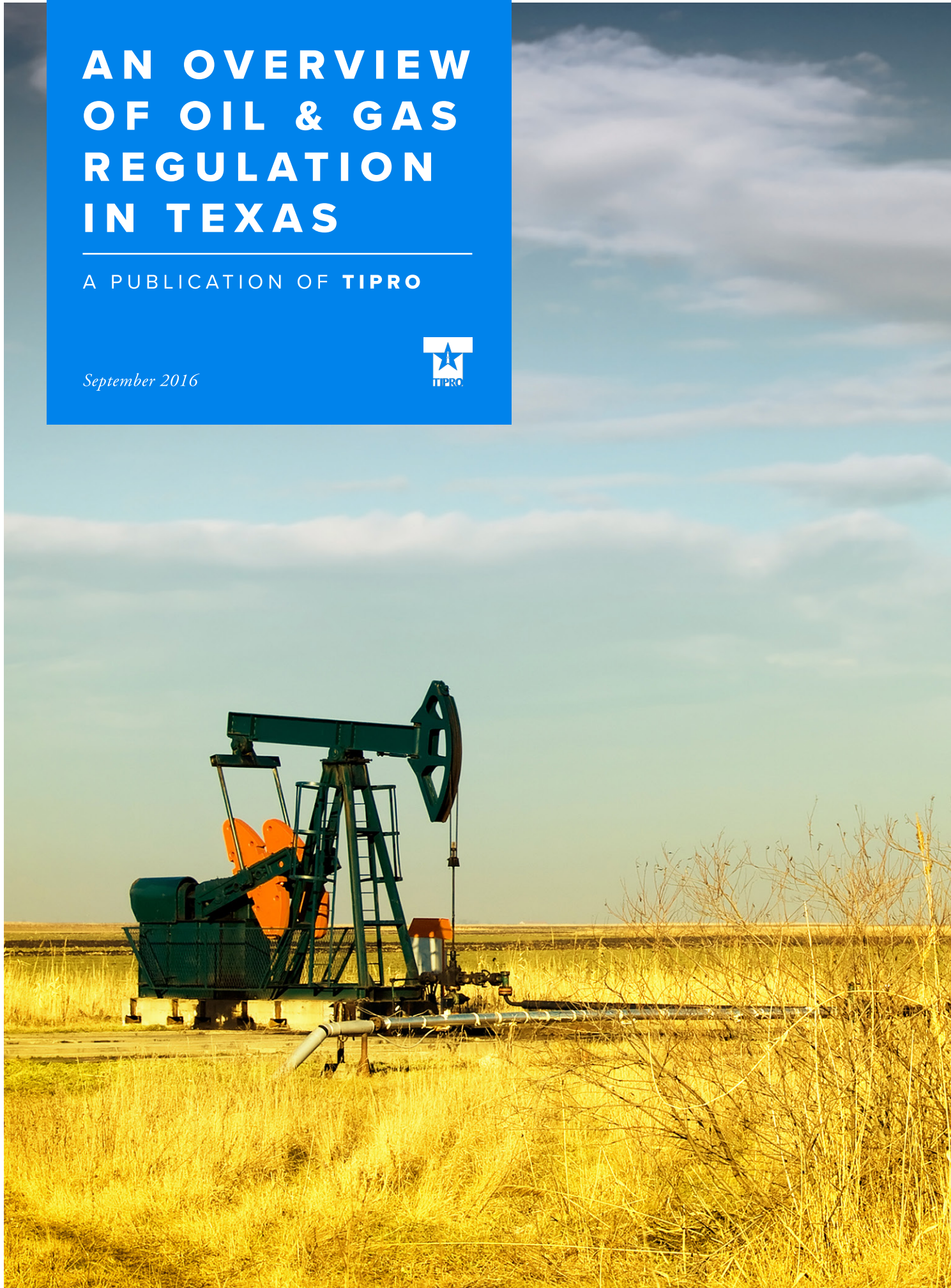


AN OVERVIEW OF OIL & GAS REGULATION IN TEXAS

A PUBLICATION OF **TIPRO**

September 2016





Formed in 1946, the Texas Independent Producers & Royalty Owners Association (TIPRO) advocates to preserve the ability for independents to explore for and produce oil and natural gas. The association is one of the oldest and largest oil and natural gas advocacy non-profit organizations in the state of Texas. TIPRO's more than 3,000 members include small family-owned businesses and the largest publicly traded independent producers, in addition to large and small mineral estates and trusts.

TIPRO is one of the most effective and respected organizations representing the Texas oil and natural gas industry, providing a slate of annual programs, member communication, market intelligence, and extensive legislative and regulatory resources.

TIPRO RAILROAD COMMISSION SUNSET TASK FORCE

Texas is fortunate to be home to an abundant supply of natural resources and for over a century, Texans have enjoyed a well-established history of the development of these resources. The oil and gas industry is a vital part of Texas' economy, collectively supporting hundreds of thousands of jobs and contributing revenue to the local, state and federal government.

The Sunset Advisory Commission began to review the Railroad Commission of Texas in 2015. As a result, the TIPRO Board of Directors authorized staff to create a TIPRO Railroad Commission Sunset Task Force with members from the TIPRO Board of Directors, TIPRO State Issues Committee, and TIPRO Regulatory Issues Committee. TIPRO staff under the direction of the Task Force developed this publication to further help educate legislators, legislative staff and stakeholders about the vast oil and gas regulations in Texas.

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1	<i>The Texas Railroad Commission's Mission and Objectives</i>	18	<i>RRC Expenses in FY 2015</i>	29	<i>Tools Available for the RRC for Enforcement Action</i>
2	<i>Statutory Authority Provided to the Railroad Commission (RRC)</i>	18	<i>Expenses within the Oil and Gas Program</i>	31	<i>Enforcement Process Flow Chart</i>
3	<i>RRC's Key Functions</i>	19	<i>History of the Oil Field Cleanup Fund</i>	32	<i>Well Plugging and Financial Assurance in Texas</i>
3	<i>Texas Commission on Environmental Quality Regulation of Oil and Gas</i>	19	<i>Oil and Gas Regulation Cleanup Fund</i>	34	<i>Well Plugging at a Glance Flow Chart</i>
4	<i>Other State Agencies that have a role in the Oil and Gas Sector</i>	20	<i>RRC Authorized to Levy Surcharges</i>	36	<i>RRC Bonding Requirements</i>
5	<i>Additional Information Regarding Jurisdiction of State Agencies</i>	20	<i>Notable Oil and Gas Related Budget Appropriations or Riders</i>	38	<i>RRC Rules: Public Safety and Environment</i>
6	<i>Which State Agency Regulates It?</i>	20	<i>RRC's Use of Federal Funds</i>	42	<i>RRC Rules: Waste and Correlative Rights</i>
7	<i>The RRC Does Not Regulate</i>	21	<i>RRC Budget Expenses</i>	44	<i>RRC Rules: Administrative</i>
8	<i>Mineral Ownership in Texas</i>	22	<i>Taxes Paid by the Oil and Gas Sector</i>	46	<i>Significant Accomplishments</i>
8	<i>Texas Oil & Gas History</i>	24	<i>The Economic Stabilization Fund</i>	47	<i>Definitions</i>
13	<i>Divisions of the RRC</i>	24	<i>Railroad Commission Regulatory and Enforcement Processes</i>	50	<i>Abbreviations</i>
17	<i>How the RRC is Funded</i>	28	<i>Inspections Process Flow Chart</i>	51	<i>Helpful Links</i>
17	<i>The Move from General Revenue to Self-Funding</i>			53	<i>Appendices</i>

First established in 1891, the Railroad Commission (RRC) was given jurisdiction over oil and gas production in 1919. The RRC is primarily responsible for providing oversight of the state's energy industries while ensuring effective use of Texas' energy resources. The RRC is the oldest regulatory agency in Texas and one of the oldest in the United States. Today, the agency regulates over 323,486 active oil and gas wells[1] that produce over 88 million barrels of oil a month and over 641 million MCF (thousand cubic feet) of gas a month.[2]



RAILROAD COMMISSION MISSION STATEMENT

The agency's mission statement is "to serve Texas by our stewardship of natural resources and the environment, our concern for personal and community safety, and our support of enhanced development and economic vitality for the benefit of Texans." [3]

WHAT THE RAILROAD COMMISSION REGULATES

Specifically, the commission is charged with regulating:

- oil and natural gas production;
- natural gas and hazardous liquid pipelines;
- natural gas processing;
- natural gas utilities;
- alternative fuels such as Liquefied Petroleum Gas (LPG), Compressed Natural Gas (CNG) and Liquefied Natural Gas (LNG);
- salt dome cavern storage;
- coal surface mining; and
- uranium exploration operations.

Relating to oil and gas operations, the RRC's primary functions include:

- protection of public safety and the environment;
- prevention of waste of oil and gas resources;
- protection of surface and subsurface water from pollution;
- ensuring that all mineral interest owners have an opportunity to recover their fair share of the minerals underlying their property[4]; and
- protecting correlative rights.



¹ Distribution of Wells Monitored by the Railroad Commission, June 1, 2016 ² Railroad Commission Website, Texas Monthly Oil and Gas Production, April 2016 ³ Railroad Commission, Railroad Commission of Texas Mission Statement ⁴ Railroad Commission, *Eagle Ford Shale Task Force Report*, March 2013, p. 3

The following statutes grant the agency with the jurisdiction to regulate:

Texas Natural Resource Code Chapter 81	Declares the RRC has jurisdiction over all common carrier pipelines in Texas; oil and gas wells in Texas; persons owning or operating pipelines in Texas or engaged in drilling or operating oil and gas wells in Texas.
Texas Natural Resource Code Chapter 86	Provides the RRC jurisdiction and authority to regulate natural gas production.
Texas Natural Resource Code Chapter 87	Provides the RRC jurisdiction and authority to regulate sour natural gas production.
Texas Natural Resource Code Chapter 91	Provides the RRC jurisdiction and authority to regulate various aspects of oil and gas production and related operations including: well casing, waste prevention, natural gas measurement, financial security for operations, record keeping, annual report filing, underground hydrocarbon storage, disposal pits, electric log filing, royalty reporting standards and voluntary cleanup program etc.[5]
Texas Water Code Chapter 26	Declares that the RRC is responsible for the control and disposition of waste and the abatement and prevention of surface and subsurface water resulting from activities associated with the exploration, development, and production of oil or geothermal resources.
Texas Water Code Chapter 26 & 27	Authorizes the RRC to regulate activities associated with the drilling of injection water source wells which penetrate the base of usable quality water.



⁵ Railroad Commission Self-Evaluation Report, Submitted to the Sunset Commission, p. 159-160

The Railroad Commission regulates the energy industry through various functions, such as:

- promulgating rules;
- reviewing operator filings;
- maintaining financial assurances of oil and gas operators;
- reviewing applications and granting permits and licenses;
- monitoring performance;
- monitoring and responding to emergency incidents such as blowouts, fires, and spills;
- investigating complaints;
- inspecting facilities, leases, and wells;
- witnessing certain activities such as casing and cementing jobs, plugging operations, cleanup operations, and witnessing mechanical-integrity tests of disposal and injection wells;
- enforcing violations of rules;
- maintaining records and maps;
- providing public information;
- plugging orphaned wells;
- cleaning up orphaned sites;
- conducting hearings on disputed matters; and
- rendering decisions.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY REGULATION OF OIL & GAS

The Texas Commission on Environmental Quality (TCEQ) is the state's leading regulatory body responsible for environmental protection. Relevant to oil and gas operations, through a Memorandum of Understanding (MOU) - Title 16 Texas Administrative Code (TAC) §3.30 - the TCEQ has jurisdiction over the following oil and gas activities:

- waste associated with transportation of crude oil and natural gas by railcar, truck, barge, or oil tanker and refined petroleum products by pipeline;
- transportation of crude oil away from a lease by a truck;
- waste generated at oil field service facilities that provide equipment, materials, or services to the oil and gas industry;
- waste from oil and gas activities that are processed, treated or disposed of at a solid waste management facility authorized by the TCEQ;
- residential-like waste generated from the living quarters located on the lease; and
- air permits for facilities such as tank batteries and compressor stations.

Appendix A includes the Memorandum of Understanding between the TCEQ and RRC.

⁶ Texas Commission on Environmental Quality, *Who Regulates Oil and Gas Activity in Texas*, February 25, 2015



Texas General Land Office: Established by the 1836 Constitution for the Republic of Texas, the Texas General Land Office (GLO) is responsible for leasing the state's vast land and mineral holdings for energy and mineral development, with proceeds going to the Permanent School Fund (PSF) to help pay for public education. According to the agency, since its inception, the GLO has deposited more than \$11 billion into the state's PSF from oil and gas production on PSF lands. Oil and gas leases on PSF lands help generate more revenue than any other source of income for the public education endowment.

The GLO also oversees the Coastal Oil Spill Response Program, which has response and enforcement jurisdiction over certain crude oil spills that threaten coastal waters. The agency was given jurisdiction for response to coastal oil spills greater than 240 barrels in 2003.^[7]



University Lands: The University Lands Division under the University of Texas Systems is responsible for managing the Permanent University Fund (PUF) lands. University Lands raises revenue for the PUF from oil and gas production through leases of almost 2.1 million acres under their purview.



The Office of the Comptroller of Public Accounts: The Comptroller's Office oversees the tax incentive programs and is responsible for collecting taxes imposed on oil and gas produced in Texas. The Comptroller's Office works with the RRC to develop materials and applications for incentives.



⁷ S.B. 619, 78th Leg. Reg. Sess. (TX 2003)

ADDITIONAL INFORMATION REGARDING JURISDICTION OF STATE AGENCIES

Naturally Occurring Radioactive Material: Naturally occurring radioactive material or NORM is a substance that naturally contains one or more radioactive isotopes. Several state agencies have jurisdiction over NORM.[8]

- **The Texas Department of State Health Services (DSHS)** has jurisdiction over the use, treatment, and storage of NORM.
- **RRC** has jurisdiction over the handling and disposal of NORM that is produced during the exploration and production of oil and gas.
- **TCEQ** has jurisdiction over disposal of other NORM waste.

Spills: Several agencies have jurisdiction over oil spills. The classification of the spill determines which agency has the jurisdiction.[9]

STATE AGENCY	JURISDICTION
General Land Office	Crude oil spills that enter, or threaten to enter, coastal waters
Railroad Commission	Spills and discharges from activities associated with the exploration, development, or production, including storage or pipeline transportation of oil and gas
Texas Commission on Environmental Quality	Spills of all hazardous substances, including refined petroleum products from pipelines; releases of crude oil being transported over the roadway; and discharges of any other substances that may cause pollution or harm air quality
Texas Parks and Wildlife Department	May play a role in responding to a specific spill event if it affects fish or wildlife



⁸ Texas Commission on Environmental Quality, *Radioactive-Waste Disposal: NORM Disposal*

⁹ Texas Commission on Environmental Quality, *Spills: Which State Agency Has Jurisdiction?*

SUBJECT/ISSUE	AGENCY THAT REGULATES	NOTES
Air Quality	TCEQ	Tex. Health & Safety Code, Chapter 382, 42 United States Code, Section 7401 et seq.
Anthropogenic Carbon Dioxide for O&G Use	RRC	Tex. Water Code, Section 27.041
Chemical Disclosures	RRC	16 Tex. Admin. Code §3.29
Common Carrier Pipelines	RRC	Tex. Nat. Res Code, Section 111.012
Compressed Natural Gas	RRC	Tex. Nat. Res. Code, Chapter 116
Disposal Wells (O&G Related)	RRC	16 Tex. Admin. Code §3.9
Electric Utilities	Public Utility Commission	Title II, Texas Utilities Code
Flaring	RRC	16 Tex. Admin. Code §3.32
Groundwater Withdrawal	Groundwater Districts	Tex. Water Code, Chapter 32
Injection Wells (Class I Well)	TCEQ	Tex. Water Code, Chapter 27, 16 Tex. Admin. Code §3.46 Industrial and municipal waste disposal
Injection Wells (Class II Well)	RRC	Fluids associated with oil and natural gas production
Injection Wells (Class III Well)	TCEQ & RRC	Injection wells used to extract minerals/solution mining. RRC regulates brine mining wells
Injection Wells (Class IV Well)	TCEQ	Shallow injection of hazardous or radioactive waste associated with environmental cleanup
Injection Wells (Class V Well)	TCEQ	Shallow injection of non-hazardous fluids such as storm water
Injection Wells (Class VI Well)	RRC	CO2 injection (geologic sequestration)
Intrastate Pipelines	RRC	Tex. Nat. Res. Code, Chapter 81
Licenses, Permits, and Orders for Disposal of Naturally Occurring Radioactive Material Waste	RRC, DSHS, & TCEQ	Tex. Health & Safety Code, Chapter 401
Liquefied Natural Gas	RRC	Tex. Nat. Res. Code, Chapter 116

<i>continued...</i>	AGENCY	NOTES
Liquefied Petroleum Gas	RRC	Tex. Nat. Res. Code, Chapter 113
Natural Gas Utility Rates	RRC and in certain instances, cities	Tex. Utility Code, Chapters 101 & 102
Oil and Gas Waste Haulers	RRC	Texas Water Code, Chapter 29
Plugging Wells	RRC	Tex. Nat. Res. Code, Chapter 89
Public Water Systems	TCEQ	42 United State Code, Section 300f et seq. Tex. Health and Safety Code, Chapter 341, Subch. C
Quality of Drinking Water	TCEQ	Tex. Water Code, Chapter 26
Seismicity	RRC	16 Tex. Admin. Code §3.9 & §3.46
Surface Coal Mining	RRC	Tex. Nat. Res. Code, Chapter 134
Surface Water Rights	TCEQ	Tex. Water Code, Chapter 11
Uranium Mining	RRC	Tex. Nat. Res. Code, Chapter 131

THE RAILROAD COMMISSION DOES NOT REGULATE

The Railroad Commission does not have jurisdiction over roads, traffic, noise, odor, oil and gas leases, pipeline easements, or royalty payments.[10]

Dust: Dust from public roads is addressed by local law enforcement.

Eminent domain: Eminent domain is a private property rights issue, set in statute by the Texas Legislature.

Gas distribution utilities: City governments in Texas regulate the gas distribution utilities in incorporated areas of their city unless this jurisdiction is surrendered to the RRC.[11]

Odors and air contaminants: The RRC does not have regulatory authority over odors or air contaminants. However, for a well within the city limits, the city may enact ordinances regarding odors or other nuisances. In addition, the TCEQ also has jurisdiction over odor and air contaminants.

Noise: Noise and nuisance related issues are governed by local ordinances.

Royalties: The RRC has no authority over lease and royalty matters (including leasing, payment of royalties and the right to receive royalties), the financing of or investment in oil and gas activities, or bankruptcy.

Traffic: Traffic complaints should be reported to the local law enforcement agency.

Water: The RRC has no statutory authority to regulate the withdrawal or use of water used for oil and gas exploration and production, including water used for hydraulic fracturing.

¹⁰ Railroad Commission, *Eagle Ford Shale Task Force Report, March 2013*, p. 3
to the Sunset Commission, p. 14

¹¹ Railroad Commission Self-Evaluation Report, Submitted

In Texas, ownership of land includes two different estates: the surface estate and the mineral estate. It is possible for the surface and mineral estates to be owned by different people or entities. Owners of the mineral estate may lease out the right to produce the minerals to an operator.

Texas law holds that the mineral estate is dominant to the surface estate. A mineral estate owner has the right to use the surface estate in a manner that is reasonably necessary for the exploration, development, and production of the oil and gas in the ground.

The rights of a lessee, the operator that has secured the mineral rights through a lease and operates on the property, may be limited by what is called the “accommodations doctrine.” The doctrine may apply and require the lessee to modify its’ plans of operation to accommodate an existing surface use when there are reasonable alternatives available.[12]

TEXAS OIL & GAS HISTORY

In the early 1900s, after the first true oil boom from Spindletop, the state of Texas passed a number of legislative measures relating to the conservation of the state’s oil and gas resources. Implementation of these laws proved to be problematic for the state since there was not an active agency providing oversight and enforcement of oil and gas operations. Consequently, as more discoveries occurred, greater waste resulted. Issues also started to arise with the transportation of resources. This led the Texas Legislature in 1917 to give jurisdiction of oil pipelines to the Railroad Commission.[13] Then, in 1919, the commission was also granted authority to regulate all aspects of oil and gas production in the Lone Star State.[14]

1866

The first oil well drilled in Texas began to produce.[15]

1891

The Railroad Commission was created by the Texas Legislature. [17]

1901

Spindletop was discovered.[18]

1890

The Texas Constitution was amended to allow for the creation of the Railroad Commission.[16]

1894

The Texas Constitution was amended to establish six year terms with staggered election dates for Railroad Commissioners.

1917

The legislature declared pipelines to be common carriers, giving the Commission regulatory authority over pipelines.[19]

¹² Railroad Commission, Oil and Gas Exploration and Surface Ownership ¹³ Railroad Commission, *History of the Railroad Commission 1866-1939* ¹⁴ Railroad Commission, *History of the Railroad Commission 1866-1939* ¹⁵ American Oil and Gas Historical Society, *First Lone Star Discovery* ¹⁶ Railroad Commission Self-Evaluation Report, Submitted to the Sunset Commission, p. 23 ¹⁷ Railroad Commission Self-Evaluation Report, Submitted to the Sunset Commission, p. 23 ¹⁸ Texas State Historical Association, *Spindletop Oilfield* ¹⁹ Railroad Commission, *History of the Railroad Commission 1866-1939*

1919

The Railroad Commission established its 1st Statewide Rule (SWR) regulating the oil and gas industry.[20]

1935

The Texas Legislature passed a new law to prevent wasteful production.[22]

1963

Congress enacted the Federal Clean Air Act.[24]

1934

The Railroad Commission was granted jurisdiction over the regulation of the purchase, transportation, sale, and handling of the products, by-products, and derivatives of crude petroleum oil and natural gas.[21]

1937

The Railroad Commission began requiring the odorization of natural gas.[23] This was in response to the New London incident that occurred on March 18, 1937 when a natural gas leak caused an explosion, destroying New London school in Rusk County. The disaster killed 295 students and teachers, making it the deadliest school disaster in American history.

1964

The Railroad Commission changed Statewide Rule 5 to require financial assurance to ensure proper well plugging. [25]

²⁰ Railroad Commission, *Historical Hearing Finding Aid* ²¹ Railroad Commission Self-Evaluation Report, Submitted to the Sunset Commission, p. 24 ²² Railroad Commission, *Railroad Commission Milestones* ²³ Railroad Commission Self-Evaluation Report, Submitted to the Sunset Commission, p. 25 ²⁴ Texas Commission on Environmental Quality, *History of the TCEQ and Its Predecessor Agencies* ²⁵ Railroad Commission Self-Evaluation Report, Submitted to the Sunset Commission, p. 25

1969

The U.S. Environmental Protection Agency (EPA) was created 78 years after the creation of the RRC.[26]

1982

The EPA authorized the RRC to administer the Underground Injection Control (UIC) program under the federal Safe Drinking Water Act (SDWA) for Class II wells associated with oil and gas activity.

1991

The Oil Field Cleanup Fund was created, replacing the Well Plugging Fund.[28]

2000

The first electronic filing and approval of a drilling permit through the Railroad Commission was completed.[29]

1972

Congress passed the Federal Clean Water Act.[27]

1982-1983

The Railroad Commission was reviewed by the Sunset Advisory Commission.

1993

The Texas Natural Resource Conservation Commission (predecessor of TCEQ) was established.

²⁶ Texas Commission on Environmental Quality, *History of the TCEQ and Its Predecessor Agencies* ²⁷ Texas Commission on Environmental Quality, *History of the TCEQ and Its Predecessor Agencies* ²⁸ Railroad Commission Self-Evaluation Report, Submitted to the Sunset ²⁹ Railroad Commission Self-Evaluation Report, Submitted to the Sunset Commission, p. 29

2001

The Oilfield Cleanup Fund Advisory Committee was created.

2002

Fees for the Oil Field Cleanup Fund were increased to allow for additional wells to be plugged.[31]

2005

The Railroad Commission no longer has any oversight of railroad issues after a railroad safety oversight program was transferred to the Texas Department of Transportation.[33]

2009

Railroad Commission plugs its 30,000th well using state managed funds.

2000-2001

The Railroad Commission was reviewed by the Sunset Advisory Commission.

2002

The Texas Natural Resource Conservation Commission became the Texas Commission on Environmental Quality.[30]

2004

The Railroad Commission implemented “universal bonding,” requiring operators to provide a bond, letter of credit or cash deposit as financial security. [32]

2009

The Texas Legislature passed a new law establishing the inactive well program (under House Bill 2259).[34]

2010

The Railroad Commission adopted new rules relating to the underground storage of man-made carbon dioxide (CO₂) for facilities that plan to store CO₂ not associated with enhanced oil recovery operations.

³⁰ Texas Commission on Environmental Quality, *History of the TCEQ and Its Predecessor Agencies* Report, Submitted to the Sunset Commission, p. 29 ³² Railroad Commission Self-Evaluation Report, Submitted to the Sunset Commission, p. 30 ³³ Railroad Commission Self-Evaluation Report, Submitted to the Sunset Commission, p. 30 ³⁴ Railroad Commission Self-Evaluation Report, Submitted to the Sunset Commission, p. 30-31

2011

The Railroad Commission was reviewed by the Sunset Advisory Commission.

2012

The Railroad Commission implemented a chemical disclosure rule for hydraulic fracturing after the passage of legislation in 2011.
[37]

2014

The Railroad Commission updated disposal and injection well rules to address disposal well operations in areas of historical or active seismic activity.[39]

2016

The Commission adopted amendments to §3.86 as well as conforming amendments to Statewide Rules (5, 31, 38, 40, 45, 51, and 52) to facilitate development of Unconventional Fracture Treated Fields (UFT Fields), and to prevent waste.

2011

The Texas Legislature created the Oil and Gas Regulation and Cleanup fund (successor of the Oil Field Cleanup Fund).[35]

2011

The Legislature transferred the Groundwater Protection Program from the TCEQ to the Railroad Commission.[36]

2013

The Railroad Commission was reviewed by the Sunset Advisory Commission.

2013

The Railroad Commission adopted new rules to encourage Texas operators to conserve water used in the hydraulic fracturing process for oil and gas wells through recycling.

2013

The Railroad Commission amended Statewide Rule 13, relating to cementing, casing, drilling, well integrity and construction requirements.[38]

2015

The Texas Legislature enacted law, under House Bill 40, clarifying that the Railroad Commission has chief regulatory jurisdiction over oil and gas development.

³⁵ Railroad Commission Self-Evaluation Report, Submitted to the Sunset Commission, p. 31 ³⁶ Railroad Commission Self-Evaluation Report, Submitted to the Sunset Commission, p. 31 ³⁷ Railroad Commission Self-Evaluation Report, Submitted to the Sunset Commission, p. 32 ³⁸ Railroad Commission Self-Evaluation Report, Submitted to the Sunset Commission, p. 32 ³⁹ 16 Tex. Admin. Code §3.9 and 16 Tex. Admin. Code §3.46

As of April 2016, the RRC was made up of approximately 740 full-time equivalent (FTE) employees.[40] The agency is headquartered in Austin, Texas. Across the state, the RRC has nine oil and gas district offices.

