimum Permit Provisions for Reporting	
16 TAC §4.173(d)	Failure to obtain a minor permit and provide an analysis of the disposable material to be performed	$1,000
DIVISION 9. MISCELLANEOUS PERMITS		
	§4.181 Emergency Permits	
16 TAC §4.181(a)	Failure to apply for emergency permit to prevent the waste of oil, gas, or geothermal resources and/or pollution	$1,000
	§4.184 Permitted Recycling	
16 TAC §4.184(b)	Failure to recycle in accordance with Subchapter B of this title (relating to Commercial Recycling)	$1,000
DIVISION 10. REQUIREMENTS FOR OIL AND GAS WASTE TRANSPORTATION		
	§4.190 Oil and Gas Waste Characterization and Documentation	
16 TAC §4.190(a)	Failure to characterizing and documenting the waste prior to transportation	$1,000
	§4.193 Oil and Gas Waste Haulers	
16 TAC §4.193(a)	Hauling oil and gas waste without a valid waste hauler permit, and/or commingling other oil and gas wastes via vehicle	$2,500

16 TAC §4.193(b)(1)(2)	Failure to hold necessary permits for wastes excluded from this section	$1,000
16 TAC §4.193(e) (1)(2)(3)(4)(5)(6)(7)(8) (9(10)(11)	Failure to operate in strict compliance with the instructions and conditions stated in the oil and gas waste hauler permit	$2,500

Figure: 16 TAC §4.107(f)

Table 2. Calculation of Additional Guideline Penalty Amounts for Violations of 16 Tex. Admin. Code Chapter 4, relating Prevention of Pollution Cancellation of Certificate of Compliance; Severance

Length of Violation Low: < 3 mos. Medium: High: > 1 yr.	Production Value Low: < $5,000 Medium: High: > $100,000	Unresolved Severances Low: < 2 Medium: High: > 6	Basis of Severance N: non-pollution related Y: pollution related	Factor
low	low	low	N	1.0
low	low	medium	N	1.5
low	low	high	N	1.5
low	medium	low	N	1.5
low	medium	medium	N	3.5
low	medium	high	N	5.0
low	high	low	N	4.5
low	high	medium	N	7.0
low	high	high	N	7.5
medium	low	low	N	1.5
medium	low	medium	N	2.5
medium	low	high	N	3.5
medium	medium	low	N	3.5
medium	medium	medium	N	5.0
medium	medium	high	N	8.0
medium	high	low	N	8.5
medium	high	medium	N	9.0
medium	high	high	N	10.0
high	low	low	N	2.5
high	low	medium	N	3.5
high	low	high	N	3.5
high	medium	low	N	4.5
high	medium	medium	N	7.5
high	medium	high	N	8.0
high	high	low	N	10.0
high	high	medium	N	10.0
high	high	high	N	10.0
low	low	low	Y	1.5
low	low	medium	Y	2.0
low	low	high	Y	2.5
low	medium	low	Y	3.0
low	medium	medium	Y	5.0
low	medium	high	Y	7.5
low	high	low	Y	5.0
low	high	medium	Y	8.0
low	high	high	Y	8.5
medium	low	low	Y	2.0

medium	low	medium	Y	3.5
medium	low	high	Y	7.0
medium	medium	low	Y	7.0
medium	medium	medium	Y	7.5
medium	medium	high	Y	8.5
medium	high	low	Y	9.0
medium	high	medium	Y	9.5
medium	high	high	Y	10.0
high	low	low	Y	3.0
high	low	medium	Y	4.0
high	low	high	Y	5.0
high	medium	low	Y	5.0
high	medium	medium	Y	8.5
high	medium	high	Y	9.0
high	high	low	Y	10.0
high	high	medium	Y	10.0
high	high	high	Y	10.0

Figure 1: 16 TAC §4.107(g)

Table 3. Penalty Enhancements

Evidentiary Factors	Threatened or Actual Pollution	Safety Hazard	Severity of Violation
Agricultural land or sensitive wildlife Habitat	$1,000 to $5,000		
Endangered or threatened species	$2,000 to $10,000		
Bay, estuary or marine habitat	$5,000 to $25,000		
Minor surface and subsurface water source (minor aquifers designated by the Texas Water Development Board, intermittent or dry watercourses, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state)	$2,500 to $7,500		
Major surface and subsurface water source (major aquifers designated by the Texas Water Development Board, lakes, ponds, impounding reservoirs, springs, rivers, streams, creeks, marshes, wetlands, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh, saline, or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state)	$5,000 to $25,000		
Impacted residential/public areas		$1,000 to $15,000	
Hazardous material release		$2,000 to $25,000	
Reportable incident/accident		$5,000 to $25,000	
Well in H_2S field		up to $10,000	
Time out of compliance			$100 to $2,000 / month
Reckless conduct of operator			double total penalty
Intentional conduct of operator			triple total penalty

Figure 2: 16 TAC §4.107(g)

Table 4. Penalty Enhancements based on total amount of prior penalties within seven years

Total administrative penalties assessed in the seven years prior to action	Enhancement amount
Less than $10,000	$1,000
Between $10,000 and $25,000	$2,500
Between $25,000 and $50,000	$5,000
Between $50,000 and $100,000	$10,000
Over $100,000	10% of total amount

Figure: 16 TAC §4.107(j)

Table 5. Penalty Calculation Worksheet

	Rule	General Description	Guideline Minimum Penalty Amount or Range	Penalty Tally
		§4.101. Prevention of Pollution		
1	16 TAC §4.101(a)	Pollution of surface or subsurface water	$2,500 to $10,000	$
		§4.102. Responsibility for Oil and Gas Wastes		
2	16 TAC §4.102(a)(1)(2)(3)	Failure to provide and perform field testing as required by the Commission	$2,500	$
3	16 TAC §4.102(b)(c)(d)(f)(1)(2)	Failure to utilize the services of a carrier with a valid permit	$2,500	$
4	16 TAC §4.102(g)	Manage oil and gas wastes in a manner that violates Commission rules.	$2,500	$
		§4.103. Prohibited Waste Management Methods		
5	16 TAC §4.103(a)	Manage oil and gas wastes without a permit.	$2,500	$
6	16 TAC §4.103(b)	Improper disposal of oil and gas waste; enhance for actual or threatened pollution: Dry pit area	$500 base penalty plus $0.30/sq.ft.	$
7	16 TAC §4.103(b)	Improper disposal of oil and gas waste; enhance for actual or threatened pollution: Wet pit area	$500 base penalty plus $0.50/sq.ft.	$
8	16 TAC §4.103(c)(d)(e)(f)	Use of prohibited pits: Fresh water pit area	$2,500 base plus $0.25/sq.ft.	$
9	16 TAC §4.103(c)(d)(e)(f)	Use of prohibited pits: Salt water or other fluid area	$2,500 base plus $0.75/sq.ft.	$
		§4.111. Authorized Disposal Methods for Certain Wastes		
10	16 TAC §4.111(a)(b)(c)(d)	Improper waste disposal method for water condensate, inert oil and gas, low chloride water-based drilling fluid, and other oil and gas wastes that pertain land apply and landfarming	$2,500	$
11	16 TAC §4.111(d)(4)	Failure to maintains documentation for 3 years demonstrating closure requirements have been met	$1,000	$
		§4.112. Authorized Recycling		$
12	16 TAC §4.112 (a)(1)	Improper use of the recycled treated fluid	$2,500	$
13	16 TAC §4.112 (a)(3)	Recycling of unauthorized oil and gas waste	$2,500	$

