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RYAN SITTON, COMMISSIONER
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RAILROAD COMMISSION OF TEXAS

OFFICE OF GENERAL COUNSEL

MEMORANDUM



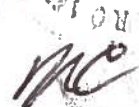
TO: Chairman Christi Craddick
Commissioner Ryan Sitton
Commissioner Wayne Christian

FROM: Haley Cochran, Attorney 
Office of General Counsel

THROUGH: Alexander C. Schoch, General Counsel 

DATE: November 6, 2018

SUBJECT: Proposed Amendments to 16 TAC §3.25, 3.26, and 3.27, relating to Common Storage and Commingling

November 13, 2018		
Approved	Denied	Abstain
  		

Attached is Staff's recommendation to amend 16 Texas Administrative Code §§3.25, 3.26, and 3.27. The amendments to §3.26 would specify two instances in which commingling is authorized under the rule: (1) where the operator measures the production stream from each tract and each Commission-designated reservoir separately before combining it with a stream from another tract or Commission-designated reservoir; and (2) the tracts and Commission-designated reservoirs have identical working interest and royalty interest ownership in identical percentages. In these instances, an operator would still be required to apply for a commingle permit (on new Form P-17A, which would be proposed while the rule language is out for comment) and comply with all applicable commingling rules but would not be required to provide notice or pay the exception fee. Corresponding amendments and other clarifications are proposed in §§3.25 and 3.27.

Staff requests the Commission's approval to publish the proposed amendments in the *Texas Register* for public comment. If approved at conference on November 13th, the proposal should appear in the November 30th issue of the *Texas Register*. The proposal and an online comment form would also be made available on the Commission's website by November 14th, giving interested persons more than two additional weeks to review and submit comments to the Commission.

cc: Wei Wang, Executive Director
Danny Sorrells, Director, Oil and Gas Division
Jason Clark, Assistant Director of Administrative Compliance, Oil and Gas Division

1 The Railroad Commission of Texas (Commission) proposes to amend §3.25, relating to Use of
2 Common Storage; §3.26, relating to Separating Devices, Tanks, and Surface Commingling of Oil; and
3 §3.27, relating to Gas To Be Measured and Surface Commingling of Gas.

4 The Commission proposes the amendments to §3.26 and §3.27 to change when an operator must
5 apply for a rule exception by filing Form P-17. Currently, any operator who seeks to surface commingle
6 production from two or more tracts of land producing from the same Commission-designated reservoir or
7 from one or more tracts of land producing from different Commission-designated reservoirs must obtain
8 an exception. The operator may receive an exception administratively by filing Form P-17, paying the
9 associated exception fee of \$150, and complying with any applicable notice requirements. An approved
10 P-17 is referred to as a commingle permit and has a unique permit number.

11 The proposed amendments in new §3.26(b) would specify two instances in which an exception is
12 no longer required: (1) where the operator measures the production stream from each tract and each
13 Commission-designated reservoir separately before combining it with a stream from another tract or
14 Commission-designated reservoir; and (2) the tracts and Commission-designated reservoirs have identical
15 working interest and royalty interest ownership in identical percentages. In these instances, an operator
16 would still be required to apply for a commingle permit and comply with all applicable commingling
17 rules but would not be required to provide notice or pay the exception fee. Concurrent with the proposed
18 rule amendments, the Commission will propose new Form P-17A, Application for Commingle Permit
19 Pursuant to Rules 26 and/or 27. An operator who falls into one of the instances in which an exception is
20 no longer required would file the Form P-17A to obtain a commingle permit.

21 The proposed amendments to §3.26(c) clarify that if production is commingled pursuant to
22 §3.26(b), the commingling is authorized even if separation, metering, or storage is located off the relevant
23 tract or tracts. Subsection (c) also clarifies that Form P-17A is required for operators who apply for a
24 commingle permit under §3.26(b).