Railroad Commission Agency Organization: The Railroad Commission is led by three commissioners elected statewide for six year terms. According to the Texas Constitution, when the Railroad commissioners were first elected, office terms were as follows: one served for two years, one for four years and one for six years; one Railroad commissioner is then to be elected every two years thereafter which creates the staggering term schedule. In the case of a vacancy, the governor is responsible for making an appointment to the vacant seat until the next general election.[41]

CURRENT COMMISSIONERS

TERMS[42]

Chairman David Porter

January 5, 2011 - December 31, 2016

Commissioner Christi Craddick

December 17, 2012 - December 31, 2018

Commissioner Ryan Sitton

January 5, 2015 - December 31, 2020

RRC HEADQUARTERS

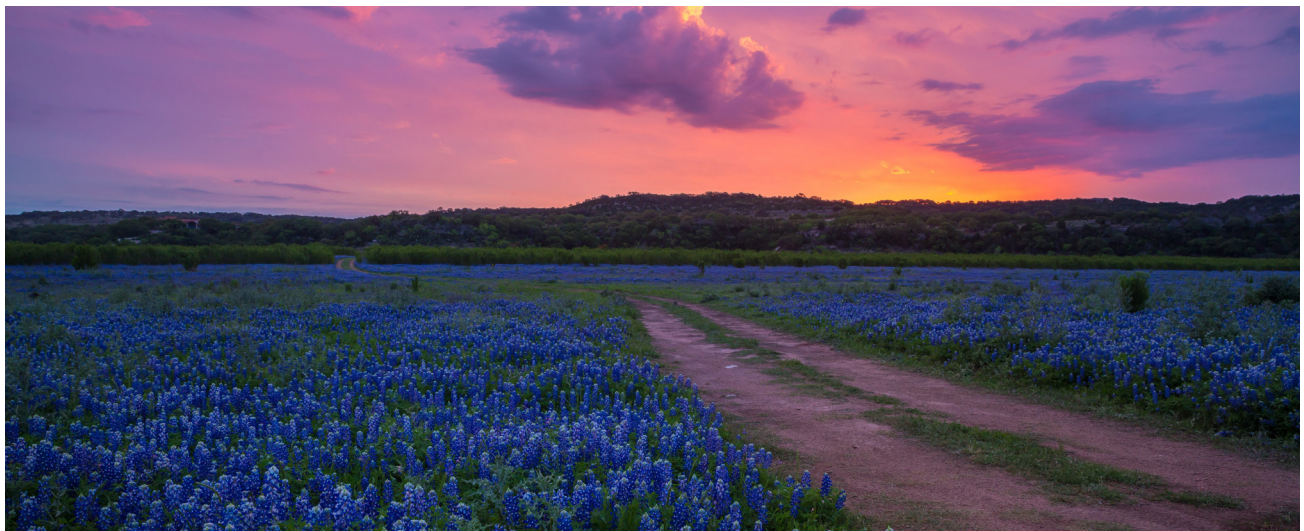
1701 N. Congress
Austin, Texas 78701

RAILROAD COMMISSION OIL AND GAS DISTRICT OFFICES

- District 1 & 2 - San Antonio
- District 3 - Houston
- District 4 - Corpus Christi
- District 5 & 6 - Kilgore
- District 7B - Abilene
- District 7C - San Angelo
- District 8 & 8A - Midland
- District 9 - Wichita Falls
- District 10 - Pampa

Appendix B contains additional information about Railroad Commission offices.

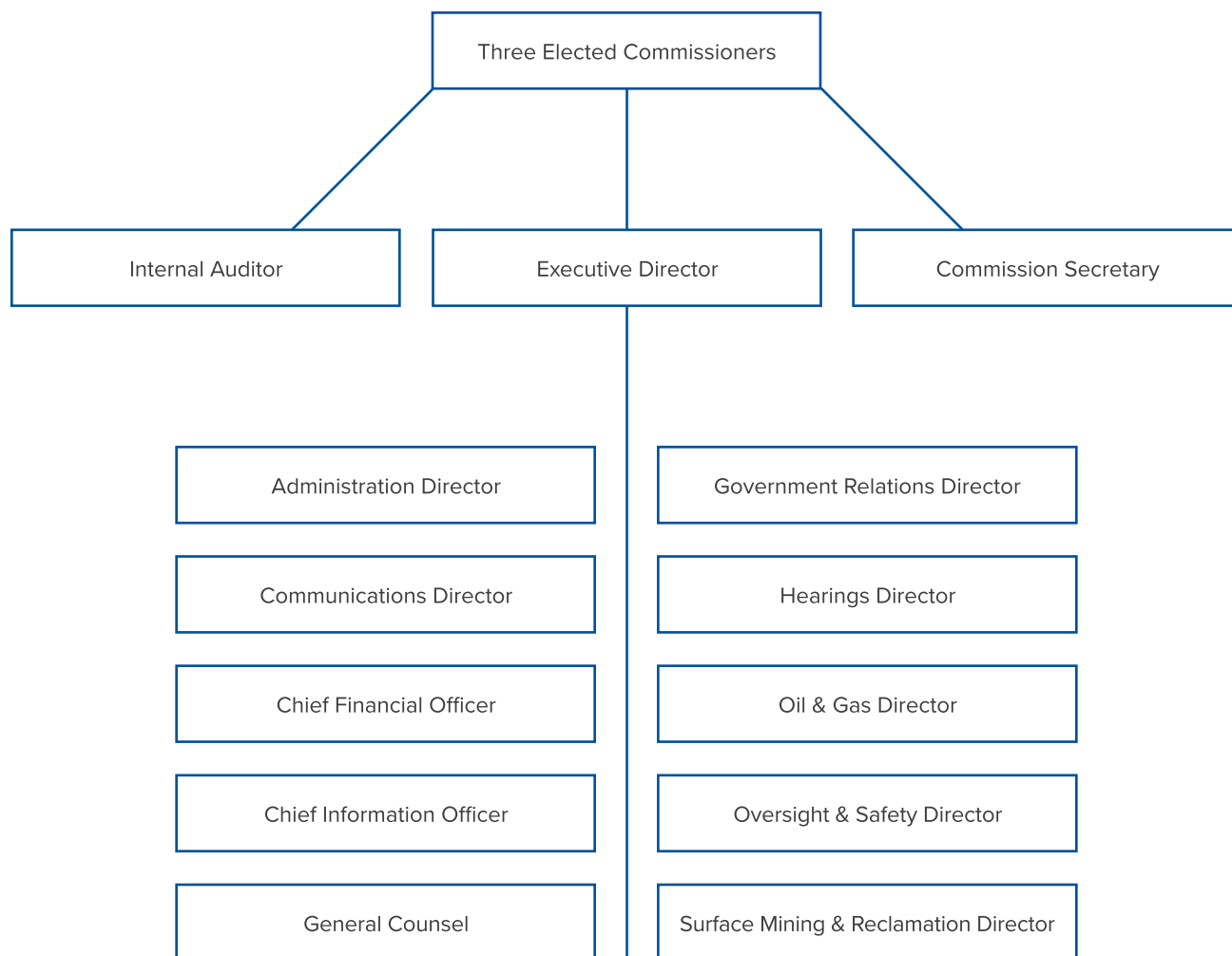
Appendix C includes a map of the Oil and Gas Division district boundaries.



⁴⁰ Sunset Advisory Commission Staff Report, Railroad Commission of Texas, p. 7
Commission Self-Evaluation Report, Submitted to the Sunset Commission, p. 33

⁴¹ Texas Constitution, Article 16, Section 30

⁴² Railroad



RAILROAD COMMISSION DIVISIONS

Administration Division: This division handles human resources, risk management, information services, records management, purchasing, management of facilities and support services.[43]

Communication Division: This division provides external communications regarding the agency's operations and offers information to the public and media.

Financial Services Division: This division manages financial services and lends support to the other RRC divisions, ensuring the agency remains financially stable.[44]

General Counsel Division: This division includes both the enforcement section and the general counsel section. The general counsel serves as the RRC's principal legal advisor, while the Enforcement section is responsible for prosecuting entities charged with violating RRC rules and regulations.[45] The division works with the Attorney General's office on enforcement referrals (defaults) and collection of penalties and reimbursements.

⁴³ Railroad Commission, Administrative Division, July, 20, 2015 ⁴⁴ Railroad Commission, Financial Services Division, July 20, 2015

⁴⁵ Railroad Commission, Office of General Counsel, December, 9, 2015



Government Relations Division: This division is the liaison between the agency and legislators, staff, other governmental agencies, the general public and representatives in the industry.[46]

Hearings Division: In certain instances, the RRC will conduct hearings to provide recommendations to commissioners regarding oil and gas development, gas utilities, pipeline safety, and surface mining matters. The Hearings Division is responsible for scheduling, conducting, and preparing recommendations on hearings. The division also works with the office of the Attorney General on related appeals to RRC orders.

Information Technology Services Division: The Information Technology Services Division is in charge of information management services and technological needs for the agency. The division is also responsible for hardware, software, applications and other important programs like the Geographic Information Systems (GIS) available on the RRC website.

Oil and Gas Division: The Oil and Gas Division regulates the exploration, production and transportation of oil and gas in the state. Through the Oil and Gas Division, the RRC grants drilling permits, assigns production allowables (amount of oil or gas that may be produced per month under order by RRC) on wells, receives production reports on leases and conducts audits to ensure production did not exceed allowables.

The Oil and Gas Division also oversees oil field injection and disposal wells including the permitting, annual reporting and testing of those wells.

The Oil and Gas Division has nine district offices around the state. The district offices are responsible for ensuring operators are in compliance with rules. They ensure compliance through field inspections, witnessing operations and investigating complaints.

The commission oversees approximately 435,000 oil and gas wells and related facilities and operations.[47] This includes 184,772 active oil wells and 94,205 active gas wells, and 111,704 inactive wells in Texas.[48]

Appendix D includes a map of the location of oil and gas wells in Texas.

⁴⁶ Railroad Commission, Government Relations, July 20, 2015 ⁴⁷ Distribution of Wells Monitored by the Railroad Commission, March 31, 2016 ⁴⁸ Distribution of Wells Monitored by the Railroad Commission, March 31, 2016

Oversight and Safety Division: The Oversight and Safety Division is made up of the Alternative Fuels Safety Department, the Gas Service Department and the Pipeline Safety Department.

Alternative Fuels Safety Department:

The Alternative Fuels Safety Department enforces rules and regulations on the transportation, storage, distribution and use of alternative fuels. The alternative fuels under the jurisdiction of this department include, Liquefied Petroleum Gas, Compressed Natural Gas, and Liquefied Natural Gas.

The department conducts safety evaluations of stationary facilities, mobile equipment, and licensing companies engaged in alternative fuel activities, and provides training and licensing to individuals working in the alternative fuels industries.

The department also conducts inspections using a risk-based inspection schedule and investigates safety related complaints involving alternative fuels.

Pipeline Safety Department:

The Pipeline Safety Department is responsible for ensuring intrastate pipelines in Texas are designed, constructed, operated and maintained safely. There are approximately 375,000 miles of pipelines in Texas and more than 169,000 are under the direct oversight of the RRC.[49]

The department enforces compliance of state and federal laws and regulations and promotes public safety and awareness. The program schedules safety inspections using a risk based prioritization schedule to more frequently address those systems with the greatest potential risk or affecting the highest population.

The U.S. Office of Pipeline Safety conducts similar services or functions for interstate pipelines. The RRC's rules for intrastate pipelines incorporate all of the federal rules for interstate pipelines, in addition to more stringent regulations adopted by the RRC for intrastate pipelines. The RRC is a certified agent of the federal program and works as a partner with the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA). The RRC's grant program depends on annual program reviews and certifications. The program works closely with PHMSA to meet the state guidelines for participation in the federal program.

The RRC's Pipeline Damage Prevention program is responsible for compliance and enforcement of the damage prevention regulations involving the movement of earth and excavation activities surrounding pipeline facilities.

Gas Services Department:

In 1995, the RRC created the Gas Services Department to reflect the increasing importance of natural gas in Texas and the agency's commitment to enhance the efficiency of all sectors of the industry. The division is responsible for gas rates when a city and a utility can't agree and are appealed to the RRC. The RRC has exclusive jurisdiction for gas rates and services in unincorporated areas of Texas. The commission has original jurisdiction over the rates for natural gas charged by a supplier to a city distribution system.

Appendix E provides a map of the pipelines in Texas.

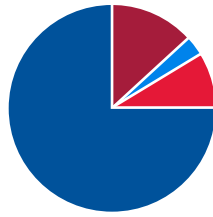
Surface Mining & Reclamation Division: The Texas Legislature gave the RRC jurisdiction to regulate surface mining for coal and uranium in 1975.[50] The Surface Mining and Reclamation Division regulates mined land to make certain it is returned to a condition that is as good as, or better than, it was before mining. All companies mining coal or lignite must have a commission permit and post bond for each site they operate in the state. This division also administers a program to reclaim dangerous or environmentally harmful abandoned mine sites that were mined prior to the implementation of the federal surface mining law to ensure safety of the public and protect the environment.[51]

⁴⁹ Railroad Commission Self-Evaluation Report Submitted to the Sunset Commission, p. 11 ⁵⁰ Railroad Commission, *History of the Railroad Commission 1960-1979*, July 20, 2015 ⁵¹ Railroad Commission, *Surface Mining and Reclamation Division*, July 20, 2015

The RRC is currently funded through a combination of:

- general revenue;
- general revenue dedicated funds;
- federal funds; and
- appropriated receipts.

*The RRC is being funded through a **\$174.5 million appropriation** in the 2016-2017 biennium. Below is a breakdown of funding sources:*



- General Revenue: **12.7%** (\$22.1 million for biennium)
- General Revenue - Dedicated: **76.4%** (\$133.4 million for biennium)
- Federal Funds: **8.1%** (\$14.2 million for biennium)
- Appropriated Receipts: **2.8%** (\$4.8 million for biennium)

THE MOVE FROM GENERAL REVENUE TO SELF-FUNDING

During the Sunset Commission review in 2010-2011, there was discussion about making changes to the way the RRC was funded. The 82nd Legislature (2011), passed legislation^[52] that authorized the RRC to levy surcharges to make various agency programs self-supporting and reduce the amount of general revenue needed for the agency.

Below is a chart showing the changes in funding before and after the legislative changes in 2011.

	FISCAL YEAR (FY) 2011 ^[53]	FY 2011 %	FY 2012 [54]	FY 2012 %
General Revenue	29,631,691	41.17%	14,962,180	20.03%
General Revenue - Dedicated	33,263,843	46.22%	46,911,592	62.81%
Federal Funds	6,994,531	9.72%	10,633,965	14.24%
Appropriated Receipts	2,079,490	2.89%	2,175,772	2.91%
TOTAL	71,969,555	100%	74,683,509	100%

Appendix F includes a chart of the revenue appropriated to the Railroad Commission from FY 2010 to FY 2017.

⁵² S.B. 1, 82nd Leg. First Called Sess. (TX 2011) ⁵³ S.B. 1, 81st Leg. Reg. Sess. (TX 2009) ⁵⁴ H.B. 1, 82nd Leg. Reg. Sess. (TX 2011)

PROGRAM	AMOUNT OF EXPENDITURE	AMOUNT OF EXPENDITURE BY PERCENTAGE
Oil and Gas	\$64,068,568	74%
Pipeline Safety and Damage Prevention	\$8,256,785	10%
Surface Mining Inspection and Reclamation	\$7,132,009	8%
Promote and Regulate Alternative Energy Resources	\$2,781,606	3%
Gas Utility Compliance	\$2,167,324	3%
Public Information and Services	\$2,113,695	2%

EXPENSES WITHIN THE OIL & GAS PROGRAM

Energy Resource Development	\$20,636,197	32%
Monitoring and Inspections	\$18,759,083	29%
Well Plugging	\$18,025,290	28%
Remediation	\$6,647,998	11%



⁵⁵ Sunset Advisory Commission Staff Report, Railroad Commission of Texas, p. 8

1965

A Well Plugging Fund has existed in Texas since 1965 and was initially funded through General Revenue.

1983

A new Well Plugging Fund was created but funded primarily by drilling permit fees, well plugging reimbursements, administrative penalties, civil penalties, and interest on the fund.

2001

An advisory committee made up of legislators, industry leaders and academic representatives and public members was created to monitor the fund.^[56]

1991

The Texas Legislature created the Oil Field Cleanup Fund to replace the Well Plugging Fund. Revenue in the fund was largely from production taxes and permitting fees but also from enforcement penalties and the sale of equipment and resources salvaged from plugging operations. The RRC was authorized to use the fund for several environmental purposes and the agency instituted new financial assurance requirements.

OIL AND GAS REGULATION AND CLEANUP FUND

The Oil and Gas Regulation and Cleanup Fund was created by the 82nd Legislature (2011), and replaced the previous Oil Field Cleanup Fund.

This legislation (SB 1, 82nd 1st Called Session) allowed the RRC to use the Oil and Gas Regulation and Cleanup Fund for any purpose related to the regulation of oil and gas development, including:

- oil and gas monitoring and inspections;
- oil and gas remediation;
- oil and gas well plugging;
- public information and services related to those activities; and
- administrative costs and state benefits for personnel involved in those activities.

The RRC is required through the legislative appropriation request process to establish specific performance goals for the fund.

If the balance in the fund equals or exceeds \$30 million, the regulatory fees are not collected until the fund has fallen below \$25 million.^[57]



⁵⁶ S.B. 310, 77th Leg., Reg., Sess. (TX. 2001) ⁵⁷ H.B. 3309, 83rd Leg., Reg., Sess. (TX 2013)

Among the various changes made to the way the RRC is funded, in 2011 the legislature authorized the RRC to levy surcharges on fees in the amount necessary to recover the costs of performing those functions. The revenue from the surcharge are deposited to the Oil and Gas Regulation and Cleanup Fund.

In statute, the surcharges are not to exceed 185 percent of the fee and the RRC is given the flexibility to establish a methodology for determining the amount for the fee.

Appendix G includes a Notice to Operators on Surcharges developed by the Railroad Commission.

NOTABLE OIL & GAS RELATED BUDGET APPROPRIATIONS OR RIDERS

84TH LEGISLATIVE SESSION

Oil and Gas Division Permitting Efficiencies: The legislature approved a budget rider to maintain staffing levels in the Oil and Gas Division in both Austin and district offices in a manner to be able to review and respond to all permits within ten business days of receiving a permit application. Permit applications for disposal or injection wells have a 30-day response period. The rider also states the Railroad Commission shall issue a final decision on contested case oil and gas permitting matters within 60 days of the hearing date.[58]

Rider 10 - Railroad Commission

Seismic Equipment and Research: The legislature also appropriated \$4,471,800 out of general revenue to the University of Texas at Austin Bureau of Economic Geology for the purchase and deployment of seismic equipment, maintenance of seismic networks, modeling of reservoir behavior for systems of wells in the vicinity of faults, and the establishment of a technical advisory committee.

The technical advisory committee determines the amount of money appropriated for collaboration with other research universities including the Texas A&M Engineering Experiment Station.[59]

House Bill 2, 84th Legislature

RAILROAD COMMISSION'S USE OF FEDERAL FUNDS

The majority of federal funds are utilized for the:

- Pipeline Safety Program
- Underground Injection Control (UIC) Program
- Coal Regulatory Program and Abandoned Mine Land Reclamation Program

⁵⁸ H.B. 1, 84th Leg., Reg., Sess. (TX 2015) ⁵⁹ H.B. 2, 84th Leg., Reg., Sess. (TX 2015)

Before the start of every legislative session, each state agency provides a Legislative Appropriation Request which helps develop the agency's budget.

The General Appropriations Act, also referred to as the state budget, provides funding for agencies through goals, strategies, and riders. The budget for the RRC typically includes four main goals:

- Energy resources
- Safety programs
- Environmental protection
- Public access to information and services

Different strategies are included within those goals which provide specific funding and guidance for an agency function. The following is data on the expenditures by the RRC in Fiscal Year 2014 with goals and strategies and the amount spent for each.[60]

GOAL	STRATEGY	AMOUNT SPENT	% OF TOTAL
Energy Resources	Energy Resource Development	\$14,552,345	18%
Energy Resources	Gas Utility Compliance	\$2,256,504	3%
Energy Resources	Promote Alternative Energy Resource	\$1,320,216	2%
Safety Programs	Pipeline Safety	\$5,183,682	6%
Safety Programs	Pipeline Damage Prevention	\$928,284	1%
Safety Programs	Regulate Alternative Energy Resources	\$2,147,454	3%
Environmental Protection	Oil and Gas Monitoring & Inspections	\$19,565,129	24%
Environmental Protection	Surface Mining Monitoring & Inspections	\$3,143,994	4%
Environmental Protection	Oil & Gas Remediation	\$6,010,898	7%
Environmental Protection	Oil & Gas Well Plugging	\$19,548,574	24%
Environmental Protection	Surface Mining Reclamation	\$3,925,759	5%
Public Access to Information & Services	GIS & Well Mapping	\$761,781	1%
Public Access to Information & Services	Public Access to Information & Services	\$2,188,623	3%
TOTAL		\$81,533,243	100%

⁶⁰ Railroad Commission Self-Evaluation Report Submitted to the Sunset Commission, pg. 42-43

The oil and gas sector makes substantial financial contributions to the state through jobs, investments and taxes. The Texas Taxpayers and Research Association estimates that the industry accounted for 13.5 percent of the economic output in Texas in 2014.[61]

Industry reports have estimated that the amount of taxes the oil and gas sector pays in Texas has totaled approximately \$13.8 billion a year.[62]

Some of the taxes paid by the oil and gas sector include:

- Property taxes
- State sales tax
- Local sales tax
- State franchise tax
- Severance tax
- Oil and gas well servicing
- Other fees

Property Taxes: Property taxes, or ad valorem taxes, are taxes based on the value of property levied at the county level.

If minerals are produced on owned property, the mineral interests earned from the production are considered real property when it comes to paying property taxes.

Typically property taxes are paid by the owner of the property and collected by the county tax assessor.

The tax rate is set by local governments and varies by location.

Severance (Production) Taxes: A severance tax is a state tax for the extraction of oil and gas in the state. The tax rate is based on the market value of oil and gas.

The current oil production tax rate is 4.6 percent (.046) of market value of oil and condensate. The production tax rate for natural gas is 7.5 percent or (.075) of market value. The money

collected from severance taxes are deposited into general revenue.

In Fiscal Year 2015, severance collections from oil production were \$2.8 billion and \$1.2 billion from gas production.[63]

Revenue from severance taxes is deposited into the General Revenue Fund. In certain cases, a portion of the severance tax revenue is deposited into the General Revenue Fund and then into the Economic Stabilization Fund.

Severance taxes are paid by first purchasers. A first purchaser is a person who purchases crude oil from a producer.

Oil and Gas Well Servicing Tax:

The tax is imposed on businesses providing certain well services.

Taxable services include:

- Cementing the casing seat
- perforations
- Fracturing the formation

- Acidizing the formation
- Surveying or testing the formation

The current rate is 2.42 percent (.0242) of taxable services.[64]

Sales Tax: A state sales and use tax rate of 6.25 percent is imposed on retail sales, leases and rentals of most goods. Cities, counties, transit authorities and other special purpose districts have the ability to impose local sales tax of no more than 2 percent for a total sales tax of 8.25 percent.[65]

Franchise Tax: A franchise tax, often referred to as the margins tax, is a state tax imposed on businesses for the ability of doing business in the state. For entities primarily engaged in retail or wholesale trade, the tax rate is 0.375 percent and 0.75 percent of taxable margin for all other taxpayers. If an entity has revenue below \$20 million and use the EZ computation, the tax rate is 0.331 percent.[66]

⁶¹ Texas Taxpayers and Research Association (TTARA), *Miracle on Ice? What Low Oil Prices Mean for Texas*. March 2016 ⁶² Testimony by James LeBas, House Committee on Energy Resources and House Committee on Economic and Small Business Development, April 28, 2016 ⁶³ Texas Comptroller of Public Accounts, Revenue by Source for Fiscal Year 2015 ⁶⁴ Texas Comptroller of Public Accounts, Texas Taxes and Tax Rates ⁶⁵ Texas Comptroller of Public Accounts, Texas Taxes and Tax Rates ⁶⁶ Texas Comptroller of Public Accounts, Texas Taxes and Tax Rates.

TAX	WHO PAYS THE TAX?	WHO RECEIVES THE REVENUE FROM THE TAX?	CURRENT TAX RATE
Severance tax (oil)	Producers and first purchasers	State government	4.6% of market value of oil
Severance tax (gas)	Producers and first purchasers	State government	7.5% of market value of gas
Severance tax (condensate)	Producers and first purchasers	State government	4.6% of market value of condensate
Local sales tax	Purchaser of goods and services	Local taxing entity	Up to 2%
State sales tax	Purchaser of goods and services	State government	6.25%
Property tax	Owners of property	Local taxing entity (city, county, school or special districts)	Varies
Franchise tax	Partnerships (general, limited and general liability), corporations, LLCs, business trusts, professional associations, business associations, joint ventures, incorporated political committees and other legal entities.	State government	0.375% of taxable margin for taxpayers primarily engaged in retail or wholesale trade; 0.75% of taxable margin for all other taxpayers; For those entities who use EZ computation the rate is 0.331 percent if its revenue is no more than \$20 million
Oil & Gas Well servicing tax	Businesses providing certain well services	State government	2.42% of taxable services



The Texas Constitution requires that if oil and natural gas production tax receipts exceed the net amount received in fiscal year 1987, the amount equal to 75 percent of that revenue must be transferred from the General Revenue Fund to the state's Economic Stabilization Fund (commonly referred to as the Rainy Day Fund).[67]

WHAT WERE THE TAX RECEIPTS IN 1987?

<i>Oil Production Tax Receipt</i>	<i>\$531,871,538[68]</i>
<i>Natural Gas Production Tax Receipt</i>	<i>\$599,776,454[69]</i>

From 1990 until 2014, approximately \$14 billion has been deposited into the Economic Stabilization Fund from the transfer of oil and natural gas production taxes.[70] In 2014, voters in the state approved Proposition 1, a constitutional amendment permanently allocating certain severance taxes to the Economic Stabilization Fund and the rest would go into the State Highway Fund. [71]

Appendix H includes a breakdown of revenue streams of the fund.

Royalty Payments to the State: The state of Texas also owns 22.5 million acres.[72] State lands are leased through the General Land Office and the University of Texas System (University Lands) for production.

Incentives: In past legislative sessions, legislators have developed and enacted incentives for drilling and the production of oil and gas in Texas. Various incentives are provided for enhancing production, for having efficient equipment, or for marginal wells producing low amounts of oil or gas.

Appendix I contains a chart with a list of incentives available to producers.

RAILROAD COMMISSION REGULATORY & ENFORCEMENT PROCESSES

The Railroad Commission's Energy Resource Development program is used to administer state statutes and commission rules consistently and appropriately. The program's two main functions include administrative compliance and technical permitting.

Activities performed by the commission under this program include:

- processing organization reports
- issuing drilling permits
- processing well completion reports
- assigning production allowables
- accepting and compiling production reports
- issuing certificates of compliance [73]

⁶⁷ Texas Comptroller of Public Accounts, Economic Stabilization Fund, January 2015 ⁶⁸ Railroad Commission, Railroad Commission of Texas Strategic Plan Fiscal Years 2015-2019, p. 30 ⁶⁹ Railroad Commission, Railroad Commission of Texas Strategic Plan Fiscal Years 2015-2019, p. 30 ⁷⁰ Texas Comptroller of Public Accounts, Economic Stabilization Fund, January 2015 ⁷¹ Texas Comptroller of Public Accounts, Economic Stabilization Fund, January 2015 ⁷² General Land Office, History of Texas Public Lands, p. 21 ⁷³ Railroad Commission Self-Evaluation Report, Submitted to the Sunset Commission, p. 59

Open Meetings: Approximately twice a month the commission holds a commissioner's conference, more generally referred to as an "open meeting." At open meetings, commissioners consider contested dockets, motions for rehearing, proposed rule changes, agreed enforcement orders, consent agenda items, master default orders and important policy matters.^[74] Decisions made during open meetings are taken by a vote of the three commissioners.

Rulemaking Process: The Energy Resource Development Program accomplishes its responsibilities by promulgating rules. Railroad Commission rules are adopted as a part of a larger body of state agency rules known as the Texas Administrative Code. These rules are collected and published by the Office of the Secretary of State. The commission may adopt new rules or amendments to existing rules with the oversight of the commission's Office of the General Counsel.^[75] The rulemaking process at the commission includes the following steps:

- add new or amended rule to a Railroad Commission open meeting agenda
- a vote will be taken at the open meeting by the three elected Railroad Commissioners to publish the new or amended language in the Texas Register
- after approval via vote, a 30-day public comment period begins
- a formal review of all comments received is conducted and necessary edits are made
- the language is added once again to a commission open meeting agenda
- a formal vote is taken to deny or approve the new language by the three commissioners

Hearings Division Background: As originally structured, the commission's hearings were held within separate departments, depending on the discipline at issue, and were not handled by one division dedicated to holding hearings. Changes in legislation and case law related to administrative practice required a more robust adjudicatory

process. Consequently, the commission's hearings were consolidated as part of the functions of the Office of General Counsel. At that time, the Office of General Counsel included adjudicatory, enforcement, and general counsel functions.

Later, the Commission separated those functions into two separate divisions and created the Hearings Division.

Hearings Division Processes: The division's hearings examiners perform adjudicatory function in three areas – oil and gas, gas utility, and surface mining. The examiners are supported by administrative staff and the Docket Services.

Docket Services is run by two program specialists who process hearing requests for applications and complaints. Docket services is responsible for:

- assigning a docket number for cases;
- creating a hearing hardcopy file;
- scheduling the hearing and maintaining all hearing rooms;
- preparing the notices for the hearing;
- creating and preparing the weekly and monthly hearing schedule for the public, website, internal staff and court reporter;
- responding to inquiries regarding scheduling of hearings; and
- ensuring the appearance of a court reporter at the hearing.

Oil and Gas Dockets are conducted by a legal examiner (licensed attorney) and a technical examiner (either a petroleum engineer, engineer with oil and gas experience, geophysicist, or geologist.) The RRC's contested case hearings are conducted in accordance with the Administrative Procedures Act (APA).

