



# RAILROAD COMMISSION OF TEXAS

## OFFICE OF GENERAL COUNSEL

### MEMORANDUM

**TO:** Chairman David Porter  
Commissioner Christi Craddick  
Commissioner Ryan Sitton

**FROM:** Haley Cochran, Attorney—General Counsel Section  
Office of General Counsel *HC*

**THROUGH:** Alexander C. Schoch, General Counsel *AS*

**DATE:** August 2, 2016

**SUBJECT:** Proposed Amendment of 16 TAC §3.15, relating to  
Surface Equipment Removal Requirements and  
Inactive Wells; Docket Number 20-031256.

August 9, 2016		
Approved	Denied	Abstain

Attached is Staff's recommendation to publish amendments to 16 Tex. Admin. Code §3.15, relating to Surface Equipment Removal Requirements and Inactive Wells. The amendments are proposed to more accurately track when inactive wells have been returned to production, thereby reducing the administrative burden for those wells and associated costs to industry.

Staff requests the Commission's approval to publish the proposed amendments in the *Texas Register* for a 30-day comment period. If approved at conference on August 9th, the proposal should appear in the August 26, 2016 issue of the *Texas Register*. The proposal and an online comment form would also be made available on the Commission's website the day after conference, giving interested persons more than two additional weeks to review and submit comments to the Commission.

cc: Kimberly Corley, Executive Director  
Lori Wrotenbery, Director – Oil and Gas Division  
Tim Poe, Asst. Director for Administrative Compliance – Oil and Gas Division  
Wei Wang, Chief Financial Officer

1           The Railroad Commission of Texas (Commission) proposes amendments to §3.15, relating to  
2           Surface Equipment Removal Requirements and Inactive Wells. The amendments are proposed to more  
3           accurately track when inactive wells have been returned to production, thereby reducing the  
4           administrative burden for those wells and associated costs to industry.

5           The Commission proposes to amend §3.15(a)(1) to modify the procedure used to determine when  
6           a well that has been designated as an "inactive well" under §3.15(a)(6) may be restored to "active  
7           operation" status. By rulemaking effective November 1, 2000, the Commission established minimum  
8           production levels for producing wells that must be met before an inactive well could achieve active  
9           operation. To return to active operation, an oil well must produce at least 10 barrels of oil per month for  
10          three consecutive months, and a gas well must produce at least 100,000 cubic feet of gas per month for  
11          three consecutive months. The Commission proposes to amend those standards such that the  
12          Commission will deem an inactive oil well restored to active operation upon reporting actual oil  
13          production of either five barrels of oil per month for three consecutive months, or any amount of oil  
14          greater than zero for 12 consecutive months. Similarly, the Commission will deem an inactive gas well  
15          restored to active operation upon reporting actual gas production of either 50,000 cubic feet of gas per  
16          month for three consecutive months, or any amount of gas greater than zero for 12 consecutive months.

17          The Commission further proposes to amend §3.15(i) to delete paragraphs (5), (6) and (7). These  
18          paragraphs contain requirements applicable to the five-year phase-in of surface cleanup requirements  
19          pursuant to Texas Natural Resources Code §89.029(f). The five-year phase-in period ended on  
20          September 1, 2015; therefore, the Commission proposes these paragraphs be deleted from the rule.

21          Further, the Commission proposes additional non-substantive modifications and clarifications to  
22          conform the rule to current Commission practices.

23          Mr. Tim Poe, Assistant Director for Administrative Compliance, Oil & Gas Division, has  
24          determined that for each year of the first five years the amendments will be in effect there will be fiscal

1 implications to the Commission as a result of the amendments. There will be no fiscal effect on local  
2 government. Between June 1, 2015 and June 1, 2016, the Commission received \$80,250 in rule exception  
3 fees associated with 214 filings of Form W-3C, Certification of Surface Equipment Removal for an  
4 Inactive Well. Fees from this source are deposited into the Oil & Gas Regulation and Cleanup  
5 ("OGRC") Fund. Staff estimates that approximately 50% of these fees are associated with wells that  
6 would no longer be considered "inactive" under the proposed amendments. Accordingly, OGRC revenue  
7 would decrease approximately \$40,125 per year.

