



RAILROAD COMMISSION OF TEXAS

OFFICE OF GENERAL COUNSEL

MEMORANDUM

TO: Chairman Christi Craddick
Commissioner David Porter
Commissioner Ryan Sitton

FROM: Haley Cochran, Attorney– General Counsel Section
Office of General Counsel *HJC*

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

DATE: January 20, 2015

SUBJECT: Proposed Amendment of 16 TAC §3.16, relating to
Log and Completion or Plugging Report; Docket
Number 20-0295025.

| January 27, 2015 | | |
|------------------------|--------|---------|
| Approved | Denied | Abstain |
| <i>CC</i> <i>RR</i> | | |

Attached is Staff's recommendation to publish certain amendments to 16 Tex. Admin. Code §3.16, relating to Log and Completion or Plugging Report.

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 January 27th, the proposal should appear in the February 13, 2015, issue of the *Texas Register*. This 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: Lori Wrotenbery, Director – Oil and Gas Division
Milton Rister, Executive Director
Wei Wang, Chief Financial Officer

1 The Railroad Commission of Texas (Commission) proposes to amend §3.16, relating to Log and
2 Completion or Plugging Report, to change the deadline for operators to file well completion reports with
3 the Commission. In addition, the Commission proposes to amend §3.16 to implement changes in Texas
4 Natural Resources Code, §91.552, pursuant to House Bill 878, 83rd Legislature, Regular Session (2013),
5 effective September 1, 2013.

6 The Commission proposes to amend §3.16(b)(1) to extend by 60 days the time for the operator of
7 a well to submit the completion report to the Commission. Timely filing of completion reports and logs is
8 important to the Commission's mission. Information in completion reports assists the Commission in
9 determining whether a well has been drilled, cased, cemented, and otherwise equipped in conformity
10 with Commission rules. Completion information also is necessary to enable the Commission's Field
11 Operations staff to determine the manner in which a well should be plugged or reworked to solve a
12 particular wellbore problem that may pose a threat of pollution of usable quality water or other hazard to
13 the public health and safety. Completion reports also provide test information required by Commission
14 rules, are used to create a well record in the Commission's database, and provide information necessary
15 for the setting of well allowables.

16 The proposed amendment would require that the operator of a well file with the Commission the
17 appropriate completion report within 90 days after completion of the well or within 150 days after the
18 date on which the drilling operation is completed, whichever is earlier. Currently, the operator of a well
19 must file the completion report with the Commission within 30 days after completion of the well or
20 within 90 days after the date on which the drilling operation is completed, whichever is earlier. The
21 proposal is intended to address circumstances in which certain efficiencies in drilling make compliance
22 with the current filing deadlines difficult. In numerous areas across the state, with increasing frequency,
23 operators are performing multi-well, sequential drilling and completion operations, especially for
24 horizontal drainhole wells. For example, in order to promote efficiencies and decrease costs, an operator

1 drilling five parallel horizontal drainholes may drill the surface hole of all five wells, run surface casing,
2 cement, and test all five cased surface holes; then sequentially drill the intermediate holes and/or
3 horizontal drainholes for all five wells; then sequentially run the casing and cement all five wells; and
4 finally, sequentially fracture stimulate all five wells. However, such efficiencies make it difficult to
5 comply with the requirement to timely submit to the Commission the completion report for the first well.
6 In addition, because of increased drilling activity over the past several years, frequently an operator
7 initiates drilling operations, but is unable to timely schedule work on the well from a service company.
8 Therefore, the Commission proposes to increase the amount of time allowed to file a well completion
9 report.