The Railroad Commission of Texas's Hearings Division closed a record 1,057 oil and gas dockets or administrative law cases in Fiscal Year 2015.^[76]

⁷⁴ Railroad Commission Self-Evaluation Report Submitted to the Sunset Commission, p. 11 ⁷⁵ Railroad Commission, Proposed Rules, RRC Website, February 19, 2016 ⁷⁶ Railroad Commission, Railroad Commission's Hearings Division Closes Record Number of Oil & Gas Administrative Law Cases in Fiscal Year 2015

How Hearings Are Conducted:

1. Hearing is scheduled through Docket Services
2. Hearing is held and includes the following actions by the examiner:
 - a. Listens to witness testimony
 - b. Examines all evidence or exhibits
 - c. Questions the witnesses
 - d. Makes ruling on offers of and objections to evidence
 - e. Builds a record on which an agency decision is based
 - f. Ensures all information is in the record for the commissioners
3. Once the hearing has concluded, the examiner:
 - a. Writes a Proposal For Decision (PFD) which summarizes the evidence, arguments of parties and applicable law
 - b. Recommends a decision
 - c. Proposes findings of fact and conclusions of law *(the parties have an opportunity to file exceptions to the PFD and replies to exceptions)*
4. The PFD is then presented by the examiner to the commissioners at open conference. There, the examiner answers any questions regarding their decision.
5. The commissioners make a decision to approve or reject the hearing examiner's recommendation or they may remand the order for further consideration.
6. The order is then signed by the commissioners - this does not adopt the final PFD; it only adopts the examiner's findings of facts and conclusions of law.
7. If the commissioners do not make any changes, the order is adopted; if the commissioners change any of the Hearings Examiner's findings or conclusions, those changes are set forth in the final order that is approved by the commissioners.[77]

Permitting Process: Prior to receiving a drilling permit, all oil and gas producers must have on file with the commission an approved organization report, also known as a P-5, and financial security. The organization report, which must be renewed annually, allows the commission to keep track of all operators under their jurisdiction. Financial security allows the commission to enforce regulations requiring operators to maintain inactive wells and plug wells when necessary.

The following process is applicable for drilling permits:

1. Operator submits W-1 Application online
2. New drilling permit?
 - a. NO – American Petroleum Institute (API) number is a “unique, permanent, numeric identifier” assigned to each well drilled for oil and gas in the United States. This will be checked to confirm location is current and the operation is valid.
 - b. YES – Drilling permit is sent to the mapping queue and staff reviews application. At this time, the well is plotted in the GIS system and the API number is assigned.
3. All permits sent to Drilling Queue
 - a. Drilling permit staff will review all applications.
4. Statewide Rule 37 or 38 exceptions?
 - a. NO - If there are no SWR exceptions needed, and if no manual review is needed for special well spacing applicable to horizontal development, the application proceeds to the Public Sales Queue.
 - b. YES - If there is a SWR 37 or 38 exception;
 - i. Affected parties must be notified.
 - ii. Application is held in the SWR Hold Queue until notice waiting period expires.
 - iii. If there are no protests, the application with an approved exception moves to the Engineering Queue.
 - iv. If there is a protest or if more information to review geologic data is needed, the application is sent to Docket Services of the Hearings Division Queue and then to a technical examiner for further review prior to the exception being approved.
5. Either from the Engineering Queue or from the Technical Examiners Queue, all applications are finally sent through the Public Sales Queue
 - a. Applications pass through this queue prior to final approval. Any remaining funds due are collected from the operator and applied to the Records Management Staff at this time.
6. Approved Queue
 - a. An approved application is routed through the Approved Queue as an approved drilling permit.

⁷⁷ Railroad Commission, Hearings Division Powerpoint Presentation

Expediting Your Drilling Permits: The drilling permit process can be expedited by filing an additional \$150.00 fee.

The following process is applicable for Underground Injection Control permits:

1. Application received

a. The permit application review process begins when the application is received in Technical Permitting in Austin. The administrative technician assigned to each district will log the application into the tracking database and begin the review.

2. Administrative review

a. The administrative review process verifies that all filing requirements are satisfied. The administrative technician will prepare a request for additional data for any filing deficiencies or problems noted in the review.

3. Technical review

- a.** The technical review process verifies that the proposed well construction and operation meets rule specified standards.
- b.** Analysis of historical seismic activity.
- c.** The technical reviewer will prepare a request for additional data for any well construction or operation deficiencies.

4. Review turnaround time

- a.** Commission staff has 30 days to complete the initial review of the application. Commission staff must either:
 - i.** Request additional data if the application is incomplete.
 - ii.** If the application involves injection of fresh water, an additional 30 day review period is allowed for Groundwater Advisory Unit (GAU) review.
 - iii.** Notify the applicant that the application is administratively complete
- b.** Commission staff has 15 days to complete the final review and either issue, or deny the permit applications.

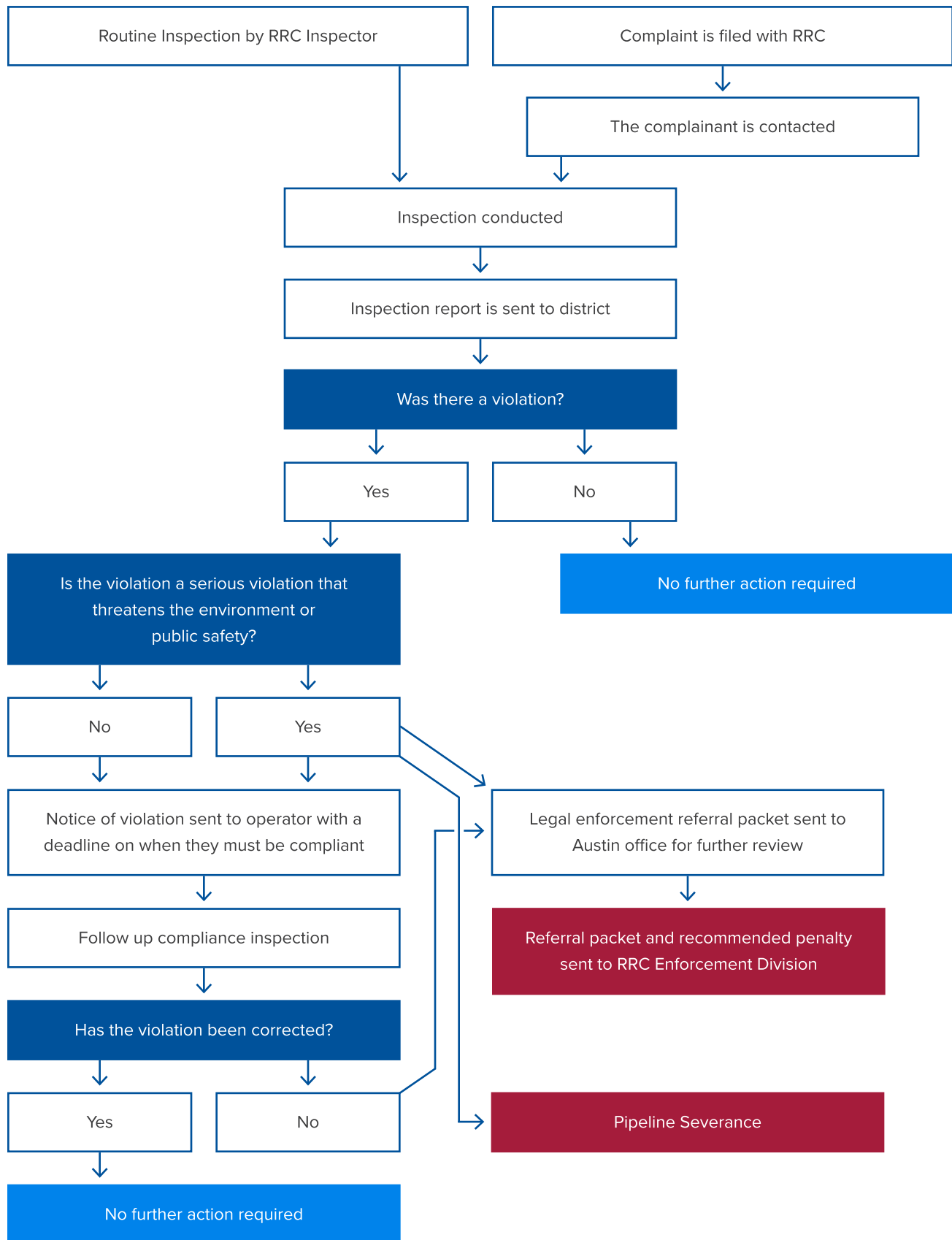
5. Administratively complete

- a.** If the permit application is complete, and if no problems are noted during the administrative or technical reviews, then a letter will be issued within 30 days of the application being received in Technical Permitting to notify the operator that the application is complete and a permit should be issued within 15 days. Whenever possible, the permit is issued instead of sending the “application is complete” letter within the same time frame.
- b.** If the permit application is incomplete, or if any problems are noted during the administrative or technical reviews, then a letter requesting additional data will be sent to the operator within 30 days of the application being received in Technical Permitting.

Expediting Your Permit Application for UIC: The most effective way to expedite permit processing is to file the permit application without errors or omissions and with all necessary attachments and notice.

Protested Application: If the permit application has been protested by an affected party, then the operator is notified of the protest and advised that the permit cannot be administratively issued in the presence of a protest. The application may be set for hearing before the commission at the operator’s request. [78]

⁷⁸ Railroad Commission, Permitting Flowchart Discussion, <http://www.rrc.state.tx.us/oil-gas/publications-and-notice/manuals/injectiondisposal-well-manual/permitting-flowchart-discussion/>



Inspection, Compliance and Enforcement System: The RRC has deployed a new inspection system referred to as the Inspection, Compliance, and Enforcement (ICE) system. The ICE system provides field inspectors with and compliance information during the inspection to assist in filing reports. It will also share the results of the inspection in a timely manner.

Most field inspectors work for a district office but are stationed in a different town or area to ensure inspectors cover areas of dense oil and gas activity. This also helps to improve efficiency by reducing driving time.

Reporting of Enforcement Actions: The Texas Legislature, through Rider 11 of the General Appropriations Act in the 84th Legislative Session, requires the RRC to publish a quarterly report about oil and gas enforcement data on its website.

TOOLS AVAILABLE FOR THE RAILROAD COMMISSION FOR ENFORCEMENT ACTION

The RRC has several mechanisms in place to notify operators of a violation after an investigation. The RRC also has powerful tools to enforce violations with escalating penalties depending on the response by the operator to bring a production site into compliance.

Notice of Violation (NOV): On identification of a rule violation, the commission sends a written notice to the operator. The notice advises the operator of the violation and provides a deadline for correction (generally, 15 to 30 days). The commission may also send a letter by certified mail advising the operator that if the violation isn't corrected by the deadline, a severance or seal order will be issued prohibiting the operator from producing, moving oil or gas, or otherwise using the well(s) affected.

Unresolved Notices: These notices indicate violations that have not yet been resolved. This includes matters where the deadline contained in the notice has not yet passed, and matters where severance/seal orders are in place but corrective action by the operator is still required. In cases where the severance/seal order has been issued, the commission may proceed (or may have already proceeded) to further enforcement action.

P-4 Cancellation (Severance Notice): After the deadline has passed without remedy, a severance order (for oil leases) or seal order (for gas wells) is issued. That order prohibits the operator from producing, selling hydrocarbons, or otherwise using any of the wells under the order until the violation has been corrected and a statutory fee has been paid.

Cancellation or Suspension of Permits: If a NOV is not responded to, the Railroad Commission may cancel or suspend drilling permits or other operating permits.

P-5 Cancellation: An operator's Organization Report (P-5) must be active and maintained to perform any activities under the jurisdiction of the Railroad Commission. This permit may be canceled if operators do not respond appropriately to violations.

Bond Collection: An operator's financial assurances may be collected by the commission if they do not maintain a valid P-5 or if they are unresponsive to remitting penalties.

Administrative Penalties: After notice is provided, if operators are unresponsive in a 30 day time period, the Railroad Commission can assess administrative penalties based on the type and severity of the violation. Penalties may be as high as \$10,000 per day per violation.

S.B. 639 Flag: After an operator's P-5 becomes 30 days delinquent, a notice to sever the operator's highest producing lease is issued. If the P-5 becomes 60 days delinquent, a notice to sever all of the operator's leases is issued. Failing to cure the P-5 delinquency after this time results in a S.B. 639 flag. When a S.B. 639 flag is placed on

an operator's P-5, it prohibits P-5 renewal and the order is no longer subject to appeal.

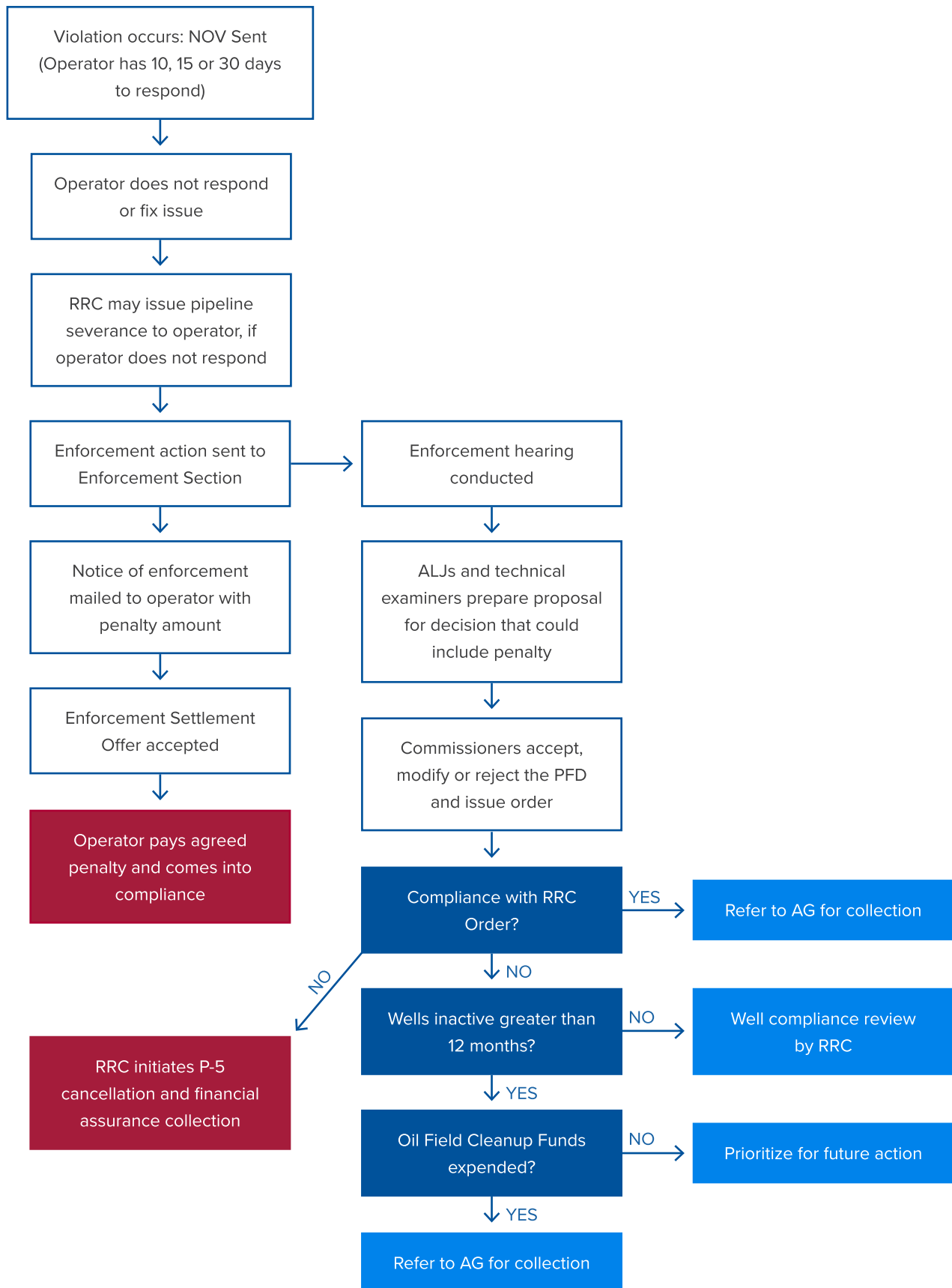
Additional effects of the S.B. 639 – Non-Compliant

Operator Tag: To prevent non-compliant operators from doing business in the state of Texas, the 75th Legislature passed S.B. 639. The law prohibits the RRC from accepting an Organization Report (Form P-5), an application for a permit under certain chapters of the Natural Resources and Water Codes, or an application for a certificate of compliance (Form P-4) if the organization has violated a statute or RRC rule, order, license, certificate, or permit that relates to safety or the prevention or control of pollution. The law also provides that the RRC can revoke such items for the same reasons. Furthermore, the provisions are also applicable to a person who holds a position of ownership or control in an organization, such as an officer or director.

The S.B. 639 tag prevents such persons from doing business (within the jurisdiction of the RRC in the state under the existing organization or other organization names for a period of seven years from the date of the violation, defined as a final judgment or final administrative order finding the violation has been entered against the organization and all appeals have been exhausted. To resume operations, the conditions that constituted the violation must be corrected and all administrative, civil, and criminal penalties and all cleanup and plugging costs incurred by the state relating to those conditions must be paid.

Referral to Attorney General: The Railroad Commission may refer orders to the Attorney General's office for enforcement of the order and collection of administrative penalties or reimbursement for collection of plugging and/or site remediation expenses.





BACKGROUND

The state of Texas has maintained a fund since 1965 to plug abandoned wells that pose a pollution hazard when: the responsible owner or operator cannot be located; is insolvent; or the responsible owner or operator is unwilling to plug the well. Initially, limited funds were appropriated from General Revenue for this purpose.

In 1983, a new Well Plugging Fund was established and supported primarily by drilling permit fees, well plugging reimbursements, RRC administrative penalties, Office of the Attorney General civil penalties, and interest on the fund. From 1984 to 1991, the RRC plugged 4,078 wells, spending an average of \$8 million per year.

In 1991, the Railroad Commission sought additional funding and authority to address abandoned wells and abandoned oil field sites. The Texas Legislature enacted Senate Bill 1103, which replaced the old Well Plugging Fund with the more comprehensive Oil Field Cleanup Fund. New sources of revenue were added and the RRC was authorized to use the fund for several specific environmental purposes, including plugging and remediation. At that time, new financial assurance requirements, such as bonds or letters of credit, for oil and gas operators were also included. From 1992 through 2015, the Railroad Commission plugged 31,037 wells, spending an average of \$10 million per year.^[79]

During the 80th legislature in 2007, multiple pieces of legislation were filed to address surface cleanup and/or bonding and financial assurances for oil and gas wells. Subsequently, both issues were topics assigned as interim studies. In response, an industry workgroup, the Inactive Well Study Group, was developed. This group identified “inactive” wells as a potential nexus for addressing risk. As a result, during the following two sessions, legislation was passed to protect the Oil Field Cleanup Fund against liability from inactive wells by raising accountability and responsibility of operations in a manner that balances risk and cost. This was done via H.B. 2259 and H.B. 3134.

The requirements in H.B. 2259 and H.B. 3134 are phased in based on how long the well has been inactive: at 12 months, the electricity must be disconnected; at 5 years, all production fluids must be purged from inactive lines and tanks; and at 10 years, the equipment must be removed.

In 2002, the total number of orphan wells in Texas was 17,971.^[80] According to RRC monthly statistics, as of April 2016 there were 9,372 orphan wells in Texas, which is a **reduction of 8,599 orphaned wells** since 2002.^[81] Additionally, the percentage of total inactive wells in the state has decreased. In 2002, the percentage of total inactive wells was **31.41 percent**, as of April 2016 the percentage of total inactive wells was **25.80 percent**. Lastly, over the past 12 years the percentage of inactive wells that are orphaned has continued to decrease. In 2002, 16.11 percent of inactive wells were orphaned, and as of April 2016, **only 8.34 percent of inactive wells are orphaned**.

Appendix J includes a well history distribution chart with information on the amount of orphaned wells from 2002 – 2016.

⁷⁹ Railroad Commission, Oil Field Cleanup Program Annual Report – Fiscal Year 2015 ⁸⁰ Sunset Advisory Commission, Final Report, July 2011, p. 25 ⁸¹ Distribution of Wells Monitored by the Railroad Commission, April 29, 2016

DEFINITIONS

Active Well: A well that is currently producing, injecting, disposing or otherwise in service.

Shut-in Well: A well that is not actively producing, injecting, disposing, or otherwise in service.

Inactive Well: An unplugged well that has been spudded or has been equipped with cemented casing and that has had no reported production, disposal, injection, or other permitted activity for a period of greater than 12 months.

Compliant Inactive Well: A well that has been shut-in for more than 12 months, belongs to an operator with an active

Organization Report (P-5), and has qualified for a plugging extension.

Non-Compliant Inactive Well: A well that has been shut-in for more than 12 months, and is in violation of the commission's plugging rule, has not been plugged and does not have a valid SWR 14(b)(2) extension.

Orphan Well: Wells that are classified as non-compliant inactive wells and the operator's organization report (P-5) is delinquent.

REGULATORY DESCRIPTIONS

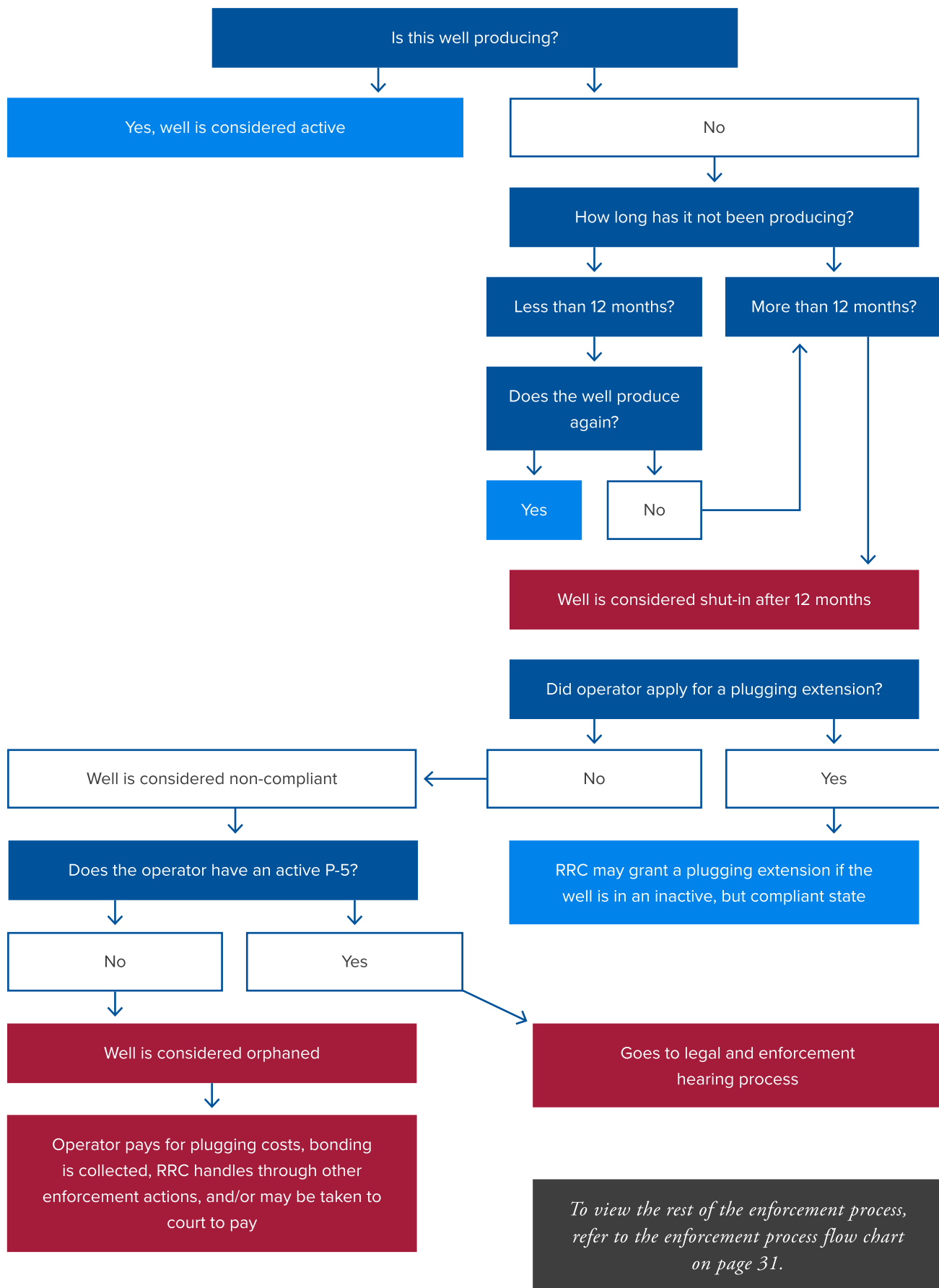
Statewide Rule 3.14 (b) (2): This is the RRC rule requiring an operator to plug a well that has been inactive for 12 months.

Natural Resources Code Sec. 89.023, Extension of Deadline for Plugging an Inactive Well: The RRC may grant an extension of the deadline for plugging an inactive well if the operator maintains a current Organization Report (often referred to as a P-5) with the commission and if, on or before the date of renewal of the operator's Organization Report as required by that section, the operator files with the commission an application for an extension.

REQUIREMENTS FOR A PLUGGING EXTENSION

In order to receive a plugging extension, an operator must:

- have the appropriate financial assurances in place at the RRC
- maintain compliance with H.B. 3134 and H.B. 2259 (SWR 15) by fulfilling one or more of the following elements depending on the length of inactivity:
 - electricity must be disconnected
 - all production fluids must be purged from inactive lines and tanks
 - equipment removed from site;
 - for wells that are 25 years or older, casing integrity must be verified; and
- have a certified method of compliance Form W-3C or Form W-3X on file with the commission.



PRIORITY OF WELL PLUGGING

The Railroad Commission uses a priority methodology to rank wells for plugging to insure wells that pose a threat to public safety and environment are plugged first. If an orphaned well or lease is found to be eligible for plugging with state funds, then each well undergoes a prioritization determination, where it is placed on a tier within the Well Plugging Priority System.

The Well Plugging Priority System is a four-tier system that includes 26 human health, safety, environmental, and wildlife factors. Factors are weighted and ranked to prioritize well plugging. The different tiers include:

I. Well Completion

- a. This category has seven subcategories relating to the completion information on a well, type of formations penetrated, type of well, and the age of a well.

II. Wellbore Conditions

- a. This category has seven subcategories relating to downhole conditions such as pressures on the well, fluid level in the well, and the mechanical integrity of the wellbore.

III. Well Location

- a. This category has seven subcategories relating to the proximity to sensitive areas including, but not limited to: rivers, lakes, sensitive wildlife areas, cities, towns, domestic use fresh water wells, public areas, etc.

IV. Unique Environmental, Safety, or Economic Concerns

- a. This category has five subcategories relating to proximity to active water floods or disposal wells, logistical concerns, wellbores with re-entry problems, and the length of delinquency of the P-5.

A Priority 1 well has top priority for plugging. As of April 2016, the commission had identified three Priority 1 wells. Priority 2H, 2 and 3 wells will also be recommended for plugging. The Railroad Commission has always had the funding to plug all Priority 1 wells in an expedited manner.

State-funded plugging of Priority 4 wells is generally deferred until a later date, unless they are grouped with higher priority wells on the same lease, or a nearby lease (this is referred to as bundling). Often these wells will be slated to be plugged with nearby higher priority wells in an effort to utilize time and resources efficiently. Since the inception of the well plugging program, the commission has plugged an average of 800 wells per year.

***Appendix K** includes a list of the factors that are taken into account when determining the tier system for an abandoned well.*

*See **Appendix L** for a well distribution chart outlining active and inactive wells and other categories.*



HOW MUCH PLUGGING A WELL COSTS

In Fiscal Year 2015, the RRC plugged 692 wells at a cost of \$11.7 million, which is an average of \$17,000 per well. The cost of plugging a well is based on average actual plugging costs for wells in the different RRC districts in the preceding fiscal year.

Many other factors contribute to the varying costs of plugging a well, some of which include:

- Availability of equipment
- Location of well
- Depth of well
- Number and type of plugs required
- How long a well has been abandoned
- Availability of equipment (if commodity prices are high equipment is harder to come by)
- The condition of the well (deteriorated wellhead, parted tubing, collapsed casing, junk in hole, etc.)

