

From: rmm3@everyactioncustom.com on behalf of [Michael Martin](#)
To: [Rules Coordinator](#)
Subject: Re: Comments on "Amend 3.8 and new/amended Chapter 4 waste management"
Date: Tuesday, October 15, 2024 3:40:45 PM

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Dear Rules Coordinator,

I am concerned about the changes to Statewide Rule 8 & Chapter 4.

The Commission must: (1) Better protect human & environmental health from waste & recycling operations; (2) Make operators protect communities from bad practices; (3) Improve the Commission & public's ability to enforce the rules.

While I support some of the rule changes, e.g., that data will finally be collected on on-lease pits; more are needed. For example:

Public Participation

- 1) Require explicit surface landowner consent before a pit can be built and waste buried in it.
- 2) Create a more participatory permit process:
 - require multiple notices, at least 30 days before an application or hearing;
 - send notice to all residents, landowners & groundwater districts within at least one mile of a facility's property boundary;
 - at hearings, let anyone ask questions, participate, present testimony, facts, or evidence
- 3) Create an electronic mailing list for all applications that anyone can join

Good Projects

- 4) Don't presume a project will protect Texans & Texas; make them prove it. Applicants must bear the ****actual & financial responsibility**** to show with credible evidence that their projects will be safe. As is, it falls to the public to disprove this, which is costly & backwards. Don't let an applicant modify its application during a hearing — if it's deficient, deny it.
- 5) Increase setbacks from sensitive places. Negative effects extend beyond the setbacks proposed; sometimes over a mile. Measure from the property boundary, not the pit.
- 6) Improve design, operating & monitoring for all facilities. Once polluted, soil and groundwater is basically impossible to clean. This proposal lets pits that hold drilling muds, cuttings, or completions fluids avoid the permit process & not install a true liner even if groundwater exists just below the pit. Even at permitted facilities, there isn't enough groundwater investigation, protection, or monitoring.
- 7) Test waste before it's left onsite. This rule would leave 1,000s of acres of waste in on-lease pits, with no testing to confirm that it's not toxic & won't harm property, waters, or wildlife. Clean-up should be required.

Data & Enforcement

- 8) Make public all data. Make all data tracked by rule easily & timely publicly accessible. Release full text-searchable documents, not summaries.
- 9) Create a database of prior applications. Retain & make public these files & comments. Make subsequent applicants distinguish themselves from this data.
- 10) Improve enforcement. Communities agree—the existing rules aren't well enforced & the penalties don't deter bad actors. Also, the origin, type & disposal of waste as it moves across Texas needs better tracking.

Also, the Commission must withdraw Subchapter B Division 7: these new rules would let treated drill cuttings be used as construction fill anywhere, or in county roads. Cuttings can contain hazardous, radioactive & carcinogenic chemicals, but the rule doesn't test enough for them, creating potential environmental hazards & risking public funds to clean up these materials. More study is needed before this rule is re-proposed.

Finally, I'm upset that the 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. It declined to solicit comments at times & locations accessible to the public. The Commission should have allowed for meaningful participation before proposing these rules. WHY IS THIS? Does The Commission know better than these other authorities and community members who are directly impacted? Or do you only care about the prosperity of the oil and gas industry - not the basic health of impacted Texans - who makes large donations to you?

Sincerely,
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