



Texas Independent Producers & Royalty Owners Association

919 Congress Avenue, Suite 1000 Austin, Texas 78701 (512) 477-4452 Fax: (512) 476-8070
<http://www.tipro.org>

September 12, 2013

Veronica Larson
Oil and Gas Division
Railroad Commission of Texas
P.O. Box 12967
Austin, TX 78711-2967

Re: Proposed Amendments to Statewide Rules 3.9, 3.36, and 3.46

The Texas Independent Producers and Royalty Owners Association (TIPRO) is a statewide oil and natural gas trade association representing over 2,500 members. TIPRO's membership includes small family-owned companies, the largest publicly traded independents, as well as large and small royalty owners, mineral estates, and trusts. Thank you for the opportunity to provide informal comment on draft amendments to Statewide Rules 3.9, 3.36, and 3.46. By continuing to take steps to update statewide rules, the RRC is helping to solidify state primacy in the oversight of the oil and gas industry in Texas.

TIPRO's comments include proposed changes to the current draft, as well as several requests for clarification and/or justification on changes proposed by the RRC. We look forward to working with RRC staff to address TIPRO member concerns and to hone the current proposal into a work product that is both protective and conducive to continued hydrocarbon development in Texas.

On behalf of TIPRO's member companies, thank you again for the opportunity to comment and we appreciate your consideration of our member companies' viewpoints and suggestions. Should you have questions, feel free to contact me at (512) 477-4452 or at liskinner@tipro.org.

Sincerely,

Lindsey Skinner
TIPRO Government Affairs Representative



TEXAS INDEPENDENT PRODUCERS AND ROYALTY OWNERS ASSOCIATION
INFORMAL COMMENTS: Proposed Statewide Rule 3.9

September 12, 2013

Rule 3.9 Page/Line	TIPORO Proposed Changes/Rationale	TIPORO Request for RRC Feedback
ALL	Remove references to "unleased mineral interests" and "leasees of record that have no designated operator" throughout rule.	
1/17	Modify or remove "human health and safety" Reference to human health and safety is too broad and possibly outside of the bounds of the RRC's jurisdiction.	
1/19	Make no change to the current definition of "Affected Persons" The expansion of the definition of affected person to include "all lessees of record for tracts that have no designated operator and all owners of record of unleased mineral interests" for all tracts within ½ mile of the proposed disposal well is unduly burdensome and is not relevant to disposal wells. Disposal well location is pertinent to surface ownership rather than mineral ownership, negating mineral owners as "affected persons." Furthermore, Statewide Rule 9 governs disposal of "saltwater or other oil and gas waste by injection into a porous formation not productive of oil, gas, or geothermal resources." [(a)(1)(A)]. Disposal is only allowed into a formation that is non-productive, so mineral ownership surrounding a disposal well is irrelevant.	
1/25	Modify the definition of "Commercial Disposal Well" to read as follows: <u>A well that is primarily operated to provide disposal services for a fee or other compensation to operators other than the operator of the disposal well. A commercial disposal well includes the associated storage and/or receiving facilities, even if such facilities are located on a different tract. Commercial disposal does not include a disposal well within an oil or gas field which is operated by one operator of record for disposal of E&P waste fluids and is used by other operators of record in the same field or adjacent fields for non-commercial disposal. Such operators share in the costs of operating the well/system.</u>	



TEXAS INDEPENDENT PRODUCERS AND ROYALTY OWNERS ASSOCIATION
INFORMAL COMMENTS: Proposed Statewide Rule 3.9