25 Operators who seek to surface commingle but do not meet §3.26(b) would still be required to
26 seek an exception by filing Form P-17, which would be revised to reflect the rule amendments. Therefore,
27 the Commission proposes corresponding amendments to §3.26(d), requiring an administrative exception
28 when the tracts proposed for commingling do not have identical working interest and royalty interest
29 ownership in identical percentages. The Commission also proposes amendments to subsection (d) to
30 decrease the notice by publication requirement from once a week for four consecutive weeks to once a
31 week for two consecutive weeks.

32 The proposed amendments to §3.26(d)(4) and new subsection (e) remove notice requirements
33 from §3.26 that are already covered by §3.10, relating to Restriction of Production of Oil and Gas from
34 Different Strata.

1 The proposed amendments to §3.26(f) require an operator to review and correct any forms related
2 to its commingle permit as necessary in order to maintain accurate information on file with the
3 Commission. The proposed amendments would also move language from current §3.26(b)(4) to new
4 subsection (g) to clarify that if commingling from a reservoir that has field rules regarding commingling,
5 the operator must comply with the field rule requirements, including any additional notice requirements.

6 The Commission proposes amendments to §3.25 and §3.27 to reflect the changes to §3.26. The
7 proposed amendments to §3.25 clarify that common storage is authorized as long as an operator complies
8 with the requirements in §3.26 and §3.27. The proposed amendments to §3.27 authorize surface
9 commingling if done in accordance with §3.26. Other proposed amendments in §§3.25, 3.26, and 3.27 are
10 non-substantive clarifications.

11 Jason Clark, Assistant Director of Administrative Compliance, Oil & Gas Division, has
12 determined that for each year of the first five years the amendments as proposed will be in effect, there
13 will be no fiscal effect on local government. The Commission will incur a one-time cost of approximately
14 \$27,775 for programming modifications necessary to reflect the proposed rule amendments and
15 corresponding form changes. However, rule and form clarification could save staff an estimated 1141
16 hours per year – time staff currently spends resolving issues created by inconsistencies between rule
17 language and applicable forms and contradictory instructions within the Form P-17.

18 Mr. Clark has determined that for the first five years the proposed amendments are in effect, the
19 primary public benefit will be clarification of rule language and related forms related to surface
20 commingling. The existing Form P-17 is inconsistent with the rule language and creates confusion for
21 operators and those who receive notice pursuant to rule requirements.

22 Mr. Clark has determined that for each year of the first five years that the amendments will be in
23 effect, there will be no economic costs for persons required to comply as a result of adoption of the
24 proposed amendment. The regulated industry would see a savings of \$150 per commingling permit
25 application filed pursuant to new §3.26(b) because a rule exception would no longer be required.

26 The Commission has determined that the proposed amendments to §§3.25, 3.26, and 3.27 will not
27 have an adverse economic effect on rural communities, small businesses or micro businesses. As noted
28 above, there is no anticipated additional cost for any person required to comply with the proposed
29 amendments. Therefore, the Commission has not prepared the economic impact statement or the
30 regulatory flexibility analysis pursuant to Texas Government Code §2006.002.

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

34 The Commission has determined that the amendments do not meet the statutory definition of a

1 major environmental rule as set forth in Texas Government Code, §2001.0225(a); therefore, a regulatory
2 analysis conducted pursuant to that section is not required.

3 During the first five years that the rules would be in effect, the proposed amendments would not:
4 create or eliminate a government program; create or eliminate any employee positions; require an increase
5 or decrease in future legislative appropriations; create a new regulation; increase or decrease the number
6 of individuals subject to the rule's applicability; expand, limit, or repeal an existing regulation; or effect
7 the state's economy. The proposed amendments would decrease fees paid to the agency. Because the
8 amendments would authorize commingling in two instances where an exception is currently required, the
9 Commission would receive less exception applications and, therefore, less exception fees.

