

5. Oil and Gas Waste

Oil and Gas Waste Overview

Oil and gas waste hauling and disposal are controlled administratively by Texas Railroad Commission (RRC) and criminally by local government. RRC has no criminal enforcement unit.

Local control of oil and gas waste

- (1) Municipal codes
- (2) Texas Water Code Chapter 29
- (3) Texas Natural Resources Code Sec. 91.002

Oil and Gas Waste Defined

NRC Sec. 91.1011. OIL AND GAS WASTE.

(a) In this subchapter, "oil and gas waste" means waste that arises out of or incidental to the drilling for or producing of oil or gas, including waste arising out of or incidental to:

- (1) activities associated with the drilling of injection water source wells which penetrate the base of useable quality water;
- (2) activities associated with the drilling of cathodic protection holes associated with the cathodic protection of wells and pipelines subject to the jurisdiction of the commission;
- (3) activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants;
- (4) activities associated with any underground natural gas storage facility, provided the terms "natural gas" and "storage facility" shall have the meanings set out in Section 91.173, Natural Resources Code;
- (5) activities associated with any underground hydrocarbon storage facility, provided the terms "hydrocarbons" and "underground hydrocarbon storage facility" shall have the meanings set out in Section 91.201, Natural Resources Code; and
- (6) activities associated with the storage, handling, reclamation, gathering, transportation, or distribution of oil or gas prior to the refining of such oil or prior to the use of such gas in any manufacturing process or as a residential or industrial fuel.

(b) "Oil and gas waste" includes salt water, brine, sludge, drilling mud, and other liquid, semiliquid, or solid waste material.

Statewide Rule 8 16 T.A.C. 3.8

(a) (26) Oil and gas wastes--Materials to be disposed of or reclaimed which have been generated in connection with activities associated with the exploration, development, and production of oil or gas or geothermal resources, as those activities are defined in paragraph (30) of this subsection, and materials to be disposed of or reclaimed which have been generated in connection with activities associated with the solution mining of brine. The term "oil and gas wastes" includes, but is not limited to, saltwater, other mineralized water, sludge, spent drilling fluids, cuttings, waste oil, spent completion fluids, and other liquid, semiliquid, or solid waste material. The term "oil and gas wastes" includes waste generated in connection with activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants unless that waste is a hazardous waste as defined by the administrator of the United States Environmental Protection Agency pursuant to the federal Solid Waste Disposal Act, as amended (42 United States Code §6901 et seq.).

Municipal Codes

If you want to enforce oil and gas waste hauling dumps and spills in your municipal court you'll probably need a new ordinance.

Local Government Code

Sec. 51.001. ORDINANCE, RULE, OR REGULATION NECESSARY TO CARRY OUT OTHER POWERS.

The governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule, or police regulation that:

- (1) is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality; and
- (2) is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality.

TWC Chapter 29 Oil and Gas Waste Haulers

Sec. 29.041. HAULING WITHOUT PERMIT.

No hauler may haul or dispose of oil and gas waste off the lease, unit, or other oil or gas property where it is generated unless the hauler has a permit issued under this chapter.

Sec. 29.042. EXCEPTIONS.

- (a) A person may haul oil and gas waste for use in connection with drilling or servicing an oil or gas well without obtaining a hauler's permit under this chapter.
- (b) The commission by rule may except from the permitting requirements of this chapter specific categories of oil and gas waste other than salt water.

Sec. 29.043. USING HAULERS WITHOUT PERMIT.

No person may knowingly utilize the services of a hauler to haul or dispose of oil and gas waste off the lease, unit, or other oil or gas property where it is generated if the hauler does not have a permit as required under this chapter.

Sec. 29.044. DISPOSING OF OIL AND GAS WASTE.

- (a) No hauler may dispose of oil and gas waste on public roads or on the surface of public land or private property in this state in other than a railroad commission-approved disposal facility without written authority from the railroad commission.
- (b) No hauler may dispose of oil and gas waste on property of another in other than a railroad commission-approved disposal facility without the written authority of the landowner.

Sec. 29.045. USE OF UNMARKED VEHICLES.

No person who is required to have a permit under this chapter may haul oil and gas waste in a vehicle that does not bear the owner's name and the hauler's permit number. This information shall appear on both sides and the rear of the vehicle in characters not less than three inches high.

Sec. 29.046. PENALTY.

A person who violates any provision of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000 or by confinement in the county jail for not more than 10 days or by both.

Individual:	Fine \$100 to \$1,000 and/or Confinement to 10 days
Person other than individual:	Fine \$100 to \$1,000;

Natural Resources Code Chapter 91

Sec. 91.002. CRIMINAL PENALTY.

(a) A person who willfully or with criminal negligence violates Section 91.101 of this code or a rule, order, or permit of the commission issued under that section commits an offense.

- (b) An offense under Subsection (a) of this section is punishable by a fine of not more than \$10,000 a day for each day a violation is committed.
- (c) Venue for prosecution of an alleged violation of this section is in a court of competent jurisdiction in the county in which the violation is alleged to have occurred.

Sec. 91.101. RULES AND ORDERS.

To prevent pollution of surface water or subsurface water in the state, the commission shall adopt and enforce rules and orders and may issue permits relating to:

- (1) the drilling of exploratory wells and oil and gas wells or any purpose in connection with them;
- (2) the production of oil and gas, including:
 - (A) activities associated with the drilling of injection water source wells which penetrate the base of useable quality water;
 - (B) activities associated with the drilling of cathodic protection holes associated with the cathodic protection of wells and pipelines subject to the jurisdiction of the commission;
 - (C) activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants;
 - (D) activities associated with any underground natural gas storage facility, provided the terms "natural gas" and "storage facility" shall have the meanings set out in Section 91.173, Natural Resources Code;
 - (E) activities associated with any underground hydrocarbon storage facility, provided the terms "hydrocarbons" and "underground hydrocarbon storage facility" shall have the meanings set out in Section 91.201, Natural Resources Code; and
 - (F) activities associated with the storage, handling, reclamation, gathering, transportation, or distribution of oil or gas prior to the refining of such oil or prior to the use of such gas in any manufacturing process or as a residential or industrial fuel;
- (3) the operation, abandonment, and proper plugging of wells subject to the jurisdiction of the commission; and
- (4) the discharge, storage, handling, transportation, reclamation, or disposal of oil and gas waste as defined in Section 91.1011 of this subchapter, or of any other substance or material associated with any operation or activity regulated by the commission under Subdivisions (1), (2), and (3) of this section.**

All violators:

Fine to \$10,000 per day per event

Statewide Rule 8

Statewide Rule 8 (16 T.A.C. Sec 3.8) is a rule issued under NRC Sec. 91.101.

See sections (b) (d) and (f) for various hauling violations that can be easily determined to exist and locally enforced, including such things as water pollution, hauling in leaking vehicles, hauling without permits on board, hauling without a permit, using unauthorized disposal systems, and hauling in an unmarked vehicle (WHP Number AND company name on back and both sides in 3" lettering. Check RCC website to make sure WHP # is active.