10 In addition, the Commission proposes to amend §3.16(c) to implement Texas Natural Resources
11 Code, §91.552. Current §3.16 requires that a basic electric log be attached to the completion report. Logs
12 filed by operators are used by Commission staff for multiple purposes, including determining the
13 following: the base of usable quality water, new or proper field designations, discovery allowables,
14 two-factor allocations, high cost gas, formation characteristics relative to fluid injection or storage wells,
15 and whether wells have been properly cased and cemented. Logs filed with the Commission also provide
16 a source of information potentially useful to the Commission in making determinations as to well density
17 and well spacing in field rules and/or applications for exceptions to well density or well spacing
18 requirements. Finally, logs provide information useful to the industry regulated by the Commission for
19 purposes of reservoir engineering or geological assessment. Texas Natural Resources Code §91.552, as
20 amended, states that each electric log "must be filed with the commission electronically in a manner
21 acceptable to the commission if the commission has the technological capability to receive the electronic
22 filing." The Commission proposes to amend §3.16(c) to include this statutory language.

23 Leslie Savage, Chief Geologist, Oil and Gas Division, has determined that for each year of the
24 first five years the amendments as proposed will be in effect, there will be minimal fiscal implications to

1 the Commission as a result of enforcing or administering the amendments. The rule currently requires
2 the filing of completion and plugging reports and logs, and the amendments simply conform the rule to
3 statutory changes implemented by House Bill 878 and change the time within which well completion
4 reports must be filed. There may be a minimal fiscal impact to the Commission resulting from mainframe
5 programming to change the date on which the clock starts for the purpose of filing of completion reports,
6 but this programming will be implemented using the Commission's current budget and personnel. There
7 will be no fiscal effect on local government.

8 Ms. Savage has determined that for each year of the first five years that the amendments will be
9 in effect the primary public benefit will be a more reasonable rule relating to the filing of completion
10 reports, and improved efficiency of the Commission in carrying out its mission.

11 Ms. Savage has determined that for each year of the first five years that the amendments will be
12 in effect, there will be no economic costs for persons required to comply as a result of adoption of the
13 proposed amendments. In fact, there may be a positive economic effect for these persons as a result of the
14 additional time allowed before a completion report must be filed with the Commission.

15 Texas Government Code, §2006.002, relating to Adoption of Rules with Adverse Economic
16 Effect, requires that, as a part of the rulemaking process, a state agency prepare an economic impact
17 statement that assesses the potential impact of a proposed rule on small businesses and micro-businesses
18 and a regulatory flexibility analysis that considers alternative methods of achieving the purpose of the
19 rule if the proposed rule will have an adverse economic effect on small businesses or micro-businesses.
20 The Commission has determined that the proposed amendments are not anticipated to have an adverse
21 economic effect on small businesses or micro-businesses, and therefore, the economic impact statement
22 and regulatory flexibility analysis described in Texas Government Code, §2006.002, are not required.

23 Current §3.16 already requires filing of completion reports, and the proposed amendments merely extend
24 the time period in which such reports must be filed. No additional cost of compliance will be incurred by

1 small businesses, micro-businesses or large businesses as a result of the proposed amendments. In
2 addition, Texas Natural Resources Code §91.552, as amended, does not expressly allow the Commission
3 to create any exception to log filing requirements for small businesses and micro-businesses. Finally, the
4 importance of the information provided in completion reports and logs, as previously explained, does not
5 vary based on the status of an operator as a small business or micro-business.

6 Ms. Savage has also determined that the proposed amendments will not affect a local economy.
7 Therefore, the Commission has not prepared a local employment impact statement pursuant to Texas
8 Government Code, §2001.022.

9 Ms. Savage has determined that the amendments do not meet the statutory definition of a major
10 environmental rule as set forth in Texas Government Code, §2001.0225(a); therefore, a regulatory
11 analysis conducted pursuant to that section is not required.

