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Via electronic mail to [rulescoordinator@rrc.texas.gov](mailto:rulescoordinator@rrc.texas.gov)

RE: Amend §3.65, Critical Designation of  
Natural Gas Infrastructure

We support the changes of the rate increases to 250 Mcf/day and 500 Mcf/day for gas and oil leases. Production at the prior thresholds included many leases that were not truly critical to the electricity generation in the State of Texas.

The comments below are related to the meaning of "saltwater disposal facilities" and "objective evidence" to receive an exception, particularly as it relates to SWD facilities.

(b) Critical designation criteria includes in (b) (1) (H): saltwater disposal facilities including saltwater disposal pipelines.

Current rules §3.9 "Disposal Wells" and §3.46 "Fluid Injection into Productive Reservoirs" relate to injection of water. So, by current RRC rules there are two classifications of wells that inject water into underground formations. These are called herein SWD's and WIW's, respectively, for simplification. Both SWD's and WIW's rules regulate "Commercial disposal wells." It is unclear exactly which type of wells/facilities that saltwater disposal facilities and pipelines in §3.65 (b) (1) (H) is in reference to. Is it just SWD's, commercial SWD's, commercial WIW's, or does it include WIW's?

Many operators of wells in Texas have saltwater disposal wells to dispose of produced water. It is common for these wells

to only handle water from facilities that are not classified as Critical Infrastructure. For example, an operator may produce stripper oil wells and not any gas at all, but still have several SWD's to dispose of produced water.

Because of situations like this, §3.65 (e) "Critical designation exception" gives operators of saltwater disposal facilities an opportunity to apply for an exception (form CI-X). §3.65 (e) (1) states "An applicant shall demonstrate with *objective evidence* a reasonable basis and justification in support of the application..." (*emphasis added*) and as proposed, (e) (2) lists four examples. When applying for exceptions for SWD's that do not support any Critical Infrastructure ("CI") for the September 1, 2022 deadline, the CI department rejected an exception due to lack of "objective evidence." In the justification it was stated that the SWD's did not take any water from CI, the SWD's were not commercial, nor was any water from other operators disposed of in the SWD's.

The CI department stated in the rejection, "For SWD's it would be something showing/proving where the lease water comes from. To essentially show it's not being used commercially" and, "Both the validation section would have needed to be filled out as well as actual evidence filed with the exception application. Whether that is production volume records, or SWD records of where the water is coming from. State rule 3.65 requires evidence for people to be satisfactorily exempted from the rule. It looks like you guys put a few sentences in the validation section, which is fine, but like the comment we wrote, it was denied because no actual evidence was given to back up your claim of exemption."

The "objective evidence" for this situation is impractical or impossible to prove beyond the operator stating the facts. Additionally, production volume records are already provided to the RRC in form H-10. The CI-X form is certified by the operator that all statements on the form, attachment and written justification are true and correct. This should be satisfactory in and of itself and additional "objective evidence" should not be required.

Operators of stripper oil wells should not have to go through the trouble to provide such proof so that they can receive an exception. Possibly, define "saltwater disposal facilities" in §3.65 or only require objective evidence when appropriate. Solutions could be:

(a) Definitions... (4) In this section, the term "saltwater disposal" means any disposal well designated as a commercial disposal well in §3.9 or §3.46.

(e) (1) ..."An applicant shall demonstrate with objective evidence, when appropriate for the type of facility, a reasonable basis and justification in support of the application..."

Or give a blanket exception to SWD's that do not inject water from CI facilities, so that filing a CI-X is not necessary.

Thank you for your time to consider our comments.

STEPHENS ENGINEERING



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