10 Comments on the proposed amendment may be submitted to Rules Coordinator, Office of
11 General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at
12 www.rrc.texas.gov/general-counsel/rules/comment-form-for-proposed-rulemakings; or by electronic mail
13 to rulescoordinator@rrc.texas.gov. The Commission will accept comments until 5:00 p.m. on
14 Wednesday, January 2, 2019. The Commission finds that this comment period is reasonable because the
15 proposal and an online comment form will be available on the Commission's website more than two
16 weeks prior to *Texas Register* publication of the proposal, giving interested persons additional time to
17 review, analyze, draft, and submit comments. The Commission cannot guarantee that comments
18 submitted after the deadline will be considered. For further information, call Mr. Clark at (512) 463-2655.
19 The status of Commission rulemakings in progress is available at [www.rrc.texas.gov/general-](http://www.rrc.texas.gov/general-counsel/rules/proposed-rules)
20 [counsel/rules/proposed-rules](http://www.rrc.texas.gov/general-counsel/rules/proposed-rules).

21 The Commission proposes the amendments to §§3.25, 3.26 and 3.27 pursuant to Texas Natural
22 Resources Code §85.046, which grants the Commission broad discretion in permitting the commingling
23 of production of oil or gas or oil and gas from two or more tracts of land producing from the same
24 reservoir or from one or more tracts of land producing from different reservoirs; Texas Natural Resources
25 Code §§81.051 - 81.052, which provide the Commission with jurisdiction over all persons owning or
26 engaged in drilling or operating oil or gas wells in Texas and the authority to adopt all necessary rules for
27 governing and regulating persons and their operations under Commission jurisdiction; Texas Natural
28 Resources Code §§85.201 - 85.202, which require the Commission to adopt and enforce rules and orders
29 for the conservation and prevention of waste of oil and gas, and specifically for drilling of wells,
30 preserving a record of the drilling of wells, and requiring records to be kept and reports to be made; and
31 Texas Natural Resources Code §§86.041 - 86.042, which give the Commission broad discretion in
32 administering the provisions of Chapter 86 of the Code, authorize the Commission, generally, to adopt
33 any rule or order necessary to effectuate the provisions and purposes Chapter 86, and require the
34 Commission to adopt and enforce rules and orders to conserve and prevent the waste of gas, provide for

1 drilling wells and preserving a record of them, require wells to be drilled and operated in a manner that
2 prevents injury to adjoining property, and require records to be kept and reports to be made.

3 Statutory authority: Texas Natural Resources Code §§81.051, 81.052, 85.046, 85.201, 85.202,
4 86.041, and 86.042.

5 Cross reference to statute: §§81.051, 81.052, 85.046, 85.201, 85.202, 86.041, and 86.042.

6 §3.25. Use of Common Storage.

7 (a) ~~Where [In all fields or areas in which the commission has approved the use of common-~~
8 ~~storage where]~~ oil and/or other liquid hydrocarbons are [is] produced from two or more separate
9 reservoirs or zones and separate proration schedules are published by the Commission [~~eommission~~] for
10 each reservoir or zone, the use of common storage is authorized as long as the requirements of §3.26 and
11 §3.27 of this title (relating to Separating Devices, Tanks, and Surface Commingling of Oil, and Gas to be
12 Measured and Surface Commingling of Gas, respectively) are met. An [the] operator utilizing common
13 storage pursuant to this section [of said lease] shall not be required to file a separate Form P-4,
14 [Producer's] Certificate of Compliance and Transportation Authority, [Authorization to Transport Oil or
15 Gas From Lease Form] for each reservoir or zone, but may file one form to authorize the transportation of
16 oil or gas from all reservoirs or zones producing into common storage.

17 (b) A gatherer transporting oil from such common storage shall not be required to file a separate
18 transporter's report for each separate reservoir or zone or each separate lease but shall file such report on a
19 combined basis for the total amount of commingled oil in common storage.

