

1 The Railroad Commission of Texas adopts amendments to §3.40, relating to Assignment of
2 Acreage to Pooled Development and Proration Units, with changes from the proposed text as published in
3 the November 8, 2019, issue of the *Texas Register* (44 TexReg 6647). The amendments are adopted to
4 allow the same surface acreage to be assigned to more than one well in an unconventional fracture treated
5 (UFT) field when mineral ownership is severed at different depths below the surface. Section
6 §3.40(e)(2)(B), (e)(3), and (g) are adopted with changes to address comments as described in detail
7 below. The amendments adopted with a change in subsection (e)(2)(F) include the effective date of these
8 amendments for purposes of prohibiting field rule applications regarding multiple assignment of acreage
9 in unconventional fracture treated (UFT) fields for two years.

10 The Commission adopts amendments to §3.40 to uphold the Commission's statutory requirements
11 to prevent waste and protect correlative rights in light of significant changes occurring in the exploration
12 and production industry in Texas. Specifically, the Commission determined there are circumstances in
13 which the assignment of acreage to more than one well in a field is necessary to prevent waste and protect
14 correlative rights. The basis for this determination arises from primarily two factors: (1) severed
15 ownership of mineral rights at depth; and (2) technological advances that have unlocked heretofore
16 inaccessible hydrocarbon resources in UFT fields.

17 In December 2013, the Commission recognized the limitations of §3.40 as applied to the
18 Spraberry (Trend Area) Field and signed a final order (O&G Docket No. 7C-0283443) creating a "Rule
19 40 Exception Field" to allow acreage in the Spraberry to be assigned twice - to a well in the shallow
20 portion of the field and a well in the deep portion. Since 2013, the issue with depth severances has
21 expanded so that more fields are experiencing the same limitations with §3.40. In addition, private lease
22 agreements are creating multiple depth severances such that even allowing duplicate assignment of
23 acreage to wells in shallow and deep portions of a field may still limit development in UFT fields. For
24 example, private lease agreements and other land transactions for a tract may create five or more distinct
25 ownership intervals that vary by depth within a single field. Under current §3.40, the operator could
26 develop one ownership interval. Under existing field rules in the Spraberry, an operator could develop
27 two. In either scenario, at least three intervals could not be developed.

28 In 2016, the Commission established UFT fields to address the efficient production of
29 hydrocarbons from reservoirs that exhibited certain "unconventional" characteristics. A UFT field is a
30 field in which horizontal drilling and hydraulic fracturing must be used in order to recover resources from
31 all or part of the field and which is developed using either vertical and horizontal drilling techniques. This
32 designation includes geologic formations in which the drainage of a wellbore is based upon the area
33 reached by the hydraulic fracturing treatments rather than conventional flow patterns. That is, in UFT

1 fields hydrocarbon fluids do not flow beyond the spatial limits of the stimulated reservoir volume.
2 Efficient production is not dependent upon conventional reservoir structure, stratigraphy, or native
3 reservoir properties, but on the quality and characteristics of the fracture stimulation treatments.
4 Therefore, the Commission recognized the need for special provisions for UFT fields through the
5 amendments to §3.86, relating to Horizontal Drainhole Wells, adopted in 2016. Similarly, the
6 Commission now adopts amendments to §3.40 to allow the same surface acreage to be assigned to more
7 than one well in a UFT field when mineral ownership is severed below the surface.

8 The Commission received 12 comments on the rule proposal, five of which were from
9 associations. Elk River Resources, the General Land Office, and Rio Oil and Gas expressed overall
10 support for the amendments. The Commission appreciates this support.

