RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL

M E M O R A N D U M

June 28, 2022		
Approved	**Denied**	**Abstain**
DS WC DS CC DS JW		

TO: Chairman Wayne Christian
Commissioner Christi Craddick
Commissioner Jim Wright

FROM: Haley Cochran, Attorney, Office of General Counsel

THROUGH: Alexander C. Schoch, General Counsel

DATE: June 24, 2022

SUBJECT: Proposed New §3.66, relating to Weather Emergency Preparedness Standards

Attached is Staff's recommendation to propose new 16 Texas Administrative Code §3.66, relating to Weather Emergency Preparedness Standards. The new rule is proposed to implement changes made by Sections 5, 6, 21, and 22 of Senate Bill 3, which was enacted by the 87th Legislature (Regular Session, 2021).

Section 5 of Senate Bill 3 created new §86.044 of the Texas Natural Resources Code, which requires the Commission to adopt rules requiring certain gas supply chain facility operators to implement measures to prepare to operate during a weather emergency. Section 6 of Senate Bill 3 amended §86.222 of the Texas Natural Resources Code to establish an enforcement process and penalties for violations of Commission rules adopted under §86.044. Similarly, Section 21 of Senate Bill 3 amends §121.2015 of the Texas Utilities Code to require the Commission to adopt rules requiring certain pipeline facility operators to implement measures to prepare to maintain service quality and reliability during extreme weather conditions. Section 22 of Senate Bill 3 amends §121.206 of the Texas Utilities Code to establish an enforcement process and penalties for violations of Commission rules adopted under §121.2015.

Staff requests the Commission's approval to publish the proposed rule in the *Texas Register* for public comment. If approved at conference on June 28th, the proposal should appear in the July 15th issue of the *Texas Register*. The proposal and an online comment form would also be made available on the Commission's website, giving interested persons more than two additional weeks to review and submit comments to the Commission.

cc: Wei Wang, Executive Director
Jared Ware, Director, Critical Infrastructure Division
Natalie Dubiel, Attorney, Office of General Counsel

The Railroad Commission of Texas (the "Commission") proposes new §3.66, relating to Weather Emergency Preparedness Standards. The new section is proposed to implement changes made by Senate Bill 3 from the 87th Texas Legislative Regular Session, 2021.

Senate Bill 3 is the 87th Legislature's sweeping response to the February 2021 Winter Weather Event ("Winter Storm Uri") in Texas and generally creates new law related to preparing for, preventing, and responding to weather emergencies and power outages. Senate Bill 3 requires several state agencies and regulated industries to make significant changes in response to Winter Storm Uri. This proposed rulemaking implements Sections 5, 6, 21, and 22 of Senate Bill 3. Section 5 of Senate Bill 3 created new §86.044 of the Texas Natural Resources Code, which requires the Commission to adopt rules requiring certain gas supply chain facility operators to implement measures to prepare to operate during a weather emergency (i.e., "weatherize"). Section 6 of Senate Bill 3 amended §86.222 of the Texas Natural Resources Code to establish an enforcement process and penalties for violations of Commission rules adopted under §86.044. Similarly, Section 21 of Senate Bill 3 amends §121.2015 of the Texas Utilities Code to require the Commission to adopt rules requiring certain pipeline facility operators to implement measures to prepare to maintain service quality and reliability during extreme weather conditions (i.e., “weatherize”). Section 22 of Senate Bill 3 amends §121.206 of the Texas Utilities Code to establish an enforcement process and penalties for violations of Commission rules adopted under §121.2015.

Importantly, Senate Bill 3 specifies that only certain gas supply chain facility operators and certain gas pipeline facility operators are required to comply with Commission rules adopted pursuant to §86.044 of the Texas Natural Resources Code and §121.2015 of the Texas Utilities Code, respectively. The gas supply chain facility operators who must comply are those whose facilities are included on the electricity supply chain map created under §38.203 of the Texas Utilities Code and are designated as critical by the Commission in 16 Texas Administrative Code §3.65, relating to Critical Designation of Natural Gas Infrastructure, which was adopted under Texas Natural Resources Code §81.073. Proposed subsection (a)(1) of new §3.66 incorporates these elements from §86.044 of the Natural Resources Code.

The gas pipeline facility operators who must comply with Commission weatherization rules are those who are included on the electricity supply chain map and directly serve a natural gas electric generation facility operating solely to provide power to the electric grid for the ERCOT power region or for the ERCOT power region and an adjacent power region. Proposed §3.66(a)(2) incorporates these elements from Texas Utilities Code §121.2015.

Proposed §3.66(b) contains definitions for "gas pipeline facility" and "gas supply chain facility" to further clarify which facilities are subject to the requirements of proposed §3.66. The definitions for "gas pipeline facility" and "gas supply chain facility" are consistent with Texas Utilities Code §121.2015

and Texas Natural Resources Code §86.044, respectively. A gas pipeline facility is a pipeline or pipeline facility regulated by the Commission under Texas Utilities Code Chapter 121. A gas supply chain facility is a facility that is used for producing, treating, processing, pressurizing, storing, or transporting natural gas, as well as handling waste produced. These facilities include gas wells, oil leases producing casinghead gas, gas processing plants, underground natural gas storage, and saltwater disposal facilities.

As noted above, a gas supply chain facility or gas pipeline facility must be included on the electricity supply chain map for proposed §3.66 to apply to the facility. If the facility is not included on the map, the requirements of proposed new §3.66 do not apply to the facility. The Texas Electricity Supply Chain Security and Mapping Committee, created by Senate Bill 3 and of which the Commission's Executive Director is a member, adopted the electricity supply chain map on April 29, 2022. The electricity supply chain map is confidential by law. Its contents will not be made available to the public. However, the Commission recognizes that operators need to know which of their facilities, if any, are included on the map and notes that it will notify operators to inform them which facilities are included on the map.

In addition to definitions for "gas supply chain facility" and "gas pipeline facility," proposed subsection (b) contains definitions for the following terms: critical component, major weather-related forced stoppage, repeated weather-related forced stoppage, sustained operation, weather emergency, weatherization, and weather-related forced stoppage. These terms are explained in more detail below along with the portions of the rule in which they appear.

