

AN ACT

relating to the plugging of inactive oil and gas wells.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 89.022, Natural Resources Code, is amended by amending Subsection (b) and adding Subsections (d), (e), and (f) to read as follows:

(b) Notwithstanding Subsection (a), a person who assumes responsibility for the physical operation and control of an existing inactive well must satisfy the requirements of Sections 89.023(a)(1) and (3) [~~(4)~~] not later than six months after the date the commission approves the initial form described by Section 89.002(a)(2) and filed with the commission under which the person assumes responsibility for the well.

(d) Before the commission issues an order refusing to renew an operator's organization report under Subsection (c), an authorized commission employee or a person designated by the commission for that purpose must determine whether the operator has failed to comply with the requirements of this subchapter. If the authorized commission employee or designated person determines that the organization report does not qualify for renewal on that ground, the authorized commission employee or designated person must:

(1) notify the operator of the determination;

(2) provide the operator with a written statement of

1 the reasons the organization report does not qualify for renewal;
2 and

3 (3) notify the operator that the operator has 90 days
4 to comply with the requirements of this subchapter.

5 (e) After the expiration of the period specified by
6 Subsection (d)(3), the authorized commission employee or
7 designated person shall determine whether the organization report
8 qualifies for renewal and notify the operator of the determination.
9 If the authorized commission employee or designated person
10 determines that the organization report does not qualify for
11 renewal because the operator has continued to fail to comply with
12 the requirements of this subchapter, the operator, not later than
13 the 30th day after the date of the determination, may request a
14 hearing regarding the determination. The operator shall pay the
15 costs associated with a hearing requested under this subsection.

16 (f) If the commission determines following the hearing that
17 the operator has failed to comply with the requirements of this
18 subchapter or the operator fails to file a timely request for a
19 hearing, the commission by order shall refuse to renew the
20 organization report. The organization report remains in effect
21 until the commission's order becomes final.

22 SECTION 2. Section 89.023(a), Natural Resources Code, is
23 amended to read as follows:

24 (a) The commission may grant an extension of the deadline
25 for plugging an inactive well if the operator maintains a current
26 organization report with the commission as required by Section
27 91.142 and if, on or before the date of renewal of the operator's

1 organization report as required by that section, the operator files
2 with the commission an application for an extension that includes:

3 (1) an affirmation that complies with Section 89.029;

4 (2) [~~a statement that the well and associated~~
5 ~~facilities are in compliance with all commission rules and orders,~~

6 ~~(3)] a statement that the operator has, and on~~

7 request will provide, evidence of a good faith claim to a continuing

8 right to operate the well; and

9 (3) [~~(4)] at least one of the following:~~

10 (A) documentation that since the preceding date

11 that the operator's organization report was required to be renewed

12 the operator has plugged, or restored to active operation as

13 defined by commission rule, a number of inactive wells equal to or

14 greater than 10 percent of the number of inactive wells operated by

15 the operator on that date;

16 (B) an abeyance of plugging report on a form

17 approved by the commission that:

18 (i) is in the form of a certification signed

19 by a person licensed by the Texas Board of Professional Engineers or

20 the Texas Board of Professional Geoscientists;

21 (ii) includes:

22 (a) an affirmation by the licensed

23 person that the well has:

24 (1) a reasonable expectation of

25 economic value in excess of the cost of plugging the well for the

26 duration of the period covered by the report, based on the cost

27 calculation for plugging an inactive well; and

1 (2) a reasonable expectation of
2 being restored to a beneficial use that will prevent waste of oil or
3 gas resources that otherwise would not be produced if the well were
4 plugged; and

5 (b) appropriate documentation
6 demonstrating the basis for the affirmation of the well's future
7 utility; and

8 (iii) specifies the field and the covered
9 wells within that field in a format prescribed by the commission;

10 (C) a statement that the well is part of an
11 enhanced oil recovery project;

