

COMMISSION SHIFT

HOW TO GIVE PUBLIC INPUT ON OIL AND GAS WASTE PITS



Overview

It shouldn't be a controversial opinion: no one deserves to be sickened by oilfield pollution chronically leaking into water and emitting fumes near their home. Yet Texans across the state are experiencing under-managed, open-air dumpsites containing solid waste and mysterious sludge from oil and gas operations. Meanwhile, waste pit companies have had two years of closed-door meetings with the Railroad Commission (RRC) to rewrite the rules on waste pit management.

As the RRC plans to make changes to statewide rules overseeing oil and gas waste pits, we've compiled suggestions for strengthening waste pit rules and the rulemaking process. These facts and talking points (below) can be used by anyone planning on giving public comments to Commissioners.

Remember that your public input should also include your own personal story of how you are impacted by the issue.

Goals for Waste Pit Rule Changes

Our main objectives and goals:



Goal # 1

Better protect health and environment from transportation and disposal of oil and gas waste.



Goal # 2

Ensure RRC has all relevant data and time to review before permitting.



Goal # 3

Improve the RRC & public's ability to enforce against bad actors.





Target Audience #1: Railroad Commission

Tell the RRC to strengthen rules and

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Suggestions for Improving Public Participation

1. **Let the public participate on equal footing with industry in rewriting the rules.** RRC has hosted dozens of closed-door talks with industry since the rewrite of the waste pit rules started, yet neither the public, local entities, nor environmental groups have been invited to the meetings. The RRC should host meetings with these groups just like it has done with industry; the public bears the biggest risk if the rules continue to be flawed.
2. **Give the public more time to participate in the permitting process.** The window to participate and request a hearing is barely 15 days; if you miss it, you can lose any right to provide input or oppose the permit. And often only adjacent landowners get notice of permit applications; notice should go to all landowners and tenants within at least a ½ mile.
3. **Require explicit surface landowner consent before a pit can be built on their property.** Landowners should get to ok what types of waste are going to be put in pits on their property before it happens.
4. **Hold hearings on all pit applications and stop allowing on-the-fly amendments.** Most RRC permit applications aren't reviewed in a public hearing, unlike in Louisiana. This leads to minimal scrutiny of many applications. Even for those that do go to hearings, the current rules allow applicants to change their proposed project in the middle of the hearing, meaning neither RRC technical staff (nor the public) has time to confirm if the changes are factually and scientifically sound. The applicant should be prohibited from wasting public and RRC resources by bringing incomplete applications to hearings and on-the-fly amendments should be banned.
5. **Allow any interested person to provide input on permit applications.** Louisiana allows this, but in Texas, usually only landowners right next to the site can comment, even if others have relevant information.
6. **Create an interested-persons mailing list.** The rules should let anyone subscribe to a mailing list to automatically be notified of projects in their area. The RRC already requires this for carbon dioxide injection well permits.

Suggestions for Approving Good Projects

1. **Make the applicant, not communities, bear the burden of showing whether a project is protective of human / environmental health and safety.** Applicants should have the actual & financial responsibility to collect accurate information to prove that their projects will be protective. Under the current rules, it has fallen to landowners and communities to pay to prove when projects won't protect health and safety.
2. **Improve setbacks from sensitive sites and public places.** Neighboring states do much better at locating disposal sites away from water sources, residences, churches, hospitals, and schools and protecting water quality. The siting of large landfills has been particularly bad and the draft rules don't fix the problem.
3. **Improve design, operating, and monitoring to be at least as protective as neighboring states.** Louisiana has had better rules for 40 years—and industry remains healthy. Groundwater monitoring should be required.
4. **Recalculate closure costs yearly & ensure money's available for all cleanups.** Funds should also be set aside for projects that have polluted soil and water, with former owners remaining liable for pollution.
5. **Don't tie the RRC's hands from being able to review projects and protect the public.** The May 2023 informal draft forces the RRC to presume projects are safe even if they might not be. For example, the RRC would be forced to presume certain projects are safe unless "extraordinary circumstances" show otherwise (an undefined high bar). And the draft forces the RRC to grant exemptions from the rules on design, siting, monitoring, and closure for certain projects if they're "substantially similar" to past exemptions, even if they no longer make sense.

Suggestions for Data Access and Enforcement

1. **Collect enough information to quantify and track the waste created, disposed of, and recycled.** Waste should be lab-tested and data on its source—including out-of-state—should be collected and made public.
2. **Give the public access to all data collected.** So bad actors can be found, all data on pits and waste hauling that operators collect should be sent to the RRC and made public, not just kept available "upon request."
3. **Create institutional memory of on-site & nearby applications.** All data from applications—and public comments—should be kept and made public so similarly bad projects don't get proposed in bad locations.
4. **Improve enforcement and apply meaningful penalties.** The draft rules telegraph leniency when it comes to enforcement; for example, stating "This rule does not contemplate automatic enforcement." Even if that is the RRC's

policy now, omit this language to allow for improved enforcement. Let the RRC protect the public.



Target Audience #2: Your Legislators

Tell your representatives to help you hold the RRC Accountable

Now that you have emailed RRC Commissioners and staff, get your legislators involved and backing you up! You can edit the sample letter below and send it to your legislators, urging them to help you hold the RRC accountable.

Look up your legislators' emails:

[Who represents me?](#)

<https://wrm.capitol.texas.gov/home>

Sample Letter to your Legislator

Subject: Request for support on Texas waste pits – Tell the RRC to strengthen amendments to Statewide Rule 8 and Chapter 4 B with public input

Dear [Senator or Representative's Name],

I am your constituent in [your county], and I am writing to you to express my concern regarding the existing waste pit rules in Texas, which have been a matter of worry for impacted community members living next to existing or proposed waste pit facilities. As your constituent, I urge you to help me hold the Railroad Commission of Texas accountable and help me urge the Commission to hold meaningful public engagement sessions with impacted community members throughout the state in order to gather community input before announcing any proposed amendments to statewide rule 8 and Chapter 4 overseeing waste pits.

Impacted community members have expressed their concerns about several issues that need to be addressed directly affecting those most impacted. **These issues include overflowing/overcapacity pits, infrequent monitoring and site visits, proximity to homes, community buildings, and environmentally sensitive areas, consistent non-compliance and lack of oversight and enforcement from the RRC, and lack of data and transparency on where waste came from, testing and verification of contents, and enforcement of permit standards.** The RRC is planning to announce changes to the rules governing these sites next month, yet waste pit companies have had **two years** of closed-door meetings with the RRC to rewrite the rules on waste pit management.

Moreover, the RRC's current timeline to accept public comment on waste pit rule amendments will likely be December 2023, when many people will be celebrating the holidays, spending time with their families, or out of town. Please urge the RRC

to 1) incorporate impacted peoples' feedback into their rulemaking, and 2) accept public comment through January, when the public is more able to participate in the process.

I appreciate your consideration and support for this request. I hope you will stand with Texans impacted by lax waste pit rules, and help me ensure that the Railroad Commission addresses the concerns of the impacted community members and prioritizes our health and well-being.

Sincerely,

[Your Name]