12 Comments on the proposal may be submitted to Rules Coordinator, Office of General Counsel,
13 Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at
14 www.rrc.state.tx.us/legal/rules/comment-form-for-proposed-rulemakings; or by electronic mail to
15 rulescoordinator@rrc.state.tx.us. The Commission will accept comments until noon (12:00 p.m.) on
16 Monday, March 16, 2015, which is 31 days after publication in the *Texas Register*. Comments should
17 refer to Docket No. 20-0295025. The Commission finds that this comment period is reasonable because
18 the proposal and an online comment form will be available on the Commission's web site more than two
19 weeks prior to *Texas Register* publication of the proposal, giving interested persons additional time to
20 review, analyze, draft, and submit comments. The Commission encourages all interested persons to
21 submit comments no later than the deadline. The Commission cannot guarantee that comments submitted
22 after the deadline will be considered. For further information, call Ms. Savage at (512) 463-7308. The
23 status of Commission rulemakings in progress is available at
24 www.rrc.state.tx.us/legal/rules/proposed-rules.

1 The Commission proposes the amendments to §3.16 pursuant to Texas Natural Resources Code
2 §§81.051 - 81.052, which provide the Commission with jurisdiction over all persons owning or engaged
3 in drilling or operating oil or gas wells in Texas and the authority to adopt all necessary rules for
4 governing and regulating persons and their operations under Commission jurisdiction; Texas Natural
5 Resources Code §§85.201 - 85.202, which require the Commission to adopt and enforce rules and orders
6 for the conservation and prevention of waste of oil and gas, and specifically for drilling of wells,
7 preserving a record of the drilling of wells, and requiring records to be kept and reports to be made;
8 Texas Natural Resources Code §§86.041 - 86.042, which give the Commission broad discretion in
9 administering the provisions of Chapter 86 of the Code, and authorize the Commission, generally, to
10 adopt any rule or order necessary to effectuate the provisions and purposes of Chapter 86, and to adopt
11 and enforce rules and orders to conserve and prevent the waste of gas, provide for drilling wells and
12 preserving a record of them, requiring wells to be drilled and operated in a manner that prevents injury to
13 adjoining property, and requiring records to be kept and reports to be made; Texas Natural Resources
14 Code §91.101, which provides that to prevent the pollution of surface or subsurface water in the state, the
15 Commission shall adopt and enforce rules relating to, among other things, the drilling of exploratory
16 wells and oil and gas wells or any purpose in connection with them and the operation, abandonment, and
17 proper plugging of wells subject to Commission jurisdiction; Texas Natural Resources Code §91.552,
18 which authorizes the Commission to establish criteria for electric logs to be filed with the Commission
19 and requires the electronic filing of electric logs in a manner acceptable to the Commission if the
20 Commission has the technological capability to receive the electronic filing; and Texas Natural
21 Resources Code §§141.011 - 141.012, which authorize the Commission to regulate the exploration,
22 development, and production of geothermal energy and associated resources and to make and enforce
23 rules associated therewith. In addition, pursuant to Texas Water Code, §26.131, the Commission is solely
24 responsible for the control and disposition of waste and the abatement and prevention of pollution of

1 surface and subsurface water resulting from activities associated with the exploration, development, and
2 production of oil or gas or geothermal resources. Finally, Texas Water Code §§27.031 - 27.032 and
3 27.034 authorize the Commission to permit disposal wells to dispose of oil and gas waste, to require
4 applicants for disposal well permits to furnish any information necessary to the discharge of the
5 Commission's duties under Chapter 27, and to adopt rules required for the performance of the
6 Commission's duties under this Chapter.

7 Texas Natural Resources Code §§81.051, 81.052, 85.201, 85.202, 86.041, 86.042, 91.101,
8 91.552, 141.011, and 141.012, and Texas Water Code, §§26.131, 27.031, 27.032, and 27.034, are
9 affected by the proposed amendments.

10 Statutory Authority: Texas Natural Resources Code §§81.051, 81.052, 85.201, 85.202, 86.041,
11 86.042, 91.101, 91.552, 141.011, and 141.012, and Texas Water Code, §§26.131, 27.031, 27.032, and
12 27.034.