RAILROAD COMMISSION BONDING REQUIREMENTS

FINANCIAL SECURITY REQUIREMENT FOR ONSHORE WELLS

A person required to file an Organization Report (P-5), under the Texas Natural Resource Code §91.142 and RRC rules, must also execute and file a bond, letter of credit or cash deposit. Bonds and letters of credit must be filed on forms approved by the commission. These forms are available online through the RRC's website. Bonds must be issued by a surety company registered in the State of Texas with the Texas Department of Insurance. The P-5 bond is a license/permit surety bond. P-5 bonds are required to ensure different aspects of operating and abandoning oil or gas wells are managed and/or completed in accordance to Texas laws and regulations.

FINANCIAL SECURITY REQUIREMENT USES

Some of the oil and gas well activities scrutinized for compliance with applicable laws and regulations are as follows:

- Proper well operation and maintenance in order to prevent leakage and/or pollution of ground and surface water
- Inactive well maintenance to prevent leakage and pollution
- Proper well plugging and abandonment
- Surface restoration
- Proper cleanup of pollution associated with the oil and gas operation

TWO WAYS TO BECOME A "BONDED OPERATOR"

There are two options available under which a person would be considered a "Bonded Operator" under commission rules:

- Option 1 – an individual performance bond, letter of credit or cash deposit covering only wells; or
- Option 2 – a blanket performance bond, letter of credit or cash deposit covering wells and/or other oil and gas operations.

A person filing a P-5 who is engaged in non-well activities that require the filing of financial security cannot use Option 1.

REQUIRED AMOUNTS

The following financial assurance amounts are required:

- Option 1: Individual performance bond, letter of credit, or cash deposit. This is only available to organizations that have no activities other than operating oil and gas wells. The amount to be filed under this option is calculated by multiplying the depth of all wells by \$2.00 per foot. The total aggregate depth will be determined from RRC records. Increases in the total aggregate depth due to an increase in the number of wells operated by a person may require that the amount of the bond, letter of credit or cash deposit, be increased.

- Option 2: Blanket performance bond, letter of credit, or cash deposit. This is available to all organizations. The amount to be filed under this option is calculated based upon the total number of wells operated, as follows:

- 0 to 10 wells - \$25,000
- 11 to 99 wells - \$50,000
- 100 wells or more - \$250,000

P-5 ORGANIZATIONAL REPORT FILING FEES

Additionally, with each annual Organization Report filing, the commission will collect a P-5 filing fee separate and apart from any form of financial assurance. The total amount of the fee includes a filing fee and a surcharge. The amount of an organization's filing fee is calculated as follows:

For an operator of wells, the following amount based upon the number of wells operated.

	FILING FEE	SURCHARGE	TOTAL FEE
1 – 25 wells	\$300	\$450	\$750
26 to 100 wells	\$500	\$750	\$1,250
101 wells or more	\$1,000	\$1,500	\$2,500

TEXAS LEGISLATURE AUTHORIZED CHANGES TO BONDING REQUIREMENTS

Senate Bill 310 from the 77th Legislature (2001) amended various provisions of the Texas Natural Resources Code that pertain to the financial security requirements associated with Form P-5 Organization Report filings. These amendments became effective September 1, 2001.

FINANCIAL SECURITY REQUIREMENT FOR BAY AND OFFSHORE WELLS

Bay and offshore well operators have additional financial security requirements. An operator of bay and/or offshore wells must provide additional entry level bonding of \$60,000 for bay wells or \$100,000 for offshore wells. The amount is determined by base amount plus entry level amount and non-producing amount.



- Money paid to the RRC by a private person
- First lien on equipment; cause of action if the commission plugs a well
- Revenue from drilling permit fees
- Costs recovered from closure of an unauthorized saltwater disposal pit
- Proceeds from the sale of equipment and hydrocarbons stored from a well that has been foreclosed on by the RRC
- Proceeds from oil and gas waste hauler application fee
- Costs recovered from investigation, assessment and cleanup of oil and gas waste
- Proceeds from hazardous oil and gas waste generation fee
- Proceeds from fee imposed on crude petroleum produced
- Proceeds from fee imposed on gas production
- Proceeds from a fee for a reissued certificate of compliance
- Proceeds from fluid injection well permit application fee
- Proceeds from filing fee for request for notice by lienholder or non-operator
- Fees collected from the applications to participate in voluntary cleanup program
- Funds received from voluntary cleanup agreements
- Costs recovered from the termination of cleanup agreements
- Revenue from applications for exceptions to commission rules in oil and gas division
- Revenue from abeyance of plugging report fee
- Revenue from fluid level or hydraulic pressure test documentation fee
- Legislative appropriations
- Revenue collected from surcharge fees
- Fees collected from letter of determination on the total depth of surface casing
- Revenue from pipeline safety and regulatory fees
- Revenue from an oil and gas waste disposal well permit application fee

RAILROAD COMMISSION RULES [82]

The Railroad Commission's Energy Resource Development program is used to administer state statutes and commission rules consistently and appropriately. The program's two main functions include administrative compliance and technical permitting.

PUBLIC SAFETY AND ENVIRONMENT

Statewide Rule §3.8 - Water Protection

Statewide Rule (SWR) 3.8 is the RRC's primary regulation for protecting the environment. The key emphasis of the rule is that no person conducting activities subject to regulation by the commission may cause or allow pollution of surface or subsurface water in the state. The rule prohibits unauthorized discharge or disposal of produced fluids or waste; establishes use of and closure requirements of various types of pits associated with drilling and operation of wells; establishes waste management criteria; and establishes criteria for construction, operation, closure, and permitting of certain pits.

SWR 3.8 requires that a person who transports for hire oil and gas waste off a lease, unit, or other oil or gas property by any method other than by pipeline must have an Oil and Gas Waste Hauler Permit (WHP) issued by the commission.

SWR 3.8 also includes provisions that encourage recycling of oil and gas waste. Recycling of wellbore fluids under the jurisdiction of RRC, including produced formation water, completion/workover fluids, and fracture flow-back fluids, may be treated and reused without permit. Under these rules, operators and contractors may recycle fluids from the lease, unit or facility from which the fluid was generated, and may also recycle fluids from other leases or operators.

⁸² Railroad Commission Rules, <http://www.rrc.state.tx.us/legal/rules/>

Statewide Rule §3.9 - Disposal Wells

Statewide Rule 3.9 governs the disposal of salt water, or other oil and gas waste by injection into formations not productive of oil, gas, or geothermal resources. The rule establishes application and permitting criteria, and operational criteria by rule and permit, and provides for notice and opportunity to protest. All wells must be drilled and completed to ensure all usable quality groundwater is protected, and that injected fluids are isolated to the permitted interval.

The rule also has mechanical integrity testing requirements and monitoring requirements to ensure wells are operated without endangering public safety or the environment. Additional monitoring to prevent spills and provide security may be in place for commercial operations if specified in a permit.

Further, SWR 3.9 outlines instructions regarding records maintenance, monitoring and reporting, testing, and plugging. In addition, it outlines penalties to be imposed for noncompliance with the rule. Permit revocation may result as a consequence of noncompliance.

SWR 3.9 was amended in 2014 to address disposal well operations in areas of historical or future seismic activity.

Statewide Rule §3.13 - Casing, Cementing, Drilling, Well Control, and Completion Requirements

The objective of Statewide Rule 3.13 is to:

- ensure that casing is securely anchored in the hole to control the well at all times;
- ensure that all usable-quality water zones are isolated and sealed off so as to prevent contamination or harm; and
- ensure that all potentially productive horizons are isolated and sealed off to prevent vertical migration of fluids behind casing.

Wellhead control is required during all phases of operation, drilling, production, and plugging. Other requirements include the use of centralizers and the criteria for cement volume, quality, and compressive strength. When the rule does not detail specific methods applicable to a particular well, the responsible party must make every effort to comply with the intent of the rule using sound engineering practices and the best current available technology.

Amendments to SWR 3.13, known as the “Well-Integrity Rule” went into effect on January 1, 2014. The expanded and added new requirements related to well control, casing and cementing requirements/specifications, testing requirements, and additional requirements for wells hydraulically fractured. It further prescribed that additional zones must be isolated in the wellbore including disposal zones, corrosive zones, and over pressurized zones.



Statewide Rule §3.14 – Plugging

The objective of Statewide Rule 3.14 is to set forth well plugging requirements to protect or isolate all usable-quality zones, all hydrocarbon-producing zones, and all corrosive and pressurized water zones. SWR 3.14 establishes criteria for plugging wells including cement quality, plug placement and verification, and requirements for a person to become a “plugger” in the state of Texas. The rule provides methods for plugging wells back to the base of usable quality water for the landowner.

Plugging operations on each dry or inactive well must be commenced within a period of one year after drilling or operations have ceased and must proceed with due diligence until completed. An extension of time may be granted to the operator on a year-by-year basis if a well is not a pollution hazard, is in compliance with all commission rules, and an operator’s financial assurance is submitted and approved.

All provisions of SWR 3.14 are applicable to wells plugged by industry and orphaned wells plugged under the state managed plugging program.

Statewide Rule §3.15 - Surface Equipment Removal Requirements and Inactive Wells

Statewide Rule 3.15 establishes the definition of an inactive well, which is “an unplugged well that has been spudded or has been equipped with cemented casing and that has had no reported production, disposal, injection, or other permitted activity for a period of greater than 12 months.” The rule establishes criteria that must be met based on the age of the well and the number of years the well has been shut in including termination of electrical service, fluid level testing for wells over 25 years old, and removal of surface facilities. It also establishes various options for obtaining a plugging extension.

Statewide Rule §3.17 – Pressure on Bradenhead

The objective of Statewide Rule 3.17 is to establish a method to allow for detection of pressure between any two strings of casing that might indicate a potential downhole problem. Operators are required to test the production casing of wells showing pressure between the surface and production casing strings to demonstrate the integrity of the production string. The appropriate district office must approve all remedial action in advance of any workover.

Statewide Rule §3.20 – Notification of Fire, Breaks, Leaks, or Blowouts

Statewide Rule 3.20 provides that operators shall give immediate notice of a fire, leak, spill or break, followed by a letter giving the full description of the event including the volume of products lost.

Statewide Rule §3.21 – Fire Prevention and Swabbing

The main objective of Statewide Rule 3.21 is to prevent fires associated with drilling and production operations. There is also a provision that requires firewalls (berms) around permanent tanks located within an established proximity of a road or certain public areas. The intent of this provision is to minimize potential pollution associated with spills of hydrocarbons and associated fluids.

Statewide Rule §3.29 - Hydraulic Fracturing Chemical Disclosure Requirements

Statewide Rule 3.29 requires all Texas operators to submit the chemicals they use downhole for fracturing via the FracFocus website.

Statewide Rule §3.36 - Oil, Gas, or Geothermal Resource Operation in Hydrogen Sulfide Areas

Statewide Rule 3.36 is one of the RRC’s primary safety rules. SWR 3.36 establishes criteria for operation of wells where the H₂S concentration is 100 parts per million (ppm) or greater. The intent of the rule is to protect the general public, and when major changes were adopted in 1975, it set a national standard that many states followed. SWR 3.36 is a progressive rule that has increased compliance requirements based on the potential offsite impact of a release of gas containing H₂S. The potential impact area is called the radius of exposure. The rule includes requirements related to wellbore and facility materials, signage, security, control and safety, public awareness and education, and contingency planning for alerting and protection of the general public in the event a release occurs that could pose a threat to public safety.

Statewide Rule §3.46 - Fluid Injection into Productive Reservoirs

Statewide Rule 3.46 governs fluid injection into reservoirs productive of oil, gas, or geothermal resources. Most of these wells are associated with secondary recovery (water flooding) and tertiary recovery such as CO₂ injection. There are currently 54,700 wells permitted under SWR 9 and SWR 46. Of these wells, 34,200 were active as of July 2015.

The rule establishes application and permitting criteria, and operational criteria by rule and permit, and provides for notice and opportunity to protest. All wells must be drilled and completed to ensure all usable quality groundwater is protected, and that injected fluids are isolated to the permitted interval.

The rule also has mechanical integrity testing requirements and monitoring requirements to ensure the well is operated without endangering public safety or the environment. Additionally, it outlines instructions regarding records maintenance, monitoring and reporting, testing, and plugging. Further, it details penalties to be imposed for noncompliance with the rule. Permit revocation may result as a consequence of noncompliance.

The rule was amended in 2014 to address disposal well operations in areas of historical or future seismic activity. This does not apply to injection wells permitted for secondary and tertiary recovery.

Statewide Rule §3.91 – Cleanup of Soil Contaminated by a Crude Oil Spill

Statewide Rule 3.91 prescribes cleanup criteria for crude oil spills. The rule includes three categories of spills: (1) crude oil spills into non-sensitive areas; (2) hydrocarbon condensate spills; and (3) crude oil spills in sensitive areas. The rule establishes clear goals for cleanup of crude oil spills in non-sensitive areas including immediate removal of all free oil.

Statewide Rule 3.91 provides that cleanup requirements for hydrocarbon condensate spills and crude oil spills in sensitive areas will be determined on a case-by-case basis.

Statewide Rule §3.98 - Standards for Management of Hazardous Oil and Gas Waste

Statewide Rule 3.98 establishes standards for management of hazardous oil and gas waste. This includes any waste that arises out of or incidental to the drilling for or producing of oil and gas. It also includes pipeline transportation of oil and gas, brine mining activities, exploration, development, production of geothermal resources; and hazardous waste as defined by EPA (taking into account the exploration and production (E&P) exemption in the Resource Conservation and Recovery Act (RCRA)).

The majority of waste produced at exploration and production sites is exempt from regulation under RCRA, Subtitle C. These wastes largely include drilling muds, cuttings, and produced fluids, and they make up a significant portion of the waste management efforts associated with the oil and gas industry.

The rule is intended to prevent pollution of surface and subsurface waters of the state, and to prevent injury to life or property that may be caused by mismanagement of hazardous oil and gas waste. The rule does not provide for issuance of permits to treat, store, or dispose of hazardous oil and gas waste.

Statewide Rule §3.106 – Sour Gas Pipeline Facility Construction Permit

Statewide Rule 3.106 establishes application and permitting requirements for certain sour gas pipelines identified as those which transport natural gas that contains a concentration of 100 ppm or more of hydrogen sulfide; is located outside the tract of production; and is subject to the requirements of SWR §3.36. The rule provides for notice and opportunity to protest for those located within the area of influence (H₂S 100 ppm Radius of Exposure). Permits are approved by order of the commission.

Statewide Rule §4.6, Subchapter F – Oil and Gas NORM

Subchapter F establishes requirements for the identification of equipment contaminated with oil and gas NORM, and the disposal of oil and gas NORM waste for the purpose of protecting public health, safety, and the environment. Additionally, it regulates handling and disposal of NORM associated with oil and gas E&P activities.

Jurisdiction over oil and gas NORM waste is split between Department of State Health Services and the RRC. DSHS regulates the possession, use, transfer, transport, and storage of NORM and the Railroad Commission regulates the activities associated with disposal of oil and gas NORM waste.

Statewide Rule §4.6, Subchapter B – Commercial Recycling

Subchapter B establishes the minimum permitting and operating standards and requirements for commercial recycling of oil and gas wastes under the jurisdiction of the RRC. The rule explicitly states that no person conducting activities subject to this subchapter may cause or allow pollution of surface or subsurface water in the state.



WASTE AND CORRELATIVE RIGHTS

Statewide Rule §3.32 – Gas Well Gas and Casinghead Gas Shall be Utilized for Legal Purposes

Statewide Rule 3.32 allows an operator to flare gas while drilling a well for up to 10 days after a well's completion allowing operators to conduct well potential testing. The majority of flaring permit requests received by the RRC are for flaring casinghead gas from oil wells. Permits to flare from gas wells are not typically issued as natural gas is the main product of a gas well.

Flaring of casinghead gas for extended periods of time may be necessary if the well is drilled in areas new to exploration. In new areas of exploration, pipeline connections are not typically constructed until after a well is completed and a determination is made about the well's productive capability. Other reasons for flaring include:

- gas plant shutdowns;
- repairing a compressor or gas line or well; or
- other maintenance.

In existing production areas, flaring also may be necessary because existing pipelines may have no more capacity. Commission staff issue flare permits for 45 days at a time, for a maximum limit of 180 days. Of the total amount of gas reported to the commission, approximately 0.8 percent is flared/vented gas.



Statewide Rule §3.37 – Statewide Spacing Rule

Statewide Rule 3.37 establishes set back requirements from other wells within the same productive horizon, and property lines to protect correlative rights of offset mineral owners and operators. Statewide default spacing is 467 feet from lease lines and 1,200 feet between wells.

SWR 3.37 includes a process for exceptions - administrative approval if waivers are received, and a hearings process for protested cases.

Statewide Rule §3.38 – Well Density

Statewide Rule 3.38 establishes the minimum number of acres necessary to drill and receive a drilling permit, including provisions for surplus acreage and substandard acreage. The rule may also determine the acreage assignable for allowable proration. Minimum acreage requirements are based on well spacing or special field rules.

Statewide Rule §3.40 – Assignment of Acreage to Pooled Development of Proration Units

Statewide Rule 3.40 allows an operator to pool acreage, in accordance with appropriate contractual authority and applicable field rules, for the purpose of creating a drilling unit or proration unit. In Unconventional Fracture Treated fields defined in SWR §3.86 (relating to Horizontal Drainhole Wells), duplicate assignment of acreage to both a horizontal well and a vertical well for drilling and development or for allocation of allowable is permissible under certain conditions.

Statewide Rule §3.86 – Horizontal Wells

Statewide Rule 3.86 establishes criteria for:

- horizontal wells related to an application to drill, deepen, reenter, or plug back
- gas reservoirs and gas well allowable
- well densities
- assignment of acreage to pooled development and proration units
- oil allowables
- oil potential test forms required
- oil well allowable production
- horizontal drainhole wells, respectively

Additionally, SWR 3.86 establishes a procedure for designating certain fields as unconventional fracture treated fields (“UFT field”). A UFT field is a field in which horizontal drilling and hydraulic fracturing must be used in order to recover resources from all or part of the field and which is developed using either vertical or horizontal drilling techniques. This designation includes shale formations, such as the Eagle Ford and Barnett Shale, in which the drainage of a wellbore is based upon the area reached by the hydraulic fracturing treatments rather than conventional flow patterns.

Statewide Rule §3.1 - Organization Report; Retention of Records; Notice Requirements

Statewide Rule 1 provides that any organization performing operations within the jurisdiction of the commission is required to maintain a current Form P-5, Organization Report. The Organization Report, Form P-5, must be renewed annually. There are currently approximately 8,680 operators in the state, including 4,980 well operators.

Organizations required to maintain a Form P-5 in accordance with associated rules and regulations are also required to submit a filing fee. The Initial Form P-5 filing fee is \$300. The annual renewal filing fee, based on an organization's activities (see Statewide Rule 78) - may be up to \$1,350.

Statewide Rule §3.30 – Memorandum of Understanding Between the Railroad Commission of Texas (RRC) and the Texas Commission on Environmental Quality (TCEQ)

Jurisdiction over surface water, groundwater, and waste management is split by statute between the RRC and the TCEQ as described in Statewide Rule 3.30. The rule clarifies jurisdictional responsibilities specific to each agency.

The RRC is solely responsible for the control and disposition of waste and the abatement and prevention of pollution of surface and subsurface water in the state from activities associated with the exploration, development, and production of oil and gas development, and production. The rule provides specific detail about the role of TCEQ regarding solid waste and water quality.

Appendix A contains a full copy of the memo between the TCEQ and RRC.



Statewide Rule §3.78 - Fees and Financial Security Requirements

Statewide Rule 3.78 requires an organization under the jurisdiction of the RRC to file and maintain financial assurance. There are various options available, but the most commonly used option is a bond, or letter of credit. The amount is based on the total number of wells per operator. The financial assurance requirement is:

- \$25,000 for 1-10 wells
- \$50,000 for 11-99 wells
- \$250,000 for 100 or more wells

Bay and offshore well operators are required to file additional financial assurance, based on the presumed plugging cost for a bay well of \$60,000 and for an offshore well of \$100,000.

Statewide Rule §3.101-Certification for Severance Tax Exemption or Reduction for Gas Produced from High-Cost gas Wells

Statewide Rule 3.101 provides the procedures by which an operator can obtain commission certification that natural gas from a particular gas well qualifies as high-cost gas, and is thus eligible for a reduction of the severance tax imposed by Chapter 201 of the Texas Tax Code.

Statewide Rule §3.107 - Penalty Guidelines for Oil and Gas Violations

Statewide Rule 3.107 establishes a matrix for assessment of administrative penalties for violation of various statewide rules associated with E&P operations. The amount of any penalty requested, recommended, or finally assessed in an enforcement action will be determined on an individual case-by-case basis for each violation, taking into consideration factors such as:

- the person's history of previous violations;
- the seriousness of the violation;
- any hazard to the health or safety of the public; and
- the demonstrated good faith of the person charged.



Texas is fortunate to be home to an abundant supply of natural resources. For over a century, Texans have enjoyed a well-established history of developing these resources as a vital part of Texas' economy, collectively supporting hundreds of thousands of jobs and contributing revenue to the local, state and federal government. This would not be possible without the Railroad Commission's leadership and continued recognition of and appropriate response to an industry that continues to rapidly evolve. Within the past year alone, the commission has taken significant strides to continue to improve efficiencies and effectiveness of oil and gas regulation. Amongst other measures, in 2015 the Railroad Commission:

- launched the new online system homepage featuring personalized interface, improved accessibility and a standards driven global template;
- increased efficiency in processing reports through updated IT improvements;
- added online payments for operators;
- upgraded the inspection management application system with the implementation of ICE;
- updated the process for permitting common carrier status; and
- improved agency efficiencies and reduced administrative burden on the oil and gas industry while ensuring the public and environment is protected.

*Additional improvements that have been made over the past few years to Railroad Commission statewide rules are specified in the table shown in **Appendix M**.*



Abeyance: Temporary inactivity, cessation, or suspension.

Agreed Enforcement Orders: Type of administrative order used when the respondent agrees to the terms and conditions of the administrative order, including the penalty.

Allowable Proration: Amount of oil or gas which a well, leasehold or field may produce per month under proration orders of the Texas Railroad Commission.

Anthropogenic Carbon Dioxide: Portion of carbon dioxide in the atmosphere that is produced directly by human activities, such as the burning of fossil fuels, rather than by such processes as respiration and decay.

Appropriated Receipts: Fees or revenue collected for services performed by the agency which are appropriated to the same agency to help recover costs.

Assignment of Acreage: Dedication of acreage to drilling and proration units, of which is continuous and contiguous acreage which can reasonably be considered to be productive.

Casinghead Gas: Gas found naturally in oil and produced with oil from a well classified as an oil well.

Compressor: Type of pump that increases the pressure of gas. Commonly used as a production rate increase by increasing the gas pressure delivered from low pressure gas wells to enter the pipeline. The intake into the compressor lowers the wellhead pressure creating a larger drawdown.

Compressor Station: Facility that provides energy to move natural gas within a pipeline by increasing the pressure of the gas at the discharge side of the facility compared to the intake side.

Contested Case: Name for quasi-judicial administrative hearings governed by state law. State agencies that make decisions that could affect peoples “rights, duties, and privileges” must have a process for holding contested case hearings. The purpose of these hearings is to provide the decision makers with the most complete and relevant information they need to make a proper decision. These hearings are like an informal court proceeding.

Correlative Rights: Mineral owner’s right to produce oil and gas from a common reservoir.

Disposal Well: Wells that may be used to inject mineralized water produced with oil and gas into underground zones for the purpose of safely and efficiently disposing of the fluid. Typically, the underground interval is one that is not productive of oil and gas.

Double Assignment of Acreage: Acreage assigned to a well for drilling and development, or for allocation of allowable in a specific field, and cannot be assigned to any other well or wells completed or projected to be completed in the same field. The exception to this prohibition is for Unconventional Fracture Treated Fields (relating to horizontal wells). Duplicate assignment of acreage to both a horizontal well and a vertical well for drilling or for allocation is permissible under certain conditions prescribed in Statewide Rule §3.40 (Assignment of Acreage to Pooled Development and Proration Units).

Drilling Unit: Acreage assigned to a well as shown on the plat submitted with the drilling permit application. Drilling units are designated to show the RRC that the operator seeking to drill a well has sufficient unassigned acreage in the tract to meet the applicable density rule for the target field.

Eminent Domain: Power to take private property for public use by a state, municipality, or private person or corporation authorized to exercise functions of public character, following the payment of just compensation to the owner of that property. Generally speaking, common carrier pipelines in Texas have a statutory right of eminent domain, subject to the “public use” requirement. The Railroad Commission does not regulate the exercise of eminent domain by pipelines and does not have authority to determine property rights.

Enhanced Recovery Processes: Type of injection used to increase production and prolong the life of oil producing fields.

Federal Funds: Funds received by the United States government.

Flaring: Controlled burning of natural gas.

FracFocus: A public Internet chemical registry hosted by the Ground Water Protection Council (GWPC) and the Interstate Oil and Gas Compact Commission (IOGCC). The GWPC is a national association of state ground water and underground injection control agencies. The IOGCC is a national commission of state oil and gas regulators.

General Revenue: Fund that receives state tax revenues and fees and available for general spending purposes by the budget writers.

Groundwater Conservation District: Local units of government that are created to manage groundwater resources within their boundaries, with rules providing for conservation, preservation, and protection of groundwater. (A link to a Texas GCD map is located on pg. 51.)

Groundwater Protection Program and Groundwater Protection Determination: States the groundwater and additional isolation zones that should be protected for a well or multiple wells within a specified area.

Hydraulic Fracturing: The stimulation of a well by the application of hydraulic fracturing fluid under pressure for the express purpose of initiating or propagating fractures in a target geologic formation to enhance production of oil and/or natural gas.

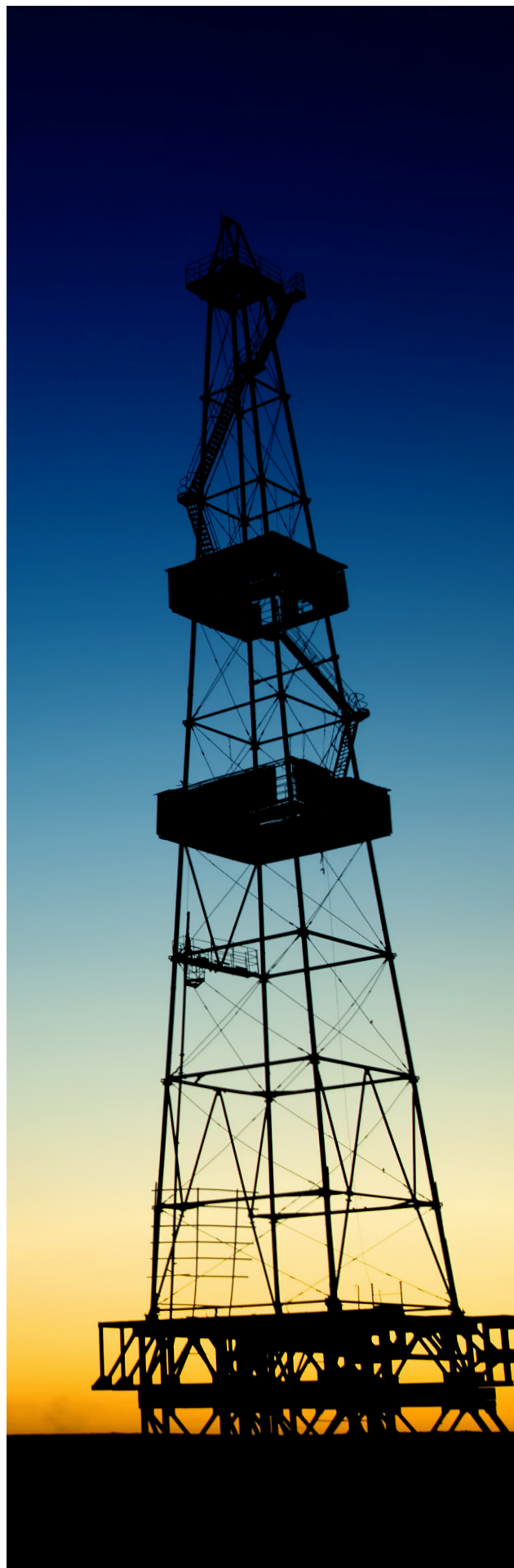
Injection Well: Used to increase or maintain pressure in an oil field that has been depleted by oil production and also to displace or sweep more oil toward producing wells.

Inactive Well: Well that has not produced or otherwise been active for 12 months or longer.

Master Default Orders: Type of administrative order issued when the respondent fails to respond to the enforcement matter within the time frame allowed by the Administrative Procedures Act.

Mineral Interest Pooling Act (MIPA): For the purpose of avoiding the drilling of unnecessary wells, protecting correlative rights, or preventing waste, the RRC may establish a unit and pool all of the interests in the unit when all of the following exists:

- two or more separately owned tracts of land are in a common reservoir which the RRC has established proration units for;



- there are separately owned interests in oil and gas in the reservoir and the owners have no pooling agreement, &;
- at least one of the owners has the right to drill, has drilled or has proposed to drill a well on the existing or proposed proration unit in the common reservoir.

