

1 The Railroad Commission of Texas (Commission) adopts amendments to §3.15, relating to
2 Surface Equipment Removal Requirements and Inactive Wells, with one change to the proposed text as
3 published in the August 26, 2016 issue of the *Texas Register* (41 TexReg 6311). The Commission adopts
4 the amendments to more accurately track when inactive wells have been returned to production, thereby
5 reducing the administrative burden for the operators of those wells and associated costs to industry. The
6 Commission adopts the amendments with an effective date of January 1, 2017.

7 The Commission received 18 comments, including six from associations, five from companies,
8 and seven from individuals. The Commission appreciates these comments. Four associations (Texas Oil
9 and Gas Association (TXOGA), Permian Basin Petroleum Association (PBPA), Texas Alliance of Energy
10 Producers (the Alliance), and Texas Independent Producers and Royalty Owners Association (TIPRO)),
11 four companies (Apache Corporation, Cross Timbers Energy, LLC, Sheridan Production Company, and
12 Allied Testing), and three individuals filed comments in support of the proposed rule changes. PBPA and
13 TIPRO each commented that the proposed amendments to §3.15 will provide relief to Texas operators
14 confronted with depressed commodity prices and encourage marginal well producers to produce and
15 maintain marginal wells. Five comments expressed support for the changes to production threshold
16 minimums and noted the changes would especially benefit smaller operators by allowing lower
17 performing wells to remain active, thereby reducing the burden of plugging active wells prematurely.

18 Two associations (Texas Land and Mineral Owners Association (TLMA) and the Lone Star
19 Chapter of the Sierra Club (LSCSC)), and three individuals objected to the proposed amendments to
20 §3.15. Each of these associations and individuals expressed concern that the proposed changes will
21 encourage noneconomic production and the delay of site cleanup obligations. The Commission declines
22 to make any changes in response to these comments. The amendments discourage the premature
23 plugging of wells that have the potential to produce and, thus, align with the Commission's responsibility
24 to prevent waste.

1 TLMA, LSCSC, and the three individuals also commented that the new standard for returning
2 inactive wells to active operation status offers limited protection for the landowner, and TMLA
3 additionally commented that the new standard could potentially jeopardize future leasing opportunities.
4 The Commission disagrees. Lease agreements are not mentioned in the proposed rule amendment and
5 will not be affected by the modified standard. "Active operation" is an internal Commission classification
6 for regulatory purposes only. Further, the Commission notes that for a well to utilize the new standard it
7 must already be designated inactive, meaning it previously reported zero production for at least 12
8 consecutive months.

9 In addition, TLMA and LSCSC expressed concern that the change allowing a well producing any
10 amount of oil or gas greater than zero for 12 consecutive months to be considered an active well would
11 render the current three month provision functionally irrelevant. The Commission disagrees with the
12 assessment of the effect of the proposed change. However, the Commission agrees that an adjustment is
13 appropriate to reflect the parameters of the Commission's online production reporting system. This
14 system accommodates the reporting of a minimum of a one barrel of oil or one Mcf of gas. Thus, the
15 Commission adopts a change to the definition to require a well to produce at least one barrel of oil or one
16 Mcf of gas for 12 consecutive months to return to active operation status.

17 The Commission received several comments that were outside the scope of the proposal. TLMA,
18 the LSCSC and one individual each recommended changes to §3.15 to ensure the accuracy of reported
19 production from marginal wells. Specifically, the individual suggested requiring that operators prove that
20 well production revenues outweigh operating expenses in order to return the well to active operation.
21 TMLA and the LSCSC suggested that the Commission require well-specific reporting. Production
22 reporting requirements are addressed in other Commission rules, §§3.27, 3.54, and 3.58. As these rules
23 were not included in the proposal, the Commission declines to address these suggestions at this time.

1 Texcel Exploration, Inc. and one individual objected to Form W-3X (Application for and
2 Extension of Deadline for Plugging an Inactive Well) filing requirements, stating that the cost of filing is
3 prohibitive. Finally, one individual submitted suggestions relating to the definition of "inactive well."
4 These topics were not included in the proposal and, therefore, the Commission declines to address them at
5 this time.

