

1 The Railroad Commission of Texas (Commission) adopts amendments to §3.70, relating to Pipeline
2 Permits Required, without changes to the proposed text as published in the October 18, 2019, issue of the *Texas*
3 *Register* (44 TexReg 5965). The amendments clarify language related to production and flow lines, allow each
4 operator to renew all its permits in the same month, clarify fee requirements for gathering pipelines, and reduce late
5 fees for operators with 50 miles or less of pipeline.

6 The Commission received one comment on the proposed amendments from the Texas Oil and Gas
7 Association (TXOGA). However, the comment merely referenced the scope of §3.70 in its comments on the
8 Commission's amendments to Chapter 8, which were proposed concurrently with the amendments to §3.70;
9 TXOGA did not comment on the content of proposed amendments to §3.70. The Commission appreciates
10 TXOGA's review.

11 The amendments in subsection (a) reduce confusion regarding when production or flow lines do not leave a
12 lease and, therefore, do not need a permit. The current rule language only requires production or flow lines to have
13 a pipeline permit if the production or flow line leaves a lease. The amendments remove the language related to
14 whether a production or flow lines leaves a lease in its entirety. Instead, the Commission will only require a permit
15 for those production and flow lines over which the Commission has pipeline safety jurisdiction. The Commission
16 currently exercises pipeline safety jurisdiction over two categories of production and flow lines: (1) certain onshore
17 pipeline and gathering production facilities, as defined in §8.1(a)(1)(B) of this title (relating to General
18 Applicability and Standards); and (2) all pipeline facilities originating in Texas waters, as defined in §8.1(a)(1)(D)
19 of this title. The Commission does not have pipeline safety jurisdiction over production and flow lines that are not
20 defined in §8.1(a)(1)(B) and §8.1(a)(1)(D) of this title, and therefore will no longer require a permit for those
21 pipelines—even if the pipelines leave a lease. The Commission adopts a definition of production and flow lines
22 similar to the definition used in API RP 80 to help reduce confusion. The Commission's intention is to clarify
23 which production or flow lines require a permit. To determine which lines require a permit, operators can perform
24 the following analysis: if the production or flow line meets either of the definitions in §8.1(a)(1)(B) and
25 §8.1(a)(1)(D) of this title, the operator is required to obtain a permit for the line; if the production or flow line does
26 not meet either of the definitions in §8.1(a)(1)(B) and §8.1(a)(1)(D) of this title, the operator is not required to
27 obtain a permit for the line.

1 The amendments in subsection (i) clarify that the fee requirements for gathering pipelines regulated under
2 new §8.110 (which is part of amendments to Chapter 8 proposed concurrently with the amendments to §3.70) are
3 still designated as Group B and will continue to pay an annual fee of \$10 per mile of gathering pipeline permitted to
4 the operator. Other non-substantive amendments are adopted in subsection (i).

5 Amendments in subsection (j) create a new annual permit renewal timeline beginning September 1, 2020.
6 Currently, each permit has a specific annual renewal date, which, generally, is based on the date of permit
7 application. Individual permit renewal is burdensome for both operators and Commission staff. The amendments
8 maintain the current renewal process for one year, but beginning September 1, 2020, operators will renew all their
9 permits within a designated month assigned to operators alphabetically. Operators whose names begin with the
10 letters A through C shall file in February; operators whose names begin with the letters D through E shall file in
11 March; operators whose names begin with the letters F through L shall file in April; operators whose names begin
12 with the letters M through P shall file in May; operators whose names begin with the letters Q through T shall file
13 in June; and operators whose names begin with the letters U through Z and operators whose names begin with
14 numerical values or other symbols shall file in July. For example, beginning September 1, 2020, an operator whose
15 name begins with A shall pay all its permit renewals in February 2021.