		§4.113. Authorized Pits		
14	16 TAC §4.113(a)	Failure to maintain authorized pits in compliance with the Commission	$5,000	$
15	16 TAC §4.113 (e)(5)	Improper use of pits other than what they are designated for	$2,500	$
		§4.114. Schedule A Authorized Pits		
16	16 TAC §4.114(1)(A)	Reserve pits: Fresh water pit area	$2,500 base plus $0.25/sq. ft.	$
17	16 TAC §4.114(1)(A)	Reserve pits: Salt water or other fluid area	$2,500 base plus $0.75/sq. ft.	$
18	16 TAC §4.114(1)(B)(2)(A)(B)(i)(ii)	Workover and other pits: Dry	$2,500	$
19	16 TAC §4.114(1)(B)(2)(A)(B)(i)(ii)	Workover and other pits: wet	$5,000	$
		§4.115. Schedule B Authorized Pits		
20	16 TAC §4.115	Produced water pit: Fresh water pit area	$2,500 base plus $0.25/sq.ft.	
21	16 TAC §4.115	Produced water pit: Salt water or other fluid area	$2,500 base plus $0.75/sq.ft	
		§4.122. Permit Renewals, Transfers, and Amendments		
22	16 TAC §4.122(b)(1)	Failure to apply for a renewal, transfer or amendments permits within Commission's time frames.	$1,000	$
		§4.123. Permit Modification, Suspension, and Termination		
23	16 TAC §4.123(b)(4)	The permittee has violated the terms and conditions of the permit or Commission rules	$5,000	$
24	16 TAC §4.123(b)(9)	The permittee failed to give the notice required by the Commission during the permit issuance, amendment, or renewal process	$1,000	$
		§4.128. Design and Construction		
25	16 TAC §4.128(b)(1)	Failure to only accept waste transported and delivered by a Commission-permitted waste hauler	$2,500	$
		§4.129. Operation		
26	16 TAC §4.129(b)(1)	Failure to receive only authorized waste	$2,500	$
27	16 TAC §4.129(b)(2)	Treated or untreated, waste placed directly on the ground	$2,500	$

28	16 TAC §4.129(b)(3)	Failure to maintained storage tanks, equipment, and on-site containment in a leak-free condition	$2,500	$
29	16 TAC §4.129(b)(4)	Failure to dispose spill of waste, chemical, or any other material within 24 hours in an authorized manner	$2,500	$
		§4.130. Reporting		
30	16 TAC §4.130 (d)	Failure to submit of monthly, quarterly, semi-annual, or annual reports, containing all requested information within the Commission's timeframe	$1,000	$
		§4.131. Monitoring		$
31	16 TAC §4.131 (b)(4)(D)	Failure to report or indicate potential pollution, or the potential failure of the liner system to the Commission	$2,500	$
		§4.132. Closure		$
32	16 TAC §4.132 (a)(b)(1)(2)(A)(B)(C)(D) (E) (F)	Failure to follow recommended closure procedures	$2,500	$
		§4.142. Operating Requirements Applicable to Commercial Facilities		
33	16 TAC §4.142(c)	Failure to develop and maintain a stormwater management plan to prevent stormwater from running onto the facility	$2,500	$
		§4.150. Additional Requirements Applicable to Permitted Pits		
34	16 TAC §4.150(e)	Failure to comply with containment requirements to prevent pollution of surface or subsurface water	$2,500	$
35	16 TAC §4.150(f)	Failure to report unauthorized release of oil and gas waste, treated fluid, or other substances from any pit	$2,500	$
		§4.151. Design and Construction of Permitted Pits		
36	16 TAC §4.151(b)(1)	Failure to comply with sign requirements.	$1,000	$
37	16 TAC §4.151(b)(2)	Failure to comply with freeboard requirements	$2,500	$
38	16 TAC §4.151(b)(3)	Failure to comply with liner requirements	$2,500	$
39	16 TAC §4.151(b)(3)(A)	Failure to maintain the integrity of the liner.	$2,500	$
40	16 TAC §4.151(b)(3)(C)	Brine pit permitted not constructed with a primary and secondary liner and a leakage detection system	$2,500	$
		§4.152. Monitoring of Permitted Pits		
41	16 TAC §4.152(a)(2)	Failure to install appropriate leak detection system	$2,500	$
42	16 TAC §4.152(b)(3)(A)(B)	Failure to monitor and report and repair all pits for liner failure	$2,500	$

