From:	Lindow, Anna Claire
To:	Rules Coordinator
Cc:	Morris, Nikki; Whitley, Amanda; Shaw, Kate; Whitley, Claire; Barnes, Andrew; Brester, Tony; Power, Coleton
Subject:	Comments for Proposed Rulemakings on Amendment 16 TAC § 3.15
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Attachments:	Redlined Amendments to 16 TAC 3.15 RLEI.pdf

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Dear Rules Coordinator,

We recognize the Legislature's intent to reduce Texas's growing inventory of inactive and orphaned oil and gas wells while providing operators with pathways to comply with their plugging obligations through SB1150. However, we believe additional safeguards are necessary to ensure that plugging extensions do not unintentionally allow operators to defer their obligations indefinitely or transfer financial liabilities to Texas taxpayers.

Our research indicates that approximately 22,000 wells are subject to SB 1150, representing nearly $2 billion in potential plugging liabilities. Across Texas, approximately 120,000 wells remain inactive, with nearly one-third concentrated among just 10 operators. During FY2026, an additional 4,178 wells became orphaned, while the Railroad Commission plugged only 2,022. This disparity highlights a critical concern: wells are becoming orphaned at more than twice the rate at which the state can plug them.

These findings demonstrate the importance of strengthening the Commission's proposed rules to ensure that extensions result in measurable progress toward plugging or restoring inactive wells. Without stronger preventative safeguards, Texas risks accumulating plugging liabilities faster than the Commission can address them.

We respectfully request consideration of the following amendments:

1. **Strengthen Documentation Requirements for Plugging Extensions — 16 TAC §3.15(h)(4)**

The proposed rule allows operators to qualify for plugging extensions through one of four alternative criteria, consistent with SB 1150. While we recognize these statutory pathways, we recommend requiring all applicants to provide additional documentation regarding their outstanding plugging obligations, regardless of their chosen extension pathway.

Specifically, operators should be required to submit:

- A complete inventory of their affected 15/25 wells.
- A commission-approved full-cost plugging calculation for each well.
- Documentation of existing financial assurance and any remaining unsecured plugging liabilities based on the calculated full cost of plugging.
- A proposed asset retirement schedule and anticipated funding sources for fulfilling outstanding plugging obligations.

These requirements would provide the Commission with a more complete understanding of an operator's financial exposure without eliminating the extension options authorized by SB 1150. The proposed revisions to 16 TAC §3.15(h)(4), incorporating these additional documentation requirements, are provided in the attached redlined amendments for the Commission's consideration.

2. **Establish Stronger Financial Hardship Standards — 16 TAC §3.15(h)(4)(B)**

We are particularly concerned that financial hardship may serve as a basis for extending plugging deadlines without sufficient evidence that an operator will ultimately be capable of meeting its obligations.

Financial hardship should not, by itself, demonstrate that an extension will improve an operator's ability to plug inactive wells.

While the proposed financial hardship criteria provide objective measures of an operator's financial condition, they do not necessarily distinguish between hardship arising from circumstances beyond the operator's control and hardship potentially attributable to the operator's own inaction or negligence. We recommend requiring applicants seeking extensions based on financial hardship to provide documentation of their anticipated funding sources, projected financial recovery, and a realistic plan for addressing outstanding plugging liabilities along with their proven financial hardship for a consistent objective evaluation of financial circumstances.

For subsequent applications to renew an extension based on financial hardship, operators should be required to document progress toward the financial recovery and plugging commitments identified in their preceding application, including objectively verifiable milestones, anticipated funding sources, and explanations for any material deviations. These requirements would allow the Commission to distinguish operators making reasonable efforts to satisfy their plugging obligations from those repeatedly obtaining extensions without demonstrating meaningful progress.

Financial hardship should not be removed as an option for an extension pathway in

order to preserve the statutory language under SB1150.

The proposed revisions to 16 TAC §3.15(h)(4)(B), including the addition of subsection (v) to establish specific financial recovery and plugging obligation documentation requirements and subsection (vi) to evaluate progress during subsequent extension renewals, are provided in the attached redlined amendments for the Commission's consideration.