Proposed subsection (c) contains the weather emergency preparedness standards for a gas supply chain facility or a gas pipeline facility subject to §3.66 as specified in subsection (a). By December 1st of each year, a gas supply chain facility operator or a gas pipeline operator shall implement weather emergency preparation measures intended to, first, ensure the sustained operation of a gas supply chain facility or a gas pipeline facility during a weather emergency. "Sustained operation" is defined in proposed subsection (b)(6) as the safe operation of a gas pipeline facility or gas supply chain facility such that the facility does not experience a weather-related forced stoppage in production, treating, processing, storage, or transportation of natural gas. The Commission understands that operators' first concern in a weather emergency is the safety of their employees. "Safe operation" is included in the definition of "sustained operation" to reflect this concern. The definition of "sustained operation" contains another defined term -- weather-related forced stoppage. "Weather-related forced stoppage" is defined in proposed subsection (b)(9) as "an unanticipated and/or unplanned outage in the production, treating, processing, storage, or transportation of natural gas that is caused by weather conditions such as freezing temperatures, freezing precipitation, or extreme heat."

Proposed subsection (c)(1)(A) states that weather emergency preparation measures intended to ensure sustained operation are required during a weather emergency. "Weather emergency" is defined in proposed subsection (b)(7) as "weather conditions such as freezing temperatures, freezing precipitation, or extreme heat in the facility's county or counties that result in an energy emergency as defined in §3.65 of this title." The definition clarifies that a weather emergency does not include weather conditions that cannot reasonably be mitigated such as tornadoes, floods, or hurricanes. Other weather conditions that an operator may not be able to mitigate may include high winds, lightning, or fires.

The proposed definition of "weather emergency" ensures that the requirements of proposed §3.66 help achieve the purpose of Senate Bill 3, which aims to stabilize the electricity supply chain. Therefore, proposed §3.66 tasks operators of gas supply chain facilities and gas pipeline facilities with implementing measures to ensure sustained operation when weather conditions create a risk to the electricity supply chain.

As proposed in §3.66(c)(1)(B), by December 1st of each year, a gas supply chain facility operator or a gas pipeline operator shall also implement weather emergency preparation measures intended to correct known weather-related forced stoppages that prevented sustained operation of a facility because of previous cold weather conditions.

Proposed §3.66(c)(2) lists the weather emergency preparation measures that are required. First, weather emergency preparation measures shall include self-assessment, inspections, and tests of critical components and other equipment. "Critical component" is defined in proposed subsection (b)(1) as "any component, including equipment rented or leased from a third party, that is susceptible to weather-related interruptions, such as those caused by freezing temperatures, freezing precipitation, or extreme heat, the occurrence of which is likely to significantly hinder sustained operation of the gas pipeline or gas supply chain facility." Other required weather emergency preparation measures include providing training on weather emergency preparations and operations to relevant operational personnel and emergency operations planning using a risk-based approach to identify, test, and protect the critical components of the facility. These requirements are proposed as subsection (c)(2)(B) and (c)(2)(C), respectively.

Proposed subsection (c)(2)(D) requires that weather emergency preparation measures include weatherization of the facility using methods applicable to the facility based on the type of facility, the facility's critical components, the facility's location, and weather data for the facility's county or counties including data illustrated in the proposed table. Proposed subsection (b)(8) defines "weatherization" as "the iterative cycle of preparedness for weather emergencies that includes corrective actions taken on issues identified from previous extreme weather events or internal review, implementation of processes, and installation of equipment to mitigate weather-related operational risks."

The Commission recognizes that appropriate weatherization methods will depend on facility-specific factors, such as the facility type and location. Proposed subsection (c)(2)(D) requires weatherization based on those facility-specific factors. Facility-specific factors also include weather data for the county or counties in which the facility is located, which is reflected in the table proposed with subsection (c)(2)(D). During the rulemaking process, the Commission sought guidance from the state climatologist's office as required by Senate Bill 3. The state climatologist's office gathered the data for the proposed table, which contains record weather conditions (i.e., coldest temperature, hottest temperature, and typical longest consecutive hours of freezing or frozen precipitation) for each county or region in Texas. To identify temperature extremes, the climatologist used the multi-station extreme function in SC-ACIS (https://scacis.rcc-acis.org), which is an interface to the Applied Climate Information System with functionality relevant for State Climatologists. It is synced with the National Centers for Environmental Information (NCEI) climatological data databases but includes some additional station data. For each county, the climatologist recorded the extreme maximum and minimum temperatures and the years in which they occurred. Regarding the typical longest consecutive hours of frozen precipitation, the climatologist calculated region-wide estimates that do not correspond to a particular year.

The climatologist also checked all extreme values for plausibility compared with neighboring counties. In those instances where the reported extreme was implausible (illogically high or low, wrong season, and/or inconsistent with neighboring stations), it was discarded in favor of the most extreme plausible value. In instances when an extreme was significantly less extreme than surrounding counties and the reason was that the observations in that county only covered a small number of years, the value was replaced with a conservative value (generally not the most extreme) from a bordering county. When no observations were available from a county, the climatologist used a conservative value (generally not the most extreme) from a bordering county. Values borrowed from an adjacent county or estimated using data from adjacent counties are noted in the proposed table. The Commission appreciates the state climatologist and the state climatologist’s office for its knowledge, assistance, and guidance in preparing the proposed rule, particularly the table proposed in subsection (c)(2)(D).

During the rulemaking process, the Commission also contracted with two companies that specialize in risk and resilience assessments and emergency response plans for members of the energy industry. The contractors assisted in developing the proposed rule and gave specific insight on the list of potential weatherization methods in proposed subsection (c)(2)(D).

Proposed subsection (d) requires a gas supply chain facility operator or gas pipeline facility operator to submit to the Commission a Weather Emergency Readiness Attestation by December 1st of each year. The attestation must be prepared by an authorized officer of the operator entity or under the

authorized officer's supervision and direction and must attest that the operator implemented the weather emergency preparation measures described in proposed subsection (c). The attestation must also include an attachment describing all activities the operator engaged in to implement the requirements of subsection (c). Thus, the attachment must describe the measures the operator implemented to ensure sustained operation of the gas supply chain facility or gas pipeline facility during a weather emergency and must, at a minimum, describe the following measures: self-assessment, inspections, and tests of critical components and other equipment as specified in §3.66(c)(2)(A); training provided on weather emergency preparations and operations to relevant operational personnel as specified in §3.66(c)(2)(B); emergency operations planning using a risk-based approach to identify, test, and protect the critical components of the facility as specified in §3.66(c)(2)(C); and weatherization measures applicable to the facility as described in §3.66(c)(2)(D). Proposed subsection (d)(1)(B) provides categories of critical components and other facility equipment to assist operators in describing their weather emergency preparedness measures.

Additionally, proposed subsection (d)(1)(C) requires that for the first attestation due December 1, 2022, the attestation describe corrective actions taken to mitigate known weather-related forced stoppages that prevented sustained operation of the facility because of previous cold weather conditions.

Proposed §3.66(d)(2) specifies that an operator may claim information submitted on its Weather Readiness Attestation confidential and includes the process that will be followed if a Public Information Act request for the confidential information is filed with the Commission.