11 Adopted amendments to §3.40(e)(2) provide that where ownership of the right to drill or produce
12 from a tract in a UFT field is divided horizontally, acreage may be assigned to more than one well
13 provided that the wells having the same wellbore profile are not completed in the same ownership
14 interval. "Divided horizontally" means that ownership of the right to drill or produce has been divided
15 into depth intervals defined by total vertical depth, depth relative to a specific geological contact, or some
16 other discriminator. The Texas Oil and Gas Association (TXOGA) and Pioneer Natural Resources USA,
17 Inc. (Pioneer) commented requesting that the Commission alter the definition of "divided horizontally" to
18 match language in §3.26, which uses "identical royalty interest and working interest ownership in
19 identical percentages." The Commission declines to use language from §3.26 because it does not capture
20 the issue that initiated this rulemaking; namely, in certain fields, private leases with depth severance
21 clauses create more than one ownership interval beneath the surface and §3.40's limitation on acreage
22 assignment was prohibiting production of the additional intervals.

23 Amendments in §3.40(e)(2)(B) require that within 15 days prior to filing its drilling permit
24 application, an applicant for multiple assignment of acreage shall identify any well, including wells
25 permitted but not yet drilled or completed, that is located within one-half mile of the applicant's proposed
26 wellbore between the first and last take points. The applicant shall then send written notice of its
27 application to the P-5 address of record of each Commission-designated operator of those wells. Apache
28 Corporation (Apache), the Permian Basin Petroleum Association (PBPA), the Texas Alliance of Energy
29 Producers (Alliance), Pioneer, and TXOGA asked for clarification on what action must be taken within
30 15 days of filing the drilling permit application. To ensure the notice list is based on the most current
31 information, the action that must occur within 15 days of filing is identifying the wells within the 1/2 mile
32 radius. However, because the Commission recognizes the amount of activity occurring in UFT fields, the
33 applicant's responsibility to identify wells within the 1/2 mile radius ends once the applicant sends notice.

1 The applicant does not have a continuing burden to locate wells within the 1/2 mile radius after notice is
2 sent. The Commission adopts §3.40(e)(2)(B) with a change to clarify its intent. The Commission also
3 adopts a change to remove “each” from “each Commission-designated operator” as requested by Pioneer
4 and TXOGA. The new provision reads: “No more than 15 days prior to filing its drilling permit
5 application, the applicant shall identify any well, including any wells permitted but not yet drilled or
6 completed, that is located within one-half mile of the applicant's proposed wellbore between the first and
7 last take points and, upon identification of all applicable wells, send written notice of its application to the
8 P-5 address of record of the Commission-designated operator of the wells determined to fall within the
9 one-half mile radius.”

10 The Alliance, Diamondback Energy (Diamondback), Pioneer, and TXOGA requested
11 clarification on a statement in the proposal preamble regarding how an applicant must locate wells within
12 the 1/2 mile radius. The preamble stated that an applicant must use all available resources, including the
13 Commission’s GIS Public Viewer (GIS). The Commission did not intend “all available resources” to
14 require the applicant to conduct research outside of GIS. The intent was to make clear that the
15 responsibility to locate wells and notify operators within the 1/2 mile radius falls on the applicant. The
16 Commission wants to prevent mistakes in notice if GIS is temporarily not working. Commission staff will
17 consult GIS to verify the notice list, but the Commission’s intent is that the applicant use GIS as well as
18 information within its possession or actual knowledge to identify wells and notify operators.

19 Apache, Diamondback, Henry Resources LLC (Henry), the Alliance, and PBPA oppose the 1/2
20 mile radius notification standard proposed in §3.40(e)(2)(B). The commenters believe 1/2 mile is overly
21 burdensome. Several of these comments stated that Rule 37 (16 TAC §3.37), the Commission’s spacing
22 rule, addresses drainage concerns by requiring notice to persons who may be affected by a proposed well
23 and, therefore, additional notice in §3.40 is unnecessary. First, the Commission notes that Rule 37 and
24 applicable field rules governing lease line spacing are not applied horizontally; these rules only require
25 notice to persons within a specified distance from the vertical lease line. Thus, the spacing rules do not
26 require notice to persons who are within the required distance from the wellbore. Second, Commission
27 staff conducted multiple workshops and circulated an informal draft prior to formally proposing the
28 amendments to §3.40. The notice provision underwent numerous revisions throughout this process;
29 however, the 1/2 mile radius requirement was the version with the most support from stakeholders,
30 including Commission staff. Therefore, the Commission declines to adopt the notice provision with
31 amendments.