8 Relatedly, the decrease in Form W-3C filings for exception requests will also lessen the  
9 processing burden on Commission staff. Each Form W-3C filing seeking an exception to the surface  
10 cleanup requirements passes through multiple departments of the Commission. Assuming a reduction in  
11 filing of approximately 50%, the decrease in staff time would represent a savings of approximately  
12 \$1,070 per year.

13 Additionally, the proposed amendments would result in a one-time cost to the Commission  
14 associated with minor ITS modifications to enable the Commission's data processing systems to  
15 recognize a return to active operation based on the proposed criteria. Staff estimates the total cost of ITS  
16 modifications to be \$2,200.

17 Mr. Poe has determined that for each year of the first five years the proposed amendments are in  
18 effect, the anticipated public benefit will be efficient use of Commission resources due to more accurate  
19 classification of inactive and active wells.

20 Mr. Poe has also determined that there is no economic cost for persons required to comply with  
21 the proposed amendments. Industry will, however, benefit from the amended requirements through an  
22 estimated savings of \$40,125 per year from exception filing fees no longer paid to the Commission.  
23 Industry will also benefit because the amended definition of "active operation" will reduce the amount of  
24 marginal producing wells that must comply with inactive well requirements. Commission records

1 indicate that there are 4,455 wells that are flagged "inactive" but that the operator reports are in  
2 production. Assuming 50% of these wells will meet one of the two criteria for returning to active  
3 operation, and assuming a cost of \$100 that these wells would otherwise bear to comply with the  
4 Commission's inactive well requirements, the amendments will result in approximately \$222,750 in  
5 savings per year to industry in reduced compliance costs.

6 The Commission has determined that the proposed amendments to §3.15 will not have an  
7 adverse economic effect on small businesses or micro-businesses. As noted above, there is no anticipated  
8 additional cost for any person required to comply with the proposed amendments. Therefore, the  
9 Commission has not prepared the economic impact statement or the regulatory flexibility analysis  
10 pursuant to Texas Government Code §2006.002.

11 The Commission has also determined that the proposed amendments will not affect a local  
12 economy. Therefore, the Commission has not prepared a local employment impact statement pursuant to  
13 Texas Government Code §2001.022.

14 The Commission has determined that the amendments do not meet the statutory definition of a  
15 major environmental rule as set forth in Texas Government Code, §2001.0225(a); therefore, a regulatory  
16 analysis conducted pursuant to that section is not required.

17 Comments on the proposed amendments may be submitted to Rules Coordinator, Office of  
18 General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at  
19 [www.rrc.texas.gov/legal/rules/comment-form-for-proposed-rulemakings](http://www.rrc.texas.gov/legal/rules/comment-form-for-proposed-rulemakings); or by electronic mail to  
20 [rulescoordinator@rrc.texas.gov](mailto:rulescoordinator@rrc.texas.gov). The Commission will accept comments until noon (12:00 p.m.) on  
21 Monday, September 26, 2016, which is 31 days after publication in the *Texas Register*. Comments should  
22 refer to O&G Docket No. 20-031256. The Commission finds that this comment period is reasonable  
23 because the proposal and an online comment form will be available on the Commission's web site more  
24 than two weeks prior to *Texas Register* publication of the proposal, giving interested persons additional

1 time to review, analyze, draft, and submit comments. The Commission encourages all interested persons  
2 to submit comments no later than the deadline. The Commission cannot guarantee that comments  
3 submitted after the deadline will be considered. For further information, call Mysti Doshier, P-5  
4 Financial Assurance Unit Manager, Oil & Gas Division, at (512) 463-6743. The status of Commission  
5 rulemakings in progress is available at [www.rrc.texas.gov/legal/rules/proposed-rules](http://www.rrc.texas.gov/legal/rules/proposed-rules).

6 The Commission proposes these amendments under Texas Natural Resources Code, §§81.051  
7 and 81.052, which provide the Commission with jurisdiction over all persons owning or engaged in  
8 drilling or operating oil or gas wells in Texas and the authority to adopt all necessary rules for governing  
9 and regulating persons and their operations under Commission jurisdiction; Texas Natural Resources  
10 Code §§85.042, 85.202, 86.041 and 86.042, which require the Commission to adopt rules to control  
11 waste of oil and gas; and Texas Natural Resources Code, §89.023, which authorizes the Commission to  
12 adopt rules relating to the definition of active operation.

13 Texas Natural Resources Code, §§81.051, 81.052, 85.042, 85.202, 86.041, 86.042, and 89.023  
14 are affected by the proposed amendments.