20 (c) The operator of a lease or leases for which the Commission [~~eommission~~] has authorized the
21 use of common storage of oil produced from two or more reservoirs or zones and from two or more leases
22 shall file Form PR, Monthly Production Report, for each separate reservoir or zone and/or for each
23 separate lease and, in addition thereto, said operator shall file a report showing the data included on the
24 individual reports on a combined basis for the total amount of commingled oil in common storage.

25
26 §3.26. Separating Devices, Tanks, and Surface Commingling of Oil.

27 (a) Where oil and gas are found in the same stratum and it is impossible to separate one from the
28 other, or when a well has been classified as a gas well and such gas well is not connected to a cycling
29 plant and such well is being produced on a lease and the gas is utilized under Texas Natural Resources
30 Code §§86.181 - 86.185, the operator shall install a separating device of approved type and sufficient
31 capacity to separate the oil and liquid hydrocarbons from the gas.

32 (1) A [The] separating device shall be kept in place as long as a necessity for it exists,
33 and its use shall not be [after being installed, such device shall not be removed nor the use thereof]
34 discontinued without the consent of the Commission [~~eommission~~].

1 (2) All oil and any other liquid hydrocarbons as and when produced shall be adequately
2 measured pursuant to paragraphs (3) and (4) of this subsection [~~according to the pipeline rules and~~
3 ~~regulations of the commission~~] before the same leaves the lease from which they are produced, except for
4 gas wells where the full well stream is moved to a plant or central separation facility in accordance with
5 §3.55 of this title (relating to Reports on Gas Wells Commingling Liquid Hydrocarbons before Metering)
6 (Statewide Rule 55) and the full well stream is measured, with each completion being separately
7 measured, before the gas leaves the lease. If an operator commingles production pursuant to subsection
8 (b) of this section, the operator shall comply with paragraphs (3) and (4) of this subsection but the
9 operator is not required to measure the production stream before it leaves the lease.

10 (3) Sufficient tankage and separator capacity shall be provided by the producer to
11 adequately take daily gauges of all oil and any other liquid hydrocarbons unless LACT equipment,
12 installed and operated in accordance with the latest revision of American Petroleum Institute (API)
13 Manual of Petroleum Measurement Standards, Chapter 6.1 or another method approved by the
14 Commission [~~commission~~] or its delegate, is being used to effect custody transfer.

15 (4) For Commission [~~commission~~] purposes, the measurement requirements of this
16 section are satisfied by the use of coriolis or turbine meters or any other measurement device or
17 technology that conforms to standards established, as of the time of installation, by the American
18 Petroleum Institute (API) or the American Gas Association (AGA) for measuring oil or gas, as applicable,
19 or approved by the Director of the Oil and Gas Division as an accurate measurement technology.

20 (b) Surface commingling of oil, gas, or oil and gas production from two or more tracts of land
21 producing from the same Commission-designated reservoir or from one or more tracts of land producing
22 from different Commission-designated reservoirs is permitted and authorized if:

23 (1) the operator measures the production stream from each tract and each Commission-
24 designated reservoir separately before combining it with a stream from another tract or Commission-
25 designated reservoir; or

26 (2) the tracts and Commission-designated reservoirs have identical working interest and
27 royalty interest ownership in identical percentages.

28 (c) Production that complies with subsection (b) of this section is authorized even if the separator,
29 metering, or storage is located off the tract or tracts. If production is surface commingled pursuant to
30 subsection (b) of this section, the operator shall file Form P-17A, Application for Commingle Permit
31 Pursuant to Rules 26 and/or 27.