Proposed §3.66(e) states that the Commission will inspect facilities subject to §3.66 to ensure compliance with the section's requirements. The Commission notes that, generally, an inspection will stem from one of two places: (1) an regular inspection of the facility conducted in accordance with the Commission's inspection schedule or (2) an inspection scheduled in response to a weather-related stoppage notification filed under proposed subsection (f).

Proposed subsection (f) addresses weather-related forced stoppages experienced by a gas supply chain facility or gas pipeline facility. Proposed subsection (f)(1) requires a facility that experiences a weather-related forced stoppage in sustained operations during a weather emergency to notify the Commission of the stoppage if the stoppage is not resolved within 24 hours of discovery. The notification is only required if the weather-related forced stoppage occurs during a weather emergency. The notification shall be made to the Commission’s Critical Infrastructure Division's notification portal. However, if the weather-related forced stoppage results in a loss of production exceeding 5,000 Mcf of natural gas per day, or a stoppage of gas processing, storage withdrawal, or transportation capacity exceeding 200 MMcf per day, the operator shall, upon discovery of the stoppage, immediately contact the

Commission on the Critical Infrastructure Division 24-hour emergency telephone number. As mentioned above, a notification through the portal or to the emergency number will result in an inspection to determine whether the stoppage was caused by the facility's failure to adhere to the requirements of proposed §3.66. If the weather-related forced stoppage was unrelated to the requirements of §3.66, the facility will not be issued a violation.

The Commission recognizes that it does not have jurisdiction to require a facility to operate and that is not what proposed §3.66 requires. Instead, proposed §3.66 requires an operator to implement measures to prepare to operate in a weather emergency as specified in §3.66(c). In determining whether a facility that experiences a weather-related forced stoppage during a whether emergency has violated §3.66, the relevant inquiry is whether the weather-related forced stoppage was due to the operator's failure to implement measures to prepare to operate in a weather emergency.

Proposed subsection (f)(2) incorporates requirements added to Texas Natural Resources Code §86.044 and Texas Utilities Code §121.2015 by Senate Bill 3. If a gas supply chain facility or a gas pipeline facility experiences repeated weather-related forced stoppages or major weather-related forced stoppages in sustained operation shall contract with a qualified engineer with related experience to assess the facility's weather emergency preparation measures, plans, procedures, and operations. "Major weather-related forced stoppage" is defined in proposed subsection (b)(4) as a weather-related forced stoppage that results in significant impact to public safety as determined by the Critical Infrastructure Division Director or is the result of the deliberate disregard of §3.66. "Repeated weather-related forced stoppage" is defined in proposed subsection (b)(5) as when a gas supply chain facility or gas pipeline facility has more than one weather-related forced stoppage violation within a calendar year (i.e., from January to December). The proposed definitions for major weather-related forced stoppage and repeated weather-related forced stoppage are consistent with the definitions for major and repeated violations in the Commission's Oil and Gas Strategic Monitoring and Enforcement Plan.

Proposed §3.66(g) relates to enforcement of violations of §3.66. Texas Natural Resources Code §§86.044 and 86.222-.224 stipulate the enforcement process and penalties for a violation of §3.66. Pursuant to these statutes, if the Commission determines that a person has violated §3.66 and the violation is not remedied within a reasonable amount of time, the Commission is required to notify the Office of the Attorney General of Texas. Texas Natural Resources Code section 86.044 requires that the Attorney General initiate a suit to recover a penalty for the violation. Texas Natural Resources Code section 86.222 requires the Commission to establish a classification system to be used by a court for violations of §3.66. The classification system shall include a range of penalties that may be recovered for each class of violation based on factors such as the nature, circumstances, extent, and gravity of a prohibited act; the

hazard or potential hazard created to the public's health, safety, or economic welfare; the history of previous violations; the amount necessary to deter future violations; and efforts to correct the violation. Section 86.222 further specifies that the classification system require only the highest class of violations to be eligible for a penalty exceeding $5,000. The maximum penalty allowed by section 86.222 is $1,000,000 for each offense.

The table proposed in subsection (g)(1) contains the classification system required by Section 86.222. It incorporates the factors required by section 86.222 and assigns a factor value to each factor. For example, to incorporate the factor of nature, circumstances, extent, and gravity of a prohibited act, the Commission included rows such as proposed rows 1-7. These rows raise the factor value depending on the amount of natural gas impacted by the violation. An oil lease or gas well that produces 250 Mcf or more per day but less than 500 Mcf per day is only assigned a factor value of 1, whereas a facility that produces an average of 5,000 Mcf per day is assigned a factor value of 4. The values are then totaled to assign each violation a class based on point total, and the class determiners the penalty range. For example, a Class B violation could result in a penalty of any amount greater than $4000 up to $5000. A Class A violation is the highest class of violations, making it eligible under section 86.222 for a penalty amount greater than $5,000 up to $1,000,000.

Proposed subsection (g)(2) incorporates the enforcement process and penalty requirements specified in Texas Utilities Code sections 121.2015 and 121.206. Section 121.2015 requires that the Commission assess an administrative penalty against a person who violates §3.66 if the violation is not remedied within a reasonable amount of time. It also requires that the Commission report such violations to the Attorney General. However, unlike Texas Natural Resources Code section 86.044, the Attorney General is not required to file suit. Instead, the Commission is authorized to assess an administrative penalty. The Commission will use the table proposed in subsection (g)(1) to assess penalties for a violation of §3.66.

The Commission notes that violations of §3.66 will be issued on a facility basis. The operator of a facility with an alleged violation will be issued a notice of the violation and given an opportunity for a hearing. A gas supply chain facility violation will be determined by the Commission and then referred to the Attorney General for penalty assessment as specified in subsection (g). For a gas pipeline facility violation, the Commission will determine whether there is a violation, and if so, will also assess the appropriate penalty.

Corey Crawford, Chief Financial Officer, has determined that for each year of the first five years that the new rule will be in effect, there will be an estimated additional cost to state government as a result of enforcing and administering the rule as proposed. The effect on state government is due to the

requirements of Senate Bill 3, and the Commission included the costs in its Senate Bill 3 fiscal note submitted to the Legislature during the 87th Legislative Session. The costs included in the fiscal note were the Commission's total estimated costs for implementing all of Senate Bill 3's requirements, not just Sections 5, 6, 20, and 21, which prompted proposed §3.66. For each year of the first five years the proposed new rule is in effect, the Commission's total estimated costs for implementing Senate Bill 3 are $2,463,638 in Fiscal Year (FY) 2022, $1,265,558 in FY 2023, $1,190,678 in FY 2024, $1,115,798 in FY 2025, and $1,115,798 in FY 2026. There will be no fiscal effect on local government. The majority of the costs related to implementation of proposed new rule §3.66 can be attributed to salaries for new Critical Infrastructure Division inspectors.

