



Texas Independent Producers and Royalty Owners Association  
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August 15, 2022

Rules Coordinator  
Railroad Commission of Texas  
Office of General Counsel  
P.O. Drawer 12967  
Austin, Texas 78711-2967

Re: New §3.66, Weather Emergency Preparedness Standards

Dear Rules Coordinator:

The Texas Independent Producers and Royalty Owners Association (TIPRO) is a trade association representing the interests of nearly 3,000 producers and royalty owners. Collectively, our members produce approximately 90 percent of the oil and natural gas in Texas and own mineral interests in millions of acres across the state.

On behalf of TIPRO, please find below our comments regarding New §3.66, Weather Emergency Preparedness Standards (Rule 66) being developed by the Railroad Commission of Texas (The Commission).

### **Preamble**

While operators appreciate discretion in determining how and to what extent extreme weather may affect their individual operations and facilities, TIPRO members have expressed concern over the lack of an official notice of a weather emergency either from the Commission or another entity such as the Department of Emergency Management in coordination with the activation of the State Operations Center. Inconsistent declarations of weather emergencies across the gas supply chain will lead to confusion and disrupt critical communications and coordination. TIPRO recommends that the Commission detail in the preamble a process for providing notice to operators of an extreme weather event as well as notice of the end of an event so there is a defined period of time governing emergency response actions and reporting.

TIPRO members are concerned that due to supply chain issues and other constraints, it will be difficult for operators to receive necessary equipment and complete weatherization requirements by December 1, 2022. TIPRO recommends the Commission consider allowing operators to implement all weather emergency preparations able to be deployed by December 1, 2022 and submit a plan for the implementation of any remaining emergency preparation measures as soon as they are reasonably able to do so.

## **Applicability**

The intent of Senate Bill 3 is to increase natural gas supplies and grid reliability in the event of a weather emergency. Accordingly, Senate Bill 3 requires that gas supply chain facility operators whose facilities are included on the electricity supply chain map created under §38.203 of the Texas Utilities Code and who are designated as critical by the Commission under §3.65 (Rule 65) of this title, Critical Designation of Natural Gas Infrastructure, must comply with Rule 66 and implement measures to prepare to operate during a weather emergency.

Because Rule 65 captures such a large number of facilities that could be subject to Rule 66, operators will likely spend resources to keep marginal producing wells online rather than focus on operating high-volume gas wells, negatively impacting total gas production during an emergency. Further, requiring weatherization from wellhead to the electric generator without considering the cost to marginal wells or prioritizing high-volume production facilities will place a substantial financial burden on low-producing assets. Operators will likely be forced to shut-in marginal producing wells sooner than planned, reducing overall gas production in Texas. To narrow the scope of Rule 65 and align its purpose with the intent of Senate Bill 3, the Railroad Commission should strongly consider amending the rule to regulate only those facilities that contribute to power generation and provide natural gas for heating homes.

As indicated on the Commission's website, almost 80 percent of total statewide gas production is produced from gas wells or oil leases producing at least 250 mcf per day. TIPRO recommends the Commission consider revising Rule 65 to include a threshold of 250 mcf for gas wells and 500 mcf for oil leases that would be designated as critical and potentially required to weatherize to accomplish the goal of Senate Bill 3, increasing natural gas supplies and grid reliability during a weather emergency, as well as prevent premature shut-ins of marginal producing wells.

In addition to increasing the threshold set in Rule 65, there should be scenarios considered for exceptions for gas wells and oil leases producing above any threshold. For example, an exception should be considered valid where a lease utilizes more power to produce any natural gas than could be generated from the natural gas it produces into the state's gas pipeline network. Another example would be an operator who has no third-party gas sales in Texas.

TIPRO members cannot see the electricity supply chain map to determine if any of the facilities it operates are on the map. Operators must receive timely notification of their facilities that are included on the map to determine whether the rule applies, and how to implement applicable weather emergency preparedness standards.

TIPRO recommends the Commission amend Subsection (a) to clearly state that Rule 66 only applies to a gas supply chain facility whose operator has received notice that it is on the electricity supply chain map. Subsection (a) should also be amended to clarify that facilities are exempt from Rule 66 if the facilities produce less gas than the minimum production volumes described in Rule 65 or if the facilities are included on an approved Form CI-X (Critical Designation Exception Application).

## **Definitions**

The Commission should amend Subsection (b)(4) to clarify the meaning of “major weather-related forced stoppage.” TIPRO recommends including an objective standard that would constitute such an event as to avoid the potential for an inconsistent application of the rule and to provide better regulatory certainty for operators.

TIPRO members have also expressed concern that minor or immaterial weather-related forced stoppage could trigger the requirement for an operator to hire a third-party engineer and incur a significant, potentially unnecessary expense. The Commission should include “major” in the definition of “repeated weather-related forced stoppage” in Subsection (b)(5) so that the amended definition would read, “When a gas supply chain facility or a gas pipeline facility has more than one major weather-related forced stoppage violation within a calendar year.”

The Commission should amend Subsection (b)(8) by removing the words “implementation of processes, and installation of equipment” in the definition of “weatherization” to clarify that weatherization procedures are at the discretion of the operator based on the operator’s own analysis of how to operate during a weather emergency. The proposed definition makes it appear that either the implementation of processes or the installation of equipment is required which is not the purpose of Rule 66. The removal of the above specified language would broaden an operator’s options for mitigating operational risks.