September 12, 2013

Rule 3.9 Page/Line	TIPRO Proposed Changes/Rationale	TIPRO Request for RRC Feedback
2/2	<p>The proposed definition does not allow for "shared/community" disposal wells. By excluding language referring to compensation, the definition of commercial disposal could be expanded to incorporate arrangements that are not commercial disposal wells.</p> <p>Replace "truck or other vehicle" with "means".</p>	
2/6	<p>Replace "and" with "or".</p> <p>The proposed definition requires a person to show all of the public records listed to be an owner of record. TIPRO believes the intent is to allow a person to be shown as an owner of record by one of the public records noted, not by all.</p> <p>Include the word "issued" after "is".</p>	
3/12	<p>Omission/typo.</p>	
3/16	<p>Add new subsection (2)(D) to read "A permit will expire when the Form W-3 is filed with the commission."</p> <p>This is consistent with 3.9(j)(1)(i), but should also be reflected in this section of the rule.</p>	
3/26-30	<p>Modify geological requirements to reflect the differentiation in geology across different formations. If the proposed language is included in the rule, TIPRO requests addition of language allowing for exceptions.</p> <p>In certain shallow formations there is the potential to not find 100' of contiguous impermeable strata, but these areas may have a separation distance or other impermeable formation that would provide for adequate separation. In these scenarios there may need to be a case-by-case review. Additionally, as there is no current requirement for 100' of continuous</p>	<p>What is the technical basis for 100' of continuous thickness in addition to 250' of impermeable strata?</p>



TEXAS INDEPENDENT PRODUCERS AND ROYALTY OWNERS ASSOCIATION
INFORMAL COMMENTS: Proposed Statewide Rule 3.9

September 12, 2013

Rule 3.9 Page/Line	TIPRO Proposed Changes/Rationale	TIPRO Request for RRC Feedback
4/30	thickness in RRC guidance, codifying these requirements would not provide for any discretion by the RRC.	<ul style="list-style-type: none"> • What is the justification for requiring operators to obtain a drilling permit prior to issuing a disposal permit? • Is there a need to use an API number for tracking as opposed to a UIC code?
5/1-7	<p>Modify the requirement to allow for cased-hole logs.</p> <p>Obtaining open-hole logs in surface holes can be problematic for several reasons, including hole size and logging tool incompatibility, mud program issues, hole instability, etc. In addition, all formation information that is necessary can be obtained by a cased-hole log with gamma ray information.</p>	
5/31-34 6/1-5	<p>Replace Line 34 - Line 4 on pages 5 and 6 with " The table shall identify any wells that are not adequately cased and/or cemented or plugged in a manner that will prevent the movement of fluids from the disposal interval into usable-quality water."</p> <p>This language is found in 3.9(g)(1), and it provides the performance standard that is consistent with the intent of the rule.]</p>	<ul style="list-style-type: none"> •
7/10-14	<p>Remove "return receipt.." and "documented delivery confirmation", and extend the 30 day requirement to 60 days.</p> <p>The proposal to notify by regular mail and return receipt certified is burdensome to operators. Even for the RRC's own notices, a certified mailing is considered sufficient, whether it is delivered, received, or not. It is the responsibility of the recipient to sign for and pick up their mail. Certified mail, properly addressed and postage affixed should be sufficient for notice.</p>	



TEXAS INDEPENDENT PRODUCERS AND ROYALTY OWNERS ASSOCIATION
INFORMAL COMMENTS: Proposed Statewide Rule 3.9

September 12, 2013

Rule 3.9 Page/Line	TIPRO Proposed Changes/Rationale	TIPRO Request for RRC Feedback
9/1	Change 30 days to 60 days for consistency.	
10/1	Change 30 days to 60 days for consistency.	
13/11	Remove the phrase "...human health and safety..." for consistency. Rationale previously provided.	
13/26	Provide for a 15-day deadline for RRC to perform inspection and review. Limiting the review to 15 days will provide certainty for operators and will allow sufficient time for the RRC to schedule/perform inspections and review appropriate records.	
14/22	Reword the sentence beginning on line 22 with: "The applicant shall identify in the application any wells which appear from such public records to be not adequately cased and/or cemented or plugged in a manner that will prevent the movement of fluids from the disposal interval into usable-quality water." This language is consistent, and it provides the performance standard that meets the intent of the rule.	
14/27-32	Delete lines 27-32 The change recommended on page 14 line 22 will render this language no longer necessary.	
14/30	Change the word "cemented" to "completed". Cement is not the only way to assure confinement.	
15/24	Change 30 days to 60 days for consistency.	
15/7-8	Insert language to allow for calculation of pressure increases using the	



TEXAS INDEPENDENT PRODUCERS AND ROYALTY OWNERS ASSOCIATION
INFORMAL COMMENTS: Proposed Statewide Rule 3.9

