



Infrastructure Investment and Jobs Act Sec. 40601 Orphaned Well Program
Submitted by the Railroad Commission of Texas, May 2022

List of Documents

Attachment B Certification

SF 424

SF 424A

SF 424B

SF LLL

Project Abstract

Budget Narrative

Key Contacts

Recommended Elements Narrative

Supplemental Information

Acknowledgements

Attachment B

OMB Control No. 1093-0012

State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Large-Scale Initial Project Grant

Consistent with Section 40601(c)(3)(A)(i)(II)(aa) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

Texas

_____ certifies that it is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission.

The State or Commonwealth also certifies that it has one (1) or more documented orphaned wells located within our State or Commonwealth.

And the State or Commonwealth certifies that it will use no less than 90 percent of the funds requested under this grant to issue new contracts, amend existing contracts, or issue grants for plugging, remediation and reclamation work on orphaned wells within our State or Commonwealth by not later than 90 days after the date of receipt of the funds.

Wei Wang

Certifying Official Name

Executive Director

Title

DocuSigned by:

Wei Wang

A320E7878B01444...
Certifying Official Signature

5/12/2022

Date

Application for Federal Assistance SF-424

* 1. Type of Submission: <input type="checkbox"/> Preapplication <input checked="" type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application		* 2. Type of Application: <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision		* If Revision, select appropriate letter(s): <input type="text"/> * Other (Specify): <input type="text"/>	
* 3. Date Received: <input type="text" value="05/13/2022"/>		4. Applicant Identifier: <input type="text"/>			
5a. Federal Entity Identifier: <input type="text"/>			5b. Federal Award Identifier: <input type="text"/>		
State Use Only:					
6. Date Received by State: <input type="text"/>		7. State Application Identifier: <input type="text"/>			
8. APPLICANT INFORMATION:					
* a. Legal Name: <input type="text" value="Railroad Commission of Texas"/>					
* b. Employer/Taxpayer Identification Number (EIN/TIN): <input type="text" value="74-60000134"/>			* c. UEI: <input type="text" value="LU9UFH3W1HB1"/>		
d. Address:					
* Street1:	<input type="text" value="1701 N. Congress Avenue"/>				
Street2:	<input type="text" value="P.O. Box 12967"/>				
* City:	<input type="text" value="Austin"/>				
County/Parish:	<input type="text"/>				
* State:	<input type="text" value="TX: Texas"/>				
Province:	<input type="text"/>				
* Country:	<input type="text" value="USA: UNITED STATES"/>				
* Zip / Postal Code:	<input type="text" value="78711-2967"/>				
e. Organizational Unit:					
Department Name: <input type="text" value="Field Operations"/>			Division Name: <input type="text" value="Oil and Gas Division"/>		
f. Name and contact information of person to be contacted on matters involving this application:					
Prefix:	<input type="text" value="Mr."/>	* First Name:	<input type="text" value="Clay"/>		
Middle Name:	<input type="text"/>				
* Last Name:	<input type="text" value="Woodul"/>				
Suffix:	<input type="text"/>				
Title:	<input type="text" value="Asst Dir of Oil and Gas, Field Operations"/>				
Organizational Affiliation: <input type="text" value="Railroad Commission of Texas"/>					
* Telephone Number:	<input type="text" value="512-463-7037"/>	Fax Number:	<input type="text"/>		
* Email:	<input type="text" value="clay.woodul@rrc.texas.gov"/>				

Application for Federal Assistance SF-424

*** 9. Type of Applicant 1: Select Applicant Type:**

A: State Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

* Other (specify):

*** 10. Name of Federal Agency:**

Office of Environmental Policy and Compliance

11. Catalog of Federal Domestic Assistance Number:

15.018

CFDA Title:

Energy Community Revitalization Program (ECRP)

*** 12. Funding Opportunity Number:**

D-AQD-FA-22-003

* Title:

Bipartisan Infrastructure Law Sec. 40601 Orphaned Well Program

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Add Attachment

Delete Attachment

View Attachment

*** 15. Descriptive Title of Applicant's Project:**

Railroad Commission of Texas Abandoned Oil and Gas Well Plugging Program

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments

Application for Federal Assistance SF-424**16. Congressional Districts Of:*** a. Applicant * b. Program/Project

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment

Delete Attachment

View Attachment

17. Proposed Project:* a. Start Date: * b. End Date: **18. Estimated Funding (\$):**

* a. Federal	<input type="text" value="25,000,000.00"/>
* b. Applicant	<input type="text" value="0.00"/>
* c. State	<input type="text" value="0.00"/>
* d. Local	<input type="text" value="0.00"/>
* e. Other	<input type="text" value="0.00"/>
* f. Program Income	<input type="text" value="0.00"/>
* g. TOTAL	<input type="text" value="25,000,000.00"/>

*** 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

- a. This application was made available to the State under the Executive Order 12372 Process for review on
- b. Program is subject to E.O. 12372 but has not been selected by the State for review.
- c. Program is not covered by E.O. 12372.

*** 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**

Yes No

If "Yes", provide explanation and attach

Add Attachment

Delete Attachment

View Attachment

21. *By signing this application, I certify (1) to the statements contained in the list of certifications and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

 ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: * First Name:

Middle Name:

* Last Name:

Suffix:

* Title: * Telephone Number: Fax Number: * Email:

* Signature of Authorized Representative:

DocuSigned by:

Wei Wang

* Date Signed:

BUDGET INFORMATION - Non-Construction Programs

OMB Number: 4040-0006
Expiration Date: 02/28/2025

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1. Energy Community Revitalization Program	15.018	\$ <input type="text"/>	\$ <input type="text"/>	\$ 25,000,000.00	\$ <input type="text"/>	\$ 25,000,000.00
2.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
3.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
4.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
5. Totals		\$ <input type="text"/>	\$ <input type="text"/>	\$ 25,000,000.00	\$ <input type="text"/>	\$ 25,000,000.00

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
	Energy Community Revitalization Program				
a. Personnel	\$ 1,300,800.00	\$	\$	\$	\$ 1,300,800.00
b. Fringe Benefits	442,536.00				442,536.00
c. Travel	232,000.00				232,000.00
d. Equipment	470,707.00				470,707.00
e. Supplies	36,585.00				36,585.00
f. Contractual	22,500,312.00				22,500,312.00
g. Construction					
h. Other	17,060.00				17,060.00
i. Total Direct Charges (sum of 6a-6h)	25,000,000.00				\$ 25,000,000.00
j. Indirect Charges					\$
k. TOTALS (sum of 6i and 6j)	\$ 25,000,000.00	\$	\$	\$	\$ 25,000,000.00
7. Program Income	\$	\$	\$	\$	\$

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SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program		(b) Applicant	(c) State	(d) Other Sources	(e)TOTALS
8.	Energy Community Revitalization Program	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
9.					
10.					
11.					
12. TOTAL (sum of lines 8-11)		\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	\$ 25,000,000.00	\$ 6,250,000.00	\$ 6,250,000.00	\$ 6,250,000.00	\$ 6,250,000.00
14. Non-Federal	\$				
15. TOTAL (sum of lines 13 and 14)	\$ 25,000,000.00	\$ 6,250,000.00	\$ 6,250,000.00	\$ 6,250,000.00	\$ 6,250,000.00

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (YEARS)			
	(b)First	(c) Second	(d) Third	(e) Fourth
16. Energy Community Revitalization Program (to be requested with formula grant funding)	\$ 65,000,000.00	\$ 65,000,000.00	\$ 65,000,000.00	\$ 65,000,000.00
17.				
18.				
19.				
20. TOTAL (sum of lines 16 - 19)	\$ 65,000,000.00	\$ 65,000,000.00	\$ 65,000,000.00	\$ 65,000,000.00

SECTION F - OTHER BUDGET INFORMATION

21. Direct Charges: \$25,000,000	22. Indirect Charges: \$0
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23. Remarks: RRC is opting not to charge Indirect expenses to this grant to maximize funds available for well plugging, and maintain the 10% administrative cost limit.

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee- 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
19. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

<p>SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL</p> <p>DocuSigned by:  <small>A320E7878B01444...</small></p>	<p>TITLE</p> <p>Executive Director</p>
<p>APPLICANT ORGANIZATION</p> <p>Railroad Commission of Texas</p>	<p>DATE SUBMITTED</p> <p>5/12/2022</p>

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C.1352

OMB Number: 4040-0013
Expiration Date: 02/28/2025

1. * Type of Federal Action: <input type="checkbox"/> a. contract <input checked="" type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. * Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input checked="" type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. * Report Type: <input checked="" type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change
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4. Name and Address of Reporting Entity:
 Prime SubAwardee
 * Name: Railroad Commission of Texas
 * Street 1: 1701 N. Congress Avenue Street 2: P.O. Box 12967
 * City: Austin State: TX: Texas Zip: 78711-2967
 Congressional District, if known: TX-25

5. If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime:

6. * Federal Department/Agency: Environmental Policy and Compliance, DOI	7. * Federal Program Name/Description: Energy Community Revitalization Program CFDA Number, if applicable: 15.018
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8. Federal Action Number, if known: 	9. Award Amount, if known: \$
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10. a. Name and Address of Lobbying Registrant:
 Prefix: * First Name: N/A Middle Name: * Last Name: N/A Suffix: * Street 1: Street 2: * City: State: Zip:

b. Individual Performing Services (including address if different from No. 10a)
 Prefix: * First Name: N/A Middle Name: * Last Name: N/A Suffix: * Street 1: Street 2: * City: State: Zip:

11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when the transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
 * Signature: 
 * Name: Prefix: Mr. * First Name: Wei Middle Name: * Last Name: Wang Suffix: Title: Executive Director Telephone No.: 512-463-7068 Date: 5/12/2022

Federal Use Only:

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Standard Form - LLL (Rev. 7-97)

Project Abstract Summary

This Project Abstract Summary form must be submitted or the application will be considered incomplete. Ensure the Project Abstract field succinctly describes the project in plain language that the public can understand and use without the full proposal. Use 4,000 characters or less. Do not include personally identifiable, sensitive or proprietary information. Refer to Agency instructions for any additional Project Abstract field requirements. If the application is funded, your project abstract information (as submitted) will be made available to public websites and/or databases including USAspending.gov.

Funding Opportunity Number

D-AGD-FA-22-003

CFDA(s)

15.019

Applicant Name

Railroad Commission of Texas

Descriptive Title of Applicant's Project

Railroad Commission of Texas Abandoned Oil and Gas Well Plugging Program

Project Abstract

The Railroad Commission of Texas (RRC) is seeking Initial Grant funding under Sec. 40601 of the Infrastructure Investment and Jobs Act to plug, remediate, and reclaim orphaned wells located on State-owned or privately owned land across Texas. The Commission is the state agency with primary regulatory jurisdiction over the oil and natural gas industry with environmental and safety responsibilities related to oil and gas production. Protecting the environment and preserving natural resources by regulating fossil fuel energy production, storage, and delivery is one of the agency's primary goals.

The Commission began its statewide well plugging program in 1984 seeking to alleviate water quality problems associated with oil and gas production. With funding from the Initial Grant, the Commission will build on this nearly 40-year history. The Commission defines an orphaned well as an inactive, non-compliant well that has been inactive for a minimum of 12 months, and the responsible operator's Organizational Report, an operator's registration with the Commission is delinquent, has been delinquent for greater than 12 months. In 2001, the Commission established a Well Plugging Priority System to prioritize those orphaned wells that pose a high risk to the environment by assigning numerical values to factors in four categories: well completion, wellbore conditions, well location with respect to sensitive areas, and unique environmental, social, or economic concern.

Upon enactment of the Infrastructure Investment and Jobs Act, there were 7,396 documented orphaned wells in Texas. As of April 30, 2022 the number of documented orphaned wells in Texas increased to 7,979. The Commission estimates that up to 800 documented orphaned wells across the state will be plugged with Initial Grant funding, with a focus on deeper or higher risk wells, including H2S wells. The Commission will use 90 percent of its Initial Grant funding request for contracted well plugging services. Within the first 30 days of the project period, the Commission will establish a plan to identify and prioritize those documented orphaned wells that will be plugged with Initial Grant funding. Established within the first 30 days, this plan will guide activities throughout the grant period.

With Initial Grant funding the Commission estimates adding 20 plugging inspectors who will be located across the state throughout the Commission's 12 districts, which are managed from 10 district offices. Plugging inspectors are on-site representatives of the Commission during plugging activities to witness all plugging operations to ensure protection of the state's usable quality water. Inspectors also confirm contract stipulations are followed, and costs align correctly with the work performed.

The Commission developed a website that includes up to date information about Section 40601 implementation efforts. The website will be updated regularly to include details about the wells plugged with Initial Grant funding once activities begin. The Commission will develop a GIS tool available from the website that will build on existing GIS layers to allow staff and the public to view wells selected for plugging with an overlay U.S. Census data and elements from the U.S. Environmental Protection Agency Environmental Justice Screening and Mapping Tool to determine whether those wells affect a disadvantaged community. Wells selected for plugging will follow the criteria of the Commission's established Well Plugging Priority System.

This project will improve environmental outcomes across the state of Texas by eliminating the potential threat of pollution from documented orphaned wells—be it from the emissions of methane and other gases to the contamination of surface or ground water.

Infrastructure Investment and Jobs Act Sec. 40601 Orphaned Well Program
Submitted by the Railroad Commission of Texas, May 2022

Budget Narrative

A. FTEs – Total: \$1,300,800

- Engineering Specialist II (20 positions) will spend 100 percent of their time inspecting, preparing, witnessing, and documenting well plugging activities in the field. This position’s annual salary is \$52,800 and will be covered for the 12 months of the Initial Grant period.
- Administrative Assistant III (2 positions) will spend 100 percent of their time supporting well plugging activities by processing recommendations and invoices for payment and posting data to various tracking systems. This position’s annual salary is \$36,000 and will be covered for the 12 months of the Initial Grant period.
- Engineering Specialist II (1 position) will spend 100 percent of their time reviewing well plugging procedures, reviewing and approving well plugging recommendations and invoices for payment, and coordinating well plugging schedules with district offices. This position’s annual salary is \$52,800 and will be covered for the 12 months of the Initial Grant period.
- Project Manager V (1 position) will spend 100 percent of their time ensuring that grant funded well plugging activities comply with IJA grant reporting requirements, as well as all relevant federal statutes and regulations such as Davis Bacon Act and 2 CFR 200. This position’s annual salary is \$120,000 and will be covered for the 12 months of the Initial Grant period.

