



RAILROAD COMMISSION OF TEXAS

OIL & GAS MONITORING & ENFORCEMENT PLAN

Fiscal Year 2022

 WAYNE CHRISTIAN
COMMISSIONER

 CHRISTI CRADDICK
CHAIRMAN

 JIM WRIGHT
COMMISSIONER



Annual Oil and Gas Division Monitoring and Enforcement Plan

For Fiscal Year 2022

By

Railroad Commission of Texas

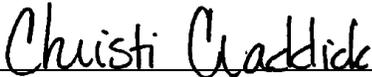
Christi Craddick
Wayne Christian
Jim Wright

Dec. 17, 2012 to Dec. 31, 2024
Jan. 9, 2017 to Dec. 31, 2022
Jan. 4, 2021 to Dec. 31, 2026

Midland, Texas
Center, Texas
Orange Grove, Texas

June 22, 2021

Approved:


Christi Craddick
Chairman


Wei Wang
Executive Director


Wayne Christian
Commissioner


Danny Sorrells
Assistant Executive Director and
Director, Oil and Gas Division


Jim Wright
Commissioner

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 2022.

Table of Contents

Vision	5
About the Railroad Commission.....	5
Strategic Priorities for FY 2022	5
Monitoring and Enforcement Overview.....	5
Goals	13
Educational Opportunities.....	15
Stakeholder Participation Process.....	16
Data	17
Appendix A: Standard Operating Guidelines: Inspection Priorities	21
Appendix B: Definition of a Major Violation	25
Appendix C: Office of General Counsel Legal Enforcement Process.....	27
Appendix D: Complaint Procedures	30

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 2022

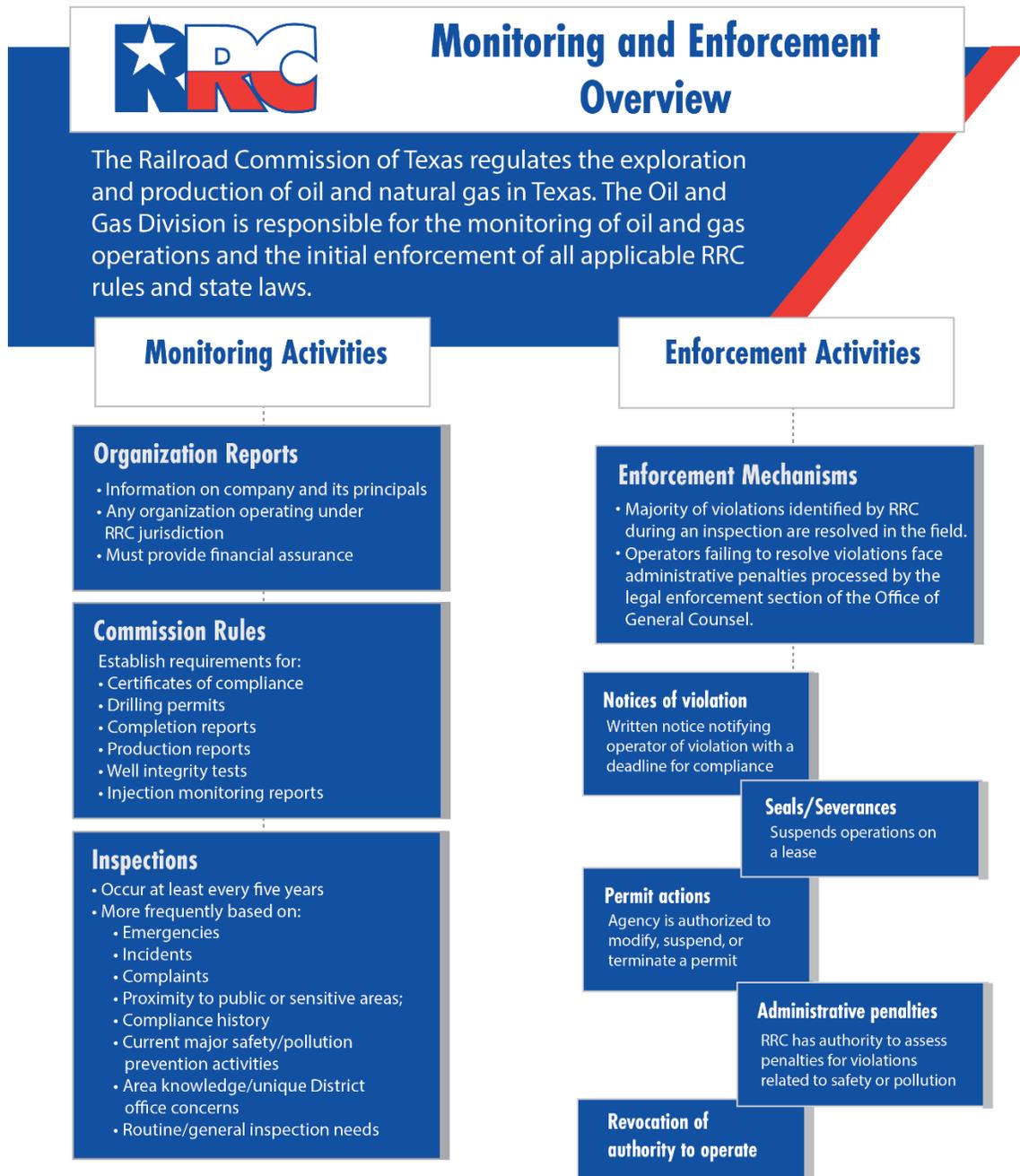
The Railroad Commission's *Annual Oil and Gas Division Monitoring and Enforcement Plan* includes two goals: to accurately demonstrate the Commission's oil and gas monitoring and enforcement activities; and to strategically use the oil and gas monitoring and enforcement resources of the Commission to 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 2022 and performance measures that indicate success from the previous year. 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.

