

RAILROAD COMMISSION OF TEXAS

Oil & Gas
Monitoring & Enforcement Plan
Fiscal Year 2020



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Annual Oil and Gas Division Monitoring and Enforcement Plan

For Fiscal Year 2020

By

Railroad Commission of Texas

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In 2017, the Texas Legislature (HB 1818, 85th Legislature, Regular Session, 2017) directed the Railroad Commission of Texas to develop an annual plan to assess the most effective use of its limited resources to ensure public safety and minimize damage to the environment. The Commission will never cease to strengthen its capabilities to track, measure, and analyze the effectiveness of its oil and gas monitoring and enforcement program.

The purpose of this plan is to define and communicate the Oil and Gas Division's strategic priorities for its monitoring and enforcement efforts. The plan confirms many of the Division's current priorities—to ensure public safety and protect the environment—as well as establishing direction for data collection, stakeholder input, and new priorities for fiscal year 2020.

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Vision

The Railroad Commission of Texas serves the state with its stewardship of natural resources and the environment, concern for personal and community safety, and support of enhanced development and economic vitality for the benefit of Texans.

The Commission works to protect the environment and consumers by ensuring that energy production, storage, and delivery minimize harmful effects on the state's natural resources. An effective monitoring and enforcement system depends on widespread compliance with statewide rules and permit conditions. To address non-compliance, the Commission relies on enforcement strategies that use appropriate tools. These tools are effective, efficient, and transparent, and will reduce the occurrence of environmental violations associated with energy production in Texas.

About the Railroad Commission

The Railroad Commission of Texas is the state agency with primary regulatory jurisdiction over the oil and natural gas exploration and production industries, as well as pipeline transporters, natural gas and hazardous liquid pipeline industry, natural gas utilities, the LPG/LNG/CNG industries, and coal and uranium surface mining operations. The Commission exists under provisions of the Texas Constitution and exercises its statutory responsibilities under state and federal laws for regulation of the state's energy industries.

The Railroad Commission's highest priorities are protecting the public, the environment, and the state's natural resources through science-based rulemaking and effective enforcement of state and federal laws. The oil and gas industry is rapidly evolving in its development and use of technology, and the Commission regularly reviews and updates rules to ensure thorough, effective regulation of the industry. As a result of this comprehensive approach to rulemaking and enforcement, the Commission is widely recognized as a global leader in energy industry regulation.

Strategic Priorities for FY 2020

The Railroad Commission's *Annual Oil and Gas Division Monitoring and Enforcement Plan* includes two goals for FY 2020: to accurately demonstrate the Commission's oil and gas monitoring and enforcement activities; and to strategically use the oil and gas monitoring and enforcement resources of the Commission to ensure public safety and environmental protection. Later in this document those goals are further developed with action items that describe specific initiatives the Commission will implement during fiscal year 2020 and performance measures that will indicate success. The monitoring and enforcement activities described in this plan fully support the Railroad Commission's mission to serve as stewards of the state's natural resources and its environment, along with concern for personal and community safety.

Railroad Commission Monitoring and Enforcement Overview

The Railroad Commission's oil and gas regulatory program makes strategic use of a variety of monitoring and enforcement tools supported by Texas statutes and Commission rules. These tools work in concert to incentivize compliance and ensure violations are promptly resolved. The Commission continues to strengthen related

tracking and reporting systems, which should provide data that can demonstrate the effectiveness of the Commission’s monitoring and enforcement activities.

Figure 1: Monitoring and Enforcement Overview



For more information visit:
<http://www.rrc.texas.gov/oil-gas/compliance-enforcement>

Monitoring Activities

Organization

The Oil and Gas Division monitors oil and gas operations in the state through the efforts of both the program offices in Austin and the nine district offices, each assigned to one of three regional districts. Comprehensive permitting and reporting requirements enable the Commission to track the compliance status of oil and gas operations. In addition, the 165 inspectors as of June 1, 2019, assigned throughout the state's oil and gas producing regions, devote their time to overseeing oil and gas operations in the field.

Key Regulatory Compliance Mechanisms

Before conducting any operation under the Commission's jurisdiction, a company must file an organization report providing basic information on the company and its principals (Form P-5). Along with this report, the company must provide financial security conditioned that the operator will plug wells and clean up pollution in accordance with Commission rules, permits, and orders. The organization report and associated financial assurance must be renewed annually.

The Commission uses the information provided with the organization report to identify and track the operations of the company within the state. For example, the Commission verifies compliance with the inactive well requirements (16 Texas Administrative Code § 3.15, known as Statewide Rule 15) annually upon renewal of the organization report and suspends a company, the principals, and any other company regulated by the Commission that has common principals' authority to operate if the company does not achieve compliance. Non-compliant principals are barred from renewal for seven years. Non-compliant entities are barred indefinitely. Once compliance is achieved, the organization report can be renewed. A company without a current organization report may not conduct operations in Texas.

Beyond the organization report, Commission rules establish additional permitting, testing, monitoring, and reporting requirements for different types and stages of oil and gas operations. Examples of these requirements include certificates of compliance, drilling permits, completion reports, production reports, production tests, well integrity tests, and injection monitoring reports. The Commission uses the information gathered through these requirements to track operations around the state and ensure they remain in compliance with Commission rules, permits, and orders.

Inspections

The Commission continues to strengthen recruitment efforts to maintain a staff of at least 158 oil and gas field inspectors. These inspectors work in the communities where they live and report to one of nine Oil and Gas Division district offices around the state. Some inspectors focus on specific operations such as state-managed plugging and site remediation, but all are available to conduct a variety of inspections as needed. The Commission averaged more than 180,000 inspections of oil and gas operations at wells and other facilities each year from fiscal year 2016 to fiscal year 2018. In fiscal year 2018, the Commission conducted 217,319 inspections of wells and other facilities, with a primary focus on inspecting those oil and gas operations that had

not been inspected in the previous five years. The Commission anticipates that at least 176,000 inspections at wells and other facilities will be conducted in FY 2020.

To use their time most effectively, inspectors follow *Standard Operating Guidelines: Job Priorities for Field Inspectors*, a risk-factor based prioritization schedule for the Railroad Commission Oil and Gas Field Operations Section to determine their daily activities in the field. Those risk factors include:

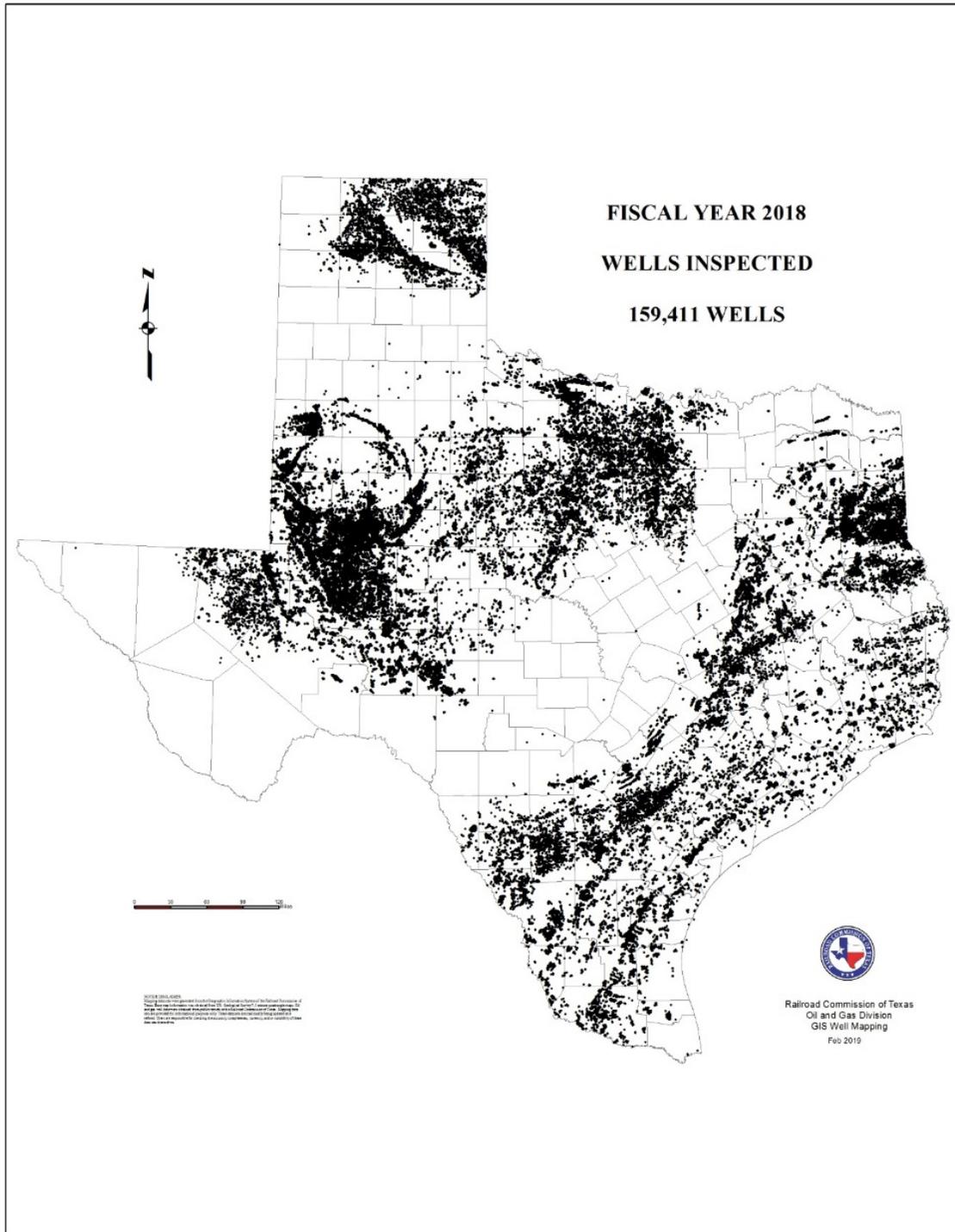
- known compliance issues (complaints, incidents, emergencies, etc.);
- the length of time since last inspection;
- proximity to public or sensitive areas;
- an operator's or a well's compliance history;
- current major safety/pollution prevention activities;
- Area knowledge/unique District Office concerns; and
- Routine/general inspection needs.

In fiscal year 2018, the Commission set specific performance targets and issued guidance to field inspectors to ensure that each well in the state is inspected regularly. In fiscal year 2018, the Commission implemented an aggressive schedule to ensure all wells across Texas are inspected at least once every five years, conducting a total of 217,319 inspections for the fiscal year comprised of 159,411 well level inspections (represented visually in Figure 2) and 57,908 inspections of other oil and gas operating facilities.

The large numbers of wells and associated facilities in the state require the inspectors to prioritize their work. Response to emergencies and complaints receives highest priority. Other inspections are prioritized based on factors including established performance goals, proximity to public or sensitive areas, compliance history of an operator, and knowledge or concerns specific to an area. Field inspectors schedule their time to cover as many high priority inspections as possible and incorporate lower priority inspections as time allows. Appendix A details the priority system used by inspectors to ensure inspection priorities are consistent across the state.

Inspectors use the Inspection, Compliance, and Enforcement (ICE) system to document inspections of oil and gas facilities electronically. The ICE system was implemented in 2015, allowing inspectors to record violations by rule number at the well level. ICE allows for tracking of well/lease inspection and violation history, and gives inspectors access to current operator, facility, and compliance information while onsite. Regardless of the reason for inspection, such as a complaint or a mechanical integrity test, the inspector will check for compliance with all applicable Commission rules and record the findings in ICE.

Figure 2: Locations of 159,411 Well Inspections across Texas in fiscal year 2018



Audit Privilege

The Office of General Counsel administers and tracks voluntary self-audits conducted by oil and gas operators under the Texas Environmental, Health, and Safety Audit Privilege Act (Tex. Health and Safety Code, Chapter

1101). An operator subject to the Commission's jurisdiction may choose to conduct a voluntary self-audit of its regulated facilities and can claim immunity from administrative penalties for violations discovered, disclosed, and corrected within a reasonable amount of time. The Commission's "Guide for Submissions Pursuant to the Audit Privilege Act" can be found on the Commission's website at <http://rrc.texas.gov/general-counsel/policies-and-guidelines/audit-privilege-act-guide/>. Operators that would like to submit a Notice of Audit pursuant to the Audit Privilege Act can email the Commission's audit email at audit.notice@rrc.texas.gov. The Commission encourages all operators to take advantage of the Audit Privilege Act to ensure that their regulated facilities are safe and in compliance with Commission rules.

Complaints

The public is encouraged to report problems or concerns with oil and gas activity through the Commission's complaint procedures. The Commission gives high priority to the timely investigation and resolution of complaints.

The Oil and Gas Division receives approximately 600 complaints each year. These complaints come from a variety of sources, including operators, mineral owners, surface owners, government agencies, and members of the public. Complaints are accepted in a variety of formats, including phone calls, emails, letters, or visits to the district offices.

Complaints involving potential violations of the Commission's rules are investigated by the appropriate District Office. The investigation involves an inspection that is documented in the ICE system. Any violations identified are addressed through the Commission's enforcement procedures.

Complaints involving an imminent threat to public health and safety or the environment are investigated immediately. Other pollution-related complaints are investigated within 24 hours. Complaints not involving pollution are investigated within 72 hours. Appendix E details the Commission's procedures follow receipt of a complaint.

The complainant receives written updates on the progress of the investigation and any related enforcement action. The complainant is also notified when the complaint is closed. A complaint is closed when the District Office determines that the well or other facility is operating in compliance with the rules or any violations have been corrected. In the event the matter is referred to the Office of General Counsel Legal Enforcement Section (Legal Enforcement), the District Office notifies the complainant to contact that section for further information.

Enforcement Activities

Organization

Although external discussions of the Commission's compliance and enforcement efforts tend to focus on the assessment of administrative penalties by Commission order, the Commission's district offices are empowered to address most compliance issues through other mechanisms. All but a small percentage of violations are effectively resolved at the district level.

Compliance and enforcement actions for violations of some permitting or reporting requirements may be initiated by one of the program offices in Austin, such as Underground Injection Control or Environmental Permitting. In these instances, inspectors assist the program offices by monitoring the status of compliance efforts in the field.

