



RAILROAD COMMISSION OF TEXAS

OFFICE OF GENERAL COUNSEL

MEMORANDUM

TO: Chairman Barry T. Smitherman
Commissioner David Porter
Commissioner Christi Craddick

FROM: Cristina Self, Attorney— General Counsel Section
Office of General Counsel *CS*

THROUGH: Lindil C. Fowler, General Counsel *LF*

DATE: June 10, 2014

SUBJECT: Adoption of amendments to 16 Tex. Admin. Code §3.80, relating to Commission Oil and Gas Forms, Applications, and Filing Requirements; O&G Docket No. 20-0287605.

Attached are Staff's recommended preamble and rule text for the adoption of amendments to rule §3.80, relating to Commission Oil and Gas Forms, Applications, and Filing Requirements. These amendments were proposed in order to reflect the policy adopted by the Commission at its November 12, 2013, open meeting. That policy requires the Commission to promulgate, abolish, or amend forms only upon the approval of a majority of Commissioners at a public meeting, thus allowing the Commission to be flexible and efficient in making any needed form changes, while also ensuring transparency in the form development process and providing an opportunity for public notice and discussion of form changes.

On March 25, 2014, the Commission approved the publication of the proposed amendments in the *Texas Register* for a 30-day public comment period, which ended on May 12, 2014. The Commission received one public comment on the proposal, which is addressed beginning on the first page of the adoption materials in your notebooks.

Staff recommends that the Commission adopt this new rule without changes to the proposed text published in the April 11, 2014, issue of the *Texas Register*.

cc: Jason Boatright, Director—General Counsel Section
Gil Bujano, Director—Oil & Gas Division
David Cooney, Director—Enforcement Section
Milton Rister, Executive Director
Leslie Savage, Chief Geologist—Oil & Gas Division
Wei Wang, Chief Financial Officer

1 The Railroad Commission of Texas (Commission) adopts amendments to §3.80, relating to
2 Commission Oil and Gas Forms, Applications, and Filing Requirements, without changes to the proposed
3 text as published in the April 11, 2014, issue of the *Texas Register* (39 TexReg 2661).

4 The Commission adopts the amendments in order to reflect the policy adopted at its November
5 12, 2013, open meeting regarding forms required to be filed with the Commission. The policy requires the
6 Commission to promulgate, abolish, or amend forms only upon the approval of a majority of
7 Commissioners at a public meeting. The policy will allow the Commission to be flexible and efficient in
8 making any needed form changes, while providing transparency in the form development process and an
9 opportunity for public notice and discussion of any form changes. Where required by Texas law to
10 promulgate, abolish, or amend a certain form through rulemaking procedures conducted under the Texas
11 Administrative Procedure Act, the Commission will continue to do so. Otherwise, the Commission will
12 consider staff's recommended form revisions in an open meeting. Staff will place the proposed form
13 revisions on the Commission's website for public review and comment for a period of time proportionate
14 to the subject and degree of change. After the period of time for public review and staff consideration of
15 any submitted comments has elapsed, the Commission will consider adoption of the form revisions in a
16 second open meeting. Following the second open meeting, Oil and Gas Division staff will update the
17 forms pages as necessary on the Commission's website.

18 The Commission received one comment regarding the proposed amendments. The Texas Oil and
19 Gas Association (TxOGA) commented that its members worked closely with the Commission in the
20 development of §3.80 and stated concerns with the proposed revisions. TxOGA supported giving
21 flexibility to staff in making nonsubstantive changes to forms as long as the data elements and
22 requirements of the forms remain identical. TxOGA asked that clear timeframes for notice of changes be
23 specified in the rule. Further, TxOGA asked that the current requirements of §3.80 remain in place for
24 any revisions that result in changes, including additions, or deletions, to data elements and requirements.

1 Such changes can have significant impact on the industry, and the opportunity for full involvement should
2 be afforded.