The Commission should amend Subsection (b)(9), referencing “weather emergency” in the definition of “weather-related forced stoppage” to avoid redundancy. The amended definition would read, “An unanticipated and/or unplanned outage in the production, treating, processing, storage, or transportation of natural gas that is caused by a weather emergency.”

The Commission should also consider expressly providing that anticipated outages are exempt from the definition of “weather-related forced stoppage.” Despite an operator’s best efforts to weatherize facilities and equipment, drops in production are inevitable, particularly during cold weather events and in fields utilizing field gas for artificial lift, but they are also predictable. Accordingly, the Weather Readiness Attestation requirement in Section (d) could be revised to include a provision whereby an operator could describe its efforts to weatherize and include a discussion on anticipated outages during a weather emergency.

## **Weather Emergency Preparedness Standards**

Subsection (c)(1)(A) insinuates that the Commission has jurisdiction to require producers to operate under any conditions. TIPRO recommends this subsection be amended so that the subsection reads, “prevent weather-related forced stoppage of a gas supply chain facility or a gas pipeline facility during a weather emergency...”

The Commission should remove Subsection (c)(2)(D) from the proposal, and instead, include suggested methods for weatherization in an agency guidance manual. Regularly updated guidance manuals are used by industry and enforced by the Commission, and the guidance in the proposed rule is the type of information the Commission has typically included in a guidance manual. The Commission would be able to use the manual to:

- Provide updated guidance to operators without a rulemaking;
- Distinguish between weatherization methods applicable to different types of facilities; and
- Clearly define technical terms used in the draft rule that are not defined in other sources.

A group of stakeholders should work together to create the manual for precise methods for operations in Texas. This work group should consist of facility operators across the different climate zones across the State.

### **Weather Emergency Readiness Attestation**

TIPRO members believe Subsection (d)(1)(A) should be revised to require a testament to facts by those persons who have personal knowledge of weatherization activities, like an operations or regulatory expert. TIPRO also recommends the Commission remove Subsections (d)(1)(A)(i) through (v) and replace it with the standard RRC certification:

*I declare under penalties prescribed in Sec. 91.143, Texas Natural Resources Code, that I am authorized to make this report, that this report was prepared by me or under my supervision and direction, and that data and facts stated therein are true, correct, and complete, to the best of my knowledge.*

The Commission should remove Subsections (d)(1)(B)(i) through (xvi) and replace it with the requirement to file an emergency operations plan or similar annual filing with a general description of the operations and weatherization procedures.

Because operators are not required to list all critical sub facilities and it is up to an operator to determine which sub facilities they prepare for a weather emergency on a large lease, inspectors will not know how the operator has prioritized and prepared facilities. The RRC should provide an opportunity for an operator to address this issue in the weather emergency readiness attestation statement.

### **Weather-Related Forced Stoppages**

First, Subsection (f)(1) should distinguish between the reporting requirements applicable to producers, transporters, and other sectors of the industry.

TIPRO members have commented that producers may experience natural fluctuations in production and/or a slowdown in gas molecules during a cold-weather emergency due to thermodynamics. The Commission should amend this subsection to include a more reasonable threshold for producers for a reportable weather-related forced stoppage. TIPRO recommends changing the threshold from >0 mcf/d to the greater of 15,000 mcf/d per lease or a forty percent (40%) reduction in lease production averaged over a three (3) month period of standard production.

The Commission should clarify Subsection (f)(1) to ensure that the reporting requirements are only triggered when a reduction in production is caused by an unexpected weather emergency so that operators are not penalized for degradations of production from non-weather-related forced stoppages or third-party failures.

The Commission should also use the language from the Natural Resources Code in Subsection (f)(2) regarding “contracting with a person who is not an employee of the operator to assess the operator’s weatherization plans, procedures, and operations,” which is the specific language in TNRC §86.044(f). The proposed rule language suggests this task should be done by a “qualified registered professional engineer,” which goes beyond the intent of the statute.

## **Enforcement**

TIPRO members recognize and appreciate the Commission providing discretion to operators to weatherize at the facility level. However, staff inspections will likely be more granular, resulting in unexpected enforcement actions if staff are unfamiliar with an operator’s detailed Weather Emergency Readiness Report prior to an inspection. TIPRO recommends the Commission elaborate and clarify staff process for thorough review of an operator’s Weather Emergency Readiness Report prior to conducting an inspection of their facilities in the preamble to the rule.

The Commission should amend Subsection (g)(1) to replace “person” with “gas supply chain facility” to clarify that this subsection only applies to gas supply chain facilities. Similarly, subsection (g)(2) should be amended to replace “person” with “gas pipeline facility operator” to clarify that this subsection only applies to gas supply chain facility operators.

TIPRO recommends the Commission consider the following changes to *Figure 16 TAC §3.66(g)(1)*:

- Include a factor value of “-4” for a producers good-faith attempt to produce natural gas during a weather emergency.
- The production thresholds identified in the violation factors should be updated to reflect the degradation in production discussed in the previous comment.
- The factor value assigned to an oil lease or gas well facility producing an average of 5,000 mcf/d and a gas processing plant, underground gas storage, or gas pipeline facility transporting 200,000 mcf/d should not be the same.
- The violation factor “Hazard to health, safety, or economic welfare of the public” should be amended to “Actual hazard to health, safety, or economic welfare of the public.”

We greatly appreciate the work of the Texas Legislature and your agency in addressing these important issues. If you should have any questions, I can be reached directly at 512-477-4452, or via email at [elonganecker@tipro.org](mailto:elonganecker@tipro.org). Thank you.

Sincerely,



Ed Longanecker  
President  
Texas Independent Producers and Royalty Owners Association