

1 November 2023

Railroad Commission of Texas
Attn: Rules Coordinator
1701 Congress Avenue
Austin, Texas 78701

Re: Proposed Changes to 16 TAC §3.8 and §3.57, and 16 TAC Chapter 4

We appreciate the opportunity to comment on the proposed rule changes referenced above and would like to thank staff and Commissioners for their time spent on this issue. After reviewing the drafted rule and applying it to our business practices as it is currently written, we find that the proposed changes to Rule 8 and Chapter 4 are unfairly equating the risk of temporary pits to those of permanent underground storage tanks. The cost implications on marginal wells we operate in North Texas cannot sustain this rule change as written. We've provided some detailed commentary below and are happy to speak to staff as necessary should any clarification or further explanation be needed. As a second-generation family business that has maintained operatorship in good standing for 40 years, we want to continue to conduct our business in North Texas and work with the Commission in their stewardship of our common-sense regulatory environment. Also, as a fifth-generation farmer and rancher, stewardship of our groundwater, soil, and overall surface land management is of great concern to our family, extended family, friends, and neighbors, and we reviewed this rule with the lens of our agricultural and land-owning best practices as well.

Comment #1:

Section 4.114(c)(6) states that all authorized pits shall be lined. This requirement is uneconomical and cost prohibitive for most small operators. The cost of lining our pits with synthetic liners will add a minimum of \$10,000 to our workover costs. This provision alone will force our company to shut-in otherwise profitable producing wells as they cannot sustain that additional cost in workover. Additionally, the requirements in this section state that "a synthetic liner shall have a breaking strength of 40 pounds per inch using test method ATM D882" and "a synthetic liner shall have a puncture resistance of at least 15 pounds force using test method ASTM D4833." We requested and reviewed spec sheets from a pit lining contractor for the three most common liners his company (and other companies in Texas) use and are readily available from manufacturers. The liners they are using meet or exceed the breaking strength and puncture resistance requirements in this section but use ASTM test methods other than those specified in the rule. We are concerned that compliance with these standards could be complicated and difficult and will definitely add substantial cost.

Comment #2:

Section 4.114(e)(3) states that "the operator shall collect one five-point composite soil sample for each acre of pit surface area. The five-point composite sample shall be collected from the native soil on the pit floor and sidewalls. A fraction of an acre of pit surface area will require a composite sample." One five-point composite sample costs \$2,500+ just for the sample analysis. This is the most cost-effective process if the operator attempts the test on their own – a specific test kit ordered from the laboratory with extensive shipping costs, as well as strict chain of command procedures and sampling requirements increasing labor hours and again, costs. Using a third-party service when the operator is unable to complete this process correctly or effectively costs ~\$7,500. This additional cost with the lining will force marginal well operators to not conduct the workover as it will be uneconomic and instead, shut-in the well.

Comment #3:

Section 4.114(h) requires operators to conduct groundwater monitoring for any pit where groundwater is likely to be present within 100 feet of the ground surface. Because earlier sections are already requiring that operators line all pits and conduct soil sampling at closure, an additional requirement of groundwater monitoring using a minimum of three groundwater monitoring wells is not a change we can support in good faith. In attempting to get figures for the additional cost of having three groundwater monitoring wells drilled by a certified water well driller, we found that none of our

current vendors hold this specific certification and had difficulty in finding a contractor that does hold one in our areas of operation. After finding a certified water well driller that could drill this type of well, they were not able to give us an accurate cost estimate due to the vague and situational requirements in this section. What we do know is that the cost of sampling wells at completion and quarterly thereafter will add thousands of dollars alone before any drilling or plugging costs are considered. As I have mentioned in my earlier comments, adding thousands of dollars to a workover for an operator of our size would make it uneconomic to work on our otherwise profitable wells.

Comment #4:

Section 4.114(a)(5) requires the operator of an authorized pit to register the pit with the Commission once the Director has established a registration system for authorized pits. Our concern with this section is that there is no specified procedure regarding how authorized pits will be registered. We would like to know if there will be an online system, if registration needs to be in writing, or if it will be a notification system like the current spill notification system where we call the district office with the applicable information. Additionally, what will be the procedure if a well needs to be worked on and a pit needs to be constructed outside of normal business hours? As the Commission is aware, our business is a 24-hour business and the proposed rule revisions need to reflect that. We often have a workover rig in place within 12 hours of a well going down. Any delay in that timeframe adds to our costs, and again presents the same problems we've mentioned in previous comments.

Overall, we understand that these rules have not been updated in 40 years and that much can and has changed in that time. The updates regarding commercial operations seem fair. While we can support those provisions, we cannot support the updates surrounding authorized pits and temporary reserve pits as written.

We propose that a provision be added to Division 3 stating that these requirements apply only to those authorized pits with an active life of greater than one year. The timeclock could be modeled after many regulations already enforced with a pit closure date required within 12-18 months of the end of the operations using the pit. This change would allow for needed regulation over more permanent systems while maintaining the effective practices operators have successfully been using with temporary reserve pits.

Sincerely,

Cye C. Wagner
Executive Vice President
Cooper Oil & Gas, LLC