13 Cross-reference to statutes: Texas Natural Resources Code §§81.051, 81.052, 85.201, 85.202,
14 86.041, 86.042, 91.101, 91.552, 141.011, and 141.012, and Texas Water Code, §§26.131, 27.031, 27.032,
15 and 27.034.

16
17 §3.16. Log and Completion or Plugging Report.

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

20 (1) Basic electric log--A density, sonic, or resistivity (except dip meter) log run over the
21 entire wellbore.

22 (2) Drilling operation--A continuous effort to drill or deepen a wellbore for which the
23 commission has issued a permit.

24 (3) Operator--A person who assumes responsibility for the regulatory compliance of a

1 well as shown by a form the person files with the commission and the commission approves.

2 (4) Well--A well drilled for any purpose related to exploration for or production or
3 storage of oil or gas or geothermal resources, including a well drilled for injection of fluids to enhance
4 hydrocarbon recovery, disposal of produced fluids, disposal of waste from exploration or production
5 activity, or brine mining.

6 (b) Completion and plugging reports.

7 (1) The operator of a well shall file with the commission the appropriate completion
8 report within 90 [~~30~~] days after completion of the well or within 150 [~~90~~] days after the date on which
9 the drilling operation is completed, whichever is earlier.

10 (2) The operator of a well shall file with the Commission an amended completion report
11 within 30 days of any physical changes made to the well, such as any change in perforations, or openhole
12 or casing records.

13 (3) If the well is a dry hole, the operator shall file with the commission an appropriate
14 plugging report within 30 days after the well is plugged.

15 (c) Basic electric logs. Except as otherwise provided in this section, not later than the 90th day
16 after the date a drilling operation is completed, the operator shall file with the commission a legible and
17 unaltered copy of a basic electric log, except that where a well is deepened, a legible and unaltered copy
18 of a basic electric log shall be filed if such log is run over a deeper interval than the interval covered by a
19 basic electric log for the well already on file with the commission. In the event a basic electric log, as
20 defined in this section, has not been run, subject to the commission's approval, the operator shall file a
21 lithology log or gamma ray log of the entire wellbore. In the event no log has been run over the entire
22 wellbore, subject to the commission's approval, the operator shall file the log which is the most nearly
23 complete of the logs run. **An electric log shall be filed with the commission electronically in a digital**

1 **format acceptable to the commission, when the commission has the technological capability to**
2 **receive the electronic filing.**

3 (d) Delayed filing based on confidentiality. Each log filed with the commission shall be
4 considered public information and shall be available to the public during normal business hours. If the
5 operator of a well desires a log to be confidential, on or before the 90th day after the date a drilling
6 operation is completed, the operator must submit a written request for a delayed filing of the log. When
7 filing such a request, the operator must retain the log and may delay filing such log for one year
8 beginning from the date the drilling operation was completed. The operator of such well may request an
9 additional filing delay of two years, provided the written request is filed prior to the expiration date of the
10 initial confidentiality period. If a well is drilled on land submerged in state water, the operator may
11 request an additional filing delay of two years so that a possible total delay of five years may be obtained.
12 A request for the additional two year filing delay period must be in writing and be filed with the
13 commission prior to the expiration of the first two year filing delay. Logs must be filed with the
14 commission within 30 days after the expiration of the final confidentiality period, except that an operator
15 who fails to timely file with the commission a written request under this subsection for an extension of
16 the period of log confidentiality shall file the log with the commission immediately after the conclusion
17 of the period for filing the request.

18 (e) Sanctions. If an operator fails to file a completion report or log in accordance with the
19 provisions of this section, the commission may refuse to assign an allowable to a well, set the allowable
20 for such well at zero, and/or initiate penalty action pursuant to the Texas Natural Resources Code, Title
21 3.

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

24 Issued in Austin, Texas on January 27, 2015.

1 Filed with the Office of the Secretary of State on January 27, 2015.

Haley Cochran

Haley Cochran
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Railroad Commission of Texas