

NATURAL RESOURCES CODE

TITLE 3. OIL AND GAS

SUBTITLE D. REGULATION OF SPECIFIC BUSINESSES AND OCCUPATIONS

CHAPTER 122. TREATMENT AND RECYCLING FOR BENEFICIAL USE OF FLUID

OIL AND GAS WASTE

Sec. 122.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Fluid oil and gas waste" means waste containing salt or other mineralized substances, brine, hydraulic fracturing fluid, flowback water, produced water, or other fluid that arises out of or is incidental to the drilling for or production of oil or gas.

Added by Acts 2013, 83rd Leg., R.S., Ch. 209 (H.B. [2767](#)), Sec. 1, eff. September 1, 2013.

Sec. 122.002. OWNERSHIP OF FLUID OIL AND GAS WASTE TRANSFERRED FOR TREATMENT AND SUBSEQUENT BENEFICIAL USE. Unless otherwise expressly provided by an oil or gas lease, a surface use agreement, a contract, a bill of sale, or another legally binding document:

(1) when fluid oil and gas waste is produced and used by or transferred to a person who takes possession of that waste for the purpose of treating the waste for a subsequent beneficial use, the waste is considered to be the property of the person who takes possession of it for the purpose of treating the waste for subsequent beneficial use until the person transfers the waste or treated waste to another person for disposal or use; and

(2) when a person who takes possession of fluid oil and gas waste for the purpose of treating the waste for a subsequent beneficial use transfers possession of the treated product or any treatment byproduct to another person for the purpose of subsequent disposal or beneficial use, the transferred product or byproduct is considered to be the property of the person to whom the material is transferred.

Added by Acts 2013, 83rd Leg., R.S., Ch. 209 (H.B. [2767](#)), Sec. 1,

eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 147 (H.B. [3246](#)), Sec. 1, eff. September 1, 2019.

Sec. 122.003. RESPONSIBILITY IN TORT. (a) Except as provided by Subsection (b), a person who takes possession of fluid oil and gas waste, produces from that waste a treated product generally considered in the oil and gas industry to be suitable for use in connection with the drilling for or production of oil or gas, and transfers the treated product to another person with the contractual understanding that the treated product will be used in connection with the drilling for or production of oil or gas is not liable in tort for a consequence of the subsequent use of that treated product by the person to whom the treated product is transferred or by another person.

(b) This section does not affect the liability of a person that treats fluid oil and gas waste for beneficial use in an action brought by a person for damages for personal injury, death, or property damage arising from exposure to fluid oil and gas waste or a treated product.

Added by Acts 2013, 83rd Leg., R.S., Ch. 209 (H.B. [2767](#)), Sec. 1, eff. September 1, 2013.

Sec. 122.004. COMMISSION RULES FOR TREATMENT AND BENEFICIAL USE. (a) The commission shall adopt rules to govern the treatment and beneficial use of oil and gas waste.

(b) Rules adopted under this section must:

(1) encourage fluid oil and gas waste recycling for beneficial purposes; and

(2) establish standards for the issuance of permits for commercial recycling of fluid oil and gas waste.

(c) In adopting rules under this section, the commission shall consider previously adopted rules for recycling fluid oil and gas waste.

(d) Rules adopted under this section for commercial recycling of fluid oil and gas waste must establish:

- (1) minimum siting standards for fluid recycling pits;
- (2) uniform technical, construction, and placement standards;
- (3) uniform standards for estimating closure costs;
- (4) minimum and maximum bonding and financial security amounts based on factors determined by the commission; and
- (5) standards for sampling and analysis of fluid oil and gas waste.

(e) The commission shall approve or deny an application for a permit issued under rules adopted under this section not later than the 90th day after the date the complete application was received by the commission, unless a protest is filed with the commission, in which case the commission may extend the amount of time to approve or deny the application in order to allow for notice, public comment, and a public hearing on the application. If the commission does not approve or deny the application before that date, the permit application is considered approved and the applicant may operate under the terms specified in the application for a period of one year.

(f) An application requesting a variance from the standards adopted under this section must be evaluated and determined to be substantially similar to previous variances approved by the commission.

Added by Acts 2013, 83rd Leg., R.S., Ch. 209 (H.B. [2767](#)), Sec. 1, eff. September 1, 2013.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 420 (H.B. [3516](#)), Sec. 1, eff. September 1, 2021.