3 The Commission agrees with TxOGA's comments that industry input and participation play a
4 valuable role in the form development process, and that complicated or substantive form changes
5 generally merit a longer review period, but reiterates that these processes should be set forth in policy, not
6 regulation. As previously stated, the Commission adopted a new policy regarding forms in November
7 2013; these amendments were proposed to conform the rule to the policy. Any form changes, whether
8 proposed or adopted, will be posted for a Commission open meeting, and information about the form
9 changes will be made available on the Commission's website. The Commission has noted that it will
10 provide a longer review time for more complicated form changes, and that it will facilitate opportunities
11 for Commission staff and interested stakeholders to work together, with the goal of ensuring robust
12 participation on all sides and minimizing the potential impact of any form changes.

13 The Commission adopts amendments in subsection (a) and subsection (e)(1) to delete Table 1 in
14 subsection (a), entitled Railroad Commission Oil and Gas Division Forms, which lists the names of all Oil
15 and Gas Division forms and their creation or revision dates, as well as three references to that Table.
16 Table 1, while not legally required, was added to §3.80 in 2004 as part of a larger effort by the
17 Commission at that time to standardize the process of adopting and amending Commission forms. With
18 the adoption of the November 12, 2013, policy, the Commission will make information regarding form
19 revisions (as well as the forms, themselves) publicly available on the Commission's website.

20 The Commission adopts the amendments to §3.80 pursuant to Texas Natural Resources Code,
21 §81.051 and §81.052, which give the Commission jurisdiction over all persons owning or engaged in
22 drilling or operating oil or gas wells and persons owning or operating pipelines in Texas and the authority
23 to adopt all necessary rules for governing and regulating persons and their operations under Commission
24 jurisdiction; and §91.142, which requires the Commission to obtain specified information from a person,

1 firm, partnership, joint stock association, corporation, or other domestic or foreign organization operating
2 wholly or partially in this state and acting as principal or agent for another for the purpose of performing
3 operations which are within the jurisdiction of the Commission.

4 Statutory authority: Texas Natural Resources Code, §§81.051, 81.052, and 91.142.

5 Cross-reference to statute: Texas Natural Resources Code, §§81.051, 81.052, and 91.142.

6
7 **§3.80. Commission Oil and Gas Forms, Applications, and Filing Requirements.**

8 (a) Forms. Forms required to be filed at the Commission shall be those prescribed by the
9 Commission [~~as listed in Table 1 of this subsection~~]. A complete set of all Commission forms [~~listed on~~
10 ~~Table 1~~] required to be filed at the Commission shall be kept by the Commission secretary and posted on
11 the Commission's web site. Notice of any new or amended forms shall be issued by the Commission. For
12 any required or discretionary filing, an organization may either file the prescribed form on paper or use
13 any electronic filing process in accordance with subsections (e) or (f) of this section, as applicable. The
14 Commission may at its discretion accept an earlier version of a prescribed form, provided that it contains
15 all required information and meets the requirements of subsection (e)(3) of this section.

16 [~~Figure: 16 TAC §3.80(a)~~]

17 (b) - (d) (No change.)

18 (e) Authorization and standards for electronic filing.

19 (1) An organization may file electronically any form [~~listed on Table 1~~] for which the
20 Commission has provided an electronic version, provided that the organization pays all required filing
21 fees and complies with all requirements, including but not limited to security procedures, for electronic
22 filing.

23

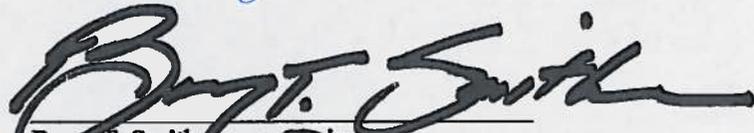
1 (2) - (6) (No change.)

2 (f) (No change.)

3 This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and
4 found to be a valid exercise of the agency's legal authority.

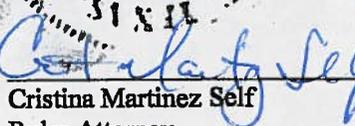
5 Issued in Austin, Texas, on June 17, 2014.

6 Filed with the Office of the Secretary of State on June 17, 2014.



Barry T. Smitherman, Chairman

David Porter, Commissioner

Christi Craddick, Commissioner

Cristina Martinez Self
Rules Attorney
Office of General Counsel
Railroad Commission of Texas