

From: pi.dolan@everyactioncustom.com on behalf of [Paul Dolan](#)
To: [Rules Coordinator](#)
Subject: Comments on Proposed Changes to 16 TAC §3.8 and §3.57, and 16 TAC Chapter 4
Date: Tuesday, October 31, 2023 3:07:47 PM

CAUTION: This email originated from outside of the Railroad Commission of Texas. Do NOT click links or open attachments from unknown sources without first confirming the message is legitimate. If you believe this to be a malicious and/or phishing email, please contact the ITS Help Desk at 512-463-7229. Do not respond to or forward the email, click on any links or open any attachments without guidance from the Help Desk

Dear Rules Coordinator Texas Railroad Commission,

I am writing as a concerned Texan to give suggestions on the informal draft amendments to Statewide Rule 8 and Chapter 4.

I offer these suggestions with the goals of better protecting the health of Texans and our environment and lessening the burden on the public in protecting our communities.

Public Participation

Please require a more participatory permitting process. Consider requiring applicants to publish “notice of intent” to apply for a permit at least 30 days before applying. Set all applications for a hearing once the application is complete, regardless if a protest is received (i.e., remove the need to protest in 15 days, 4.125(a),(b), 4.133, 4.134(g), (h), 4.135(a),(b)). Give at least 30 days notice of the hearing (same time frame applicants have to respond to protests) (4.125(a), (b)). Prohibit modifications or supplements to the application once it is set for hearing (add to 4.134, 4.135). Allow all interested persons the opportunity to present testimony, facts, or evidence related to the application or to ask questions (add to 4.135). The above suggestions are based on Louisiana’s rules. See LAC. tit. 43 § XIX-519, 527, 529.

Require explicit surface landowner consent before a pit can be built onsite. Landowners should get to approve what types of waste are going to be put in any pit on their property before it happens. (add this back into 4.111(a)). I would also like to see the RRC create an electronic mailing list for anyone to subscribe to so that we can be automatically notified of applications in our area.

Approving Good Projects

Make the applicant, not communities, bear the burden of showing whether a project is protective of human or 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 and draft rules, it falls to landowners and communities to pay to prove when projects won’t protect health and safety. Prohibiting modifications of an application once it is set for a hearing should help, but the the rules should say that if a complete application “does not meet the requirements of [Chapter A] or other laws, rules, or orders of the Commission” the Commission “must” deny it; not “may deny,” as the current draft proposes. 4.134 and 4.206(b). See also 4.204(2), 4.262(c), 4.278(c). Improve setbacks from sensitive sites and places. Setbacks should be measured from the fence line, not from an individual pit. 4.150(g), 4.219(b)(2), 4.256(b)(2), 4.272(b)(2).

The Commission and Commissioners should not be granting exemptions without public input. 4.109 (and 4.205)

Data Access and Enforcement

To identify bad actors, full documents on pits, waste, and waste hauling data collected by operators should be sent to the RRC and made public, instead of just being available upon request. This will allow for transparency and accountability.

All application files—including public comments—should be kept and made public so similarly bad projects don’t get proposed in sensitive areas. Applicants should be required to review this data and analyze it in their applications. 4.124, 4.212, 4.230, 4.246, 4.262, 4.278, 4.302.

Improve enforcement and apply meaningful penalties. The penalty section, which is copied from 3.107, should strongly commit the Commission to vigorous, transparent, and speedy enforcement of the new rules. The remaining rules should be drafted to provide no wiggle room for bad actors to escape liability.

I hope to see the Railroad Commission incorporate this feedback in the final SWR8 Waste Pits rule as the protection of our collective health & safety along with the protection of our environment is of utmost importance to me. Thank you for your consideration.

Sincerely,
Mr. Paul Dolan
14735 Bramblewood Dr Houston, TX 77079-6403
pj.dolan@yahoo.com