15 Statutory authority: Texas Natural Resources Code §§81.051, 81.052, 85.042, 85.202, 86.041,  
16 86.042, and 89.023.

17 Cross-reference to statute: Texas Natural Resources Code, Chapters 81, 85, 86, and 89.

18  
19 **§3.15. Surface Equipment Removal Requirements and Inactive Wells.**

20 (a) Definitions. The following words and terms, when used in this section, shall have the  
21 following meanings, unless the context clearly indicates otherwise:

22 (1) Active operation--Regular and continuing activities related to the production of oil  
23 and gas for which the operator has all necessary permits. In the case of a well that has been inactive for  
24 12 consecutive months or longer and that is not permitted as a disposal or injection well, the well remains

1 inactive for purposes of this section, regardless of any minimal activity, until the well has any reported  
2 production in each month for 12 consecutive months or reported production of at least five [~~10~~] barrels of  
3 oil for oil wells or 50 [~~100~~] mcf of gas for gas wells each month for at least three consecutive months.

4 (2) Cost calculation for plugging an inactive well--The cost, calculated by the  
5 Commission or its delegate, for each foot of well depth plugged based on average actual plugging costs  
6 for wells plugged by the Commission for the preceding state fiscal year for the Commission Oil and Gas  
7 Division district in which the inactive well is located.

8 (3) Delinquent inactive well--An inactive well for which, after notice and opportunity for  
9 a hearing, the Commission or its delegate has not extended the plugging deadline.

10 (4) Enhanced oil recovery (EOR) project--A project that does not include a water  
11 disposal project and is:

12 (A) a Commission-approved EOR project that uses any process for the  
13 displacement of oil or other hydrocarbons from a reservoir other than primary recovery and includes the  
14 use of an immiscible, miscible, chemical, thermal, or biological process;

15 (B) a certified project described by Texas Tax Code, §202.054; or

16 (C) any other project approved by the Commission or its delegate for EOR.

17 (5) Good faith claim--A factually supported claim based on a recognized legal theory to a  
18 continuing possessory right in a mineral estate, such as evidence of a currently valid oil and gas lease or a  
19 recorded deed conveying a fee interest in the mineral estate.

20 (6) Inactive well--An unplugged well that has been spudded or has been equipped with  
21 cemented casing and that has had no reported production, disposal, injection, or other permitted activity  
22 for a period of greater than 12 months.

23 (7) Physical termination of electric service to the well's production site--Disconnection  
24 of the electric service to an inactive well site at a point on the electric service lines most distant from the

1 production site toward the main supply line in a manner that will not interfere with electrical supply to  
2 adjacent operations, including cathodic protection units.

3 (8) Operator designation form--A certificate of compliance and transportation authority  
4 or an application to drill, recomplete, and reenter that has been approved by the Commission or its  
5 delegate.

6 (b) Plugging of inactive bay and offshore wells required.

7 (1) An operator of an existing inactive bay or offshore well as defined in §3.78 of this  
8 title (relating to Fees and Financial Security Requirements) must:

9 (A) restore the well to active operation [~~status~~] as defined by Commission rule;

10 (B) plug the well in compliance with a Commission rule or order; or

11 (C) obtain the approval of the Commission or its delegate of an extension of the  
12 deadline for plugging an inactive bay or offshore well.

13 (2) The Commission or its delegate may not approve an extension of the deadline for  
14 plugging an inactive bay or offshore well if the plugging of the well is otherwise required by Commission  
15 rules or orders.

16 (c) Extension of deadline for plugging an inactive bay or offshore well. The Commission or its  
17 delegate may administratively grant an extension of the deadline for plugging an inactive bay or offshore  
18 well as defined by Commission rules if:

19 (1) the operator has a current organization report;

20 (2) the operator has, and on request provides, evidence of a good faith claim to a  
21 continuing right to operate the well;

22 (3) the well and associated facilities are otherwise in compliance with all Commission  
23 rules and orders; and

24 (4) for a well more than 25 years old, the operator successfully conducts and the

1 Commission or its delegate approves a fluid level or hydraulic pressure test establishing that the well  
2 does not pose a potential threat of harm to natural resources, including surface and subsurface water, oil,  
3 and gas.

4 (d) Plugging of inactive land wells required.