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

18 The Commission further amends §3.15(i) to delete paragraphs (5), (6) and (7). These paragraphs
19 contain requirements applicable to the five-year phase-in of surface cleanup requirements pursuant to
20 Texas Natural Resources Code §89.029(f). The five-year phase-in period ended on September 1, 2015;
21 therefore, the Commission deletes these paragraphs from the rule as they are no longer relevant.

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

1 The Commission adopts these amendments under Texas Natural Resources Code, §81.051 and
2 §81.052, which provide the Commission with jurisdiction over all persons owning or engaged in drilling
3 or operating oil or gas wells in Texas and the authority to adopt all necessary rules for governing and
4 regulating persons and their operations under Commission jurisdiction; Texas Natural Resources Code
5 §§85.042, 85.202, 86.041 and 86.042, which require the Commission to adopt rules to control waste of oil
6 and gas; and Texas Natural Resources Code, §89.023, which authorizes the Commission to adopt rules
7 relating to the definition of active operation.

8 Texas Natural Resources Code, §§81.051, 81.052, 85.042, 85.202, 86.041, 86.042, and 89.023 are
9 affected by the adopted amendments.

10 Statutory authority: Texas Natural Resources Code §§81.051, 81.052, 85.042, 85.202, 86.041,
11 86.042, and 89.023.

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

13
14 [NOTE: RULE LANGUAGE BEING ADOPTED THAT DIFFERS FROM THE PROPOSAL IS
15 INDICATED IN **BOLD**]

16
17 §3.15. Surface Equipment Removal Requirements and Inactive Wells.

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) Active operation--Regular and continuing activities related to the production of oil
21 and gas for which the operator has all necessary permits. In the case of a well that has been inactive for 12
22 consecutive months or longer and that is not permitted as a disposal or injection well, the well remains
23 inactive for purposes of this section, regardless of any minimal activity, until the well has reported
24 production of at least five [~~10~~] barrels of oil for oil wells or 50 [~~100~~] Mcf of gas for gas wells each month

1 for at least three consecutive months, **or until the well has reported production of at least one barrel**
2 **of oil for oil wells or at least one Mcf of gas for gas wells each month for 12 consecutive months.**

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

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

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

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

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

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

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

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

22 (7) Physical termination of electric service to the well's production site--Disconnection of
23 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

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

5 (d) Plugging of inactive land wells required.

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

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

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

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

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

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

21 (4) If an operator fails to restore the well to active operation [status] as defined by
22 Commission rule, plug the well in compliance with a Commission rule or order, or obtain an extension of
23 the deadline for plugging an inactive well within six months after acquiring an inactive well, the

1 Commission or its delegate may, after notice and opportunity for hearing, revoke the operator's
2 organization report.

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

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

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

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

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

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

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

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

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

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

1 (A) an affirmation made by an individual with personal knowledge of the
2 physical condition of the inactive well pursuant to the provisions of Texas Natural Resources Code,
3 §91.143, stating the following: that the operator has physically terminated electric service to the well's
4 production site; and either:

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

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

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

16 (i) for all inactive land wells that an operator has operated for more than
17 12 months, the operator has plugged or restored to active operation, as defined by Commission rule, 10%
18 of the number of inactive land wells operated at the time of the last annual renewal of the operator's
19 organization report;

20 (ii) if the operator is a publicly traded entity, for all inactive land wells,
21 the operator has filed with the Commission a copy of the operator's federal documents filed to comply
22 with Financial Accounting Standards Board Statement No. 143, Accounting for Asset Retirement
23 Obligations, and an original executed Uniform Commercial Code Form 1 Financing Statement, filed with
24 the Secretary of State, that names the operator as the "debtor" and the Railroad Commission of Texas as

1 the "secured creditor" and specifies the funds covered by the documents in the amount of the cost
2 calculation for plugging all inactive wells;

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

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

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

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

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

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

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

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

3 (2) The Commission or its delegate may administratively deny an application for a
4 plugging extension for an inactive well if the Commission or its delegate determines that:

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

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

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

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

17 (A) notify the operator of the determination;

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

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

22 (4) If, after the expiration of the 90-day period specified in paragraph (3)(C) of this
23 subsection, the Commission or its delegate determines that the operator remains out of compliance with
24 the requirements of this section, the Commission delegate shall mail the operator a [~~second~~] written notice