Jared Ware, Director, Critical Infrastructure Division, has determined that for each year of the first five years the new rule as proposed is in effect the primary public benefit will be the requirement for gas supply chain facilities and gas pipeline facilities to implement measures to prepare to operate in a weather emergency, increasing the likelihood that these facilities continue to operate in a weather emergency and, therefore, increasing the availability of natural gas for electric power generation. The public benefit will also be compliance with applicable state law.

Mr. Ware has determined that for each year of the first five years that the new rule be in full effect, there will be economic costs for persons required to comply as a result of adoption of the proposed new rule. The economic costs result from implementing the required weather emergency preparation measures. As described in proposed subsection (a), only certain gas supply chain facilities and gas pipeline facilities are required to comply with the requirements of proposed §3.66. The economic cost for a gas supply chain facility or gas pipeline facility will vary depending on the factors in proposed subsection (c)(2)(D). Specifically, a facility’s geographic location, its associated weather conditions, and the type of facility will dictate what weatherization methods are needed and, therefore, will determine the economic cost of weatherizing. In addition, some facilities may have already implemented weather emergency preparation measures based upon purchases of goods and services subject to economic valuations at the time of purchase. The economic impact on those facilities could potentially be less than facilities who have not begun to weatherize.

Texas Government Code, §2006.002, relating to Adoption of Rules with Adverse Economic Effect, directs that, as part of the rulemaking process, a state agency prepare an economic impact statement that assesses the potential impact of a proposed rule on rural communities, small businesses, and micro-businesses, and a regulatory flexibility analysis that considers alternative methods of achieving the purpose of the rule if the proposed rule will have an adverse economic effect on rural communities, small businesses, or micro-businesses. The proposed new rule will not have an adverse economic effect

on rural communities. The statute defines "small business" as a legal entity, including a corporation, partnership, or sole proprietorship, that is formed for the purpose of making a profit; is independently owned and operated; and has fewer than 100 employees or less than $6 million in annual gross receipts. A "micro-business" is a legal entity, including a corporation, partnership, or sole proprietorship, that is formed for the purpose of making a profit; is independently owned and operated; and has no more than 20 employees.

Entities that perform activities under the jurisdiction of the Commission are not required to report to the Commission their number of employees or their annual gross receipts, which are elements of the definitions of "micro-business" and "small business" in Texas Government Code, §2006.001; therefore, the Commission has no factual bases for determining whether any persons required to comply with the proposed new rule classify as small businesses or micro-businesses, as those terms are defined. However, based on the information available, the Commission expects that there are operators subject to the proposed requirements that fall within the definition of a small business or micro-business. The Commission expects most of the operators that fall within the definition of small business or micro-business will be operators of gas wells or oil leases producing casinghead gas.

In preparing the proposed rule, the Commission considered whether the purpose of the rule could still be achieved if small or micro-businesses have different requirements. With these considerations in mind, the Commission proposes an enforcement scheme that takes into account the amount of gas a facility produces. A weather-related forced stoppage during a weather emergency that is determined to be a violation of proposed §3.66 is more severe if the facility contributes more gas to the supply chain. Thus, facilities producing more gas are assigned a higher factor value in the proposed classification table in subsection (g). An operator of a gas well or oil lease that produces a smaller amount of gas is subject to a smaller penalty amount. Further alternatives for small or micro businesses were rejected because Senate Bill 3 specifies the facilities that are required to implement weather emergency preparation measures and does not except small or micro businesses. The Commission notes, however, that gas wells and oil leases are only required to comply with proposed §3.66 if they are designated critical under Commission §3.65 and are included on the electricity supply chain map. Section 3.65 excludes low-producing wells from the facilities it designates as critical. Therefore, a gas well producing 15 Mcf per day or less and an oil lease producing 50 Mcf per day or less are not subject to the requirements of §3.65 or proposed §3.66.

The Commission has determined that the proposed new rule will not affect a local economy. Therefore, the Commission has not prepared a local employment impact statement pursuant to Texas Government Code §2001.022.

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

During the first five years that the rule would be in full effect, the new rule proposed pursuant to recent legislation would create a new government program, create a new regulation, expand the Commission's existing penalty authority to encompass violations of the proposed new rule, and increase responsibility for persons under the Commission's jurisdiction. The proposed new rule do require an increase in future legislative appropriations. Senate Bill 3, the legislation requiring adoption of the rule, prompted this increase. Proposed §3.66 does not require an increase or decrease in fees paid to the Commission. Because proposed §3.66 is a new rule, it would not increase or decrease the number of individuals subject to the rule's applicability. Finally, the proposed rule would not affect the state's economy.

In addition to accepting written comments, the Commission has scheduled a workshop pursuant to Texas Government Code Section 2001.029 to allow members of the public to comment on the proposed new rule. The workshop will be held on Tuesday, July 5, 2022 beginning at 9:30 a.m. Details and any updates on the workshop will be available on the Commission's website.

Comments on the proposed new rule may be submitted to Rules Coordinator, Office of General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at www.rrc.texas.gov/general-counsel/rules/comment-form-for-proposed-rulemakings; or by electronic mail to rulescoordinator@rrc.texas.gov. The Commission will accept comments until 5 p.m. on Monday, August 15, 2022. The Commission finds that this comment period is reasonable because the proposal and an online comment form will be available on the Commission's website more than two weeks prior to *Texas Register* publication of the proposal, giving interested persons additional time to review, analyze, draft, and submit comments. The Commission cannot guarantee that comments submitted after the deadline will be considered. For further information, call Mr. Ware at (512) 463-7336. The status of Commission rulemakings in progress is available at www.rrc.texas.gov/general-counsel/rules/proposed-rules. Once received, all comments are posted on the Commission's website at https://rrc.texas.gov/general-counsel/rules/proposed-rules/. If you submit a comment and do not see the comment posted at this link within three business days of submittal, please call the Office of General Counsel at 512-463-7149. The Commission has safeguards to prevent emailed comments from getting lost; however, your operating system's or email server's settings may delay or prevent receipt.

The Commission proposes the new rule under section 86.044 of the Texas Natural Resources Code, which requires the Commission to adopt rules requiring certain gas supply chain facility operators

to implement measures to prepare to operate during a weather emergency (i.e., "weatherize"); section 86.222 of the Texas Natural Resources Code, which requires the Commission to establish an enforcement process and penalties for violations of Commission rules adopted under section 86.044; section 121.2015 of the Texas Utilities Code, which requires the Commission to adopt rules requiring certain pipeline facility operators to implement measures to prepare to maintain service quality and reliability during extreme weather conditions; and section 121.206 of the Texas Utilities Code, which requires the Commission to establish an enforcement process and penalties for violations of Commission rules adopted under section 121.2015.

