

CHRISTI CRADDICK, *CHAIRMAN*
 WAYNE CHRISTIAN, *COMMISSIONER*
 JIM WRIGHT, *COMMISSIONER*



ALEXANDER C. SCHOCH, *GENERAL COUNSEL*

RAILROAD COMMISSION OF TEXAS

OFFICE OF GENERAL COUNSEL

MEMORANDUM

TO: Chairman Christi Craddick
 Commissioner Wayne Christian
 Commissioner Jim Wright

FROM: Haley Cochran, Attorney
 Office of General Counsel

THROUGH: Alexander C. Schoch, General Counsel

DATE: September 10, 2021

SUBJECT: Proposed New 16 TAC §3.65 and Proposed
 Amendments to §3.107 to Implement HB 3648 and
 SB3

September 14, 2021		
Approved	Denied	Abstain
DS 		

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Attached is Staff's recommendation to propose new 16 Texas Administrative Code §3.65, relating to Critical Designation of Natural Gas Infrastructure, and amend §3.107, relating to Penalty Guidelines for Oil and Gas Violations. The new section and amendments are proposed to implement changes made by House Bill 3648 and Senate Bill 3 from the 87th Texas Legislative Regular Session

Proposed new §3.65 implements Section 4 of Senate Bill 3 and Section 1 of House Bill 3648 by specifying the criteria and process by which entities associated with providing natural gas in Texas are designated as critical customers or critical gas suppliers during an energy emergency. The proposed amendments in §3.107 are found in the tables in subsection (e)(1) and subsection (j) and add references to the requirements of proposed new §3.65.

Staff requests the Commission's approval to publish the proposed amendments in the *Texas Register* for public comment. If approved at conference on September 14th, the proposal should appear in the October 1st 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
 Randall Collins, Chief Operating Officer
 Natalie Dubiel, Attorney, Office of General Counsel

1 The Railroad Commission of Texas (the “Commission”) proposes new §3.65, relating to Critical
2 Designation of Natural Gas Infrastructure, and amendments to §3.107, relating to Penalty Guidelines for
3 Oil and Gas Violations. The new section and amendments are proposed to implement changes made by
4 House Bill 3648 and Senate Bill 3 from the 87th Texas Legislative Regular Session.

5 House Bill 3648 amends Texas Natural Resources Code, Chapter 81, to add new section 81.073
6 regarding critical natural gas facilities and entities. The new section requires the Commission to
7 collaborate with the Public Utility Commission of Texas (the “PUC”) to adopt rules to establish a process
8 to designate certain natural gas facilities and entities associated with providing natural gas in this state as
9 critical customers or critical gas suppliers during energy emergencies. The rules adopted by the
10 Commission under new section 81.073 must provide that those designated as critical natural gas facilities
11 and entities provide critical customer information, as defined by the Commission, to the entities described
12 by section 38.074(b)(1) of the Texas Utilities Code (hereinafter “the electric entities”). The rules must
13 also consider essential operational elements when designating critical natural gas facilities and entities.
14 House Bill 3648 requires that the Commission adopt the new rules not later than December 1, 2021.

15 Senate Bill 3 is the 87th Legislature’s sweeping response to the February 2021 Winter Weather
16 Event (“Winter Storm Uri”) in Texas and generally creates new law related to preparing for, preventing,
17 and responding to weather emergencies and power outages. Senate Bill 3 requires several state agencies
18 and regulated industries to make significant changes in response to Winter Storm Uri. This proposed
19 rulemaking implements Section 4 of Senate Bill 3 and is the first of many steps in implementing the
20 requirements of Senate Bill 3. Section 4 of Senate Bill 3 creates new section 81.073 of the Texas Natural
21 Resources Code identical to the version created in House Bill 3648 with one exception—it adds an extra
22 requirement in section 81.073(b)(3), which states the Commission’s critical designation rules must
23 require only facilities and entities that are prepared to operate during a weather emergency may be
24 designated as critical customers.

25 Proposed new §3.65 implements Section 4 of Senate Bill 3 and Section 1 of House Bill 3648 by
26 specifying the criteria and process by which entities associated with providing natural gas in Texas are
27 designated as critical customers or critical gas suppliers during an energy emergency. As required by
28 House Bill 3648 and Senate Bill 3, the Commission developed the criteria for critical designation by
29 considering facilities and entities associated with providing natural gas in the state of Texas and the
30 essential operational elements of those facilities and entities. Designation as a critical customer prompts a
31 requirement for the facility’s operator to directly provide the electric entities described in new section
32 38.074(b)(1) of the Texas Utilities Code (created by Section 2 and Section 16 of House Bill 3648 and
33 Senate Bill 3, respectively) with critical customer information. Providing the information positions a

critical customer to receive power during an energy emergency so that it can continue to supply natural gas in the state for power generation and/or other important uses. However, proposed new §3.65 does not prioritize the critical facilities for load-shed purposes. As indicated in House Bill 3648 and Senate Bill 3, the electric entities have discretion to prioritize power delivery and power restoration among the facilities and entities designated as critical customers and critical gas suppliers by the Commission.

Proposed new subsection (a) defines "energy emergency," "weather emergency," and "critical customer information." The Commission worked with the PUC to define these terms, particularly the "critical customer information." The Commission and the PUC also collaborated to determine the process by which the facilities would be designated as critical and how those designees would provide the required information to the electric entities. The definition of "energy emergency" is tied to an event that results in or has the potential to result in load shed that causes an electric outage. The need to load shed is required by an independent organization certified under Texas Utilities Code section 39.151. This definition reflects the purpose of House Bill 3648 and sections 4 and 16 of Senate Bill 3, which is to prevent the loss of power to critical natural gas facilities and entities that, if they receive power, could help alleviate the need to load shed. The definition of "weather emergency" is defined as any weather condition that results in or has the potential to result in an energy emergency because there are a variety of weather conditions that could occur across the state or in particular regions of the state that could result in load shed. Finally, "critical customer information" is defined as the critical customer and critical gas supply information specified on proposed new Table CCI such as facility identification information, facility location information, emergency contact information, gas production and/or handling information, electrical power and backup power capabilities, and electric utility information. Table CCI will be proposed at an upcoming Commission open meeting. Table CCI specifies the information that an operator is required to submit to the electric entities so that the electric entities may use the information to prioritize load shed. As discussed further below, Table CCI does not specify the format in which the critical customer information should be captured.