16 New subsection (k) addresses renewal dates when permits are transferred or an operator adds a new permit.
17 Subsection (k)(1) states that if a permit is transferred, in the Commission fiscal year of the transfer the acquiring
18 operator shall renew that permit in its designated month. If the acquiring operator receives the transferred permit in
19 a Commission fiscal year after its renewal month as passed, acquiring operator shall pay the renewal fee upon
20 transfer. Subsection (k)(2) states that if an operator adds a new permit and pays the new permit fee, it is not required
21 to pay the renewal fee for that permit in the same Commission fiscal year. Subsection (k)(3) states that if an
22 operator adds a new permit after its renewal month has passed, the new permit shall be renewed the following
23 Commission fiscal year in the operator's designated month.

24 Amendments in subsection (l) reflect changes to the renewal process in subsection (j).

25 New subsection (m) reduces the late fee for operators with a total mileage of 50 miles or less of pipeline
26 who fail to pay the annual mileage fee on time. Corresponding changes are adopted in subsection (n) such that the
27 existing late fees only apply to operators with a total mileage of more than 50 miles of pipeline.

1 The Commission adopts the amendments to §3.70 pursuant to Texas Natural Resources Code, §81.071,
2 enacted by the 85th Legislature (Regular Session, 2017) in House Bill 1818, which authorizes the Commission to
3 establish pipeline safety and regulatory fees to be assessed for permits or registrations for pipelines under the
4 jurisdiction of the Commission's pipeline safety and regulatory program. Additionally, the Commission proposes
5 the amendments pursuant to §81.051 and §81.052, which provide the Commission with jurisdiction over all persons
6 owning or operating pipelines in Texas and the authority to adopt all necessary rules for governing and regulating
7 persons and their operations under the jurisdiction of the Commission; Texas Natural Resources Code §81.0531,
8 which authorizes the Commission to assess a penalty for a violation of a provision of Title 3 of the Texas Natural
9 Resources Code, or a rule, order, license, permit, or certificate that relates to pipeline safety; §85.202, which
10 authorizes the Commission to promulgate rules requiring records to be kept and reports made, and providing for the
11 issuance of permits, tenders, and other evidences of permission when the issuance of the permits, tenders, or
12 permission is necessary or incident to the enforcement of the Commission's rules for the prevention of waste; Texas
13 Natural Resources Code §86.041 and §86.042, which allow the Commission broad discretion in adopting rules to
14 prevent waste in the piping and distribution of gas, require records to be kept and reports made, and provide for the
15 issuance of permits and other evidences of permission when the issuance of the permit or permission is necessary or
16 incident to the enforcement of its blanket grant of authority to make any rules necessary to effectuate the law; Texas
17 Natural Resources Code §111.131 and §111.132, which authorize the Commission to promulgate rules for the
18 government and control of common carriers and public utilities; Texas Natural Resources Code §§117.001 -
19 117.101, which give the Commission jurisdiction over all pipeline transportation of hazardous liquids or carbon
20 dioxide and over all hazardous liquid or carbon dioxide pipeline facilities as provided by 49 U.S.C. §§60101, et
21 seq.; and Texas Utilities Code §§121.201 - 121.210, which authorize the Commission to adopt safety standards and
22 practices applicable to the transportation of gas and associated pipeline facilities within Texas to the maximum
23 degree permissible under, and to take any other requisite action in accordance with, 49 United States Code
24 Annotated, §§60101, et seq.

25 Statutory authority: Texas Natural Resources Code §§81.051, 81.052, 81.0531, 81.071, 85.202, 86.041,
26 86.042, 111.131, 111.132, and §§117.001 - 117.101; Texas Utilities Code, §§121.201 - 121.210; and 49 United
27 States Code Annotated, §§60101, et seq.

1 Cross-reference to statute: Texas Natural Resources Code, Chapter 81, Chapter 111, and Chapter 117;
2 Texas Utilities Code, Chapter 121; and 49 United States Code Annotated, Chapter 601.

3
4 §3.70. Pipeline Permits Required.

