November 20, 2026

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Via email: rulescoordinator@rrc.texas.gov

Re: Comments of the American Energy Association on Proposed Amendments to 16 TAC §§3.15 and 3.58 Implementing Senate Bill 1150 (89th Leg., R.S., 2025), Texas Register, October 23, 2026

Chairman Craddick and Commissioners:

The American Energy Association, whose members include Texas oil and natural gas operators, appreciates the opportunity to comment on the proposed amendments to 16 TAC §§3.15 and 3.58. We support the Commission's work to implement Senate Bill 1150, and we urge the Commission to adopt a rule that carries out the law exactly as the Legislature wrote it.

SB 1150 is a demanding law. It ends the routine plugging extension for any well that has been inactive for more than 15 years and was completed more than 25 years before the extension request. The Legislature paired that deadline with four specific pathways in Natural Resources Code §89.023(c): a demonstrated history of returning inactive wells to operation, financial hardship, a Commission-approved plan to plug or return wells to operation by September 1, 2042, and an individual performance bond covering the full cost of plugging. Those pathways were a deliberate legislative choice. A firm deadline works when responsible operators have a realistic way to meet it.

The proposed rule narrows each of those pathways. A hardship test that weighs three years of earnings against a single year of cost, a bond that must come from a bank, and mandatory denial grounds broad enough to reach almost any idle wellbore would leave operators with four compliance pathways on paper and few they can use in practice. The Legislature drew these lines in statute, and the rule should honor them.

A Workable Rule Protects Landowners and Taxpayers

A rule that operators cannot use will backfire on the very landowners and taxpayers it is meant to protect.

- **More orphaned wells.** When an operator qualifies for no extension, its 15/25 wells must be plugged right away. A small operator holding dozens of these wells with no usable pathway is more likely to sell, fold, or walk away than to plug them all, and those wells then fall to the State. The Commission plugged a record 2,022 orphaned wells in fiscal year 2026 at a cost of $125.6 million. A rule that pushes more operators out of business adds to that bill.
- **Higher plugging costs for everyone.** Texas plugs roughly 8,000 wells a year, about 7,000 by operators and 1,000 by the Commission, according to the Panhandle Producers and Royalty Owners

Association. Commenters who analyzed the Commission's own data count roughly 21,800 to 22,800 wells already inside the 15/25 framework, with an estimated $1.8 billion to $1.9 billion in plugging costs (KickSignal, Daniel Delgado-Uriarte, and Texas Compliance Solutions). Meeting the 2042 deadline means plugging or restoring 1,400 to 1,500 of those wells every year. If operators cannot use the extension pathways, much of that work lands at once, driving up rig and crew prices for operators and for the State's own plugging program alike.

- **Less money for Texas schools.** Every wellbore plugged with recoverable oil behind it is a permanent loss of production, along with the royalties that flow to the Permanent School Fund and private royalty owners and the severance taxes that support Texas classrooms. The Commission's charge is the prevention of waste, and plugging a well the right operator could bring back is waste.

Rig availability is already a real constraint. Plugging contractors schedule rigs around large packages of wells, which makes it hard to fit in a single well on short notice or a small operator with little work to offer.

One of our members learned this firsthand. After an injection well failed its H-5 mechanical integrity test, the operator chose to plug it rather than repair it, and the Commission set a 60-day plugging deadline. The operator set a cast iron bridge plug above the injection interval to prevent crossflow and, in July, contacted six plugging contractors. The earliest any of them could offer was an approximate date in mid-October, so the operator needed an extension from the Commission. The contractor with the soonest availability had two rigs working Commission plugging jobs and planned to fit the operator in once one was released. Two weeks after that estimate, both rigs were still tied up on Commission work with no firm release date. The Commission declined a further extension, and the operator faced a lease severance for a delay caused by the Commission's own plugging program, over a straightforward decision to plug a well that raised no financial or environmental concern.

That operator acted promptly and in good faith and still could not meet a short deadline for reasons outside its control. A new paperwork and checklist regime aimed at small operators with limited staff will multiply those situations, pushing more companies into bankruptcy and more wells into the orphan program. We ask the Commission to provide that an operator who documents timely, good-faith efforts to secure a plugging rig receives additional time when rig availability delays the work, including when rigs are committed to the Commission's own plugging contracts.