Proposed new subsection (b) lists the criteria for critical designation. The Commission makes no distinction between critical customers and critical gas suppliers in its critical designation criteria list because all entities designated in subsection (b) are critical gas suppliers and are therefore necessarily critical customers of electric entities during an energy emergency. Subsection (b) designates the following facilities as critical customers unless a facility's operator submits the proposed new Critical Customer/Critical Gas Supplier Designation Exception Application, Form CI-X, to the Commission certifying the facility is not prepared to operate in a weather emergency: wells producing gas or casinghead gas, gas processing plants, natural gas pipelines and pipeline facilities including compressor

1 stations, local distribution company pipelines and pipeline facilities including compressor stations, natural
2 gas storage facilities, natural gas liquids transportation and storage facilities, and saltwater disposal
3 facilities including saltwater disposal pipelines. These facilities are listed in paragraphs (1) through (7) of
4 subsection (b). The facilities covered under paragraph (8) are those under the jurisdiction of the
5 Commission the operation of which is necessary to operate any of the facilities in paragraphs (1) through
6 (7) of the subsection. These could include facilities such as ancillary well or pipeline facilities and
7 equipment that an operator considers critical because they must have power in order for the facilities in
8 paragraphs (1) through (7) to operate.

9 The list in subsection (b) is not a priority list to be used by electric entities. The Commission does
10 not have jurisdiction over electric utilities or the prioritization of electric load shed and does not purport
11 to exercise such jurisdiction in this proposed rulemaking. Instead, the list in subsection (b) is a
12 comprehensive list of the facilities that are required to submit the critical customer information to the
13 electric entities in accordance with subsection (e). The list in subsection (b) includes the significant
14 components of the natural gas supply chain. The Commission chooses to include these facility types,
15 located up and down the entire natural gas supply chain, because the statistics from Winter Storm Uri
16 reveal that during the storm, every molecule of natural gas was important. Additionally, House Bill 3648
17 and Senate Bill 3 require the Commission to designate certain natural gas facilities and entities associated
18 with providing natural gas in this state as critical customers or critical gas suppliers during energy
19 emergencies. Each piece of the supply chain included in subsection (b) contributes to the delivery of gas
20 downstream. If one piece of the supply chain cannot operate, then the gas cannot be delivered for electric
21 generation or other important uses. Further, daily gas production alone may not be adequate for peak
22 demand during a weather emergency, which makes gas storage an important source of natural gas. Thus,
23 natural gas storage facilities are included in subsection (b)(5).

24 As stated above, designation as critical in subsection (b) does not guaranty a facility will receive
25 power during an energy emergency. First, the facility may not be prepared to operate during a weather
26 emergency. If the facility is not prepared, it must comply with proposed subsection (d). Second, even
27 when the facility is prepared to operate and it provides the critical customer information to the electric
28 entities as required by proposed subsection (e), the electric entities have discretion to prioritize electric
29 load shed in the event of an energy emergency.

30 Proposed new subsection (c) requires an operator of a facility designated as critical under
31 subsection (b) of this section to acknowledge the facility's critical status by filing proposed new Form CI-
32 D, the Acknowledgement of Critical Customer/Critical Gas Supplier Designation, or by submitting the
33 acknowledgment electronically as provided in the subsection. The operator must submit the

1 acknowledgment unless subsection (d) applies. The acknowledgment shall be made bi-annually on Form
2 CI-D. In the year 2022, the Form CI-D acknowledgment shall be filed by January 15, 2022 and
3 September 1, 2022. Beginning in 2023, the Form CI-D acknowledgment is required to be filed bi-
4 annually by March 1 and September 1 of each year. Until the electronic system is established, operators
5 shall file Form CI-D in accordance with the Form CI-D Instructions. When an electronic system is
6 established, the acknowledgment shall be submitted through the electronic system.

7 The Form CI-D, to be proposed at an upcoming Commission open meeting, consists of two
8 pages: an acknowledgment page and an attachment. An operator required to file Form CI-D will
9 acknowledge its critical facilities and certify that it has provided, or will within five business days
10 provide, the critical customer information specified on Table CCI to the electric entities as required by
11 §3.65(e). The operator will also complete the Form CI-D attachment, which allows the operator to list all
12 the operator's facilities designated critical under subsection (b) and include identifying information for
13 each facility. Pursuant to subsection (b)(8), the operator must include on its attachment any facilities
14 under the jurisdiction of the Commission that are not listed in subsection (b)(1)-(7) but must operate for
15 the facilities in subsection (b)(1)-(7) to operate.

16 Proposed new subsection (d) allows a facility listed in subsection (b) of this section to obtain an
17 exception if the facility's operator asserts the facility is not prepared to operate during a weather
18 emergency. This provision is incorporated to comply with Texas Natural Resources Code section
19 81.073(b)(3), as added by Senate Bill 3. An operator shall submit its exception by filing a proposed new
20 Form CI-X exception application. Each Form CI-X shall be accompanied by a one-time \$150 exception
21 application fee. Form CI-X will be due at the same time as the Form CI-D acknowledgement. Therefore,
22 the first Form CI-X filings are due by January 15, 2022 and September 1, 2022. Beginning in 2023, the
23 Form CI-X shall be filed bi-annually by March 1 and September 1 of each year. When an electronic
24 system is established, Form CI-X shall be submitted through the electronic system.

25 Like Table CCI and Form CI-D, the Form CI-X will be proposed at an upcoming Commission
26 open meeting. Form CI-X also consists of two pages: an exception application and an attachment that
27 allows the operator to list all its facilities that are not prepared to operate in a weather emergency. Until
28 the electric system is established, operators shall file Form CI-X in accordance with the Form CI-X
29 Instructions. An operator may file one Form CI-X for all the facilities for which it claims an exception. If
30 an operator chooses to file multiple forms concurrently, multiple filings are permitted. However, the \$150
31 exception application fee will be charged for each filing. Subsequent amendment of or updates to an
32 approved exception does not require an additional \$150 exception application fee. The Commission notes

1 that an operator may have some facilities for which it files a Form CI-D and some facilities for which it
2 files a Form CI-X.