B. Fringe – Total: \$442,536

- FICA employer portion is 7.65 percent comprised 6.2 percent for Social Security and 1.45 percent for Medicare
- State Retirement Contribution to the State of Texas Employees Retirement System is 9.50 percent established by Texas Government Code Section 815.403.
- Health Insurance Contribution estimated rate set by the Texas Legislative Budget Board is 15.37 percent
- Payroll Health Insurance Contribution Texas Senate Bill 1, Regular Session, 87th Legislature, Article IX, Section 17.03 requires each state agency to contribute an amount equal to 1 percent of the total base wages and salaries for each benefits-eligible employee to the Employees Retirement System’s Group Benefits Program.
- Payroll Retirement Contribution Texas Government Code Section 815.4035 requires each state agency to contribute an amount equal to 0.5 percent of the total base wages and salaries for each eligible employee to the Employees Retirement System’s Retirement Program.

C. Travel - Total: \$232,000

- Gas and vehicle maintenance estimated based on FY 22 YTD vehicle use data.
 - \$0.29/mile x 20 vehicles x 40,000 mile annually

D. Contractual – Total: \$22,500,312

- Based on FY 22 YTD average cost to plug wells by district.
 - Well Plugging Contracts San Antonio 40 wells x \$29,922 per well
 - Well Plugging Contracts Houston 40 wells x \$62,849 per well
 - Well Plugging Contracts Corpus Christi 58 wells x \$80,374 per well
 - Well Plugging Contracts Kilgore 86 wells x \$26,886 per well
 - Well Plugging Contracts Abilene 81 wells x \$25,000 per well
 - Well Plugging Contracts San Angelo 80 wells x \$26,063 per well
 - Well Plugging Contracts Midland 80 wells x \$50,559 per well
 - Well Plugging Contracts Lubbock 80 wells x \$24,697 per well
 - Well Plugging Contracts Wichita Falls 20 wells x \$5,754 per well
 - Well Plugging Contracts Pampa 64 wells x \$24,531 per well

E. Materials/Supplies – Total: \$36,585

- Computer and peripherals \$1,194 x 24 FTEs Total \$28,656
 - HP EliteBook 845 G7 14" Notebook \$969 x 24 FTEs
 - Docking Station \$147 x 24 FTEs
 - 3 Year (Required by State DIR) Service Agreement \$52 x 24 FTEs
 - Netsync Imaging \$26 x 24 FTEs
- Cell phones \$396.45 x 20 Engineer Specialist II Field Plugging Inspectors total \$7,929

F. Equipment – Total \$470,707

- Ford F150 4x4 Trucks compliant with Build America, Buy America Act requirements. Supply chain issues as well as administrative cost constraints limit this purchase to 13 vehicles for 13 of the 20 new Engineering Specialist II FTEs. The remaining 7 new FTEs will use existing high-mileage Commission pool trucks.
 - \$36,208.20 x 13 Total \$470,707
 - OPT 014 Engine, higher performance \$1,195 x 13
 - OPT 063 - Grille guard, w/ push bar pads, 14 ga round tube, bolted to frame. Black \$940 x 13
 - OPT 800 - Reverse sensing system, OEM if available \$265 x 13
 - OPT 810 - Window tint, 25 percent Visible Light Transmission, max. \$199 x 13
 - OPT 916 - OEM installed short bed in lieu of long bed \$(179.00) x 13
 - Open Market 110v inverter \$340 x 13
 - 40/c/40 seats \$295 x 13
 - Work surface \$195 x 13
 - All Terrain Tires \$295 x 13
 - GPS System \$55 x 13
 - Decals and Installation \$305.20 x 13

G. Other – Total: \$17,060

- GIS and Other Data Modeling using a Data Modeler Contract Position from the State's Department of Information Resources IT Staff Augmentation Contract 112 hours x \$152.32/hour

H. Indirect Costs – N/A Total: \$0

- The current indirect rate is 68.63 percent; however, for the Initial Grant only the Commission does not anticipate that it will collect indirect. This decision will allow the Commission to provide its new employees with the equipment necessary to successfully implement this effort while staying within the 10 percent administrative expenses cap. This decision does not preclude the Commission from determining at a later date that indirect may be collected within the 10 percent administrative expenses cap, nor does it preclude the Commission from collecting Indirect costs for subsequent formula or performance grants.

**Infrastructure Investment and Jobs Act Sec. 40601 Orphaned Well Program
Submitted by the Railroad Commission of Texas**

Budget Detail

SUMMARY

Budget Category:	Budgeted 2023
Total Personnel	\$1,743,336
FTEs	\$1,300,800
Fringe	\$442,536
Travel	\$232,000
Contractual	\$22,500,312
Material/Supplies	\$36,585
Equipment	\$470,707
Other Items/Resources	\$17,060
Total Direct Costs (a)	\$25,000,000
Total Indirect Costs (b)	\$0
Project Total (a+b)	\$25,000,000
Total Project Cost	\$ 25,000,000
Total Administrative Cost (Up to 10%)	\$ 2,499,688

Personnel Costs:				Months Budgeted 2023	Monthly Cost Budgeted	Budgeted 2023
Job Title	Number FTEs	Annual Salary	Monthly Salary			
Engineering Specialist II (Field Based Plugging Inspectors)	20	\$ 52,800	\$ 4,400	12.0	\$ 88,000	\$ 1,056,000
Administrative Assistant III	2	\$ 36,000	\$ 3,000	12.0	\$ 6,000	\$ 72,000
Engineering Specialist II (Austin Technical Staff)	1	\$ 52,800	\$ 4,400	12.0	\$ 4,400	\$ 52,800
Project Manager V	1	\$ 120,000	\$ 10,000	12.0	\$ 10,000	\$ 120,000
	Subtotal					\$ 1,300,800
Fringe Multiplied by Salary at 34.02%						
Engineering Specialist II (Field Based Plugging Inspectors)				12.0	\$ 29,938	\$ 359,256
Administrative Assistant III				12.0	\$ 2,041	\$ 24,492
Engineering Specialist II (Austin Technical Staff)				12.0	\$ 1,497	\$ 17,964
Project Manager V				12.0	\$ 3,402	\$ 40,824
	Subtotal					\$ 442,536
				Total		\$ 1,743,336

Travel Costs:	Budgeted 2023
Description (to include # trips and location)	
Gas and vehicle maintenance (Est. \$0.29/mile for 20 vehicles @ 40,000 mile annually, based on FY 22 YTD vehicle use data)	\$232,000
Travel Total:	\$232,000

Contractual Costs:			Budgeted
*Based on FY 22 YTD average cost to plug wells by district.			
Description	Number (2023)	Average Cost as of 3/31/22	2023
Well Plugging Contracts San Antonio	40	\$ 29,922	\$1,196,880
Well Plugging Contracts Houston	40	\$ 62,849	\$2,513,960
Well Plugging Contracts Corpus Christi	58	\$ 80,374	\$4,661,692
Well Plugging Contracts Kilgore	86	\$ 26,886	\$2,312,196
Well Plugging Contracts Abilene	81	\$ 25,000	\$2,025,000
Well Plugging Contracts San Angelo	80	\$ 26,063	\$2,085,040
Well Plugging Contracts Midland	80	\$ 50,559	\$4,044,720
Well Plugging Contracts Lubbock	80	\$ 24,697	\$1,975,760
Well Plugging Contracts Wichita Falls	20	\$ 5,754	\$115,080
Well Plugging Contracts Pampa	64	\$ 24,531	\$1,569,984
Contractual Total:			\$22,500,312

Materials/Supplies:	Budgeted 2023
Description	
Computers - 24 @ \$1,194 each	\$28,656
Cell Phones - 20 @ \$396.45 annually for Engineer Specialist II	\$7,929
Materials/Supplies Total:	\$36,585

Equipment Purchases:	Budgeted 2023
Description	
Ford F150 4x4 Trucks - 13 @ \$36,208.20 (Supply chain issues as well as administrative cost constraints limit this purchase to 13 vehicles, the remaining 7 new FTEs will use existing high mileage Commission pool trucks.)	\$470,707
Equipment Total:	\$470,707

Other Items/Resources:	Budgeted 2023
Description	
GIS and Other Data Modeling (Data Modeler Contract Position on State Contract) 112 hours @ \$152.32/hour	\$17,060
Other Items/Resources Total:	\$17,060

	Budgeted 2023	% indirect Cost
Total Personnel Direct Costs (a)	\$1,743,336	
Total Other Direct Costs (b)	\$23,256,664	
Total Direct Costs	\$25,000,000	
Indirect Costs (c)	\$1,200,461	68.86%
The Commission will not charge indirect costs to this project to remain with the 10 percent administrative expenses cap.		
Total Costs: (a + b + c)	\$26,200,461	

Key Contacts Form

*** Applicant Organization Name:**

Railroad Commission of Texas

Enter the individual's role on the project (e.g., project manager, fiscal contact).

*** Contact 1 Project Role:** Project Director

Prefix: Mr.

*** First Name:** Clay

Middle Name:

*** Last Name:** Woodul

Suffix:

Title: Asst Dir of Oil and Gas, Field Operations

Organizational Affiliation:

Railroad Commission of Texas

*** Street1:** 1701 N. Congress Avenue

Street2: P.O. Box 12967

*** City:** Austin

County: Travis

*** State:** TX: Texas

Province:

*** Country:** USA: UNITED STATES

*** Zip / Postal Code:** 78711-2967

*** Telephone Number:** 512-463-7037

Fax:

*** Email:** clay.woodul@rrc.texas.gov

Delete Entry

Next Person

Key Contacts Form

*** Applicant Organization Name:**

Railroad Commission of Texas

Enter the individual's role on the project (e.g., project manager, fiscal contact).

*** Contact 2 Project Role:** Administrative and Fiscal Manager

Prefix: Ms.

* First Name: Colleen

Middle Name:

* Last Name: Forrest

Suffix:

Title: Strategic Planning and Research Manager

Organizational Affiliation:

Railroad Commission of Texas

* Street1: 1701 N. Congress Avenue

Street2: P.O. Box 12967

* City: Austin

County:

* State: TX: Texas

Province:

* Country: USA: UNITED STATES

* Zip / Postal Code: 78711-2967

* Telephone Number: 512-463-2645

Fax:

* Email: colleen.forrest@rrc.texas.gov

Delete Entry

Previous Person

Next Person

Infrastructure Investment and Jobs Act Sec. 40601 Orphaned Well Program Submitted by the Railroad Commission of Texas, May 2022

Recommended Elements

(a) The State's process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law:

In Texas, orphaned wells are inactive, non-compliant wells that have been inactive for a minimum of 12 months and the responsible operator's Organizational Report (Railroad Commission Form P-5) has been delinquent for greater than 12 months.

Texas Natural Resource Code 89.043 (c)(3) authorizes the Commission to attempt recovery of plugging costs either by issuing a Commission enforcement order that directs the operator to reimburse the Commission for plugging costs, or the Commission may request the Attorney General to file suit against the operator for reimbursement. A copy is provided as an appendix to this narrative.

(b) A description of the State's plugging standards, including the witnessing requirements (qualifications of witness, documentation):

The Commission's plugging standards are found within 16 Texas Administrative Code §3.14. A copy is provided as an appendix to this narrative.

(c) Details of the State's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities:

The Commission's prioritization process assigns numerical values to factors in four categories: well completion, wellbore conditions, well location with respect to sensitive areas, and unique environmental, social, or economic concern. The sum of those values assigns a priority level to each well. A copy of the prioritization system is attached as an appendix to this narrative.

(d) If no prioritization process currently exists, the State should describe its plans to develop and implement a prioritization process:

Not applicable.

(e) Details of how the State will identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities:

The Railroad Commission plans to develop a GIS tool building on existing layers that will allow staff and the public to view wells selected for plugging with an overlay U.S. Census data and elements from the U.S. Environmental Protection Agency Environmental Justice Screening and

Submission by the Railroad Commission of Texas, May 2022

Mapping Tool to determine whether those wells affect a disadvantaged community. Wells selected for plugging will follow the criteria of the Commission's established Well Plugging Priority System, which includes factors related to well location with respect to sensitive areas and unique environmental, safety, or economic concern.

(f) The methodology to be used by the State to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such emissions:

The Railroad Commission plans to use Initial Grant funding to determine the most effective and cost-efficient methodology to measure and track methane and other gases associated with orphaned wells. The Commission's established Well Plugging Priority System will be updated to include a binary methane measurement criterion under the System's potential environmental harm category. The Commission is considering two options to deploy either 4-way monitoring gas measurement devices or FLIR cameras. If the Commission deploys a 4-way monitoring gas measurement device at a well site a binary measurement will be used to determine if methane above a determined threshold is present. If the binary determination identifies the presence of methane emissions, a second measurement will be taken after the well has been plugged. If the threshold is met, more extensive methane monitoring will be used to quantify emissions. If the Commission deploys FLIR cameras at a well site a qualitative measurement will be used to determine if methane is present. If no emissions are witnessed no other measurements will be done. If emissions are witnessed a subsequent FLIR camera evaluation will be done within 60 days of plugging to qualitatively determine the subsequent absence of methane emissions.

(g) The methodology to be used by the State to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such contamination:

Generally, the Commission anticipates that its existing methodology related to contamination of groundwater and surface water will be followed with initial grant funds as well. During pre-plugging well inspections, the Commission will assess any evidence of corrosion or casing leaks, evidence of spills or leaks from surface equipment, and evidence of vertical migration of contamination from soil excavations. Data is collected and reviewed by staff. Based on the severity of any identified concerns as well as other site-specific factors such as proximity to surface water bodies, depth to groundwater, the presence or absence of permeable soils susceptible to vertical migration of contamination; the Commission may take further steps to investigate for possible contamination of surface water or groundwater. Where groundwater contamination is reasonably suspected, the Commission will deploy a professional engineering firm to install soil borings and monitor wells to characterize and, if appropriate, remediate and monitor groundwater contamination.

