



McELROY,
SULLIVAN,
MILLER &
WEBER, L.L.P

FLARING ISSUES

KELLI KENNEY

McELROY, SULLIVAN, MILLER & WEBER, LLP - AUSTIN, TX

1

What is Flaring?

Flaring is a process used primarily in the production of crude oil in which natural gas (casinghead gas) produced with the oil is burned off.



McElroy, Sullivan, Miller & Weber, LLP - Austin, TX

2

FLARING JURISDICTION

Railroad Commission – Texas Natural Resources Code

- ▶ 16 Tex. Admin. Code §3.32

TCEQ - Texas Clean Air Act

- ▶ 30 Tex. Admin. Code § 106.4 and 106.261 (Permit by Rule)
- ▶ 30 Tex. Admin. Code § 116.620 (Standard Permit)

EPA - Federal Clean Air Act

McElroy, Sullivan, Miller & Weber, LLP - Austin, TX


3

Railroad Commission Statewide Rule 32

Gas Well Gas and Casinghead Gas Shall be Utilized for Legal Purposes

- ▶ Adopted effective December 4, 1996
- ▶ Amended to be effective July 10, 2000 and September 1, 2004

McElroy, Sullivan, Miller & Weber, LLP - Austin, TX



OFFICE of the SECRETARY of STATE
Texas Administrative Code

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

Rules

§3.1	Organization Report; Retention of Records; Notice Requirements
§3.2	Commission Access to Properties
§3.3	Identification of Properties, Wells, and Tanks
§3.4	Oil and Geothermal Lease Numbers and Gas Well ID Numbers Required on All Forms
§3.5	Application To Drill, Deepen, Reenter, or Plug Back
§3.6	Application for Multiple Completion
§3.7	Strata To Be Sealed Off
§3.8	Water Protection
§3.9	Disposal Wells
§3.10	Restriction of Production of Oil and Gas from Different Strata
§3.11	Inclination and Directional Surveys Required
§3.12	Directional Survey Company Report
§3.13	Casing, Cementing, Drilling, Well Control, and Completion Requirements
§3.14	Plugging
§3.15	Surface Equipment Removal Requirements and Inactive Wells
§3.16	Log and Completion or Plugging Report
§3.17	Pressure on Bradenhead
§3.18	Mud Circulation Required
§3.19	Density of Mud-Fluid
§3.20	Notification of Fire Breaks, Leaks, or Blow-outs
§3.21	Fire Prevention and Swabbing
§3.22	Protection of Birds
§3.23	Vacuum Pumps
§3.24	Check Valves Required
§3.25	Use of Common Storage
§3.26	Separating Devices, Tanks, and Surface Commingling of Oil
§3.27	Gas to be Measured and Surface Commingling of Gas
§3.28	Potential and Deliverability of Gas Wells to be Ascertained and Reported
§3.29	Hydraulic Fracturing Chemical Disclosure Requirements
§3.30	Memorandum of Understanding between the Railroad Commission of Texas (RRC) and the Texas Commission on Environmental Quality (TCEQ)
§3.31	Gas Reservoirs and Gas Well Allowable
§3.32	Gas Well Gas and Casinghead Gas Shall Be Utilized for Legal Purposes
§3.33	Geothermal Resource Production Test Forms Required
§3.34	Gas To Be Produced and Purchased Ratably

4

Other “Releases”



Fugitive Emissions

“cannot reasonably be captured and sold or routed to a vent or flare”



Vapor Combustion Units and Vapor Recovery Units

tank vapors and make up gas



Venting

gas releases of 24 hours' or less **may** be vented if the gas can be safely vented

McElroy, Sullivan, Miller & Weber, LLP - Austin, TX

5

Exempt Releases

3-Part Test :

1. Not readily measured
2. Not required to be reported to the RRC
3. Not otherwise subject to SWR 32

Examples: fugitive emissions, tank vapors, amine treater emissions

McElroy, Sullivan, Miller & Weber, LLP - Austin, TX

6

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 \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Flaring Issues

Also available as part of the eCourse

[2020 Ernest E. Smith Oil, Gas, and Mineral Law eConference](#)

First appeared as part of the conference materials for the
46th Annual Ernest E. Smith Oil, Gas and Mineral Law Institute session
"Flaring Issues"