32 Relatedly, the Alliance, the Texas Independent Producers and Royalty Owners Association
33 (TIPRO), Pioneer, and TXOGA requested that the Commission clarify the notice requirement in

1 subsection (e)(2)(B) is a courtesy notice. The Commission agrees that the notice is a courtesy notice,
2 meaning that if the person notified objects to the permit, the objection will not prevent the drilling permit
3 application from being approved administratively. Instead, the person objecting may request a hearing to
4 address his or her complaint in accordance with Commission Rule §1.23 of this title, relating to
5 Complaint Proceedings. TXOGA and Pioneer further requested that the Commission create a standard
6 notice form to ensure those noticed understand the notice is a courtesy notice. The Commission
7 appreciates this suggestion but does not propose a standard notice form concurrent with the rule adoption.

8 Regarding §3.40(e)(2)(B), the Alliance requested new language to clarify that if an applicant
9 provides waivers from those required to be noticed, then the application can be approved administratively.
10 The Commission declines to adopt the suggested change. The Commission notes that because the
11 required notice does not create a right to protest, an application can be approved administratively without
12 waivers. However, when applicable, it is generally Commission practice to allow administrative approval
13 if waivers from affected persons are received.

14 The Alliance also asked whether re-noticing would be required when a well location is amended.
15 The Commission notes that re-noticing would not be required if a new well appears within the 1/2 mile
16 radius due to the amended location and the operator of the new well already received notice. Re-noticing
17 would be required when a new well appears within the 1/2 mile radius due to the amended location and
18 the operator of that well did not already receive notice. For example, Operator ABC has a well, Well X,
19 located within the 1/2 mile radius as described in §3.40(e)(2)(B), so Operator ABC is provided courtesy
20 notice before the applicant files its drilling permit application. The applicant's well location is then
21 amended and now Well Y and Well 5 also appear in the 1/2 mile radius. Well Y is operated by Operator
22 ABC and Well 5 is operated by Operator 123. Because Operator ABC already received notice due to Well
23 X, the applicant does not have to re-notice Operator ABC. However, because Operator 123 was not
24 noticed prior to the application being filed, the applicant must now notice Operator 123. Nonetheless, the
25 Commission notes that Commission staff will analyze whether new notice is required on a case-by-case
26 basis and may require new notice due to an amended well location in situations other than those described
27 above.

28 The Texas Land and Mineral Owner Association (TLMA) requested that all unleased mineral
29 interest owners receive notice in addition to operators. The Commission declines to make this change
30 because §3.40 addresses acreage assignment and acreage can only be assigned by an operator.

31 The Commission received seven comments on §3.40(e)(2)(F). Apache, PBPA, and TIPRO
32 requested that concerns about field rule amendments be limited to the rule preamble and that the two-year
33 prohibition on field rule amendments be removed from the rule language. The Alliance also requested that

1 the two-year prohibition be removed. The Commission declines to remove the two-year prohibition.
2 Commission staff must develop and learn new procedures, including electronic data management
3 systems, to implement the amendments. If, after adoption of amendments to §3.40, field rule amendments
4 were adopted to create different requirements for each field, then Commission staff would have to
5 develop and learn different procedures for each field. Therefore, the Commission adopts a hold on field
6 rule applications to allow Commission staff time to test these procedures and resolve any issues before
7 making piecemeal changes. The Commission also notes that the temporary prohibition will only apply to
8 UFT fields and only to field rule applications addressing multiple assignment of acreage. In addition,
9 operators will still have the opportunity to seek relief from §3.40 by applying for an exception for an
10 individual well or lease.