(h) The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure:

Generally, the Commission anticipates that its existing methodology for site remediation will be followed with initial grant funds as well. Contractors working under the Commission's oversight perform routine tank battery cleanup activities, which include assessing sites to determine

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priority, types and volumes of wastes, inspecting surface equipment for evidence of spills and leaks, loading, hauling and disposing of waste, removing or remediating contaminated soils, purging, cutting, and either removing or capping flowlines and gathering lines, and rendering abandoned equipment useless. Abandoned equipment may be removed as well, typically when the equipment has salvage or scrap value or for safety reasons. Following cleanup, contractors may restore the land surface to original grade and revegetate with native grasses to prevent erosion.

(i) Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local officials and the public:

The Railroad Commission will engage with local officials using the resources of the Texas Association of Counties and the Texas Municipal League to broadly distribute information about the Commission's well plugging activities. The Commission will create a dedicated email address for the public to make recommendations on the criteria used by the Commission to prioritize wells for plugging. The criteria is available on the Commission's website, and the opportunity to make recommendations will be announced using distribution lists, emails to associations and legislative entities, posts on social media, and announcements on the Commission's website. There will be ongoing state legislative oversight of the agency and its implementation of the well plugging program from the Texas House Committee on Environmental Regulation, the Texas House Committee on Energy Resources Committee, and the Texas Senate Committee on Natural Resources and Economic Development.

(j) Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance:

The Commission has not yet determined which wells will be plugged with the Initial Grant and cannot provide Latitude/Longitude or any of the other data elements in the Orphaned Well Data Reporting Template at this time.

(k) How the State will use funding to locate currently undocumented orphaned wells:

With an existing inventory of more than 8,000 documented orphaned wells in Texas, resources are most effectively directed towards the known orphaned well population at this time. The Commission has extensive knowledge of both the state's current well population of over 440,000 wells and its historical well populations. Since the Railroad Commission's orphaned well plugging program began more than 43,000 orphaned wells have been plugged by the Commission, with more than 219,000 additional wells plugged by operators in Texas since 1991. Undocumented orphaned wells are most likely to be identified by resources on the ground; either a landowner, recreational land user, oil and gas operator, or a Railroad Commission field inspector is most likely to identify an individual unknown orphaned well.

(l) Plans the State has to engage third-parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to;

Submission by the Railroad Commission of Texas, May 2022

Texas is a member of the Interstate Oil and Gas Compact Commission and the Ground Water Protection Council. The Commission is unlikely to engage in any third party partnerships around well plugging and site remediation.

(m) Training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation:

With an existing structure for training programs at community colleges across Texas, the Railroad Commission intends to support efforts begun in 2018 when the Texas Energy Education and Workforce Development Initiative brought together members of industry, academia, and government to ensure that Texas prepares the workforce of tomorrow that will power the energy sector. Representatives from the Texas Legislature, Texas Workforce Commission, Texas Education Agency, Texas Higher Education Coordinating Board, Texas Association of Community Colleges, Texas Oil and Gas Association, Texas Alliance of Energy Producers, Texas Independent Producers and Royalty Owners Association, Permian Basin Petroleum Association, Texas Pipeline Association, Texas Natural Gas Foundation, and several oil and gas companies engaged with the Commission to identify energy sector workforce development needs for the state, including those related to well plugging and site remediation.

(n) Plans the State has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project:

Several community colleges across the state of Texas offer International Association of Drilling Contractors programs to provide the oil and gas industry with screened, rig-ready new hire candidates. These programs provide classroom and lab training for entry-level workers giving them the knowledge and skills needed for employment in the drilling and exploration sector of the oil and gas industry, which are also necessary for well plugging and site remediation employment. Community colleges across Texas are adept at quickly developing continuing education certification programs to meet regional job training needs in conjunction with 28 Local Workforce Development Boards across the state.

(o) Plans the state has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development:

The Commission has an existing inventory of more than 8,000 documented orphaned wells located in communities across Texas, in both urban and rural areas. While many of the variables described in the Guidance definition of a “Disadvantaged Community” exist in areas with documented orphaned wells, wells selected for plugging will follow the criteria of the Commission’s established Well Plugging Priority System, which includes factors related to well location with respect to sensitive areas and unique environmental, safety, or economic concern. The Commission will engage with the Texas Workforce Commission, community colleges such as Del Mar College, Lone Star College, Odessa College, San Jacinto College, Western Texas College, and the 28 Local Workforce Development Boards across the state.

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(p) Procedures the State will use to coordinate with Federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, Federal, and Tribal land:

Representatives from the National Park Service and U.S. Fish and Wildlife contacted the Commission about orphaned wells located on lands they manage. Should those wells, or any other wells on federal lands, be selected for plugging under the federal program established by section 40601, the federal land manager should work with the Commission to establish a cooperative agreement with funding for the Commission to plug those wells. In Texas, an orphaned well must be plugged by the Railroad Commission pursuant to 16 TAC §3.14.

(q) The State’s authorities to enter private property, or a State’s procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface:

Texas Natural Resources Code §89.044 authorizes that the “Commission or its employees or agents, the operator, or the nonoperator, on proper identification, may enter the land of another for the purpose of plugging or replugging a well that has not been properly plugged.” A copy is provided as an appendix to this narrative and may be found on page 26 of the appendix.

The Railroad Commission has no authority to grant access to private property to a federal agency.

(r) A work schedule covering the period of performance of the Initial grant:

Activity	Timeframe
Receive funds	July 2022
Amend Existing Contracts	July 2022-September 2022
Obligate 90 percent of funds	September 2022
Deploy contracted resources to plug wells along with RRC staff in an oversight role	September 2022-August 2023
Submit Quarterly Reports	October 2022, January 2023, April 2023, July 2023
Submit 15 Month Reports	October 2023
Submit Closeout Reports (if needed)	TBD

(s) If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding State’s intention to negotiate or utilize the de minimis rate:

The U.S. Department of the Interior is the Railroad Commission’s cognizant agency. The current indirect rate is 68.63 percent. It was approved on July 15, 2021 for the period September 1, 2021 to August 31, 2022. A rate proposal was submitted on March 15, 2022. A copy of the current rate agreement is provided as an appendix to this narrative. For the Initial Grant only, the Commission does not anticipate that it will collect indirect. This decision will allow the Commission to provide its new employees with the equipment necessary to successfully implement this effort while staying within the 10 percent administrative expenses cap. This decision does not preclude the Commission from determining at a later date that indirect may be

Submission by the Railroad Commission of Texas, May 2022

collected within the 10 percent administrative expenses cap, nor does it preclude the Commission from collecting Indirect costs for subsequent formula or performance grants.

Appendix: Supplemental Information

16 Texas Administrative Code §3.14	A-2
Well Plugging Prioritization Methodology	A-11
Texas Natural Resources Code Chapter 89 Abandoned Wells	A-13
Sec. 89.043 Plugging by Commission	A-25
Sec. 89.044 Right to Enter on Land	A-27
Negotiated Indirect Cost Rate Agreement	A-40

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Texas Administrative Code

TITLE 16	ECONOMIC REGULATION
PART 1	RAILROAD COMMISSION OF TEXAS
CHAPTER 3	OIL AND GAS DIVISION
RULE §3.14	Plugging

(a) Definitions and application to plug.

(1) The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

(A) Approved cementer--A cementing company, service company, or operator approved by the Commission or its delegate to mix and pump cement for the purpose of plugging a well in accordance with the provisions of this section. The term shall also apply to a cementing company, service company, or operator authorized by the Commission or its delegate to use an alternate material other than cement to plug a well.

(B) Funnel viscosity--Viscosity as measured by the Marsh funnel, based on the number of seconds required for 1,000 cubic centimeters of fluid to flow through the funnel.

(C) Groundwater conservation district--Any district or authority created under §52, Article III, or §59, Article XVI, Texas Constitution, that has the authority to regulate the spacing of water wells, the production from water wells, or both.

(D) Operator designation form--A certificate of compliance and transportation authority or an application to drill, deepen, recomplete, plug back, or reenter that has been completed, signed, and filed with the Commission or its delegate.

(E) Productive horizon--Any stratum known to contain oil, gas, or geothermal resources in producible quantities in the vicinity of an unplugged well.

(F) Related piping--The surface piping and subsurface piping that is less than three feet beneath the ground surface between pieces of equipment located at any collection or treatment facility. Such piping would include piping between and among headers, manifolds, separators, storage tanks, gun barrels, heater treaters, dehydrators, and any other equipment located at a collection or treatment facility. The term is not intended to refer to lines, such as flowlines, gathering lines, and injection lines that lead up to and away from any such collection or treatment facility.

(G) Reported production--Production of oil or gas, excluding production attributable to well tests, accurately reported to the Commission or its delegate on Form PR, Monthly Production Report.

(H) Serve notice on the surface owner or resident--To hand deliver a written notice identifying the well or wells to be plugged and the projected date the well or wells will be plugged to the surface owner, or resident if the owner is absent, at least three days prior to the day of plugging or to mail the notice by first class mail, postage pre-paid, to the last known address of the surface owner or resident at least seven days prior to the day of plugging.

(I) Usable quality water strata--All strata determined by the Groundwater Advisory Unit of the Oil and Gas Division to contain usable quality water.

(J) Written notice--Notice actually received by the intended recipient in tangible or retrievable form, including notice set out on paper and hand-delivered, facsimile transmissions, and electronic mail

transmissions.

(2) The operator shall give the Commission notice of its intention to plug any well or wells drilled for oil, gas, or geothermal resources or for any other purpose over which the Commission has jurisdiction, except those specifically addressed in §3.100(e)(1) of this title (relating to Seismic Holes and Core Holes) (Statewide Rule 100), prior to plugging. The operator shall deliver or transmit the written notice to the district office on the appropriate form.

(3) The operator shall cause the notice of its intention to plug to be delivered to the district office at least five days prior to the beginning of plugging operations. The notice shall set out the proposed plugging procedure as well as the complete casing record. The operator shall not commence the work of plugging the well or wells until the proposed procedure has been approved by the district director or the director's delegate. The operator shall not initiate approved plugging operations before the date set out in the notification for the beginning of plugging operations unless authorized by the district director or the director's delegate. The operator shall notify the district office at least four hours before commencing plugging operations and proceed with the work as approved. The district director or the director's delegate may grant exceptions to the requirements of this paragraph concerning the timing of notices when a workover or drilling rig is already at work on location, and ready to commence plugging operations. Operations shall not be suspended prior to plugging the well unless the hole is cased and casing is cemented in place in compliance with Commission rules. The Commission's approval of a notice of intent to plug and abandon a well shall not relieve an operator of the requirement to comply with subsection (b)(2) of this section, nor does such approval constitute an extension of time to comply with subsection (b)(2) of this section.

(4) The surface owner and the operator may file an application to condition an abandoned well located on the surface owner's tract for usable quality water production operations. The application shall be made on Commission Form P-13, the Application of Landowner to Condition an Abandoned Well for Fresh Water Production.

(A) Standard for Commission Approval. Before the Commission will consider approval of an application:

- (i) the surface owner shall assume responsibility for plugging the well and obligate himself, his heirs, successors, and assignees to complete the plugging operations;
- (ii) the operator responsible for plugging the well shall place all cement plugs required by this rule up to the base of the usable quality water strata; and
- (iii) the surface owner shall submit:
 - (I) a signed statement attesting to the fact that:
 - (-a-) there is no groundwater conservation district for the area in which the well is located; or
 - (-b-) there is a groundwater conservation district for the area where the well is located, but the groundwater conservation district does not require that the well be permitted or registered; or
 - (-c-) the surface owner has registered the well with the groundwater conservation district for the area where the well is located; or
 - (II) a copy of the permit from the groundwater conservation district for the area where the well is located.

(B) The duty of the operator to properly plug ends only when:

- (i) the operator has properly plugged the well in accordance with Commission requirements up to the base of the usable quality water stratum;

(ii) the surface owner has registered the well with, or has obtained a permit for the well from, the groundwater conservation district, if applicable; and

(iii) the Commission has approved the application of surface owner to condition an abandoned well for fresh water production.

(5) The operator of a well shall serve notice on the surface owner of the well site tract, or the resident if the owner is absent, before the scheduled date for beginning the plugging operations. A representative of the surface owner may be present to witness the plugging of the well. Plugging shall not be delayed because of the lack of actual notice to the surface owner or resident if the operator has served notice as required by this paragraph. The district director or the director's delegate may grant exceptions to the requirements of this paragraph concerning the timing of notices when a workover or drilling rig is already at work on location and ready to commence plugging operations.

(b) Commencement of plugging operations, extensions, and testing.

(1) The operator shall complete and file in the district office a duly verified plugging record, in duplicate, on the appropriate form within 30 days after plugging operations are completed. A cementing report made by the party cementing the well shall be attached to, or made a part of, the plugging report. If the well the operator is plugging is a dry hole, an electric log status report shall be filed with the plugging record.

(2) Plugging operations on each dry or inactive well shall be commenced within a period of one year after drilling or operations cease and shall proceed with due diligence until completed unless the Commission or its delegate approves a plugging extension under §3.15 of this title (relating to Surface Equipment Removal Requirements and Inactive Wells).

(3) The Commission may plug or replug any dry or inactive well as follows:

(A) After notice and hearing, if the well is causing or is likely to cause the pollution of surface or subsurface water or if oil, gas, or other formation fluid is leaking from the well, and:

(i) neither the operator nor any other entity responsible for plugging the well can be found; or

(ii) neither the operator nor any other entity responsible for plugging the well has assets with which to plug the well.

(B) Without a hearing if the well is a delinquent inactive well and:

(i) the Commission has sent notice of its intention to plug the well as required by §89.043(c) of the Texas Natural Resources Code; and

(ii) the operator did not request a hearing within the period (not less than 10 days after receipt) specified in the notice.

(C) Without notice or hearing, if:

(i) the Commission has issued a final order requiring that the operator plug the well and the order has not been complied with; or

(ii) the well poses an immediate threat of pollution of surface or subsurface waters or of injury to the public health and the operator has failed to timely remediate the problem.

(4) The Commission may seek reimbursement from the operator and any other entity responsible for plugging the well for state funds expended pursuant to paragraph (3) of this subsection.

(c) Designated operator responsible for proper plugging.

(1) The entity designated as the operator of a well specifically identified on the most recent Commission-approved operator designation form filed on or after September 1, 1997, is responsible for properly plugging the well in accordance with this section and all other applicable Commission rules and regulations concerning plugging of wells.