3 Proposed new subsection (e) ensures that the electric entities have the information they need to
4 prioritize power delivery and power restoration to the facilities designated critical in subsection (b).
5 During an energy emergency caused by a weather emergency, factors unrelated to power may hinder a
6 facility's ability to provide natural gas. These factors include road conditions and telecommunication
7 availability. However, subsection (e) implements the purpose of House Bill 3648 and sections 4 and 16 of
8 Senate Bill 3, which is to prevent the loss of power to critical natural gas facilities and entities that, if they
9 receive power, could help alleviate the need to load shed. Proposed new subsection (e) states that unless a
10 facility is identified on an approved Form CI-X exception application, the facility's operator shall provide
11 the critical customer information to the electric entities. As mentioned above, the critical customer
12 information will be detailed on Commission Table CCI. The critical customer information shall be
13 provided in accordance with PUC's rule 16 Tex. Admin. Code §25.52 (relating to Reliability and
14 Continuity of Service) as certified on the operator's Form CI-D acknowledgment. PUC's Section 25.52
15 specifies the method by which the information shall be provided to the required electric entities.
16 Subsection (e) also requires that the critical customer information be provided in a format that is usable
17 by the electric entity receiving the information. The operator is required to certify on its Form CI-D that
18 the critical customer information has been provided to the electric entities at the time the Form CI-D
19 acknowledgment is filed, or within five business days of the date the acknowledgement was filed.

20 Proposed new subsection (f) specifies that exceptions are not transferable upon a change of
21 operatorship. When a facility is transferred, both the transferor operator and the transferee operator shall
22 ensure the transfer is reflected on each operator's Form CI-D or Form CI-X when the applicable form
23 update is submitted in accordance with the bi-annual filing timelines in subsections (c) and (d) of this
24 section. If the facility has an exception under subsection (d) of this section, the exception shall remain in
25 effect until the next bi-annual filing deadline. If the transferee operator seeks to continue the exception
26 beyond that time period, the transferee operator shall indicate the transferred facility on the Form CI-X
27 pursuant to subsection (d) of this section. If the transferee operator elects to continue the exception but
28 does not have a Form CI-X on file, the \$150 exception application fee would be required.

29 Proposed new subsection (g) states that an operator who fails to comply with this section may be
30 subject to penalties under § 3.107 of this title.

31 The proposed amendments in §3.107 are found in the tables in subsection (e)(1) and subsection
32 (j) and add references to the requirements of proposed new §3.65, along with the dollar amounts for the
33 specified penalties.

1 Corey Crawford, Chief Financial Officer, has determined that for each year of the first five years
2 that the rules will be in effect, there will be an estimated additional cost to state government as a result of
3 enforcing and administering the rules as proposed. The effect on state government for each year of the
4 first five years the proposed rules are in effect is an estimated cost of \$2,463,638 in Fiscal Year (FY)
5 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
6 2026. The Commission included these costs in its Senate Bill 3 fiscal note submitted to the Legislature.

7 The Commission may have an increase in revenue from fees from operators who file a Form CI-
8 X application for an exception pursuant to §3.65(d). The Commission lacks sufficient data on the number
9 of operators that will file the exception application to estimate revenue generated from this proposed rule.
10 However, the Commission estimates that approximately 6200 operators are subject to proposed §3.65.
11 For each operator that files an exception application, the Commission will collect \$150. There will be no
12 fiscal effect on local government.

13 Randall Collins, Director, Chief Operating Officer, has determined that for each year of the first
14 five years the new rule and amendments as proposed are in effect the primary public benefit will be
15 establishing a clear process for facilities who are critical natural gas suppliers and who are prepared to
16 operate in a weather emergency to be given priority in a load shed event, thus increasing the availability
17 of natural gas for electric power generation in an energy emergency. The public benefit will also be
18 compliance with applicable state law.

19 Mr. Collins has determined that for each year of the first five years that the new rule and
20 amendments will be in full effect, there will be economic costs for persons required to comply as a result
21 of adoption of the proposed new rule and amendments. The Commission estimates that 6200 operators are
22 required to comply with the proposed new rule and amendments. Under the proposed new rule, each
23 operator will have bi-annual filing requirements that may impose operational costs. An operator that files
24 a Form CI-X because some or all of its facilities are not prepared to operate in a weather emergency will
25 incur a cost of \$150. An operator that fails to comply with the proposed filing requirements in the new
26 rule will be subject to a minimum penalty of \$1000. An operator that fails to provide the critical customer
27 information as required under proposed subsection (e) will be subject to a minimum penalty of \$2500.

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

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

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

14 In preparing the proposed rule, the Commission considered whether the purpose of the rule
15 amendment could still be achieved if (1) small or micro-businesses have different reporting requirements,
16 or (2) small or micro-businesses pay reduced fees. The Commission rejected these alternatives because
17 House Bill 3648 and Senate Bill 3 require the Commission to define critical customer information, to
18 designate entities as critical customers, and require those entities to provide the critical customer
19 information to the electric entities. The proposed new rule and amendments merely implement these
20 statutory requirements. Although an operator will likely incur operational costs associated with providing
21 the critical customer information, these operational costs are mostly due to compiling the information for
22 the first filing. The operational costs will likely decrease dramatically for future filings. Also, the
23 operational cost an operator incurs should correlate to the number of facilities it operates. Thus, an
24 operator with less facilities will likely expend less effort (i.e., less time and resources) to collect the
25 required information. Further, the \$150 fee is only required if an operator chooses to file an exception
26 application. Even if the exception application is filed, each operator will only incur a one-time cost of
27 \$150 for the first filing of the application. The \$150 exception application fee is set by statute in Texas
28 Natural Resources Code section 81.0521 and, therefore, cannot be reduced for certain operators.

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

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

4 During the first five years that the rules would be in full effect, the proposed new rule and
5 amendments adopted pursuant to recent legislation would create a new government program, create a new
6 regulation, expand the Commission's existing penalty regulations to encompass violations of the
7 proposed new rule, and increase responsibility for persons under the Commission's jurisdiction. The
8 proposed new rule and amendments do require an increase in future legislative appropriations. Senate Bill
9 3, the legislation requiring adoption of the rules and amendments, prompted this increase. Because
10 proposed §3.65 is a new rule, it would not increase or decrease the number of individuals subject to the
11 rule's applicability. Finally, the proposed rule and amendments would not affect the state's economy.

12 In addition to accepting written comments, the Commission has scheduled a workshop pursuant
13 to Texas Government Code Section 2001.029 to allow members of the public to engage with Commission
14 staff on the proposed new rule and amendments. The workshop will be held on Tuesday, October 5, 2021
15 beginning at 9:30 a.m. Details and any updates on the workshop will be available on the Commission's
16 website.