3. Require Measurable Progress Under Compliance Plans — 16 TAC §3.15(h)(4)(C)

We recommend adding in required annual milestones identifying the wells scheduled for plugging or restoration, anticipated expenditures, the financial resources available to complete the work, including the plugging-cost calculations, reporting comparing actual plugging or restoration activity against approved milestones. Requiring annual progress reports during the annual renewal process would allow the Commission to assess whether operators remain on track to meet the 2042 deadline.

Operators seeking annual renewals should provide documentation demonstrating their progress toward previously established milestones.

These additions would provide greater transparency regarding the financial feasibility of compliance plans and allow the Commission to identify operators who are falling behind their proposed schedules. Requiring explanations and corrective actions for missed milestones would further support the objective of reducing inactive and orphaned wells while preserving the compliance-plan extension pathway established by SB 1150.

The proposed revisions to 16 TAC §3.15(h)(4)(C), including additional documentation to substantiate full-cost plugging calculations, a new subsection (i)(VII) requiring disclosure of anticipated funding sources, annual expenditures, and existing financial assurance, and expanded annual reporting requirements under subsection (iii) to evaluate progress toward established milestones and the September 1, 2042 deadline, are provided in the attached redlined amendments for the Commission's consideration.

Conclusion

The Commission has identified reducing inactive and orphaned wells, along with preventing plugging costs from becoming a financial burden on Texas, as intended benefits of the proposed amendments.

We believe the recommendations outlined above would further those objectives while preserving the statutory framework established by SB 1150. Plugging extensions should provide operators with a meaningful opportunity to fulfill their obligations, rather than

allowing liabilities to accumulate without adequate documentation, oversight, or measurable progress.

Thank you for considering these recommendations and for your continued efforts to protect Texas's natural resources, communities, and taxpayers.

Next Steps

Our team at the Ralph Lowe Energy Institute has also developed additional proposed regulatory amendments intended to strengthen the framework established by Senate Bill 1150 and further address the growing orphan well crisis in Texas. These proposals include drafted revisions to Texas Natural Resources Code §§ 91.1041 and 91.1042, as well as 16 TAC § 3.78, with the goal of strengthening financial assurance requirements, promoting operator accountability, and reducing the risk of future well orphaning. Although these proposals extend beyond the scope of the current amendments to 16 TAC § 3.15, we believe they offer complementary measures that could further advance the Commission's efforts to address inactive and orphaned wells. We would welcome the opportunity to share these prepared drafts with the Commission for its consideration and potential future discussion.

Sincerely,

Anna Claire Lindow & Team
Nikki Morris
Executive Director
Ralph Lowe Energy Institute
TCU Box 298965 Fort Worth, TX 76129
817-205-2699 | energyinstitute@tcu.edu
LinkedIn | Instagram

Proposed Comments on Amended 16 TAC 3.15 from SB1150

The **proposed amendment** to 16 TAC Section 3.15 currently added and states:

(h) Application for an extension of deadline for plugging a 15/25 well.

(1) This subsection does not apply to a bay well or an offshore well as those terms are defined in §3.78 of this title.

(2) Plugging extensions approved under this subsection are only valid for one year, and must be annually renewed, concurrent with the operator's organization report renewal.

(3) An operator applying for a plugging extension under this subsection shall use good faith and reasonable effort to identify nonoperators, as defined in Texas Natural Resources Code §89.002(3), with its application. The operator shall include documentation of the name, address, and contact information of all nonoperators. To the extent the operator is unable to ascertain the name, address or contact information for all nonoperators, the operator is considered to have used good faith and reasonable effort to identify nonoperators if the operator has examined Commission filings, current county tax rolls, and other reliable and readily available sources of information.

(4) In addition to the documentation that identifies nonoperators, and the affirmation required by subsection (f)(2)(A) of this section, the operator shall submit one of the following for Commission approval~~:~~ , accompanied by documentation identifying all 15/25 wells operated by the applicant, the full cost calculation for plugging each well as established or approved by the Commission, the financial assurance currently maintained for those wells, and the operator's anticipated means of satisfying its remaining plugging obligations.The operator shall update this documentation with each annual extension application. The Commission may request additional supporting documentation necessary to verify the accuracy of the information submitted. The available extension options are as follows:

(A) a written request that the Commission, by order, determine that the operator's history of restoring inactive wells to active operation warrants the granting of the plugging extension. The operator shall include documentation identifying:

(i) all of the operator's wells;

(ii) the active or inactive status, according to Commission rules, of each well;

(iii) the length of time of inactivity for each inactive well;

(iv) when an active well was restored to active operation, if it was previously inactive; and

(v) all applicable Commission assigned permit numbers, oil and gas lease numbers, API well numbers, and production report filing dates for each active well that was previously inactive.