11 The Commission agrees with comments from Diamondback, Pioneer, and TXOGA that the
12 provisions in §3.40(e)(2)(F) only govern over field rules existing at the time of the rule amendment, not
13 those field rules to be adopted after the two-year prohibition ends. Further, the prohibition only applies to
14 field rules that address duplicate and/or multiple assignment of acreage.

15 Finally, Pioneer and TXOGA requested confirmation that all permits granted under existing field
16 rules remain valid and asked the Commission to allow field rule revisions to provide relief for
17 conservation, waste prevention, or correlative rights protection. The Commission confirms that permits
18 granted under existing field rules remain valid. As mentioned above, operators will have the opportunity
19 to seek an exception for an individual well or lease to provide relief for conservation, waste prevention, or
20 correlative rights protection.

21 The Commission received five comments on §3.40(e)(3), which allows the Commission to
22 require non-confidential information supporting the operator's right to drill or produce in the interval
23 indicated on the operator's drilling permit application. Apache, Diamondback, Henry, and PBPA asked
24 that subsection (e)(3) be removed. TIPRO also opposed the provision, stating that an operator should be
25 able to refuse the request to provide such information and go to hearing instead. The Commission agrees
26 that a request for hearing would be allowed. TIPRO also requested clarification on what type of non-
27 confidential information would be required.

28 The Commission adopts §3.40(e)(3) with a change to address the comments. Commission staff
29 may request information at the completion stage to ensure the operator completed the well in the interval
30 the operator claims to have the right to drill or produce. Therefore, subsection (e)(3) was revised to clarify
31 that intent.

32 Apache and PBPA expressed support for §3.40(f). The Commission appreciates this support.

1 The Commission received three comments on §3.40(g). The Alliance requested that the
2 Commission not limit the opportunity for an administrative exception to UFT fields because a lease
3 severance can exist in a field regardless of whether the field has the reservoir rock parameters of a UFT
4 field. The Commission declines to provide an administrative exception for fields that do not qualify under
5 §3.40(e). The administrative process for UFT fields presupposes certain reservoir drainage characteristics
6 that are common to UFT fields. An administrative process for a field without those characteristics would
7 include requirements appropriate for that field. As those considerations were not included in the proposal,
8 they are beyond the scope of the rulemaking and cannot be adopted without additional notice.

9 Pioneer and TXOGA requested that the amendments not limit the opportunity for an exception to
10 non-UFT fields with depth severances. The Commission recognizes that an individual lease exception to
11 §3.40 is currently allowed after notice and opportunity for hearing and the ability to request that exception
12 is not limited to fields where depth severances exist. Part of the intent of §3.40(g) was to formalize the
13 process for obtaining an exception to §3.40 through a hearing and, therefore, the Commission adopts
14 subsection (g) with changes to clarify and augment the existing process.

15 The Commission received four comments on §3.40(g)(2), which contains the notice requirements
16 when an operator seeks an exception and does not qualify for an exception under §3.40(e). Apache,
17 Henry, and PBPA expressed opposition to the notice requirement and suggested the Commission use the
18 notice requirement from the §3.38 exception provision addressed in §3.86. The Commission agrees that
19 the language from §3.86 is appropriate if an exception is requested for a well in a UFT field that does not
20 qualify for the exception in (e). The Commission adopts (g)(2) with a change to require notice as required
21 by §3.86 if the subject well is in a UFT field. However, because the procedure in §3.40(g) is not limited to
22 horizontal wells or UFT fields, the Commission also adopts (g)(2) with a change to require traditional
23 Rule 38 notice when an operator seeks an exception for a well in a non-UFT field.

24 Finally, TLMA requested that all unleased mineral interest owners receive notice under
25 subsection (g). The revised notice provision requires notice to unleased mineral interest owners.

26 The Commission appreciates all the comments and the participation from stakeholders throughout
27 the process of amending §3.40.