5 (1) An operator that assumes responsibility for the physical operation and control of an  
6 existing inactive land well must maintain the well and all associated facilities in compliance with all  
7 applicable Commission rules and orders and within six months after the date the Commission or its  
8 delegate approves an operator designation form must either:

9 (A) restore the well to active operation [status] as defined by Commission rule;

10 (B) plug the well in compliance with a Commission rule or order; or

11 (C) obtain approval of the Commission or its delegate of an extension of the  
12 deadline for plugging an inactive well.

13 (2) The Commission or its delegate may not approve an extension of the deadline for  
14 plugging an inactive land well if the plugging of the well is otherwise required by Commission rules or  
15 orders.

16 (3) Except for an operator designation form filed for the purpose of a name change, the  
17 Commission or its delegate may not approve an operator designation form for an inactive land well  
18 [~~submitted within the six-month compliance period of paragraph (1) of this subsection~~] until the operator  
19 satisfies the requirements of paragraph (1)(C) of this subsection.

20 (4) If an operator fails to restore the well to active operation [status] as defined by  
21 Commission rule, plug the well in compliance with a Commission rule or order, or obtain an extension of  
22 the deadline for plugging an inactive well within six months after acquiring an inactive well, the  
23 Commission or its delegate may, after notice and opportunity for hearing, revoke the operator's  
24 organization report.



1           (5) The Commission or its delegate may approve an organization report that is delinquent  
2 or has been revoked if the Commission or its delegate simultaneously approves extensions of the  
3 deadline for plugging the operator's inactive wells.

4           (e) Extension of deadline for plugging an inactive land well. The Commission or its delegate may  
5 administratively grant an extension of the deadline for plugging an inactive land well if:

6                 (1) the Commission or its delegate approves the operator's Application for an Extension  
7 of Deadline for Plugging an Inactive Well (Commission Form W-3X);

8                 (2) the operator has a current organization report;

9                 (3) the operator has, and on request provides evidence of, a good faith claim to a  
10 continuing right to operate the well;

11                (4) the well and associated facilities are otherwise in compliance with all Commission  
12 rules and orders; and

13                (5) for a well more than 25 years old, the operator successfully conducts and the  
14 Commission or its delegate approves a fluid level or hydraulic pressure test establishing that the well  
15 does not pose a potential threat of harm to natural resources, including surface and subsurface water, oil,  
16 and gas.

17           (f) Application for an extension of deadline for plugging an inactive land well.

18                 (1) This subsection does not apply to a bay well or an offshore well as those terms are  
19 defined in §3.78 of this title.

20                 (2) An operator must include the following in an application for an extension of the  
21 deadline for plugging an inactive well:

22                         (A) an affirmation made by an individual with personal knowledge of the  
23 physical condition of the inactive well pursuant to the provisions of Texas Natural Resources Code,  
24 §91.143, stating the following: that the operator has physically terminated electric service to the well's

1 production site; and either:

2 (i) if the operator does not own the surface of the land where the well is  
3 located and the well has been inactive for at least five years but for less than 10 years as of the date of  
4 renewal of the operator's organization report, that the operator has emptied or purged of production fluids  
5 all piping, tanks, vessels, and equipment associated with and exclusive to the well; or

6 (ii) if the operator does not own the surface of the land where the well is  
7 located, and the well has been inactive for at least 10 years as of the date of renewal of the operator's  
8 organization report, that the operator has removed all surface equipment and related piping, tanks, tank  
9 batteries, pump jacks, headers, fences, and firewalls; has closed all open pits; and has removed all junk  
10 and trash, as defined by Commission rule, associated with and exclusive to the well; and

11 (B) documentation that the operator has satisfied at least one of the following  
12 requirements:

13 (i) for all inactive land wells that an operator has operated for more than  
14 12 months, the operator has plugged or restored to active operation, as defined by Commission rule, 10%  
15 of the number of inactive land wells operated at the time of the last annual renewal of the operator's  
16 organization report;

17 (ii) if the operator is a publicly traded entity, for all inactive land wells,  
18 the operator has filed with the Commission a copy of the operator's federal documents filed to comply  
19 with Financial Accounting Standards Board Statement No. 143, Accounting for Asset Retirement  
20 Obligations, and an original executed Uniform Commercial Code Form 1 Financing Statement, filed with  
21 the Secretary of State, that names the operator as the "debtor" and the Railroad Commission of Texas as  
22 the "secured creditor" and specifies the funds covered by the documents in the amount of the cost  
23 calculation for plugging all inactive wells;