17 Comments on the proposed new rule and amendments may be submitted to Rules Coordinator,
18 Office of General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967;
19 online at www.rrc.texas.gov/general-counsel/rules/comment-form-for-proposed-rulemakings; or by
20 electronic mail to rulescoordinator@rrc.texas.gov. The Commission will accept comments until 5 p.m. on
21 Monday, November 1, 2021. The Commission finds that this comment period is reasonable because the
22 proposal and an online comment form will be available on the Commission's website more than two
23 weeks prior to *Texas Register* publication of the proposal, giving interested persons additional time to
24 review, analyze, draft, and submit comments. The Commission cannot guarantee that comments
25 submitted after the deadline will be considered. For further information, call Mr. Collins at (512) 463-
26 5928. The status of Commission rulemakings in progress is available at [www.rrc.texas.gov/general-](http://www.rrc.texas.gov/general-counsel/rules/proposed-rules)
27 [counsel/rules/proposed-rules](http://www.rrc.texas.gov/general-counsel/rules/proposed-rules). Once received, all comments are posted on the Commission's website at
28 <https://rrc.texas.gov/general-counsel/rules/proposed-rules/>. If you submit a comment and do not see the
29 comment posted at this link within three business days of submittal, please call the Office of General
30 Counsel at 512-463-7149. The Commission has safeguards to prevent emailed comments from getting
31 lost; however, your operating system's or email server's settings may delay or prevent receipt.

32 The Commission proposes the new rule under Texas Natural Resources Code §81.073, which
33 requires the Commission to adopt rules to establish a process to designate natural gas facilities and

1 entities associated with providing natural gas in this state as critical customers or critical gas suppliers
2 during an energy emergency; and Texas Natural Resources Code, §81.051 and §81.052, which give the
3 Commission jurisdiction over all persons owning or engaged in drilling or operating oil or gas wells in
4 Texas and the authority to adopt all necessary rules for governing and regulating persons and their
5 operations under the jurisdiction of the Commission. The amendments are proposed under Texas Natural
6 Resources Code, §81.0531, which gives the Commission authority to assess a penalty if a person violates
7 provisions of Texas Natural Resources Code, Title 3, that pertain to safety or the prevention or control of
8 pollution or the provisions of a rule, order, license, permit, or certificate that pertain to safety or the
9 prevention or control of pollution that are issued under Title 3.

10 Statutory authority: Natural Resources Code §§81.051, 81.052, 81.0531, and 81.073.

11 Cross reference to statute: Natural Resources Code Chapter 81.

12
13 §3.65. Critical Designation of Natural Gas Infrastructure.

14 (a) Definitions.

15 (1) Energy emergency--Any event that results in or has the potential to result in load
16 shed required by an independent organization certified under Texas Utilities Code, § 39.151 resulting in
17 an electric outage.

18 (2) Weather emergency--Any weather condition that results in or has the potential to
19 result in an energy emergency as defined in this section.

20 (3) Critical customer information--The critical customer and critical gas supply
21 information specified on Commission Table CCI such as facility identification information, facility
22 location information, emergency contact information, gas production and/or handling information,
23 electrical power and backup power capabilities, and electric utility information.

24 (b) Critical designation criteria. The following facilities are designated critical gas suppliers and
25 critical customers of the entities described by Texas Utilities Code, § 38.074(b)(1) during an energy
26 emergency:

27 (1) wells producing gas or casinghead gas;

28 (2) gas processing plants;

29 (3) natural gas pipelines and pipeline facilities including compressor stations;

30 (4) local distribution company pipelines and pipeline facilities including compressor
31 stations;

32 (5) natural gas storage facilities;

33 (6) natural gas liquids transportation and storage facilities;

1 (7) saltwater disposal facilities including saltwater disposal pipelines; and
2 (8) other facilities under the jurisdiction of the Commission the operation of which is
3 necessary to operate any of the facilities in paragraphs (1) through (7) of this subsection.

4 (c) Acknowledgment of critical status. Except as provided by subsection (d) of this section, an
5 operator of a facility designated as critical under subsection (b) of this section shall acknowledge the
6 facility's critical status by filing Form CI-D or submitting an electronic acknowledgment as provided in
7 this subsection.

8 (1) Until an electronic system is established, the acknowledgment shall be made on Form
9 CI-D. In the year 2022, the Form CI-D acknowledgment shall be filed bi-annually by January 15, 2022
10 and September 1, 2022. Beginning in 2023, the Form CI-D acknowledgment shall be filed bi-annually by
11 March 1 and September 1 of each year.

12 (2) When the electronic system is established, the Form CI-D acknowledgment shall be
13 submitted through the electronic system.

14 (d) Critical designation exception. A facility listed in subsection (b) of this section is designated
15 as a critical gas supplier unless the facility's operator asserts the facility is not prepared to operate during
16 a weather emergency. An operator shall submit a Form CI-X exception application that identifies each
17 such facility. The Form CI-X shall be accompanied by a \$150 exception application fee.

18 (1) Until an electronic system is established, the exception application shall be
19 filed on Form CI-X. In the year 2022, the Form CI-X exception application shall be filed bi-annually by
20 January 15, 2022 and September 1, 2022. Beginning in 2023 the Form CI-X exception application shall
21 be filed bi-annually by March 1 and September 1 of each year.

22 (2) When the electronic system is established, the Form CI-X exception
23 application shall be submitted through the electronic system.

24 (3) Once an operator has an approved Form CI-X on file with the Commission,
25 the operator is not required to pay the \$150 exception application fee when the operator updates the
26 facilities identified on its Form CI-X.

27 (e) Providing critical customer information. Unless a facility is identified on an approved Form
28 CI-X exception application under subsection (d) of this section, the facility's operator shall provide the
29 critical customer information to the entities described in Texas Utilities Code § 38.074(b)(1). The critical
30 customer information shall be provided in accordance with 16 Tex. Admin. Code § 25.52 (relating to
31 Reliability and Continuity of Service). The operator shall certify on its Form CI-D that it has provided, or
32 will within five business days provide, the critical customer information to the electric entity in a format
33 usable to the electric entity.