28 The Commission did not receive comments on the following subsections of §3.40 but summarizes
29 the amendments as follows:

30 Adopted amendments in §3.40(d) clarify the term "multiple assignment of acreage," and
31 amendments to §3.40(e)(1) reorganize existing language related to assignment of acreage to horizontal
32 and vertical wells.

1 Adopted amendments to §3.40(e)(2)(A) require that an application for multiple assignment of
2 acreage under subsection (e) show the upper and lower limits of the operator's ownership interval. The
3 interval is measured as the total vertical depth from the surface. The Commission understands that, due to
4 geological characteristics, the total vertical depth provided by an operator will be an approximation.
5 However, Commission staff needs this information to conduct required due diligence before granting a
6 drilling permit.

7 Adopted amendments to §3.40(e)(2)(C) provide a right to request a hearing to a person who was
8 entitled to notice but claims he or she did not receive it. If the Commission determines at a hearing that
9 the applicant did not provide the notice as required by this subsection, the Commission may cancel the
10 permit.

11 Adopted amendments to §3.40(e)(2)(D) provide a method for obtaining copies of directional
12 surveys, and amendments to §3.40(e)(2)(E) clarify that field density rules will apply separately to each
13 ownership interval.

14 Adopted amendments to §3.40(e)(2)(F) clarify that upon the effective date of the rule
15 amendments, March 3, 2020, existing field rules that allow assignment of acreage to more than one well
16 in a UFT field are superseded by §3.40. Subparagraph (F) also prohibits field rule applications regarding
17 multiple assignment of acreage in UFT fields until two years after March 3, 2020. Section 3.40(e)(2)(F) is
18 adopted with a change to include the exact effective date of March 3, 2020, which was unknown at the
19 time the amendments were proposed.

20 Adopted new §3.40(f) allows the Oil and Gas Director or the director's delegate to resolve
21 existing instances of multiple assignment of acreage upon an operator's written request and for good cause
22 shown. If such a request is administratively denied, the operator shall have a right to request a hearing to
23 review the denial. The term "existing" is not meant to apply only to instances of multiple assignment of
24 acreage existing at the time of the adoption of the amendments but is intended to apply to instances of
25 multiple assignment of acreage existing at the time of the written request for relief. In other words, the
26 relief adopted in subsection (f) can be requested for good cause when acreage is assigned to more than
27 one well and the subject wells have already been drilled or completed.

28 Adopted new §3.40(g) formalizes the process for obtaining an exception to §3.40. If an operator
29 does not qualify for multiple assignment of acreage under subsection (e), acreage cannot be assigned to
30 more than one well unless the operator is granted an exception after public hearing held after notice to all
31 persons described in subsection (g).

32 The Commission adopts the amendments to §3.40 pursuant to Texas Natural Resources Code
33 §81.051 and §81.052, which provide the Commission with jurisdiction over all persons owning or

1 engaged in drilling or operating oil or gas wells in Texas and the authority to adopt all necessary rules for
2 governing and regulating persons and their operations under the jurisdiction of the Commission; Texas
3 Natural Resources Code, Chapter 102, which gives the Commission the authority to establish pooled units
4 for the purpose of avoiding the drilling of unnecessary wells, protecting correlative rights, or preventing
5 waste; and Texas Natural Resources Code §§85.201 - 85.202, which require the Commission to adopt and
6 enforce rules and orders for the conservation and prevention of waste of oil and gas, and specifically for
7 drilling of wells, preserving a record of the drilling of wells, and requiring records to be kept and reports
8 to be made.

9 Statutory authority: Texas Natural Resources Code §§81.051, 81.052, 85.201, 85.202 and Chapter
10 102.

11 Cross reference to statute: Texas Natural Resources Code Chapters 81, 85, and 102.

12
13 §3.40. Assignment of Acreage to Pooled Development and Proration Units.