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 ten district offices, each assigned to one of three regional districts. A district [map](#) is available on the Commission's website. Comprehensive permitting and reporting requirements enable the Commission to track the compliance status of oil and gas operations. In addition, the 173 inspectors as of February 28, 2021, 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 approximately 170 oil and gas field inspectors. These inspectors work in the communities where they live and report to one of ten 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. In fiscal year 2019, the Commission conducted 203,697 inspections of wells and other facilities; fiscal year 2020 saw an increase of more than 70 percent in the number of wells and other facilities inspected to a total 347,617

inspections, continuing the primary focus of inspecting those oil and gas operations not inspected in the previous five years. The Legislative target anticipates the Commission will inspect at least 189,000 wells and other facilities fiscal year 2021; however, the Commission projects that more than 300,000 wells and other facilities will be inspected by the conclusion of the fiscal year. The Commission will continue to build on this success setting a target to inspect 345,000 wells and other facilities in fiscal year 2022.

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:

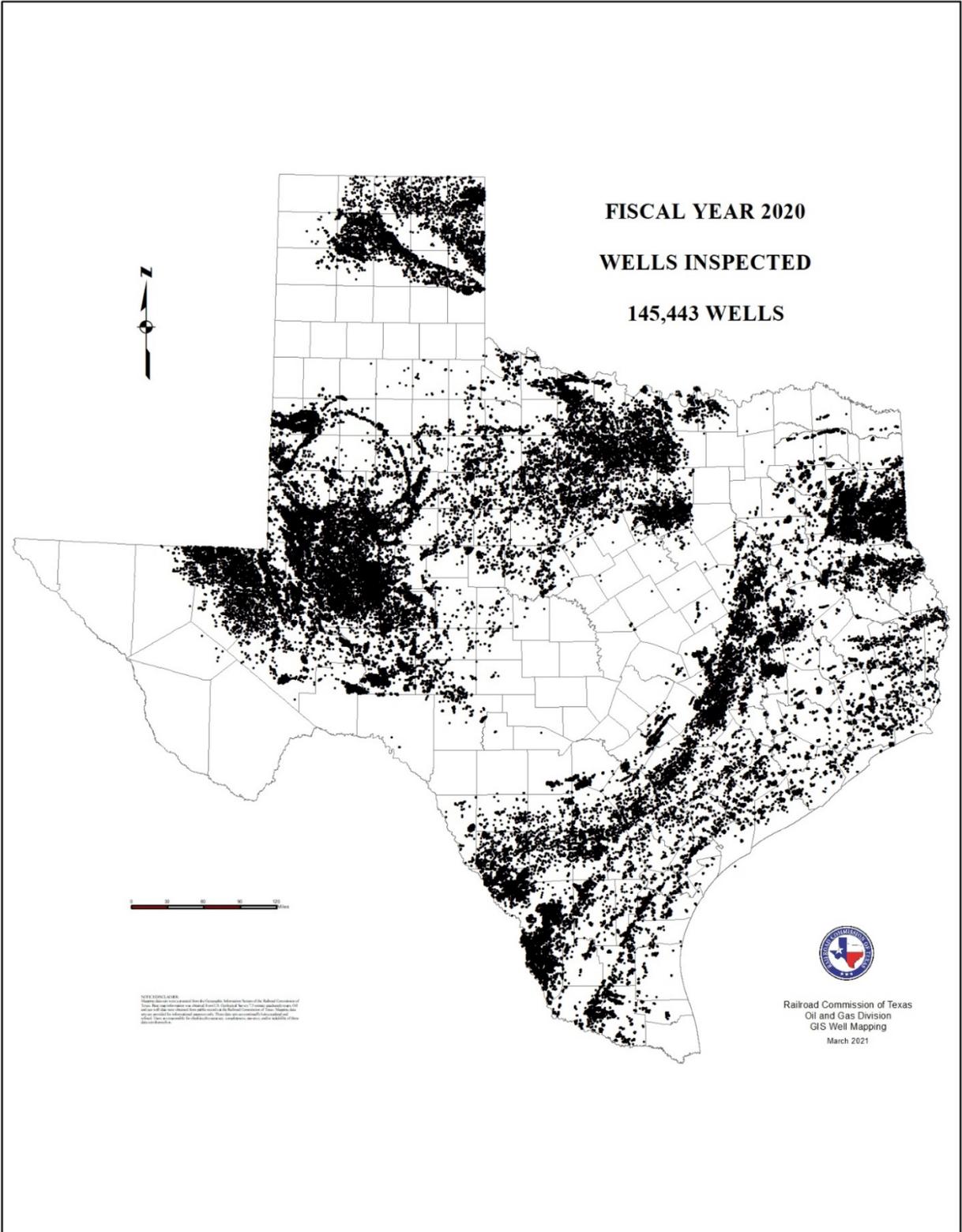
- known compliance issues (complaints, incidents, emergencies, etc.);
- the length of time since last inspection;
- proximity to public or sensitive areas;
- an operator's or a well's compliance history;
- current major safety/pollution prevention activities;
- area knowledge/unique District Office concerns;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

In fiscal year 2020, the Commission continued efforts to ensure that each well in the state is inspected regularly, with field inspectors responsible for specific performance targets. Maintaining an aggressive approach, the Commission ensures all wells across Texas are inspected at least once every five years, conducting a total of 347,617 inspections for the fiscal year comprised of 194,278 well level inspections (Figure 2 provides a geographic distribution of inspected wells) and 153,339 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. Responses to emergencies and complaints receive 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: Geographic distribution of the 145,443 wells inspected across Texas in fiscal year 2020



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 (Texas 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 Texas Environmental, Health, and Safety Audit Privilege Act* can be found on the Commission’s website at <https://rrc.texas.gov/media/wpzdrtv3/audit-privilege-act-guide-nov-2017.pdf>. 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 between 500 and 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, social media, 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 following receipt of a complaint.