If a district office or program office is unsuccessful in obtaining compliance through other mechanisms, or if the severity or willfulness of a violation warrants further action, the Oil and Gas Division will refer the matter to Legal Enforcement. Legal Enforcement may subsequently file a complaint seeking administrative penalties or other enforcement actions through a Commission order.

Enforcement Mechanisms

The following paragraphs briefly describe the enforcement mechanisms available to the Commission. These mechanisms may be used individually or in combination, sequentially or simultaneously, as appropriate to achieve a timely, full, and fair resolution.

Notices of violation

Except for certain violations that may be resolved quickly through a phone call, the district office will formally notify the operator of a violation in writing via U.S. Mail or as an attachment to an e-mail. Notification of a violation will specify a deadline for compliance. Shortly after the deadline for compliance, the inspector will return to the location to verify compliance. This follow-up inspection is called a back check.

Seals/severances

The designated operator of any well in the state must file a certificate of compliance (Form P-4). By filing this certificate, the operator certifies that the lease is being operated in compliance with Commission rules, permits, or orders. If the Commission identifies a violation on the lease, the Commission may cancel the certificate of compliance. *See* Tex. Nat. Res. Code Ann. §§ 91.701-91.707.

Before cancelling the certificate, the Commission must provide the operator notice of the violation and at least 10 calendar days to achieve compliance or request a hearing. The district office provides this notice by issuing a “notice of intent to cancel the P-4.”

The action of cancelling a certificate of compliance is commonly described as “severing a lease” or “issuing a pipeline severance.” In practice, a seal or severance is the most effective enforcement tool available to the Commission. Once the certificate of compliance is cancelled, the operator must cease operations on the lease and may not produce or sell any hydrocarbons. As a result, the operator suffers an immediate revenue impact and may not resume operations until the lease is returned to compliance and the operator pays a \$750 reconnection fee.

Permit actions

Commission rules authorize the agency to modify, suspend, or terminate a permit, including a drilling permit, injection or disposal well permit, or permit for a surface waste management facility, based on violations of Commission rules, permits, or orders. Unless agreed to by the permit holder and authorized to be handled administratively, these actions will be taken through Commission order after notice and opportunity for hearing.

Administrative penalties

The Commission has statutory authority to assess administrative penalties for violations related to safety or the prevention or control of pollution. See Tex. Nat. Res. Code Ann. §§ 81.0531-81.0533. The Commission may assess up to \$10,000 per day per violation. In determining the amount of the penalty, the Commission considers relevant factors including the seriousness of the violation and the operator's history of compliance. The Railroad Commission's Statewide Rule 107 (16 Tex. Administrative Code § 3.107) provides guidelines for the assessment of penalties for various types of violations.

Revocation of authority to operate

The Commission may refuse to accept an organization report (Form P-5), may sever a certificate of compliance (Form P-4), and may revoke a permit if: (1) the organization remains non-compliant with an outstanding order finding a violation; or (2) a person who holds a position of ownership or control in the organization has, within the preceding seven years, held a position of ownership or control in another organization that has an outstanding order finding a violation during the period of ownership or control. Rejection of an organization report under this authority precludes an organization from conducting oil and gas operations within the State of Texas except as necessary to ensure public safety and protect the environment. The Commission tracks outstanding violations to ensure organizations and their officers and owners are held accountable under this authority. See Tex. Nat. Res. Code Ann. §91.114. All P-4s on file with the Commission for the operator barred from renewing its P-5 and all permits will be revoked. Permits may also be revoked for violations or threatened violations of permit provisions.

Procedures

The district offices closely monitor violations identified through inspections until they are resolved. They may use one or more of the available enforcement mechanisms depending on the nature of the violations and how quickly they are resolved. They may escalate the enforcement response, if necessary to achieve compliance, or if the severity or willfulness of the violation warrants further action. If necessary, the District Offices may escalate the enforcement process by referring violations to the Commission's Office of General Counsel Legal Enforcement Section. Legal Enforcement's process for adjudicating violations and assessing administrative penalties is detailed in Appendix B.

The Commission concluded a comprehensive review of its business processes related to inspections, compliance, and enforcement to identify opportunities for increased efficiency and consistency in fiscal year 2019. This effort provides the framework for continuing enhancements to data collection, management, and reporting. Enhancements to modernize the tracking of enforcement cases are underway for implementation in fiscal year 2020.

Goals

The Commission's ability to extract and analyze inspection, compliance, and enforcement data continues to improve as data management systems are enhanced. These enhancements make inspection, compliance, and enforcement data and trends more readily available to the agency, the industry, and the public. The Commission has an appropriation request for FY 2020 of \$24,963,453 and 280.4 FTEs for its oil and gas monitoring and inspection strategy.

Goal 1: Accurately demonstrate the Commission’s oil and gas monitoring and enforcement activities.

Action Item 1: Identification and Tracking of Major Violations

The Commission reviewed and updated its working definition of the term “major violation.” This definition appears in Appendix B of this document. Major violations, among others, are serious in nature and warrant the assessment of increased administrative penalties up to \$10,000 per day per violation. Technical staff in the district offices are responsible for identifying and documenting any major violations in the process of reviewing each inspection report. Enhancements to the ICE system will provide more consistency in the tracking and communication of major violations.

Action Item 2: Technology to improve enforcement processes

The Commission will build on technology improvements that ease access to Commission monitoring and enforcement data and information. In 2019, with the release of Commission Online Inspection Lookup (Commission OIL), the public gained searchable access to inspection and violation data. With efforts to begin in fiscal year 2020, and continue through the biennium, the Commission will implement improvements for public access to enforcement case information with enhanced search options and the ability to filter and download search results.

Goal 2: Strategically use the oil and gas monitoring and enforcement resources of the Commission to ensure public safety and protect the environment

Action Item 1: Increase the number of oil and gas inspectors

With a goal to inspect every onshore well at least once every five years and every offshore well every two years, the Commission needs to hire, train, and retain a strong, professional workforce. In fiscal year 2020, the Commission seeks to recruit and train 12 new inspectors to conduct oil and gas compliance inspections, while also continuing the retention program that will allow for sustainable progress towards the staffing levels necessary to meet the inspection demands. This challenge will continue as an increasing number of experienced employees become eligible to retire. This action item is contingent on appropriations that will be determined in late May 2019.

Action Item 2: Inspector Training Program “Boots on the Ground”

The Railroad Commission developed a training program for new oil and gas inspectors with less than two years tenure at the Commission . The program will ensure inspectors have a clear understanding of the agency’s inspection process, oil and gas rules, and necessary technical knowledge to provide consistent application of rules across Texas. The Commission has 158 authorized oil and gas inspector positions. Currently, 75 inspectors have less than two years’ experience at the Commission and will be required to attend “Boots on the Ground” training. The curriculum includes a review of the Commission’s oil and gas rules and in-the-field mock exercises for inspections as well as responses to spills and complaints.