(2) As to any well for which the most recent Commission-approved operator designation form was filed prior to September 1, 1997, the entity designated as operator on that form is presumed to be the entity responsible for the physical operation and control of the well and to be the entity responsible for properly plugging the well in accordance with this section and all other applicable Commission rules and regulations concerning plugging of wells. The presumption of responsibility may be rebutted only at a hearing called for the purpose of determining plugging responsibility.

(d) General plugging requirements.

(1) Wells shall be plugged to insure that all formations bearing usable quality water, oil, gas, or geothermal resources are protected. All cementing operations during plugging shall be performed under the direct supervision of the operator or his authorized representative, who shall not be an employee of the service or cementing company hired to plug the well. Direct supervision means supervision at the well site during the plugging operations. The operator and the cementer are both responsible for complying with the general plugging requirements of this subsection and for plugging the well in conformity with the procedure set forth in the approved notice of intention to plug and abandon for the well being plugged. The operator and cementer may each be assessed administrative penalties for failure to comply with the general plugging requirements of this subsection or for failure to plug the well in conformity with the approved notice of intention to plug and abandon the well.

(2) Cement plugs shall be set to isolate each productive horizon and usable quality water strata. Plugs shall be set as necessary to separate multiple usable quality water strata by placing the required plug at each depth as determined by the Groundwater Advisory Unit of the Oil and Gas Division. The operator shall verify the placement of the plug required at the base of the deepest usable quality water stratum by tagging with tubing or drill pipe or by an alternate method approved by the district director or the district director's delegate.

(3) Cement plugs shall be placed by the circulation or squeeze method through tubing or drill pipe. Cement plugs shall be placed by other methods only upon written request with the written approval of the district director or the director's delegate.

(4) All cement for plugging shall be an approved API oil well cement without volume extenders and shall be mixed in accordance with API standards. Slurry weights shall be reported on the cementing report. The district director or the director's delegate may require that specific cement compositions be used in special situations; for example, when high temperature, salt section, or highly corrosive sections are present. An operator shall request approval to use alternate materials, other than API oil well cement without volume extenders, to plug a well by filing with the director or the director's delegate a written request providing all pertinent information to support the use of the proposed alternate material and plugging method. The director or the director's delegate shall determine whether such a request warrants approval, after considering factors which include but are not limited [Cont'd...](#)

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Texas Administrative Code

TITLE 16	ECONOMIC REGULATION
PART 1	RAILROAD COMMISSION OF TEXAS
CHAPTER 3	OIL AND GAS DIVISION
RULE §3.14	Plugging

to whether or not the well to be plugged was used as an injection or disposal well; the well's history; the well's current bottom hole pressure; the presence of highly pressurized formations intersected by the wellbore; the method by which the alternative material will be placed in the wellbore; and the compressive strength and other performance specifications of the alternative material to be used. The director or the director's delegate shall approve such a request only if the proposed alternate material and plugging method will ensure that the well does not pose a potential threat of harm to natural resources.

(5) Operators shall use only cementers approved by the director or the director's delegate, except when plugging is conducted in accordance with subparagraph (B)(ii) of this paragraph or paragraph (6) of this subsection. Cementing companies, service companies, or operators may apply for designation as approved cementers. Approval will be granted on a showing by the applicant of the ability to mix and pump cement or other alternate materials as approved by the director or the director's delegate in compliance with this rule. An approved cementer is authorized to conduct plugging operations in accordance with Commission rules in each Commission district.

(A) A cementing company, service company, or operator seeking designation as an approved cementer shall file a request in writing with the district director of the district in which it proposes to conduct its initial plugging operations. The request shall contain the following information:

- (i) the name of the organization as shown on its most recent approved organizational report;
- (ii) a list of qualifications including personnel who will supervise mixing and pumping operations;
- (iii) length of time the organization has been in the business of cementing oil and gas wells;
- (iv) an inventory of the type of equipment to be used to mix and pump cement or other alternate materials as approved by the director or the director's delegate; and
- (v) a statement certifying that the organization will comply with all Commission rules.

(B) No request for designation as an approved cementer will be approved until after the district director or the director's delegate has:

- (i) inspected all equipment to be used for mixing and pumping cement or other alternate materials as approved by the director or the director's delegate; and
- (ii) witnessed at least one plugging operation to determine if the cementing company, service company, or operator can properly mix and pump cement or other alternate materials as approved by the director or the director's delegate according to the specifications required by this rule.

(C) The district director or the director's delegate shall file a letter with the director or the director's delegate recommending that the application to be designated as an approved cementer be approved or denied. If the district director or the director's delegate does not recommend approval, or the director or the director's delegate denies the application, the applicant may request a hearing on its application.

(D) Designation as an approved cementer may be suspended or revoked for violations of Commission rules. The designation may be revoked or suspended administratively by the director or the director's delegate for violations of Commission rules if:

(i) the cementer has been given written notice by personal service or by registered or certified mail informing the cementer of the proposed action, the facts or conduct alleged to warrant the proposed action, and of its right to request a hearing within 10 days to demonstrate compliance with Commission rules and all requirements for retention of designation as an approved cementer; and

(ii) the cementer did not file a written request for a hearing within 10 days of receipt of the notice.

(6) An operator may request administrative authority to plug its own wells without being an approved cementer. An operator seeking such authority shall file a written request with the district director and demonstrate its ability to mix and pump cement or other alternate materials as approved by the director or the director's delegate in compliance with this subsection. The district director or the director's delegate shall determine whether such a request warrants approval. If the district director or the director's delegate refuses to administratively approve this request, the operator may request a hearing on its request.

(7) The district director or the director's delegate may require additional cement plugs to cover and contain any productive horizon or to separate any water stratum from any other water stratum if the water qualities or hydrostatic pressures differ sufficiently to justify separation. The tagging and/or pressure testing of any such plugs, or any other plugs, and respotting may be required if necessary to ensure that the well does not pose a potential threat of harm to natural resources.

(8) For onshore or inland wells, a 10-foot cement plug shall be placed in the top of the well, and casing shall be cut off three feet below the ground surface.

(9) Mud-laden fluid of at least 9-1/2 pounds per gallon with a minimum funnel viscosity of 40 seconds shall be placed in all portions of the well not filled with cement or other alternate material as approved by the director or the director's delegate. The hole shall be in static condition at the time the cement plugs are placed. The district director or the director's delegate may grant exceptions to the requirements of this paragraph if a deviation from the prescribed minimums for fluid weight or viscosity will insure that the well does not pose a potential threat of harm to natural resources. An operator shall request approval to use alternate fluid other than mud-laden fluid by filing with the district director a written request providing all pertinent information to support the use of the proposed alternate fluid. The district director or the director's delegate shall determine whether such a request warrants approval, and shall approve such a request only if the proposed alternate fluid will insure that the well does not pose a potential threat of harm to natural resources.

(10) Non-drillable material that would hamper or prevent reentry of a well shall not be placed in any wellbore during plugging operations, except in the case of a well plugged and abandoned under the provisions of §3.35 or §4.614(b) of this title (relating to Procedures for Identification and Control of Wellbores in Which Certain Logging Tools Have Been Abandoned (Statewide Rule 35); and Authorized Disposal Methods, respectively). Pipe and unretrievable junk shall not be cemented in the hole during plugging operations without prior approval by the district director or the director's delegate.

(11) All cement plugs, except the top plug, shall have sufficient slurry volume to fill 100 feet of hole, plus 10% for each 1,000 feet of depth from the ground surface to the bottom of the plug.

(12) The operator shall fill the rathole, mouse hole, and cellar, and shall empty all tanks, vessels, related piping and flowlines that will not be actively used in the continuing operation of the lease within 120 days after plugging work is completed. Within the same 120 day period, the operator shall remove all such tanks, vessels, and related piping, remove all loose junk and trash from the location, and contour the location to discourage pooling of surface water at or around the facility site. The operator shall close all pits in accordance with the provisions of §3.8 of this title (relating to Water Protection (Statewide Rule 8)). The district director or the

director's delegate may grant a reasonable extension of time of not more than an additional 120 days for the removal of tanks, vessels and related piping.

(e) Plugging requirements for wells with surface casing.

(1) When insufficient surface casing is set to protect all usable quality water strata and such usable quality water strata are exposed to the wellbore when production or intermediate casing is pulled from the well or as a result of such casing not being run, a cement plug shall be a minimum of 100 feet in length and shall extend at least 50 feet above and 50 feet below the base of the deepest usable quality water stratum. This plug shall be evidenced by tagging with tubing or drill pipe. The plug shall be respotted if it has not been properly placed. In addition, a cement plug shall be set across the shoe of the surface casing. This plug shall be a minimum of 100 feet in length and shall extend at least 50 feet above and below the shoe.

(2) When sufficient surface casing has been set to protect all usable quality water strata, a cement plug shall be placed across the shoe of the surface casing. This plug shall be a minimum of 100 feet in length and shall extend at least 50 feet above the shoe and at least 50 feet below the shoe.

(3) If surface casing has been set deeper than 200 feet below the base of the deepest usable quality water stratum, an additional cement plug shall be placed inside the surface casing across the base of the deepest usable quality water stratum. This plug shall be a minimum of 100 feet in length and shall extend at least 50 feet below and 50 feet above the base of the deepest usable quality water stratum.

(4) Plugs shall be set as necessary to separate multiple usable quality water strata by placing the required plug at each depth as determined by the Groundwater Advisory Unit of the Oil and Gas Division.

(5) An operator may not remove, cause to be removed, or allow to be removed surface casing from a well at abandonment. This prohibition applies to wells drilled by cable tool and rotary rigs alike.

(f) Plugging requirements for wells with intermediate casing.

(1) For wells in which the intermediate casing has been cemented through all usable quality water strata and all productive horizons, a cement plug meeting the requirements of subsection (d)(11) of this section shall be placed inside the casing and centered opposite the base of the deepest usable quality water stratum, but extend no less than 50 feet above and below the base of the deepest usable quality water stratum.

(2) For wells in which intermediate casing is not cemented through all usable quality water strata and all productive horizons, and if the casing will not be pulled, the intermediate casing shall be perforated at the required depths to place cement outside of the casing by squeeze cementing through casing perforations.

(3) Additionally, plugs shall be set as necessary to separate multiple usable quality water strata by placing the required plug at each depth as determined by the Groundwater Advisory Unit of the Oil and Gas Division.

(g) Plugging requirements for wells with production casing.

(1) For wells in which the production casing has been cemented through all usable quality water strata and all productive horizons, a cement plug meeting the requirements of subsection (d)(11) of this section shall be placed inside the casing and centered opposite the base of the deepest usable quality water stratum and across any multi-stage cementing tool. This plug shall be a minimum of 100 feet in length and shall extend at least 50 feet below and 50 feet above the base of the deepest usable quality water stratum.

(2) For wells in which the production casing has not been cemented through all usable quality water strata and all productive horizons and if the casing will not be pulled, the production casing shall be perforated at the required depths to place cement outside of the casing by squeeze cementing through casing perforations.

(3) The district director or the director's delegate may approve a cast iron bridge plug to be placed immediately above each perforated interval, provided at least 20 feet of cement is placed on top of each bridge

plug. A bridge plug shall not be set in any well at a depth where the pressure or temperature exceeds the ratings recommended by the bridge plug manufacturer.

(4) Additionally, plugs shall be set as necessary to separate multiple usable quality water strata by placing the required plug at each depth as determined by the Groundwater Advisory Unit of the Oil and Gas Division.

(h) Plugging requirements for well with screen or liner.

(1) If practical, the screen or liner shall be removed from the well.

(2) If the screen or liner is not removed, a cement plug in accordance with subsection (d)(11) of this section shall be placed at the top of the screen or liner.

(i) Plugging requirements for wells without production casing and open-hole completions.

(1) Any productive horizon or any formation in which a pressure or formation water problem is known to exist shall be isolated by cement plugs centered at the top and bottom of the formation. Each cement plug shall have sufficient slurry volume to fill a calculated height as specified in subsection (d)(11) of this section.

(2) If the gross thickness of any such formation is less than 100 feet, the tubing or drill pipe shall be suspended 50 feet below the base of the formation. Sufficient slurry volume shall be pumped to fill the calculated height from the bottom of the tubing or drill pipe up to a point at least 50 feet above the top of the formation, plus 10% for each 1,000 feet of depth from the ground surface to the bottom of the plug.

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Texas Administrative Code

TITLE 16	ECONOMIC REGULATION
PART 1	RAILROAD COMMISSION OF TEXAS
CHAPTER 3	OIL AND GAS DIVISION
RULE §3.14	Plugging

(j) The district director or the director's delegate shall review and approve the notification of intention to plug in a manner so as to accomplish the purposes of this section. The district director or the director's delegate may approve, modify, or reject the operator's notification of intention to plug. If the proposal is modified or rejected, the operator may request a review by the director or the director's delegate. If the proposal is not administratively approved, the operator may request a hearing on the matter. After hearing, the examiner shall recommend final action by the Commission.

(k) Plugging horizontal drainhole wells. All plugs in horizontal drainhole wells shall be set in accordance with subsection (d)(11) of this section. The productive horizon isolation plug shall be set from a depth 50 feet below the top of the productive horizon to a depth either 50 feet above the top of the productive horizon, or 50 feet above the production casing shoe if the production casing is set above the top of the productive horizon. If the production casing shoe is set below the top of the productive horizon, then the productive horizon isolation plug shall be set from a depth 50 feet below the production casing shoe to a depth that is 50 feet above the top of the productive horizon. In accordance with subsection (d)(7) of this section, the Commission or its delegate may require additional plugs.