		§4.153. Commercial Disposal Pits		$
43	16 TAC §4.153(c)	Failure to monitor the pits after a post-closure period of no less than five years	$2,500	$
		§4.154. Closure of Permitted Pits		
44	16 TAC §4.154(1)	Failure to dewater and empty the pit within 120 days of cessation of use	Dry: $2,500 base plus $0.25 sq. ft.; wet: $2,500 base plus $0.75 sq. ft.	$
45	16 TAC §4.154(2)	Failure to backfill and compacted the pit in a timely manner	Dry: $2,500 base plus $0.25 sq. ft.; wet: $2,500 base plus $0.75 sq. ft.	$
46	16 TAC §4.154(3)	Failure to reseeded with vegetation natural to the region after closure	$1,000	$
		§4.161. Design and Construction Requirements for Landfarming and Landtreating Permits		
47	16 TAC §4.161(a)	Failure to obtain a Landfarm permit	$5,000	$
		§4.162. Operating Requirements for Landfarming and Landtreating Permits		
48	16 TAC §4.162(a) (b)	Failure comply and follow the operating requirements for Landfarm permit	$5,000	$
		§4.163. Monitoring		$
49	16 TAC §4.163(a)(b)(c)(d)(e)	Failure to collect, test, monitor, analyze, remediate according to the requirements in the permit	$1,000	$
		§4.164. Closure		
50	16 TAC §4.164(a)	Failure to notify the Commission at least 45 days prior to commencing closure activities	$1,000	$
		§4.170. Additional Requirements for Reclamation Plants		
51	16 TAC §4.170(a) (9)	Failure to obtain a permit to reclaim unrefined hydrocarbons recovered from drilling mud	$5,000	$
		§4.171. Standard Permit Provisions		
52	16 TAC §4.171(b)	Failure to renew, transfer, or amend reclamation plant permits	$2,500	$
53	16 TAC §4.171(g)	Improper monitoring of a reclamation plant	$2,500	$
54	16 TAC §4.171(h)	Use of a satellite facility which is prohibited	$2,500	$
55	16 TAC §4.171(i)	Unpermitted reclamation using tanks	$2,500	$
		§4.172. Minimum Permit Provisions for Operations		
56	16 TAC §4.172(a)(1)	Failure to use authorized permit methods to reclaim tank bottoms and other oil and gas wastes	$2,500	$
		§4.173. Minimum Permit Provisions for Reporting		

57	16 TAC §4.173(d)	Failure to obtain a minor permit and provide an analysis of the disposable material to be performed	$1,000	$
		§4.181. Emergency Permits		
58	16 TAC §4.181(a)	Failure to apply for emergency permit to prevent the waste of oil, gas, or geothermal resources and/or pollution	$1,000	$
		§4.184. Permitted Recycling		
59	16 TAC §4.184(b)	Failure to recycle in accordance with Subchapter B of this title (relating to Commercial Recycling)	$1,000	$
		§4.190. Oil and Gas Waste Characterization and Documentation		
60	16 TAC §4.190(a)	Failure to characterizing and documenting the waste prior to transportation	$1,000	$
		§4.193. Oil and Gas Waste Haulers		
61	16 TAC §4.193(a)	Hauling oil and gas waste without a valid waste hauler permit, and/or commingling other oil and gas wastes via vehicle	$2,500	$
62	16 TAC §4.193(b)(1)(2)	Failure to hold necessary permits for wastes excluded from this section	$1,000	$
63	16 TAC §4.193(e)(1)(2)(3)(4)(5)(6)(7)(8)(9(10)(11)	Failure to operate in strict compliance with the instructions and conditions stated in the oil and gas waste hauler permit	$2,500	$
64	**Subtotal of guideline penalty amounts from Table 1 (lines 1-63, inclusive)**			$
65	**Reduction for settlement before hearing: up to 50% of line 64 amt.**		_____ %	$
66	**Subtotal: amount shown on line 64 less applicable settlement reduction on line 65**			$
	Penalty enhancement amounts for threatened or actual pollution from Table 3			
67	Agricultural land or sensitive wildlife habitat		$1,000 to $5,000	$
68	Endangered or threatened species		$2,000 to $10,000	$
69	Bay, estuary or marine habitat		$5,000 to $25,000	$
70	Minor freshwater source (minor aquifer, seasonal watercourse)		$2,500 to $7,500	$
71	Major freshwater source (major aquifer, creeks, rivers, lakes and reservoirs)		$5,000 to $25,000	$
	Penalty enhancement amounts for safety hazard from Table 3			
72	Impacted residential/public areas		$1,000 to $15,000	$
73	Hazardous material release		$2,000 to $25,000	$
74	Reportable incident/accident		$5,000 to $25,000	$
75	Well in H2S field		up to $10,000	$
	Penalty enhancement amounts for severity of violation from Table 3			
76	Time out of compliance		$100 to $2,000 each month	$
77	**Subtotal: amount shown on line 66 plus all amounts on lines 67 through 76, inclusive**			$

Penalty enhancements for culpability of person charged from Table 3			
78	Reckless conduct of operator	double line 75 amount	$
79	Intentional conduct of operator	triple line 75 amount	$
Penalty enhancements for number of prior violations within past seven years from Table 4			
80	One	$1,000	$
81	Two	$2,000	$
82	Three	$3,000	$
83	Four	$4,000	$
84	Five or more	$5,000	$
Penalty enhancements for amount of penalties within past seven years from Table 4			
85	Less than $10,000	$1,000	$
86	Between $10,000 and $25,000	$2,500	$
87	Between $25, 000 and $50,000	$5,000	$
88	Between $50,000 and $100,00	$10,000	$
89	Over $100,000	10% of total amt.	$
90	**Subtotal: Line 66 amt. plus amts. on line 78 and/or 97 plus the amt. shown on any line from 80 through 89, inclusive**		$
91	**Reduction for demonstrated good faith of person charged**		$
92	**TOTAL PENALTY AMOUNT: amount on line 90 less any amount shown on line 91**		$

Figure: 16 TAC §4.111(a)

Limitation for Authorized Land Application of Water Condensate

Parameter	Method	Limitation
Benzene	EPA 8260 or 8021B	0.005 mg/L
Toluene	EPA 8260 or 8021B	1 mg/L
Ethylbenzene	EPA 8260 or 8021B	0.7 mg/L
Xylene	EPA 8260 or 8021B	10 mg/L

Figure: 16 TAC §4.115(j)(3)(E)

Standard Soil Sampling Closure Parameters **If Waste is Removed from the Pit in Accordance with 16 TAC Chapter 4**		
Constituent	Method (or equivalent)	Limit
pH	EPA Method 9045C	6 to 10 standard units
Chloride	SW-846 9056A	≤ 3,000 mg/kg
Total Petroleum Hydrocarbons	EPA SW-846 418.1	≤ 10,000 mg/kg or 1% by weight
BTEX	EPA Method 5035A/8021/8260B	≤ 30 mg/kg
Metals	EPA Method 6010/6020/7471A	
Arsenic		≤ 10 mg/kg
Barium		≤ 10,000 mg/kg
Cadmium		≤ 10 mg/kg
Chromium		≤ 100 mg/kg
Lead		≤ 200 mg/kg
Mercury		≤ 10 mg/kg
Selenium		≤ 10 mg/kg
Silver		≤ 200 mg/kg

Figure: 16 TAC §4.115(k)(8)