Action Item 3: Inspect Well Population

The Commission established new performance targets to ensure all wells are inspected with regularity. For inland wells, the Commission will continue to focus its efforts on inspecting critical well operations, such as surface casing settings, mechanical integrity tests, and plugging, and will also ensure each well is inspected at least once every five years. In bays and offshore, the Commission will ensure that each well is inspected at least once every two years. As of August 31, 2018, the Commission's schedule of wells contained 436,940 wells. The Commission will inspect approximately 100,000 wells during fiscal year 2020 to meet its performance targets.

Action Item 4: State-Managed Well Plugging Program

The Commission anticipates an appropriation of \$28.8 million from the Oil and Gas Regulation and Cleanup Fund for the state-managed well plugging program. The revenue for both funds comes from assessments on the oil and gas industry. The Commission's inventory of orphaned wells contained 6,285 wells as of August 31, 2018. The Commission's state-managed plugging workplan anticipates plugging 850 wells during fiscal year 2020.

Stakeholder Participation Process

House Bill 1818 (85th Legislature, Regular Session) directed the Commission to seek input from stakeholders in the development of this plan. The Commission developed a communications plan to seek input from stakeholders, including posting the draft plan on the Commission's website for comment following discussion of the draft plan at the Commissioners' Conference on April 23, 2019. Availability of the plan for comment was announced via:

- i) Email using the Commission's Oil and Gas News list
- ii) Email to associations and legislative entities
- iii) Posts on Commission's social media via:
 - iv) Facebook
 - v) Instagram
 - vi) Twitter
 - vii) LinkedIn
- viii) Announcements on the Commission's website at:
 - (1) <http://www.rrc.texas.gov/all-announcements>
 - (2) <http://www.rrc.texas.gov/oil-gas/announcements/>
 - (3) <http://www.rrc.texas.gov/whats-new/>
- ix) Article in the Commission's Texas Energy News (Commission) newsletter

The draft plan was available from on the Commission’s website for comment from April 23, 2019 to May 23, 2019. During the public comment period, input was received from 3 respondents via the survey and one respondent via email. No written comments were received via U.S. mail. Comments were received from the public and industry groups.

Data

The Commission collects data that accurately shows the Commission’s oil and gas monitoring and enforcement activities. This edition of the annual *Oil and Gas Monitoring and Enforcement Strategic Plan* includes data from fiscal year 2018.

Table 1: Summary Enforcement Data for Fiscal Year 2018

| Measure | Fiscal Year 2018 (actual, as of March 12, 2019) |
|--|---|
| Number of statewide rule violations | 36,629 |
| Number of violations for which the Commission imposed a penalty or took other enforcement action | 36,629 |
| Number of alleged oil and gas violations sent to Office of General Counsel Legal Enforcement | 1,703 |
| Number of major statewide rule violations | 59 |
| Number of major violations for which the Commission imposed a penalty or took other enforcement action | 59 |

Table 2: Fiscal Year 2018 Number of Violations Per Rule by Subsection, as of March 12, 2019

| Statewide Rule | Number of Violations |
|------------------------------|----------------------|
| 16 TAC § 3.2(a) | 436 |
| 16 TAC § 3.2(b) | 79 |
| 16 TAC § 3.3(1) | 2,345 |
| 16 TAC § 3.3(2) | 7,931 |
| 16 TAC § 3.3(3) | 1,707 |
| 16 TAC § 3.3(5) | 19 |
| 16 TAC § 3.5 | 2 |
| 16 TAC § 3.5(a) | 1 |
| 16 TAC § 3.5(c) | 2 |
| 16 TAC § 3.8 | 82 |
| 16 TAC § 3.8(b) | 82 |
| 16 TAC § 3.8(d)(1) | 6,541 |
| 16 TAC § 3.8(d)(2) | 468 |
| 16 TAC § 3.8(d)(4)(H)(i) | 452 |
| 16 TAC § 3.8(d)(4)(H)(i)(I) | 71 |
| 16 TAC § 3.8(d)(4)(H)(i)(II) | 33 |

| Statewide Rule | Number of Violations |
|-------------------------------|-----------------------------|
| 16 TAC § 3.8(d)(4)(H)(i)(III) | 186 |
| 16 TAC § 3.8(d)(4)(H)(i)(IV) | 46 |
| 16 TAC § 3.8(f)(1) | 1 |
| 16 TAC § 3.8(f)(1)(C)(ii) | 1 |
| 16 TAC § 3.9 | 52 |
| 16 TAC § 3.9(1) | 88 |
| 16 TAC § 3.9(12)(C)(i) | 26 |
| 16 TAC § 3.9(12)(C)(ii) | 8 |
| 16 TAC § 3.9(9)(B) | 12 |
| 16 TAC § 3.13(a)(6)(A) | 2,776 |
| 16 TAC § 3.13(b)(1)(B)(i) | 6 |
| 16 TAC § 3.14(a)(3) | 3 |
| 16 TAC § 3.14(b)(1) | 140 |
| 16 TAC § 3.14(b)(2) | 5,053 |
| 16 TAC § 3.14(d)(1)-(11) | 65 |
| 16 TAC § 3.14(d)(12) | 177 |
| 16 TAC § 3.15(f)(2)(A) | 45 |
| 16 TAC § 3.15(f)(2)(A)(i) | 6 |
| 16 TAC § 3.15(f)(2)(A)(ii) | 165 |
| 16 TAC § 3.16(b) | 127 |
| 16 TAC § 3.17(a) | 826 |
| 16 TAC § 3.20(a)(1) | 73 |
| 16 TAC § 3.21(j) | 431 |
| 16 TAC § 3.21(k) | 480 |
| 16 TAC § 3.21(l) | 218 |
| 16 TAC § 3.22(b) | 453 |
| 16 TAC § 3.27(a) | 30 |
| 16 TAC § 3.32(d)(2) | 32 |
| 16 TAC § 3.32(h) | 49 |
| 16 TAC § 3.36(c)(11)-(12) | 1 |
| 16 TAC § 3.36(c)(13) | 3 |
| 16 TAC § 3.36(c)(14) | 2 |
| 16 TAC § 3.36(c)(5)(B) | 236 |
| 16 TAC § 3.36(c)(6)(A) | 43 |
| 16 TAC § 3.36(c)(6)(B) | 124 |
| 16 TAC § 3.36(c)(6)(C) | 5 |
| 16 TAC § 3.36(c)(8) | 56 |

| Statewide Rule | Number of Violations |
|------------------------|----------------------|
| 16 TAC § 3.36(c)(9)(A) | 41 |
| 16 TAC § 3.36(c)(9)(Q) | 4 |
| 16 TAC § 3.36(d)(1)(G) | 89 |
| 16 TAC § 3.36(d)(2) | 1 |
| 16 TAC § 3.46 | 93 |
| 16 TAC § 3.46(a) | 534 |
| 16 TAC § 3.46(g)(1) | 2 |
| 16 TAC § 3.46(g)(2) | 58 |
| 16 TAC § 3.46(j) | 162 |
| 16 TAC § 3.57(c)(1) | 1 |
| 16 TAC § 3.73(h) | 2 |
| 16 TAC § 3.73(i) | 181 |
| 16 TAC § 3.81(b)(1) | 1 |
| 16 TAC § 3.91(d)(1) | 3,114 |
| 16 TAC § 3.91(e)(1) | 3 |
| 16 TAC § 3.98(d) | 44 |
| Tex. Nat Res Code § 91 | 3 |

For real time information regarding specific lease or well site violations please use the search function of Commission OIL found on the Commission's website at <https://rrc.texas.gov/about-us/resource-center/research/online-research-queries/oil-and-gas-inspections-and-violations-query/>

Please visit the Secretary of State's website to review the Railroad Commission's rules at [https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=16&pt=1&ch=3&rl=Y](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=16&pt=1&ch=3&rl=Y)

A repeat major violation occurs when an individual oil or gas lease has more than one major violation within a fiscal year or other designated period. During fiscal year 2018 the Commission did not identify any repeat major violations.

