

Texas Legislative and Regulatory Update

Presented By

Jessica L. Morgan, Hush Blackwell, LLP – Austin, TX
Jennifer Littlefield, Haynes and Boone, LLP – Austin, TX

I. GAS MARKET DEVELOPMENTS

A. Legislation

Railroad Commission Sunset Bill – HB 1818

The passage of the Railroad Commission (RRC) Sunset Bill was a major milestone this session. After several previous attempts at major reforms for the agency, the legislature pursued more modest reforms this session and successfully passed a sunset bill. House Bill 1818 (HB 1818) continues the RRC until September 1, 2029. With stakeholder input, the RRC will be required to publish an annual plan to use oil and gas monitoring and enforcement resources to protect the environment and ensure public safety. The plan must include data on the number, type, and severity of violations, and will be published online by September 1st of the year preceding the year the plan is implemented. The bill also establishes pipeline safety and regulatory fees to be annually assessed against permit or registration holders. Overall, stakeholders generally consider the changes made in the bill to be minor, especially compared to many of the changes which weighed down RRC sunset bills in prior sessions.

The Legislature passed several other bills affecting the Texas gas industry:

Open Space and Ag Exemptions – HB 3198

- Prohibits land that is eligible for the agricultural, open-space land exemption from losing its eligibility for that benefit because there is also oil and gas production on the property, so long as the portion of the land on which oil and gas production is not being conducted continues to qualify for the open-space exemption.
- Signed by the governor and effective September 1, 2017.

Royalty Owner Information – HB 129

- Requires a payor paying a royalty owner to not include any royalty reporting information in an online system if the payee requested to be paid by a paper check.
- Addresses concerns of royalty owners regarding internet security.
- Signed by the governor and effective September 1, 2017.

Theft of Petroleum Products – SB 1871

- Creates a new criminal penalty for theft of petroleum products or oil and gas equipment.

- Will allow prosecutors more tools to apply pressure to criminal enterprises focused on stealing petroleum products or equipment used in oil and gas production, ideally forcing defendants to implicate others involved in the enterprise higher up the chain.
- Signed by the governor and effective September 1, 2017.

Legislation that failed to pass included continued efforts to change the name of the RRC to the Texas Energy Commission, as well as bills relating to increased enforcement mechanisms. HB 247 would have required the RRC to provide enforcement action information on the RRC website that is searchable by county, operator, and well. HB 567 would have increased the penalties for operator violations of RRC and required the RRC to allow public input on its penalty guidelines. Other efforts that were unsuccessful this session were bills authorizing forced unitization of tracts and bills attempting reforms of eminent domain law for pipeline companies.

B. Regulatory Enactments

The RRC adopted a repeal and replacement of its practice and procedure rules to clarify current Commission practice and to implement recent legislative requirements. For example, the RRC Sunset Bill, HB 1818, requires that the RRC adopt a policy that encourages the use of alternative dispute resolution and SB 1446 made several non-substantive amendments to the Administrative Procedures Act, which prompted conforming changes to RRC procedural rules.

<http://www.rrc.texas.gov/media/41220/adopt-ch1-repeals-and-new-aug2017-sig.pdf>

The RRC amended 16 TAC §2.1, relating to Informal Complaint Procedure, which authorizes the RRC to impose an administrative penalty against a purchaser, transporter, gatherer, shipper, or seller of natural gas who is a party to an informal complaint resolution proceeding and is determined by the RRC to have failed to participate in the proceeding or failed to provide information requested by the mediator in the proceeding.

<http://www.sos.texas.gov/texreg/archive/April212017/Adopted%20Rules/16.ECONOMIC%20REGULATION.html#69>

The RRC amended several rule sections to update outdated references to the RRC website and RRC email contacts.

<http://www.sos.texas.gov/texreg/archive/April212017/Adopted%20Rules/16.ECONOMIC%20REGULATION.html#68>

The RRC adopted new §20.81, relating to Enhanced Contract Monitoring, to implement SB 20 (84th Legislature, 2015). The new rule establishes a procedure to identify each contract that requires enhanced contract monitoring and requires the RRC's contract management office to immediately notify the agency governing body of any serious issue or risk that is identified in a contract monitored under the statute.

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Texas Legislative and Regulatory Update

Also available as part of the eCourse

[2017 Gas and Power eConference](#)

First appeared as part of the conference materials for the
16th Annual Gas and Power Institute session

"Texas Legislative and Regulatory Update"