Standard Waste Sampling Closure Parameters **If Waste is Treated and Buried in the Pit in Accordance with 16 TAC Chapter 4**		
Constituent	Method (or equivalent)	Limit
pH	EPA Method 9045C	6 to 10 standard units
Chloride • if the depth below the bottom of the pit to groundwater is ≤ 50 feet • if the depth below the bottom of the pit to groundwater is 51 feet to 100 feet • if the depth below the bottom of the pit to groundwater is > 100 feet	SW-846 9056A	 ≤ 20,000 mg/kg ≤ 40,000 mg/kg ≤ 80,000 mg/kg
Total Petroleum Hydrocarbons	EPA SW-846 418.1	≤ 10,000 mg/kg or 1% by weight
BTEX	EPA Method 5035A/8021/8260B	≤ 30 mg/kg
Metals Arsenic Barium Cadmium Chromium Lead Mercury Selenium Silver	EPA Method 6010/6020/7471A	 ≤ 10 mg/kg ≤ 10,000 mg/kg ≤ 10 mg/kg ≤ 100 mg/kg ≤ 200 mg/kg ≤ 10 mg/kg ≤ 10 mg/kg ≤ 200 mg/kg

Figure: 16 TAC §4.163(d)

Landfarming, Landtreating, and Land Application Permits: Standard Soil Sampling Closure Parameters		
Parameter	Method (or equivalent)	Limitation
pH	EPA Method 9045C	6 to 10 standard units
Electrical Conductivity (EC)	LDNR Lab Procedures for Extraction and Analysis of E&P Waste	≤ 4.0 mmhos/cm
Sodium Adsorption Ratio (SAR)	Saturated Paste Method using EPA Method 300, 6010, or 6020	≤ 12
Cation-Exchange Capacity (CEC)	EPA Method 9080/9081	Site-specific based on background analytical data
TPH	EPA Method 5035A/TX1005	≤ 10,000 mg/kg or 1% by weight
Total Benzene, Toluene, Ethylbenzene, Xylenes (BTEX)[1]	EPA Method 5035A/8021/8260B	≤ 30 mg/kg
Metals (Total)		
Arsenic	EPA Method 6010/6020/7471A	≤ 10 mg/kg
Barium	EPA Method 6010/6020/7471A	≤ 10,000 mg/kg
Cadmium	EPA Method 6010/6020/7471A	≤ 10 mg/kg
Chromium	EPA Method 6010/6020/7471A	≤ 100 mg/kg
Lead	EPA Method 6010/6020/7471A	≤ 200 mg/kg
Mercury	EPA Method 6010/6020/7471A	≤ 10 mg/kg
Selenium	EPA Method 6010/6020/7471A	≤ 10 mg/kg
Silver	EPA Method 6010/6020/7471A	≤ 200 mg/kg

[1] BTEX testing is only required for landtreating facilities.

Figure: 16 TAC §4.211(e)

Table 1. Penalty Guideline

Oil & Gas Rule/Statute	General Description	Guideline Minimum Penalty Amount or Range
	DIVISION 1. GENERAL; DEFINITIONS	
	§4.201 Purpose	
16 TAC §4.201(a)	Pollution of surface or subsurface water	$2,500 to $10,000
	§4.203 Responsibility for Management of Waste to be Recycled	
16 TAC §4.203(a)(b)	Failure to utilize the services of a carrier with a valid permit	$2,500
16 TAC §4.203(c)	Failure to utilize the services of a commercial recycling facility that is permitted by the Commission	$2,500
	§4.209 Permit Renewal	
16 TAC §4.209	Failure to transfer a permit without approval of the Commission	$2,500
	DIVISION 2. REQUIREMENTS FOR ON-LEASE COMMERCIAL SOLID OIL AND GAS WASTE RECYCLING	
	§4.212 General Permit Application Requirements for On-Lease Commercial Solid Oil and Gas Waste Recycling Facilities	
16 TAC §4.212(a)(b)(c)(d)	Failure to obtain a permit for on lease commercial solid oil and gas waste recycling facilities	$2,500
	§4.221 Minimum Permit Provisions for Operations	
16 TAC §4.221(a)(b)(c)(d)(e)(f)	Failure to follow the operation requirements for on-lease commercial solid oil and gas waste recycling	$2,500
	§4.222 Minimum Permit Provisions for Monitoring	
16 TAC §4.222(a)(b)(c)(d)(e)	Failure to follow the Monitoring requirements for on-lease commercial solid oil and gas waste recycling	$2,500
	§4.223 Minimum Permit Provisions for Closure	
16 TAC §4.223	Failure to follow recommended closure procedures	$2,500

	§4.224 Permit Renewal	
16 TAC §4.224	Failure to apply for a renewal, of the permit within Commission's time frames	$1,000
	DIVISION 3. REQUIREMENTS FOR OFF-LEASE OR CENTRALIZED COMMERCIAL SOLID OIL AND GAS WASTE RECYCLING.	
	§4.230 General Permit Application Requirements for Off-Lease or Centralized Commercial Solid Oil and Gas Waste Recycling	
16 TAC §4.230 (a)(b)(c)(d)(e)	Failure to obtain a permit for off-Lease or Centralized commercial solid oil and gas waste recycling facilities	$2,500
	§4.238 Notice	
16 TAC §4.238	Failure to follow notice requirements for off-lease or centralized commercial solid oil and gas waste recycling	2,500
	§4.239 General Permit Provisions	
16 TAC §4.239(a)	Failure to renew the permit for an off-lease or centralized commercial solid oil and gas waste recycling facility	$1,000
16 TAC §4.239(c)	Failure to notify the surface owner of the tract upon which recycling will take place	$1,000
	§4.242 Minimum Permit Provisions for Operations	
16 TAC §4.242 (a)(b)(c)	Failure to follow the operation requirements for off-lease centralized commercial solid oil and gas waste recycling	$2,500
	§4.243 Minimum Permit Provisions for Monitoring	
16 TAC §4.243 (a)(b)(c)(d)	Failure to follow the Monitoring requirements for off-lease centralized commercial solid oil and gas waste recycling	$2,500
	§4.244 Minimum Permit Provisions for Closure	
16 TAC §4.244	Failure to follow recommended closure procedures	2,500
	§4.245 Permit Renewal	
16 TAC §4.245	Failure to apply for a renewal, of the permit within Commission's time frames	1,000