(f) Exceptions not transferable. Exceptions are not transferable upon a change of operatorship. When a facility is transferred, both the transferor operator and the transferee operator shall ensure the transfer is reflected on each operator's Form CI-D or Form CI-X when the applicable form update is submitted in accordance with the bi-annual filing timelines in subsections (c) and (d) of this section. If the facility has an exception under subsection (d) of this section, the exception shall remain in effect until the next bi-annual filing deadline. If the transferee operator seeks to continue the exception beyond that time period, the transferee operator shall indicate the transferred facility on the Form CI-X pursuant to subsection (d) of this section.

(g) Failure to file or provide required information. An operator who fails to comply with this section may be subject to penalties under § 3.107 of this title (relating to Penalty Guidelines for Oil and Gas Violations).

§3.107. Penalty Guidelines for Oil and Gas Violations.

(a) - (d) (No change.)

(e) Typical penalties. Regardless of the method by which the guideline typical penalty amount is calculated, the total penalty amount will be within the statutory limit.

(1) A guideline of typical penalties for violations of Texas Natural Resources Code, Title 3; the provisions of Texas Water Code, Chapters 26, 27, and 29, that are administered and enforced by the Commission; and the provisions of a rule adopted or an order, license, permit, or certificate issued under Texas Natural Resources Code, Title 3, or Texas Water Code, Chapters 26, 27, and 29, are set forth in Table 1.

Figure: 16 TAC §3.107(e)(1)

(2) (No change.)

(f) - (i) (No change.)

(j) Penalty calculation worksheet. The penalty calculation worksheet shown in Table 5 lists the guideline minimum penalty amounts for certain violations; the circumstances justifying enhancements of a penalty and the amount of the enhancement; and the circumstances justifying a reduction in a penalty and the amount of the reduction.

Figure: 16 TAC §3.107(j)

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 September 14, 2021.

Filed with the Office of the Secretary of State on September 14, 2021.

A handwritten signature in blue ink that reads "Haley Cochran". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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

Figure: 16 TAC §3.107(e)(1)

Table 1. Penalty Guideline

Oil & Gas Rule/Statute	General Description	Guideline Minimum Penalty Amount or Range
16 TAC §3.2	Commission denied access	\$1,000
16 TAC §3.3	failure to comply with well sign requirements	\$500
16 TAC §3.3	failure to comply with entrance sign requirements	\$1,000
16 TAC §3.3	failure to comply with tank battery sign requirements	\$1,000
16 TAC §3.5(a)	no drilling permit approved	\$5,000
16 TAC §3.5(a)	no drilling permit: no application filed	\$10,000
16 TAC §3.8(b)	pollution of surface or subsurface water	\$1,000 minimum
16 TAC §3.8(d)(1)	improper disposal of oil and gas waste; enhance for actual or threatened pollution: dry pit area	\$500 base penalty plus \$0.30/sq. ft.
16 TAC §3.8(d)(1)	improper disposal of oil and gas waste; enhance for actual or threatened pollution: wet pit area	\$500 base penalty plus \$0.50/sq. ft.
16 TAC §3.8(d)(2)	use of prohibited pits: fresh water pit area	\$2,500 base plus \$0.25 sq. ft.
16 TAC §3.8(d)(2)	use of prohibited pits: salt water or other fluid area	\$2,500 base plus \$0.75 sq. ft.
16 TAC §3.8(d)(4)(G)(i)(I), (II)	reserve pits: fresh water pit area	\$2,500 base plus \$0.25 sq. ft.
16 TAC §3.8(d)(4)(G)(i)(I), (II)	reserve pits: salt water or other fluid pit area	\$2,500 base plus \$0.75 sq. ft.
16 TAC §3.8(d)(4)(G)(i)(III), (IV)	workover and other pits: dry	\$2,500
16 TAC §3.8(d)(4)(G)(i)(III), (IV)	workover and other pits: wet	\$5,000
16 TAC §3.9(1)	no permit to dispose or inject	\$5,000
16 TAC §3.9(9)(A)	failure to comply with tubing and packer requirements	\$2,000
16 TAC §3.9(9)(B)	no pressure observation valve	\$1,000 per valve
16 TAC §3.9(12)	no test, failed test, or no Form H-5	\$5,000
16 TAC §3.13(b)(1)(B)	open casing/tubing	\$1,000 to \$5,000
16 TAC §3.13(b)(1)(C)	failure to comply with wellhead control requirements	\$5,000
16 TAC §3.13(b)(2)	failure to comply with surface casing requirements	\$2,000
16 TAC §3.14(a)(2)	failure to file Form W-3A	\$2,500
16 TAC §3.14(a)(3)	failure to notify of setting plugs	\$1,500
16 TAC §3.14(b)(1)	failure to file Form W-3	\$5,000

Oil & Gas Rule/Statute	General Description	Guideline Minimum Penalty Amount or Range
16 TAC §3.14(b)(2)	failure to plug onshore well	\$2,000 plus \$1/ft. of total depth
16 TAC §3.14(b)(2)	failure to plug bay, estuary, or inland waterway well	\$15,000 plus \$2 per foot of total depth, subject to statutory maximum
16 TAC §3.14(b)(2)	failure to plug offshore well	\$50,000 plus \$5 per foot of total depth, subject to statutory maximum
16 TAC §3.14(d)(1)-(11)	failure to follow general plugging requirement	\$1,000
16 TAC §3.14(d)(12)	failure to remove miscellaneous loose junk and trash	\$1,000
16 TAC §3.14(d)(12)	failure to remove tanks, vessels, and related piping	\$2,500
16 TAC §3.14(d)(12)	failure to empty tanks, vessels, and related piping	\$5,000
16 TAC §3.15(l)(7)	failure to test prior to reactivating well	\$1,000
16 TAC §3.15(f)(2)(A)	failure to disconnect electricity	\$5,000
16 TAC §3.15(f)(2)(A)	failure to purge vessels	\$7,500
16 TAC §3.15(f)(2)(A)	failure to remove equipment	\$10,000
16 TAC §3.16(b) and (c)	failure to file completion records/logs	\$2,500
16 TAC §3.17	Bradenhead violations: no valve; no access; or pressure on it	\$1,000 to \$2,500
16 TAC §3.20(a)(1)	failure to notify of incident	\$2,500 to \$5,000
16 TAC §3.21(a)-(i)	improper fire prevention	\$1,000
16 TAC §3.21(j)	failure to comply with dike/firewall requirements	\$2,500
16 TAC §3.21(k)	swabbing without authority	\$1,000 per well
16 TAC §3.21(l)	failure to comply with electric power line requirements	\$2,000
16 TAC §3.22	no nets	compliance
16 TAC §3.35(a)	failure to notify of lost logging tool	\$5,000
16 TAC §3.35(b)	failure to properly abandon lost logging tool	\$5,000
16 TAC §3.36(c)(5)(B)	improper storage tank signs in a non-public area	\$1,000
16 TAC §3.36(c)(5)(B)	improper storage tank signs in a public area	\$2,000
16 TAC §3.36(c)(6)(A)	improper entry signs in a non-public area	\$1,000
16 TAC §3.36(c)(6)(A)	improper entry signs in a public area	\$2,000