The proposal's fiscal note estimates the rule will cost the Commission more than $6 million in its first year and nearly $15 million in its third, yet it finds no additional cost to regulated operators and no adverse effect on small or micro-businesses because plugging extensions are "options available to the operator." For a 15/25 well, the alternative to an extension is immediate plugging, a real and often substantial cost that falls mostly on small operators. We ask the Commission to prepare the economic impact statement and regulatory flexibility analysis required by Government Code §2006.002 before adoption.

Our Top Five Recommendations

Each change below keeps the Commission within the four corners of SB 1150. Each one preserves every statutory deadline and every plugging obligation. Each simply makes the options the Legislature wrote into law usable by the operators it wrote them for.

1. Fix the math in the financial hardship tests. (§3.15(i)(1)(B))

The Legislature provided that an operator facing genuine financial hardship may earn more time. The proposed tests for proving hardship use inconsistent yardsticks.

- The revenue and asset tests compare a single year's figures against the full cost of plugging every 15/25 well the operator holds, while the earnings, bankruptcy, and default tests use one-fifteenth of that cost. Every test should use the same annual measure.
- The asset test counts what a company owns and ignores what it owes. An operator holding $2 million in equipment and leases, with $1.8 million borrowed against them, has $200,000 available for plugging.
- The rule text measures three-year earnings against one-fifteenth of the full cost, while the preamble describes a single-year comparison. Because EBITDA excludes interest, the test also ignores required debt service, which comes due whether or not a plugging rig shows up.
- Every test looks only at 15/25 wells, while the operator must also fund its other inactive wells and the wells that will cross the 15/25 line before 2042.

What we ask: measure one year of resources against one year of obligation in every test; count assets net of liabilities; define the earnings test as average annual EBITDA over three years, net of required debt service, compared with one-fifteenth of the full cost calculation; and let operators show the full plugging liability they carry.

2. Keep idle wells moving to operators who will address them. (§3.58(a)(5) and (6))

In Texas oil country, a well one company has given up on is often exactly the well another company knows how to bring back. Mature fields change hands every year, and that market is one of the most effective tools the State has for returning idle wells to work or getting them properly plugged, at no cost to taxpayers.

The proposed transfer rule puts that market at risk. History and hardship extensions are "not transferrable to another operator," the buyer receives no time to qualify on its own, and the rule is silent on whether a compliance plan or bond moves with the well. On the day the Commission approves a transfer, the buyer's newly acquired 15/25 wells may already be out of compliance. The rule also requires both operators to jointly affirm that each well complies with §89.023 and §3.15, which asks the buyer to vouch for wells it has never operated. Careful buyers will decline that affirmation, and rational ones will discount any well that carries an immediate plugging bill. The wells stay with sellers who have already decided to move on.

The statute points the other way. Section 89.023(c)(3) provides that the bond "runs with and covers the lifetime of the well, regardless of a change in the operator."

What we ask: give a buyer a reasonable window, such as twelve months after the transfer is approved, to evaluate acquired wells and qualify for its own extension, with every safety rule still in force; split the affirmation so the seller attests to compliance through the transfer date and the buyer commits to compliance going forward; and state expressly that an approved compliance plan or bond transfers with the wells.

3. Write the bond option so operators can use it. (§3.15(h)(4)(D), (i)(1)(D), and (i)(2)(G))

SB 1150 allows an operator to keep a well open by filing "an individual performance bond" in an amount not less than the full cost calculation, running with the well for its lifetime. The statute is silent on who issues the bond. The proposal adds a requirement found nowhere in the statute: the bond must be "issued by and drawn on by a third-party bank," and failure to meet that requirement is a mandatory denial ground. Surety companies write performance bonds; banks issue letters of credit. The Commission already accepts surety bonds as financial assurance for P-5 organization reports every day. The proposal also states the bond amount two different ways, "not less than" the full cost in (h)(4)(D) and "equal to" it in (i)(1)(D). If no one in the market can supply the instrument the rule describes, the Legislature's bond option exists in name only.

What we ask: accept a performance bond issued by any surety authorized to do business in Texas; delete the bank requirement in (i)(1)(D) and (i)(2)(G); and conform the bond amount to the statute's "not less than" standard.

4. Reserve mandatory denials for real problems. (§3.15(i)(2))

SB 1150 asks the Commission to weigh a well's risks and an operator's record. The proposal converts those judgment calls into a list of situations in which the Commission "shall deny" an application, written so broadly that a good operator cannot know in advance whether it will qualify.