	DIVISION 4. REQUIREMENTS FOR STATIONARY COMMERCIAL SOLID OIL AND GAS WASTE RECYCLING FACILITIES.	
	§4.246 General Permit Application Requirements for a Stationary Commercial Solid Oil and Gas Waste Recycling Facility	
16 TAC §4.246 (a)(b)(c)(d)(e)	Failure to obtain a permit for a Stationary Commercial Solid Oil and Gas Waste	$2,500
	§4.254 Notice	
16 TAC §4.254 (a)(b)(c)	Failure to follow notice requirements for a Stationary Commercial Solid Oil and Gas Waste	$2,500
	§4.255 General Permit Provisions	
16 TAC §4.255 (a)(b)(c)	Failure to renew the permit for a Stationary Commercial Solid Oil and Gas Waste	$1,000
	§4.258 Minimum Permit Provisions for Operations	
16 TAC §4.258 (a)(b)(c)	Failure to follow the operation requirements for a Stationary Commercial Solid Oil and Gas Waste	$2,500
	§4.259 Minimum Permit Provisions for Monitoring	
16 TAC §4.259 (a)(b)(c)(d)(e)	Failure to follow the Monitoring requirements for a Stationary Commercial Solid Oil and Gas Waste	$2,500
	§4.260 Minimum Permit Provisions for Closure	
16 TAC §4.2.60	Failure to follow recommended closure procedures	$2,500
	§4.261 Permit Renewal	
16 TAC §4.2.61	Failure to apply for a renewal, of the permit within Commission's time frames	$1,000
	DIVISION 5. REQUIREMENTS FOR OFF-LEASE COMMERCIAL RECYCLING OF FLUID.	
	§4.262 General Permit Application Requirements for Off-Lease Commercial Recycling of Fluid	
16 TAC §4.262(a)(b)(c)(d)(e)(f)	Failure to obtain a permit for Off-Lease Commercial Recycling of Fluid	$2,500
	§4.270 Notice	
16 TAC §4.270(a)(b)	Failure to follow notice requirements for Off-Lease Commercial Recycling of Fluid	$2,500

	§4.271 General Permit Provisions	
16 TAC §4.271(a)(b)(c)	Failure to renew the permit Off-Lease Commercial Recycling of Fluid	$1,000
	§4.274 Minimum Permit Provisions for Operations	
16 TAC §4.274(a)(b)(c)(d)(e)(f)	Failure to follow the operation requirements for Off-Lease Commercial Recycling of Fluid	$2,500
	§4.275 Minimum Permit Provisions for Monitoring	
16 TAC §4.275(a)(b)(c)	Failure to follow the Monitoring requirements for Off-Lease Commercial Recycling of Fluid	$2,500
	§4.276 Minimum Permit Provisions for Closure	
16 TAC §4.276(a)(b)(c)(d)(e)(f) (g)(h)	Failure to follow recommended closure procedures	$2,500
	§4.277 Permit Renewal	
16 TAC §4.277	Failure to apply for a renewal, of the permit within Commission's time frames	$1,000
	DIVISION 6 REQUIREMENTS FOR STATIONARY COMMERCIAL RECYCLING OF FLUID	
	§4.278 General Permit Application Requirements for a Stationary Commercial Fluid Recycling Facility	
16 TAC §4.278(a)(b)(c)(d)(e)(f)	Failure to obtain a permit for Off-Lease Commercial Recycling of Fluid	$2,500
	§4.286 Notice	
16 TAC §4.286(a)(b)(c)	Failure to follow notice requirements for Off-Lease Commercial Recycling of Fluid	$2,500
	§4.287 General Permit Provisions	
16 TAC §4.287(a)(b)(c)	Failure to renew the permit Off-Lease Commercial Recycling of Fluid	$1,000
	§4.290 Minimum Permit Provisions for Operations	
16 TAC §4.290(a)(b)(c)(d)(e)(f)	Failure to follow the operation requirements for Off-Lease Commercial Recycling of Fluid	$2,500
	§4.291 Minimum Permit Provisions for Monitoring	
16 TAC §4.291(a)(b)(c)	Failure to follow the Monitoring requirements for Off-Lease Commercial Recycling of Fluid	$2,500
	§4.292 Minimum Permit Provisions for Closure	

16 TAC §4.292(a)(b)(c)(d)(e)(f) (g)(h)	Failure to follow recommended closure procedures	$2,500
	§4.293 Permit Renewal	
16 TAC §4.293	Failure to apply for a renewal, of the permit within Commission's time frames	$1,000

Figure: 16 TAC §4.211(f)

Table 2. Calculation of Additional Guideline Penalty Amounts for Violations of 16 Tex. Admin. Code Chapter 4, relating Prevention of Pollution Cancellation of Certificate of Compliance; Severance

Length of Violation Low: < 3 mos. Medium: High: > 1 yr.	Production Value Low: < $5,000 Medium: High: > $100,000	Unresolved Severances Low: < 2 Medium: High: > 6	Basis of Severance N: non-pollution related Y: pollution related	Factor
low	low	low	N	1.0
low	low	medium	N	1.5
low	low	high	N	1.5
low	medium	low	N	1.5
low	medium	medium	N	3.5
low	medium	high	N	5.0
low	high	low	N	4.5
low	high	medium	N	7.0
low	high	high	N	7.5
medium	low	low	N	1.5
medium	low	medium	N	2.5
medium	low	high	N	3.5
medium	medium	low	N	3.5
medium	medium	medium	N	5.0
medium	medium	high	N	8.0
medium	high	low	N	8.5
medium	high	medium	N	9.0
medium	high	high	N	10.0
high	low	low	N	2.5
high	low	medium	N	3.5
high	low	high	N	3.5
high	medium	low	N	4.5
high	medium	medium	N	7.5
high	medium	high	N	8.0
high	high	low	N	10.0
high	high	medium	N	10.0
high	high	high	N	10.0
low	low	low	Y	1.5
low	low	medium	Y	2.0
low	low	high	Y	2.5
low	medium	low	Y	3.0
low	medium	medium	Y	5.0
low	medium	high	Y	7.5
low	high	low	Y	5.0
low	high	medium	Y	8.0
low	high	high	Y	8.5
medium	low	low	Y	2.0
medium	low	medium	Y	3.5
medium	low	high	Y	7.0
medium	medium	low	Y	7.0
medium	medium	medium	Y	7.5

medium	medium	high	Y	8.5
medium	high	low	Y	9.0
medium	high	medium	Y	9.5
medium	high	high	Y	10.0
high	low	low	Y	3.0
high	low	medium	Y	4.0
high	low	high	Y	5.0
high	medium	low	Y	5.0
high	medium	medium	Y	8.5
high	medium	high	Y	9.0
high	high	low	Y	10.0
high	high	medium	Y	10.0
high	high	high	Y	10.0

Figure 1: 16 TAC §4.211(g)

