

Texas Administrative Code

[TITLE 16](#)

ECONOMIC REGULATION

[PART 1](#)

RAILROAD COMMISSION OF TEXAS

[CHAPTER 3](#)

OIL AND GAS DIVISION

RULE §3.9

Disposal Wells

Any person who disposes of saltwater or other oil and gas waste by injection into a porous formation not productive of oil, gas, or geothermal resources shall be responsible for complying with this section, Texas Water Code, Chapter 27, and Title 3 of the Natural Resources Code.

(1) General. Saltwater or other oil and gas waste, as that term is defined in the Texas Water Code, Chapter 27, may be disposed of, upon application to and approval by the commission, by injection into nonproducing zones of oil, gas, or geothermal resources bearing formations that contain water mineralized by processes of nature to such a degree that the water is unfit for domestic, stock, irrigation, or other general uses. Every applicant who proposes to dispose of saltwater or other oil and gas waste into a formation not productive of oil, gas, or geothermal resources must obtain a permit from the commission authorizing the disposal in accordance with this section. Permits from the commission issued before the effective date of this section shall continue in effect until revoked, modified, or suspended by the commission.

(2) Geological requirements. Before such formations are approved for disposal use, the applicant shall show that the formations are separated from freshwater formations by impervious beds which will give adequate protection to such freshwater formations. The applicant must submit a letter from the Groundwater Advisory Unit of the Oil and Gas Division stating that the use of such formation will not endanger the freshwater strata in that area and that the formations to be used for disposal are not freshwater-bearing.

(3) Application.

(A) The application to dispose of saltwater or other oil and gas waste by injection into a porous formation not productive of oil, gas, or geothermal resources shall be filed with the commission in Austin accompanied by the prescribed fee. On the same date, one copy shall be filed with the appropriate district office.

(B) The applicant for a disposal well permit under this section shall include with the permit application a printed copy or screenshot showing the results of a survey of information from the United States Geological Survey (USGS) regarding the locations of any historical seismic events within a circular area of 100 square miles (a circle with a radius of 9.08 kilometers) centered around the proposed disposal well location.

(C) The commission may require an applicant for a disposal well permit under this section to provide the commission with additional information such as logs, geologic cross-sections, pressure front boundary calculations, and/or structure maps, to demonstrate that fluids will be confined if the well is to be located in an area where conditions exist that may increase the risk that fluids will not be confined to the injection interval. Such conditions may include, but are not limited to, complex geology, proximity of the basement rock to the injection interval, transmissive faults, and/or a history of seismic events in the area as demonstrated by information available from the USGS.

(4) Commercial disposal well. An applicant for a permit to dispose of oil and gas waste in a commercial disposal well shall clearly indicate on the application and in the published notice of application that the application is for a commercial disposal well permit. For the purposes of this rule, "commercial disposal well" means a well whose owner or operator receives compensation from others for the disposal of oil field fluids or

oil and gas wastes that are wholly or partially trucked or hauled to the well, and the primary business purpose for the well is to provide these services for compensation.

(5) Notice and opportunity for hearing.

(A) The applicant shall give notice by mailing or delivering a copy of the application to affected persons who include the owner of record of the surface tract on which the well is located; each commission-designated operator of any well located within one-half mile of the proposed disposal well; the county clerk of the county in which the well is located; and the city clerk or other appropriate city official of any city where the well is located within the municipal boundaries of the city, on or before the date the application is mailed to or filed with the commission. For the purposes of this section, the term "of record" means recorded in the real property or probate records of the county in which the property is located.

(B) In addition to the requirements of subsection (a)(5)(A) of this section, a commercial disposal well permit applicant shall give notice to owners of record of each surface tract that adjoins the proposed disposal tract by mailing or delivering a copy of the application to each such surface owner.

(C) If, in connection with a particular application, the commission or its delegate determines that another class of persons should receive notice of the application, the commission or its delegate may require the applicant to mail or deliver a copy of the application to members of that class. Such classes of persons could include adjacent surface owners or underground water districts.

(D) In order to give notice to other local governments, interested, or affected persons, notice of the application shall be published once by the applicant in a newspaper of general circulation for the county where the well will be located in a form approved by the commission or its delegate. The applicant shall file with the commission in Austin proof of publication prior to the hearing or administrative approval.

(E) Protested applications:

(i) If a protest from an affected person or local government is made to the commission within 15 days of receipt of the application or of publication, whichever is later, or if the commission or its delegate determines that a hearing is in the public interest, then a hearing will be held on the application after the commission provides notice of hearing to all affected persons, local governments, or other persons, who express an interest, in writing, in the application.

(ii) For purposes of this section, "affected person" means a person who has suffered or will suffer actual injury or economic damage other than as a member of the general public or as a competitor, and includes surface owners of property on which the well is located and commission-designated operators of wells located within one-half mile of the proposed disposal well.