1 of this determination. The operator may request a hearing. [~~The operator must file a written request for~~
2 ~~hearing and the hearing fee of \$4,500 with the Office of General Counsel, Hearings Section, Docket~~
3 ~~Services, no later than 30 days from the date the second written notice was mailed to the operator. In the~~
4 ~~request for hearing, the operator must identify by its assigned American Petroleum Institute (API) number~~
5 ~~each inactive well for which the operator is seeking a hearing to contest the determination that the well~~
6 ~~remains out of compliance.] If the operator fails to timely file a request for hearing and the required
7 hearing fee, the Commission shall enter an order denying the plugging extension request and denying
8 renewal of the operator's organization report without further notice or opportunity for hearing.~~

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

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

1 (h) Revocation of extension. The Commission or its delegate may revoke an extension of the
2 deadline for plugging an inactive well if the Commission or its delegate determines, after notice and an
3 opportunity for a hearing, that the applicant is ineligible for the extension under the Commission's rules or
4 orders.

5 (i) Removal of surface equipment for land wells inactive more than 10 years. Requirements to
6 remove surface equipment for land wells inactive more than 10 years do not excuse an operator from
7 compliance with all other applicable Commission rules and orders including the requirements in Chapter
8 4 of this title (relating to Environmental Protection).

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

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

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

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

1 ~~[(5) For land wells that have been inactive for more than 10 years as of September 1,~~
2 ~~2010, an operator must file documentation with its annual organization report filing to demonstrate that~~
3 ~~the operator has restored these wells to active operation; plugged and removed the surface equipment~~
4 ~~from these wells; or removed the surface equipment and obtained a plugging extension for these wells~~
5 ~~under the following schedule:]~~

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

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

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

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

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

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

22 ~~[(7) The operator of a land well that becomes inactive for more than 10 years after~~
23 ~~September 1, 2010, must bring the well into compliance with the requirement to remove surface~~
24 ~~equipment prior to the next renewal of the operator's annual organization report. The removal of surface~~

1 ~~equipment from such a well does not count toward the fulfillment of the requirements of paragraph (5) of~~
2 ~~this subsection.]~~

3 (j) Abeyance of plugging report.

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (1) At least three days prior to the test, each operator must give the district office notice
24 of the date and approximate time the operator intends to conduct a fluid level or hydraulic pressure test.

1 The district office may require that a test be witnessed by a Commission employee. The district office
2 may allow an operator to conduct a test even if notice of the test is provided to the district office fewer
3 than three days prior to the test.

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

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

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

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

20 (6) Using Commission Form H-5 or Form H-15, each operator must file in the district
21 office the results of a successful hydraulic pressure test, including the original pressure recording chart or
22 its electronic equivalent, within 30 days of the date the test was performed. The results, if approved, are
23 valid for a period of five years from the date of the test, unless the Commission or its delegate requires the

1 operator to perform testing more frequently to ensure that the well does not pose a threat of harm to
2 natural resources.

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

6 (n) Supplemental financial assurance.

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

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

15 (o) Escrow funds.

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

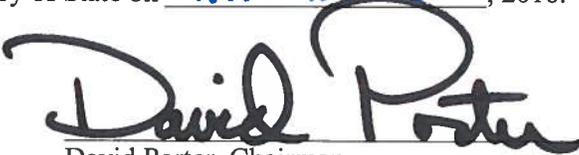
18 (2) The Commission or its delegate may release escrow funds deposited with the
19 Commission only as prescribed by §3.78 of this title.

20 (p) Plugging more than 10% of inactive well inventory. If an operator plugs more than 10% of the
21 number of inactive land wells during a 12-month organization report cycle, the Commission will count
22 the number of plugged wells above 10% toward fulfillment of the 10% blanket option under subsection
23 (f)(2)(B)(i) of this section during the next organization report cycle.

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

3 Issued in Austin, Texas, on November 15, 2016.

4 Filed with the Office of the Secretary of State on November 15, 2016.


David Porter, Chairman


Christi Craddick, Commissioner


Ryan Sitton, Commissioner



Secretary of the Commission


Haley Cochran
Rules Attorney
Office of General Counsel
Railroad Commission of Texas