24 (iii) the filing of a blanket bond on Commission Form P-5PB(2), Blanket

1 Performance Bond, a letter of credit on Commission Form P-5LC, Irrevocable Documentary Blanket  
2 Letter of Credit, or a cash deposit, in the amount of either the lesser of the cost calculation for plugging  
3 all inactive wells or \$2 million;

4 (iv) for each inactive land well identified in the application, the  
5 Commission has approved an abeyance of plugging report and the operator has paid the required filing  
6 fee;

7 (v) for each inactive land well identified in the application, the operator  
8 has filed a statement that the well is part of a Commission-approved EOR project;

9 (vi) for each inactive land well identified in the application that is not  
10 otherwise required by Commission rule or order to conduct a fluid level or hydraulic pressure test of the  
11 well, the operator has conducted a successful fluid level test or hydraulic pressure test of the well and the  
12 operator has paid the required filing fee;

13 (vii) for each inactive land well identified in the application, the operator  
14 has filed Commission Form W-3X and the Commission or its delegate has approved a supplemental  
15 bond, letter of credit, or cash deposit in an amount at least equal to the cost calculation for plugging an  
16 inactive land well for each well specified in the application; or

17 (viii) for each time an operator files an application for a plugging  
18 extension and for each inactive land well identified in the application, the operator has filed Commission  
19 Form W-3X [~~W3-X~~] and the Commission or its delegate has approved an escrow fund deposit in an  
20 amount at least equal to 10% of the total cost calculation for plugging an inactive land well.

21 (g) Commission action on application for plugging extension.

22 (1) The Commission or its delegate shall administratively grant all applications for  
23 plugging extensions that meet the requirements of Commission rules.

24 (2) The Commission or its delegate may administratively deny an application for a

1 plugging extension for an inactive well if the Commission or its delegate determines that:

2 (A) the applicant does not have an active organization report at the time the  
3 plugging extension application is filed;

4 (B) the applicant has not submitted all required filing fees and financial  
5 assurance for the requested plugging extension and for renewal of its organization report; or

6 (C) the applicant has not submitted a signed organization report for the  
7 applied-for extension year that qualifies for approval regardless of whether the applicant has complied  
8 with the inactive well requirements of this section.

9 (3) Except as provided in paragraph (2) of this subsection, if the Commission or its  
10 delegate determines that an organization report should be denied renewal solely because it does not meet  
11 the inactive well requirements of this section, a Commission delegate shall, within a reasonable time of  
12 not more than 14 days after receipt of the applicant's administratively complete organization report  
13 renewal packet, including all statutorily required fees and financial assurance:

14 (A) notify the operator of the determination;

15 (B) provide the operator with a written statement of the reasons for the  
16 determination; and

17 (C) notify the operator that it has 90 days from the expiration of its most recently  
18 approved organization report to comply with the requirements of this section.

19 (4) If, after the expiration of the 90-day period specified in paragraph (3)(C) of this  
20 subsection, the Commission or its delegate determines that the operator remains out of compliance with  
21 the requirements of this section, the Commission delegate shall mail the operator a [second] written  
22 notice of this determination. The operator may request a hearing. ~~[The operator must file a written~~  
23 ~~request for hearing and the hearing fee of \$4,500 with the Office of General Counsel, Hearings Section,~~  
24 ~~Docket Services, no later than 30 days from the date the second written notice was mailed to the~~

1 ~~operator. In the request for hearing, the operator must identify by its assigned American Petroleum~~  
2 ~~Institute (API) number each inactive well for which the operator is seeking a hearing to contest the~~  
3 ~~determination that the well remains out of compliance.] If the operator fails to timely file a request for~~  
4 ~~hearing and the required hearing fee, the Commission shall enter an order denying the plugging extension~~  
5 ~~request and denying renewal of the operator's organization report without further notice or opportunity~~  
6 ~~for hearing.~~

7           (5) To request a hearing, the operator must file a written request for hearing and the  
8 hearing fee of \$4,500 with the Hearings Division, no later than 30 days from the date the written notice  
9 was mailed to the operator. In the request for hearing, the operator must identify by its assigned  
10 American Petroleum Institute (API) number each inactive well for which the operator is seeking a  
11 hearing to contest the determination that the well remains out of compliance. At the time an operator files  
12 a request for hearing under this subsection, the operator shall provide a list of affected persons to be  
13 given notice of the hearing. Affected persons shall include the owners of the surface estate of each tract  
14 on which a well that is the subject of the hearing request is located, the director of the Commission's  
15 Enforcement Section, and the district director of each Commission district in which the wells are located.  
16 The applicant's failure to diligently prosecute a hearing requested under this subsection may result in the  
17 application being involuntarily dismissed for want of prosecution on the motion of any affected person or  
18 on the Commission's own motion.