5 (a) Each operator of a pipeline or gathering system, other than ~~[a production or flow line that does not leave~~
6 ~~a lease or]~~ an operator excluded under §8.1(b)(4) of this title (relating to General Applicability and Standards),
7 subject to the jurisdiction of the Commission, shall obtain a pipeline permit, to be renewed annually, from the
8 Commission as provided in this rule. Production or flow lines that are subject to §8.1(a)(1)(B) and (a)(1)(D) of this
9 title must comply with this section. All other production or flow lines as defined in this subsection are exempt from
10 complying with this section. A production or flow line is piping used for production operations that generally occur
11 upstream of gathering or other pipeline facilities. For the purposes of this subsection, piping used in “production
12 operations” means piping used for production and preparation for transportation or delivery of hydrocarbon gas
13 and/or liquids, and includes the following processes:

14 (1) extraction and recovery, lifting, stabilization, treatment, separation, production processing,
15 storage, and measurement; and

16 (2) associated production compression, gas lift, gas injection, or fuel gas supply.

17 (b) To obtain a new pipeline permit or to amend a permit because of a change of classification, an operator
18 shall file an application for a pipeline permit on the Commission's online permitting system. The operator shall
19 include or attach the following documentation and information:

20 (1) the contact information for the individual who can respond to any questions concerning the
21 pipeline's construction, operation or maintenance;

22 (2) the requested classification and purpose of the pipeline or pipeline system as a common carrier,
23 a gas utility or a private line;

24 (3) a sworn statement from the pipeline applicant providing the operator's factual basis supporting
25 the classification and purpose being sought for the pipeline, including, if applicable, an attestation to the applicant's
26 knowledge of the eminent domain provisions in Texas Property Code, Chapter 21, and the Texas Landowner's Bill
27 of Rights as published by the Office of the Attorney General of Texas; and

1 (4) documentation to provide support for the classification and purpose being sought for the
2 pipeline, if applicable; and

3 (5) any other information requested by the Commission.

4 (c) To renew an existing permit, to amend an existing permit for any reason other than a change in
5 classification, or to cancel an existing permit, an operator shall file an application for a pipeline permit on the
6 Commission's online filing system. The operator shall include or attach:

7 (1) the contact information for the individual who can respond to any questions concerning the
8 pipeline's construction, operation, or maintenance; change in operator or ownership; or other change including
9 operator cessation of pipeline operation;

10 (2) a statement from the pipeline operator confirming the current classification and purpose of the
11 pipeline or pipeline system as a common carrier, a gas utility or a private line, if applicable; and

12 (3) any other information requested by the Commission.

13 (d) Upon receipt of a complete permit application, the Commission has 30 calendar days to issue, amend, or
14 deny the pipeline permit as filed. If the Commission determines that the application is incomplete, the Commission
15 shall promptly notify the applicant of the deficiencies and specify the additional information necessary to complete
16 the application. Upon receipt of a revised application, the Commission has 30 calendar days to determine if the
17 application is complete and issue, amend, or deny the pipeline permit as filed.

18 (e) If the Commission is satisfied from the application and the documentation and information provided in
19 support thereof, and its own review, that the proposed line is, or will be laid, equipped, managed and operated in
20 accordance with the laws of the state and the rules and regulations of the Commission, the permit may be granted.
21 The pipeline permit, if granted, shall classify the pipeline as a common carrier, a gas utility, or a private pipeline
22 based upon the information and documentation submitted by the applicant and the Commission's review of the
23 application.

24 (f) This rule applies to applications made for new pipeline permits and to amendments, renewals, and
25 cancellations of existing pipeline permits. The classification of a pipeline under this rule applies to extensions,
26 replacements, and relocations of that pipeline.

27 (g) The Commission may delegate the authority to administratively issue pipeline permits.

1 (h) The pipeline permit, if granted, shall be revocable at any time after a hearing, held after 10 days' notice,
2 if the Commission finds that the pipeline is not being operated in accordance with the laws of the state and the rules
3 and regulations of the Commission including if the permit is not renewed annually as required in subsection (a) of
4 this section.

5 (i) Each pipeline operator shall pay an annual fee based on the pipeline operator's permitted mileage of
6 pipeline by August 31, 2018, for the initial year that the requirement is in effect, and by April 1 for each subsequent
7 year.