Statutory authority: Natural Resources Code §§86.044 and 86.222; Utilities Code §§121.2015 and 121.206.

Cross reference to statute: Natural Resources Code Chapter 86, Utilities Code Chapter 121.

§3.66. Weather Emergency Preparedness Standards.

(a) Applicability.

(1) In accordance with Texas Natural Resources Code §86.044, this section applies to a gas supply chain facility that is:

(A) included on the electricity supply chain map created under Texas Utilities Code §38.203; and

(B) designated as critical in §3.65 of this title, relating to Critical Designation of Natural Gas Infrastructure.

(2) In accordance with Texas Utilities Code §121.2015, this section applies to a gas pipeline facility that:

(A) directly serves a natural gas electric generation facility operating solely to provide power to the electric grid for the Electric Reliability Council of Texas (ERCOT) power region or for the ERCOT power region and an adjacent power region; and

(B) is included on the electricity supply chain map created under Texas Utilities Code §38.203.

(b) Definitions. In this section, the following definitions apply.

(1) Critical component--Any component, including equipment rented or leased from a third party, that is susceptible to weather-related interruptions, such as those caused by freezing temperatures, freezing precipitation, or extreme heat, the occurrence of which is likely to significantly hinder sustained operation of the gas pipeline or gas supply chain facility.

(2) Gas pipeline facility--A pipeline or pipeline facility regulated by the Commission under Texas Utilities Code Chapter 121.

(3) Gas supply chain facility--A facility that is:

(A) used for producing, treating, processing, pressurizing, storing, or transporting natural gas, as well as handling waste produced;

(B) not primarily used to support liquefied natural gas pretreatment, liquefaction, or regasification facilities in the business of exporting or importing liquefied natural gas to or from foreign countries;

(C) otherwise regulated by the Commission under Subtitle B of Title 3, Texas Natural Resources Code; and

(D) not regulated by the Commission under Texas Utilities Code Chapter 121.

(4) Major weather-related forced stoppage--A weather-related forced stoppage that results in a significant impact to public safety as determined by the Critical Infrastructure Division Director or is the result of the deliberate disregard of this section.

(5) Repeated weather-related forced stoppage--When a gas supply chain facility or a gas pipeline facility has more than one weather-related forced stoppage violation within a calendar year.

(6) Sustained operation--Safe operation of a gas pipeline facility or a gas supply chain facility such that the facility does not experience a weather-related forced stoppage in production, treating, processing, storage, or transportation of natural gas.

(7) Weather emergency--Weather conditions such as freezing temperatures, freezing precipitation, or extreme heat in the facility's county or counties that result in an energy emergency as defined by §3.65 of this title. A weather emergency does not include weather conditions that cannot be reasonably mitigated such as tornadoes, floods, or hurricanes.

(8) Weatherization--The iterative cycle of preparedness for weather emergencies that includes corrective actions taken on issues identified from previous extreme weather events or internal review, implementation of processes, and installation of equipment to mitigate weather-related operational risks.

(9) Weather-related forced stoppage--An unanticipated and/or unplanned outage in the production, treating, processing, storage, or transportation of natural gas that is caused by weather conditions such as freezing temperatures, freezing precipitation, or extreme heat.

(c) Weather emergency preparedness standards for a gas supply chain facility or a gas pipeline facility.

(1) By December 1st of each year, a gas supply chain facility operator or a gas pipeline facility operator shall implement weather emergency preparation measures intended to:

(A) ensure the sustained operation of a gas supply chain facility or a gas pipeline facility during a weather emergency; and

(B) correct known weather-related forced stoppages that prevented sustained operation of a facility because of previous cold weather conditions.

(2) Weather emergency preparation measures required by paragraph (1) of this subsection shall include:

(A) self-assessment, inspections, and tests of critical components and other equipment;

(B) providing training on weather emergency preparations and operations to relevant operational personnel;

(C) emergency operations planning using a risk-based approach to identify, test, and protect the critical components of the facility; and

(D) weatherization of the facility using methods applicable to the facility based on the type of facility, the facility's critical components, the facility's location, and weather data for the facility's county or counties including data illustrated in the table of this subsection. Weatherization methods may include but are not limited to the following:

(i) securing onsite fuel and spare parts;

(ii) securing sufficient chemicals, auxiliary fuels, and other materials;

(iii) keeping inventory of hydrate and/or freeze protection chemical readily available and accessible;

(iv) securing personnel including contractors required to operate the facility;

(v) installing adequate wind breaks or temporary enclosures for equipment or facilities susceptible to outages caused by wind;

(vi) enclosing sensors and other sensitive instruments for cold weather critical components;

(vii) installing thermal insulation and/or heat tracing devices, inspecting thermal insulation for damage or degradation, and repairing damaged or degraded insulation;

(viii) installing monitoring devices for cold weather critical components, including circuitry providing freeze protection or preventing instrument air moisture;

(ix) confirming the operability of instrument air moisture prevention systems;

(x) installing chemical injection systems for lowering freezing point of entrained water at the facility;

(xi) installing devices and equipment to remove, store, or dispose of liquids to prevent freeze-offs of equipment;

(xii) establishing a schedule for testing of such freeze protection components prior to December and through March of each year;

(xiii) conducting maintenance of freeze protection components for all applicable equipment;

(xiv) using nitrogen in closed loop systems for instrument controls as an alternative to air;

(xv) ensuring equipment availability and inventory of sand or gravel stock to allow for road and/or ground maintenance and access;

(xvi) procuring necessary third-party services such as rental tanks, enclosures, tank trucks, mobile steamer units, and pressure trucks;

(xvii) creating accessible operating procedures that include steps and actions to be taken by personnel during extreme weather conditions, such as de-pressuring and draining of process lines or systems, hydrate removal, and ice plug removal;

(xiii) developing and implementing redundancies for continued operations during loss of critical and high-risk critical equipment during weather emergencies;

(xix) coordinating with local authorities for allowing ingress and egress to critical facilities during weather emergencies; and

(xx) for new water transportation, burying all subsurface piping four feet or deeper and insulating and tracing above-ground piping.

Figure: 16 TAC §3.66(c)(2)(D)

(d) Weather Emergency Readiness Attestation.