Table 3. Penalty Enhancements

Evidentiary Factors	Threatened or Actual Pollution	Safety Hazard	Severity of Violation
Agricultural land or sensitive wildlife habitat	$1,000 to $5,000		
Endangered or threatened species	$2,000 to $10,000		
Bay, estuary or marine habitat	$5,000 to $25,000		
Minor surface and subsurface water source (minor aquifers designated by the Texas Water Development Board, intermittent or dry watercourses, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state)	$2,500 to $7,500		
Major surface and subsurface water source (major aquifers designated by the Texas Water Development Board, lakes, ponds, impounding reservoirs, springs, rivers, streams, creeks, marshes, wetlands, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh, saline, or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state)	$5,000 to $25,000		
Impacted residential/public areas		$1,000 to $15,000	
Hazardous material release		$2,000 to $25,000	
Reportable incident/accident		$5,000 to $25,000	
Well in H_2S field		up to $10,000	
Time out of compliance			$100 to $2,000 / month
Reckless conduct of operator			double total penalty
Intentional conduct of operator			triple total penalty

Figure 2: 16 TAC §4.211(g)

Table 4. Penalty Enhancements based on total amount of prior penalties within seven years

Total administrative penalties assessed in the seven years prior to action	Enhancement amount
Less than $10,000	$1,000
Between $10,000 and $25,000	$2,500
Between $25,000 and $50,000	$5,000
Between $50,000 and $100,000	$10,000
Over $100,000	10% of total amount

Figure: 16 TAC §4.211(j)

Table 1. Penalty Calculation Worksheet

	Oil & Gas Rule/Statute	General Description	Guideline Minimum Penalty Amount or Range	Penalty Tally
		§4.201 Purpose		
1	16 TAC §4.201(a)	Pollution of surface or subsurface water	$2,500 to $10,000	$
		§4.203 Responsibility for Management of Waste to be Recycled		
2	16 TAC §4.203(a)(b)	Failure to utilize the services of a carrier with a valid permit	$2,500	$
3	16 TAC §4.203(c)	Failure to utilize the services of a commercial recycling facility that is permitted by the Commission	$2,500	$
		§4.209 Permit Renewal		
4	16 TAC §4.209	Failure to transfer a permit without approval of the Commission	$2,500	$
		§4.212 General Permit Application Requirements for On-Lease Commercial Solid Oil and Gas Waste Recycling Facilities		
5	16 TAC §4.212 (a)(b)(c)(d)	Failure to obtain a permit for on lease commercial solid oil and gas waste recycling facilities	$2,500	$
		§4.221 Minimum Permit Provisions for Operations		
6	16 TAC §4.221 (a)(b)(c)(d)(e)(f)	Failure to follow the operation requirements for on-lease commercial solid oil and gas waste recycling	$2,500	$
		§4.222 Minimum Permit Provisions for Monitoring		
7	16 TAC §4.222 (a)(b)(c)(d)(e)	Failure to follow the Monitoring requirements for on-lease commercial solid oil and gas waste recycling	$2,500	$
		§4.223 Minimum Permit Provisions for Closure		
8	16 TAC §4.223	Failure to follow recommended closure procedures	$2,500	$
		§4.224 Permit Renewal		
9	16 TAC §4.224	Failure to apply for a renewal, of the permit within Commission's time frames	$1,000	$
		§4.230 General Permit Application Requirements for Off-Lease or Centralized Commercial Solid Oil and Gas Waste Recycling		

10	16 TAC §4.230 (a)(b)(c)(d)(e)	Failure to obtain a permit for off-Lease or Centralized commercial solid oil and gas waste recycling facilities	$2,500	$
		§4.238 Notice		
11	16 TAC §4.238	Failure to follow notice requirements for off-lease or centralized commercial solid oil and gas waste recycling	$2,500	$
		§4.239 General Permit Provisions		
12	16 TAC §4.239(a)	Failure to renew the permit for an off-lease or centralized commercial solid oil and gas waste recycling facility	$1,000	$
13	16 TAC §4.239(c)	Failure to notify the surface owner of the tract upon which recycling will take place	$1,000	$
		§4.242 Minimum Permit Provisions for Operations		
14	16 TAC §4.242 (a)(b)(c)	Failure to follow the operation requirements for off-lease centralized commercial solid oil and gas waste recycling	$2,500	
		§4.243 Minimum Permit Provisions for Monitoring		
15	16 TAC §4.243 (a)(b)(c)(d)	Failure to follow the Monitoring requirements for off-lease centralized commercial solid oil and gas waste recycling	$2,500	$
		§4.244 Minimum Permit Provisions for Closure		
16	16 TAC §4.244	Failure to follow recommended closure procedures.	$2,500	$
		§4.245 Permit Renewal		
17	16 TAC §4.245	Failure to apply for a renewal, of the permit within Commission's time frames	$1,000	$
		§4.246 General Permit Application Requirements for a Stationary Commercial Solid Oil and Gas Waste Recycling Facility		
18	16 TAC §4.246 (a)(b)(c)(d)(e)	Failure to obtain a permit for a Stationary Commercial Solid Oil and Gas Waste	$2,500	$
		§4.254 Notice		
19	16 TAC §4.254 (a)(b)(c)	Failure to follow notice requirements for a Stationary Commercial Solid Oil and Gas Waste	$2,500	$
		§4.255 General Permit Provisions		
20	16 TAC §4.255 (a)(b)(c)	Failure to renew the permit for a Stationary Commercial Solid Oil and Gas Waste	$1,000	$
		§4.258 Minimum Permit Provisions for Operations		
21	16 TAC §4.258 (a)(b)(c)	Failure to follow the operation requirements for a Stationary Commercial Solid Oil and Gas Waste	$2,500	$
		§4.259 Minimum Permit Provisions for Monitoring		
22	16 TAC §4.259 (a)(b)(c)(d)(e)	Failure to follow the Monitoring requirements for a Stationary Commercial Solid Oil and Gas Waste	$2,500	$
		§4.260. Minimum Permit Provisions for Closure		