12 (D) if the operator of the well is not currently
13 otherwise required by commission rule or order to conduct a fluid
14 level or hydraulic pressure test of the well, documentation of the
15 results of a successful fluid level or hydraulic pressure test of
16 the well conducted in accordance with the commission's rules in
17 effect at the time the test is conducted;

18 (E) a supplemental bond, letter of credit, or
19 cash deposit sufficient for each well specified in the application
20 that:

21 (i) complies with the requirements of
22 Chapter 91; and

23 (ii) is of an amount at least equal to the
24 cost calculation for plugging an inactive well for each well
25 specified in the application;

26 (F) documentation of the deposit with the
27 commission each time the operator files an application of an amount

1 of escrow funds as prescribed by commission rule that equal at least
2 10 percent of the total cost calculation for plugging an inactive
3 well for each well specified in the application; or

4 (G) if the operator is a publicly traded entity:

5 (i) the following documents:

6 (a) a copy of the operator's federal
7 documents filed to comply with Financial Accounting Standards Board
8 Statement No. 143, Accounting for Asset Retirement Obligations; and

9 (b) an original, executed Uniform
10 Commercial Code Form 1 Financing Statement, filed with the
11 secretary of state, that:

12 (1) names the operator as the
13 "debtor" and the Railroad Commission of Texas as the "secured
14 creditor"; and

15 (2) specifies the funds covered
16 by the documents described by Sub-subparagraph (a) in the amount of
17 the cost calculation for plugging an inactive well for each well
18 specified in the application; or

19 (ii) a blanket bond in the amount of the
20 lesser of:

21 (a) the cost calculation for plugging
22 any inactive wells; or

23 (b) \$2 million.

24 SECTION 3. Section 89.024(a), Natural Resources Code, is
25 amended to read as follows:

26 (a) An abeyance of plugging report filed under Section
27 89.023(a)(3)(B) [~~89.023(a)(4)(B)~~] is valid for a period of not more

1 than five years.

2 SECTION 4. Section 89.025(a), Natural Resources Code, is
3 amended to read as follows:

4 (a) For purposes of Section 89.023(a)(3)(C)
5 [~~89.023(a)(4)(C)~~], an inactive well is considered to be part of an
6 enhanced oil recovery project if the well is located on a unit or
7 lease or in a field associated with such a project.

8 SECTION 5. Section 89.026(a), Natural Resources Code, is
9 amended to read as follows:

10 (a) Documentation filed under Section 89.023(a)(3)(D)
11 [~~89.023(a)(4)(D)~~] of the results of a successful fluid level test
12 is valid for a period of one year from the date of the
13 test. Documentation filed under that section of the results of a
14 successful hydraulic pressure test is valid for a period of not more
15 than five years from the date of the test.

16 SECTION 6. Section 89.027(a), Natural Resources Code, is
17 amended to read as follows:

18 (a) A supplemental bond, letter of credit, or cash deposit
19 filed under Section 89.023(a)(3)(E) [~~89.023(a)(4)(E)~~] is in
20 addition to any other financial assurance otherwise required of the
21 operator or for the well.

22 SECTION 7. Section 89.028(a), Natural Resources Code, is
23 amended to read as follows:

24 (a) Escrow funds described by Section 89.023(a)(3)(F)
25 [~~89.023(a)(4)(F)~~] must be deposited with the commission each time
26 an operator files an application for an extension of the deadline
27 for plugging an inactive well.

1 SECTION 8. The changes in law made by this Act apply only to
2 an organization report the renewal of which is pending as of the
3 effective date of this Act or that is filed on or after the
4 effective date of this Act.

5 SECTION 9. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 3134 was passed by the House on May 5, 2011, by the following vote: Yeas 145, Nays 1, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3134 on May 23, 2011, by the following vote: Yeas 142, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3134 was passed by the Senate, with amendments, on May 19, 2011, by the following vote: Yeas 30, Nays 0, 1 present, not voting.

Secretary of the Senate

APPROVED: _____

Date

Governor