Table 1: Fiscal year 2020 complaints

Measure	Fiscal Year 2020
Number of oil and gas complaints received	473
Number of oil and gas complaints resolved	512

**The number of complaints received and resolved are not equal in a fiscal year as a complaint is not always resolved in the same fiscal year it is received.*

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 and 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. The Commission may also assess penalties for \$1,000 per day for non-safety or pollution related violations. 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 Texas Administrative Code § 3.107) provides guidelines for the assessment of penalties for various types of violations.

Loss 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.) When an Enforcement Order has been issued and the operator has not complied with that order, the statute prohibits the Commission from accepting Organization Report renewals (Form P-5), certain permit applications (including Drilling Permits among others) and requests for Certifications of Compliance and Transportation Authority (Form P-4) for any wells it may operate. The statute also applies to the individuals in control of the company: any other companies controlled by a tagged person are similarly barred from filing with the Commission. The restrictions imposed by §91.114 effectively bar that company (and those who control it) from continuing those activities beyond the current P-5 year as an “Active” organization report is required for a company to conduct operations subject to the Commission’s jurisdiction.

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 Legal Enforcement. 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 2020. This effort provides the framework for enhancements to data collection, management, and reporting, an ongoing effort as the Commission continues to modernize its information technology infrastructure.

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 General Appropriations Act (SB1 Conference Committee, 87th Regular Session, 2021) appropriated \$25,415,154 and 281.9 FTEs for the oil and gas monitoring and inspection strategy for fiscal year 2022.

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

Action Item 1: Modernize Technology Infrastructure

The Commission can best ensure compliance with conservation, environmental, and safety rules for oil and gas activities statewide using modern infrastructure that supports data driven activities. In fiscal year 2022 the Commission's progress towards transforming all applications out of its legacy mainframe environment will continue. A move of this scale, across multiple biennia, from highly interconnected, legacy systems to cloud-based software will support the development of data warehouse and business intelligence tools to provide improved reporting options for technical staff in the district offices to integrate information from multiple sources more efficiently.

Action Item 2: Operationalize Technological Improvements

As technology improvements deploy, the Commission's monitoring and enforcement efforts must continually adapt to operationalize those enhancements. In fiscal year 2022, the inspection process will implement new tools that will provide machine readable data to inform monitoring and enforcement activities and decision making. Specialty forms such as well plugging inspections and Mechanical Integrity Test inspections will be integrated within the Inspection, Compliance, and Enforcement system (ICE) allowing inspectors to capture additional data related to specific types of inspections. The addition of two data fields—an H₂S indicator and GPS location—will improve field safety by indicating to inspectors the possible presence of H₂S with highlighted

fields, while the GPS data will capture the coordinates for individual wells as a data field to increase efficiency on return visits to a site. Two other enhancements will improve workflow by adding the capability to print a complete inspection report as a PDF from within ICE and the option for district office staff to update internal notification lists when the district office receives a request for an inspection either from within the Commission or from the public to share the request more quickly with field inspectors and district office management.

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: Inspect Well Population

The Commission has 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. For bay and offshore wells, the Commission will ensure that each well is inspected at least once every two years. As of August 31, 2020, the Commission's schedule of wells contained 440,699 wells. The Commission will inspect at least 90,000 wells during fiscal year 2022 to meet the performance target for inspection frequency. With all the oil and gas wells in Texas inspected within the previous five years by the conclusion of fiscal year 2021, in fiscal year 2022 the Commission will return to those wells inspected earlier in the five year cycle.