(B) a written request that the Commission, by order, determine that the operator's financial hardship warrants the granting of the extension. The operator shall include the following documentation:

(i) sworn financial statements, certified by a certified public accountant, which shall include financial information for the three fiscal years prior to the operator's organization report renewal date;

(ii) an attestation signed by the operator or operator's representative stating that its financial hardship warrants an extension of deadline for plugging an inactive land well;

(iii) objective evidence to demonstrate a reasonable basis and justification in support of granting a plugging extension due to the operator's financial hardship, specific to the inactive well. For example:

(I) additional costs specific to the wellbore's construction;

(II) additional costs related to road construction, brush clearing, or other necessary actions to access the inactive well site;

(III) additional costs related to the inactive well's location; and

(iv) any other relevant information the Commission may consider to grant or deny the extension application pursuant to the financial hardship considerations listed in Texas Natural Resources Code §89.023(e), including, but not limited to:

(I) the operator's prior investment in plugging or maintenance of wells;

(II) the operator's history of compliance, including any history of previous violations and the seriousness of those violations;

(III) the current economic conditions as they relate to the operator's financial hardship;

(IV) the operator's percentage of inactive wells compared to the operator's total well count; and

(V) any other information the operator believes is relevant to its financial hardship.

(v) a written financial recovery and plugging obligation statement identifying:

(I) the operator's anticipated sources of funding for plugging the inactive well;

(II) the specific actions the operator intends to undertake during the extension period to improve its ability to satisfy its plugging obligations, including one or more of the following:

(a) Securing or allocating funds specifically designated for plugging obligations;
(b) executing contracts or making expenditures directly related to plugging an identified inactive well;
(c) completing necessary site preparation or other work directly required to plug an identified inactive well; or
(d) plugging an inactive well or restoring it to active operation in accordance with Commission requirements.

(III) the measurable progress the operator expects to achieve during the extension period, identifying the verifiable outcome of each action under subparagraph (II)

(vi) For each subsequent application for renewal of an extension based on financial hardship, the operator shall provide documentation demonstrating progress toward the actions identified in its preceding application and an explanation of any material deviations from the previously identified actions or anticipated progress.

(C) a compliance plan that identifies the inactive well and sets forth the operator's commitment to plugging or bringing the inactive well into production or operation as an injection well or other type of operation by September 1, 2042.

(i) the compliance plan submitted by the operator shall:

(I) identify the age and length of inactivity for each well included in the compliance plan;

(II) identify the operator's total amount of wells, including how many are active or inactive;

(II) specify whether the included inactive well will be plugged or restored to active operation, and how the well will be restored to active operation, if applicable;

(III) provide a schedule for plugging or restoring to active operation for all included inactive wells, specifying a number of wells to be plugged or returned to active operation each year that is not less than the amount the operator would need to plug or return to active operation year-over-year to achieve compliance by September 1, 2042;

(IV) identify the wells the operator has plugged or restored to active operation in the last P-5 renewal period;

(V) include the full cost calculation of plugging or restoring to active operation all inactive wells included in the compliance plan~~;~~, with supporting documentation identifying the basis for each calculation, including applicable well-specific conditions and anticipated third-party costs. The Commission may require independent verification of a calculation where the submitted documentation is insufficient to establish its accuracy; and

(VI) contain an attestation confirming the operator's ability to adhere to its compliance plan~~.~~ ; and

(VII) identify the anticipated sources of funding for implementing the compliance plan, the estimated annual expenditures necessary to meet the proposed plugging or restoration schedule, and the financial assurance currently maintained for the wells included in the plan.

(ii) The compliance plan may include information pertaining to the 5 following considerations:

(I) current economic conditions;

(II) the operator's record of compliance, including any history of previous violations and the seriousness of those violations; and

(III) any additional financial assurance under Texas Natural Resources Code §§ 89.023(a)(3) or 89.027.