(1) Submittal of Weather Emergency Readiness Attestation. By December 1 of each year, an operator of a gas supply chain facility or a gas pipeline facility shall submit to the Commission a Weather Emergency Readiness Attestation that:

(A) is sworn to by an authorized officer of the operator entity attesting, under penalties prescribed in Texas Natural Resources Code §91.143, that:

(i) the operator implemented the required weather emergency preparation measures described in subsection (c) of this section;

(ii) the information and statements made in the Weather Emergency Readiness Attestation are true, correct, and complete;

(iii) the authorized officer is responsible for the operator entity's regulatory compliance with this section;

(iv) the officer is authorized to sign the attestation on behalf of the operator entity; and

(v) the Weather Emergency Readiness Attestation was prepared by the authorized officer or under the authorized officer's supervision and direction;

(B) includes an attachment describing all activities engaged in by the operator to implement the requirements of subsection (c) of this section for each of the following categories applicable to the facility:

(i) process piping and vessels;

(ii) process fluids including dry gas, wet gas, and produced water;

(iii) fuel gas systems;

(iv) tankage, terminals, and distribution;

(v) instrument air management;

(vi) electrical management systems;

(vii) water management systems;

(viii) utility connections;

(ix) pumps, compressors, and turbines;

(x) air intake systems;

(xi) chemical tanks and porta feeds;

(xii) flare systems;

(xiii) safety systems including showers and facewash;

(xiv) maintenance preparation and readiness;

(xv) closed loop glycol heaters and tracing systems; and

(xvi) additional critical components not listed above; and

(C) for the Weather Emergency Readiness Attestation due December 1, 2022, also describes corrective actions taken to mitigate known weather-related forced stoppages that prevented sustained operation of a facility because of previous cold weather conditions.

(2) Confidentiality of the Weather Emergency Readiness Attestation. A gas supply chain facility operator or a gas pipeline facility operator filing information with the Commission that the operator contends is confidential by law shall notify the Commission on the Weather Emergency Readiness Attestation. If the Commission receives a request under the Texas Public Information Act (PIA), Texas Government Code, Chapter 552, for materials that have been designated confidential, the Commission will notify the filer of the request in accordance with the provisions of the PIA so that the filer can take action with the Office of the Attorney General to oppose release of the materials.

(e) Inspection of gas supply chain facilities and gas pipeline facilities. Each facility required to comply with this section is subject to Commission inspections to ensure compliance with this section.

(f) Weather-related forced stoppages by a gas pipeline facility or gas supply chain facility.

(1) An operator of a gas supply chain facility or a gas pipeline facility that experiences a weather-related forced stoppage in sustained operations during a weather emergency shall notify the Commission immediately through the Critical Infrastructure Division's notification portal if the stoppage is not resolved within 24 hours of discovery of the stoppage. In the event a weather-related forced stoppage results in a loss of production exceeding 5,000 Mcf of natural gas per day, or a stoppage of gas processing, storage withdrawal, or transportation capacity exceeding 200 MMcf per day, the operator shall, upon discovery of the stoppage, immediately contact the Commission on the Critical Infrastructure Division 24-hour emergency telephone number. If an inspection determines that the stoppage was caused by the facility's failure to adhere to the requirements of this section, the facility will be subject to an enforcement action.

(2) An operator of a gas supply chain facility or a gas pipeline facility that experiences repeated weather-related forced stoppages or major weather-related forced stoppages in sustained operation, such as equipment freeze-offs, instrument failures, forced outages, or forced shut-ins shall, upon notice from the Commission, contract with a qualified engineer with related experience to assess its weather emergency preparation measures, plans, procedures, and operations. The qualified engineer shall not be an employee of the facility or its affiliate and shall not have participated in any assessments of the facility for at least the previous five years, unless the facility's operator can document that no other qualified engineers are reasonably available for engagement. The facility's operator shall submit to the Commission a written assessment prepared by the qualified engineer and the facility operator's corrective action plan within the timeframe required and in compliance with the terms in the Commission's notice that the facility is required to comply with this paragraph.

(g) Enforcement.

(1) Violation of this section by a gas supply chain facility operator. A gas supply chain facility operator will be given notice and opportunity for a hearing for alleged violations of this section. Pursuant to Texas Natural Resources Code §86.044 and §§86.222-.224, if the Commission determines that a person has violated this section and the violation is not remedied in a reasonable amount of time, the Commission shall notify the Office of the Attorney General of Texas of the violation in accordance with Texas Natural Resources Code §86.222. Each day a violation occurs constitutes a separate offense, the penalty for which may be up to $1,000,000. The table in this paragraph contains a classification system to be used under Texas Natural Resources Code §86.222 for violations of this section.
Figure: 16 TAC §3.66(g)(1)

(2) Violation of this section by a gas pipeline facility operator.

(A) A gas pipeline facility operator will be given notice and opportunity for a hearing for alleged violations of this section. Pursuant to Texas Utilities Code §121.2015, if the Commission determines that a person has violated this section and the violation is not remedied in a reasonable amount of time, the Commission shall report the violation to the Office of the Attorney General of Texas. Pursuant to Texas Utilities Code §121.206, the Commission shall assess an administrative penalty for a violation of this section, which may be up to $1,000,000 for each offense. Each day a violation occurs constitutes a separate offense.

(B) In accordance with Texas Utilities Code §121.206(d), the Commission will use the table in paragraph (1) of this subsection in assessing penalties for a violation of this section. The penalty amounts contained in the table in paragraph (1) of this subsection are provided solely as guidelines to be considered by the Commission in determining the amount of administrative penalties for violations Texas Utilities Code, Chapter 121, Subchapter E, or a safety standard or other rule prescribed or adopted under that subchapter. The establishment of these penalty guidelines shall in no way limit the Commission's authority and discretion to cite violations and assess administrative penalties. The Commission retains full authority and discretion to cite violations of Texas Utilities Code, Chapter 121, Subchapter E, or a safety standard or other rule prescribed or adopted under that subchapter, and to assess administrative penalties in any amount up to the statutory maximum when warranted by the facts in any case, regardless of inclusion in or omission from this section. The penalty calculation worksheet shown in the table in paragraph (1) of this subsection lists the typical penalty amounts for certain violators, the circumstances justifying enhancements of a penalty, and the circumstances justifying a reduction in a penalty.

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

Issued in Austin, Texas on June 28th, 2022.

Filed with the Office of the Secretary of State on June 28th, 2022.