32 (d) [(b)] If an operator does not meet the requirements of subsection (b) of this section [In order-
33 to prevent waste, to promote conservation or to protect correlative rights], the Commission [~~commission~~]
34 may approve surface commingling of oil, gas, or oil and gas production from two or more tracts of land

1 producing from the same Commission-designated [~~commission-designated~~] reservoir or from one or more
2 tracts of land producing from different Commission-designated [~~commission-designated~~] reservoirs in
3 order to prevent waste, to promote conservation, or to protect correlative rights. [~~as follows:~~]

4 (1) Administrative approval. After receipt of a completed Form P-17, the Commission
5 [~~Upon written application, the commission~~] may grant approval for surface commingling administratively
6 when [~~any one of the following conditions is met:~~

7 (A) ~~The tracts or commission-designated reservoirs have identical working-~~
8 ~~interest and royalty interest ownership in identical percentages and therefore there is no commingling of~~
9 ~~separate interests;~~

10 (B) ~~Production from each tract and each commission-designated reservoir is~~
11 ~~separately measured and therefore there is no commingling of separate interests; or~~

12 (C) ~~When~~ the tracts or Commission-designated [~~commission-designated~~]
13 reservoirs do not have identical working interest and royalty interest ownership in identical percentages
14 and the Commission [~~commission~~] has not received a protest to an application within 21 days of notice of
15 the application being mailed by the applicant to all working and royalty interest owners or, if publication
16 is required, within 21 days of the date of last publication and the applicant provides:

17 (A) [(i)] a method of allocating production to ensure the protection of correlative
18 rights, in accordance with paragraph (3) of this subsection; and

19 (B) [(ii)] an affidavit or other evidence that all working interest and royalty
20 interest owners have been notified of the application by certified mail or have provided applicant with
21 waivers of notice requirements; or

22 (C) [(iii)] in the event the applicant is unable, after due diligence, to provide
23 notice by certified mail to all working interest and royalty interest owners, a publisher's affidavit or other
24 evidence that the Commission's [~~commission's~~] notice of application has been published once a week for
25 two [~~four~~] consecutive weeks in a newspaper of general circulation in the county or counties in which the
26 tracts that are the subject of the application are located.

27 (2) Request for hearing. When the tracts or Commission-designated [~~commission-~~
28 ~~designated~~] reservoirs do not have identical working interest and royalty interest ownership in identical
29 percentages and a person entitled to notice of the application has filed a protest to the application with the
30 Commission [~~commission~~], the applicant may request a hearing on the application. The Commission
31 [~~commission~~] shall give notice of the hearing to all working interest and royalty interest owners. The
32 Commission [~~commission~~] may permit the commingling if the applicant demonstrates that the proposed
33 commingling will protect the rights of all interest owners in accordance with paragraph (3) of this
34 subsection and will prevent waste, promote conservation or protect correlative rights.

1 (3) Reasonable allocation required. The applicant must demonstrate to the Commission or
2 its designee that the proposed commingling of hydrocarbons will not harm the correlative rights of the
3 working or royalty interest owners of any of the wells to be commingled. The method of allocation of
4 production to individual interests must accurately attribute to each interest its fair share of aggregated
5 production.

6 (A) In the absence of contrary information, such as indications of material
7 fluctuations in the monthly production volume of a well proposed for commingling, the Commission will
8 presume that allocation based on the daily production rate for each well as determined and reported to the
9 Commission by semi-annual well tests will accurately attribute to each interest its fair share of production
10 without harm to correlative rights. As used in this section, "daily production rate" for a well means the 24
11 hour production rate determined by the most recent well test conducted and reported to the Commission
12 [~~commission~~] in accordance with §§3.28, 3.52, 3.53, and 3.55 of this title (relating to Potential and
13 Deliverability of Gas Wells to be [~~To Be~~] Ascertained and Reported, Oil Well Allowable Production,
14 Annual Well Tests and Well Status Reports Required, and Reports on Gas Wells Commingling Liquid
15 Hydrocarbons before Metering).

16 (B) Operators may test commingled wells annually after approval by the
17 Commission or the Commission's [~~commission's~~] delegate of the operator's written request demonstrating
18 that annual testing will not harm the correlative rights of the working or royalty interest owners of the
19 commingled wells. Allocation of commingled production shall not be based on well tests conducted less
20 frequently than annually.

21 (C) Nothing in this section prohibits allocations based on more frequent well tests
22 than the semi-annual well test set out in subparagraph (A) of this paragraph. Additional tests used for
23 allocation do not have to be filed with the Commission [~~commission~~] but must be available for inspection
24 at the request of the Commission [~~commission~~], working interest owners or royalty interest owners.