Oil & Gas Rule/Statute	General Description	Guideline Minimum Penalty Amount or Range
16 TAC §3.36(c)(6)(A)	improper entry signs in a populated public area	\$5,000
16 TAC §3.36(c)(6)(B)	failure to fence specific area at a well	\$5,000
16 TAC §3.36(c)(6)(B)	failure to fence specific area at a battery	\$10,000
16 TAC §3.36(c)(6)(C)	materials provision	\$2,500
16 TAC §3.36(c)(8)	failure to maintain H ₂ S equipment	\$5,000
16 TAC §3.36(c)(9)(Q)	failure to update contingency plan	\$2,500
16 TAC §3.36(c)(9)(N)	failure to notify of H ₂ S contingency plan activation	more than 6 hours up to 12 hours-\$5,000
16 TAC §3.36(c)(9)(N)	failure to notify of H ₂ S contingency plan activation	12 hours or more-\$10,000
16 TAC §3.36(c)(14)	failure to notify of H ₂ S release	more than 6 hours up to 12 hours-\$5,000
16 TAC §3.36(c)(14)	failure to notify of H ₂ S release	12 hours or more-\$10,000
16 TAC §3.36(c)(11)-(12), except (12)(F)	failure to follow requirements at drill/workover site; no injury	\$5,000
16 TAC §3.36(c)(11)-(12), except (12)(F)	failure to follow requirements at drill/workover site; injury or death	\$10,000
16 TAC §3.36(c)(12)(F)	failure to notify of drill stem test in H ₂ S formation	\$2,000
16 TAC §3.36(c)(13)	failure to have H ₂ S trained personnel	\$5,000 per person
16 TAC §3.36(d)(1)(E)	failure to file Form H-9; non-public area	\$1,000
16 TAC §3.36(d)(1)(E)	failure to file Form H-9; public area	\$10,000
16 TAC §3.36(d)(2)	failure to identify well as sour on completion report	\$10,000
16 TAC §3.36(d)(3)	intentional failure to file written report of H ₂ S release	\$3,000
16 TAC §3.36(d)(3)	failure to file written report of emergency H ₂ S release	\$5,000
16 TAC §3.46(a)	no permit to dispose or inject	\$5,000
16 TAC §3.46(g)(1)	failure to comply with tubing and packer requirements	\$2,000
16 TAC §3.46(g)(2)	no pressure observation valve	\$1,000 per valve
16 TAC §3.46(j)	no test, failed test, or no Form H-5	\$5,000
16 TAC §3.57	reclamation plant operation violation	\$1,000
16 TAC §3.65(c) or (d)	failure to file Form CI-D or Form CI-X	\$1,000
16 TAC §3.65(e)	failure to provide critical customer information	\$2,500
16 TAC §3.73(a)	failure to notify of pipeline connection	\$1,000

Oil & Gas Rule/Statute	General Description	Guideline Minimum Penalty Amount or Range
16 TAC §3.73(h)	reconnecting, transporting from well/lease without approved Form P-4	\$1,000 minimum; see Table 1A for additional amount
16 TAC §3.73(j)	reporting, producing, injecting, disposing without approved Form P-4	\$1,000 minimum; see Table 1A for additional amount
16 TAC §3.81	failure to comply with brine mining injection well operation requirements	\$1,000
16 TAC §3.95	failure to comply with underground salt formation liquid or liquefied hydrocarbon storage facility operation requirements	\$2,000
16 TAC §3.96	failure to comply with underground productive or depleted reservoir gas storage facility operation requirements	\$2,000
16 TAC §3.98	failure to comply with hazardous waste disposal operation requirements	\$2,000
16 TAC §3.99(d)(2)	failure to comply with protection/isolation of usable quality water requirements	\$2,500 per well
16 TAC §3.99(e)	failure to comply with cathodic protection well construction requirements	\$1,000 per well
16 TAC §3.99(g)	failure to file completion report	\$1,000 per well
16 TAC §3.100(d)(2)	failure to permit seismic/core holes penetrating usable quality water	\$1,000 per hole
16 TAC §3.100(f)	failure to properly plug seismic/core holes	\$1,000 per hole
16 TAC §3.100(g)	failure to file final survey report	\$5,000 per survey
16 TAC §3.106(b)	commenced construction of a sour gas pipeline facility without a permit	\$10,000
16 TAC §3.106(e)	published notice with egregious errors/omissions	\$5,000
16 TAC §3.106(f)	provided pipeline plat with egregious errors/omissions	\$5,000

Figure: 16 TAC §3.107(j)