DocuSigned by:
Haley Cochran
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Haley Cochran
Rules Attorney, Office of General Counsel
Railroad Commission of Texas

Figure: 16 TAC §3.66(c)(2)(D)

County	**Lowest historical temperature**	**Year**	**Highest historical temperature**	**Year**	**Typical longest consecutive hours of freezing or frozen precipitation in region**
Anderson	-6	2021	114	1954	24
Andrews	-14†	1962	113	1994	30
Angelina	-2	1951	110	2000	18
Aransas	10	1899	107	2000	18
Archer	-10	1989	114	1980	30
Armstrong	-16	1905	108	1980	36
Atascosa	-1	1949	113	2000	18
Austin	0	1989	111	2000	18
Bailey	-21	1933	112	1994	36
Bandera	5	1989	109	2011	24
Bastrop	-3	1989	111	2011	18
Baylor	-14	1947	120	1936	30
Bee	5	1899	114	1990	18
Bell	-5	1989	112	2018	24
Bexar	0	1949	113	2000	24
Blanco	-6	1949	110	2018	24
Borden	-1	1989	116	1994	30
Bosque	-3	1989	113	2000	24
Bowie	-9	1899	112	2011	30
Brazoria	5	1899	109	2000	18
Brazos	-3	1949	112	2000	18
Brewster	-6	1962	117	2021	24

Briscoe	-10	2004	112	2020	36
Brooks	9	1962	116	2016	12
Brown	-6	1989	113	1925	30
Burleson	3	1989	114	2000	18
Burnet	-4	1989	114	1917	24
Caldwell	-3	1949	111	2011	18
Calhoun	9	1989	109	2011	18
Callahan	-8	1989	110	2011	30
Cameron	12	1899	108	1915	18
Camp	-5†	2021	114†	1936	30
Carson	-10	1963	112	2011	36
Cass	-4	2021	111	2011	30
Castro	-12	2021	111	1983	36
Chambers	8	1989	106	1939	18
Cherokee	-6	2021	111	1925	24
Childress	-13	1930	117	2011	36
Clay	-8	1989	116	1951	30
Cochran	-12	1963	111	2011	30
Coke	-9	2021	114	2000	30
Coleman	-9	1989	114	1943	30
Collin	-11	1899	115	1901	30
Collingsworth	-6	1989	117	2011	36
Colorado	4	1989	116	2000	18
Comal	2	1989	112	2011	24
Comanche	-8	1989	113	2000	30
Concho	-8	1985	111	2011	24
Cooke	-12	1899	114	1936	30
Coryell	-8	2021	112	2018	24
Cottle	-7	1989	118	2011	36
Crane	-6	1985	115	1994	24
Crockett	-8	1951	113	2015	24
Crosby	-14	1899	113	2019	30

Culberson	-14	2011	112	1969	24
Dallam	-21	1959	110	2011	36
Dallas	-10	1899	115	1909	30
Dawson	-12	1933	114	1994	30
Deaf Smith	-17	1951	111	1910	36
Delta	-10†	1899	115†	1969	30
Denton	-6	2021	113	1954	30
DeWitt	2	1949	114	2011	18
Dickens	-17	1933	117	1994	30
Dimmit	5	1899	114	1960	12
Donley	-13	1984	117	1936	36
Duval	12	1989	116	1998	12
Eastland	-8	1989	115	1943	30
Ector	-12	1985	116	1994	30
Edwards	0	1963	110	1988	24
Ellis	-13	2011	115	1909	24
El Paso	-9	1899	115	2002	24
Erath	-9	1899	114	1936	30
Falls	-7	1949	112	1969	24
Fannin	-7	2021	115	1936	30
Fayette	3	1989	111	1917	18
Fisher	-12	1899	116	1994	30
Floyd	-9	1963	111	1994	36
Foard	-7†	1989	118	2011	36
Fort Bend	8	1989	108	2011	18
Franklin	-5	1989	112	2011	30
Freestone	-2	1989	110	2000	24
Frio	7	1989	113	2000	12
Gaines	-23	1933	114	1994	30
Galveston	7	1899	106	2000	18
Garza	-5	2021	116	1994	30
Gillespie	-5	1949	109	2000	24

Glasscock	-3	1989	114	1994	30
Goliad	7	1962	112	1998	18
Gonzales	1	1989	114	2000	18
Gray	-12	1962	113	2011	36
Grayson	-4	2021	113	1936	30
Gregg	-7	1899	113	1936	24
Grimes	-2†	1899	110†	2000	18
Guadalupe	0	1949	112	2000	18
Hale	-8	1933	112	2017	36
Hall	-11	1989	117	2020	36
Hamilton	-11	1949	113	1936	24
Hansford	-22	1959	111	1936	36
Hardeman	-15	1989	119	1994	36
Hardin	12	2021	110	2000	18
Harris	5	1940	111	2000	18
Harrison	-13	2021	112	2011	24
Hartley	-20	1933	110	1907	36
Haskell	-6	1989	115	1994	30
Hays	-2	1989	111	2000	24
Hemphill	-14	1942	112	1994	36
Henderson	-6	1985	109	2018	24
Hidalgo	10	1962	113	1998	12
Hill	-6	1989	113	1917	24
Hockley	-16	1963	115	1994	30
Hood	-8	2021	111	2018	30
Hopkins	-10	1899	115	1969	30
Houston	0	1989	114	1909	18
Howard	-7	1962	114	1994	30
Hudspeth	-10	1985	115	1994	24
Hunt	-4	1930	116	1936	30
Hutchinson	-19	1912	116	2020	36
Irion	-4	2021	108	2020	24

Jack	-11	2021	113	2011	30
Jackson	8	1949	107	1954	18
Jasper	2	1951	109	2000	18
Jeff Davis	-10	1962	108	1994	24
Jefferson	4	1899	108	2000	18
Jim Hogg	12	1989	118	2009	12
Jim Wells	11	1989	111	2000	18
Johnson	-6	1989	114	1939	30
Jones	-12	1989	118	1994	30
Karnes	6	1899	112	1954	18
Kaufman	-7	2021	113	1936	24
Kendall	-4	1949	112	1925	24
Kenedy	14	1975	110	1963	18
Kent	-9$^{\infty}$	1989	116	1994	30
Kerr	-7	1949	110	1954	24
Kimble	-11	1929	112	2011	24
King	-10	1989	119	1994	30
Kinney	4	1962	111	1988	18
Kleberg	10	1989	115	1998	18
Knox	-11	1947	118	2011	30
Lamar	9	1962	115	1936	30
Lamb	-13	1899	112	1994	36
Lampasas	-14	1963	112	1917	24
La Salle	-12	1949	116	1893	12
Lavaca	5	1989	112	2011	18
Lee	2	1989	111	2000	18
Leon	0	1951	113	1909	18
Liberty	5	1989	112	1962	18
Limestone	-5	1989	112	1909	24
Lipscomb	-19	2021	114	2011	36
Live Oak	11	1983	112	2000	18
Llano	-7	1929	115	1933	24