Naturally Occurring Radioactive Material (NORM): NORM encountered in oil and gas exploration, development and production operations originates in subsurface formation, and can be brought to the surface in the formation water that is produced in conjunction with oil and gas.

Orphaned Well: Well that has been inactive 12 months or longer and the current operator as reflected on Railroad Commission records has a delinquent P-5 (Organization Report).

Pooling: Combining separate mineral interests under the pooling clause of the lease agreements to create drilling/proration units.

Primary Recovery: Amount of reserves recovered by primary production, i.e., without injected fluid pressure support.

Proration Unit: Acreage assigned to a well for the purpose of allocating allowable production to the well.

Secondary Recovery: An EOR process, commonly referred to as waterflooding, where salt water co-produced with oil and gas is reinjected into the oil producing formation to drive oil into pumping wells, resulting in the recovery of additional oil.

Severance/Seal Order: Order issued when an operator fails to remedy violations of commission rules. The order prohibits the operator from producing, selling hydrocarbons, or otherwise using any of the wells under the order, until the violation has been corrected and a statutory fee has been paid.

Sour Gas: Natural gas or any other gas containing significant amounts of hydrogen sulfide (H₂S). Natural gas is usually considered sour if there are more than 5.7 milligrams of H₂S per cubic meter of natural gas, which is equivalent to approximately 4 ppm. The commission's Safety Rule for sour gas is based on concentrations of 100 ppm or more.

Special Field Rules: Rules adopted by the RRC that govern the drilling and production of wells in a specific field. Special Field Rules are adopted following contested case procedures in the Texas Administrative Code and require an evidentiary hearing. In the absence of special field rules, statewide rules control.

Spud: To start the well drilling process by removing rock, dirt and other sedimentary material with a drill bit.

Tank Batteries: A storage and separation location for oil, natural gas, and associated fluids.

Tertiary Recovery: An EOR process that is used after secondary recovery methods become inefficient or uneconomical. Tertiary recovery methods include the injection of gases, enhanced waters and steam in order to maintain and extend oil production.

Venting: The controlled release of gases into the atmosphere in the course of oil and gas production operations.

APA: Administrative Procedures Act	H₂S: Hydrogen Sulfide	PUF: Permanent University Fund
API: American Petroleum Institute	ICE: Inspection, Compliance and Enforcement	RCRA: Resource Conservation and Recovery Act
BCF: one billion cubic feet	LNG: liquefied natural gas	RRC: Railroad Commission
Bbl: Barrel (1 barrel equals 42 gallons)	LPG: liquefied petroleum gas	SDWA: Safe Drinking Water Act
BLM: Bureau of Land Management	MCF: one thousand cubic feet	SWR: Statewide Rule
CNG: Compressed Natural Gas	MOU: Memorandum of Understanding	TAC: Texas Administrative Code
CO₂: Carbon Dioxide	NORM: Naturally Occurring Radioactive Material	TCEQ: Texas Commission on Environmental Quality
DSHS: Texas Department of State Health Services	NOV: Notice of Violation	TNRCC: Texas Natural Resource Conservation Commission
E&P: exploration and production	OFCU: Oil Field Cleanup	UFT: Unconventional Fracture Treated
EPA: Environmental Protection Agency	PFD: Proposal For Decision	UIC: Underground Injection Control
FTE: Full-time equivalent	PHMSA: Pipeline and Hazardous Materials Safety Administration	UL: University Lands
FY: Fiscal Year	PPM: Parts per million	WHP: Waste Hauler Permit
GAU: Groundwater Advisory Unit	PSF: Permanent School Fund	
GIS: Geographic Information System	PUC: Public Utility Commission	
GLO: General Land Office		



Railroad Commission Self Evaluation Report

<http://www.rrc.state.tx.us/media/30156/final-self-evaluation-report-2015.pdf>

Powerpoint Presentation on Jurisdiction between RRC and TCEQ

www.rrc.state.tx.us/media/22844/21-oil-and-gas-industry-regulatory-jurisdictions.pdf

TCEQ Sunset Self Evaluation with Jurisdiction Information

https://www.tceq.texas.gov/assets/public/comm_exec/pubs/sfr/089/chapterVIII.pdf

RRC Disposal vs. Injection Well

<http://www.rrc.state.tx.us/about-us/resource-center/faqs/oil-gas-faqs/faq-injection-and-disposal-wells/>

Budget 101 Report

http://www.senate.state.tx.us/SRC/pdf/Budget101WebsiteSecured_2013.pdf

Oil Field Cleanup program Annual Report: Fiscal Year 2015

<http://www.rrc.state.tx.us/media/31235/ogrc2015.pdf>

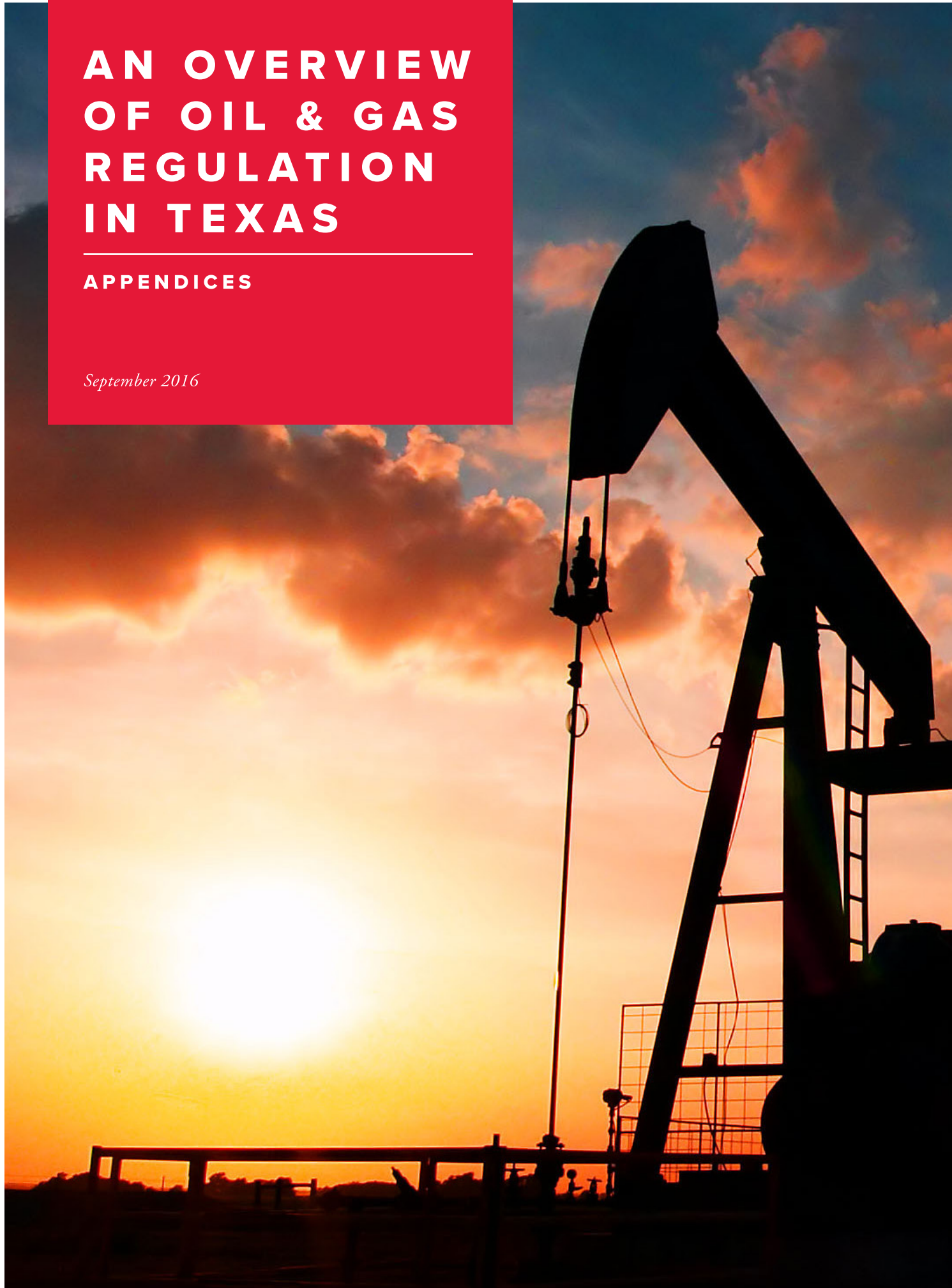
Groundwater Conservation Districts of Texas: Map

http://www.twdb.texas.gov/mapping/doc/maps/GCDs_8x11.pdf

AN OVERVIEW OF OIL & GAS REGULATION IN TEXAS

APPENDICES

September 2016



<i>Appendix A</i>	Memorandum of Understanding between the TCEQ and RRC	pg. 54
<i>Appendix B</i>	Contains additional information about Railroad Commission Offices	pg. 67
<i>Appendix C</i>	Map of the Railroad Commission Districts	pg. 70
<i>Appendix D</i>	Map identifying the location of oil and gas wells	pg. 71
<i>Appendix E</i>	Map of the pipelines in Texas	pg. 72
<i>Appendix F</i>	Breakdown of RRC funding sources from FY 2010 to FY 2017	pg. 73
<i>Appendix G</i>	Information on Railroad Commission surcharges	pg. 74
<i>Appendix H</i>	Information from the Comptroller's Office on the Economic Stabilization Fund	pg. 78
<i>Appendix I</i>	List of incentives for oil and gas producers	pg. 82
<i>Appendix J</i>	Well history distribution chart with information on the amount of orphaned wells from 2002- 2016	pg. 86
<i>Appendix K</i>	List of factors taken into account in prioritizing plugging a well	pg. 87
<i>Appendix L</i>	Well distribution chart that is published by the Railroad Commission every month	pg. 88
<i>Appendix M</i>	List of significant accomplishments at the RRC in the last few years	pg. 89

TEXAS ADMINISTRATIVE CODE
TITLE 16 – ECONOMIC REGULATION
PART 1 – RAILROAD COMMISSION OF TEXAS
CHAPTER 3 – OIL AND GAS DIVISION

RULE §3.30 – Memorandum of Understanding between the Railroad Commission of Texas (RRC) and the Texas Commission on Environmental Quality (TCEQ)

(a) Need for agreement. Several statutes cover persons and activities where the respective jurisdictions of the RRC and the TCEQ may intersect. This rule is a statement of how the agencies implement the division of jurisdiction.

(1) Section 10 of House Bill 1407, 67th Legislature, 1981, which appeared as a footnote to the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, provides as follows: On or before January 1, 1982, the Texas Department of Water Resources, the Texas Department of Health, and the Railroad Commission of Texas shall execute a memorandum of understanding that specifies in detail these agencies' interpretation of the division of jurisdiction among the agencies over waste materials that result from or are related to activities associated with the exploration for and the development, production, and refining of oil or gas. The agencies shall amend the memorandum of understanding at any time that the agencies find it to be necessary.

(2) Texas Health and Safety Code, §401.414, relating to Memoranda of Understanding, requires the Railroad Commission of Texas and the Texas Commission on Environmental Quality to adopt a memorandum of understanding (MOU) defining the agencies' respective duties under Texas Health and Safety Code, Chapter 401, relating to radioactive materials and other sources of radiation. Texas Health and Safety Code, §401.415, relating to oil and gas naturally occurring radioactive material (NORM) waste, provides that the Railroad Commission of Texas shall issue rules on the management of oil and gas NORM waste, and in so doing shall consult with the Texas Natural Resource Conservation Commission (now TCEQ) and the Department of Health (now Department of State Health Services) regarding protection of the public health and the environment.

(3) Texas Water Code, Chapters 26 and 27, provide that the Railroad Commission and TCEQ collaborate on matters related to discharges, surface water quality, groundwater protection, underground injection control and geologic storage of carbon dioxide. Texas Water Code, §27.049, relating to Memorandum of Understanding, requires the RRC and TCEQ to adopt a new MOU or amend the existing MOU to reflect the agencies' respective duties under Texas Water Code, Chapter 27, Subchapter C-1 (relating to Geologic Storage and Associated Injection of Anthropogenic Carbon Dioxide).

(4) The original MOU between the agencies adopted pursuant to House Bill 1407 (67th Legislature, 1981) became effective January 1, 1982. The MOU was revised effective December 1, 1987, May 31, 1998, and again on August 30, 2010, to reflect legislative clarification of the Railroad Commission's jurisdiction over oil and gas wastes and the Texas Natural Resource Conservation Commission's (the combination of the Texas Water Commission, the Texas Air Control Board, and portions of the Texas Department of Health) jurisdiction over industrial and hazardous wastes.

(5) The agencies have determined that the revised MOU that became effective on August 30, 2010, should again be revised to further clarify jurisdictional boundaries and to reflect legislative changes in agency responsibility.

(b) General agency jurisdictions.

(1) Texas Commission on Environmental Quality (TCEQ) (the successor agency to the Texas Natural Resource Conservation Commission).

(A) Solid waste. Under Texas Health and Safety Code, Chapter 361, §§361.001 - 361.754, the TCEQ has jurisdiction over solid waste. The TCEQ's jurisdiction encompasses hazardous and nonhazardous, industrial and municipal, solid wastes.

(i) Under Texas Health and Safety Code, §361.003(34), solid waste under the jurisdiction of the TCEQ is defined to include "garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities."

(ii) Under Texas Health and Safety Code, §361.003(34), the definition of solid waste excludes “material which results from activities associated with the exploration, development, or production of oil or gas or geothermal resources and other substance or material regulated by the Railroad Commission of Texas pursuant to Section 91.101, Natural Resources Code. . . .”

(iii) Under Texas Health and Safety Code, §361.003(34), the definition of solid waste includes the following until the United States Environmental Protection Agency (EPA) delegates its authority under the Resource Conservation and Recovery Act, 42 United States Code (U.S.C.) §6901, et seq., (RCRA) to the RRC: “waste, substance or material that results from activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants and is a hazardous waste as defined by the administrator of the EPA. . . .”

(iv) After delegation of RCRA authority to the RRC, the definition of solid waste (which defines TCEQ’s jurisdiction) will not include hazardous wastes arising out of or incidental to activities associated with gasoline plants, natural gas or natural gas liquids processing plants, or reservoir pressure maintenance or repressurizing plants. The term natural gas or natural gas liquids processing plant refers to a plant the primary function of which is the extraction of natural gas liquids from field gas or fractionation of natural gas liquids. The term does not include a separately located natural gas treating plant for which the primary function is the removal of carbon dioxide, hydrogen sulfide, or other impurities from the natural gas stream. A separator, dehydration unit, heater treater, sweetening unit, compressor, or similar equipment is considered a part of a natural gas or natural gas liquids processing plant only if it is located at a plant the primary function of which is the extraction of natural gas liquids from field gas or fractionation of natural gas liquids. Further, a pressure maintenance or repressurizing plant is a plant for processing natural gas for reinjection (for reservoir pressure maintenance or repressurization) in a natural gas recycling project. A compressor station along a natural gas pipeline system or a pump station along a crude oil pipeline system is not a pressure maintenance or repressurizing plant.

(B) Water quality.

(i) Discharges under Texas Water Code, Chapter 26. Under the Texas Water Code, Chapter 26, the TCEQ has jurisdiction over discharges into or adjacent to water in the state, except for discharges regulated by the RRC.

(ii) Storm water. TCEQ has jurisdiction over storm water discharges that are required to be permitted pursuant to Title 40 Code of Federal Regulations (CFR) Part 122.26, except for discharges regulated by the RRC. Discharge of storm water regulated by TCEQ may be authorized by an individual Texas Pollutant Discharge Elimination System (TPDES) permit or by a general TPDES permit. These storm water permits may also include authorizations for certain minor types of non-storm water discharges.

(I) Storm water associated with industrial activities. The TCEQ regulates storm water discharges associated with certain industrial activities under individual TPDES permits and under the TPDES Multi-Sector General Permit, except for discharges associated with industrial activities under the jurisdiction of the RRC.

(II) Storm water associated with construction activities. The TCEQ regulates storm water discharges associated with construction activities, except for discharges from construction activities under the jurisdiction of the RRC.

(III) Municipal storm water discharges. The TCEQ has jurisdiction over discharges from regulated municipal storm sewer systems (MS4s).

(IV) Combined storm water. Except with regard to storage of oil, when a portion of a site is regulated by the TCEQ, and a portion of a site is regulated by the EPA and RRC, storm water authorization must be obtained from the TCEQ for the portion(s) of the site regulated by the TCEQ, and from the EPA and the RRC, as applicable, for the RRC regulated portion(s) of the site. Discharge of storm water from a facility that stores both refined products intended for off-site use and crude oil in aboveground tanks is regulated by the TCEQ.

(iii) State water quality certification. Under the Clean Water Act (CWA) Section 401 (33 U.S.C. Section 1341), the TCEQ performs state water quality certifications for activities that require a federal license or permit and that may result in a discharge to waters of the United States, except for those activities regulated by the RRC.

(iv) Commercial brine extraction and evaporation. Under Texas Water Code, §26.132, the TCEQ has jurisdiction over evaporation pits operated for the commercial production of brine water, minerals, salts, or other substances that naturally occur in groundwater and that are not regulated by the RRC.

(C) Injection wells. Under the Texas Water Code, Chapter 27, the TCEQ has jurisdiction to regulate and authorize the drilling, construction, operation, and closure of injection wells unless the activity is subject to the jurisdiction of the RRC. Injection wells under TCEQ's jurisdiction are identified in 30 TAC §331.11 (relating to Classification of Injection Wells) and include:

- (i) Class I injection wells for the disposal of hazardous, radioactive, industrial or municipal waste that inject fluids below the lower-most formation which within 1/4 mile of the wellbore contains an underground source of drinking water;
- (ii) Class III injection wells for the extraction of minerals including solution mining of sodium sulfate, sulfur, potash, phosphate, copper, uranium and the mining of sulfur by the Frasch process;
- (iii) Class IV injection wells for the disposal of hazardous or radioactive waste which inject fluids into or above formations that contain an underground source of drinking water; and
- (iv) Class V injection wells that are not under the jurisdiction of the RRC, such as aquifer remediation wells, aquifer recharge wells, aquifer storage wells, large capacity septic systems, storm water drainage wells, salt water intrusion barrier wells, and closed loop geothermal wells.

(2) Railroad Commission of Texas (RRC).

(A) Oil and gas waste.

(i) Under Texas Natural Resources Code, Title 3, and Texas Water Code, Chapter 26, wastes (both hazardous and nonhazardous) resulting from activities associated with the exploration, development, or production of oil or gas or geothermal resources, including storage, handling, reclamation, gathering, transportation, or distribution of crude oil or natural gas by pipeline, 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, are under the jurisdiction of the RRC, except as noted in clause

(ii) of this subparagraph. These wastes are termed "oil and gas wastes." In compliance with Texas Health and Safety Code, §361.025 (relating to exempt activities), a list of activities that generate wastes that are subject to the jurisdiction of the RRC is found at §3.8(a)(30) of this title (relating to Water Protection) and at 30 TAC §335.1 (relating to Definitions), which contains a definition of "activities associated with the exploration, development, and production of oil or gas or geothermal resources." Under Texas Health and Safety Code, §401.415, the RRC has jurisdiction over the disposal of oil and gas naturally occurring radioactive material (NORM) waste that constitutes, is contained in, or has contaminated oil and gas waste.

(iii) Hazardous wastes arising out of or incidental to activities associated with gasoline plants, natural gas or natural gas liquids processing plants or reservoir pressure maintenance or repressurizing plants are subject to the jurisdiction of the TCEQ until the RRC is authorized by EPA to administer RCRA. When the RRC is authorized by EPA to administer RCRA, jurisdiction over such hazardous wastes will transfer from the TCEQ to the RRC.

(B) Water quality.

(i) Discharges. Under Texas Natural Resources Code, Title 3, and Texas Water Code, Chapter 26, the RRC regulates discharges from activities associated with the exploration, development, or production of oil, gas, or geothermal resources, including transportation of crude oil and natural gas by pipeline, and from solution brine mining activities. Discharges regulated by the RRC into or adjacent to water in the state shall not cause a violation of the water quality standards. While water quality standards are established by the TCEQ, the RRC has the responsibility for enforcing any violation of such standards resulting from activities regulated by the RRC. Texas Water Code, Chapter 26, does not require that discharges regulated by the RRC comply with regulations of the TCEQ that are not water quality standards. The TCEQ and the RRC may consult as necessary regarding application and interpretation of Texas Surface Water Quality Standards.

(ii) Storm water. When required by federal law, authorization for storm water discharges that are under the jurisdiction of the RRC must be obtained through application for a National Pollutant Discharge Elimination System (NPDES) permit with the EPA and authorization from the RRC, as applicable.

(I) Storm water associated with industrial activities. Where required by federal law, discharges of storm water associated with facilities and activities under the RRC's jurisdiction must be authorized by the EPA and the RRC, as applicable. Under 33 U.S.C. §1342(l)(2) and §1362(24), EPA cannot require a permit for discharges of storm water from "field activities or operations associated with {oil and gas} exploration, production, processing, or treatment operations, or transmission facilities" unless the discharge is contaminated by contact with any overburden, raw material, intermediate product, finished product, byproduct, or waste product located on the site of the facility. Under §3.8 of this title (relating to Water Protection), the RRC prohibits operators from causing or allowing pollution of surface or subsurface water. Operators are encouraged to implement and maintain Best Management Practices (BMPs) to minimize discharges of pollutants, including sediment, in storm water to help ensure protection of surface water quality during storm events.

(II) Storm water associated with construction activities. Where required by federal law, discharges of storm water associated with construction activities under the RRC's jurisdiction must be authorized by the EPA and the RRC, as applicable. Activities under RRC jurisdiction include construction of a facility that, when completed, would be associated with the exploration, development, or production of oil or gas or geothermal resources, such as a well site; treatment or storage facility; underground hydrocarbon or natural gas storage facility; reclamation plant; gas processing facility; compressor station; terminal facility where crude oil is stored prior to refining and at which refined products are stored solely for use at the facility; a carbon dioxide geologic storage facility under the jurisdiction of the RRC; and a gathering, transmission, or distribution pipeline that will transport crude oil or natural gas, including natural gas liquids, prior to refining of such oil or the use of the natural gas in any manufacturing process or as a residential or industrial fuel. The RRC also has jurisdiction over storm water from land disturbance associated with a site survey that is conducted prior to construction of a facility that would be regulated by the RRC. Under 33 U.S.C. §1342(l)(2) and §1362(24), EPA cannot require a permit for discharges of storm water from "field activities or operations associated with {oil and gas} exploration, production, processing, or treatment operations, or transmission facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such field activities or operations may be considered to be construction activities" unless the discharge is contaminated by contact with any overburden, raw material, intermediate product, finished product, byproduct, or waste product located on the site of the facility. Under §3.8 of this title (relating to Water Protection), the RRC prohibits operators from causing or allowing pollution of surface or subsurface water. Operators are encouraged to implement and maintain BMPs to minimize discharges of pollutants, including sediment, in storm water during construction activities to help ensure protection of surface water quality during storm events.

(III) Municipal storm water discharges. Storm water discharges from facilities regulated by the RRC located within an MS4 are not regulated by the TCEQ. However, a municipality may regulate storm water discharges from RRC sites into their MS4.

(IV) Combined storm water. Except with regard to storage of oil, when a portion of a site is regulated by the RRC and the EPA, and a portion of a site is regulated by the TCEQ, storm water authorization must be obtained from the EPA and the RRC, as applicable, for the portion(s) of the site under RRC jurisdiction and from the TCEQ for the TCEQ regulated portion(s) of the site. Discharge of storm water from a terminal facility where crude oil is stored prior to refining and at which refined products are stored solely for use at the facility is under the jurisdiction of the RRC.

(iii) State water quality certification. The RRC performs state water quality certifications, as authorized by the Clean Water Act (CWA) Section 401 (33 U.S.C. Section 1341) for activities that require a federal license or

permit and that may result in any discharge to waters of the United States for those activities regulated by the RRC.

(C) Injection wells. The RRC has jurisdiction over the drilling, construction, operation, and closure of the following injection wells.

(i) Disposal wells. The RRC has jurisdiction under Texas Water Code, Chapter 27, over injection wells used to dispose of oil and gas waste. Texas Water Code, Chapter 27, defines “oil and gas waste” to mean “waste arising out of or incidental to drilling for or producing of oil, gas, or geothermal resources, waste arising out of or incidental to the underground storage of hydrocarbons other than storage in artificial tanks or containers, or waste arising out of or incidental to the operation of gasoline plants, natural gas processing plants, or pressure maintenance or repressurizing plants. The term includes but is not limited to salt water, brine, sludge, drilling mud, and other liquid or semi-liquid waste material.” The term “waste arising out of or incidental to drilling for or producing of oil, gas, or geothermal resources” includes waste associated with transportation of crude oil or natural gas by pipeline pursuant to Texas Natural Resources Code, §91.101.

(ii) Enhanced recovery wells. The RRC has jurisdiction over wells into which fluids are injected for enhanced recovery of oil or natural gas.

(iii) Brine mining. Under Texas Water Code, §27.036, the RRC has jurisdiction over brine mining and may issue permits for injection wells.

(iv) Geologic storage of carbon dioxide. Under Texas Water Code, §27.011 and §27.041, and subject to the review of the legislature based on the recommendations made in the preliminary report described by Section 10, Senate Bill No. 1387, Acts of the 81st Legislature, Regular Session (2009), the RRC has jurisdiction over geologic storage of carbon dioxide in, and the injection of carbon dioxide into, a reservoir that is initially or may be productive of oil, gas, or geothermal resources or a saline formation directly above or below that reservoir and over a well used for such injection purposes regardless of whether the well was initially completed for that purpose or was initially completed for another purpose and converted.

(v) Hydrocarbon storage. The RRC has jurisdiction over wells into which fluids are injected for storage of hydrocarbons that are liquid at standard temperature and pressure.

(vi) Geothermal energy. Under Texas Natural Resources Code, Chapter 141, the RRC has jurisdiction over injection wells for the exploration, development, and production of geothermal energy and associated resources.

(vii) In-situ tar sands. Under Texas Water Code, §27.035, the RRC has jurisdiction over the in situ recovery of tar sands and may issue permits for injection wells used for the in situ recovery of tar sands.

(c) Definition of hazardous waste.

(1) Under the Texas Health and Safety Code, §361.003(12), a “hazardous waste” subject to the jurisdiction of the TCEQ is defined as “solid waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. §6901, et seq.).” Similarly, under Texas Natural Resources Code, §91.601(1), “oil and gas hazardous waste” subject to the jurisdiction of the RRC is defined as an “oil and gas waste that is a hazardous waste as defined by the administrator of the United States Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §§6901, et seq.).”

(2) Federal regulations adopted under authority of the federal Solid Waste Disposal Act, as amended by RCRA, exempt from regulation as hazardous waste certain oil and gas wastes. Under 40 Code of Federal Regulations (CFR) §261.4(b) (5), “drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas or geothermal energy” are described as wastes that are exempt from federal hazardous waste regulations.

(3) A partial list of wastes associated with oil, gas, and geothermal exploration, development, and production that are considered exempt from hazardous waste regulation under RCRA can be found in EPA's "Regulatory Determination for Oil and Gas and Geothermal Exploration, Development and Production Wastes," 53 FedReg 25,446 (July 6, 1988). A further explanation of the exemption can be found in the "Clarification of the Regulatory Determination for Wastes from the Exploration, Development and Production of Crude Oil, Natural Gas and Geothermal Energy," 58 FedReg 15,284 (March 22, 1993). The exemption codified at 40 CFR §261.4(b)(5) and discussed in the Regulatory Determination has been, and may continue to be, clarified in subsequent guidance issued by the EPA.

(d) Jurisdiction over waste from specific activities.

(1) Drilling, operation, and plugging of wells associated with the exploration, development, or production of oil, gas, or geothermal resources. Wells associated with the exploration, development, or production of oil, gas, or geothermal resources include exploratory wells, cathodic protection holes, core holes, oil wells, gas wells, geothermal resource wells, fluid injection wells used for secondary or enhanced recovery of oil or gas, oil and gas waste disposal wells, and injection water source wells. Several types of waste materials can be generated during the drilling, operation, and plugging of these wells. These waste materials include drilling fluids (including water-based and oil-based fluids), cuttings, produced water, produced sand, waste hydrocarbons (including used oil), fracturing fluids, spent acid, workover fluids, treating chemicals (including scale inhibitors, emulsion breakers, paraffin inhibitors, and surfactants), waste cement, filters (including used oil filters), domestic sewage (including waterborne human waste and waste from activities such as bathing and food preparation), and trash (including inert waste, barrels, dope cans, oily rags, mud sacks, and garbage). Generally, these wastes, whether disposed of by discharge, landfill, land farm, evaporation, or injection, are subject to the jurisdiction of the RRC. Wastes from oil, gas, and geothermal exploration activities subject to regulation by the RRC when those wastes are to be processed, treated, or disposed of at a solid waste management facility authorized by the TCEQ under 30 TAC Chapter 330 are, as defined in 30 TAC §330.3(148) (relating to Definitions), "special wastes."