Source Note: The provisions of this §3.14 adopted to be effective January 1, 1976; amended to be effective February 29, 1980, 5 TexReg 499; amended to be effective January 1, 1983, 7 TexReg 3989; amended to be effective March 10, 1986, 11 TexReg 901; amended to be effective September 8, 1986, 11 TexReg 3792; amended to be effective November 9, 1987, 12 TexReg 3959; amended to be effective May 9, 1988, 13 TexReg 2026; amended to be effective March 1, 1992, 17 TexReg 1227; amended to be effective September 1, 1992, 17 TexReg 5283; amended to be effective September 20, 1995, 20 TexReg 6931; amended to be effective September 14, 1998, 23 TexReg 9300; amended to be effective December 28, 1999, 24 TexReg 11711; amended to be effective July 10, 2000, 25 TexReg 6487; amended to be effective November 1, 2000, 25 TexReg 9924; amended to be effective January 9, 2002, 27 TexReg 139; amended to be effective July 28, 2003, 28 TexReg 5853; amended to be effective December 3, 2003, 28 TexReg 10747; amended to be effective September 1, 2004, 29 TexReg 8271; amended to be effective January 30, 2007, 32 TexReg 287; amended to be effective September 13, 2010, 35 TexReg 8332; amended to be effective July 2, 2012, 37 TexReg 4892

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TEXAS REGISTER

TEXAS ADMINISTRATIVE CODE

OPEN MEETINGS

Well Plugging Prioritization Methodology

The Railroad Commission uses a priority methodology to rank wells for plugging to ensure that those wells posing the greatest threat to public safety and the environment are plugged first. The priority system includes four factors relating to the threat a wellbore poses to public safety and the environment:

1. Well Completion;
2. Wellbore Conditions;
3. Well Location with respect to sensitive areas; and
4. Unique Environmental, Safety, or Economic Concern.

Table 1 lists the factors used in this prioritization system. The sum of all factors provides a total weight, which determines a well's plugging priority. Wells receive a priority of 1, 2H, 2, 3, or 4, where 1 is the highest priority. The priority system assigns leaking wells the highest priority (an automatic priority 1) and assigns an automatic priority 2 if the well fails a fluid level test.

Table 1: Well Plugging Priority System

	FACTOR	Weight
1	Well Completion	
A	Unknown (no well records)	15
B	No surface casing or set above base of deepest usable quality water	10
C	Additional casing string not adequately cemented to isolate usable quality water	5
D	Injection or Disposal Well	10
E	Well penetrates salt/corrosive water bearing formation or abnormally pressured formation	5
F	Well in H2S Field	5
G	Age: Well drilled \geq 25 years ago	5
	Total: (40 points max)	
2	Wellbore Conditions	
A	Well is pressured up at the surface (tubing or prod casing)	10
B	Bradenhead pressure exists *	5
	Auto 2H if UQW not protected and fluid at BH is not UQW	
C	Measured fluid level	
D	Fluid level at or above the base of deepest usable quality water.	50
E	Fluid level less than 250' below base of deepest usable quality water (NA if 2D applies)	15
F	MIT Failure	5
G	H-15 (MIT) never performed or test > 5 years old (NA if F applies)	3
H	Inadequate wellhead control/integrity	5
	Total: (75 points max)	
3	Well location with respect to sensitive areas:	
A	H2S well with Public area ROE** Automatic Priority 2H	
B	In Marine Environment	10
C	Within 100' or river, lake, creek, or domestic use fresh water well (NA if B applies)	5
D	Between 100' and 1/4 mile of river, lake, creek, or domestic use fresh water well (NA if C applies)	3
E	Located within agricultural area.	2
F	Well located in known sensitive wildlife area.	3
G	Well located within city or town site limits.	10
	Total (20 points max)	

4	Unique environmental, Safety, or Economic Concern	
A	Adjacent to active water flood or disposal well at or above completion interval.	5
B	Logistics (poor roads, encroaching public, etc.)	5
C	Well contains junk.	5
D	P-5 Delinquent > 5 years	5
E	Other (attach explanation)	1-20
	Total: (20 points max)	

Total Weight

Priority 1 = Leaking Well [based upon definition]
Priority 2H = Higher Risk well [based on definition and/or total weight of 75+]
Priority 2 = Total Weight of 50-75
Priority 3 = Total Weight of 25-49
Priority 4 = Total Weight < 25

*BH pressure is sustained.

**2H if public areas could be impacted based on 16 Texas Administrative Code §3.36 [Statewide Rule 36] definition.

Undetected/continuous leak possible.

NATURAL RESOURCES CODE

TITLE 3. OIL AND GAS

SUBTITLE B. CONSERVATION AND REGULATION OF OIL AND GAS

CHAPTER 89. ABANDONED WELLS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 89.001. POLICY. The conservation and development of all the natural resources of this state are declared to be a public right and duty. It is also declared that the protection of water and land of the state against pollution or the escape of oil or gas is in the public interest. In the exercise of the police power of the state, it is necessary and desirable to provide additional means so that wells that are drilled for the exploration, development, or production of oil or gas, or as injection or salt water disposal wells, and that have been abandoned and are leaking salt water, oil, gas, or other deleterious substances into freshwater formations or on the surface of the land, may be plugged, replugged, or repaired by or under the authority and direction of the commission.

Acts 1977, 65th Leg., p. 2552, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 89.002. DEFINITIONS. (a) In this chapter:

(1) "Well" means a hole drilled for the purpose of:

(A) producing oil or gas;

(B) injecting fluid or gas in the ground in connection with the exploration or production of oil and gas;

(C) obtaining geological information by taking cores or through seismic operations; or

(D) producing geothermal energy and associated resources that are subject to the jurisdiction of the Railroad Commission of Texas.

(2) "Operator" means a person who assumes responsibility for the physical operation and control of a well as shown by a form the person files with the commission and the commission approves. The commission may not require a person to assume responsibility for a well as a condition to being permitted to assume responsibility for another well. In the event of a sale or conveyance of an unplugged well or the right to operate an unplugged well, a person ceases being the operator for the purpose of Section 89.011 only if the well was in compliance with commission rules

relating to safety or the prevention or control of pollution at the time of sale or conveyance and once the person who acquires the well or right to operate the well:

(A) specifically identifies the well as a well for which the person assumes plugging responsibility on forms required and approved by the commission;

(B) has a commission-approved organization report as required by Section 91.142;

(C) has a commission-approved bond, letter of credit, or cash deposit under Sections 91.103-91.107 covering the well; and

(D) places the well in compliance with commission rules.

(3) "Nonoperator" means a person who owns a working interest in a well at the time the well is required to be plugged pursuant to commission rules and is not an operator as defined in Subdivision (2) of this subsection.

(4) "Commission" means the Railroad Commission of Texas.

(5) "Well-site equipment" means any production-related equipment or materials specific to the well being plugged, including motors, pumps, pump jacks, tanks, tank batteries, separators, compressors, casing, tubing, and rods.

(6) "Lease" means the lease on which a well made the subject of a plugging contract is located.

(7) "Delinquent inactive well" means an inactive well for which, after notice and opportunity for a hearing, the commission has not extended the plugging deadline.

(8) "Plugging" includes replugging.

(9) "Cost calculation for plugging an inactive well" means the commission's calculated cost for each foot of well depth plugged based on average actual plugging costs for wells reported by the commission for the preceding state fiscal year for the commission oil and gas division district in which the inactive well is located.

(10) "Enhanced oil recovery project":

(A) means:

(i) a commission-approved project that uses any process for the displacement of oil or other hydrocarbons from a reservoir other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal, or biological process;

(ii) a certified project described by Section 202.054, Tax Code; or

(iii) any other project approved by the commission for enhanced oil recovery; and

(B) does not include a water disposal project.

(11) "Good faith claim" means a factually supported claim based on a recognized legal theory to a continuing possessory right in a mineral estate, such as evidence of a currently valid oil and gas lease or a recorded deed conveying a fee interest in the mineral estate.

(12) "Inactive well" means an unplugged well that has had no reported production, disposal, injection, or other permitted activity for a period of greater than 12 months.

(13) "Physically terminated electric service to the well's production site" means that electric service to an inactive well site has been disconnected at a point on the electric service lines most distant from the production site toward the main supply line in a manner that will not interfere with electrical supply to adjacent operations, including cathodic protection units.

(b) The terms operator and nonoperator as defined in this section do not mean a royalty interest owner or an overriding royalty interest owner.

Acts 1977, 65th Leg., p. 2552, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5255, ch. 967, Sec. 4, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5406, ch. 1002, Sec. 1, eff. Aug. 29, 1983; Acts 1993, 73rd Leg., ch. 882, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 515, Sec. 1, eff. Jan. 1, 1994; Acts 1997, 75th Leg., ch. 89, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1233, Sec. 11, eff. Sept. 1, 2004.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 442 (H.B. 2259), Sec. 1, eff. September 1, 2009.

Sec. 89.003. APPLICABILITY. The provisions of this chapter do not alter causes of action arising before August 30, 1965.

Acts 1977, 65th Leg., p. 2553, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

SUBCHAPTER B. DUTY TO PLUG WELLS

Sec. 89.011. DUTY OF OPERATOR. (a) The operator of a well shall properly plug the well when required and in accordance with the commission's rules that are in effect at the time of the plugging.

(b) If useable quality water zones are present, the operator shall verify the placement of the plug at the base of the deepest fresh water zone required to be protected. The well is considered to have been properly plugged only when the verification is satisfactory and meets commission requirements.

(c) If, for the use of the surface owner, the operator of the well plugs the well back to produced fresh water, the duty of the operator to properly plug the well ends only when:

(1) the well has been properly plugged in accordance with commission requirements; and

(2) the surface owner has obtained a permit for the well from the groundwater conservation district, if applicable.

(d) Subsections (b) and (c) apply only to wells plugged on or after the effective date of this Act.

(e) The duty of a person to plug an unplugged well that has ceased operation ends only if the person's interest in the well is sold or conveyed while the well is in compliance with rules of the commission relating to safety or the prevention or control of pollution and the provisions of Sections 89.002(a)(2)(A)-(D) have been met. The person acquiring the seller's interest through such a sale or conveyance succeeds the seller as the operator of the well for the purpose of plugging responsibility once the provisions of Sections 89.002(a)(2)(A)-(D) have been met.

Acts 1977, 65th Leg., p. 2553, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1993, 73rd Leg., ch. 882, Sec. 2, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 89, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1233, Sec. 12, eff. Sept. 1, 2001.

Sec. 89.012. DUTY OF NONOPERATOR. If the operator of a well fails to comply with Section 89.011 of this code, each nonoperator is responsible for his proportionate share of the cost of the proper plugging of the well within a reasonable time, according to the rules of the commission in effect at the time the responsibility attaches.

Acts 1977, 65th Leg., p. 2553, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

SUBCHAPTER B-1. PLUGGING OF CERTAIN INACTIVE WELLS

Sec. 89.021. APPLICABILITY. This subchapter does not apply to a bay or offshore well as defined by commission rules.

Added by Acts 2009, 81st Leg., R.S., Ch. 442 (H.B. 2259), Sec. 2, eff. September 1, 2009.

Sec. 89.022. PLUGGING OF INACTIVE WELLS REQUIRED. (a) Except as provided by Section 89.023, on or before the date the operator is required to renew the operator's organization report required by Section 91.142, an operator of an inactive well must plug the well in accordance with statutes and commission rules in effect at the time of plugging.

(b) Notwithstanding Subsection (a), a person who assumes responsibility for the physical operation and control of an existing inactive well must satisfy the requirements of Sections 89.023(a)(1) and (3) not later than six months after the date the commission approves the initial form described by Section 89.002(a)(2) and filed with the commission under which the person assumes responsibility for the well.

(c) The commission may not renew or approve the organization report required by Section 91.142 for an operator that fails to comply with the requirements of this subchapter.

(d) Before the commission issues an order refusing to renew an operator's organization report under Subsection (c), an authorized commission employee or a person designated by the commission for that purpose must determine whether the operator has failed to comply with the requirements of this subchapter. If the authorized commission employee or designated person determines that the organization report does not qualify for renewal on that ground, the authorized commission employee or designated person must:

- (1) notify the operator of the determination;
- (2) provide the operator with a written statement of the reasons the organization report does not qualify for renewal; and
- (3) notify the operator that the operator has 90 days to comply with the requirements of this subchapter.

(e) After the expiration of the period specified by Subsection (d)(3), the authorized commission employee or designated person shall determine whether the organization report qualifies for renewal and notify the operator of the determination. If the authorized commission employee or designated person determines that the organization report does not qualify for renewal because the operator has continued to fail to comply with the requirements of this subchapter, the operator, not later than the 30th day after the date of the determination, may request a hearing

regarding the determination. The operator shall pay the costs associated with a hearing requested under this subsection.

(f) If the commission determines following the hearing that the operator has failed to comply with the requirements of this subchapter or the operator fails to file a timely request for a hearing, the commission by order shall refuse to renew the organization report. The organization report remains in effect until the commission's order becomes final.

Added by Acts 2009, 81st Leg., R.S., Ch. 442 (H.B. 2259), Sec. 2, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 562 (H.B. 3134), Sec. 1, eff. June 17, 2011.

Sec. 89.023. EXTENSION OF DEADLINE FOR PLUGGING INACTIVE WELL.

(a) The commission may grant an extension of the deadline for plugging an inactive well if the operator maintains a current organization report with the commission as required by Section 91.142 and if, on or before the date of renewal of the operator's organization report as required by that section, the operator files with the commission an application for an extension that includes:

(1) an affirmation that complies with Section 89.029;

(2) a statement that the operator has, and on request will provide, evidence of a good faith claim to a continuing right to operate the well; and

(3) at least one of the following:

(A) documentation that since the preceding date that the operator's organization report was required to be renewed the operator has plugged, or restored to active operation as defined by commission rule, a number of inactive wells equal to or greater than 10 percent of the number of inactive wells operated by the operator on that date;

(B) an abeyance of plugging report on a form approved by the commission that:

(i) is in the form of a certification signed by a person licensed by the Texas Board of Professional Engineers and Land Surveyors as an engineer or by the Texas Board of Professional Geoscientists;

(ii) includes:

(a) an affirmation by the licensed person that the well has:

(1) a reasonable expectation of economic value in excess of the cost of plugging the well for the duration of the period covered by the report, based on the cost calculation for plugging an inactive well; and

(2) a reasonable expectation of being restored to a beneficial use that will prevent waste of oil or gas resources that otherwise would not be produced if the well were plugged; and

(b) appropriate documentation demonstrating the basis for the affirmation of the well's future utility; and

(iii) specifies the field and the covered wells within that field in a format prescribed by the commission;

(C) a statement that the well is part of an enhanced oil recovery project;

(D) if the operator of the well is not currently otherwise required by commission rule or order to conduct a fluid level or hydraulic pressure test of the well, documentation of the results of a successful fluid level or hydraulic pressure test of the well conducted in accordance with the commission's rules in effect at the time the test is conducted;

(E) a supplemental bond, letter of credit, or cash deposit sufficient for each well specified in the application that:

(i) complies with the requirements of Chapter 91; and

(ii) is of an amount at least equal to the cost calculation for plugging an inactive well for each well specified in the application;

(F) documentation of the deposit with the commission each time the operator files an application of an amount of escrow funds as prescribed by commission rule that equal at least 10 percent of the total cost calculation for plugging an inactive well for each well specified in the application; or

(G) if the operator is a publicly traded entity:

(i) the following documents:

(a) a copy of the operator's federal documents filed to comply with Financial Accounting Standards Board Statement No. 143, Accounting for Asset Retirement Obligations; and

(b) an original, executed Uniform Commercial Code Form 1 Financing Statement, filed with the secretary of state, that:

(1) names the operator as the "debtor" and the Railroad Commission of Texas as the "secured creditor"; and

(2) specifies the funds covered by the documents described by Sub-subparagraph (a) in the amount of the cost calculation for

plugging an inactive well for each well specified in the application; or
 (ii) a blanket bond in the amount of the lesser of:
 (a) the cost calculation for plugging any inactive wells; or
 (b) \$2 million.