Action Item 2: Deploy Drones to Assess Leaks and Spills

Increasingly, drones—Unmanned Aircraft Systems—are a critical tool to ensure public safety and protect the environment by allowing inspectors virtual access to areas that are harder to reach in person, including remote sites, areas with rugged terrain, or bodies of water. With 16 licensed drone pilots—field inspectors that completed 100 training hours to acquire the Federal Aviation Administration's Small Unmanned Aircraft Systems Rule (Part 107) license—the Railroad Commission has the capacity to support emergency response efforts by providing an aerial view of areas that may otherwise be inaccessible.¹ At this time, the Commission's statutory authority is limited to using drones to respond to spills/leaks and emergency situations, and the Commission does not have legal authority to otherwise use drones. The initial program flew six successful missions that identified well bores not previously located on the ground and the source of oil seeps, as well as providing invaluable aerial views of disposal facilities that will assist inspectors to ensure facilities come into compliance and proper remediation occurs. The use of drones on missions such as these allows inspectors to more efficiently conduct visual inspections of leaks and spills that would otherwise be difficult to assess, and evaluate emergency situations from a safe distance. Additionally, in the event of an oil spill, an inspector's time to delineate the spill is reduced. Instead of needing hours to walk over ground to measure the beginning and end point of a spill, inspectors can request a drone mission to quickly cover ground and find the impacted spill areas,

¹ Drones will be operated in compliance with federal, state, and local laws established to ensure the protection of individual and property owner's privacy.

determine how to control the growth of the spill area, and where to start required cleanup. The Commission will build on the initial success of its drone program in fiscal year 2022, flying missions as appropriate and justified within the structure of its program.

Action Item 3: Transition Boots on the Ground to an Ongoing Professional Development Program

Boots on the Ground began as an effort to ensure inspectors, managers, and technical staff 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. Since its inception in fiscal year 2019 as a training program for inspectors with less than two years’ experience with the Commission to an expanded offering for managerial and technical staff from the district offices, Boots on the Ground engages field staff with the required skills and supporting competency development critical for the Commission’s monitoring and enforcement to succeed. While the program necessarily pivoted to a virtual format in response to the COVID-19 pandemic, this change allows for expanded participation as the program will expand to include administrative personnel in the district offices along with Oil and Gas technical staff based in the Austin Office. The program will also offer at least three sessions of “Understanding Oil and Gas Terminology” for all Commission staff.

Action Item 4: State-Managed Well Plugging Program

With revenue from assessments on the oil and gas industry, the Commission anticipates plugging 1,000 wells during fiscal year 2022. The Commission also anticipates it will oversee plugging activities at 6,500 wells that operators will plug. The Commission’s inventory of orphaned wells contained 6,208 wells as of August 31, 2020, with 4,513 prioritized for plugging. As of August 31, 2019, the Commission’s inventory of orphaned wells also included 6,208, with 4,376 wells prioritized for plugging. While the number of orphaned wells at the conclusion of fiscal year 2019 appears identical to the number of orphaned wells at the conclusion of fiscal year 2020, the numbers alone do not describe the dynamic nature of the orphaned well population or detail that the Railroad Commission plugged 1,477 orphaned wells in fiscal year 2020.

Educational Opportunities

The Railroad Commission continuously seeks ways to educate industry operators about Commission rules and processes to ensure operators remain in full compliance. As COVID-19 continues to limit the Commission’s ability to provide much-needed, in-person educational content to industry operators, the increased virtual training initiated in fiscal year 2020 continued into fiscal year 2021, with plans in development for fiscal year 2022. The Commission anticipates that as conditions allow it will again offer a variety of in-person educational opportunities, such as:

- Annual Regulatory Conference—held in Austin, generally in August each year with thousands of participants from across the oil and gas industry.
- Regulatory Forums—day-long, in-person regional conferences for industry in cities across the state such as Midland, Corpus Christi, Houston, and Fort Worth.