Appendix A: Standard Operating Guidelines: Inspection Priorities

Purpose

To provide guidance to district office management and field inspectors; to help them plan and conduct their daily work activities in support of established Commission goals and performance standards; and to emphasize that the Commission's primary focus is the protection of the general public, the environment, and the State's natural resources.

General Guidance

The "Job Priorities for Field Inspectors" guideline is used to determine which activities take priority over others for field inspection purposes. This guideline does not require that an activity of higher risk always be performed over one with a lower risk. Factors such as timing of an activity, location of inspectors relative to the activity, and overall industry activity in an area all impact our ability to perform inspections. The only jobs that require 100 percent inspection response are incidents listed under "Known Compliance Issues" and jurisdictional complaints.

Prioritization of jobs is based on risk factors:

- Known compliance issues (Complaints, Incidents, Emergencies, etc.);
- Length of time since last inspection;
- Proximity to public or sensitive areas;
- Compliance history;
- Current major safety/pollution prevention activities;
- Area knowledge/unique District office concerns; and
- Routine/general inspection needs.

District managers are encouraged to use the flexibility available in scheduling inspectors' work hours to conduct as many higher risk jobs as possible. When needed to cover higher risk jobs, district managers should schedule inspectors' job assignments without being limited by established work boundaries or county assignments. When appropriate, use the "sweep" concept to accomplish more in a given period of time.

Field inspectors should strive to use their time more productively to cover as many higher priority jobs as possible and incorporate lower priority jobs as time permits.

Risk Factors

| Risk Factor (In Priority Order) | Impact | Possibility |
|---|-------------|-------------|
| Known Compliance Issues (Complaints, incidents, emergencies, etc.) | High | High |
| Length of time since last inspection (Minimum requirement: once every five years) | High/Medium | High |
| Proximity to Public or Sensitive Areas | High | Medium |
| Compliance History | Medium | High |
| Major Safety/Pollution Prevention Activities (Notices of well plugging, MIT, surface casing, etc.) | Medium | Medium |
| Area Knowledge/Unique District Office Concerns | Low | Medium |
| Routine/General Inspection Needs | Low | Low |

Known Compliance Issues: Incidents that require immediate response by district personnel. Responses generally require continuous surveillance until the situation is brought under control.

- Emergency incidents that pose a threat to the health or safety of the general public
- Blowouts
- Spills and/or releases that impact or pose an imminent threat to sensitive areas
- Accidents involving injury or death resulting from possible violation of Commission rules
- Pollution or safety-related complaints (required to be investigated within 24 hours)

Length of time since last inspection: All wells are required to be inspected at least once every five (5) years (see Commission performance measure Output 3.1.1.7).

Proximity to public or sensitive areas: Includes safety and pollution prevention activities and lease/facility inspections in close proximity to **sensitive areas** as defined by 16 Texas Administrative Code §3.91(a)(2) (Statewide Rule 91(a)(2)).

- Plugging of wells
- Setting and cementing of surface casing
- Reportable spills
- Drilling rig inspections/hydraulic fracturing operations in sensitive areas
- Mechanical-integrity testing
- SWR 36 inspections where public areas exist within radius of exposure (ROE)

- General complaints (required to be investigated within 24-72 hours unless other arrangements are made with the complainant)
- Commercial disposal operations (UIC wells and surface facilities, such as landfarms and pits)
- Minor permits
- Routine inspections: sensitive areas

Compliance History: Includes inspections of lease/facilities where violations of Commission Statewide Rules have been discovered and documented.

Major safety/pollution prevention activities (non-sensitive areas): Includes safety and pollution prevention activities and lease/facility inspections in **non-sensitive areas**.

- Plugging of wells
- Setting and cementing of surface casing
- Reportable spills
- Drilling rig inspections/hydraulic fracturing operations in sensitive areas
- Mechanical-integrity testing
- SWR 36 inspections
- General complaints (required to be investigated within 24-72 hours unless other arrangements are made with the complainant)
- Commercial disposal operations (UIC wells and surface facilities, such as landfarms and pits)
- Minor permits

Area knowledge/unique district office concerns: Includes inspections of leases/facilities where local knowledge of operations and/or conditions are of a concern to the inspector or district office. Concerns in this category are unique and determined at a local level.

Routine/general inspection needs:

- Routine inspections: non-sensitive areas
- Plant inspection
- Oil theft
- Production testing
- Audits
- Other assigned duties

Appendix B: Definition of a Major Violation

A major violation is a safety or pollution related violation that causes a significant impact to public safety and/or the environment, is accompanied by conditions that indicate a significant impact to public safety and/or the environment is imminent, or is the result of deliberate disregard of Commission rules and regulations related to public safety or environmental protection.

A major violation includes, but is not limited to, the following violations of the Commission's Oil and Gas Rules, found within Title 16 Texas Administrative Code Chapter 3, and known as Statewide Rules:

- 16 Tex. Administrative Code § 3.5(a)—Drilling or reentering a well without a permit. Statewide Rule 5(a)
- 16 Tex. Administrative Code § 3.8(b)—Surface management of waste without a required permit in violation of a permit that results in movement of waste or waste constituents that endangers surface or subsurface water or public health or safety. Statewide Rule 8(b).
- 16 Tex. Administrative Code § 3.8(d)(1)—An unauthorized discharge of oil or gas waste into a sensitive area. A sensitive area is defined by 16 Tex. Administrative Code § 3.91(a)(2) as the presence of factors, whether one or more, that make an area vulnerable to pollution. Factors that are characteristic of sensitive areas include the presence of shallow groundwater or pathways for communication with deeper groundwater; proximity to surface water, including lakes, rivers, streams, dry or flowing creeks, irrigation canals, stock tanks, and wetlands; proximity to natural wildlife refuges or parks; or proximity to commercial or residential areas. Statewide Rule 8(d)(1).
- 16 Tex. Administrative Code § 3.9 or 16 Tex. Administrative Code § 3.46—Violation of permit conditions where well operation at an injection that exceeds the permitted or authorized injection pressure and causes the movement of fluid outside the authorized zone of injection, if such movement may have the potential for endangering an underground source of drinking water (USDW). Statewide Rule 9 or Statewide Rule 46.
- 16 Tex. Administrative Code § 3.9(1) or 16 Tex. Administrative Code § 3.46(a)—Operation of a disposal or fluid injection well without a permit. Statewide Rule 9(1) or Statewide Rule 46(a)
- 16 Tex. Administrative Code § 3.9(12)(c) or 16 Tex. Administrative Code § 3.46(j)—Operation of a well without mechanical integrity (failed MIT) which causes the movement of fluid outside the authorized zone of injection, if injection of such fluid may have the potential for endangering a USDW. Statewide Rule 9(12)(C) or Statewide Rule 46(j)
- 16 Tex. Administrative Code § 3.13(a)(6)(B)(i)— Failure to install a blowout preventer system or control head and other connections to keep the well under control at all times as soon as surface casing is set. Statewide Rule 13(a)(6)(B)(i).
- 16 Tex. Administrative Code § 3.13(b)(1)(B)(i)— Failure to set and cement sufficient surface casing to protect all usable-quality water strata, as defined by the Groundwater Advisory Unit of the Oil and Gas Division. Statewide Rule 13(b)(1)(B)(i).