14 (a) An operator may pool acreage, in accordance with appropriate contractual authority and
15 applicable field rules, for the purpose of creating a drilling unit or proration unit by filing an original
16 certified plat delineating the pooled unit and a Certificate of Pooling Authority, Form P-12, according to
17 the following requirements:

18 (1) Each tract in the certified plat shall be identified with an outline and a tract identifier
19 that corresponds to the tract identifier listed on Form P-12.

20 (2) The operator shall provide information on Form P-12, accurately and according to the
21 instructions on the form.

22 (A) The operator shall separately list each tract committed to the pooled unit by
23 authority granted to the operator.

24 (B) For each tract listed on Form P-12, the operator shall state the number of
25 acres contained within the tract. The operator shall indicate by checking the appropriate box on Form P-
26 12 if, within an individual tract, there exists a non-pooled and/or unleased interest.

27 (C) The operator shall state on Form P-12 the total number of acres in the pooled
28 unit. The total number of acres in the pooled unit shall equal the sum of all acres in each [individual] tract
29 listed. The total acreage shown on Form P-12 shall only include tracts in which the operator holds a
30 leased or ownership interest in the minerals or other contractual authority to include the tract in the pooled
31 unit.

1 (D) If a pooled unit contains more tracts than can be listed on a single Form P-12,
2 the operator shall file as many additional Forms P-12 as necessary to list each pooled tract individually.
3 The additional Forms P-12 shall be numbered in sequence.

4 (E) The operator shall provide the requested identification and contact
5 information on Form P-12.

6 (F) The operator shall certify the information on Form P-12 by signing and
7 dating the form.

8 (3) Failure to timely file the required information on the certified plat or Form P-12 may
9 result in the dismissal of the W-1 application. "Timely" means within three months of the Commission
10 notifying the operator of the need for additional information on the certified plat and/or Form P-12.

11 (4) The operator shall file Form P-12 and a certified plat in the following instances:

12 (A) with the drilling permit application when two or more tracts are joined to
13 form a pooled unit for Commission purposes;

14 (B) with the initial completion report if any information reported on Form P-12
15 has changed since the filing of the drilling permit application;

16 (C) to designate a pooled unit formed after a completion report has been filed; or

17 (D) to designate a change in a pooled unit previously recognized by the
18 Commission. The operator shall file any changes to a pooled unit in accordance with the requirements of
19 §3.38(d)(3) of this title (relating to Well Densities).

20 (b) If a tract to be pooled has an outstanding interest for which pooling authority does not exist,
21 the tract may be assigned to a unit where authority exists in the remaining undivided interest[;]
22 provided[;] that total gross acreage in the tract is included for allocation purposes, and the certificate filed
23 with the Commission shows that a certain undivided interest is outstanding in the tract. The Commission
24 may not allow an operator to assign only the operator's undivided interest out of a basic tract[;] where a
25 nonpooled interest exists.

26 (c) The nonpooled undivided interest holder retains the development rights in the basic tract. If
27 the development rights are exercised, the Commission grants authority to develop the basic tract, and the
28 well is completed as a producing well on the basic tract, then the entire interest in the basic tract and any
29 interest pooled with another tract shall be assigned to the well on the basic tract for allocation purposes.
30 Splitting of an undivided interest in a basic tract between two or more wells on two or more tracts is not
31 acceptable.

32 (d) Multiple assignment of acreage is not permitted, except [~~Except~~] as provided in subsection (e)
33 of this section. Multiple assignment of acreage is defined as the assignment of the same surface acreage to

1 ~~more than one well in a field. [, acreage assigned to a well for drilling and development, or for allocation~~
2 ~~of allowable, shall not be assigned to any other well or wells completed or projected to be completed in~~
3 ~~the same field; such duplicate assignment of acreage is not acceptable.]~~ However, this limitation shall not
4 prevent the reformation of development or proration units so long as:

5 (1) no multiple [~~duplicate~~] assignment of acreage occurs; and

6 (2) such reformation does not violate other conservation regulations.