September 12, 2013

Rule 3.9 Page/Line	TIPRO Proposed Changes/Rationale	TIPRO Request for RRC Feedback
	<p>hydrostatic head of the USDW and/or usable quality water, whichever is applicable.</p> <p>TIPRO recommends allowing for the use of the EPA-approved "pressure forward" or "migration potential" formula to determine potential for migration into an USDW. The formula accounts for factors such as: the amount of fluid to be injected, the hydrostatic head of the disposal zone, the hydrostatic head of the USDW, and the porosity of disposal zones. The current RRC practice of not accounting for the hydrostatic head of the USDW by assigning it a zero psi value prohibits the proper utilization of this accepted and widely-used formula.</p>	
16/5	<p>Remove "return receipt requested" and "documented delivery confirmation" for consistency.</p> <p>Rationale previously provided.</p>	
p. 18-19	<p>Add language to sections 3.9(h) and 3.9(i) to clarify that those sections apply only to wells permitted after Feb. 1, 2014 or the effective date of regulation.</p>	
18/20-22	<p>Modify (2) as follows and provide for a variance process: "The Commission shall not approve an application for a disposal well permit under this section for any well in which the surface casing is not set and cemented from the ground surface to the base of usable quality water as determined by the Groundwater Advisory Unit <u>or other agency requirements at the time the well was drilled or any well that has been granted an exception under §3.13(b)(2)(a).</u>"</p> <p>The base of usable quality water can change after a well is drilled. Leaving this sentence as written could cause an appropriately cased well to have an issue with surface casing after the well was drilled.</p>	
18/23-34	<p>Remove (3) along with the subsequent cement requirements.</p>	



TEXAS INDEPENDENT PRODUCERS AND ROYALTY OWNERS ASSOCIATION
INFORMAL COMMENTS: Proposed Statewide Rule 3.9
September 12, 2013

Rule 3.9 Page/Line	TIPRO Proposed Changes/Rationale	TIPRO Request for RRC Feedback
19/1	The proposed language is redundant as these requirements are incorporated in SWR 13.	
19/4		What is the reason for requiring operators to file an inclination report?
20/2-3	<p>Modify the requirement to allow for cased-hole logs.</p> <p>Obtaining open-hole logs in surface holes can be problematic for several reasons, including hole size and logging tool incompatibility, mud program issues, hole instability, etc. In addition, all formation information that is necessary can be obtained by a cased-hole log with gamma ray information.</p> <p>Delete "at any time during the life of the tank."</p>	
21/26-27	The rule has provisions for designing a good liner, testing it, and repairing leaks; this should be sufficient for ensuring against leaks.	
21/29	Change the phrase "synthetic plastic" to "synthetic liner system".	
21/28-32	<p>The proposed language does not provide flexibility for materials other than plastic to be used for liners.</p> <p>Insert language that provides that existing facilities shall be grandfathered in until a new battery is needed.</p>	
22/2	<p>Change "synthetic plastic" to "synthetic material" for consistency.</p> <p>Rationale previously provided.</p>	
23/18-19		What is the technical basis for requiring alternative tests?
23/31-32	Remove "and the director approves the results of the mechanical integrity test."	



TEXAS INDEPENDENT PRODUCERS AND ROYALTY OWNERS ASSOCIATION
INFORMAL COMMENTS: Proposed Statewide Rule 3.9

September 12, 2013

Rule 3.9 Page/Line	TIPRO Proposed Changes/Rationale	TIPRO Request for RRC Feedback
	A successful mechanical integrity test makes additional approval by the director <u>redundant and unnecessary.</u>	
24/10	Insert new (D), renumbering accordingly, that reads: "A commercial disposal well shall be tested for mechanical integrity at least once a year."	
25/19	Insert new (iii) to read: The use of gels, polymers, mud, thickening agents, or any other substance which increases the viscosity of the annular fluid is prohibited. The additives noted above have the potential to affect the validity of the pressure test and should be restricted from operational use.	
25/32	Insert "or equivalent electronic record" after "failure to use a chart".	
26/6-12		What is the reason for removing the alternative testing methods?