- 16 Tex. Administrative Code § 3.14(b)(2)— Failure to properly plug a well when there is endangerment of surface or subsurface water and there is a designated operator responsible for proper plugging. Statewide Rule 14(b)(2).
- 16 Tex. Administrative Code § 3.36(c)(9)—Conducting hydrogen sulfide operations without a written contingency plan. Statewide Rule 36(c)(9).
- 16 Tex. Administrative Code § 3.91(e)(3)—Failure to report to the Commission any spill of crude oil into water. Statewide Rule 91(e)(3).

Appendix C: Office of General Counsel Legal Enforcement Process

Governing Rules

The Commission adopts rules of practice pursuant to the requirements of the Administrative Procedure Act. *See* Tex. Gov't Code § 2001.004. The Commission's General Rules of Practice and Procedure are found in Texas Administrative Code, Title 16, Part 1, Chapter 1. These rules govern the service of process, notice of hearings, default judgments, and motions for rehearing in Legal Enforcement's contested cases. The Commission's rules for the Oil and Gas Division are found in Texas Administrative Code, Title 16, Part 1, Chapter 3. These rules (Statewide Rules) govern oil and gas operations within the State.

Attorney Evaluation

Incoming referrals from the district offices and various sections of the Oil and Gas Division are assigned to an enforcement attorney. The assigned attorney evaluates the legal sufficiency of the alleged violations based on the evidentiary support. The attorney proceeds with an enforcement action when evidentiary support exists. Questionable evidentiary support requires the attorney to contact the district or referring section to inquire about the existence of additional evidence or to formulate an alternative legal theory. Referrals with insufficient evidence are administratively closed.

Settlement Negotiations

Legal Enforcement's primary goals are to achieve compliance and assess appropriate administrative penalties for proven violations. Legal Enforcement achieves this goal either through settlement, or a hearing. Based on the severity of the violation and/or the operator's history of prior violations, Legal Enforcement may initiate the process with reasonable attempts to settle the matter through voluntary compliance and reduced administrative penalties. The penalty guidelines provide a flexible structure for most—but not all—violations. *See* 16 Tex. Administrative Code § 3.107. The Commission is authorized to assess administrative penalties up to \$10,000 per day per violation. *See* Tex. Nat. Res. Code § 81.0531(b). Legal Enforcement consults with the regulatory division to determine its penalty recommendation. Operators that comply with the settlement provisions enter an Agreed Order with Legal Enforcement that is submitted for the Commission's approval.

Default Judgments

If initial settlement attempts are unsuccessful, or if the facts do not warrant settlement negotiations, Legal Enforcement files a complaint and serves the operator with the complaint and a notice of opportunity for hearing. If the operator chooses to voluntarily bring the violation into compliance at this point, the frequency, severity, and intent of the violation weighs heavily in the settlement determinations. If the operator fails to answer the complaint or schedules a hearing and fails to appear, Legal Enforcement seeks a default order.

A final default order (Default Order) includes findings of facts, conclusions of law, and the recommended penalty and compliance terms. The Enforcement Master Default Order summarizes each Default Order and is submitted at conference for Commission approval and signature. The Order is appealable to the district court if an operator files a motion for rehearing with the Commission within 25 days of the Default Order being signed and that motion is denied either expressly or by operation of law. If the operator fails to file a motion for rehearing within this time, the Default Order is final and not appealable to the district courts. If the operator files a motion for

rehearing within the required time and the Commission grants the motion for rehearing, the Order is vacated, and the case is referred back to Legal Enforcement and the above-described settlement and hearings process repeats.

Hearings in Protested Cases

If no settlement is reached, the case proceeds to hearing before an Administrative Law Judge (ALJ) and a Technical Examiner (TE). This process begins with Legal Enforcement filing and serving upon the operator a notice of hearing and complaint. After a noticed hearing, at which the operator appears, the ALJ and TE prepare a proposal for decision (PFD) for the Commissioners to consider at a Commissioner’s Conference duly posted with the Secretary of State.

The PFD is the ALJ’s and TE’s recommendation to the Commission regarding how the case should be decided based on applicable law and technical analysis of the facts presented at hearing. The PFD includes findings of fact and conclusions of law to support the recommended decision. If Legal Enforcement prevails, the PFD will include a penalty recommendation and compliance terms. The PFD is circulated to the parties to allow time for exceptions and replies to be filed in accordance with the Commission’s General Rules of Practice and Procedure prior to presentation to the Commission. The PFD and any exceptions and replies filed are provided to the Commission prior to Conference. At a regularly noticed Conference, the ALJ and TE will present the PFD to the Commissioners and answer any legal or technical questions regarding the PFD recommendations and points raised in the exceptions and replies. Operators have an opportunity to request oral argument before the Commissioners.

The Commissioners then vote whether to accept, reject, or modify the PFD. Only two Commissioners must agree to determine the outcome. The PFD’s recommendation—and any of the modifications by the Commissioners—are included in a final order (Final Order) signed by the Commissioners. The above-described procedure for motions for rehearing and appeals to the district court regarding Default Orders also applies to Final Orders. If the Commission grants a motion for rehearing, the case is referred to the Hearings Division and the above-described hearing process repeats consistent with any instructions contained in the order granting the rehearing.

Following every Commissioners’ Conference in which administrative enforcement penalties are assessed and approved, the Railroad Commission compiles and publicly distributes information on enforcement actions. This information includes the total amount of penalties assessed, and internet links to master default orders, master agreed orders, and an index for protested enforcement actions detailing the amount of each fine assessed to each non-compliant operator.

Collections

Once the order becomes final, if the operator fails to timely comply with the order’s terms, Legal Enforcement may refer the order to the Office of the Attorney General (OAG). The OAG may file suit in Travis County District Court seeking payment of administrative penalties per the terms of the order. The OAG may also seek civil penalties, attorneys’ fees, court costs, and interest. Legal Enforcement assists the OAG in trial preparation, hearings, and appeals.

If an operator fails to achieve compliance, Legal Enforcement works with the OAG to secure reimbursement of Oil and Gas Regulation and Cleanup Fund expenditures by the Oil and Gas Division to plug abandoned wells and remediate pollution. Once the Oil and Gas Division calculates the final cost for remediation, Legal Enforcement forwards the matter to the OAG's Bankruptcy and Collections Division. Alternatively, the reimbursement may be included in a Legal Enforcement complaint and become part of an order before the matter is referred to the OAG for collection. Occasionally, the OAG deems the operator judgment proof and determines that administrative penalties and reimbursement cannot be collected.