7 (e) In unconventional fracture treated (UFT) fields defined in §3.86 of this title (relating to
8 Horizontal Drainhole Wells), multiple [~~duplicate~~] assignment of acreage [~~to both a horizontal well and a~~
9 ~~vertical well for drilling and development or for allocation of allowable]~~ is permissible as follows:

10 (1) Assignment of acreage to both a horizontal well and a vertical well for drilling and
11 development or for allocation of allowable is permissible. The field density rules apply independently to
12 horizontal wells and vertical wells. Acreage assigned to horizontal wells shall not count against acreage
13 assigned to vertical wells, and acreage assigned to vertical wells shall not count against acreage assigned
14 to horizontal wells.

15 (A) [(2)] Acreage assigned to horizontal wells for drilling and development[;] or
16 for allocation of allowable[;] shall be permissible [~~acceptable~~] so long as the horizontal well density
17 complies with §3.38 of this title and/or special field rules, as applicable. For the purposes of this section,
18 stacked lateral wells as defined in §3.86(a)(10) of this title are not considered assignment of acreage to
19 multiple horizontal wells.

20 (B) [(3)] Acreage assigned to vertical wells for drilling and development[;] or for
21 allocation of allowable[;] shall be permissible [~~acceptable~~] so long as the vertical well density complies
22 with §3.38 of this title and/or special field rules, as applicable.

23 (2) Where ownership of the right to drill or produce from a tract in a UFT field is divided
24 horizontally, acreage may be assigned to more than one well provided that the wells having the same
25 wellbore profile are not completed in the same ownership interval. For purposes of this section "divided
26 horizontally" means that ownership of the right to drill or produce has been separated into depth intervals
27 defined by total vertical depth, depth relative to a specific geological contact, or some other discriminator.
28 A tract may be "divided horizontally" even where one operator has the right to drill or produce multiple
29 intervals on the same tract of land in the same field.

30 (A) To apply for multiple assignment of acreage under this subsection, the
31 operator's drilling permit application shall indicate the upper and lower limits of the operator's ownership
32 interval. The interval shown on the drilling permit application is measured as the total vertical depth from
33 the surface.

1 (B) No more than 15 days prior to filing its drilling permit application, the
2 applicant shall identify any well, including any wells permitted but not yet drilled or completed, that is
3 located within one-half mile of the applicant's proposed wellbore between the first and last take points
4 and, upon identification of all applicable wells, send written notice of its application to the P-5 address of
5 record of the Commission-designated operator of the wells determined to fall within the one-half mile
6 radius. The applicant shall attach to the notice a certified plat that clearly depicts the projected path of the
7 wellbore and the one-half mile radius surrounding the wellbore from the first take point to the last take
8 point. Copies of the notice, service list, and certified plat shall be filed with the drilling permit
9 application.

10 (C) If any person entitled to notice under this subsection did not receive notice,
11 that person may request a hearing. If the Commission determines at a hearing that the applicant did not
12 provide the notice as required by this subsection, the Commission may cancel the permit.

13 (D) To mitigate the potential for wellbore collisions, the applicant shall provide
14 copies of any directional surveys to the persons entitled to notice under this subsection, upon request,
15 within 15 days of the applicant's receipt of a request.

16 (E) Where ownership of the right to drill or produce from a tract in a UFT field is
17 divided horizontally, the field density rules for the field will apply separately to each ownership interval,
18 such that proration units on a tract above and below a division of ownership are accounted for separately.

19 (F) Field rules that allow assignment of acreage to more than one well in UFT
20 fields are superseded by this rule amendment, as of the effective date of this amendment, March 3, 2020.
21 If, prior to the effective date of this amendment, an operator has assigned acreage to more than one well
22 pursuant to previous field rules, such multiple assignment remains valid. After March 3, 2020, multiple
23 assignment of acreage is not permissible unless the applicant complies with the requirements of this
24 subsection. The Commission will not consider any applications for field rules regarding multiple
25 assignment of acreage in UFT fields until two years after March 3, 2020.