TEXAS INDEPENDENT PRODUCERS AND ROYALTY OWNERS ASSOCIATION
INFORMAL COMMENTS: Proposed Statewide Rule 3.36
 September 12, 2013

Rule 3.36 Page/Line	TIPRO Proposed Changes/Rationale	TIPRO Request for RRC Feedback
ALL	<p>Replace all references to "area of influence" with "area of exposure"</p> <p>Provides consistency throughout the rule.</p> <p>Insert "disposal," before "injecting"</p> <p>Remove addresses</p> <p>This will protect against future unnecessary rule amendments to update.</p>	
28/6		
29/ALL		
30/21-22		TIPRO requests clarification on "the public may be exposed to the contents of the storage tanks." Please provide guidance on when this provision is applicable.
33/16	<p>Strike "at least once a year"</p> <p>Submittal of 3.36 required H2S Contingency Plan for review and approval is unnecessary.</p> <p>"If the commission determines that a hydrogen sulfide contingency plan is inadequate to protect public safety, the commission may require the person to add provisions to the plan or otherwise amend the plan as necessary to protect public safety."</p> <p>TIPRO believes the RRC currently has this authority. If the provision remains in the rule:</p> <ul style="list-style-type: none"> • TIPRO requests the addition of an appeal/exception process • TIPRO recommends the addition of language requiring the commission to provide justification for requiring plan additions/amendments. 	<ul style="list-style-type: none"> • TIPRO requests clarification on necessity of this addition. • What would be the procedure for documentation, would a re-file be required?
33/17-20		
34/15-16		TIPRO requests clarification on necessity of this addition, as it appears duplicative of Rule 3.9 and Rule 3.46 notice requirements.



TEXAS INDEPENDENT PRODUCERS AND ROYALTY OWNERS ASSOCIATION
INFORMAL COMMENTS: Proposed Statewide Rule 3.36

September 12, 2013

Rule 3.36 Page/Line	TIPRO Proposed Changes/Rationale	TIPRO Request for RRC Feedback
34/15	Clarify the intent of the term "adjacent landowner" This term is ambiguous and should be clearly defined.	
34/21-22	Require the director provide rationale for additional notice requirements. This provision is overly broad and appears to allow for additional notice requirements without concrete justification.	What will be the procedure for the RRC to inform an applicant what additional person(s) must receive notice?



TEXAS INDEPENDENT PRODUCERS AND ROYALTY OWNERS ASSOCIATION
INFORMAL COMMENTS: Proposed Statewide Rule 3.46

September 12, 2013

Rule 3.46 Page/Line	TIPRO Proposed Changes/Rationale	TIPRO Request for RRC Feedback
<p>NOTE: For SWR 3.46, TIPRO reiterates all of its corresponding informal comments submitted on SWR 3.9. The comments provided below are unique to SWR 3.46.</p>		
ALL	<p>Replace references to “underground sources of drinking water” with “useable quality water” throughout the rule.</p> <p>Expanding the UIC program to include protection of all USDW’s creates many problems for waterflood and EOR projects that require the conversion of existing wells to injection services. If new wells have to be drilled instead, the economics of these projects will be substantially impacted such that the project may be shelved. In addition, statutory authority directs the RRC to protect usable quality water or fresh water, not USDWs.</p>	
38/31		TIPRO requests clarification on (2)(A) - was the intent to reference disposal well or injection well permits, or both?
39/25	<p>Move the sentence that begins on line 25 with “The applicant shall...injected” to a new (3)(C), renumbering accordingly.</p> <p>As proposed the requirement to file the form H-7 falls under “filing of application”. It seems more appropriate to have this requirement under (3) Required information for a new injection well permit application.</p>	
54/11&27		Is this applicable to disposal and injection wells, or just disposal?
54/14-26	<p>Remove lines 14-26.</p> <p>This information is redundant as the requirements are incorporated into SWR 13.</p>	
55/2-3		There appears to be a discrepancy in packer standard, as line 20 says 100’ is standard?
64/31		The RRC has rarely, if ever, issued an Area Permit. TIPRO suggests that the RRC provide a guidance document for this process.