Appendix D: Complaint Procedures

Introduction

The Commission receives approximately 600 complaints per year. These complaints may originate with operators, mineral owners, surface owners, government agencies or public citizens. Anyone can make a complaint to the Commission. The complaints may involve pollution, safety, plugging, surface equipment, lease expiration, water wells and many other issues. Some complaints involve matters that are outside the jurisdiction of the Commission. Some complaints involve violation of Commission Statewide Rules (SWR). The purpose of this Standard Operating Guideline (SOG) is to provide consistent direction to the District Offices and Field Operations in properly handling complaints.

Receiving Complaints

Complaints may be made to the District Office, Field Operations or other sections or divisions in the Austin office, including the Commissioners' offices. A complaint may be made by telephone, e-mail, fax, letter, or in person. A complaint may be a formal complaint requiring a certain process or an informal complaint which requires action but does not follow the prescribed process of formal complaints. When a complaint is made, it should either be received by the appropriate District Office or referred to the appropriate District Office. District Offices are required to investigate every complaint within 24-72 hours, unless other arrangements are made with the complainant. Pollution or safety-related complaints must be investigated within 24 hours. Each complaint is considered important and the complainant should be treated with courtesy regardless of their demeanor. Each District Director will appoint a Complaint Coordinator who will be responsible for monitoring the progress of each complaint to assure action is being taken within the District and that a complaint is not being inadvertently neglected. When a complaint is initially received, the following information should be recorded in the ICE system as a notification:

1. The date the complaint is received
2. The name of the party making the complaint
3. The contact information of the party making the complaint, (address, city state, phone number, fax number and e-mail address)
4. The nature of the alleged violations constituting the complaint
5. The specific location of the complaint
6. Whether the reported incident constitutes an emergency
7. Determination if the complaint is a formal complaint or informal complaint

When a complaint is made directly to the District Office or referred to the District Office from Austin, the first step is to determine if any part of the complaint is within the Commission's jurisdiction. If part of the complaint is jurisdictional, a determination must be made if the complaint constitutes an emergency. In the case of a jurisdictional emergency, the District Office should attempt to contact the operator, immediately send an inspector to investigate the complaint and contact the District Director to determine if well plugging or pollution

abatement funds should be expended. Complaints involving safety or pollution should be given top priority and expedient action. The Inspection, Compliance and Enforcement system (ICE) is used to dispatch an inspector. It will also be used to generate an inspection ID and to generate a complaint ID when the complaint is validated.

If the District Office staff member receiving the complaint determines that part of the complaint is non-jurisdictional, the staff member should advise the complainant that the Commission cannot address that part of the complaint since it does not have jurisdiction. The staff member may refer the complainant to another entity such as the Sheriff's Department, the TCEQ, the legal system, or another resource.

Subsequent Action

If the complaint is jurisdictional and a formal complaint is filed, the District Office should enter the formal complaint information into the ICE system, assign a complaint number and, if appropriate, send a notification for an inspection on the ICE system. The notification should include the name, phone number and alleged violations from the complainant and the inspector should contact the complainant and invite them to participate in the inspection provided their presence would not constitute trespassing or require the use of personal protective equipment. Except for anonymous complaints, all complaints require a contact. Generally, an inspection is required, unless it is clear the matter is non-jurisdictional in nature or can be resolved by records research.

1. Jurisdictional complaints involving matters that pose an immediate or imminent threat to public health and safety or the environment **must be inspected immediately**. In these cases, appropriate notification should be given to Field Operations management and staff according to the Emergency Incident Report (Red Border) protocol.
2. Minor pollution incidents (minor leak, no active source and non-sensitive area) and those alleged without identification of an active source should be inspected within twenty-four (24) hours.
3. Non-pollution complaints must be inspected within seventy-two (72) hours.

In all cases, **except emergencies**, arrangements can be made with the complainant to schedule inspections at times other than those specified here.

After the initial inspection the following action should be taken:

1. If no violations are found, the District Office should send a Complaint Letter to the complainant stating that an inspection was conducted, in accordance with Commission procedure, and the operator was found to be in compliance with Commission rules. The complainant should be advised that no further action will be taken by the Commission regarding the complaint. The complaint should then be closed.
2. Following the inspection, the District Office staff member should write a brief complaint letter, including all information received from the complainant, violations found during the inspection and the initial action taken. Attachment 1 describes the specific format and the information used for correspondence with the complainant. The complaint letter should be mailed to the complainant and filed under the assigned complaint number.

3. Resolution of jurisdictional informal complaints should also be diligently pursued. The District Office staff member taking the informal complaint should receive the same information from the complainant as a formal complaint, however, informal complaints do not need to be recorded in the ICE system or be assigned a complaint number. Most informal complaints will start with a notification for an inspection.
4. If a violation is found during the initial inspection, the District Office should send a Notice of Violation (NOV), in accordance with the SOG titled Violation Enforcement. In cases that are not emergencies or Automatic referrals, the operator is given a specified time in the NOV to bring the lease into compliance. A backcheck should be performed in accordance with the date shown in the NOV to the operator and in the complaint letter to the complainant.
5. If the lease is still in violation following the backcheck, a Notice of Intent (NOI) to Sever (oil lease) or Seal (gas lease) should be sent through certified mail allowing an additional period to bring the lease into compliance in accordance with the SOG titled Violation Enforcement. If the lease is not in compliance by the time allowed in the NOI, the lease is severed, and a status report is issued to the complainant listing the remaining violations.
6. When the lease is severed, the District should immediately refer an enforcement case to Austin. If the operator has made significant ongoing progress resolving the violations, an extension for enforcement action may be granted at the discretion of the District Director. If an extension to enforcement action is granted by the District Director, a status report should be sent to the operator and complainant advising them of the progress, the extension, and the date the extension will expire. If the case is further delayed, the District Office should send the complainant a progress report at least every thirty days. When a case is referred to enforcement, the District Office should notify the complainant, in writing, that that the District Office is transferring responsibility of the complaint to the Office of General Counsel Legal Enforcement in Austin and that the complaint will be closed in the District Office. The Operator and complainant should be advised that any further questions or correspondence related to the complaint should be directed to:

Railroad Commission of Texas
Office of General Counsel—Legal Enforcement
P. O. Box 12967
Austin, Texas 78711-2967
7. The District should then close the complaint.
8. If the operator resolved the violations and brought the lease into compliance following the NOV or the NOI, the District Office staff member should send a letter to the complainant advising them that the lease is compliant, and the complaint is being closed. The District Office should include the letter in the complaint file and close the complaint.

Types of Complaints

The Commission receives many different types of complaints. Some of the complaints are within the jurisdiction of the Commission and some are not within the jurisdiction of the Commission. The Commission has jurisdiction over activities associated with the exploration, development, or production of oil or gas or geothermal resources, including storage, handling, reclamation, gathering, transportation, or distribution of crude oil or natural gas by pipeline, prior to the refining of such oil or prior to the use of such gas in any manufacturing

process or as a residential or industrial fuel. For a more detailed description of the jurisdiction of the Commission, see *SWR 30, Texas Natural Resources Code, Title 3 and the Texas Water Code, Chapter 26*. Some complaints may involve the complainant’s lack of understanding of oil and gas operations or may be made with malicious intent. However, all complaints must be considered valid and pursued until resolution is achieved.