(b) Notwithstanding Subsection (a), an operator may not obtain an extension of the deadline for plugging an inactive well by complying with that subsection if the plugging of the well is otherwise required by commission rules or orders.

Added by Acts 2009, 81st Leg., R.S., Ch. 442 (H.B. 2259), Sec. 2, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 562 (H.B. 3134), Sec. 2, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1232 (H.B. 1523), Sec. 2.11, eff. September 1, 2019.

Sec. 89.024. ABEYANCE OF PLUGGING REPORT. (a) An abeyance of plugging report filed under Section 89.023(a)(3)(B) is valid for a period of not more than five years.

(b) An abeyance of plugging report may cover more than one well in a field but may not cover more than one field.

(c) An abeyance of plugging report may not be transferred to a new operator of an existing inactive well. A new operator of an existing inactive well must file a new abeyance of plugging report or otherwise comply with the requirements of this subchapter on or before the deadline provided by Section 89.022(b). This subsection does not prohibit the transfer of an abeyance of plugging report in the event of a change of name of an operator.

(d) An operator who files an abeyance of plugging report must pay an annual fee of \$100 for each well covered by the report. A fee collected under this section shall be deposited in the oil and gas regulation and cleanup fund.

Added by Acts 2009, 81st Leg., R.S., Ch. 442 (H.B. 2259), Sec. 2, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 562 (H.B. 3134), Sec. 3, eff. June 17, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.07, eff. September 28, 2011.

Sec. 89.025. ENHANCED OIL RECOVERY PROJECT. (a) For purposes of Section 89.023(a)(3)(C), an inactive well is considered to be part of an enhanced oil recovery project if the well is located on a unit or lease or in a field associated with such a project.

(b) A statement that an inactive well is part of an enhanced oil recovery project may not be transferred to a new operator of an existing inactive well. A new operator of an existing inactive well must file a new statement that the well is part of such a project or otherwise comply with the requirements of this subchapter on or before the deadline provided by Section 89.022(b). This subsection does not prohibit the transfer of a statement that a well is part of an enhanced oil recovery project in the event of a change of name of an operator.

Added by Acts 2009, 81st Leg., R.S., Ch. 442 (H.B. 2259), Sec. 2, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 562 (H.B. 3134), Sec. 4, eff. June 17, 2011.

Sec. 89.026. FLUID LEVEL OR HYDRAULIC PRESSURE TEST. (a) Documentation filed under Section 89.023(a)(3)(D) of the results of a successful fluid level test is valid for a period of one year from the date of the test. Documentation filed under that section of the results of a successful hydraulic pressure test is valid for a period of not more than five years from the date of the test.

(b) The operator must notify the office of the commission oil and gas division district in which an inactive well is located at least three days before the date the operator conducts a fluid level or hydraulic pressure test of the well and may not conduct the test without the approval of the office. The commission may require that a test be witnessed by a commission employee.

(c) Documentation of the results of a successful fluid level or hydraulic pressure test may be transferred to a new operator of an existing inactive well.

(d) An operator who files documentation described by Subsection (a) must pay an annual fee of \$50 for each well covered by the documentation.

A fee collected under this section shall be deposited in the oil and gas regulation and cleanup fund.

Added by Acts 2009, 81st Leg., R.S., Ch. 442 (H.B. 2259), Sec. 2, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 562 (H.B. 3134), Sec. 5, eff. June 17, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.08, eff. September 28, 2011.

Sec. 89.027. SUPPLEMENTAL FINANCIAL ASSURANCE. (a) A supplemental bond, letter of credit, or cash deposit filed under Section 89.023(a)(3)(E) is in addition to any other financial assurance otherwise required of the operator or for the well.

(b) A supplemental bond, letter of credit, or cash deposit may not be transferred to a new operator of an existing inactive well. A new operator of an existing inactive well must file a new supplemental bond, letter of credit, or cash deposit or otherwise comply with the requirements of this subchapter by the deadline provided by Section 89.022(b).

Added by Acts 2009, 81st Leg., R.S., Ch. 442 (H.B. 2259), Sec. 2, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 562 (H.B. 3134), Sec. 6, eff. June 17, 2011.

Sec. 89.028. ESCROW FUNDS. (a) Escrow funds described by Section 89.023(a)(3)(F) must be deposited with the commission each time an operator files an application for an extension of the deadline for plugging an inactive well.

(b) Escrow funds deposited with the commission may be released only with the approval of the commission as prescribed by commission rule.

Added by Acts 2009, 81st Leg., R.S., Ch. 442 (H.B. 2259), Sec. 2, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 562 (H.B. 3134), Sec. 7, eff. June 17, 2011.

Sec. 89.029. AFFIRMATION REGARDING SURFACE REQUIREMENTS. (a) An application for an extension of the deadline for plugging an inactive well must include a written affirmation by the operator:

(1) that the operator has physically terminated electric service to the well's production site; and

(2) stating the following, as applicable, if the operator does not own the surface of the land on which the well is located:

(A) if the well has been inactive for at least five years but for less than 10 years as of the date of renewal of the operator's organization report, that the operator has emptied or purged of production fluids all piping, tanks, vessels, and equipment associated with and exclusive to the well; or

(B) if the well has been inactive for at least 10 years as of the date of renewal of the operator's organization report, that the operator has removed all surface process equipment and related piping, tanks, tank batteries, pump jacks, headers, and fences, as well as junk and trash as defined by commission rule, associated with and exclusive to the well.

(b) An operator of an inactive well shall leave a clearly visible marker at the wellhead of the well.

(c) The commission shall adopt rules regulating the transfer of material described by Subsection (a) (2) (B) and restricting its accumulation on an active lease.

(d) Notwithstanding Subsection (a), an operator may be eligible for a temporary extension of the deadline for plugging an inactive well or a temporary exemption from the requirements of Subsection (a) as provided by commission rule if the operator is unable to comply with the requirements of that subsection because of safety concerns or required maintenance of the well site and the operator includes with the application a written affirmation of the facts regarding the safety concerns or maintenance.

(e) An operator may be eligible for an extension of the deadline for plugging a well without complying with Subsection (a) (2) (B) if the well is located on a unit or lease or in a field associated with an enhanced oil recovery project and the operator includes a statement in the written affirmation that the well is part of such a project. The exemption provided by this subsection applies only to the equipment required for the project.

(f) Notwithstanding the other provisions of this subchapter, the commission shall adopt rules providing for the phase-in of the duty to comply with Subsection (a) (2) (B) over a period of five years beginning

September 1, 2010. The rules must require the operators of one-fifth of the wells that are subject to that subsection in each year during the phase-in period to comply with that subsection.

Added by Acts 2009, 81st Leg., R.S., Ch. 442 (H.B. 2259), Sec. 2, eff. September 1, 2009.

Sec. 89.030. REVOCATION OF EXTENSION OF DEADLINE FOR PLUGGING INACTIVE WELL. The commission may revoke an extension of the deadline for plugging an inactive well granted under this subchapter if the commission determines, after notice and an opportunity for a hearing, that the applicant is ineligible for the extension under the commission's rules or orders.

Added by Acts 2009, 81st Leg., R.S., Ch. 442 (H.B. 2259), Sec. 2, eff. September 1, 2009.

SUBCHAPTER C. POWERS AND DUTIES OF THE COMMISSION

Sec. 89.041. DETERMINING PROPER PLUGGING. If it comes to the attention of the commission that a well that has been abandoned or is not being operated is causing or is likely to cause pollution of fresh water above or below the ground or if gas or oil is escaping from the well, the commission may determine at a hearing, after due notice, whether or not the well was properly plugged as provided in Section 89.011 or Section 89.012 of this code.

Acts 1977, 65th Leg., p. 2553, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5256, ch. 967, Sec. 5, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5407, ch. 1002, Sec. 2, eff. Aug. 29, 1983.

Sec. 89.042. COMMISSION ORDER TO PLUG. (a) If the commission finds that the well was not properly plugged, it shall order the operator to plug the well according to the rules of the commission in effect at the time the order is issued.

(b) If the operator cannot be found or is no longer in existence or has no assets with which to properly plug the well, the commission shall order the nonoperators to plug the well according to the rules of the commission in effect at the time the order is issued.

(c) Repealed by Acts 1983, 68th Leg., p. 5409, ch. 1002, Sec. 3, eff. Aug. 29, 1983.

Acts 1977, 65th Leg., p. 2553, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5256, ch. 967, Sec. 5, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5409, ch. 1002, Sec. 3, eff. Aug. 29, 1983.

Sec. 89.043. PLUGGING BY COMMISSION. (a) If the commission determines at a hearing under Section 89.041 of this code that a well has not been properly plugged or needs replugging, the commission, through its employees or through a person acting as agent for the commission, may plug or replug the well if:

(1) the well was properly plugged according to rules in effect at the time the well was abandoned or ceased to be operated; or

(2) neither the operator nor nonoperator properly plugged the well, and

(A) neither the operator nor nonoperator can be found; or

(B) neither the operator nor nonoperator has assets with which to properly plug the well.

(b) If a well is leaking salt water, oil, or gas or is likely to leak salt water, oil, or gas, and the leakage will cause or is likely to cause a serious threat of pollution or injury to the public health, the commission, through its employees or agents, may direct the operator to take remedial action or to plug the well or may plug or replug the well without holding a hearing under Section 89.041 of this code or giving notice under Subsection (c) of this section.

(c) Not later than the 30th day before the date the commission enters into a contract to plug a delinquent inactive well, the commission shall send a notice by certified mail to the operator of the well at the address last reported to the commission as required by Section 91.142 and commission rules. The notice shall direct the operator to plug the well and shall state that:

(1) the commission may plug the well and foreclose its statutory lien under Section 89.083 unless the operator requests a hearing not later than the 10th day after the date the operator receives the notice;

(2) if the commission forecloses its statutory lien under Section 89.083, all well-site equipment will be presumed to have been abandoned and the commission may dispose of the equipment and hydrocarbons from the well as provided by Section 89.085;

(3) if the commission plugs the well, the commission:

(A) by order may require the operator to reimburse the commission for the plugging costs; or

(B) may request the attorney general to file suit against the operator to recover those costs;

(4) the commission has a statutory lien on all well-site equipment under Section 89.083; and

(5) the lien described by Subdivision (4) is foreclosed by operation of law if the commission does not receive a valid and timely request for a hearing before the 15th day after the date the notice is mailed.

(d) The operator of a well made the subject of a prior commission final order directing that it be plugged is not entitled to a second hearing under this section.

(e) The commission shall file for record a copy of the notice in the office of the county clerk of the county in which the well is located. The notice filed with the county need not be acknowledged. The copy of the notice filed in the office of the county clerk must contain the section, block, survey, and abstract number, when available to the commission, of the land on which the well is located. The clerk shall record the notice in the real property records of the county. The commission shall not be charged a fee for the filing or recording of the notice. The commission shall furnish a copy of the notice to a holder of a lien on the well or a nonoperator on that person's request. For purposes of title insurance policies issued under authority of Title 11, Insurance Code, this notice is not a notice of enforcement or violation of law, ordinance, or governmental regulation unless the notice contains a legally sufficient description of the specific land on which the well is located.

(f) At the request of the commission, the attorney general may file suit to enforce an order issued by the commission under Subsection (c)(3) (A).

Acts 1977, 65th Leg., p. 2554, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5256, ch. 967, Sec. 5, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5407, ch. 1002, Sec. 2, eff. Aug. 29, 1983; Acts 1993, 73rd Leg., ch. 515, Sec. 2, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 928, Sec. 1, eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 29, Sec. 1, eff. Aug. 30, 1999; Acts 1999, 76th Leg., ch. 57, Sec. 1, eff. May 10, 1999; Acts 2001, 77th Leg., ch. 1233, Sec. 13, eff. Sept. 1, 2001. Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.147, eff. September 1, 2005.

Sec. 89.044. RIGHT TO ENTER ON LAND. (a) The commission or its employees or agents, the operator, or the nonoperator, on proper identification, may enter the land of another for the purpose of plugging or replugging a well that has not been properly plugged.

(b) A prospective operator who has been authorized under Section 89.047 to conduct a surface inspection of a well, on proper identification, may enter the land of another for the sole purpose of conducting the inspection.

Acts 1977, 65th Leg., p. 2554, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5256, ch. 967, Sec. 5, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5407, ch. 1002, Sec. 2, eff. Aug. 29, 1983. Amended by:

Acts 2005, 79th Leg., Ch. 267 (H.B. 2161), Sec. 3, eff. January 1, 2006.

Sec. 89.045. LIABILITY FOR DAMAGES. The commission and its employees and agents, the operator, and the nonoperator are not liable for any damages that may occur as a result of acts done or omitted to be done by them or each of them in a good-faith effort to carry out this chapter.

Acts 1977, 65th Leg., p. 2554, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5256, ch. 967, Sec. 5, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5407, ch. 1002, Sec. 2, eff. Aug. 29, 1983.

Sec. 89.046. PENALTIES AND OTHER RELIEF. The plugging or replugging of a well by the commission does not prevent the commission from seeking penalties or other relief provided by law from any person who is required by law, rules adopted by the commission, or a valid order of the commission to plug the well.

Added by Acts 1983, 68th Leg., p. 5256, ch. 967, Sec. 5, eff. Sept. 1, 1983.

