



October 15, 2024

Transmitted via email to rulescoordinator@rrc.texas.gov

Re: Comments on proposed amendments to 16 Tex. Admin. Code Chapter 4
Total Organic Halide and Extractable Organic Halide testing – Reclamation Facilities

Hance Scarborough, LLP appreciates the opportunity to present comments on the proposed rules. These comments are presented on behalf of clients who operate commercial and non-commercial oil and gas reclamation facilities throughout the state. Please consider the following before adopting the proposed amended rules.

The proposed §4.102, concerning responsibility for oil and gas wastes, explicitly states that “[t]he generator of oil and gas waste is responsible for characterizing the waste.” This is reiterated in §4.190(a), which states that a “generator of oil and gas waste is responsible for characterizing and documenting the waste prior to transportation.”

Currently, certain reclamation permits contain a provision requiring representative samples of waste from commercial oil and gas facilities and reclamation plants to be analyzed for either Total Organic Halides (TOX) or Extractable Organic Halides (EOX) prior to receipt at the permittee’s site.

This permit provision is generally impracticable for implementation by permittees receiving waste for reclamation, and should be removed from reclamation permits. First, this type of testing generally requires sending a sample to an offsite laboratory with significant turnaround time for results. Such a test cannot be performed while a transporter waits to offload their waste for reclamation processing. Second, this provision is contrary to the proposed amended rules, as noted above, that places responsibility for characterizing the waste squarely within the generator’s purview. Waste must be characterized and manifested by the generator, including TOX/EOX levels, prior to transportation.

If TOX/EOX testing is to be required prior to receipt at a reclamation facility, the amended rules should make absolutely clear that such testing is to be the responsibility of the generator of the waste stream as part of the characterization and manifesting process prior to transportation, and not the responsibility of reclamation facility permittees.

Thank you for your consideration. Should you have any questions, please feel free to contact me.

Sincerely,

/s/ Barton J. Hejny

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