- Presentations at industry events—as conditions allow RRC staff members will return as guest speakers at events hosted by industry associations including conferences, seminars, and workshops.
- User Guides—often developed as the Commission releases new RRC online resources. For example, the User Guide for the Groundwater Protection Determination (GW-1) can be found online at https://portalvhdszkzlf8q9lqr9.blob.core.windows.net/media/46879/gau_users_guide.pdf.
- Instructional videos—the Commission’s YouTube channel features instructional videos related to specific RRC forms and processes. RRC’s YouTube channel can be found at <https://www.youtube.com/channel/UC2VUwM2srskz5BOpT5Qj7Hw/videos>.

Stakeholder Participation Process

Just as the Commission anticipates a resumption of educational opportunities some time in fiscal year 2022, the Commission also anticipates its COVID-19 related restrictions on in-person outreach activities will also ease. In fiscal year 2020 before COVID-19 limited in-person activities Commission staff conducted 34 outreach activities with a broad range of audiences across the state, an additional 29 outreach activities were scheduled, but cancelled because of COVID-19 related restrictions.

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 May 11, 2021. 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:
 - (1) Facebook
 - (2) Instagram
 - (3) Twitter
 - (4) LinkedIn
- iv) Announcements on the Commission’s website at:
 - (1) <http://www.rrc.texas.gov/announcements>
 - (2) <https://www.rrc.texas.gov/announcements/?p=&d=OilGas>
 - (3) <http://www.rrc.texas.gov/whats-new/>
- v) Article in the Commission’s Texas Energy News (Commission) newsletter

The draft plan was available on the Commission’s website for comment from May 11 to June 10, 2021. During the public comment, the Commission received 16 comments. One of the commenters also provided comment at the Commissioners Conference on June 8, 2021. The Commission also received 17 comments through the Commission Conference email address. Each of these comments included an objection to the Plan only being available in English.

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 2020.

Table 2: Summary Enforcement Data for Fiscal Year 2020

Measure	Fiscal Year 2020 (actual as of March 16, 2021)
Number of oil and gas well and facility inspections performed ²	347,617
Number of statewide rule violations	32,361
Number of violations for which the Commission imposed a penalty or took other enforcement action	32,361
Number of alleged oil and gas violations sent to Office of General Counsel Legal Enforcement	1,528
Number of major statewide rule violations	12
Number of major violations for which the Commission imposed a penalty or took other enforcement action	12
Amount of final oil and gas enforcement penalties assessed	\$3,222,376

The data presented below was current as of March 16, 2021. The Commission offers an online tool—the RRC Online Inspection Lookup (OIL)—to search statewide oil and gas inspection and enforcement information, including notices of violation and intentions to sever leases. RRC OIL allows anyone, anywhere at any time to search online records of oil and gas well inspections and violations. The tool accesses inspection and enforcement data entered in the RRC’s Inspection, Compliance, Enforcement Electronic Tracking System, and allows users to download data set files either statewide or by RRC district office. Users may customize inspection and violation searches by a variety of criteria in real time. OIL is found on the Commission’s website at <https://rrc.texas.gov/resource-center/research/research-queries/about-rrc-online-inspection-lookup/>.

² Please note, this number should not be compared to the number of inspections from previous years as this number counts inspections at the well level, while numbers reported previously reported inspections at the lease level.

Table 3: Fiscal Year 2020 Number of Violations Per Rule by Subsection, as of March 16, 2021