25 (D) Allocations may be based on a method other than periodic well tests if the
26 Commission or its designee determines that the alternative allocation method will insure a reasonable
27 allocation of production as required by this paragraph.

28 ~~[(4) Additional notice required. In addition to giving notice to the persons entitled to~~
29 ~~notice under paragraph (1)(C) of this subsection, an applicant for a surface commingling exception must~~
30 ~~give notice of the application to the operator of each tract adjacent to one or more of the tracts proposed~~
31 ~~for commingling that has one or more wells producing from the same commission-designated reservoir as~~
32 ~~any well proposed for commingling if:]~~

33 ~~[(A) any one of the wells proposed for commingling produces from a~~
34 ~~commission-designated reservoir for which special field rules have been adopted; or]~~

1 ~~[(B) any one of the wells proposed for commingling produces from multiple-~~
2 ~~commission-designated reservoirs, unless:]~~

3 ~~[(i) an exception to §3.10 of this title (relating to Restriction of-~~
4 ~~Production of Oil and Gas from Different Strata) has previously been obtained for production from the-~~
5 ~~well; or~~

6 ~~[(ii) the applicant continues to separately measure production from each-~~
7 ~~different commission-designated reservoir produced from the same wellbore.]~~

8 (e) An operator that commingles production from different Commission-designated reservoirs,
9 whether under subsection (b) or (c) of this section, shall comply with §3.10 of this title (relating to
10 Restriction of Production of Oil and Gas from Different Strata).

11 (f) An operator that commingles production, whether under subsection (b) or (c) of this section,
12 shall review and correct any forms related to its commingle permit as necessary in order to maintain
13 accurate information on file with the Commission.

14 (g) An operator that surface commingles production from two or more tracts of land producing
15 from the same Commission-designated reservoir or from one or more tracts of land producing from
16 different Commission-designated reservoirs shall comply with any field rules regarding surface
17 commingling, including any notice requirements.

18 (h) [(e)] If oil or any other liquid hydrocarbon is produced from a lease or other property covered
19 by the coastal or inland waters of the state, the liquid produced may, at the option of the operator, be
20 measured on a shore or at a point removed from the lease or other property on which it is produced.

21 (i) [(d)] Oil gravity tests and reports (Reference Order Number 20-55, 647, effective 4-1-66, and
22 Reference Order Number 20-58, 528, effective 5-10-68.)

23 (1) Where individual lease oil production, or authorized commingled oil production,
24 separator, treating, and/or storage vessels, other than conventional emulsion breaking treaters, are
25 connected to a gas gathering system so that heat or vacuum may be applied prior to oil measurement for
26 Commission-required [eommission-required] production reports, the operator may, at the operator's [his]
27 option, apply heat or vacuum to the oil only to the extent the average gravity of the stock tank oil will not
28 be reduced below a limiting gravity for each lease as established by an average oil gravity test conducted
29 under the following conditions (Reference Order Number 20-55, 647, effective 4-1-66):

30 (A) the separator or separator system, which shall include any type vessel that is
31 used to separate hydrocarbons, shall be operated at not less than atmospheric pressure;

32 (B) no heat shall be applied;

33 (C) the test interval shall be for a minimum of 24 hours, and the average oil
34 gravity after weathering for not more than 24 hours shall then become the limiting gravity factor for

1 applying heat or vacuum to unmeasured oil on the tested lease.

2 (2) Initial gravity tests shall be made by the operator when such separator, treating,
3 and/or storage vessels are first used pursuant to this section. Subsequent tests shall be made at the request
4 of either the Commission [~~eommission~~] or any interested party; and such subsequent tests shall be
5 witnessed by the requesting party. Any interested party may witness the tests.