- Subparagraph (C) requires denial if a well "poses potential hazards to health and safety of the public or the environment." Any idle wellbore could be described that way. Even the coalition mailing landowners about this rule concedes that "many inactive wells are not an immediate threat."
- Subparagraph (E) requires denial if the operator was ever penalized for a violation that caused a "significant impact," with no lookback period and no definition of "significant." A decade-old penalty could disqualify a company permanently.
- Subparagraph (F) requires denial for a "bad faith" deviation from a compliance plan and leaves bad faith undefined.
- The rule leaves unclear whether one problem well, or one barred co-owner under subparagraph (A), disqualifies an operator's entire application.

What we ask: limit the hazard ground to a present danger the operator has failed to correct after notice; apply a defined lookback period and count only final penalty orders; define bad faith and provide that an operator who met the prior year's minimum pace acted in good faith; and confirm that a denial applies only to the specific well at issue.

5. Count every well that gets taken care of. (§3.15(i)(1)(A), (h)(4)(C), and (i)(1)(C))

The purpose of SB 1150 is to shrink the number of wells sitting idle for decades. Whether an operator plugs a well, returns it to production, or puts it to work in a waterflood, that well leaves the idle list. The rule should treat each of those outcomes as progress.

- The statute's history pathway rewards "returning inactive wells to operation." The rule credits only wells restored to "active operation," a defined term built around production. Wells returned to service as injection or waterflood wells are back in operation and should count, and wells properly plugged should weigh in the operator's favor. SB 1150 also lists "the operator's percentage of inactive wells compared to the operator's total well count" among the factors the Commission

considers. The history pathway should use that measure, giving an operator with a small idle inventory and a record of bringing wells back a predictable path.

- The statute lets an operator commit to plugging a well or bringing it into production or other operation by 2042, while the rule requires a plug-or-restore designation for every well up front. Operators should be able to change a designation after testing without it being treated as a bad-faith deviation, and a sound well kept idle only because the Commission's spacing or density rules allow one producer per tract should be treated as compliant.
- Under (i)(1)(C)(v), the Commission "may consider" wells plugged or restored beyond the annual minimum. The rule should make that a credit: an operator that exceeds its pace should bank the extra wells toward future years. The required pace should also account for wells that will cross the 15/25 line before 2042, so small operators avoid competing for the same plugging rigs in 2041.

Weigh Comments on Their Substance

Much of the comment record in this rulemaking was generated by an organized mail campaign, and the Commission should weigh it accordingly. A copy of the mailer is enclosed as Exhibit A.

Commission Shift, the Environmental Defense Fund, and the Mineral Rights Action Network mailed Texas landowners a letter assigning each recipient a "Unique Property ID," listing counts of orphaned, inactive, and submarginal producing wells on the property, and printing an "Estimated Cost for State to Plug Using Public Funds, if Necessary." The letter directs recipients to a website and a phone line where staff will "help you submit a comment over the phone," promises the process "takes about 5 minutes," and tells landowners the Commission needs to hear from them "and not just from industry lobbyists." It also states the coalition's aim plainly: "Although this new bill is a start, we believe more action is needed."

The mailer's cost figure sits beside counts that include submarginal producing wells and inactive wells held by solvent, bonded operators, implying the State may pay to plug all of them. One recipient wrote to the Commission that the coalition put the State's cost for the two wells on his property at $344,800, while the Commission's own estimate for the inactive well is $57,371. Another commenter, citing what appears to be one of the coalition's property IDs, wrote that the referenced well is on someone else's land and was plugged months ago.

Many landowners have real concerns about neglected wells, and those concerns deserve an answer. The Administrative Procedure Act requires the Commission to fully consider each submission and to adopt a rule supported by a reasoned justification. That standard turns on the merits of each comment, and a rule should rest on the statute and the evidence.

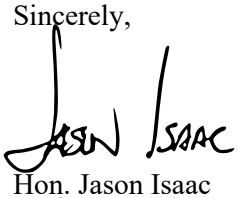
Conclusion

The landowners who wrote to the Commission about rusted tanks and idle wells want what we want: wells plugged or returned to work by operators who can afford to do it. A rule that follows SB 1150 as written, with all four pathways intact and usable, keeps responsible operators in business and keeps wells moving toward the companies that will address them.