Statewide Rule	Number of Violations Fiscal Year 2020
<u>Commission Access to Properties</u>	
16 TAC § 3.2(a)	440
16 TAC § 3.2(b)	12
<u>Identification of Properties, Wells, and Tanks</u>	
16 TAC § 3.3(1)	2,139
16 TAC § 3.3(2)	6,006
16 TAC § 3.3(3)	1,582
16 TAC § 3.3(4)	2
16 TAC § 3.3(5)	109
<u>Application To Drill, Deepen, Reenter, or Plug Back</u>	
16 TAC § 3.5	2
16 TAC § 3.5(a)	3
16 TAC § 3.5(c)	5
<u>Water Protection</u>	
16 TAC § 3.8	100
16 TAC § 3.8(b)	60
16 TAC § 3.8(d)(1)	7,430
16 TAC § 3.8(d)(2)	322
16 TAC § 3.8(d)(4)(H)(i)	290
16 TAC § 3.8(d)(4)(H)(i)(I)	93
16 TAC § 3.8(d)(4)(H)(i)(II)	27
16 TAC § 3.8(d)(4)(H)(i)(III)	208
16 TAC § 3.8(d)(4)(H)(i)(IV)	86
16 TAC § 3.8(d)(5)(B)	1
16 TAC § 3.8(f)(1)	7
16 TAC § 3.8(f)(1)(C)(ii)	3
16 TAC § 3.8(f)(1)(C)(iii)	8
<u>Disposal Wells</u>	
16 TAC § 3.9	159
16 TAC § 3.9(1)	40
16 TAC § 3.9(12)(C)(i)	32
16 TAC § 3.9(12)(C)(ii)	5
16 TAC § 3.9(9)(A)	1
16 TAC § 3.9(9)(B)	46
<u>Casing, Cementing, Drilling, and Completion Requirements</u>	
16 TAC § 3.13(a)(6)(A)	2,405
16 TAC § 3.13(a)(6)(B)	4
<u>Plugging</u>	
16 TAC § 3.14(a)(3)	25
16 TAC § 3.14(b)(1)	17
16 TAC § 3.14(b)(2)	5,217

Statewide Rule	Number of Violations Fiscal Year 2020
16 TAC § 3.14(d)(1)-(11)	40
16 TAC § 3.14(d)(12)	452
Surface Equipment Removal Requirements and Inactive Wells	
16 TAC § 3.15(f)(2)(A)	47
16 TAC § 3.15(f)(2)(A)(i)	13
16 TAC § 3.15(f)(2)(A)(ii)	107
Log and Completion or Plugging Report	
16 TAC § 3.16(b)	107
Pressure on Bradenhead	
16 TAC § 3.17(a)	959
Notification of Fire Breaks, Leaks, or Blow-outs	
16 TAC § 3.20(a)(1)	116
Fire Prevention and Swabbing	
16 TAC § 3.21(j)	364
16 TAC § 3.21(k)	2
16 TAC § 3.21(l)	451
Protection of Birds	
16 TAC § 3.22(b)	341
Separating Devices, Tanks and Surface Commingling of Oil	
16 TAC § 3.26(a)(2)	2
Gas To Be Measured and Surface Commingling of Gas	
16 TAC § 3.27(a)	67
Gas Well Gas and Casinghead Gas Shall Be Utilized for Legal Purposes	
16 TAC § 3.32(d)(2)	29
16 TAC § 3.32(h)	105
Oil, Gas, or Geothermal Resource Operation in Hydrogen Sulfide Areas	
16 TAC § 3.36(c)(14)	3
16 TAC § 3.36(c)(5)(B)	231
16 TAC § 3.36(c)(6)(A)	14
16 TAC § 3.36(c)(6)(B)	14
16 TAC § 3.36(c)(6)(C)	6
16 TAC § 3.36(c)(8)	66
16 TAC § 3.36(c)(9)(A)	5
16 TAC § 3.36(c)(9)(Q)	2
16 TAC § 3.36(d)(1)(G)	44
16 TAC § 3.36(d)(2)	1
Fluid Injection into Productive Reservoirs	
16 TAC § 3.46	641