23	16 TAC §4.260	Failure to follow recommended closure procedures	$2,500	$
		§4.261 Permit Renewal		
24	16 TAC §4.261	Failure to apply for a renewal, of the permit within Commission's time frames	$1,000	$
		§4.262 General Permit Application Requirements for Off-Lease Commercial Recycling of Fluid		
25	16 TAC §4.262 (a)(b)(c)(d)(e)(f)	Failure to obtain a permit for Off-Lease Commercial Recycling of Fluid	$2,500	$
		§4.270 Notice		
26	16 TAC §4.270(a)(b)	Failure to follow notice requirements for Off-Lease Commercial Recycling of Fluid	$2,500	$
		§4.271 General Permit Provisions		
27	16 TAC §4.271 (a)(b)(c)	Failure to renew the permit Off-Lease Commercial Recycling of Fluid	$1,000	$
		§4.274 Minimum Permit Provisions for Operations		
28	16 TAC §4.274 (a)(b)(c)(d)(e)(f)	Failure to follow the operation requirements for Off-Lease Commercial Recycling of Fluid	$2,500	$
		§4.275 Minimum Permit Provisions for Monitoring		
29	16 TAC §4.275 (a)(b)(c)	Failure to follow the Monitoring requirements for Off-Lease Commercial Recycling of Fluid	$2,500	$
		§4.276 Minimum Permit Provisions for Closure		
30	16 TAC §4.276 (a)(b)(c)(d)(e)(f)(g)(h)	Failure to follow recommended closure procedures	$2,500	$
		§4.277 Permit Renewal		
31	16 TAC §4.277	Failure to apply for a renewal, of the permit within Commission's time frames	$1,000	$
		§4.278 General Permit Application Requirements for a Stationary Commercial Fluid Recycling Facility		
32	16 TAC §4.278 (a)(b)(c)(d)(e)(f)	Failure to obtain a permit for Off-Lease Commercial Recycling of Fluid	$2,500	$
		§4.286 Notice		
33	16 TAC §4.286 (a)(b)(c)	Failure to follow notice requirements for Off-Lease Commercial Recycling of Fluid	$2,500	$
		§4.287 General Permit Provisions		
34	16 TAC §4.287	Failure to renew the permit Off-Lease Commercial Recycling of Fluid	$1,000	$

	(a)(b)(c)			
		§4.290 Minimum Permit Provisions for Operations		
35	16 TAC §4.290 (a)(b)(c)(d)(e)(f)	Failure to follow the operation requirements for Off-Lease Commercial Recycling of Fluid	$2,500	$
		§4.291 Minimum Permit Provisions for Monitoring		
36	16 TAC §4.291(a)(b)(c)	Failure to follow the Monitoring requirements for Off-Lease Commercial Recycling of Fluid	$2,500	$
		§4.292 Minimum Permit Provisions for Closure		
37	16 TAC§4.292 (a)(b)(c)(d)(e)(f)(g)(h)	Failure to follow recommended closure procedures	$2,500	$
		§4.293 Permit Renewal		
38	16 TAC §4.293	Failure to apply for a renewal, of the permit within Commission's time frames	$1,000	$
39	**Subtotal of guideline penalty amounts from Table 1 (lines 1-38, inclusive)**			$
40	**Reduction for settlement before hearing: up to 50% of line 39 amt.**		_____%	$
41	**Subtotal: amount shown on line 39 less applicable settlement reduction on line 40**			$
	Penalty enhancement amounts for threatened or actual pollution from Table 3			
42	Agricultural land or sensitive wildlife habitat		$1,000 to $5,000	$
43	Endangered or threatened species		$2,000 to $10,000	$
44	Bay, estuary or marine habitat		$5,000 to $25,000	$
45	Minor freshwater source (minor aquifer, seasonal watercourse)		$2,500 to $7,500	$
46	Major freshwater source (major aquifer, creeks, rivers, lakes and reservoirs)		$5,000 to $25,000	$
	Penalty enhancement amounts for safety hazard from Table 3			
47	Impacted residential/public areas		$1,000 to $15,000	$
48	Hazardous material release		$2,000 to $25,000	$
49	Reportable incident/accident		$5,000 to $25,000	$
50	Well in H_2S field		up to $10,000	$
	Penalty enhancement amounts for severity of violation from Table 3			
51	Time out of compliance		$100 to $2,000 each month	$
52	**Subtotal: amount shown on line 41 plus all amounts on lines 32 through 51, inclusive**			$
	Penalty enhancements for culpability of person charged from Table 3			

53	Reckless conduct of operator	double line 108 amount	$
54	Intentional conduct of operator	triple line 108 amount	$
Penalty enhancements for number of prior violations within past seven years from Table 4			
55	One	$1,000	$
56	Two	$2,000	$
57	Three	$3,000	$
58	Four	$4,000	$
59	Five or more	$5,000	$
Penalty enhancements for amount of penalties within past seven years from Table 4			
60	Less than $10,000	$1,000	$
61	Between $10,000 and $25,000	$2,500	$
62	Between $25, 000 and $50,000	$5,000	$
63	Between $50,000 and $100,00	$10,000	$
64	Over $100,000	10% of total amt.	$
65	**Subtotal: Line 41 amt. plus amts. on line 53 and/or 54 plus the amt. shown on any line from 55 through 64, inclusive**		$
66	**Reduction for demonstrated good faith of person charged**		$
67	**TOTAL PENALTY AMOUNT: amount on line 65 less any amount shown on line 66**		$

Figure: 16 TAC §4.222(d)

Engineering and Environmental Standards for Recyclable Product to be Used as Road Base		
PARAMETER	LIMITATION	METHOD
Arsenic	Less than 5.000 mg/l	EPA Method 1312, Synthetic Leaching Procedure (SPLP)
Barium	Less than 100.00 mg/l	
Cadmium	less than 1.00 mg/l	
Chromium (total)	less than 5.00 mg/l	
Lead	less than 5.00 mg/l	
Mercury	less than 0.20 mg/l	
Selenium	less than 1.00 mg/l	
Silver	less than 5.00 mg/l	
Zinc	less than 5.00 mg/l	
Benzene	less than 0.50 mg/l	
Chlorides	less than 700.00 mg/l	LDNR leachate test method 1:4 Solid Solution
TPH	less than 100 mg/l	
pH	6 to 12.49 Standard Units	
Minimum compressive strength	35 psi	A Texas Department of Transportation approved procedure appropriate for testing and evaluating a material for compressive strength.

Figure: 16 TAC §4.243(d)

Engineering and Environmental Standards for Recyclable Product to be Used as Road Base		
PARAMETER	LIMITATION	METHOD
Arsenic	Less than 5.000 mg/l	EPA Method 1312, Synthetic Leaching Procedure (SPLP)
Barium	Less than 100.00 mg/l	
Cadmium	less than 1.00 mg/l	
Chromium (total)	less than 5.00 mg/l	
Lead	less than 5.00 mg/l	
Mercury	less than 0.20 mg/l	
Selenium	less than 1.00 mg/l	
Silver	less than 5.00 mg/l	
Zinc	less than 5.00 mg/l	
Benzene	less than 0.50 mg/l	
Chlorides	less than 700.00 mg/l	LDNR leachate test method 1:4 Solid Solution
TPH	less than 100 mg/l	
pH	6 to 12.49 Standard Units	
Minimum compressive strength	35 psi	A Texas Department of Transportation approved procedure appropriate for testing and evaluating a material for compressive strength.