Sec. 89.047. ORPHANED WELL REDUCTION PROGRAM. (a) In this section:

- (1) "Depth of the well" means the vertical depth of a well as measured in linear feet from the surface to the lowest perforation of the casing of the well that is within the commission-designated correlative interval for the field for which the well is issued a permit.
- (2) "Operator in good standing" means an operator who:
 - (A) has a commission-approved organization report;

(B) is the designated operator of at least one well within the jurisdiction of the commission;

(C) has filed with the commission under Section 91.104 a bond, letter of credit, or cash deposit in an amount sufficient to qualify to operate one or more additional wells; and

(D) is not the subject of a commission or court order regarding a violation of a commission rule with which the operator has not complied or a complaint that has been docketed by the commission alleging a violation of a commission rule.

(3) "Orphaned well" means a well:

(A) for which the commission has issued a permit;

(B) for which production of oil or gas or another activity under the jurisdiction of the commission has not been reported to the commission for the preceding 12 months; and

(C) whose operator's commission-approved organization report has lapsed.

(4) "Producing well" means a well classified by the commission as an oil or gas well in accordance with commission rules.

(5) "Service well" means a well for which the commission has issued a permit that is not a producing well. The term includes an injection, disposal, or brine mining well.

(b) A person who is considering assumption of operatorship and regulatory responsibility for an orphaned well may nominate the well under consideration by filing a request on a form prescribed by the commission notifying the commission that the person seeks authority to conduct a surface inspection of the well to determine whether the person desires to be designated by the commission as the operator of the well.

(c) If the person is an operator in good standing and the well is not already subject to a nomination, the commission shall accept the nomination and issue a written confirmation to the person of the person's authority to conduct a surface inspection of the nominated well for a stated period not to exceed 30 days.

(d) A person to whom a confirmation is issued under Subsection (c) may conduct a surface inspection of the well. The person must deliver written notice to the owner of record of the surface estate and any occupant of the tract on which the well is located at least three days before the date of the inspection. The notice must:

(1) identify the orphaned well;

(2) state the name, address, and telephone number of the person;

(3) state the date the person intends to conduct the surface inspection;

(4) state the name of at least one representative of the person who will participate in the surface inspection; and

(5) state that the person intends to inspect the orphaned well in accordance with this section for the purpose of assessing the current status and viability of the well.

(e) In conducting a surface inspection of the orphaned well, the person may visually inspect the well and all related equipment, tanks, and other facilities and may conduct noninvasive testing such as using a gauge to determine the pressure present at the wellhead but may not produce oil or gas from the well, reenter the well, pull tubing from or perform any other type of downhole work on the well, conduct a salvage operation on the well, or remove any tangible item from the well site.

(f) The commission shall designate the person as the operator of the well if the person files with the commission:

(1) a factually supported claim based on a recognized legal theory to a continuing possessory right in the mineral estate accessed by the well, such as evidence of a current oil and gas lease or a recorded deed conveying a fee interest in the mineral estate;

(2) a completed certificate of compliance; and

(3) a nonrefundable fee in the amount of \$250.

(g) A fee collected under Subsection (f) shall be deposited to the credit of the general revenue fund and may be appropriated only to the commission to be used to enforce the laws and rules concerning oil and gas conservation and waste and pollution prevention.

(h) A person who is designated as the operator of an orphaned well on or after January 1, 2006, and not later than December 31, 2007, is entitled to receive:

(1) a nontransferable exemption from severance taxes for all future production from the well as provided by Section 202.060, Tax Code;

(2) a nontransferable exemption from the fees provided by Sections 81.116 and 81.117 for all future production from the well; and

(3) a payment from the commission in an amount equal to the depth of the well multiplied by 50 cents for each foot of well depth if, not later than the third anniversary of the date the commission designates the person as the operator of the well, the person brings the well back into continuous active operation or plugs the well in accordance with commission rules.

(i) A well is considered to be in continuous active operation for purposes of Subsection (h) (3) if:

(1) the well is a producing well and the well has produced at least 10 barrels of oil or 100 mcf of gas per month for at least three consecutive months as shown in the records of the commission and as authorized by a permit issued by the commission; or

(2) the well is a service well and the well has been used for the disposal or injection of oil and gas wastes or another purpose related to the production of oil or gas for at least three consecutive months as shown in the records of the commission and as authorized by a permit issued by the commission.

(j) The commission shall make payments to operators under Subsection (h) (3) annually in the same order the commission determines the operators to be entitled to the payments. The aggregate amount of payments in a state fiscal year under that subsection may not exceed \$500,000. An operator may not receive:

(1) more than one payment under that subsection for the same well; or

(2) cumulative payments in an amount that exceeds the amount of the bond, letter of credit, or cash deposit the operator has filed with the commission under Section 91.104.

Added by Acts 2005, 79th Leg., Ch. 267 (H.B. 2161), Sec. 4, eff. January 1, 2006.

Sec. 89.048. PLUGGING OF WELL BY SURFACE ESTATE OWNER. (a) In this section, "orphaned well" has the meaning assigned by Section 89.047.

(b) The owner of an interest in the surface estate of a tract of land on which an orphaned well is located may contract with a commission-approved well plugger to plug the well.

(c) If the surface estate owner enters into a contract under Subsection (b), the well plugger shall:

(1) not later than the 30th day before the date the well is plugged, mail notice of its intent to plug the well to the operator of the well at the operator's address as shown by the records of the commission;

(2) assume responsibility for the physical operation and control of the well as shown by a form the person files with the commission and the commission approves;

(3) file a bond, letter of credit, or cash deposit covering the well as required by Section 91.107; and

(4) plug the well in accordance with commission rules.

(d) On successful plugging of the well by the well plugger, the surface estate owner may submit documentation to the commission of the cost of the well-plugging operation. The commission shall reimburse the surface estate owner from money in the oil and gas regulation and cleanup fund in an amount not to exceed 50 percent of the lesser of:

(1) the documented well-plugging costs; or

(2) the average cost incurred by the commission in the preceding 24 months in plugging similar wells located in the same general area.

(e) The commission shall adopt any rules reasonably necessary to implement this section.

Added by Acts 2005, 79th Leg., Ch. 267 (H.B. 2161), Sec. 4, eff. January 1, 2006.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.09, eff. September 28, 2011.

SUBCHAPTER D. COSTS OF PLUGGING WELLS

Sec. 89.081. CAUSE OF ACTION FOR DISPROPORTIONATE SHARE OF COST. If an operator or nonoperator owns only a partial interest in the well or oil and gas and the operator or nonoperator pays a larger proportion of the cost of plugging the well than his proportionate interest in the well or oil and gas, he has a cause of action against the other operators and nonoperators for their proportionate shares of the cost of plugging.

Acts 1977, 65th Leg., p. 2554, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5251, ch. 967, Sec. 1, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5407, ch. 1002, Sec. 2, eff. Aug. 29, 1983.

Sec. 89.083. FIRST LIEN ON EQUIPMENT; CAUSE OF ACTION IF COMMISSION PLUGS. (a) If a well has not been plugged by the deadline for plugging established by commission rules, the state has a first lien, superior to all other preexisting and subsequent liens and security interests, on the operator's and nonoperator's interests in well-site equipment, in the amount of the total costs of removing well-site equipment from the well, plugging the well, and transporting, storing, and disposing of the well-site equipment.

(b) The lien arises on the date by which the well is required to be plugged under commission rules.

(c) The lien may be foreclosed by judicial action or commission order at any time after notice and an opportunity for a hearing. If notice is mailed under Section 89.043 and if the lien is not previously foreclosed, the lien is foreclosed by operation of law on the 15th day after the date the notice is mailed unless the commission has received a valid and timely request for a hearing before that date. The commission is not required to give notice or an opportunity for a hearing to subordinate lienholders or nonoperators before foreclosing the lien.

(d) The lien is extinguished if the well is plugged or otherwise brought into compliance in accordance with commission rules by any person authorized to do so before the commission enters into a plugging contract.

(e) The lien is extinguished as to any item of well-site equipment that is lawfully removed by any person other than the operator or a nonoperator pursuant to a lien, lease, judgment, written contract, or security agreement before the commission sends notice under Section 89.043(c). A person may not remove from an inactive well site any equipment necessary to prevent the well from serving as a conduit for the passage of oil, gas, saltwater, oil and gas wastes, or freshwater from one stratum or formation to another or to the surface or from the surface downward except in the course of plugging in accordance with commission rules.

(f) If the commission plugs a well under Sections 89.043 through 89.044 of this code, the state has a cause of action for all reasonable expenses incurred in plugging or replugging the well and not recovered under Section 89.085 of this code or through reimbursement to the commission.

(g) The cause of action is:

(1) first, against the operator, to be secured by a first lien, superior to all preexisting and subsequent liens and security interests, on the operator's interest in the oil and gas in the land and the fixtures, machinery, and equipment found or used on the land where the well is located; and

(2) second, against a nonoperator at the time the well should have been plugged, to be secured by a lien on the nonoperator's interest in the oil and gas in the land. A nonoperator may be made a party defendant in the suit against the operator.

(h) The commission:

(1) by order may require the operator and any nonoperator to reimburse the commission for all reasonable expenses incurred in plugging a well; or

(2) may request the attorney general to file suit against the operator and any nonoperator to recover those expenses.

(i) At the request of the commission, the attorney general may file suit to enforce an order issued by the commission under Subsection (h)(1).

(j) Money collected in a suit under this section shall be deposited in the oil and gas regulation and cleanup fund.

(k) A civil action for reimbursement under this section may be brought in Travis County, the county in which the plugged well is located, or the county in which any defendant resides.

Acts 1977, 65th Leg., p. 2555, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5251, ch. 967, Sec. 1, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5407, ch. 1002, Sec. 2, eff. Aug. 29, 1983; Acts 1991, 72nd Leg., ch. 603, Sec. 6, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 515, Sec. 3, eff. Jan. 1, 1994; Acts 1999, 76th Leg., ch. 29, Sec. 2, eff. Aug. 30, 1999; Acts 1999, 76th Leg., ch. 57, Sec. 2, eff. May 10, 1999; Acts 2001, 77th Leg., ch. 1233, Sec. 14, eff. Sept. 1, 2001. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.10, eff. September 28, 2011.

Sec. 89.084. MONEY PAID COMMISSION BY PRIVATE PERSON. (a) The commission may accept money from private persons and use the money to plug or replug a well.

(b) Paying money to the commission is not an admission that the person paying the money is obligated to plug or replug the well. Evidence that a person has paid money to the commission is not admissible against the person in a suit in which the person's obligation to plug a well is an issue and introducing the evidence is a compulsory ground for mistrial.

Acts 1977, 65th Leg., p. 2555, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 89.085. POSSESSION AND SALE OF EQUIPMENT TO COVER PLUGGING COSTS. (a) When the commission forecloses its lien under Section 89.083 on a delinquent inactive well, well-site equipment and any amount of hydrocarbons from the well that is stored on the lease are presumed to have been abandoned and may be disposed of by the commission in a commercially reasonable manner by either or both of the following methods:

(1) entering into a plugging contract that provides that the person plugging or cleaning up pollution, or both, will take title to well-site equipment, hydrocarbons from the well that are stored on the lease, or

hydrocarbons recovered during the plugging operation in exchange for a sum of money deducted as a credit from the contract price; or

(2) selling the well-site equipment, hydrocarbons from the well that are stored on the lease, or hydrocarbons recovered during the plugging operation at a public auction or a public or private sale.

(b) The commission shall assign separate costs to:

(1) removing well-site equipment;

(2) plugging the well; and

(3) transporting, storing, and disposing of the well-site equipment.

(c) The commission shall dispose of well-site equipment or hydrocarbons under this section at a price or value that reflects the generally recognized market value of the equipment or hydrocarbons, with allowances for physical condition.

(d) The commission shall deposit money received from the sale of well-site equipment or hydrocarbons under this section to the credit of the oil and gas regulation and cleanup fund. The commission shall separately account for money and credit received for each well.

(e) A person who acquires well-site equipment or hydrocarbons under this section by sale or contract receives a clear title, free of all prior legal or equitable claims of whatever nature, whether perfected or inchoate.

(f) Not later than the 30th day after the date well-site equipment or hydrocarbons are disposed of under this section, the commission shall mail a notice by first class mail to the operator of the well at the address last reported to the commission as required by Section 91.142 of this code and commission rules and, on request, to any lienholder or nonoperator.

(g) The notice required by Subsection (f) of this section must include:

(1) the lease name;

(2) the well number;

(3) the county in which the well is located;

(4) the abstract number of the property on which the lease is situated;

(5) the commission lease or gas well identification number or drilling permit number;

(6) a list of the property disposed of under this section; and

(7) a statement that any person who has a legal or equitable ownership or security interest in the equipment or hydrocarbons that was in

existence on the date the commission foreclosed its statutory lien may file a claim with the commission.

(h) Not later than the 180th day after the date the well-site equipment or hydrocarbons are disposed of under this section, the commission shall publish a notice that states:

- (1) the lease name;
- (2) the well number;
- (3) the county in which the well is located;
- (4) the commission lease or gas well identification number or drilling permit number; and
- (5) that equipment or hydrocarbons if applicable from the well and lease were disposed of under this section and that any person who has a legal or equitable ownership or security interest in the equipment or hydrocarbons that was in existence on the date the commission foreclosed its statutory lien may file a claim with the commission.

(i) The commission shall publish the notice required under Subsection (h) of this section in a newspaper of general circulation in the county in which the lease is located. A single notice may contain the information required for more than one well and lease. A notice given under this section following the plugging of a well may be combined with a notice given under Section 91.115 of this code following the cleanup of a site or facility.

Added by Acts 1985, 69th Leg., ch. 715, Sec. 1, eff. Aug. 26, 1985.

Amended by Acts 1989, 71st Leg., ch. 755, Sec. 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 515, Sec. 4, eff. Jan. 1, 1994; Acts 2001, 77th Leg., ch. 1233, Sec. 15, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.11, eff. September 28, 2011.

Sec. 89.086. CLAIMS AGAINST OIL AND GAS REGULATION AND CLEANUP FUND.

(a) A person with a legal or equitable ownership or security interest in well-site equipment or hydrocarbons disposed of under Section 89.085 may make a claim against the oil and gas regulation and cleanup fund unless an element of the transaction giving rise to the interest occurs after the commission forecloses its statutory lien under Section 89.083.

(b) The commission shall adopt a form on which a person may file a sworn claim with the commission.