6 (3) Each operator shall enter on the [~~face of his~~] required production report the gravity of
7 the oil delivered to market from the lease reported, and it is provided that should a volume of oil delivered
8 to market from such lease separation facilities not meet the gravity requirement established by the
9 described test, adjustment shall be made by charging the allowable of the lease on the relationship of the
10 volume and the gravity of the particular crude.

11 (4) Where a conventional heater treater is required and is used only to break oil from an
12 emulsion prior to oil measurement, this section will not be applicable; provided, however, that by this
13 limitation on the section, it is not intended that excessive heat may be used in conventional heater treater,
14 and in circumstances where such heater treater is connected to a gas gathering system and it is found by
15 Commission [~~eommission~~] investigation made on its own volition or on complaint of any interested party
16 that excessive heat is used, either the provisions of this section or special restrictive regulation may be
17 made applicable.

18
19 §3.27. Gas to be [~~To Be~~] Measured and Surface Commingling of Gas.

20 (a) All natural gas, except casinghead gas, produced from wells shall be measured, with each
21 completion being measured separately, before the gas leaves the lease, and the producer shall report the
22 volume produced from each completion to the Commission [~~eommission~~]. For Commission [~~eommission~~]
23 purposes, the measurement requirements of this section are satisfied by the use of coriolis or turbine
24 meters or any other measurement device or technology that conforms to standards established, as of the
25 time of installation, by the American Petroleum Institute (API) or the American Gas Association (AGA)
26 for measuring oil or gas, as applicable, or approved by the Director of the Oil and Gas Division as an
27 accurate measurement technology. Exceptions to this provision may be granted by the Commission
28 [~~eommission~~] upon written application.

29 (b) All casinghead gas sold, processed for its gasoline content, used in a field other than that in
30 which it is produced, or used in cycling or repressuring operations, shall be measured before the gas
31 leaves the lease, and the producer shall report the volume produced to the Commission [~~eommission~~].
32 Exceptions to this provision may be granted by the Commission [~~eommission~~] upon written application.

33 (c) All casinghead gas produced in this state which is not covered by the provisions of subsection
34 (b) of this section, shall be measured before the gas leaves the lease, is used as fuel, or is released into the

1 air, based on its use or on periodic tests, and reported to the Commission [~~eommission~~] by the producer.
2 The volume of casinghead gas produced by wells exempt from gas/oil ratio surveys must be estimated,
3 based on general knowledge of the characteristics of the wells. Exceptions to this provision may be
4 granted by the Commission [~~eommission~~] upon written application.

5 (d) Releases and production of gas at a volume or daily flow rate, commonly referred to as "too
6 small to measure" (TSTM), which, due to minute quantity, cannot be accurately determined or for which
7 a determination of gas volume is not reasonably practical using routine oil and gas industry methods,
8 practices, and techniques are exempt from compliance with this rule and are not required to be reported to
9 the Commission [~~eommission~~] or charged against lease allowable production.

10 (e) The Commission may approve surface commingling of gas or oil and gas described in
11 subsections (a), (b) or (c) of this section and produced from two or more tracts of land producing from the
12 same Commission-designated reservoir or from one or more tracts of land producing from different
13 Commission-designated reservoirs in accordance with §3.26(b) of this title (relating to Separating
14 Devices, Tanks, and Surface Commingling of Oil). In order to prevent waste, to promote conservation or
15 to protect correlative rights, the Commission [~~eommission~~] may also approve surface commingling of gas
16 or oil and gas described in subsections (a), (b) or (c) of this section and produced from two or more tracts
17 of land producing from the same Commission-designated [~~eommission-designated~~] reservoir or from one
18 or more tracts of land producing from different Commission-designated [~~eommission-designated~~]
19 reservoirs in accordance with §3.26(d) [~~§3.26(b)~~] of this title [~~(relating to Separating Devices, Tanks, and~~
20 ~~Surface Commingling of Oil)~~].

21 (f) In reporting gas well production, the full-well stream gas shall be reported and charged against
22 each gas well for allowable purposes. All gas produced, including all gas used on the lease or released
23 into the air, must be reported regardless of its disposition.