Common Complaints: Some of the more common types of complaints are listed below. These types of complaints may be selected on the ICE system when recording an initial complaint. These types of complaints are usually under the jurisdiction of the Commission, but there are exceptions:

| | | |
|---------------------|---------------------|------------------|
| Abandoned Equipment | Leak/Spill (Active) | Venting/Flaring |
| Breakout | Pits | Water Well |
| H2S Odor | Pollution | Wellhead Control |
| Hazardous Waste | Production | Other |
| Inactive Well | Seismic | |
| Disposal/Injection | Signs | |

The following examples of complaints are usually not under the Commission’s jurisdiction, with some exceptions.

1. Contracts, leases, operating agreements, mineral deeds, royalty payments—complaints associated with these items are under the jurisdiction of the civil legal system and complainants should be referred to their legal representative.
2. Dust, noise, odors, and air contaminants, traffic—complaints of this nature may be under the jurisdiction of the TCEQ in the case of air quality or local authorities including law enforcement. Although the Commission does not regulate odors, it does regulate crude oil spills and releases of H2S, which may cause odors.
3. Public water supply, private water wells, lease roads, gates, fences, livestock, crops, fish, wildlife (however the Commission does have jurisdiction to protect surface and ground water from oil and gas waste and does require operators to provide access to oil and gas facilities which includes roads).

Special Complaints: Some complaints are unique and require the District Office to utilize a certain procedure to resolve the complaint.

1. **Expired Lease:** Mineral or surface owners may file a complaint alleging an operator’s lease has expired. The complainant may want inactive wells to be plugged and surface equipment removed. The mineral owner may want to lease the minerals to another entity. In cases where the complainant alleges that an operator, who has a well with a plugging extension under 16 Tex. Administrative Code § 3.15, does not have a valid lease, the complainant should be advised to send a copy of the lease agreement along with a letter identifying the lease, (lease name, district, lease number, field, etc.) and stating their reason for believing that the operator does not have a valid lease to:

Railroad Commission of Texas
Hearings Division
P. O. Box 12967
Austin, Texas 78711-2967

2. The Hearings Division may be contacted at 512-463-6848 or 512-463-6924. The Hearings Division will request the operator to provide a “good faith claim” as provided for in SWR 15 and work to determine if a good faith claim is valid. If the operator does not respond or does not sufficiently document that a valid lease exists, the 14(b)(2) exception will be canceled and the matter will be referred to the appropriate district office for requisite compliance.
3. **False Filing of a W-3C:** In order to renew an Organization Report (Form P-5) each year, an operator must receive an extension to SWR 14(b)(2) on an inactive well. Part of this process involves completing and signing a W-3C in which the operator represents 1) the electricity has been disconnected; 2) the tanks and flowlines have been purged; or 3) the surface equipment has been removed. A complainant may find from the Commission’s website that an operator has represented that the surface equipment has been removed when the surface equipment is still on location. The District Office should confirm, from the Commission’s website or mainframe, that the operator checked box C on the W-3C representing that the surface equipment has been removed. If confirmation is made, the lease should be inspected, and pictures of any surface equipment should be included with the inspection report. Provided the information from the W-3C and inspection report demonstrate the operator falsely filed the W-3C, the District Office should send an NOV to the operator with a copy to the complainant, then refer an enforcement case to Austin. Field Operations will notify the P-5 Department and procure copies of the signed W-3Cs to include in the enforcement package. In addition to the enforcement case for false filing, the P-5 Department may refuse to renew the operator’s P-5 since it was approved under false pretense.
4. **Complaints Involving Elected Officials and Other Agencies:** Field Operations staff may monitor and take an active role in addressing some complaints. The District Office may receive a complaint directly from a Commissioner, a state legislator, state official, or other state agency. When this happens, the District Office should follow normal complaint procedure, and should immediately notify the Regional Director or the Assistant Director of Field Operations. Normal complaint procedures will be followed unless the Regional Director or the Assistant Director of Field Operations provide situation specific direction.

Closure of Complaints

Each District should close a complaint when the complaint has been successfully brought into compliance, referred to another group (no active pollution), or is found to be unsubstantiated or non-jurisdictional. Once a complaint has been closed, the Technical Staff in the District will no longer handle the complaint and will not reuse the complaint number unless a final statement is being made.

Closure of Complaints Referred to Enforcement: A complaint can be closed provided there is no active pollution occurring and a referral has been sent to Legal Enforcement, or when compliance has been achieved after a referral has been made where there was active pollution. Note: The request for Enforcement Action made to Austin Field Operations is not considered a referral until it has been reviewed and handed over to Legal Enforcement and a docket number assigned.

1. When closing complaint files, which have Legal Enforcement actions pending, it is imperative the operators not get the impression that pending penalty actions are being dropped. To prevent this impression, the closing report should state that the closing of this complaint file does not alter or suspend any Legal Enforcement action that is currently pending, or other similarly worded statements.
2. The operator and complainant should be made aware in the closing letter that any further questions or correspondence related to this complaint should be directed to:

Railroad Commission of Texas
Office of General Counsel—Legal Enforcement
P. O. Box 12967
Austin, Texas 78711-2967

Closure of Complaints referred to Site Remediation: When it becomes apparent that a complaint will become an Oilfield Cleanup Site candidate and will require further investigation/action by the Site Remediation Group, the District Oilfield Clean-up Coordinator (DOCC) will become part of the complaint process. The following describes two ways these complaints may be handled:

1. No active pollution is occurring at a site: These complaints can be closed. The closing statement in the Status Report will inform the complainant and operator that the complaint file is being referred to the Site Remediation Group for further evaluation and action. It should state that any future inquiries be addressed to the DOCC, who should be named in the correspondence.
2. Active Pollution: When active pollution is occurring at a site that is being referred to Site Remediation, the complaint must remain open and the Complaint Coordinator/Technical Staff will continue to write the Status Report. A report of all inspection activity performed by the DOCC will be placed in the complaint file to document the activity that has been initiated and the current status of the project in the Site Remediation Group. The Compliant Coordinator/Technical Staff will consult with the DOCC in the preparation of the status report update.

Closure of Complaints referred to State-Managed Plugging: Complaints can be closed and referred to State-Managed Plugging (SMP) when there is no active pollution occurring, there is no current active operator available to bring the well into compliance with the plugging requirements, or the well is not being referred to Legal Enforcement (See Procedure in State-Managed Plugging Manual for SMP vs. Show Cause Hearing Decision Tree).

The complaint should be closed, and a statement made in the closing report that the file is being referred to State-Managed Plugging for evaluation and prioritization. It should be further stated, that the well(s) will be eligible for plugging consideration in accordance with the established priority system and budgetary constraints. Any questions concerning the matter should be addressed to District State-Managed Plugging Coordinator (give name) at (give phone number). When the wells are plugged by SMP or removed from their control, a complaint update letter should be initiated giving the actual plugging date or reason for removal from SMP oversight. If the complaint involves SMP, the complainant and the District Office Lead State Plugger should be sent copies of the

complaint letter and status updates. The Regional Director and Assistant Director of Field Operations should only be sent the status update if requested.