The Legislature directed the Commission to adopt these rules by December 31, 2026. We urge the Commission to adopt the changes above, prevent waste, and implement the law the Legislature passed.

Thank you for your work on behalf of Texas producers, Texas landowners, and the Texas schools that depend on a strong energy industry.

Sincerely,



Hon. Jason Isaac
President
American Energy Association

Enclosure: Exhibit A, landowner mailer from Commission Shift, Environmental Defense Fund, and Mineral Rights Action Network

EXHIBIT A

Landowner mailer, texasorphanedwells.org (recipient information redacted)

[redacted]

TEXAS ORPHANED WELLS

[redacted]

Your Unique Property ID: [redacted]

Dear Texas Landowner,

We are writing because public records show there appear to be orphaned, inactive and/or submarginal oil and gas wells on your property that may be impacted by the Texas Railroad Commission (RRC) rulemaking happening now.

We are a coalition of concerned organizations and we built **texasorphanedwells.org** to help Texas landowners see what's on their land, understand the issues and have a say in how it gets cleaned up. Using public records from the RRC, which regulates the oil and gas industry, we identified the following orphaned, inactive, and submarginal wells that appear to be associated with your property. You can use the unique identifier at the top of this page to view more information about those wells on our website.

Orphaned Wells	Inactive Wells	Submarginal Producing Wells (less than 1 barrel of oil equivalent per day)	Estimated Cost for State to Plug Using Public Funds, if Necessary
[redacted]	[redacted]	[redacted]	[redacted]

Please note: The table may not show all producing wells on your property, and unless you are the operator of these wells, you are not legally or financially responsible for plugging wells on your property. Under Texas law, the oil and gas operator is responsible for plugging these wells. If an operator walks away from a well, it becomes "orphaned" and the plugging costs fall to the state using public funds. We're showing you this figure so you can understand what it would likely cost for Texas to clean up the wells if the operator fails to meet its obligations.

UNPLUGGED WELLS CREATE RISKS AND COSTS

Inactive wells are oil and gas wells that have not produced in more than one year. The longer a well sits inactive, the higher the risk it becomes orphaned. In Texas, there are over 12,000 orphaned wells, more than 110,000 other inactive production wells and at least 60,000 submarginal wells likely at or near the end of their economically productive lives — numbers that have been growing in recent years.

Unplugged wells can pose significant long-term threats to land, water and people. They can contaminate the soil and groundwater, release air pollution that harms human health, and become a serious safety hazard. They can also interfere with farming and ranching and block new subsurface uses — potentially limiting future leasing and drilling. The presence of unplugged wells could lower your property value.

The risks and hazards vary widely from well to well, and many inactive wells are not an immediate threat. But these are long-term problems, and cleanup can take years to begin once a well is orphaned.

WHAT TEXAS IS PROPOSING

The Legislature recently passed SB 1150, a bipartisan law limiting how long operators can delay plugging an inactive well to 15 years for wells drilled more than 25 years ago. The RRC is now writing the rules that will implement that law and help determine its effectiveness. They are weighing safety and environmental risks before granting a well plugging extension, and considering plugging exemptions for operators demonstrating "financial hardship."

For landowners like yourself, a strong rule would help ensure long-term inactive wells are plugged more timely and paid for by their operators rather than by state funds.

HOW YOU CAN PROVIDE YOUR INPUT

The rulemaking's public comment period closes on November 13th. The RRC needs to hear from the people impacted by these wells sitting on their property, and not just from industry lobbyists. You can comment by going to **texasorphanedwells.org** (see the QR code above) and sending your comment to the RRC in just a few minutes. You can also enter your Unique Property ID (also at the top of this letter) to learn more about the wells that appear to be on your property.

If you have questions or need help, please contact Reagan Stone at 432-201-2667 or email info@texasorphanedwells.org. Reagan can answer questions, walk you through the site, or help you submit a comment over the phone.

Although this new bill is a start, we believe more action is needed, and we'd like to hear your story. If these wells have affected your land, your water or your family, please let us know.

Sincerely,

Virginia Palacios
Commission Shift

Colin Leyden
Environmental Defense Fund

Lauren Tatarsky
Mineral Rights Action Network

P.S. Comments are due November 13th. Visit texasorphanedwells.org or call Reagan Stone at 432-201-2667 - it takes about 5 minutes.

To opt out of future mailings, visit the Contact Us form at ***texasorphanedwells.org****.*