24 (g) If gas is produced from a lease or other property covered by the coastal or inland waters of the
25 state, the gas produced may, at the option of the operator, be measured on a shore or at a point removed
26 from the lease or other property from which it was produced.

27 (h) All natural hydrocarbon gas produced and utilized from wells completed in geothermal
28 resource reservoirs shall be measured and allocated to each individual lease based on semiannual tests
29 conducted on full well stream lease production.

30 (i) For purposes of this rule, "measured" shall mean a determination of gas volume in accordance
31 with this rule and other rules of the Commission [~~eommission~~], including accurate estimates of unmetered
32 gas volumes released into the air or used as fuel.

33 (j) No meter or meter run used for measuring gas as required by this rule shall be equipped with a
34 manifold which will allow gas flow to be diverted or bypassed around the metering element in any

1 manner unless it is of the type listed in paragraphs (1) or (2) of this subsection:

2 (1) double chambered orifice meter fittings with proper meter manifolding to allow
3 equalized pressure across the meter during servicing;

4 (2) double chambered or single chambered orifice meter fittings equipped with proper
5 meter manifolding or other types of metering devices accompanied by one of the following types of meter
6 inspection manifolds:

7 (A) a manifold with block valves on each end of the meter run and a single block
8 valve in the manifold complete with provisions to seal and a continuously maintained seal record;

9 (B) an inspection manifold having block valves at each end of the meter run and
10 two block valves in the manifold with a bleeder between the two and with one valve equipped with
11 provisions to seal and continuously maintained seal records;

12 (C) a manifold equipped with block valves at each end of the meter run and one
13 or more block valves in the manifold, when accompanied by a documented waiver from the owner or
14 owners of at least 60% of the royalty interest and the owner or owners of at least 60% of the working
15 interest of the lease from which the gas is produced.

16 (k) Whenever sealing procedures are used to provide security in the meter inspection manifold
17 systems, the seal records shall be maintained for at least three years at an appropriate office and made
18 available for [Railroad] Commission inspection during normal working hours. At any time a seal is
19 broken or replaced, a notation will be made on the orifice meter chart along with graphic representation of
20 estimated gas flow during the time the meter is out of service.

21 (l) All meter requirements apply to all meters which are used to measure lease production,
22 including sales meters if sales meter volumes are allocated back to individual leases.

23 (m) The Commission [~~commission~~] may grant an exception to measurement requirements under
24 subsections (a), (b) and (c) of this section if the requirements of this subsection are met. An exception
25 granted under this subsection will be revoked if the most recent well test or production reported to the
26 Commission [~~commission~~] reflects a production rate of more than 20 MCF of gas per day or if any of the
27 other requirements for an exception under this subsection are no longer satisfied. An applicant seeking an
28 exception under this subsection must file an application establishing:

29 (1) the most recent production test reported to the Commission [~~commission~~]
30 demonstrates that the gas well or oil lease for which an exception is sought produces at a rate of no more
31 than 20 MCF of gas per day;

32 (2) an annual test of the production of the gas well or oil lease provides an accurate
33 estimate of the daily rate of gas flow;

34 (3) the flow rate established in paragraph (2) of this subsection multiplied by the recorded

1 duration determined by any device or means that accurately records the duration of production each
2 month yields an accurate estimate of monthly production; and

3 (4) the operator of the pipeline connected to the gas well or oil lease concurs in writing
4 with the application.

5 (n) Failure to comply with the provisions of this rule will result in severance of the producing
6 well, lease, facility, or gas pipeline or in other appropriate enforcement proceeding.

7 This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be
8 within the agency's authority to adopt.

9 Issued in Austin, Texas on November 13, 2018.

10 Filed with the Office of the Secretary of State on November 13, 2018.

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12 

13 Haley Cochran

14 Rules Attorney, Office of General Counsel

15 Railroad Commission of Texas