19           (6) If an operator files a timely plugging extension application that is not properly  
20 administratively denied for the reasons specified in paragraph (2) of this subsection, then the operator's  
21 previously approved organization report shall remain in effect until the Commission approves its  
22 plugging extension application or enters a final order denying the application.

23           (h) Revocation of extension. The Commission or its delegate may revoke an extension of the  
24 deadline for plugging an inactive well if the Commission or its delegate determines, after notice and an

1 opportunity for a hearing, that the applicant is ineligible for the extension under the Commission's rules  
2 or orders.

3 (i) Removal of surface equipment for land wells inactive more than 10 years. Requirements to  
4 remove surface equipment for land wells inactive more than 10 years do not excuse an operator from  
5 compliance with all other applicable Commission rules and orders including the requirements in Chapter  
6 4 of this title (relating to Environmental Protection).

7 (1) An operator of an inactive land well must leave a clearly visible sign as required by  
8 §3.3 of this title (relating to Identification of Properties, Wells, and Tanks) at the wellhead of the well  
9 and must maintain wellhead control as required by §3.13 of this title (relating to Casing, Cementing,  
10 Drilling, and Completion Requirements).

11 (2) An operator may not store surface equipment removed from an inactive land well on  
12 an active lease.

13 (3) An operator may be eligible for a temporary extension of the deadline for plugging an  
14 inactive land well or a temporary exemption from the surface equipment removal requirements if the  
15 operator is unable to comply with the requirements of subsection (f)(2)(A) of this section because of  
16 safety concerns or required maintenance of the well site and the operator includes with the application a  
17 written affirmation of the facts regarding the safety concerns or maintenance.

18 (4) An operator may be eligible for an extension of the deadline for plugging a well  
19 without complying with the surface equipment removal requirements for inactive land wells if the well is  
20 located on a unit or lease or in a field associated with an EOR project and the operator includes a  
21 statement in the written affirmation that the well is part of such a project. The exemption provided by this  
22 subsection applies only to the equipment associated with current and future operations of the project.

23 ~~[(5) For land wells that have been inactive for more than 10 years as of September 1,~~  
24 ~~2010, an operator must file documentation with its annual organization report filing to demonstrate that~~

1 ~~the operator has restored these wells to active operation; plugged and removed the surface equipment~~  
2 ~~from these wells; or removed the surface equipment and obtained a plugging extension for these wells~~  
3 ~~under the following schedule:]~~

4 ~~[(A) at least 20% of the wells by the first renewal of the operator's organization~~  
5 ~~report after September 1, 2011;]~~

6 ~~[(B) at least 40% of the wells by the first renewal of the operator's organization~~  
7 ~~report after September 1, 2012;]~~

8 ~~[(C) at least 60% of the wells by the first renewal of the operator's organization~~  
9 ~~report after September 1, 2013;]~~

10 ~~[(D) at least 80% of the wells by the first renewal of the operator's organization~~  
11 ~~report after September 1, 2014; and]~~

12 ~~[(E) any wells remaining by the first renewal of the operator's organization report~~  
13 ~~after September 1, 2015.]~~

14 ~~[(6) Upon the transfer of a land well that has been inactive for more than 10 years as of~~  
15 ~~September 1, 2010, to a new operator, the new operator must bring the well into compliance with the~~  
16 ~~requirement to remove surface equipment not later than six months after the date the Commission or its~~  
17 ~~delegate approves the Commission Form P-4 under which the new operator assumes responsibility for the~~  
18 ~~well. The removal of surface equipment by a new operator after a transfer does not count toward the~~  
19 ~~fulfillment of the requirements of paragraph (5) of this subsection for either operator.]~~

20 ~~[(7) The operator of a land well that becomes inactive for more than 10 years after~~  
21 ~~September 1, 2010, must bring the well into compliance with the requirement to remove surface~~  
22 ~~equipment prior to the next renewal of the operator's annual organization report. The removal of surface~~  
23 ~~equipment from such a well does not count toward the fulfillment of the requirements of paragraph (5) of~~  
24 ~~this subsection.]~~

1 (j) Abeyance of plugging report.