(2) Field treatment of produced fluids. Oil, gas, and water produced from oil, gas, or geothermal resource wells may be treated in the field in facilities such as separators, skimmers, heater treaters, dehydrators, and sweetening units. Waste that results from the field treatment of oil and gas include waste hydrocarbons (including used oil), produced water, hydrogen sulfide scavengers, dehydration wastes, treating and cleaning chemicals, filters (including used oil filters), asbestos insulation, domestic sewage, and trash are subject to the jurisdiction of the RRC.

(3) Storage of oil.

(A) Tank bottoms and other wastes from the storage of crude oil (whether foreign or domestic) before it enters the refinery are under the jurisdiction of the RRC. In addition, waste resulting from storage of crude oil at refineries is subject to the jurisdiction of the TCEQ.

(B) Wastes generated from storage tanks that are part of the refinery and wastes resulting from the wholesale and retail marketing of refined products are subject to the jurisdiction of the TCEQ.

(4) Underground hydrocarbon storage. The disposal of wastes, including saltwater, resulting from the construction, creation, operation, maintenance, closure, or abandonment of an "underground hydrocarbon storage facility" is subject to the jurisdiction of the RRC, provided the terms "hydrocarbons" and "underground hydrocarbon storage facility" have the meanings set out in Texas Natural Resources Code, §91.201.

(5) Underground natural gas storage. The disposal of wastes resulting from the construction, operation, or abandonment of an "underground natural gas storage facility" is subject to the jurisdiction of the RRC, provided that the terms "natural gas" and "storage facility" have the meanings set out in Texas Natural Resources Code, §91.173.

(6) Transportation of crude oil or natural gas.

(A) Jurisdiction over pipeline-related activities. The RRC has jurisdiction over matters related to pipeline safety for pipelines in Texas, as referenced in §8.1 of this title (relating to General Applicability and Standards) pursuant to Chapter 121 of the Texas Utilities Code and Chapter 117 of the Texas Natural Resources Code. The RRC has jurisdiction over spill response and remediation of releases from pipelines transporting crude oil, natural gas, and condensate that originate from exploration and production facilities to the refinery gate. The RRC has

jurisdiction over waste generated by construction and operation of pipelines used to transport crude oil, natural gas, and condensate on an oil and gas lease, and from exploration and production facilities to the refinery gate. The RRC is responsible for water quality certification issues related to construction and operation of pipelines used to transport crude oil, natural gas, and condensate on an oil and gas lease, and from exploration and production facilities to the refinery gate. The RRC has jurisdiction over waste generated by construction and operation of pipelines transporting carbon dioxide.

(B) Crude oil and natural gas are transported by railcars, tank trucks, barges, tankers, and pipelines. The RRC has jurisdiction over waste from the transportation of crude oil by pipeline, regardless of the crude oil source (foreign or domestic) prior to arrival at a refinery. The RRC also has jurisdiction over waste from the transportation by pipeline of natural gas, including natural gas liquids, prior to the use of the natural gas in any manufacturing process or as a residential or industrial fuel. The transportation wastes subject to the jurisdiction of the RRC include wastes from pipeline compressor or pressure stations and wastes from pipeline hydrostatic pressure tests and other pipeline operations. These wastes include waste hydrocarbons (including used oil), treating and cleaning chemicals, filters (including used oil filters), scraper trap sludge, trash, domestic sewage, wastes contaminated with polychlorinated biphenyls (PCBs) (including transformers, capacitors, ballasts, and soils), soils contaminated with mercury from leaking mercury meters, asbestos insulation, transite pipe, and hydrostatic test waters.

(C) The TCEQ has jurisdiction over waste from transportation of refined products by pipeline.

(D) The TCEQ also has jurisdiction over wastes associated with transportation of crude oil and natural gas, including natural gas liquids, by railcar, tank truck, barge, or tanker.

(7) Reclamation plants.

(A) The RRC has jurisdiction over wastes from reclamation plants that process wastes from activities associated with the exploration, development, or production of oil, gas, or geothermal resources, such as lease tank bottoms. Waste management activities of reclamation plants for other wastes are subject to the jurisdiction of the TCEQ.

(B) The RRC has jurisdiction over the conservation and prevention of waste of crude oil and therefore must approve all movements of crude oil-containing materials to reclamation plants. The applicable statute and regulations consist primarily of reporting requirements for accounting purposes.

(8) Refining of oil.

(A) The management of wastes resulting from oil refining operations, including spent caustics, spent catalysts, still bottoms or tars, and American Petroleum Institute (API) separator sludges, is subject to the jurisdiction of the TCEQ. The processing of light ends from the distillation and cracking of crude oil or crude oil products is considered to be a refining operation. The term “refining” does not include the processing of natural gas or natural gas liquids.

(B) The RRC has jurisdiction over refining activities for the conservation and the prevention of waste of crude oil. The RRC requires that all crude oil streams into or out of a refinery be reported for accounting purposes. In addition, the RRC requires that materials recycled and used as a fuel, such as still bottoms or waste crude oil, be reported.

(9) Natural gas or natural gas liquids processing plants (including gas fractionation facilities) and pressure maintenance or repressurizing plants. Wastes resulting from activities associated with these facilities include produced water, cooling tower water, sulfur bead, sulfides, spent caustics, sweetening agents, spent catalyst, waste hydrocarbons (including used oil), asbestos insulation, wastes contaminated with PCBs (including transformers, capacitors, ballasts, and soils), treating and cleaning chemicals, filters, trash, domestic sewage, and dehydration materials. These wastes are subject to the jurisdiction of the RRC under Texas Natural Resources Code, §1.101. Disposal of waste from activities associated with natural gas or natural gas liquids processing plants (including gas fractionation facilities), and pressure maintenance or repressurizing plants by injection is subject to the jurisdiction of the RRC under Texas Water Code, Chapter 27. However, until delegation of authority under RCRA to the RRC, the TCEQ shall have jurisdiction over wastes resulting from these activities that are not exempt from federal hazardous waste regulation under RCRA and that are considered hazardous under applicable federal rules.

(10) Manufacturing processes.

(A) Wastes that result from the use of natural gas, natural gas liquids, or products refined from crude oil in any manufacturing process, such as the production of petrochemicals or plastics, or from the manufacture of carbon

black, are industrial wastes subject to the jurisdiction of the TCEQ. The term “manufacturing process” does not include the processing (including fractionation) of natural gas or natural gas liquids at natural gas or natural gas liquids processing plants.

(B) The RRC has jurisdiction under Texas Natural Resources Code, Chapter 87, to regulate the use of natural gas in the production of carbon black.

(C) Biofuels. The TCEQ has jurisdiction over wastes associated with the manufacturing of biofuels and biodiesel. TCEQ Regulatory Guidance Document RG-462 contains additional information regarding biodiesel manufacturing in the state of Texas.

(11) Commercial service company facilities and training facilities.

(A) The TCEQ has jurisdiction over wastes generated at facilities, other than actual exploration, development, or production sites (field sites), where oil and gas industry workers are trained. In addition, the TCEQ has jurisdiction over wastes generated at facilities where materials, processes, and equipment associated with oil and gas industry operations are researched, developed, designed, and manufactured. However, wastes generated from tests of materials, processes, and equipment at field sites are under the jurisdiction of the RRC.

(B) The TCEQ also has jurisdiction over waste generated at commercial service company facilities operated by persons providing equipment, materials, or services (such as drilling and work over rig rental and tank rental; equipment repair; drilling fluid supply; and acidizing, fracturing, and cementing services) to the oil and gas industry. These wastes include the following wastes when they are generated at commercial service company facilities: empty sacks, containers, and drums; drum, tank, and truck rinsate; sandblast media; painting wastes; spent solvents; spilled chemicals; waste motor oil; and unused fracturing and acidizing fluids.

(C) The term “commercial service company facility” does not include a station facility such as a warehouse, pipeyard, or equipment storage facility belonging to an oil and gas operator and used solely for the support of that operator’s own activities associated with the exploration, development, or production activities.

(D) Notwithstanding subparagraphs (A) - (C) of this paragraph, the RRC has jurisdiction over disposal of oil and gas wastes, such as waste drilling fluids and NORM-contaminated pipe scale, in volumes greater than the incidental volumes usually received at such facilities, that are managed at commercial service company facilities.

(E) The RRC also has jurisdiction over wastes such as vacuum truck rinsate and tank rinsate generated at facilities operated by oil and gas waste haulers permitted by the RRC pursuant to §3.8(f) of this title (relating to Water Protection).

(12) Mobile offshore drilling units (MODUs). MODUs are vessels capable of engaging in drilling operations for exploring or exploiting subsea oil, gas, or mineral resources.

(A) The RRC and, where applicable, the EPA, the U.S. Coast Guard, or the Texas General Land Office (GLO), have jurisdiction over discharges from an MODU when the unit is being used in connection with activities associated with the exploration, development, or production of oil or gas or geothermal resources.

(B) The TCEQ and, where applicable, the EPA, the U.S. Coast Guard, or the GLO, have jurisdiction over discharges from an MODU when the unit is being serviced at a maintenance facility.

(C) Where applicable, the EPA, the U.S. Coast Guard, or the GLO has jurisdiction over discharges from an MODU during transportation from shore to exploration, development or production site, transportation between sites, and transportation to a maintenance facility.

(e) Interagency activities.

(1) Recycling and pollution prevention.

(A) The TCEQ and the RRC encourage generators to eliminate pollution at the source and recycle whenever possible to avoid disposal of solid wastes. Questions regarding source reduction and recycling may be directed to the TCEQ Small Business and Environmental Assistance (SBEA) Division, or to the RRC. The TCEQ may require generators to explore source reduction and recycling alternatives prior to authorizing disposal of any waste under the jurisdiction of the RRC at a facility regulated by the TCEQ; similarly, the RRC may explore source reduction and recycling alternatives prior to authorizing disposal of any waste under the jurisdiction of the TCEQ at a facility

regulated by the RRC.

(B) The TCEQ SBEA Division and the RRC will coordinate as necessary to maintain a working relationship to enhance the efforts to share information and use resources more efficiently. The TCEQ SBEA Division will make the proper TCEQ personnel aware of the services offered by the RRC, share information with the RRC to maximize services to oil and gas operators, and advise oil and gas operators of RRC services. The RRC will make the proper RRC personnel aware of the services offered by the TCEQ SBEA Division, share information with the TCEQ SBEA Division to maximize services to industrial operators, and advise industrial operators of the TCEQ SBEA Division services.

(2) Treatment of wastes under RRC jurisdiction at facilities authorized by the TCEQ under 30 TAC Chapter 334, Subchapter K, (relating to Storage, Treatment, and Reuse Procedures for Petroleum-Substance Contaminated Soil).

(A) Soils contaminated with constituents that are physically and chemically similar to those normally found in soils at leaking underground petroleum storage tanks from generators under the jurisdiction of the RRC are eligible for treatment at TCEQ regulated soil treatment facilities once alternatives for recycling and source reduction have been explored. For the purpose of this provision, soils containing petroleum substance(s) as defined in 30 TAC §334.481 (relating to Definitions) are considered to be similar, but drilling muds, acids, or other chemicals used in oil and gas activities are not considered similar. Generators under the jurisdiction of the RRC must meet the same requirements as generators under the jurisdiction of the TCEQ when sending their petroleum contaminated soils to soil treatment facilities under TCEQ jurisdiction. Those requirements are in 30 TAC §334.496 (relating to Shipping Procedures Applicable to Generators of Petroleum-Substance Waste), except subsection (c) which is not applicable, and 30 TAC §334.497 (relating to Recordkeeping and Reporting Procedures Applicable to Generators). RRC generators with questions on these requirements should contact the TCEQ.

(B) Generators under RRC jurisdiction should also be aware that TCEQ regulated soil treatment facilities are required by 30 TAC §334.499 (relating to Shipping Requirements Applicable to Owners or Operators of Storage, Treatment, or Disposal Facilities) to maintain documentation on the soil sampling and analytical methods, chain-of-custody, and all analytical results for the soil received at the facility and transported off-site or reused on-site.

(C) The RRC must specifically authorize management of contaminated soils under its jurisdiction at facilities authorized by the TCEQ under 30 TAC Chapter 334, Subchapter K. The RRC may grant such authorizations by rule, or on an individual basis through permits or other written authorizations.

(D) All waste, including treated waste, subject to the jurisdiction of the RRC and managed at facilities authorized by the TCEQ under 30 TAC Chapter 334, Subchapter K will remain subject to the jurisdiction of the RRC. Such materials will be subject to RRC regulations regarding final reuse, recycling, or disposal.

(E) TCEQ waste codes and registration numbers are not required for management of wastes under the jurisdiction of the RRC at facilities authorized by the TCEQ under 30 TAC Chapter 334, Subchapter K.

(3) Processing, treatment, and disposal of wastes under RRC jurisdiction at facilities authorized by the TCEQ.

(A) As provided in this paragraph, waste materials subject to the jurisdiction of the RRC may be managed at solid waste facilities under the jurisdiction of the TCEQ once alternatives for recycling and source reduction have been explored. The RRC must specifically authorize management of wastes under its jurisdiction at facilities regulated by the TCEQ. The RRC may grant such authorizations by rule, or on an individual basis through permits or other written authorizations. In addition, except as provided in subparagraph (B) of this paragraph, the concurrence of the TCEQ is required to manage “special waste” under the jurisdiction of the RRC at a facility regulated by the TCEQ. The TCEQ’s concurrence may be subject to specified conditions.

(B) A facility under the jurisdiction of the TCEQ may accept, without further individual concurrence, waste under the jurisdiction of the RRC if that facility is permitted or otherwise authorized to accept that particular type of waste. The phrase “that type of waste” does not specifically refer to waste under the jurisdiction of the RRC, but rather to the waste’s physical and chemical characteristics. Management and disposal of waste under the jurisdiction of the RRC is subject to TCEQ’s rules governing both special waste and industrial waste.

(C) If the TCEQ regulated facility receiving the waste does not have approval to accept the waste included in its permit or other authorization, individual written concurrences from the TCEQ shall be required to manage wastes under the jurisdiction of the RRC at TCEQ regulated facilities. Recommendations for the management of special wastes associated with the exploration, development, or production of oil, gas, or geothermal resources are found in TCEQ Regulatory Guidance document RG-3. (This is required only if the TCEQ regulated facility receiving the

waste does not have approval to accept the waste included in its permit or other authorization provided by the TCEQ.) To obtain an individual concurrence, the waste generator must provide to the TCEQ sufficient information to allow the concurrence determination to be made, including the identity of the proposed waste management facility, the process generating the waste, the quantity of waste, and the physical and chemical nature of the waste involved (using process knowledge and/or laboratory analysis as defined in 30 TAC Chapter 335, Subchapter R (relating to Waste Classification)). In obtaining TCEQ approval, generators may use their existing knowledge about the process or materials entering it to characterize their wastes. Material Safety Data Sheets, manufacturer's literature, and other documentation generated in conjunction with a particular process may be used. Process knowledge must be documented and submitted with the request for approval.

(D) Domestic septage collected from portable toilets at facilities subject to RRC jurisdiction that is not mixed with other waste materials may be managed at a facility permitted by the TCEQ for disposal, incineration, or land application for beneficial use of such domestic septage waste without specific authorization from the TCEQ or the RRC. Waste sludge subject to the jurisdiction of the RRC may not be applied to the land at a facility permitted by the TCEQ for the beneficial use of sewage sludge or water treatment sludge.

(E) TCEQ waste codes and registration numbers are not required for management of wastes under the jurisdiction of the RRC at facilities under the jurisdiction of the TCEQ. If a receiving facility requires a TCEQ waste code for waste under the jurisdiction of the RRC, a code consisting of the following may be provided:

- (i) the sequence number "RRCT";
- (ii) the appropriate form code, as specified in 30 TAC Chapter 335, Subchapter R, §335.521, Appendix 3 (relating to Appendices); and
- (iii) the waste classification code "H" if the waste is a hazardous oil and gas waste, or "R" if the waste is a nonhazardous oil and gas waste.

(F) If a facility requests or requires a TCEQ waste generator registration number for wastes under the jurisdiction of the RRC, the registration number "XXXRC" may be provided.

(G) Wastes that are under the jurisdiction of the RRC need not be reported to the TCEQ.

(4) Management of nonhazardous wastes under TCEQ jurisdiction at facilities regulated by the RRC.

(A) Once alternatives for recycling and source reduction have been explored, and with prior authorization from the RRC, the following nonhazardous wastes subject to the jurisdiction of the TCEQ may be disposed of, other than by injection into a Class II well, at a facility regulated by the RRC; bioremediated at a facility regulated by the RRC (prior to reuse, recycling, or disposal); or reclaimed at a crude oil reclamation facility regulated by the RRC: nonhazardous wastes that are chemically and physically similar to oil and gas wastes, but excluding soils, media, debris, sorbent pads, and other clean-up materials that are contaminated with refined petroleum products.

(B) To obtain an individual authorization from the RRC, the waste generator must provide the following information, in writing, to the RRC: the identity of the proposed waste management facility, the quantity of waste involved, a hazardous waste determination that addresses the process generating the waste and the physical and chemical nature of the waste, and any other information that the RRC may require. As appropriate, the RRC shall reevaluate any authorization issued pursuant to this paragraph.

(C) Once alternatives for recycling and source reduction have been explored, and subject to the RRC's individual authorization, the following wastes under the jurisdiction of the TCEQ are authorized without further TCEQ approval to be disposed of at a facility regulated by the RRC, bioremediated at a facility regulated by the RRC, or reclaimed at a crude oil reclamation facility regulated by the RRC: nonhazardous bottoms from tanks used only for crude oil storage; unused and/or reconditioned drilling and completion/workover wastes from commercial service company facilities; used and/or unused drilling and completion/workover wastes generated at facilities where workers in the oil and gas exploration, development, and production industry are trained; used and/or unused drilling and completion/workover wastes generated at facilities where materials, processes, and equipment associated with oil and gas exploration, development, and production operations are researched, developed, designed, and manufactured; unless other provisions are made in the underground injection well permit used and/or unused drilling and completion wastes (but not workover wastes) generated in connection with

the drilling and completion of Class I, III, and V injection wells; wastes (such as contaminated soils, media, debris, sorbent pads, and other cleanup materials) associated with spills of crude oil and natural gas liquids if such wastes are under the jurisdiction of the TCEQ; and sludges from washout pits at commercial service company facilities.

(D) Under Texas Water Code, §27.0511(g), a TCEQ permit is required for injection of industrial or municipal waste as an injection fluid for enhanced recovery purposes. However, under §27.0511(h), the RRC may authorize a person to use nonhazardous brine from a desalination operation or nonhazardous drinking water treatment residuals as an injection fluid for enhanced recovery purposes without obtaining a permit from the TCEQ. The use or disposal of radioactive material under this subparagraph is subject to the applicable requirements of Texas Health and Safety Code, Chapter 401.

(5) Drilling in landfills. The TCEQ will notify the Oil and Gas Division of the RRC and the landfill owner at the time a drilling application is submitted if an operator proposes to drill a well through a landfill regulated by the TCEQ. The RRC and the TCEQ will cooperate and coordinate with one another in advising the appropriate parties of measures necessary to reduce the potential for the landfill contents to cause groundwater contamination as a result of landfill disturbance associated with drilling operations. The TCEQ requires prior written approval before drilling of any test borings through previously deposited municipal solid waste under 30 TAC §330.15 (relating to General Prohibitions), and before borings or other penetration of the final cover of a closed municipal solid waste landfill under 30 TAC §330.955 (relating to Miscellaneous). The installation of landfill gas recovery wells for the recovery and beneficial reuse of landfill gas is under the jurisdiction of the TCEQ in accordance with 30 TAC Chapter 330, Subchapter I (relating to Landfill Gas Management). Modification of an active or a closed solid waste management unit, corrective action management unit, hazardous waste landfill cell, or industrial waste landfill cell by drilling or penetrating into or through deposited waste may require prior written approval from TCEQ. Such approval may require a new authorization from TCEQ or modification or amendment of an existing TCEQ authorization.

(6) Coordination of actions and cooperative sharing of information.

(A) In the event that a generator or transporter disposes, without proper authorization, of wastes regulated by the TCEQ at a facility permitted by the RRC, the TCEQ is responsible for enforcement actions against the generator or transporter, and the RRC is responsible for enforcement actions against the disposal facility. In the event that a generator or transporter disposes, without proper authorization, of wastes regulated by the RRC at a facility permitted by the TCEQ, the RRC is responsible for enforcement actions against the generator or transporter, and the TCEQ is responsible for enforcement actions against the disposal facility.

(B) The TCEQ and the RRC agree to cooperate with one another by sharing information. Employees of either agency who receive a complaint or discover, in the course of their official duties, information that indicates a violation of a statute, regulation, order, or permit pertaining to wastes under the jurisdiction of the other agency, will notify the other agency. In addition, to facilitate enforcement actions, each agency will share information in its possession with the other agency if requested by the other agency to do so.

(C) The TCEQ and the RRC agree to work together at allocating respective responsibilities. To the extent that jurisdiction is indeterminate or has yet to be determined, the TCEQ and the RRC agree to share information and take appropriate investigative steps to assess jurisdiction.

(D) For items not covered by statute or rule, the TCEQ and the RRC will collaborate to determine respective responsibilities for each issue, project, or project type.

(E) The staff of the RRC and the TCEQ shall coordinate as necessary to attempt to resolve any disputes regarding interpretation of this MOU and disputes regarding definitions and terms of art.

(7) Groundwater.

(A) Notice of groundwater contamination. Under Texas Water Code, §26.408, effective September 1, 2003, the RRC must submit a written notice to the TCEQ of any documented cases of groundwater contamination that may affect a drinking water well.

(B) Groundwater protection letters. The RRC provides letters of recommendation concerning groundwater protection.

(i) For recommendations related to normal drilling operations, shot holes for seismic surveys, and cathodic protection wells, the RRC provides geologic interpretation identifying fresh water zones, base of usable-quality water (generally less than 3,000 mg/L total dissolved solids, but may include higher levels of total dissolved solids if identified as currently being used or identified by the Texas Water Development Board as

a source of water for desalination), and include protection depths recommended by the RRC. The geological interpretation may include groundwater protection based on potential hydrological connectivity to usable-quality water.

(ii) For recommendations related to injection in a non-producing zone, the RRC provides geologic interpretation of the base of the underground source of drinking water. Underground source of drinking water is defined as an aquifer or its portions which supplies drinking water for human consumption; or in which the groundwater contains fewer than 10,000 milligrams per liter total dissolved solids; and which is not an exempted aquifer.

(8) Emergency and spill response.

(A) The TCEQ and the RRC are members of the state's Emergency Management Council. The TCEQ is the state's primary agency for emergency support during response to hazardous materials and oil spill incidents. The TCEQ is responsible for state-level coordination of assets and services, and will identify and coordinate staffing requirements appropriate to the incident to include investigative assignments for the primary and support agencies.

(B) Contaminated soil and other wastes that result from a spill must be managed in accordance with the governing statutes and regulations adopted by the agency responsible for the activity that resulted in the spill. Coordination of issues of spill notification, prevention, and response shall be addressed in the State of Texas Oil and Hazardous Substance Spill Contingency Plan and may be addressed further in a separate Memorandum of Understanding among these agencies and other appropriate state agencies.

(C) The agency (TCEQ or RRC) that has jurisdiction over the activity that resulted in the spill incident will be responsible for measures necessary to monitor, document, and remediate the incident.

(i) The TCEQ has jurisdiction over certain inland oil spills, all hazardous-substance spills, and spills of other substances that may cause pollution.

(ii) The RRC has jurisdiction over spills or discharges from activities associated with the exploration, development, or production of crude oil, gas, and geothermal resources, and discharges from brine mining or surface mining.

(D) If TCEQ or RRC field personnel receive spill notifications or reports documenting improperly managed waste or contaminated environmental media resulting from a spill or discharge that is under the jurisdiction of the other agency, they shall refer the issue to the other agency. The agency that has jurisdiction over the activity that resulted in the improperly managed waste, spill, discharge, or contaminated environmental media will be responsible for measures necessary to monitor, document, and remediate the incident.

(9) Anthropogenic carbon dioxide storage. In determining the proper permitting agency in regard to a particular permit application for a carbon dioxide geologic storage project, the TCEQ and the RRC will coordinate by any appropriate means to review proposed locations, geologic settings, reservoir data, and other jurisdictional criteria specified in Texas Water Code, §27.041.

(f) Radioactive material.

(1) Radioactive substances. Under the Texas Health and Safety Code, §401.011, the TCEQ has jurisdiction to regulate and license:

(A) the disposal of radioactive substances;

(B) the processing or storage of low-level radioactive waste or NORM waste from other persons, except oil and gas NORM waste;

(C) the recovery or processing of source material;

(D) the processing of by-product material as defined by Texas Health and Safety Code, §401.003(3)(B); and

(E) sites for the disposal of low-level radioactive waste, by-product material, or NORM waste.

(2) NORM waste.

(A) Under Texas Health and Safety Code, §401.415, the RRC has jurisdiction over the disposal of NORM waste that constitutes, is contained in, or has contaminated oil and gas waste. This waste material is called "oil and gas

NORM waste.” Oil and gas NORM waste may be generated in connection with the exploration, development, or production of oil or gas.

(B) Under Texas Health and Safety Code, §401.412, the TCEQ has jurisdiction over the disposal of NORM that is not oil and gas NORM waste.

(C) The term “disposal” does not include receipt, possession, use, processing, transfer, transport, storage, or commercial distribution of radioactive materials, including NORM. These non-disposal activities are under the jurisdiction of the Texas Department of State Health Services under Texas Health and Safety Code, §401.011(a).

(3) Drinking water residuals. A person licensed for the commercial disposal of NORM waste from public water systems may dispose of NORM waste only by injection into a Class I injection well permitted under 30 TAC Chapter 331 (relating to Underground Injection Control) that is specifically permitted for the disposal of NORM waste.

(4) Management of radioactive tracer material.

(A) Radioactive tracer material is subject to the definition of low-level radioactive waste under Texas Health and Safety Code, §401.004, and must be handled and disposed of in accordance with the rules of the TCEQ and the Department of State Health Services.

(B) Exemption. Under Texas Health and Safety Code, §401.106, the TCEQ may grant an exemption by rule from a licensing requirement if the TCEQ finds that the exemption will not constitute a significant risk to the public health and safety and the environment.

(5) Coordination with the Texas Radiation Advisory Board. The RRC and the TCEQ will consider recommendations and advice provided by the Texas Radiation Advisory Board that concern either agency’s policies or programs related to the development, use, or regulation of a source of radiation. Both agencies will provide written response to the recommendations or advice provided by the advisory board.

(6) Uranium exploration and mining.

(A) Under Texas Natural Resources Code, Chapter 131, the RRC has jurisdiction over uranium exploration activities.

(B) Under Texas Natural Resources Code, Chapter 131, the RRC has jurisdiction over uranium mining, except for in situ recovery processes.

(C) Under Texas Water Code, §27.0513, the TCEQ has jurisdiction over injection wells used for uranium mining.

(D) Under Texas Health and Safety Code, §401.2625, the TCEQ has jurisdiction over the licensing of source material recovery and processing or for storage, processing, or disposal of by-product material.

(g) Effective date. This Memorandum of Understanding, as of its May 1, 2012, effective date, shall supersede the prior Memorandum of Understanding among the agencies, dated August 30, 2010.