(iii) If the Commission approves the compliance plan and grants the plugging extension, the operator shall annually provide the Commission with the status of every inactive well in the approved compliance plan with its annual operator report under Texas Natural Resources Code 14 § 89.050, and the plugging or extension status of all other 15/25 wells that are not included in the compliance plan. The operator shall also provide a comparison of the number of wells scheduled for plugging or restoration during the preceding reporting period against the number actually plugged or restored, identify any unmet milestones, and provide an explanation of any material deviations from the approved compliance plan, including proposed corrective actions and an updated schedule for achieving compliance by September 1, 2042.

(D) an individual performance bond that is in an amount that is not less than the full cost calculation for plugging the inactive well and runs with and covers the lifetime of the inactive well, regardless of a change in the operator.

(i) Commission action on application for plugging extension for a 15/25 well.

(1) After receiving the plugging extension application and documentation required by subsection (h) of this section, the Commission will notify the operator if the submitted application is complete. If the application is incomplete, the operator will have 90 days from notice from the Commission to cure its application. Once complete, the Commission will review the application and additional documentation, and approve the plugging extension if approval is warranted. ~~Approval is warranted~~ In determining whether approval is warranted, the Commission shall evaluate whether ~~if~~ the operator meets the criteria set forth in one of the following subparagraphs (A), (B), (C) or (D) of this paragraph~~:~~, and shall consider the operator's outstanding plugging obligations, compliance history, documented ability to satisfy its plugging obligations, and all financial documentation, consistent with Texas Natural Resources Code §89.023:

(A) the operator has a satisfactory history of restoring inactive wells to active operation if the application and additional documentation required under subsection (h) of this section demonstrates one of the following criteria:

(i) for an operator with no more than 10 inactive wells, the operator has restored one well to active operation in the preceding year; or

(ii) for all operators with more than 10 inactive wells, the operator has restored the equivalent of at least 10 percent of its total inactive well population to active operation, in the preceding year.

(B) the operator's application and additional documentation required under subsection (h) of this section demonstrates that it will incur financial hardship if the requested extension is not granted, in accordance with the following criteria:

(i) the difference between the operator's total annual revenue, as shown in the most recent annual financial statements, and the full cost calculation for plugging and abandoning all of the operator's 15/25 wells, is negative;

(ii) the difference between the operator's total assets as shown in the most recent annual financial statements, and the full cost calculation for plugging and abandoning all of the operator's 15/25 wells, is negative;

(iii) the difference between the operator's three-year earnings before interest, taxes, depreciation and amortization, and the full cost calculation for plugging and abandoning all of the operator's 15/25 wells, divided by fifteen (15), is negative;

(iv) the payment of the full cost calculation for plugging and abandoning all of the operator's 15/25 wells divided by fifteen (15), will cause the operator to seek relief under 11 U.S.C. §§ 701-784, 1101-1195, 1301-1330;

(v) the payment of the full cost calculation for plugging and abandoning all of the operator's 15/25 wells divided by fifteen (15), will cause an event of default under one or more of the operator's material debt obligations; or

(C) the operator's compliance plan satisfies each of the following criteria:

(i) the compliance plan specifies a number of wells to be plugged or restored to active operation each year, such that the operator will achieve compliance for all 15/25 wells by September 1, 2042;

(ii) the number of wells to be plugged or restored to active operation each year is not less than the amount the operator would need to plug or return to active operation year-over-year to achieve compliance by September 1, 2042;

(iii) the minimum number of 15/25 wells an operator shall plug or restore to active operation each year is not less than the operator's total number of 15/25 wells divided by the remaining number of years until September 1, 2042;

(iv) the operator reasonably prioritizes the inactive wells to be plugged or restored to active operation each year based on the considerations listed at Texas Natural Resources Code § 89.023(f)(1), (7); and

(v) when reviewing a compliance plan, the Commission may consider the number of 15/25 wells the operator plugged or restored to active operation above the minimum number required in clause (iii) of this subparagraph.

(D) The operator's performance bond meets the following criteria:

(i) it is in an amount equal to the full cost calculation of plugging the inactive well;

(ii) it runs with and covers the lifetime of the well, regardless of a change in operator; and

(iii) it is issued by and drawn on by a third-party bank authorized under state or federal law to do business in Texas.