2 (1) An operator that files an abeyance of plugging report must:

3 (A) pay an annual fee of \$100 for each inactive land well covered by the report;

4 (B) use Commission Form W-3X on which the operator must specify the field  
5 and the covered wells within that field; and

6 (C) for each well, include a certification signed and sealed by a person licensed  
7 by the Texas Board of Professional Engineers or the Texas Board of Professional Geoscientists stating  
8 that the well has:

9 (i) a reasonable expectation of economic value in excess of the cost of  
10 plugging the well for the duration of the period covered by the report, based on the cost calculation for  
11 plugging an inactive well;

12 (ii) a reasonable expectation of being restored to a beneficial use that  
13 will prevent waste of oil or gas resources that otherwise would not be produced if the well were plugged;  
14 and

15 (iii) documentation demonstrating the basis for the affirmation of the  
16 well's future utility.

17 (2) Except as provided in paragraph (3) of this subsection, the Commission or its  
18 delegate may not transfer an abeyance of plugging report to a new operator of an existing inactive land  
19 well. The new operator of an existing inactive land well must file a new abeyance of plugging report or  
20 otherwise comply with the requirements of this subchapter not later than six months after the date the  
21 Commission or its delegate approves the new operator's request to be recognized as the operator of the  
22 well.

23 (3) The Commission or its delegate may transfer an abeyance of plugging report in the  
24 event of a change of name of an operator.



1 (k) Enhanced oil recovery (EOR) project.

2 (1) An inactive well is considered to be part of an EOR project if the well is located on a  
3 unit or lease or in a field associated with a Commission-approved EOR project.

4 (2) Except as provided in paragraph (3) of this subsection, the Commission and its  
5 delegate may not transfer a statement that an inactive well is part of an EOR project to a new operator of  
6 an existing inactive well. A new operator of an existing inactive well must file a new statement stating  
7 that the well is part of such an EOR project or otherwise comply with the provisions of this section not  
8 later than six months after the date the Commission or its delegate approves the new operator's request to  
9 be recognized as the operator of the well.

10 (3) The Commission or its delegate may transfer a statement that a well is part of an  
11 EOR project in the event of a change of name of an operator.

12 (l) Fluid level or hydraulic pressure test for inactive wells more than 25 years old.

13 (1) At least three days prior to the test, the operator must give the district office notice of  
14 the date and approximate time the operator intends to conduct a fluid level or hydraulic pressure test. The  
15 district office may require that a test be witnessed by a Commission employee. The district office may  
16 allow an operator to conduct a test even if notice of the test is provided to the district office fewer than  
17 three days prior to the test.

18 (2) No operator may conduct a test other than a fluid level or hydraulic pressure test  
19 without prior approval from the district director or the director's delegate.

20 (3) For each inactive well that is more than 25 years old and that has been inactive more  
21 than 10 years, the operator must perform either a fluid level test once every 12 months or a hydraulic  
22 pressure test once every five years and obtain the approval of the Commission or its delegate of the  
23 results of said tests.

24 (4) Notwithstanding the provisions of paragraph (1) of this subsection, an operator may

1 conduct a hydraulic pressure test without prior approval from the district director or the director's  
2 delegate, provided that the operator gives the district office written notice of the date and approximate  
3 time for the test at least three days prior to the time the test will be conducted; the production casing is  
4 tested to a depth of at least 250 feet below the base of usable quality water strata or 100 feet below the  
5 top of cement behind the production casing, whichever is deeper; and the minimum test pressure is  
6 greater than or equal to 250 psig for a period of at least 30 minutes.

7 (5) Using Commission Form H-15, each operator must file in the Commission's Austin  
8 office the results of a successful fluid level test within 30 days of the date the test was performed. The  
9 results, if approved, are valid for a period of one year from the date of the test. Upon request by the  
10 Commission or its delegate, the operator must file the actual test data.