Source Note: The provisions of this §3.30 adopted to be effective May 31, 1998, 23 TexReg 5427; amended to be effective August 25, 2003, 28 TexReg 6816; amended to be effective August 30, 2010, 35 TexReg 7728; amended to be effective May 1, 2012, 37 TexReg 2385

RAILROAD COMMISSION OFFICE LOCATIONS

RRC Headquarters:	Mailing Address:
1701 N. Congress	P.O. Box 12967
Austin, Texas 78701	Austin, Texas 78711-2967

RRC OIL & GAS OFFICE LOCATIONS

DISTRICT	CITY	ADDRESS	PHONE/FAX
1	San Antonio	115 East Travis St, Suite 1610 San Antonio, TX 78205	(210) 227-1313 (210) 227-4822
2	San Antonio	115 East Travis St, Suite 1610 San Antonio, TX 78205	(210) 227-1313 (210) 227-4822
3	Houston	1706 Seamist Dr, Suite 501 Houston, TX 77008	(713) 869-5001 (713) 869-9621
4	Corpus Christi	10320 IH 37 Corpus Christi, TX 78410	(361) 242-3113 (361) 242-9613
5	Kilgore	2005 North State Highway 42 Kilgore, TX 75662	(903) 984-3026 (903) 983-3413
6	Kilgore	2005 North State Highway 42 Kilgore, TX 75662	(903) 984-3026 (903) 983-3413
7B	Abilene	3444 North First St, Suite 600 Abilene, TX 79603	(325) 677-3545 (325) 677-7122
7C	San Angelo	622 South Oakes St, Suite J San Angelo, TX 76903	(325) 657-7450 (325) 657-7455
8	Midland	10 Desta Dr, Suite 500 E Midland, TX 79705	(432) 684-5581 (432) 684-6005
8A	Midland	10 Desta Dr, Suite 500 E Midland, TX 79705	(432) 684-5581 (432) 684-6005
9	Wichita Falls	5800 Kell Blvd, Suite 300 Wichita Falls, TX 76310	(940) 723-2153 (940) 723-5088
10	Pampa	200 West Foster, Room 300 Pampa, TX 79065	(806) 665-1653 (806) 665-4217

RRC PIPELINE SAFETY LOCATIONS

DISTRICT	CITY	ADDRESS	PHONE/FAX
1	Pampa	201 West Foster PO Box 941 Pampa, TX 79065	(806) 665-1653 (806) 665-4217
2	Midland	Conoco Building 10 Desta Dr., 5th floor Midland, TX 79704	(432) 570-5884 (432) 682-1325
3	Kilgore	2005 N. State Highway 42 Kilgore, TX 75662	(903) 984-8581 (903) 983-3413
4	Austin	1701 North Congress Ave PO Box 12967 Austin, TX 78711	(512) 463-7058 (512) 463-7319
5	Houston	1706 Seamist Dr., Suite 501 Houston, TX 77008-3135	(713) 869-8425 (713) 869-3219
6	Fort Worth	City Hall 13th Street Annex 401 West 13th St., Suite B Fort Worth, TX 76102	(817) 882-8966 (817) 882-8951
7	Corpus Christi	10320 IH 37 Corpus Christi, TX 78460-0307	(361) 242-3117 (361) 242-2101

RRC GAS SERVICES – AUDIT LOCATIONS

CITY	ADDRESS	PHONE/FAX
Austin	1701 North Congress Ave PO Box 12967 Austin, TX 78711	(512) 463-7119 (512) 475-3180
Fort Worth	City Hall 13th Street Annex 401 West 13th St, Suite B Fort Worth, TX 76102	(817) 882-8966 (817) 882-8951
Houston	1706 Seamist Dr., Suite 501 Houston, TX 77008-3135	(713) 869-8425 (713) 869-3219

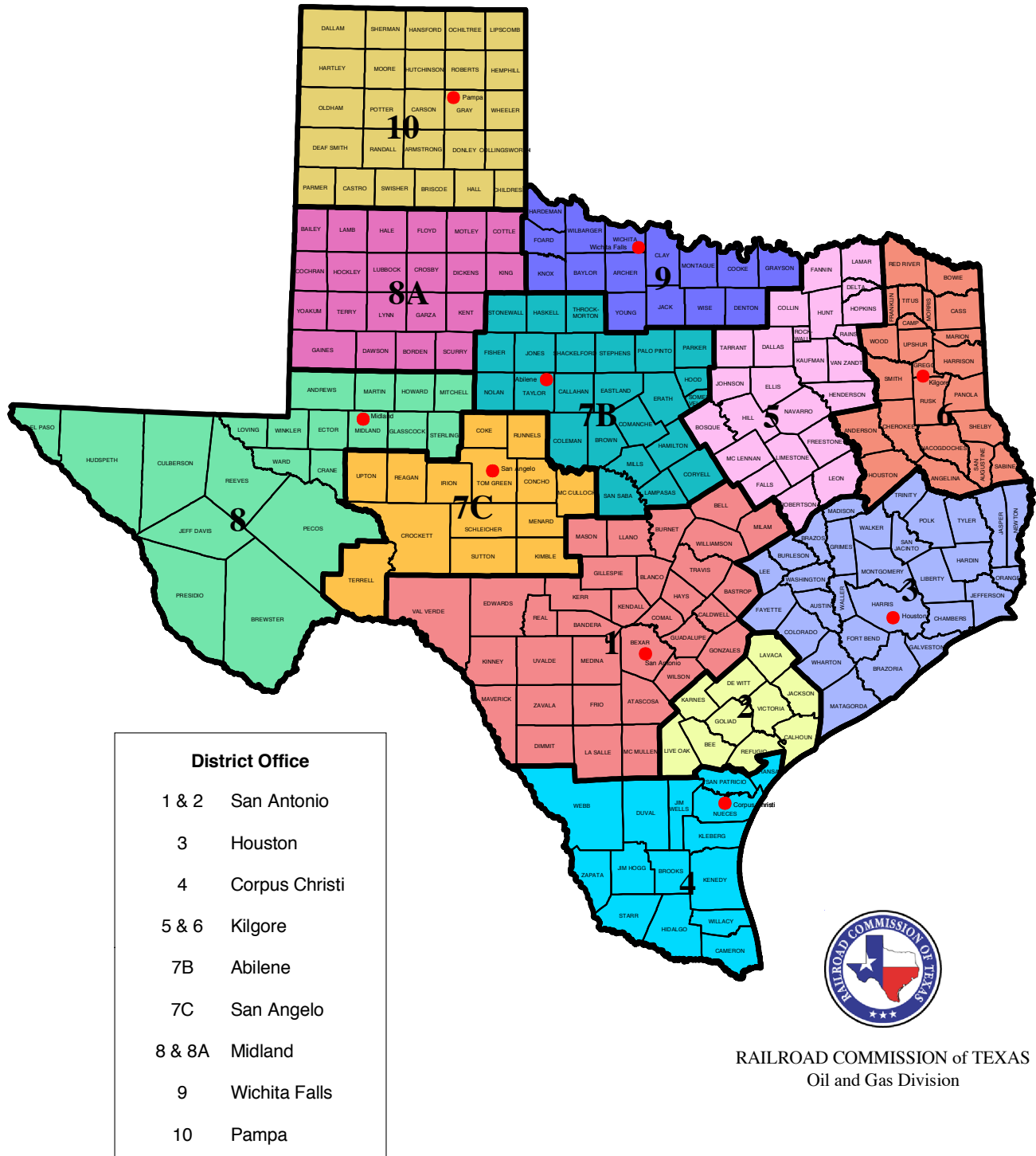
RRC SURFACE MINING & RECLAMATION LOCATIONS

CITY	ADDRESS	PHONE/FAX
Tyler	2202 Old Henderson Hwy Tyler, TX 75702	(903) 595-5501

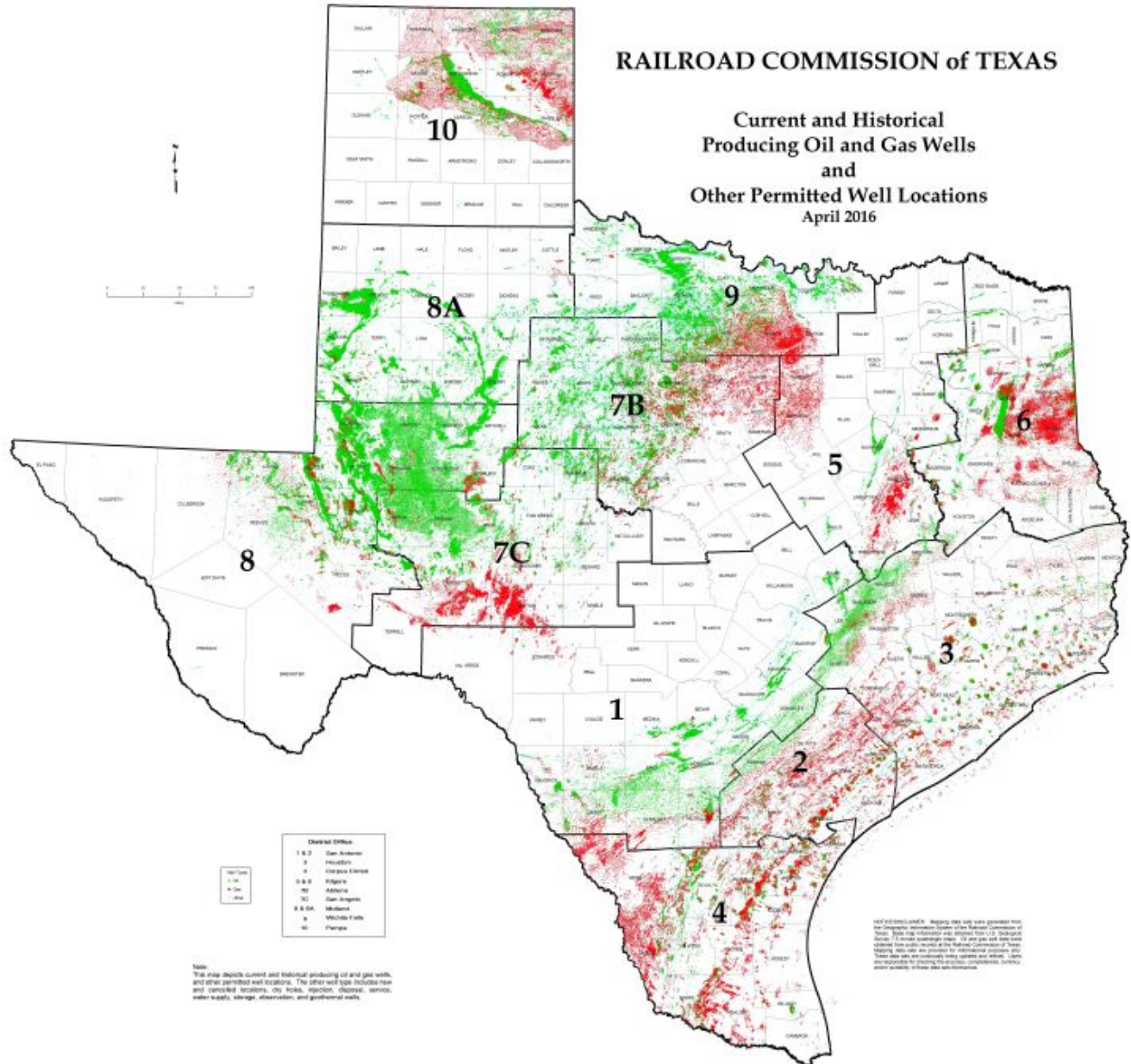
RRC ALTERNATIVE FUELS SAFETY LOCATIONS

DISTRICT	CITY	ADDRESS	PHONE/FAX
1	Midland	10 Desta Dr., 5th floor Midland, TX 79704	(432) 570-5884 (432) 682-1325
2	Midland	10 Desta Dr., 5th floor Midland, TX 79704	(432) 570-5884 (432) 682-1325
3	San Angelo	622 South Oakes St, Suite J San Angelo, TX 76903	(325) 657-7469 (325) 657-7455
4	Fort Worth	401 West 13th St., Suite B Fort Worth, TX 76102	(817) 882-8966 (817) 882-8951
5	Kilgore	2005 N. State Highway 42 Kilgore, TX 75662	(903) 984-8581 (903) 983-3413
6	Austin	PO Box 12967 Austin, TX 78711	(512) 463-3213
7	Kilgore	2005 N. State Highway 42 Kilgore, TX 75662	(903) 984-8581 (903) 983-3413
8	San Antonio	115 East Travis St, Suite 1610 San Antonio, TX 78205	(210) 227-1313 (210) 227-4822
9	Houston	1706 Seamist Dr., Suite 501 Houston, TX 77008-3135	(713) 869-8425 (713) 869-3219
10	Houston	1706 Seamist Dr., Suite 501 Houston, TX 77008-3135	(713) 869-8425 (713) 869-3219
11	Corpus Christi	10320 IH 37 Corpus Christi, TX 78460-0307	(361) 242-3117 (361) 242-2101
12	Fort Worth	401 West 13th St., Suite B Fort Worth, TX 76102	(817) 882-8966 (817) 882-8951

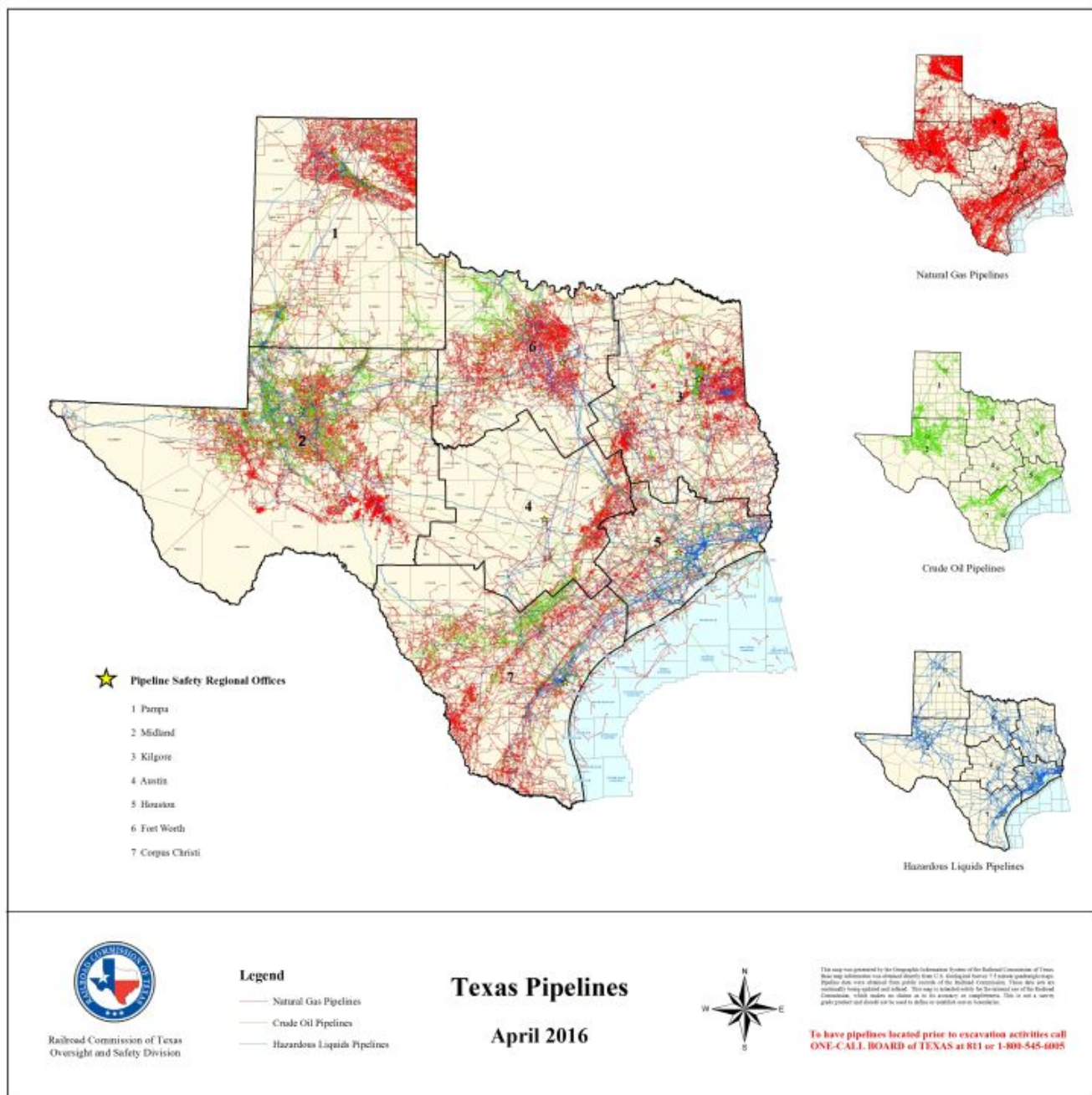
MAP OF THE OIL AND GAS DIVISION DISTRICT BOUNDARIES



MAP OF THE LOCATION OF OIL & GAS WELLS IN TEXAS



MAP OF THE PIPELINES IN TEXAS



HISTORY OF BUDGET APPROPRIATIONS FOR THE RAILROAD COMMISSION

	GENERAL REVENUE	GENERAL REVENUE (DEDICATED)	FEDERAL FUNDS	APPROPRIATED RECEIPTS AND INTERAGENCY CONTRACTS	TOTAL
FY 2010 ^[i]	30,155,281	32,031,732	7,045,749	2,079,490	71,461,467
FY10 %	42.19%	44.82%	9.86%	2.91%	100%
FY 2011 ^[ii]	29,631,691	33,263,843	6,994,531	2,079,490	71,969,555
FY11%	41.17%	46.22%	9.72%	2.89%	100%
FY 2012 ^[iii]	14,962,180	46,911,592	10,633,965	2,175,772	74,683,509
FY12%	20.03%	62.81%	14.24%	2.91%	100%
FY 2013 ^[iv]	14,942,823	46,774,280	7,303,956	2,072,158	71,093,217
FY13%	21.02%	65.79%	10.27%	2.91%	100%
FY 2014 ^[v]	12,881,324	57,676,962	7,094,110	2,072,949	79,725,345
FY14%	16.16%	72.34%	8.90%	2.60%	100%
FY 2015 ^[vi]	12,704,380	57,427,728	6,616,246	2,076,096	78,824,450
FY15%	16.12%	72.86%	8.39%	2.63%	100%
FY 2016 ^[vii]	12,823,161	64,763,060	7,141,756	2,406,457	87,134,434
FY16 %	14.72%	74.33%	8.20%	2.76%	100%
FY 2017 ^[viii]	12,733,986	65,217,176	7,037,477	2,406,457	87,395,096
FY17%	14.50%	74.62%	8.05%	2.75%	100%

ⁱ S.B. 1, 81st Leg., Reg., Sess. (TX. 2009) ⁱⁱ S.B. 1, 81st Leg., Reg., Sess. (TX. 2009) ⁱⁱⁱ H.B. 1, 82nd Leg., Reg., Sess. (TX. 2011) ^{iv} H.B. 1, 82nd Leg., Reg., Sess. (TX. 2011) ^v S.B. 1, 83rd Leg., Reg., Sess. (TX 2013) ^{vi} S.B. 1, 83rd Leg., Reg., Sess. (TX 2013) ^{vii} H.B. 1, 84th Leg., Reg., Sess. (TX 2015) ^{viii} H.B. 1, 84th Leg., Reg., Sess. (TX 2015)

- NOTICE TO OPERATORS - SURCHARGES ON RAILROAD COMMISSION FEES

The Railroad Commission has adopted changes to Statewide Rule 78 as it applies to certain fees charged by the commission's Oil & Gas Division. Under Rule 78 as amended, surcharges have been imposed on certain fees as required to implement the provisions of Senate Bill 1 (82nd Legislature, First Called Session, 2011). The amendments to Rule 78 are effective as of May 1, 2012.

Senate Bill 1 created the Oil and Gas Regulation and Cleanup Fund and mandated that the commission impose reasonable surcharges on commission fees. The funds collected through these surcharges will cover the commission's costs in certain functional areas specified in the bill, including oil and gas monitoring and inspections, oil and gas remediation, oil and gas well plugging, public information and services related to those activities, and administrative costs and state benefits for personnel involved in those activities.

During the rulemaking process, the Commission identified the fees on which surcharges would be imposed based on the statutory requirements. Comparing the revenue generated by those fees with the costs associated with the functional areas specified in the statute, the Commission determined that a surcharge of 150% of the respective fees would be needed.

In implementing this statute, the Commission is imposing surcharges on fees associated with the filing of:

- Drilling Permits
- Organization Reports
- Voluntary Cleanup Program Applications
- Inactive Wells (plugging extensions)
- Rule Exception requests
- Reconnection fees following cancellation of P-4 Certificates of Compliance
- Waste Disposal Facilities and Waste Hauler Permits (excluding disposal wells permitted under Rule 9)
- Surface Discharge permits
- Injection well permits
- Hydrocarbon Storage permits

(See Table 1 – Listing of Affected Fees on the following page for more detailed information regarding the affected fees.)

TABLE 1

	FEE	SURCHARGE (150%)	TOTAL ASSESSMENT
Oil & Gas Well Drilling Permit Fees			
Drilling permits less than 2,000 feet	\$ 200.00	\$ 300.00	\$ 500.00
Drilling permits 2,001 to 4,000 feet	225.00	337.50	562.50
Drilling permits 4,001 to 9,000 feet	250.00	375.00	625.00
Drilling permits greater than 9,000 feet	300.00	450.00	750.00
Expedite fee	150.00	225.00	375.00
Rule 37/38 exception fee	200.00	300.00	500.00
P-5 Organization Report Fees			
No activities	300.00	450.00	750.00
Operation of Wells			
1 – 25 wells	300.00	450.00	750.00
26 – 100 wells	500.00	750.00	1,250.00
more than 100 wells	1,000.00	1,500.00	2,500.00
Operation of natural gas pipeline(s)	225.00	337.50	562.50
Operation of liquids pipeline(s)	625.00	937.50	1,562.50
Service/Facility Operations			
Cleanup contractor, Directional Surveyor, Cementer and/or Transporter	300.00	450.00	750.00
Other Services/Facilities not listed above	500.00	750.00	1,250.00
Voluntary Cleanup Application Fee	1,000.00	1,500.00	2,500.00
Inactive Well Filing Fees (Form W-3X)			
Abeyance of plugging report	100.00	150.00	250.00
Well test report filing fee	50.00	75.00	125.00
Rule Exception Fees	150.00	225.00	375.00
Certificate of Compliance (P-4) Reissue Fee	300.00	450.00	750.00
Waste Disposal Facility			
Waste hauler's permit	100.00	150.00	250.00
Large Quantity Generator of hazardous oil & gas waste			
base fee	1,000.00	1,500.00	2,500.00
additional fee	1,000.00	1,500.00	2,500.00
Small Quantity Generator of hazardous oil & gas waste			
base fee	200.00	300.00	500.00
additional fee	200.00	300.00	500.00
Surface Discharge fee	300.00	450.00	750.00
Fluid injection well permit	200.00	300.00	500.00
Hydrocarbon storage permits	200.00	300.00	500.00

- NOTICE TO OPERATORS -
SURCHARGES: RECONNECTION FEES FOLLOWING CANCELLATION
OF P-4 CERTIFICATES OF COMPLIANCE

The Railroad Commission has adopted changes to Statewide Rule 78 as it applies to certain fees charged by the commission's Oil & Gas Division. Under Rule 78 as amended, surcharges have been imposed on certain fees as required to implement the provisions of Senate Bill 1 (82nd Legislature, First Called Session, 2011, creating the Oil and Gas Regulation and Cleanup Fund and mandating that the commission impose reasonable surcharges on commission fees). The amendments to Rule 78 are effective as of May 1, 2012.

The statutory fee for reissuance of a P-4 Certificate of Compliance following issuance of a severance or seal order (commonly referred to as a “reconnection fee”) is included among the fees for which surcharges will be assessed.

The fee for reissuance of a P-4 is \$300 per severance or seal order. The surcharge to be assessed under Rule 78 following May 1, 2012, is 150% of the fee, or \$450. The total to be remitted for reissuance of a P-4 Certificate of Compliance following a severance or seal order will therefore be $\$300 + \$450 = \$750$.

In addition to severance or seal orders issued on or after May 1, 2012, **the surcharge will be assessed for any severance or seal order previously issued for which the operator has not paid the reconnection fee prior to May 1, 2012.** Any severance or seal order for which the reconnection fee has been received by the Commission prior to May 1, 2012, will not be subject to the surcharge.

A public query is available on the Commission's website through which any company can determine the status of any severance or seal orders that are pending or have been previously issued by the Commission. The query is located at:

<http://webapps2.rrc.state.tx.us/EWA/severanceQueryAction.do>

(From the Commission's main webpage, select “Online Research” from the Data menu, and then launch the “Oil & Gas Data Queries” selection in the upper right. The Severance Query is 4th on the list of available EWA queries available to the public.)

- NOTICE TO OPERATORS -
RULE 13 EXCEPTIONS: ONLINE FILING SYSTEM AND
IMPLEMENTATION OF EXCEPTION FEE

The Railroad Commission of Texas (Commission) will soon complete the design and development of the online filing application for exceptions to 16 Texas Administrative Code (TAC) §3.13 (Statewide Rule 13), regarding Casing, Cementing, Drilling, Well Control, and Completion Requirements, and expects to implement the system in March 2015. This system will enable operators to submit exception requests to the Commission more conveniently and quickly, and will enable Commission staff to review those requests in a more prompt and efficient manner. The system will also audit each submission to minimize errors and provide for fee payments through the official website for the State of Texas at <http://www.texas.gov>.

Collection of the rule exception fee will begin concurrently with the release of the online filing application. The statutory rule exception fee is subject to a surcharge which funds the operations of the Commission's Oil & Gas Division. Based on the current surcharge percentage, **the total assessment for an exception to Statewide Rule 13 will be: \$150 fee + \$225 surcharge = \$375.** [See 16 TAC §78(b)(4) and §78(n)(3) for further information regarding rule exception fees and mandatory surcharges.] **Important Note: the rule exception fee is required for all exceptions regardless of the filing method; both hardcopy and online filings must be accompanied by the fee payments.**

Online filings are encouraged. After release of the online filing system, all hardcopy applications (and fees payments) must be sent to the Commission's Austin office, Attention Oil & Gas Division, P.O. Box 12967, Austin, Texas 78711-2967. The hardcopy applications will be processed into the online system for review. Any hardcopy applications sent to the Commission's district offices after the release date will be forwarded to the Austin office before review can begin. **Applications submitted via fax will no longer be accepted by the Commission.**

The amendments to the Statewide Rule 13 were adopted by the Commission on May 24, 2013 to implement certain provisions of House Bill 2694 (82nd Legislature, Regular Session, 2011) and became effective on January 1, 2014. The adopted amendments also served to clarify and update the surface casing and cementing requirements for all wells, and to consolidate and update the requirements for well control and blow-out preventers.

Following the adoption of the Statewide Rule 13 amendments, the Commission held workshops at various locations throughout the state to answer questions, clarify requirements, and discuss implementation of an exception procedure. At those workshops, among many topics, staff presented information about the Commission's intention to develop an online application to assist with exception requests and collect the rule exception fee payments and surcharge required under Texas Natural Resource Code §81.0521 and §81.070.

The release of the online application will be announced on the Commission's website at <http://www.rrc.texas.gov/> and through the Oil & Gas News email subscription. To subscribe, visit the Commission's website at <http://www.rrc.texas.gov/about-us/resource-center/subscription-services/> under "Oil & Gas News".

ECONOMIC STABILIZATION FUND

Background

The Economic Stabilization Fund (ESF) — commonly called the “Rainy Day Fund” — was created by the passage of an amendment to the Texas Constitution in November 1988. The ESF is established in Article III, Section 49-g of the Constitution and became effective on Sept. 1, 1989.

Section 49-g spells out:

- Revenue sources deposited to the ESF and
- Requirements for making appropriations from the ESF

In November 2014, a constitutional amendment was passed allocating at least one-half of certain severance taxes to the ESF and the remainder to the State Highway Fund. Statute provided that the Legislature must establish a sufficient balance in the ESF. Depending on the amount established compared to the balance at the time of transfer, more than half of the allocated severance taxes could be moved to the ESF in order to maintain the sufficient balance.

How the ESF is funded

The ESF receives:

- An amount from General Revenue (GR) equal to one-half of 75 percent of Oil Production and Natural Gas Production tax revenues in any fiscal year that exceeds fiscal 1987 collections, exclusive of legislative action altering that amount, with the remainder going to the State Highway Fund. These taxes are also referred to collectively as “severance” taxes.
 - One-half of any unencumbered GR surplus at the end of each biennium. Unencumbered GR is net of the amount of any tax allocations yet to be made, state agency encumbrances, accounts payable and payroll accruals, dedicated account balances and any required transfers to the ESF.
 - All of the interest earned on the ESF balance.
 - Direct appropriations to the ESF by the Legislature.
- Through fiscal 2014, no direct appropriations to the ESF have been made.

