

# COMMISSION SHIFT WASTE PITS

## What are oil and gas waste pits?

Waste pits are commonly used in the oil and gas industry to store, dispose of, or recycle drilling waste and byproducts from the oilfield. These pits have long been a contentious issue in Texas due to their potential environmental impact, including contamination of soil and groundwater, harmful emissions, and risks to public health. Over the years, several incidents have highlighted the need for stronger oversight to safeguard communities and the environment.

## Who oversees waste pits for safety and compliance?

Even though it can be just as toxic as any other hazardous material, oil and gas waste exploits a legal loophole that exempts it from regulation as a hazardous waste under the federal Resource Conservation and Recovery Act (RCRA). In Texas, the **Railroad Commission** — the state oil and gas agency — has the most say over the rules for oil and gas waste and recycling. For now, the Texas Commission on Environmental Quality (TCEQ) has responsibility for air emissions, which is unfortunate because communities must deal with two agencies for enforcement.

For the first time in 40 years, the Railroad Commission is making major updates to the state rules protecting groundwater from waste pits. **The proposed rules still have big loopholes.**

## What are the top concerns with waste pits?

### More Waste Near People

A new section in the rules would allow treated drill cuttings to be used as construction fill or as road base on county roads, which make up 45% of the roads in the state. Drill cuttings can contain heavy metals, radioactivity, and volatiles and semi-volatile contaminants, both from natural sources and from introduced chemicals and drilling muds. The rules don't require testing for all these materials, and no risk assessment has been performed. While true recycling of wastes could be environmentally beneficial, the Commission needs to show its work before allowing waste to end up on our roads, backyards, schools, and places of worship.



The Texas Railroad Commission approved the construction of ponds used to treat and recycle produced water from fracking next to the Circle Six Baptist Camp in the Permian Basin. Credit: Julian Mancha for The Texas Tribune/Inside Climate News

### Leeway for On-Lease Pits

The new rules still allow significant flexibility for “authorized” pits used on-lease at oil and gas well sites. These pits don't have to go through a hearing or permitting process at the RRC. For many there are no setback requirements, no notice requirements, and no informed consent required from landowners, which leaves communities vulnerable. For reserve, mud circulation, completion, and workover pits, there are basically no groundwater protections: the rules don't set minimum construction standards for liners for these pits, leaving large loopholes for operators to build them right on top of groundwater. The rules wouldn't require the pits to be kept with excess space for rain, meaning any rain could cause the contents to overflow. The rules would let the operator leave much of this waste onsite forever, without testing to confirm it is not a public or environmental health risk. Industry estimates that currently ~70% of waste from the well is buried in such pits forever.



# COMMISSION SHIFT WASTE PITS (continued)

## Setback Requirements

The proposed setback requirements are minimal and should be extended to provide greater protection to nearby residents and ecosystems. Communities have reported impacts at distances greater than a mile. And peer-reviewed health studies “consistently show increased potential for exposure to air pollution and noise, as well as increased risk for several adverse health outcomes in populations living within and beyond 1 kilometer of oil and gas well sites.”<sup>1</sup> Risks within this radius include cancer, perinatal risks, and respiratory problems. There should be no exceptions for the setback distances for permitted facilities.

## Waste Tracking

The rules allow operators and haulers to classify their waste with “process knowledge” — i.e., guess its hazardousness based on where it came from. But without laboratory testing, there is no way to know how radioactive, carcinogenic, or toxic the materials are. If the same waste was generated in any other manner, extensive testing would be needed to identify and track it from cradle to grave. To protect public and environmental health, Texas should require the same. Testing should be conducted by third-party, accredited labs and that information should follow the waste from generation to disposal and be publicly accessible.

## Notice Requirements

A revised 30-day notice requirement for permitted facilities, up from 15 days, is a positive step. That notice would go out once the application is deemed complete by RRC staff. However, all residents, surface owners, and groundwater districts within one mile should receive notice—not only does this come closer to reflecting the potential extent of impacts, it is necessary to identify all of the water wells that might be impacted, many of which are not captured on public databases. The new rules also do not solve the fundamental flaws in the permitting process — that only affected persons who have protested timely can participate in the hearing process, and that the applicant can amend its application an unlimited number of times during the hearing, wasting taxpayer and protestor time and money.

## Groundwater Monitoring

Groundwater serves as a primary source of drinking water for many communities, and any leakage or improper handling of waste can introduce harmful chemicals and pollutants into these aquifers. The proposed rules mandate groundwater monitoring only in very limited circumstances. These requirements form a patchwork of regulations that vary significantly depending on the type of facility, which could lead to inconsistent protection measures.

**The Railroad Commission excluded the public, groundwater districts, localities & community groups from most of the drafting process.** It rejected calls to hold public workshops across the state & instead consulted only industry for years to write these rule amendments. It declined to solicit comments at times & locations accessible to the public. The Commission should have allowed for meaningful participation before proposing these rules.

## What can you do?

### Before Oct. 15

To read the rule and find the comment form, go to the RRC's Proposed Rules page and click the Chapter 4 drop-down menu. Submit your own comments or sign on to our form to send a letter to the Railroad Commission calling for stronger rules.

### RRC Proposed Rules



[bit.ly/ProposedRulesRRC](https://bit.ly/ProposedRulesRRC)

### Sign-on Letter to the RRC



[bit.ly/WastePits2024](https://bit.ly/WastePits2024)

1. Public Health Dimensions of Upstream Oil and Gas Development in California: Scientific Analysis and Synthesis to Inform Science-Policy Decision Making (June 21, 2024) Report prepared for the California Geologic Energy Management Division (CalGEM). [https://www.conservation.ca.gov/calgem/Documents/Public%20Health%20Panel%20Final%20Report\\_20240621.pdf](https://www.conservation.ca.gov/calgem/Documents/Public%20Health%20Panel%20Final%20Report_20240621.pdf) At ES-2 (That study examined more than 72 peer-reviewed epidemiological studies conducted across the United States and Canada and found that “[t]his body of evidence consistently indicates that human populations residing closer to upstream oil and gas development experience a greater risk of decreased respiratory function and adverse perinatal outcomes compared to those living farther away. Additionally, higher density of upstream oil and gas development in the vicinity of residences is associated with greater respiratory and perinatal health risks compared to lower density of oil and gas development. Finally, higher production volume of oil and gas is associated with increased risk of adverse respiratory and perinatal health impacts.”). The eleven of these studies focused on Texas: 8 on perinatal health, 2 on respiratory outcomes, 1 on cancer; other studies included Texas as part of their datasets.