(c) A claimant must identify the well-site equipment or hydrocarbons in which the claimant has an interest and state the amount of the property interest as of the date the commission foreclosed its statutory lien under Section 89.083.

(d) The commission may require a person to include with a claim documentation that substantiates the claim or to disclose whether the claimant was an operator or nonoperator of the well.

(e) The commission may set a hearing to receive evidence on a claim filed under this section. The commission shall notify the claimant of the date, time, and place of a hearing.

(f) If the commission holds a hearing, the commission shall issue:

(1) a decision on the claim;

(2) a statement of findings of fact that includes the substance of the evidence heard; and

(3) the conclusions of law that support the decision.

(g) The commission shall consider the validity of claims in the order in which the claims are filed.

(h) The commission shall suspend an amount of money in the oil and gas regulation and cleanup fund equal to the amount of the claim until the claim is finally resolved. If the provisions of Subsection (k) prevent suspension of the full amount of the claim, the commission shall treat the claim as two consecutively filed claims, one in the amount of funds available for suspension and the other in the remaining amount of the claim.

(i) A claim made by or on behalf of the operator or a nonoperator of a well or a successor to the rights of the operator or nonoperator is subject to a ratable deduction from the proceeds or credit received for the well-site equipment to cover the costs incurred by the commission in removing the equipment or hydrocarbons from the well or in transporting, storing, or disposing of the equipment or hydrocarbons. A claim made by a person who is not an operator or nonoperator is subject to a ratable deduction for the costs incurred by the commission in removing the equipment from the well. If a claimant is a person who is responsible under law or commission rules for plugging the well or cleaning up pollution originating on the lease or if the claimant owes a penalty assessed by the commission or a court for a violation of a commission rule or order, the commission may recoup from or offset against a valid claim an expense incurred by the oil and gas regulation and cleanup fund that is not otherwise reimbursed or any penalties owed. An amount recouped from, deducted from, or offset against a claim under this subsection shall be

treated as an invalid portion of the claim and shall remain suspended in the oil and gas regulation and cleanup fund in the manner provided by Subsection (j).

(j) If the commission finds that a claim is valid in whole or in part, the commission shall pay the valid portion of the claim from the suspended amount in the oil and gas regulation and cleanup fund not later than the 30th day after the date of the commission's decision. If the commission finds that a claim is invalid in whole or in part, the commission shall continue to suspend in the oil and gas regulation and cleanup fund an amount equal to the invalid portion of the claim until the period during which the commission's decision may be appealed has expired or, if appealed, during the period the case is under judicial review. If on appeal the district court finds the claim valid in whole or in part, the commission shall pay the valid portion of the claim from the suspended amount in the oil and gas regulation and cleanup fund not later than 30 days after the date the court's judgment becomes unappealable. On the date the commission's decision is not subject to judicial review, the commission shall release from the suspended amount in the oil and gas regulation and cleanup fund the amount of the claim held to be invalid.

(k) If the aggregate of claims paid and money suspended that relates to well-site equipment or hydrocarbons from a particular well equals the total of the actual proceeds and credit realized from the disposition of that equipment or those hydrocarbons, the oil and gas regulation and cleanup fund is not liable for any subsequently filed claims that relate to the same equipment or hydrocarbons unless and until the commission releases from the suspended amount money derived from the disposition of that equipment or those hydrocarbons. If the commission releases money, then the commission shall suspend money in the amount of subsequently filed claims in the order of filing.

(l) A person who informs a potential claimant that the potential claimant may be entitled to file a claim under this section or who files a claim on behalf of a claimant may not contract for or receive from the claimant for services an amount greater than 10 percent of the paid claim.

Added by Acts 1993, 73rd Leg., ch. 515, Sec. 5, eff. Jan. 1, 1994. Amended by Acts 2001, 77th Leg., ch. 1233, Sec. 16, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.12, eff. September 28, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.13, eff. September 28, 2011.

Sec. 89.087. JUDICIAL REVIEW OF COMMISSION DECISIONS; IMMUNITY FROM SUIT AND LIABILITY. (a) A claimant aggrieved by the commission's decision on a claim may appeal the decision in a district court of Travis County on or before the 60th day after the date the decision was issued. If the commission does not decide a claim by the 90th day after the date it was filed, the claimant may appeal within the 60-day period beginning on the 91st day after the date of filing.

(b) Judicial review under this section is by trial de novo.

(c) No interest accrues on a claim before an appeal is filed under this section.

(d) Except to the extent permitted by this chapter, and notwithstanding any other provision of law, the commission, its employees or agents, and the State of Texas are immune from suit and from liability based on the disposition of well-site equipment or hydrocarbons in accordance with this chapter.

Added by Acts 1993, 73rd Leg., ch. 515, Sec. 5, eff. Jan. 1, 1994.

Sec. 89.088. RECORD OF REQUEST FOR NOTICE BY LIENHOLDER OR NONOPERATOR; FORM; FEE. (a) The commission shall maintain a record of a request for notice by a lienholder or nonoperator under Section 89.043(e) or 89.085(f) of this code for five years after the date on which the commission receives the request.

(b) The commission shall prepare a form for a request for notice. The commission shall require a person who requests notice to include on the form information that identifies the lease covered by the request.

(c) The commission may charge a filing fee for a request for notice not to exceed \$10 for each lease covered by the request.

Added by Acts 1993, 73rd Leg., ch. 515, Sec. 5, eff. Jan. 1, 1994.

SUBCHAPTER E. ENFORCEMENT; JUDICIAL REVIEW

Sec. 89.121. ENFORCEMENT BY COMMISSION. (a) In addition to the powers specifically granted to the commission under this chapter, the commission may enforce this chapter or any rule or order of the commission adopted under this chapter in the same manner and on the same conditions as provided in the other chapters of Title 3 of this code.

(b) Civil penalties collected for violations of this chapter or of rules relating to plugging that are adopted under this code shall be

deposited in the general revenue fund.

Acts 1977, 65th Leg., p. 2555, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1983, 68th Leg., p. 5251, ch. 967, Sec. 1, eff. Sept. 1,
1983; Acts 1991, 72nd Leg., ch. 603, Sec. 7, eff. Sept. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.14, eff.
September 28, 2011.

Sec. 89.122. APPEAL TO COURTS. Any person affected by the provisions of this chapter may sue to test the validity of any order adopted by the commission under this chapter in the same manner, on the same conditions, and to the same court or courts as prescribed for suits testing the validity of orders of the commission adopted under the general oil conservation statutes of this state.

Acts 1977, 65th Leg., p. 2555, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

State and Local Governments Indirect Cost Negotiation Agreement

EIN: 74-6000134

Date: 07/15/2021

Organization:

Railroad Commission of Texas
PO Box 12967
Austin, TX 78711-2967

Report Number: 2021-0379

Filing Ref.:

Last Negotiation Agreement
dated: 09/08/2020

The indirect cost rate contained herein is for use on grants, contracts, and other agreements with the Federal Government to which 2 CFR Part 200 applies subject to the limitations in Section II.A. of this agreement. The rate was negotiated by the U.S. Department of the Interior, Interior Business Center, and the subject organization in accordance with the authority contained in applicable regulations.

Section I: Rate

Start Date	End Date	Rate Type	Name	Rate	Base	Location	Applicable To
			09/01/2021	08/31/2022	Fixed Carryforward	Indirect	68.63 %

(A) Base: Total direct salaries and wages, including fringe benefits. The rate applies to all programs administered by the non-federal entity. To determine the amount of indirect costs to be billed under this agreement, direct salaries and wages and related fringe benefits should be summed and multiplied by the rate. All other program costs should be eliminated from the calculation.

Treatment of fringe benefits: Fringe benefits applicable to direct salaries and wages are treated as direct costs; fringe benefits applicable to indirect salaries and wages are treated as indirect costs.

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- A. **Limitations:** Use of the rate(s) contained in this agreement is subject to any applicable statutory limitations. Acceptance of the rate(s) agreed to herein is predicated upon these conditions: (1) no costs other than those incurred by the subject organization were included in its indirect cost rate proposal, (2) all such costs are the legal obligations of the grantee/contractor, (3) similar types of costs have been accorded consistent treatment, and (4) the same costs that have been treated as indirect costs have not been claimed as direct costs (for example, supplies can be charged directly to a program or activity as long as these costs are not part of the supply costs included in the indirect cost pool for central administration).
- B. **Audit:** All costs (direct and indirect, federal and non-federal) are subject to audit. Adjustments to amounts resulting from audit of the cost allocation plan or indirect cost rate proposal upon which the negotiation of this agreement was based will be compensated for in a subsequent negotiation.
- C. **Changes:** The rate(s) contained in this agreement are based on the accounting system in effect at the time the proposal was submitted. Changes in the method of accounting for costs which affect the amount of reimbursement resulting from use of the rate(s) in this agreement may require the prior approval of the cognizant agency. Failure to obtain such approval may result in subsequent audit disallowance.
- D. **Rate Type:**
1. **Fixed Carryforward Rate:** The fixed carryforward rate is based on an estimate of the costs that will be incurred during the period for which the rate applies. When the actual costs for such period have been determined, an adjustment will be made to the rate for a future period, if necessary, to compensate for the difference between the costs used to establish the fixed rate and the actual costs.
 2. **Provisional/Final Rate:** Within six (6) months after year end, a final indirect cost rate proposal must be submitted based on actual costs. Billings and charges to contracts and grants must be adjusted if the final rate varies from the provisional rate. If the final rate is greater than the provisional rate and there are no funds available to cover the additional indirect costs, the organization may not recover all indirect costs. Conversely, if the final rate is less than the provisional rate, the organization will be required to pay back the difference to the funding agency.
 3. **Predetermined Rate:** A predetermined rate is an indirect cost rate applicable to a specified current or future period, usually the organization's fiscal year. The rate is based on an estimate of the costs to be incurred during the period. A predetermined rate is not subject to adjustment.
- E. **Rate Extension:** Only final and predetermined rates may be eligible for consideration of rate extensions. Requests for rate extensions of a current rate will be reviewed on a case-by-case basis. If an extension is granted, the non-Federal entity may not request a rate review until the extension period ends. In the last year of a rate extension period, the non-Federal entity must submit a new rate proposal for the next fiscal period.
- F. **Agency Notification:** Copies of this document may be provided to other federal offices as a means of notifying them of the agreement contained herein.
- G. **Record Keeping:** Organizations must maintain accounting records that demonstrate that each type of cost has been treated consistently either as a direct cost or an indirect cost. Records pertaining to the costs of program administration, such as salaries, travel, and related costs, should be kept on an annual basis.
- H. **Reimbursement Ceilings:** Grantee/contractor program agreements providing for ceilings on indirect cost rates or reimbursement amounts are subject to the ceilings stipulated in the contract or grant agreements. If the ceiling rate is higher than the negotiated rate in Section I of this agreement, the negotiated rate will be used to determine the maximum allowable indirect cost.
- I. **Use of Other Rates:** If any federal programs are reimbursing indirect costs to this grantee/contractor by a measure other than the approved rate(s) in this agreement, the grantee/contractor should credit such costs to the

affected programs, and the approved rate(s) should be used to identify the maximum amount of indirect cost allocable to these programs.

- J. **Central Service Costs:** If the proposed central service cost allocation plan for the same period has not been approved by that time, the indirect cost proposal may be prepared including an amount for central services that is based on the latest federally-approved central service cost allocation plan. The difference between these central service amounts and the amounts ultimately approved will be compensated for by an adjustment in a subsequent period.
- K. **Other:**
1. The purpose of an indirect cost rate is to facilitate the allocation and billing of indirect costs. Approval of the indirect cost rate does not mean that an organization can recover more than the actual costs of a particular program or activity.
 2. Programs received or initiated by the organization subsequent to the negotiation of this agreement are subject to the approved indirect cost rate(s) if the programs receive administrative support from the indirect cost pool. It should be noted that this could result in an adjustment to a future rate.
 3. Indirect cost proposals must be developed (and, when required, submitted) within six (6) months after the close of the governmental unit's fiscal year, unless an exception is approved by the cognizant agency for indirect costs

Listed below are the signatures of acceptance for this agreement:

By the State and Local Governments

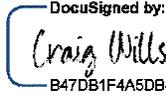
By the Cognizant Federal Government Agency

Railroad Commission of Texas

US Department of the Interior - OSM

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Signature

Signature

Corey Crawford

Craig Wills

Name:

Name:

Chief Financial Officer

Division Chief

Indirect Cost Services Division

Interior Business Center

Title:

Title:

7/28/2021

7/27/2021

Date

Date

Negotiated by: Marilyn Elgar

Telephone: (916) 930-3811

Next Proposal Due Date: 02/28/2022

Davis-Bacon Act Requirements

All laborers and mechanics employed by the applicant, subrecipients, contractors or subcontractors in the performance of construction, alteration, or repair work on an award or project in excess of \$2,000 funded directly by or assisted in whole or in part by funds made available under Initial grants shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code commonly referred to as the "Davis-Bacon Act" (DBA).

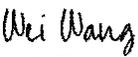
Applicants shall provide written assurance acknowledging the DBA requirements for the award or project and confirming that all laborers and mechanics performing construction, alteration, or repair work on projects in excess of \$2,000 funded directly by or assisted in whole or in part by and through funding under the award are paid or will be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act).

Wei Wang

Acknowledging Official Name

Executive Director

Title

DocuSigned by:

A320E7878B01444...

Acknowledging Official Signature

5/12/2022

Date

Conflict of Interest Disclosure

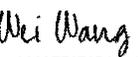
Per the Financial Assistance Interior Regulation (FAIR), 2 CFR §1402.112, no actual or potential conflict-of-interest exists at the time of submission.

Wei Wang

Acknowledging Official Name

Executive Director

Title

DocuSigned by:

A320E7878B01444...

Acknowledging Official Signature

5/12/2022

Date

Single Audit Report Package for Texas

The Comptroller of Public Accounts and the State Auditor's Office completed the statewide single audit report package for the state of Texas for fiscal 2020 and submitted the required materials to the Federal Audit Clearinghouse (FAC) as required by 2 CFR, Part 200, Subpart F (Uniform Guidance). All state agencies and institutions of higher education are included in the statewide single audit performed by the Texas State Auditor's Office/CliftonLarsonAllen LLP.

Auditee EIN (Comptroller's office): 746000089; Auditee state: Texas