Loving	-14[†]	1962	115[†]	1995	30
Lubbock	-17	1933	114	1994	30
Lynn	-15	1933	111	1994	30
Madison	-2	1949	112	2000	18
Marion	-5	1989	112	2011	24
Martin	-12[†]	1962	114[†]	1994	30
Mason	-1[∞]	1989	111	2018	24
Matagorda	7	1989	109	2000	18
Maverick	7	1899	115	1944	12
McCulloch	-2	1989	110	1980	24
McLennan	-7	1949	114	2018	24
McMullen	5	1989	119	1910	12
Medina	-5	1951	112	2011	18
Menard	-6	1929	114	1927	24
Midland	-12	1962	116	1994	30
Milam	-7	1930	114	1917	18
Mills	-7	1989	110	1964	24
Mitchell	-7	1985	115	1907	30
Montague	-12	1899	115	1980	30
Montgomery	1	2021	113	2000	18
Moore	-18	1959	109	1980	36
Morris	-5	2021	112	1998	30
Motley	-6	2021	116	1994	36
Nacogdoches	-4	1930	113	2000	18
Navarro	-7	1899	113	1954	24
Newton	4	1930	110	2011	18
Nolan	-11	1947	113	1994	30
Nueces	7	1899	113	1983	18
Ochiltree	-17	1988	113	2011	36
Oldham	-17	1951	110	1982	36
Orange	10	1989	111	2019	18
Palo Pinto	-8	1989	114	1980	30

Panola	1	1989	109	2000	24
Parker	-11	1899	119	1980	30
Parmer	-15	1963	109	2017	36
Pecos	-7	1911	117	1994	24
Polk	3	1989	111	2000	18
Potter	-16	1899	111	2011	36
Presidio	-2	1972	117	1960	24
Rains	-5	1989	112	2000	24
Randall	-14	1951	109	2020	36
Reagan	-9	1985	115	1994	24
Real	0	1976	109	2000	24
Red River	-7	1930	115	1936	30
Reeves	-14	1962	118	1968	24
Refugio	8	1962	112	2000	18
Roberts	-15	1942	114	1917	36
Robertson	-1	1989	112	2000	18
Rockwall	-1	2021	113†	1936	30
Runnels	-6	2021	116	1907	30
Rusk	-7	2021	111	2011	24
Sabine	6	1951	114	1947	18
San Augustine	1	2021	112	1909	18
San Jacinto	3	1989	110	1998	18
San Patricio	10	1989	111	2000	18
San Saba	-1	1989	113	2020	24
Schleicher	-7	1985	107	2018	24
Scurry	-11	1985	115	1936	30
Shackelford	-13	2021	115	1972	30
Shelby	0	1951	112	2000	18
Sherman	-20	1933	108	2019	36
Smith	-8	1899	110	2011	24
Somervell	-15	1989	115	1984	30
Starr	7	1899	116	1998	12

Stephens	-8	2021	114	1936	30
Sterling	-13	1985	112	1994	30
Stonewall	-10	1989	117	1994	30
Sutton	-8	1951	109	2016	24
Swisher	-23	1899	111	2011	36
Tarrant	-12	1899	115	1909	30
Taylor	-9	1947	111	2011	30
Terrell	1	1989	113	2014	24
Terry	-8	1963	111	1994	30
Throckmorton	-11	1989	115	2011	30
Titus	-12	1951	118	1936	30
Tom Green	-6	1930	113	1907	24
Travis	-5	1949	112	2011	24
Trinity	1	1989	111	2000	18
Tyler	2	1949	111	2000	18
Upshur	-5	2021	114	1936	24
Upton	-2	1962	113	1994	24
Uvalde	6	1989	114	1910	18
Val Verde	2	2021	114	1995	18
Van Zandt	-3	2021	115	1909	24
Victoria	9	1989	111	2000	18
Walker	-2	1899	110	2000	18
Waller	1†	2021	113	2000	18
Ward	-9	1962	120	1994	24
Washington	-2	1930	118	2009	18
Webb	5	1899	116	1998	12
Wharton	3	1899	112	2000	18
Wheeler	-13	1984	117	2011	36
Wichita	-15	1947	117	1980	36
Wilbarger	-9	1989	119	1943	36
Willacy	14	1962	109	1916	18
Williamson	-5	1949	113	1917	24

Wilson	5	1985	114	1984	18
Winkler	-14	1962	117	1994	30
Wise	-8	1989	115	1980	30
Wood	-8	2021	114	1996	24
Yoakum	-12	1951	113	1994	30
Young	-8	1989	120	1998	30
Zapata	13	1911	116	1998	12
Zavala	6	1962	115	2000	12

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† Temperature value taken from an adjacent county.
∞ Temperature value estimated using value from an adjacent county or counties.

Figure: 16 TAC §3.66(g)(1)

Classification System

Violation Factors		Factor Value	Points Tally
Oil lease or gas well facility out of compliance with §3.66 produces an average of 5,000 Mcf or more of natural gas per day		4	
Oil lease or gas well facility out of compliance with §3.66 produces an average of 1,000 Mcf or more per day but less than 5,000 Mcf of natural gas per day		3	
Oil lease or gas well facility out of compliance with §3.66 produces an average of 500 Mcf or more per day but less than 1,000 Mcf of natural gas per day		2	
Oil lease or gas well facility out of compliance with §3.66 produces an average of 250 Mcf or more per day but less than 500 Mcf of natural gas per day		1	
Gas processing plant, underground gas storage, or gas pipeline facility out of compliance with §3.66 that resulting in a loss of processing, storage withdrawal, or transportation of 200 MMcf or more of natural gas per day		4	
Gas processing plant, underground gas storage, or gas pipeline facility out of compliance with §3.66 that results in a loss of processing, storage withdrawal, or transportation capacity 100 MMcf or more per day but less than 200 MMcf of natural gas per day		3	
Gas processing plant, underground gas storage, or gas pipeline facility out of compliance with §3.66 that results in a loss of processing, storage withdrawal, or transportation capacity of less than 100 MMcf of natural gas per day		2	
Hazard to health, safety, or economic welfare of the public		5	
Potential hazard to health, safety, or economic welfare of the public		2	
Time out of compliance (calculated as days the operator fails to remedy a violation noted in a Commission notice of violation)	90 days or greater	4	
	60 days or more but less than 90 days	3	
	30 days or more but less than 60 days	2	
	5 days or more but less than 30 days	1	

Reckless conduct of operator	3	
Intentional conduct of operator	5	
Repeat violations based on operator's history of compliance	3	
Good faith effort to remedy violation	-2	
No effort to remedy violation	5	
		Total
		Penalty maximum per violation
15 points or more = Class A violation		$More than 5,000[1]
10-14 points = Class B violation		$5,000
5-9 points = Class C violation		$4,000
1-4 points = Class D violation		$3,000

[1] Pursuant to Natural Resources Code §86.222, the required classification system shall provide that a penalty in an amount that exceeds $5,000 may be recovered only if the violation is included in the highest class of violations in the classification system.