(F) If no protest from an affected person is received by the commission, the commission's delegate may administratively approve the application. If the commission's delegate denies administrative approval, the applicant shall have a right to a hearing upon request. After hearing, the examiner shall recommend a final action by the commission.

(6) Subsequent commission action.

(A) A permit for saltwater or other oil and gas waste disposal may be modified, suspended, or terminated by the commission for just cause after notice and opportunity for hearing, if:

(i) a material change of conditions occurs in the operation or completion of the disposal well, or there are material changes in the information originally furnished;

(ii) freshwater is likely to be polluted as a result of continued operation of the well;

(iii) there are substantial violations of the terms and provisions of the permit or of commission rules;

(iv) the applicant has misrepresented any material facts during the permit issuance process;

(v) injected fluids are escaping from the permitted disposal zone;

(vi) injection is likely to be or determined to be contributing to seismic activity; or

(vii) waste of oil, gas, or geothermal resources is occurring or is likely to occur as a result of the permitted operations.

(B) A disposal well permit may be transferred from one operator to another operator provided that the commission's delegate does not notify the present permit holder of an objection to the transfer prior to the date the lease is transferred on Commission records.

(C) Voluntary permit suspension.

(i) An operator may apply to temporarily suspend its injection authority by filing a written request for permit suspension with the commission in Austin, and attaching to the written request the results of an MIT test performed during the previous three-month period in accordance with the provisions of paragraph (12)(D) of this section. The provisions of this subparagraph shall not apply to any well that is permitted as a commercial disposal well.

(ii) The commission or its delegate may grant the permit suspension upon determining that the results of the MIT test submitted under clause (i) of this subparagraph indicate that the well meets the performance standards of paragraph (12)(D) of this section.

(iii) During the period of permit suspension, the operator shall not use the well for injection or disposal purposes.

(iv) During the period of permit suspension, the operator shall comply with all applicable well testing requirements of §3.14 of this title (relating to plugging, and commonly referred to as Statewide Rule 14) but need not perform the MIT test that would otherwise be required under the provisions of paragraph (12)(D) of this section or the permit. Further, during the period of permit suspension, the provisions of paragraph (11)(A) - (C) of this section shall not apply.

(v) The operator may reinstate injection authority under a suspended permit by filing a written notification with the commission in Austin. The written notification shall be accompanied by an MIT test performed during the three-month period prior to the date notice of reinstatement is filed. The MIT test shall have been performed in accordance with the provisions and standards of paragraph (12)(D) of this section.

(7) Area of Review.

(A) Except as otherwise provided in this paragraph, the applicant shall review the date of public record for wells that penetrate the proposed disposal zone within a 1/4 mile radius of the proposed disposal well to determine if all abandoned wells have been plugged in a manner that will prevent the movement of fluids from the disposal zone into freshwater strata. The applicant shall identify in the application any wells which appear from such review of public records to be unplugged or improperly plugged and any other unplugged or improperly plugged wells of which the applicant has actual knowledge.

(B) The commission or its delegate may grant a variance from the area-of-review requirements of subparagraph (A) of this paragraph upon proof that the variance will not result in a material increase in the risk of fluid movement into freshwater strata or to the surface. Such a variance may be granted for an area defined both vertically and laterally (such as a field) or for an individual well. An application for an areal variance need not be filed in conjunction with an individual permit application or application for permit amendment. Factors that may be considered by the commission or its delegate in granting a variance include:

(i) the area affected by pressure increases resulting from injection operations;

(ii) the presence of local geological conditions that preclude movement of fluid that could endanger freshwater strata or the surface; or

(iii) other compelling evidence that the variance will not result in a material increase in the risk of fluid movement into freshwater strata or to the surface.

(C) Persons applying for a variance from the area-of-review requirements of subparagraph (A) of this paragraph on the basis of factors set out in subparagraph (B)(ii) or (iii) of this paragraph for an individual well shall provide notice of the application to those persons given notice under the provisions of paragraph (5)(A) of this subsection. The provisions of paragraph (5)(D) and (E) shall apply in the case of an application for a variance from the area-of-review requirements for an individual well.

(D) Notice of an application for an areal variance from the area-of-review requirements under subparagraph (A) of this paragraph shall be given on or before the date the application is filed with the commission:

(i) by publication once in a newspaper having general circulation in each county, or portion thereof, where the variance would apply. Such notice shall be in a form approved by the commission or its delegate prior to publication and must be at least three inches by five inches in size. The notice shall state that protests to the application may be filed with the commission during the 15-day period following the date of publication. The notice shall appear in a section of the newspaper containing state or local news items;

(ii) by mailing or delivering a copy of the application, along with a statement that any protest to the application should be filed with the commission within 15 days of the date of the application is filed with the commission, to the following:

(I) the manager of each underground water conservation district(s) in which the variance would apply, if any;

(II) the city clerk or other appropriate official of each incorporated city in which the variance would apply, if any;

(III) the county clerk of each county in which the variance would apply; and

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