26 (3) Upon request by the Commission, an operator shall provide non-confidential
27 information verifying that the well was completed in the interval indicated on its drilling permit
28 application.

29 ~~[(4) For the purposes of this section, stacked lateral wells as defined in §3.86(a)(10) of~~
30 ~~this title are not considered duplicate assignment of acreage to multiple horizontal wells.]~~

31 (f) Upon an operator's written request and for good cause shown, the director or the director's
32 delegate may resolve an existing instance of multiple assignment of acreage. If such a request is
33 administratively denied, the operator shall have a right to request a hearing to review the denial.

1 (g) If an operator does not qualify for multiple assignment of acreage under subsection (e) of this
2 section, acreage cannot be assigned to more than one well unless the operator is granted an exception after
3 a public hearing held after notice to all persons described in paragraph (2) of this subsection.

4 (1) An operator applying for an exception must show:

5 (A) an exception is necessary to prevent waste, prevent confiscation, or protect
6 correlative rights; and

7 (B) the wells are not completed in the same ownership interval.

8 (2) If an exception is sought for a well in a UFT field, the operator shall file with its
9 application for an exception the names and mailing addresses of persons described in §3.86(k)(2), relating
10 to Horizontal Drainhole Wells. If an exception is sought for any other well, the operator shall file with its
11 application for an exception the names and mailing addresses of all the operators and unleased mineral
12 interest owners of all adjacent offset tracts, and the operators and unleased mineral interest owners of all
13 tracts nearer to the proposed well than the prescribed minimum lease-line spacing distance. In the event
14 the applicant is unable after due diligence to locate the whereabouts of any person to whom notice is
15 required by this subsection, the applicant shall publish notice of this application pursuant to §1.43 of this
16 title (relating to Notice by Publication).

17 (3) To mitigate the potential for wellbore collisions, the applicant shall provide copies of
18 any directional surveys to the persons entitled to notice under this subsection, upon request, within 15
19 days of the applicant's receipt of a request.

20
21 (h) [~~g~~] If an offset, overlying, or underlying operator, or a lessee or unleased mineral interest
22 owner determines that any operator has assigned identical acreage to two or more concurrently producing
23 wells in violation of this section, the operator or owner may file a complaint with the Hearings Division to
24 request that a hearing be set to consider the issues raised in the complaint. If the Commission determines
25 after a hearing on the complaint that acreage has been assigned in violation of this section, the
26 Commission may curtail or cancel the allowable production rate for any affected wells and/or may cancel
27 the Certificate of Compliance (Form P-4) for any affected wells for failure to comply with this section.

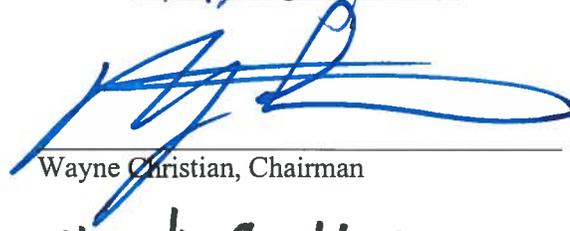
28
29 (i) [~~g~~] An operator shall file Form P-16, Acreage Designation, with each drilling permit
30 application and with each completion report for horizontal wells in any field and for all wells in
31 designated UFT fields as defined in §3.86 of this title. An operator assigning surface acreage to more than
32 one well pursuant to subsection (g) of this section shall file Form P-16, Acreage Designation, with each
33 drilling permit application and with each completion report. The operator may file Form P-16 with each

1 drilling permit application and with each completion report for all other wells. The operator may also file
2 proration unit plats for individual wells in a field.

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

5 Issued in Austin, Texas, on February 11, 2020.

6 Filed with the Office of the Secretary of State on February 12, 2020.



Wayne Christian, Chairman



Christi Craddick, Commissioner



Ryan Sinton, Commissioner

ATTEST:



Secretary of the Commission



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