Table 5. Penalty Calculation Worksheet

	Oil & Gas Rule/Statute	General Description	Guideline Minimum Penalty from Table 1	Penalty Tally
1	16 TAC §3.2	Commission denied access	\$1,000	\$
2	16 TAC §3.3	failure to comply with well sign requirements	\$500	\$
3	16 TAC §3.3	failure to comply with entrance sign requirements	\$1,000	\$
4	16 TAC §3.3	failure to comply with tank battery sign requirements	\$1,000	\$
5	16 TAC §3.5(a)	no drilling permit: filed but not approved	\$5,000	\$
6	16 TAC §3.5(a)	no drilling permit: no application filed	\$10,000	\$
7	16 TAC §3.8(b)	pollution of surface or subsurface water	\$1,000 minimum	\$
8	16 TAC §3.8(d)(1)	improper disposal of oil and gas waste; enhance for actual or threatened pollution: dry pit area	\$500 base penalty plus \$0.30/sq. ft.	\$
9	16 TAC §3.8(d)(1)	improper disposal of oil and gas waste; enhance for actual or threatened pollution: wet pit area	\$500 base penalty plus \$0.50/sq. ft.	\$
10	16 TAC §3.8(d)(2)	use of prohibited pits: fresh water pit area	\$2,500 base plus \$0.25 sq. ft.	\$
11	16 TAC §3.8(d)(2)	use of prohibited pits: salt water or other fluid area	\$2,500 base plus \$0.75 sq. ft.	\$
12	16 TAC §3.8(d)(4)(G)(i)(I), (II)	reserve pits: fresh water pit area	\$2,500 base plus \$0.25 sq. ft.	\$
13	16 TAC §3.8(d)(4)(G)(i)(I), (II)	reserve pits: salt water or other fluid pit area	\$2,500 base plus \$0.75 sq. ft.	\$
14	16 TAC §3.8(d)(4)(G)(i)(III), (IV)	workover and other pits: dry	\$2,500	\$
15	16 TAC §3.8(d)(4)(G)(i)(III), (IV)	workover and other pits: wet	\$5,000	\$
16	16 TAC §3.9(1)	no permit to dispose or inject	\$5,000	\$
17	16 TAC §3.9(9)(A)	failure to comply with tubing and packer requirements	\$2,000	\$
18	16 TAC §3.9(9)(B)	no pressure observation valve	\$1,000 per valve	\$
19	16 TAC §3.9(12)	no test, failed test, or no Form H-5	\$5,000	\$
20	16 TAC §3.13(b)(1)(B)	open casing/tubing	\$1,000 to \$5,000	\$
21	16 TAC §3.13(b)(1)(C)	failure to comply with wellhead control requirements	\$5,000	\$
22	16 TAC §3.13(b)(2)	failure to comply with surface casing requirements	\$2,000	\$
23	16 TAC §3.14(a)(2)	failure to file Form W-3A	\$2,500	\$

	Oil & Gas Rule/Statute	General Description	Guideline Minimum Penalty from Table 1	Penalty Tally
24	16 TAC §3.14(a)(3)	failure to notify of setting plugs	\$1,500	\$
25	16 TAC §3.14(b)(1)	failure to file Form W-3	\$5,000	\$
26	16 TAC §3.14(b)(2)	failure to plug onshore well	\$2,000 plus \$1/ft. of total depth	\$
27	16 TAC §3.14(b)(2)	failure to plug bay, estuary, or inland waterway well	\$15,000 plus \$2 per foot of total depth, subject to statutory maximum	\$
28	16 TAC §3.14(b)(2)	failure to plug offshore well	\$50,000 plus \$5 per foot of total depth, subject to statutory maximum	\$
29	16 TAC §3.14(d)(1)-(11)	failure to follow general plugging requirement	\$1,000	\$
30	16 TAC §3.14(d)(12)	failure to remove miscellaneous loose junk and trash	\$1,000	\$
31	16 TAC §3.14(d)(12)	failure to remove tanks, vessels, and related piping	\$2,500	\$
32	16 TAC §3.14(d)(12)	failure to empty tanks, vessels, and related piping	\$5,000	\$
33	16 TAC §3.15(l)(7)	failure to test prior to reactivating well	\$1,000	\$
34	16 TAC §3.15(f)(2)(A)	failure to disconnect electricity	\$5,000	\$
35	16 TAC §3.15(f)(2)(A)	failure to purge vessels	\$7,500	\$
36	16 TAC §3.15(f)(2)(A)	failure to remove equipment	\$10,000	\$
37	16 TAC §3.16(b) and (c)	failure to file completion records/logs	\$2,500	\$
38	16 TAC §3.17	Bradenhead violations: no valve; no access; or pressure on it	\$1,000 to \$2,500	\$
39	16 TAC §3.20(a)(1)	failure to notify of incident	\$2,500 to \$5,000	\$
40	16 TAC §3.21(a)-(i)	improper fire prevention	\$1,000	\$
41	16 TAC §3.21(j)	failure to comply with dike/firewall requirements	\$2,500	\$
42	16 TAC §3.21(k)	swabbing without authority	\$1,000 per well	\$
43	16 TAC §3.21(l)	failure to comply with electric power line requirements	\$2,000	\$
44	16 TAC §3.22	no nets	compliance	
45	16 TAC §3.35(a)	failure to notify of lost logging tool	\$5,000	\$
46	16 TAC §3.35(b)	failure to properly abandon lost logging tool	\$5,000	\$
47	16 TAC §3.36(c)(5)(B)	improper storage tank signs in a non-public area	\$1,000	\$
48	16 TAC §3.36(c)(5)(B)	improper storage tank signs in a public area	\$2,000	\$
49	16 TAC §3.36(c)(6)(A)	improper entry signs in a non-public area	\$1,000	\$

	Oil & Gas Rule/Statute	General Description	Guideline Minimum Penalty from Table 1	Penalty Tally
50	16 TAC §3.36(c)(6)(A)	improper entry signs in a public area	\$2,000	\$
51	16 TAC §3.36(c)(6)(A)	improper entry signs in a populated public area	\$5,000	\$
52	16 TAC §3.36(c)(6)(B)	failure to fence specific area at a well	\$5,000	\$
53	16 TAC §3.36(c)(6)(B)	failure to fence specific area at a battery	\$10,000	\$
54	16 TAC §3.36(c)(6)(C)	materials provision	\$2,500	\$
55	16 TAC §3.36(c)(8)	failure to maintain H ₂ S equipment	\$5,000	\$
56	16 TAC §3.36(c)(9)(Q)	failure to update contingency plan	\$2,500	\$
57	16 TAC §3.36(c)(9)(N)	failure to notify of H ₂ S contingency plan activation	more than 6 hours up to 12 hours-\$5,000	\$
58	16 TAC §3.36(c)(9)(N)	failure to notify of H ₂ S contingency plan activation	12 hours or more-\$10,000	\$
59	16 TAC §3.36(c)(14)	failure to notify of H ₂ S release	more than 6 hours up to 12 hours-\$5,000	\$
60	16 TAC §3.36(c)(14)	failure to notify of H ₂ S release	12 hours or more-\$10,000	\$
61	16 TAC §3.36(c)(11)-(12), except (12)(F)	failure to follow requirements at drill/workover site; no injury	\$5,000	\$
62	16 TAC §3.36(c)(11)-(12), except (12)(F)	failure to follow requirements at drill/workover site; injury or death	\$10,000	\$
63	16 TAC §3.36(c)(12)(F)	failure to notify of drill stem test in H ₂ S formation	\$2,000	\$
64	16 TAC §3.36(c)(13)	failure to have H ₂ S trained personnel	\$5,000 per person	\$
65	16 TAC §3.36(d)(1)(E)	failure to file Form H-9; non-public area	\$1,000	\$
66	16 TAC §3.36(d)(1)(E)	failure to file Form H-9; public area	\$10,000	\$
67	16 TAC §3.36(d)(2)	failure to identify well as sour on completion report	\$10,000	\$
68	16 TAC §3.36(d)(3)	intentional failure to file written report of H ₂ S release	\$3,000	\$
69	16 TAC §3.36(d)(3)	failure to file written report of emergency H ₂ S release	\$5,000	\$
70	16 TAC §3.46(a)	no permit to dispose or inject	\$5,000	\$
71	16 TAC §3.46(g)(1)	failure to comply with tubing and packer requirements	\$2,000	\$
72	16 TAC §3.46(g)(2)	no pressure observation valve	\$1,000 per valve	\$
73	16 TAC §3.46(j)	no test, failed test, or no Form H-5	\$5,000	\$