8 (1) For purposes of calculating the mileage fee, the Commission will categorize pipelines into two
9 groups.

10 (A) Group A includes transmission and gathering pipelines that are required by
11 Commission rules to have a valid T-4 permit to operate and are subject to the regulations in 49 CFR Parts 192 and
12 195, such as [~~Group A pipelines include~~] natural gas transmission and storage pipelines, natural gas gathering
13 pipelines, hazardous liquids transmission and storage pipelines, and hazardous liquids gathering pipelines.

14 (B) Group B includes [~~gathering~~] pipelines that are required by Commission rules to have a
15 valid T-4 permit to operate but are not subject to the regulations in 49 CFR Parts 192 and 195 such as [~~Group B~~
16 ~~pipelines include intrastate production and~~] gathering pipelines [~~leaving a lease~~]. Group B also includes gathering
17 pipelines required to comply with §8.110 of this title (relating to Gathering Pipelines).

18 (2) An operator of a Group A pipeline shall pay an annual fee of \$20 per mile of pipeline based on
19 the number of miles permitted to that operator as of June 29, 2018, for the initial year that the requirement is in
20 effect and as of December 31 for each subsequent year.

21 (3) An operator of a Group B pipeline shall pay an annual fee of \$10 per mile of pipeline based on
22 the number of miles permitted to that operator as of June 29, 2018, for the initial year that the requirement is in
23 effect and as of December 31 for each subsequent year.

24 (4) Any pipeline distance that is a fraction of a mile will be considered as one mile and will be
25 assessed a \$20 or \$10 fee, as appropriate.

26 (5) Fees due to the Commission for mileage transferred from one operator to another operator
27 pursuant to subsection (o) [~~(m)~~] of this section will be captured in the next mileage fee to be calculated on the

1 following December 31 and paid by the new operator.

2 (j) Beginning October 1, 2018, each pipeline operator shall pay a \$500 permit processing fee for each new
3 permit application and permit renewal.

4 (1) From October 1, 2018, to August 31, 2020, the [The] permit renewal date for a pipeline
5 operator who has an existing, valid permit in the Commission's online filing system will be the date shown in the
6 online filing system on June 29, 2018, when the pipeline mileage is calculated for purposes of paying the mileage
7 fee. A permit renewal date will not be affected or changed by an operator requesting or receiving a permit
8 amendment.

9 (2) Beginning September 1, 2020, operators shall file their annual renewals as follows:

10 (A) Companies with names beginning with letters A through C shall file in February;

11 (B) Companies with names beginning with letters D through E shall file in March;

12 (C) Companies with names beginning with letters F through L shall file in April;

13 (D) Companies with names beginning with letters M through P shall file in May;

14 (E) Companies with names beginning with letters Q through T shall file in June; and

15 (F) Companies with names beginning with letters U through Z and companies with names
16 beginning with numerical values or other symbols shall file in July.

17 (k) Beginning September 1, 2020, operators shall comply with the following:

18 (1) If a permit is transferred, in the Commission fiscal year of the transfer the acquiring operator
19 shall renew that permit in its designated month pursuant to subsection (j)(2) of this section. If the acquiring
20 operator receives a transferred permit in a Commission fiscal year and its renewal month has already passed, the
21 acquiring operator shall pay the renewal fee upon transfer.

22 (2) If an operator adds a new permit and pays the new permit fee, the operator is not required to pay
23 the renewal fee for that permit in the same Commission fiscal year.

24 (3) If an operator adds a new permit after its renewal month has passed, the new permit shall be
25 renewed the following Commission fiscal year in the operator's designated month pursuant to subsection (j)(2) of
26 this section.