11 (6) Using Commission Form H-5 or Form H-15, each operator must file in the district  
12 office the results of a successful hydraulic pressure test, including the original pressure recording chart or  
13 its electronic equivalent, within 30 days of the date the test was performed. The results, if approved, are  
14 valid for a period of five years from the date of the test, unless the Commission or its delegate requires  
15 the operator to perform testing more frequently to ensure that the well does not pose a threat of harm to  
16 natural resources.

17 (7) An operator of an inactive well that is more than 25 years old may not return that  
18 inactive well to active operation unless the operator performs either a successful fluid level test of the  
19 well within 12 months prior to the return to activity or a successful hydraulic pressure test of the well  
20 within five years prior to the return to activity.

21 (m) Fluid level or hydraulic pressure test for inactive land well less than 25 years old.

22 (1) At least three days prior to the test, each operator must give the district office notice  
23 of the date and approximate time the operator intends to conduct a fluid level or hydraulic pressure test.  
24 The district office may require that a test be witnessed by a Commission employee. The district office

1 may allow an operator to conduct a test even if notice of the test is provided to the district office fewer  
2 than three days prior to the test.

3 (2) No operator may conduct a test other than a fluid level or hydraulic pressure test  
4 without prior approval from the district director or the director's delegate.

5 (3) Notwithstanding the provisions of paragraph (1) of this subsection, an operator may  
6 conduct a hydraulic pressure test without prior approval from the district director or the director's  
7 delegate, provided that the operator gives the district office written notice of the date and approximate  
8 time for the test at least three days prior to the time the test will be conducted; the production casing is  
9 tested to a depth of at least 250 feet below the base of usable quality water strata or 100 feet below the  
10 top of cement behind the production casing, whichever is deeper; and the minimum test pressure is  
11 greater than or equal to 250 psig for a period of at least 30 minutes.

12 (4) An operator that files documentation of a fluid level test or a hydraulic pressure test  
13 for an inactive land well less than 25 years old in order to obtain a plugging extension must pay an annual  
14 fee of \$50 for each well covered by the documentation.

15 (5) Using Commission Form H-15, each operator must file in the Commission's Austin  
16 office the results of a successful fluid level test within 30 days of the date the test was performed. The  
17 results, if approved, are valid for a period of one year from the date of the test. Upon request by the  
18 Commission or its delegate, the operator must file the actual test data.

19 (6) Using Commission Form H-5 or Form H-15, each operator must file in the district  
20 office the results of a successful hydraulic pressure test, including the original pressure recording chart or  
21 its electronic equivalent, within 30 days of the date the test was performed. The results, if approved, are  
22 valid for a period of five years from the date of the test, unless the Commission or its delegate requires  
23 the operator to perform testing more frequently to ensure that the well does not pose a threat of harm to  
24 natural resources.

1                   (7) The Commission or its delegate may transfer documentation of the results of a fluid  
2 level or hydraulic pressure test to a new operator of an existing inactive land well that is less than 25  
3 years old.

4                   (n) Supplemental financial assurance.

5                   (1) A supplemental bond, letter of credit, or cash deposit filed as part of an application  
6 for an extension for an inactive land well is in addition to any other financial assurance otherwise  
7 required of the operator or for the well.

8                   (2) The Commission or its delegate may not transfer a supplemental bond, letter of  
9 credit, or cash deposit to a new operator of an existing inactive land well. A new operator of an existing  
10 inactive land well must file a new supplemental bond, letter of credit, or cash deposit or otherwise  
11 comply with the provisions of this section not later than six months after the date the Commission or its  
12 delegate approves an operator designation form.

13                   (o) Escrow funds.

14                   (1) An operator must deposit escrow funds with the Commission each time the operator  
15 files an application for an extension of the deadline for plugging an inactive well.

16                   (2) The Commission or its delegate may release escrow funds deposited with the  
17 Commission only as prescribed by §3.78 of this title.

18                   (p) Plugging more than 10% of inactive well inventory. If an operator plugs more than 10% of  
19 the number of inactive land wells during a 12-month organization report cycle, the Commission will

1 count the number of plugged wells above 10% toward fulfillment of the 10% blanket option under  
2 subsection (f)(2)(B)(i) of this section during the next organization report cycle.

3 This agency hereby certifies that the proposal has been reviewed by legal counsel and found to  
4 be within the agency's authority to adopt.

5 Issued in Austin, Texas on August 9, 2016.

6 Filed with the Office of the Secretary of State on August 9, 2016.



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