	Oil & Gas Rule/Statute	General Description	Guideline Minimum Penalty from Table 1	Penalty Tally
74	16 TAC §3.57	reclamation plant operation violation	\$1,000	\$
75	16 TAC §3.65(c) or (d)	failure to file Form CI-D or Form CI-X	\$1,000	\$
76	16 TAC §3.65(e)	failure to provide critical customer information	\$2,500	\$
77 75	16 TAC §3.73(a)	failure to notify of pipeline connection	\$1,000	\$
78 76	16 TAC §3.73(h)	reconnecting, transporting from well/lease without approved Form P-4	\$1,000 minimum; see Table 1A for additional amount	\$
79 77	16 TAC §3.73(j)	reporting, producing, injecting, disposing without approved Form P-4	\$1,000 minimum; see Table 1A for additional amount	\$
80 78	16 TAC §3.81	failure to comply with brine mining injection well operation requirements	\$1,000	\$
81 79	16 TAC §3.95	failure to comply with underground salt formation liquid or liquefied hydrocarbon storage facility operation requirements	\$2,000	\$
82 80	16 TAC §3.96	failure to comply with underground productive or depleted reservoir gas storage facility operation requirements	\$2,000	\$
83 84	16 TAC §3.97	failure to comply with underground salt formation gas storage facility operation requirements	\$2,000	\$
84 82	16 TAC §3.98	failure to comply with hazardous waste disposal operation requirements	\$2,000	\$
85 83	16 TAC §3.99(d)(2)	failure to comply with protection/isolation of usable quality water requirements	\$2,500 per well	\$
86 84	16 TAC §3.99(e)	failure to comply with cathodic protection well construction requirements	\$1,000 per well	\$
87 85	16 TAC §3.99(g)	failure to file completion report	\$1,000 per well	\$
88 86	16 TAC §3.100(d)(2)	failure to permit seismic/core holes penetrating usable quality water	\$1,000 per hole	\$
89 87	16 TAC §3.100(f)	failure to properly plug seismic/core holes	\$1,000 per hole	\$
90 88	16 TAC §3.100(g)	failure to file final survey report	\$5,000 per survey	\$
91 89	16 TAC §3.106(b)	commenced construction of a sour gas pipeline facility without a permit	\$10,000	\$
92 90	16 TAC §3.106(e)	published notice with egregious errors/omissions	\$5,000	\$
93 94	16 TAC §3.106(f)	provided pipeline plat with egregious errors/omissions	\$5,000	\$
94 92	Tex. Nat. Res. Code, §91.143	false filing	\$1,000 per form	\$
95 93	Subtotal of guideline penalty amounts from Table 1 (lines 1-94 1-92, inclusive)			\$

	Oil & Gas Rule/Statute	General Description	Guideline Minimum Penalty from Table 1	Penalty Tally
96 94		Reduction for settlement before hearing: up to 50% of line 95 93 amt.	%	\$
97 95		Subtotal: amount shown on line 95 93 less applicable settlement reduction on line 96 94		\$
Penalty enhancement amounts for threatened or actual pollution from Table 2				
98 96		Agricultural land or sensitive wildlife habitat	\$1,000 to \$5,000	\$
99 97		Endangered or threatened species	\$2,000 to \$10,000	\$
100 98		Bay, estuary or marine habitat	\$5,000 to \$25,000	\$
101 99		Minor freshwater source (minor aquifer, seasonal watercourse)	\$2,500 to \$7,500	\$
102 100		Major freshwater source (major aquifer, creeks, rivers, lakes and reservoirs)	\$5,000 to \$25,000	\$
Penalty enhancement amounts for safety hazard from Table 2				
103 101		Impacted residential/public areas	\$1,000 to \$15,000	\$
104 102		Hazardous material release	\$2,000 to \$25,000	\$
105 103		Reportable incident/accident	\$5,000 to \$25,000	\$
106 104		Well in H ₂ S field	up to \$10,000	\$
Penalty enhancement amounts for severity of violation from Table 2				
107 105		Time out of compliance	\$100 to \$2,000 each month	\$
108 106		Subtotal: amount shown on line 97 95 plus all amounts on lines 98 96 through 107 105 , inclusive		\$
Penalty enhancements for culpability of person charged from Table 2				
109 107		Reckless conduct of operator	double line 108 106 amount	\$
110 108		Intentional conduct of operator	triple line 108 106 amount	\$
Penalty enhancements for number of prior violations within past seven years from Table 3				
111 109		One	\$1,000	\$
112 110		Two	\$2,000	\$
113 111		Three	\$3,000	\$
114 112		Four	\$4,000	\$
115 113		Five or more	\$5,000	\$
Penalty enhancements for amount of penalties within past seven years from Table 4				
116 114		Less than \$10,000	\$1,000	\$
117				

	Oil & Gas Rule/Statute	General Description	Guideline Minimum Penalty from Table 1	Penalt y Tally
115	Between \$10,000 and \$25,000		\$2,500	\$
118 116	Between \$25, 000 and \$50,000		\$5,000	\$
119 117	Between \$50,000 and \$100,00		\$10,000	\$
120 118	Over \$100,000		10% of total amt.	\$
121 119	Subtotal: Line 97 95 amt. plus amts. on line 109 107 and/or 110 108 plus the amt. shown on any line from 111 109 through 120 118 , inclusive			\$
122 120	Reduction for demonstrated good faith of person charged			\$
123 121	TOTAL PENALTY AMOUNT: amount on line 121 119 less any amount shown on line 122 120			\$

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