27 (l) [(k)] A pipeline operator who fails to renew a permit on or before the renewal deadline which is the last

1 day of the operator's required filing month as specified in subsection (j) of this section [~~permit expiration date~~] shall
2 pay a late-filing fee as follows:

3 (1) \$250, if the renewal application is received within 30 calendar days after the renewal deadline
4 [~~expiration~~] date;

5 (2) \$500, if the renewal application is received more than 30 calendar days and no more than 60
6 calendar days after the renewal deadline [~~expiration~~] date; and

7 (3) \$700, if the renewal application is received more than 60 calendar days after the renewal
8 deadline [~~expiration~~] date.

9 (4) If the renewal application is not received within 90 calendar days of the renewal deadline
10 [~~expiration~~] date, the Commission may assess a penalty and/or revoke the operator's permit in accordance with
11 subsection (h) of this section.

12 (m) A pipeline operator with a total mileage of 50 miles or less of pipeline who fails to pay the annual
13 mileage fee as specified in subsection (i) of this section shall pay a late-filing fee as follows:

14 (1) \$125, if the fee is received within 30 calendar days of April 1;

15 (2) \$250, if the fee is received more than 30 calendar days and no more than 60 calendar days after
16 April 1; and

17 (3) \$350, if the fee is received more than 60 calendar days after April 1.

18 (4) If the fee is not received within 90 calendar days of April 1, the Commission may assess a
19 penalty and/or revoke the operator's permit in accordance with subsection (h) of this section.

20 (n) [(4)] A pipeline operator with a total mileage of more than 50 miles of pipeline who fails to pay the
21 annual mileage fee shall pay a late-filing fee as follows:

22 (1) \$250, if the fee is received within 30 calendar days of August 31 for the initial year that the
23 requirement is in effect and April 1 for each subsequent year;

24 (2) \$500, if the fee is received more than 30 calendar days and no more than 60 calendar days after
25 August 31 for the initial year that the requirement is in effect and April 1 for each subsequent year; and

26 (3) \$700, if the fee is received more than 60 calendar days after August 31 for the initial year that
27 the requirement is in effect and April 1 for each subsequent year.

1 (4) If the fee is not received within 90 calendar days of August 31 for the initial year that the
2 requirement is in effect or April 1 for each subsequent year, the Commission may assess a penalty and/or revoke the
3 operator's permit in accordance with subsection (h) of this section.

4 (o) [~~(m)~~] A pipeline operator who has been issued a permit and is transferring the pipeline or a portion of
5 the pipeline included on the permit to another operator shall file a notification of transfer with the Commission
6 within 30 days following the transfer. An operator may file a fully executed Form T-4B as a notification of transfer.
7 The Commission may use a fully executed Form T-4B to remove the pipeline that is the subject of the transfer from
8 the transferor operator and assign the mileage to the transferee operator for calculation of the annual mileage fee.
9 The operator to which the pipeline has been transferred shall amend its permit to include the pipeline or portion of
10 the pipeline within 30 days following the transfer or the operator may be subject to a penalty for operating without a
11 permit pursuant to subsection (p) [~~(n)~~] of this section.

12 (p) [~~(n)~~] A pipeline operator who operates a pipeline without a permit, with an expired permit, or who
13

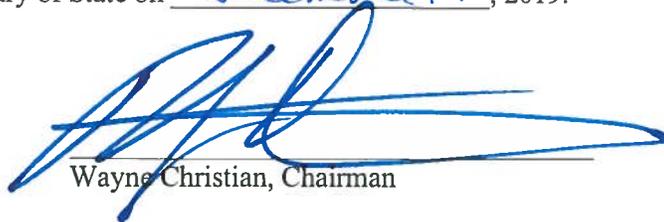
1 otherwise fails to comply with this section, may be assessed a penalty as prescribed in §8.135 of this title[;]
2 (relating to Penalty Guidelines for Pipeline Safety Violations).

3 (q) [(e)] Interstate pipelines are exempt from the fee requirements of this section.

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

6 Issued in Austin, Texas, on December 17, 2019.

7 Filed with the Office of the Secretary of State on December 17, 2019.



Wayne Christian, Chairman



Christi Craddick, Commissioner



Ryan Sifton, Commissioner

ATTEST:



Deputy
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