Figure: 16 TAC §4.259(d)

Engineering and Environmental Standards for Recyclable Product to be Used as Road Base		
PARAMETER	LIMITATION	METHOD
Arsenic	Less than 5.000 mg/l	EPA Method 1312, Synthetic Leaching Procedure (SPLP)
Barium	Less than 100.00 mg/l	
Cadmium	less than 1.00 mg/l	
Chromium (total)	less than 5.00 mg/l	
Lead	less than 5.00 mg/l	
Mercury	less than 0.20 mg/l	
Selenium	less than 1.00 mg/l	
Silver	less than 5.00 mg/l	
Zinc	less than 5.00 mg/l	
Benzene	less than 0.50 mg/l	
Chlorides	less than 700.00 mg/l	LDNR leachate test method 1:4 Solid Solution
TPH	less than 100 mg/l	
pH	6 to 12.49 Standard Units	
Minimum compressive strength	35 psi	A Texas Department of Transportation approved procedure appropriate for testing and evaluating a material for compressive strength.

Figure: 16 TAC §4.275(a)(6)

FIGURE 1: PARAMETERS AND UNITS FOR GROUNDWATER MONITORING	
PARAMETER	**UNITS**
Static Water Level	Feet (ft)
Total Depth	ft
pH EPA Method 150.1, 150.2, or equivalent	s.u
Total Dissolved Solids (TDS) EPA Method 2540C or equivalent	mg/L
Total Petroleum Hydrocarbon (TPH) Method TX1005	mg/L
Benzene EPA Method 602 or equivalent	mg/L
Soluble Cations: Calcium, Magnesium, Potassium, and Sodium EPA Method 6010/6020 or equivalent	mg/L
Soluble Anions: Bromides, Carbonates, Chlorides, Nitrates, and Sulfates EPA Method 300/9056 or equivalent	mg/L

Figure: 16 TAC §4.276(d)(1)

FIGURE 1: STANDARD SOIL SAMPLING CLOSURE PARAMETERS	
PARAMETER	**LIMITATION**
pH *EPA Method 9045C or equivalent*	6 to 10 standard units
Chlorides	≤ 3,000 mg/kg
Total Petroleum Hydrocarbons (TPH) *EPA Method 5035A/TX1005*	≤ 10,000 mg/kg or 1% by weight
Total benzyne, Toluene, Ethylbenzene, Xylenes (BTEX) *EPA Method 5035A/8021/8260B or equivalent*	≤ 30 mg/kg
Metals (Total) *EPA Method 6010/6020/7471A or equivalent* Arsenic Barium Cadmium Chromium Lead Mercury Selenium Silver	 ≤ 10.00 mg/kg ≤ 10,000 mg/kg ≤ 10 mg/kg ≤ 100 mg/kg ≤ 200 mg/kg ≤ 10 mg/kg ≤ 10 mg/kg ≤ 200 mg/kg

Figure: 16 TAC §4.291(a)(6)

FIGURE 1: PARAMETERS AND UNITS FOR GROUNDWATER MONITORING	
PARAMETER	**UNITS**
Static Water Level	Feet (ft)
Total Depth	ft
pH EPA Method 150.1, 150.2, or equivalent	s.u
Total Dissolved Solids (TDS) EPA Method 2540C or equivalent	mg/L
Total Petroleum Hydrocarbon (TPH) Method TX1005	mg/L
Benzene EPA Method 602 or equivalent	mg/L
Soluble Cations: Calcium, Magnesium, Potassium, and Sodium EPA Method 6010/6020 or equivalent	mg/L
Soluble Anions: Bromides, Carbonates, Chlorides, Nitrates, and Sulfates EPA Method 300/9056 or equivalent	mg/L

Figure: 16 TAC §4.292(d)(1)

FIGURE 1: STANDARD SOIL SAMPLING CLOSURE PARAMETERS	
PARAMETER	**LIMITATION**
pH *EPA Method 9045C or equivalent*	6 to 10 standard units
Chlorides	≤ 3,000 mg/kg
Total Petroleum Hydrocarbons (TPH) *EPA Method 5035A/TX1005*	≤ 10,000 mg/kg or 1% by weight
Total benzyne, Toluene, Ethylbenzene, Xylenes (BTEX) *EPA Method 5035A/8021/8260B or equivalent*	≤ 30 mg/kg
Metals (Total) *EPA Method 6010/6020/7471A or equivalent* Arsenic Barium Cadmium Chromium Lead Mercury Selenium Silver	 ≤ 10.00 mg/kg ≤ 10,000 mg/kg ≤ 10 mg/kg ≤ 100 mg/kg ≤ 200 mg/kg ≤ 10 mg/kg ≤ 10 mg/kg ≤ 200 mg/kg

Figure: 16 TAC §4.302(c)(1)(C)

FIGURE 1: PARAMETERS AND LIMITATIONS FOR ROADBASE	
PARAMETER	**LIMITATION**
Minimum Compressive Strength by *ASTM D 698, ASTM D 1557,* or *TxDOT Methods Tex-113-E, Tex-120-E, Tex-121-E, Tex-117-E* or equivalent	35 psi
Synthetic Precipitation Leaching Procedure (SPLP) *EPA Method 1312* Metals *EPA Method 6010, 6020,* or *7471A* Arsenic Barium Cadmium Chromium Lead Mercury Selenium Silver Zinc	 ≤ 5.00 mg/L ≤ 100.0 mg/L ≤ 1.00 mg/L ≤ 5.00 mg/L ≤ 5.00 mg/L ≤ 0.20 mg/L ≤ 1.00 mg/L ≤ 5.00 mg/L ≤ 5.00 mg/L
Benzene *EPA Method 1312, 8021,* or *8260B*	≤ 0.50 mg/L
Leachate Test[1] Total Chlorides Total Petroleum Hydrocarbons (TPH) pH	 ≤ 700 mg/L ≤ 100 mg/L 6-12.49 s.u.

[1]Use the methodology described in "Laboratory Procedures for Analysis of Exploration and Production Waste," Louisiana Department of Natural Resources, Office of Conservation, Injection and Mining Division, May 2005, or similar.