The ESF Cap

The Constitution caps the maximum ESF balance at an amount not to exceed 10 percent of certain GR deposited during the previous biennium. Certain GR is defined as the total amount deposited in the General Revenue Fund during the previous biennium excluding these revenue sources:

- Investment income
- Interest income
- Amounts borrowed from special funds

KEY FACTS

- Fiscal 1987 collections thresholds:
 - Natural gas production = \$599.8M
 - Oil Production = \$531.9M
- Result of passed November 2014 constitutional amendment:
 - One-half of 75% of Oil and Natural Gas Production tax revenues transfer to ESF; remainder to State Highway Fund contingent on legislative actions
- The ending fiscal 2014 ESF balance was \$6.7B
- Fiscal 2014 Oil and Natural Gas Production tax revenues triggered a \$3.48B transfer to the fund in December 2014 (\$1.74B to ESF; \$1.74B to State Highway Fund)
- The ESF cap for the 2014-15 biennium is \$14.1 billion
- The ESF balance is expected to remain below the cap through the end of the 2014-15 biennium
- The Comptroller’s office has up to 90 days after the end of the fiscal year to make transfers to the ESF — transfers are typically performed in late November

STATUTORY REFERENCE

Texas Constitution,
Article III, Section 49-g

Reaching the ESF Cap

If the ESF were to reach the cap, the Texas Comptroller of Public Accounts (Comptroller's office) would:

- Reduce or eliminate transfers to the ESF to prevent the balance from exceeding the cap and
- Credit interest earned on the ESF balance to the General Revenue Fund

Transfers to and retention of interest in the ESF would resume in the first biennium in which the cap exceeds the ESF balance as a result of:

- An increase in the cap amount and/or
- A decrease in the ESF balance resulting from an appropriation

Calculating the ESF Cap

The ESF cap for each biennium is based on certain revenue collections in the previous biennium. For example, the ESF cap for the 2014–15 biennium is based on revenue collections in fiscal 2012 and 2013.

As provided by the Constitution, the Comptroller's office calculates the ESF cap for each biennium by:

1. Starting with total net revenue deposited to the General Revenue Fund (including federal funds). This number is taken from Table 1 of the Annual Cash Report for each fiscal year of the previous biennium.
2. Adding revenue deposited to the Tobacco Settlement Fund, excluding accounting transfers. This number is taken from the Fund Detail section of the Annual Cash Report for each fiscal year of the previous biennium (listed as GR Account — Tobacco Settlement 5040).
3. Deducting interest and investment income deposited to the General Revenue Fund. This number is taken from Table 1 of the Annual Cash Report for each fiscal year of the previous biennium. (NOTE: Subtracting a negative results in a positive.)
4. Adding the results for the two years together to produce the revenue base for calculating the ESF cap. Ten percent of the revenue base is the ESF maximum limit for the following biennium.

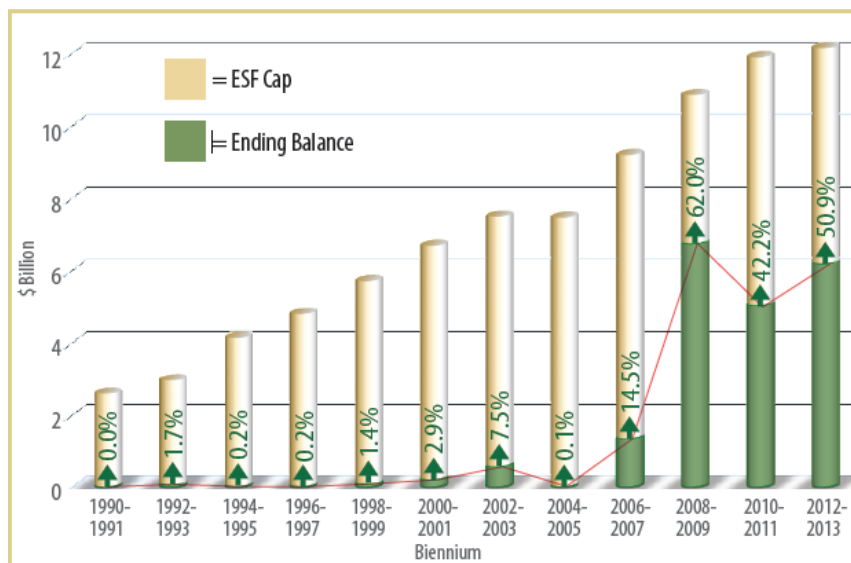
It is possible to estimate the cap for the 2016-17 biennium. As with any estimated ESF Cap, the 2016-17 Cap is subject to revision based on any new estimates released by the Comptroller's office. The actual 2016-17 cap becomes final after fiscal 2015 closes and all collections affecting the 2016-17 cap have been received.

EXAMPLE: CALCULATION OF THE ESF CAP FOR THE 2014–15 BIENNIUM

	FISCAL 2012	FISCAL 2013	BIENNIUM
Total Net Revenue			
General Revenue Fund	\$ 67,599,178,506	\$ 72,249,788,433	\$ 139,848,966,939
Tobacco Settlement Account	474,568,628	484,717,059	959,285,687
	\$68,073,747,134	\$72,734,505,492	140,808,252,626
Less: Interest and Investment Income	(37,545,715)	(14,254,681)	(51,800,396)
Revenue Base	\$68,111,292,850	\$72,748,760,173	\$140,860,053,022
			10%
Economic Stabilization Cap for 2014-15 Biennium			\$14,086,005,302

History of ESF Caps and Balances

The graph in Figure 1 compares each biennial ESF cap to the ending balance during that biennium. It also illustrates that from the fund's beginning in the 1990-91 biennium through the 2012-13 biennium, both the ESF cap and the ending balance generally increased. Each biennium's ending balance is depicted as a percentage of the ESF cap. For the 2012-13 biennium, the ending balance was 50.9 percent of the cap. For more information, see Figure 2 that provides comprehensive data for the ESF cap calculations and includes ending balances and percentages.



ESF Balance Through End of Fiscal 2014-15 Biennium

The ESF balance is expected to remain below the cap through the end of the 2014-15 biennium due to recent and potential future appropriations from the fund including:

- A \$1.9 billion appropriation from the ESF by the 83rd Legislature
- An additional \$2 billion appropriation as a result of the constitutional amendment approved by voters in November 2013 creating the “State Water Implementation Fund for Texas” (see SJR 1, 83rd Legislature, Regular Session)
- A transfer equal to one-half of the amount that would normally go to the ESF that went to State Highway Fund 0006 beginning in fiscal 2015, due to the constitutional amendment passed in November 2014 — it contains provisions that could vary that amount based on certain actions (see SJR 1, 83rd Legislature, Third Called Session)



ESF History — by the Numbers

Figure 2 provides a comprehensive history of ESF revenues (transfers in) and appropriations (transfers out) and also includes end-of-fiscal-year balances, biennial caps and the ending balance as a percentage of the ESF cap.

Fiscal Year	Oil Production Tax Transfer	Natural Gas Production Tax Transfer	Unencumbered Balance Transfer	Interest	Net Transfers / Expenditures	Ending Balance	ESF Cap	End Bal as a % of ESF Cap
1990	\$ —	\$ 18,526,123	\$ —	\$ 768,017	\$ —	\$ 19,294,139	\$ 2,590,973,396	0.7%
1991	—	7,779,489	—	1,920,687	(28,994,315) ¹	—	2,590,973,396	0.0%
1992	118,006,503	18,370,104	20,225,291	6,750,733	—	163,352,631	2,957,356,142	5.5%
1993	—	—	—	7,383,354	(119,040,135) ²	51,695,850	2,957,356,142	1.7%
1994	—	31,048,685	—	3,000,440	(56,640,721) ^{2,3}	29,104,254	4,134,982,882	0.7%
1995	—	—	—	577,535	(21,548,656) ^{2,3}	8,133,133	4,134,982,882	0.2%
1996	—	—	—	423,018	(514,635) ^{2,3}	8,041,517	4,788,944,776	0.2%
1997	—	—	—	436,219	50 ³	8,477,786	4,788,944,776	0.2%
1998	—	47,526,206	—	2,299,758	—	58,303,750	5,701,820,276	1.0%
1999	—	17,914,917	—	3,778,399	—	79,997,066	5,701,820,276	1.4%
2000	—	—	—	4,684,904	—	84,681,970	6,674,876,709	1.3%
2001	—	103,132,694	—	8,681,293	—	196,495,956	6,674,876,709	2.9%
2002	—	685,804,382	—	21,635,787	—	903,936,125	7,475,639,977	12.1%
2003	—	83,567,733	—	19,439,820	(446,456,744) ⁴	560,486,935	7,475,639,977	7.5%
2004	—	352,565,752	—	5,519,697	(553,002,886) ⁴	365,569,498	7,451,288,798	4.9%
2005	—	594,494,766	—	17,347,524	(970,462,533) ^{4,5}	6,949,255	7,451,288,798	0.1%
2006	112,066,771	792,982,384	—	21,490,970	(528,299,695) ⁵	405,189,685	9,182,454,086	4.4%
2007	247,340,643	1,304,528,278	—	65,793,007	(691,459,011) ⁵	1,331,392,602	9,182,454,086	14.5%
2008	226,876,754	971,783,592	1,779,873,149	135,989,995	(90,511,804) ⁵	4,355,404,287	10,847,694,360	40.2%
2009	678,278,598	1,563,653,292	—	128,790,420	(447,576) ⁵	6,725,679,021	10,847,694,360	62.0%
2010	263,926,649	605,971,991	—	97,004,212	360 ⁵	7,692,582,232	11,883,851,665	64.7%
2011	357,152,197	94,321,451	—	66,994,776	(3,198,661,120) ⁶	5,012,389,537	11,883,851,665	42.2%
2012	705,179,544	382,456,233	—	33,347,254	—	6,133,372,568	12,126,289,108	50.6%
2013	1,177,888,364	701,140,488	—	29,557,446	(1,871,774,448) ⁷	6,170,184,418	12,126,289,108	50.9%
2014	1,843,252,767	671,569,881	—	24,519,557	(2,006,015,058) ⁷	6,703,511,566	14,086,005,302	47.6%
Total	\$ 5,729,968,790	\$ 9,049,138,440	\$ 1,880,098,439	\$ 708,134,823	\$ (10,583,828,927)	N/A	N/A	N/A

LIST OF INCENTIVES AVAILABLE FOR OIL AND GAS OPERATORS

ENHANCED EFFICIENCY EQUIPMENT:

WHAT TYPE OF INCENTIVE IS IT?	WHO QUALIFIES?	HOW TO APPLY?
<p>Severance tax credit</p> <p>The amount of credit is equal to the lesser of either:</p> <p>1) 10% of the cost of the equipment</p> <p>OR</p> <p>2) \$1,000 per well.</p>	<p>Marginal wells (an oil well that produces 10 barrels of oil or less per day on average during a month) for using equipment that reduces the energy required to produce a barrel of fluid by 10% as compared to alternative equipment.</p> <p>The enhanced efficiency equipment installed in or on a qualifying marginal well must be purchased and installed no earlier than September 1, 2005, or later than September 1, 2009.</p>	<p>The Texas Well Exemption Application available on the Comptroller's Website must be filled out.</p>

ENHANCED OIL RECOVERY:

WHAT TYPE OF INCENTIVE IS IT?	WHO QUALIFIES?	HOW TO APPLY?
<p>Reduction of severance tax rate of 2.3 % of market value for up to 10 years.</p>	<p>Oil produced from an approved new enhanced oil recovery project or expansion of an existing project with a RRC certification.</p>	<p>An H-12 form must be filed with the RRC.</p> <p>If the project receives certification from the RRC, then the reduction of severance tax is available.</p>

ENHANCED OIL RECOVERY (UTILIZING ANTHROPOGENIC CARBON DIOXIDE):

WHAT TYPE OF INCENTIVE IS IT?	WHO QUALIFIES?	HOW TO APPLY?
Reduction of severance tax rate of 1.15% of market value for up to 30 years.	<p>Oil recovered from enhanced oil recovery project utilizing carbon dioxide that:</p> <ul style="list-style-type: none"> • Is captured from an anthropogenic source in this state; • Would otherwise be released into the atmosphere as industrial emissions; • Is measurable at the source of capture; and • Is sequestered in one or more geological formations in this state following the enhanced oil recovery process. 	<p>Must secure certification from RRC and or TCEQ depending on what type of geological formation the carbon dioxide will be sequestered.</p> <p>If the project receives certification from the necessary agencies, then the reduction of severance tax is available.</p>

HIGH-COST GAS:

WHAT TYPE OF INCENTIVE IS IT?	WHO QUALIFIES?	HOW TO APPLY?
<p>Severance tax reduction based upon drilling and completion costs.</p> <p>The tax rate is set on a sliding scale from zero up to 7.5% depending on how it compares to the statewide median amount to drill and complete costs.</p>	<p>Gas from wells defined as high-cost gas wells under Section 107 of the old Federal Natural Gas Policy Act (NGPA) is eligible for a severance tax reduction.</p> <p>To qualify for the reduction, the well must be spudded or completed after September 1, 1996. An earlier program granted a tax exemption if the well was spudded or completed between May 24, 1989 and September 1, 1996.</p>	<p>Production must be from shales certified by the Railroad Commission to be low-porosity tight formations.</p>

MARKET PREVIOUSLY FLARED OR VENTED CASINGHEAD GAS:

WHAT TYPE OF INCENTIVE IS IT?	WHO QUALIFIES?	HOW TO APPLY?
Severance tax exemption on the gas for the life of the well.	An operator is eligible if they market casinghead gas that had previously been released into the air (vented or flared) for 12 months or more in compliance with RRC rules and regulations.	The Texas Well Exemption Application available on the Comptroller's Website must be filled out.

MARGINAL GAS WELLS:

WHAT TYPE OF INCENTIVE IS IT?	WHO QUALIFIES?	HOW TO APPLY?
<p>Severance Tax Relief to producers of marginal gas wells when gas prices fall below certain low levels.</p> <ul style="list-style-type: none"> • 25% tax credit if average taxable gas prices is more than \$3.00 per mcf but no more than \$3.50 • 50% tax credit if average taxable gas prices is more than \$2.50 per mcf but no more than \$3.00 • 100% tax credit if average taxable gas prices is less than \$2.50 	A gas well that averages, over a three-month period, 90 mcf per day or less	Through the State Comptroller's Office.

MARGINAL OIL WELLS:

WHAT TYPE OF INCENTIVE IS IT?	WHO QUALIFIES?	HOW TO APPLY?
<p>Severance Tax Relief to producers of marginal oil wells when oil prices fall below certain low levels.</p> <ul style="list-style-type: none"> • 25% tax credit if price of oil is above \$25 per barrel but no higher than \$30 • 50% tax credit if price of oil is above \$22 per barrel but no more than \$25 • 100% tax credit if the price of oil is \$22 or less 	Low-producing oil lease for any given month, depending on Comptroller's average taxable oil prices, adjusted to 2005 dollars, based on applicable price indices of the previous three months.	Through the State Comptroller's Office

REUSE/RECYCLING OF HYDRAULIC FRACTURING:

WHAT TYPE OF INCENTIVE IS IT?	WHO QUALIFIES?	HOW TO APPLY?
Sales tax exemption.	<p>A “low-producing oil lease” is a lease that averages, over a 90-day period, less than 15 barrels per day per well of 5% recoverable oil per barrel of produced water per well.</p> <p>Exemption for tangible personal property specifically used to process, reuse, or recycle wastewater that will be used in hydraulic fracturing work performed at an oil and gas well.</p>	Must be tangible personal property used to process, reuse or recycle wastewater that will be used for hydraulic fracturing.



RRC WELL DISTRIBUTION HISTORY

FC	TOTAL WELLS MONITORED	TOTAL SHUT-IN WELLS	TOTAL ORPHANED WELLS	% OF TOTAL INACTIVE	% OF INACTIVE ORPHANED	P&A OFCU	% ORPHANED WELLS P&A	% CHANGE ORPHANED
2002	355,101	111,524	17,971	31.41%	16.11%	1,464	8.15%	
2003	355,089	110,968	16,770	31.25%	15.11%	1,635	9.75%	-6.68%
2004	356,069	110,658	15,305	31.08%	13.83%	1,525	9.96%	-8.74%
2005	358,746	111,520	14,208	31.09%	12.74%	1,710	12.04%	-7.17%
2006	362,950	110,950	11,287	30.57%	10.17%	1,824	16.16%	-20.56%
2007	370,744	109,830	9,579	29.62%	8.72%	1,536	16.04%	-15.13%
2008	377,789	112,321	9,323	29.73%	8.30%	1,261	13.53%	-2.67%
2009	389,307	110,488	7,900	28.38%	7.15%	1,460	18.48%	-15.26%
2010	393,898	112,469	7,036	28.55%	6.26%	1,182	16.80%	-10.94%
2011	396,355	112,281	7,869	28.33%	7.01%	801	10.18%	11.84%
2012	398,252	109,737	7,476	27.55%	6.81%	764	10.22%	-4.99%
2013	410,722	108,789	8,644	26.48%	7.95%	778	9.00%	15.62%
2014	425,016	110,808	9,349	26.07%	8.44%	563	6.02%	8.16%
2015	433,146	115,365	9,715	26.63%	8.42%	692	7.12%	3.91%
APR 16	435,654	112,377	9,372	25.80%	8.34%			-3.53%

WELL PLUGGING PRIORITY SYSTEM

FACTOR		WEIGHT
1	Well Completion	
A	Unknown (no well records)	15
B	No surface casing or set above base of deepest usable quality water	10
C	Additional casing string not adequately cemented to isolate usable water quality	5
D	Injection or Disposal well	10
E	Well penetrates salt/corrosive water bearing formation or abnormally pressured formation	5
F	Well in H2S Field	5
G	Age: well drilled \geq 25 years ago	5
	Total (40 max points)	
2	Wellbore Conditions	
A	Well is pressured up at the surface (tbq or Prod csg)	10
B	Bradenhead pressure exists*	5
	Auto 2H if UQW not protected and fluid at BH is not UQW	
C	Measured fluid level:	
D	Fluid level at or above the base of deepest usable quality water	50
E	Fluid level less than 250' below base of deepest usable quality water (na if 2D applies)	15
F	MIT failure	5
G	H-15 (MIT) never performed, or test greater than 5 years old (na if F applies)	3
H	Inadequate wellhead control/integrity	5
	Total (75 max points)	
3	Well location with respect to sensitive areas	
A	H2S well with public area ROE** (Automatic Priority 2H)	
B	In Marine Environment	10
C	Within 100' of river, lake, creek, or domestic use fresh water well (N/A if B applies)	5
D	Between 100' and ¼ mile of river, lake, creek, or domestic use fresh water well (N/A if C applies)	3
E	Located within agricultural area	2
F	Well located in known sensitive wildlife area	3
G	Well located within city or town site limits	10
	Total (20 max points)	
4	Unique Environmental, Safety, or Economic Concern	
A	Adjacent to Active water flood or disposal well at or above completion interval	5
B	Logistics (poor roads, encroaching public, etc)	5
C	Well Contains Junk	5
D	P-5 Delinquent > 5 years	5
E	Other (attach explanation)	1-20
	Total (20 max points)	
	Total Weight	

Priority list

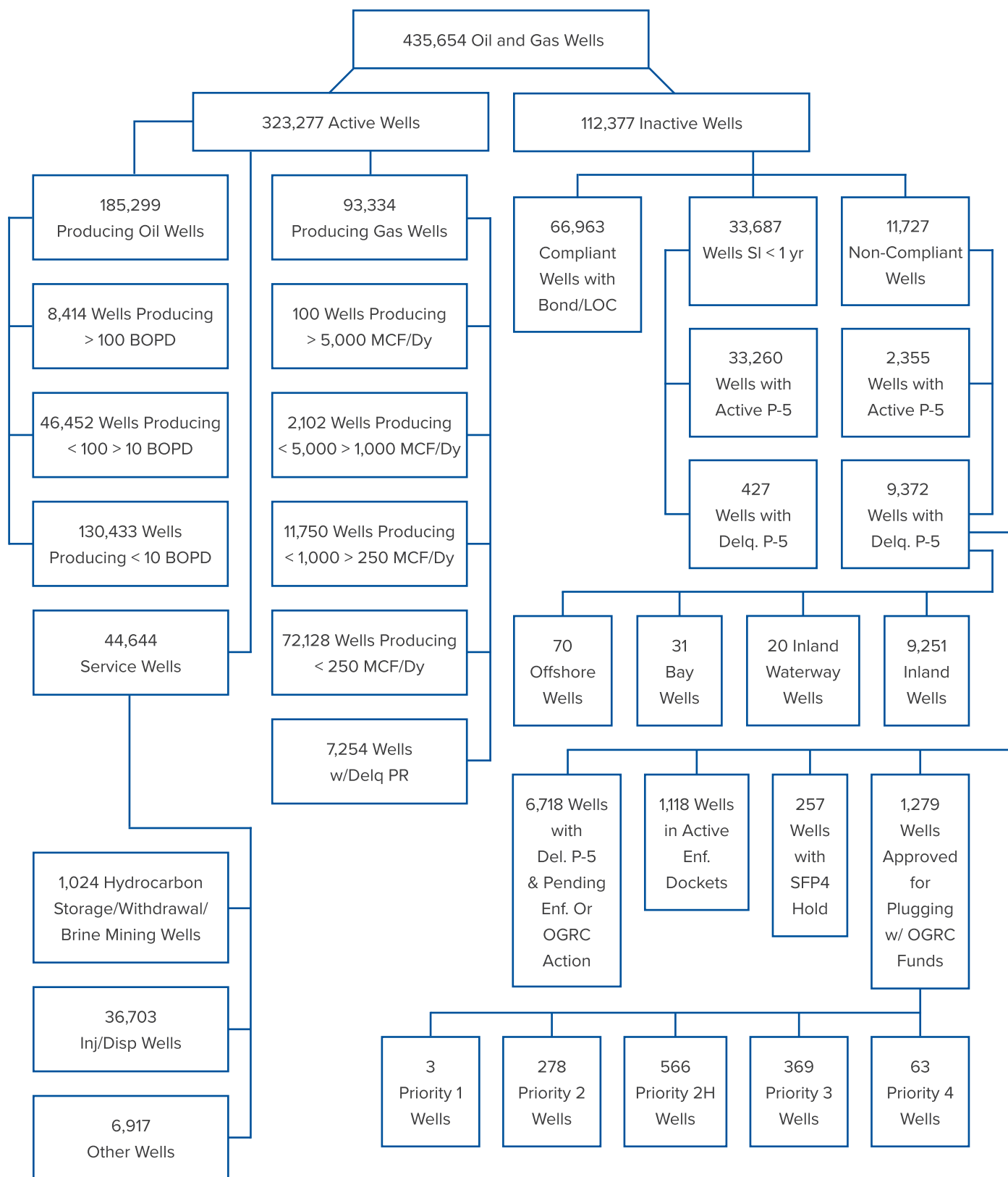
Priority 1 = Leaking Well (based on definition)
 Priority 2H = Higher Risk well (Based on definition and/or total weight > + 75)

Priority 2 = Total Weight 50 – 75
 Priority 3 = Total Weight 25-49
 Priority 4 = Total Weight > 25

*BH Pressure is sustained

** 2H if public area could be impacted based on SWR 36 definition. Undetected/continuous leak possible.

DISTRIBUTION OF WELLS MONITORED BY THE RAILROAD COMMISSION
(AS OF APRIL 29, 2016)



RECENT IMPROVEMENTS TO RAILROAD COMMISSION RULEMAKINGS

STATEWIDE RULE	EFFECTIVE DATE	BACKGROUND AND MODIFICATIONS
Statewide Rule 3.13: Casing, Cementing, Drilling, Well Control, and Completion Requirements	For all new spudded wells compliance began January 1, 2014	<p>The adopted rule amendments specifically update the existing requirements to address areas in which the risks to groundwater may be higher. These new requirements codify many best management practices that already are being implemented by most operators. The adopted amendments:</p> <ul style="list-style-type: none"> • implement certain provisions of House Bill 2694 (82nd Legislature, Regular Session 2011); • more clearly outline the requirements for all wells; • consolidate the requirements for well control and blow-out preventers; and • update the requirements for drilling, casing, cementing, and fracture stimulation.
Statewide Rule 3.29: Hydraulic Fracturing Chemical Disclosure Requirements	February 1, 2012	<p>This rule was implemented as a result of legislation passed by the Texas legislature in the 82nd session, HB 3328. These amendments became known as the Hydraulic Fracturing Disclosure Rule, one of the nation's most comprehensive rules for disclosure of chemical ingredients used in hydraulic fracturing fluids. The rule requires Texas oil and gas operators to disclose on the FracFocus website (fracfocus.org), chemical ingredients and water volumes used in hydraulic fracturing treatments. FracFocus is a public Internet chemical registry hosted by the Ground Water Protection Council (GWPC) and the Interstate Oil and Gas Compact Commission (IOGCC).</p>
Statewide Rule 3.107: Penalty Guidelines for Oil and Gas Violations	August 27, 2012	<p>The RRC adopted amendments to 3.107 to provide a matrix for oil and gas violations.</p> <p>The matrix includes penalty guideline amounts for violations of RRC statutes as well as penalty enhancements based on the severity of the violation, the culpability of the person charged, any prior violations within the past seven years, and the amount of previous penalties.</p>

STATEWIDE RULE	EFFECTIVE DATE	BACKGROUND AND MODIFICATIONS
Statewide Rule 3.8: Water Protection	April 15, 2013	<p>Previously the RRC's commercial recycling rules contemplated only two categories of commercial recycling facilities: mobile facilities and stationary facilities. As technology has evolved other types of recycling have been incorporated into industry activities, however the rule as previously written limited opportunities for recycling. Consequently, amendments were passed to create the following new categories for permitted commercial recycling:</p> <ul style="list-style-type: none"> • On-lease Commercial Solid Oil and Gas Waste Recycling • Off-lease or Centralized Commercial Solid Oil and Gas Waste Recycling • Stationary Commercial Solid Oil and Gas Waste Recycling • Off-lease Commercial Recycling of Fluid; and Stationary Commercial Recycling of Fluid
Statewide Rules 3.9 and 3.46: Disposal Wells and Fluid Injection into Productive Reservoirs	November 17, 2014	<p>Relative to the number of disposal wells in operation in Texas, very few seismic events have taken place over the last few decades. However, the state has seen an increase in seismic activity recently and accordingly incorporated additional requirements for disposal/injection permit applications in areas where conditions may exist to eliminate risks that fluid would not be confined to the appropriate interval. The amendments:</p> <ul style="list-style-type: none"> • Utilize the United States Geologic Service (USGS) database as the source for historical seismic activity; • Amend §3.9(6)(A)(vi) and §3.46(d)(1)(F) to include disposal that is shown to be causing seismic activity to the list of reasons for which the Commission may modify, suspend, or terminate a permit for saltwater or other oil and gas waste disposal for just cause after notice and opportunity for hearing; • Require operators to collect disposal volumes and pressures as requested by RRC for submittal; • Provide that the Commission may require additional technical data such as logs and geologic cross-section where conditions exist that may increase the risk that fluids will not be confined to the injection interval or being possibly connected to seismic events nearby.

STATEWIDE RULE	EFFECTIVE DATE	BACKGROUND AND MODIFICATIONS
<p>Statewide Rule 3.86 and Conforming Amendments to 3.5, 3.31, 3.38, 3.40, 3.45, 3.52, and 3.52:</p> <p>Horizontal Drainhole Wells</p>	February 1, 2016	<p>Over a decade of horizontal drilling has fueled a renaissance of American energy production, and, as usual, Texas has led the way. This experience has also brought about many regulatory challenges, much of which has been addressed in special field rule hearings. During this process a “standard” set of horizontal rules has been developed, with the Barnett and Eagle Ford shale plays leading the way and the Spraberry (Trend Area) field serving as the adopter of horizontal rules in otherwise vertically developed fields. The amendments to SWR 3.86 help with procedural efficiencies dramatically reduce the administrative burden on RRC staff and operators alike. The amendments define and designate Unconventional Fracture Treated Fields (UFT), as a UFT field the rule allows for:</p> <ul style="list-style-type: none"> • Duplicate assignment of acreage as between vertical and horizontal wells in UFT fields • Establishment a per-acre allowable formula (100 bod/acre for oil; 600 mcf/acre for gas) for all wells in UFT fields. • Filing of a P-16 with drilling permit applications and completion reports for all horizontal wells in all fields, and for all wells in UFT fields. • Density reduction with expedited exceptions process.

STATEWIDE RULE	EFFECTIVE DATE	BACKGROUND AND MODIFICATIONS
House Bill 2259	September 1, 2010	<p>In 2009, The 81st Texas Legislature enacted House Bill 2259 (HB 2259), establishing new requirements for oil and gas operators related to surface equipment removal and inactive wells. HB 2259 amended the Texas Natural Resources Code to address two issues related to inactive land wells:</p> <ul style="list-style-type: none">• the dangers posed by live electrical lines connected to inactive wells;• and the recognition of the increased costs to plug inactive wells. <p>HB 2259 reflects the work of the Inactive Well Study Group, formed in 2007, which included both industry associations and landowners. The primary requirements from HB 2259 include:</p> <ul style="list-style-type: none">• Requirements for disconnecting electrical service, purging fluids from tanks, lines, and vessels, and removing surface equipment from inactive land wells.• Establishment of requirements for all operators to annually address their inventory of inactive wells to obtain approval of their yearly organization report.