Statewide Rule	Number of Violations Fiscal Year 2020
16 TAC § 3.46(a)	97
16 TAC § 3.46(g)(1)	8
16 TAC § 3.46(g)(2)	167
16 TAC § 3.46(j)	352
Reclaiming Tank Bottoms, Other Hydrocarbon Wastes, and Other Waste Materials	
16 TAC § 3.57(c)(1)	1
16 TAC § 3.57(d)	1
Pipeline Connection; Cancellation of Certificate of Compliance; Severance	
16 TAC § 3.73(a)	1
16 TAC § 3.73(h)	6
16 TAC § 3.73(i)	213
Brine Mining Injection Wells	
16 TAC § 3.81(b)(2)	1
Cleanup of Soil Contaminated by a Crude Oil Spill	
16 TAC § 3.91(d)(1)	349
Underground Gas Storage	
16 TAC § 3.96(b)(1)	3
Underground Storage of Gas in Salt Formations	
16 TAC § 3.97(b)(1)	1
Standards for Management of Hazardous Oil and Gas Waste	
16 TAC § 3.98(d)	44
False Applications, Reports, and Documents and Tampering with Gauges	
Tex. Nat Res Code § 91.143	2

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. The definition of a major violation may be found Appendix B of this document—Definition of a Major Violation. Appendix B includes those rules found within Title 16 Texas Administrative Code Chapter 3 that constitute a major violation; however, characterization of a violation as a major violation is not limited to a violation of the rules listed in Appendix B. During fiscal year 2020 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

Table 4: Risk Factor Priority Order

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 Outcome 3.1.1.2 found on page 47 of the Commission’s [Strategic Plan for the Fiscal Years 2021 to 2025](#)).

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](#) (Oil, Gas, or Geothermal Resource Operation in Hydrogen Sulfide Areas) 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 Underground Injection Control (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](#) (Oil, Gas, or Geothermal Resource Operation in Hydrogen Sulfide Areas) inspections
- General complaints (required to be investigated within 24-72 hours unless other arrangements are made with the complainant)
- Commercial disposal operations Underground Injection Control (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 Texas Administrative Code § 3.5(a)—Drilling or reentering a well without a permit. Statewide Rule 5(a)
- 16 Texas Administrative Code § 3.8(b)—Surface management of waste without a required permit or 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 Texas 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 Texas 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 Texas Administrative Code § 3.9 or 16 Texas 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 Texas Administrative Code § 3.9(1) or 16 Texas 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 Texas Administrative Code § 3.9(12)(c) or 16 Texas 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 Texas 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 Texas 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 Texas 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 Texas Administrative Code § 3.36(c)(9)—Conducting hydrogen sulfide operations without a written contingency plan. Statewide Rule 36(c)(9).
- 16 Texas 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 Administrative Procedure Act's requirements. *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 seeks to achieve compliance and assess appropriate administrative penalties for proven violations. Legal Enforcement primarily achieves these goals 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. If the operator chooses to voluntarily bring the violation into compliance, the frequency, severity, and intent of the violation weighs heavily in the settlement determinations. The penalty guidelines provide a flexible structure for most—but not all—violations. *See* 16 Texas 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 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 serving the operator a notice of hearing and complaint via certified mail. 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 Commissioners' 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's 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 modifications adopted 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.

A warrant hold may also be placed on the delinquent operator through the Texas Comptroller of Public Accounts. The warrant hold will direct state funds due to an operator to the Commission to reduce or pay off the debt. The operator will be notified prior to the placement of a warrant hold.

The Commission may also refer debts under \$5,000 to an independent debt collection agency. The Commission may adopt a rule requiring additional expense to off-set the portion of the collection retained by the debt collection agency. In the past two years, more than \$60,000 in penalties did not meet the threshold for referral to the OAG for collection suits.

If an operator fails to achieve compliance, Legal Enforcement works with the OAG or the debt collection agency 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 or the debt collection agency. Alternatively, the reimbursement may be included in a Legal Enforcement complaint and become part of an order before the matter is referred 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 typically receives between 500 and 600 complaints each 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 that 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 Inspection, Compliance and Enforcement (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; and
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 ICE system 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. 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 Legal 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 section 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 Section
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 Texas 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 do 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 Section
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 Complaint 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.