

NATURAL RESOURCES CODE
TITLE 3. OIL AND GAS
SUBTITLE A. ADMINISTRATION
CHAPTER 81. RAILROAD COMMISSION OF TEXAS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 81.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Commissioner" means any member of the Railroad Commission of Texas.

Acts 1977, 65th Leg., p. 2508, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.002. DEFINITION OF PERSON FOR CERTAIN PROVISIONS.

In this chapter:

(1) "person" includes a corporation, as provided by Section 312.011, Government Code; and

(2) the definition of "person" assigned by Section 311.005, Government Code, does not apply.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.01, eff. April 1, 2011.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 81.01001. SUNSET PROVISION. (a) The Railroad Commission of Texas is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished September 1, 2029.

(b) The Railroad Commission of Texas shall pay the costs incurred by the Sunset Advisory Commission in performing a review of the commission under this section. The Sunset Advisory Commission shall determine the costs, and the commission shall pay the amount of those costs promptly on receipt of a statement from the Sunset Advisory Commission detailing the costs.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02,

eff. April 1, 2011.

Amended by:

Acts 2009, 81st Leg., 1st C.S., Ch. 2 (S.B. 2), Sec. 1.14(b),
eff. July 10, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. 652), Sec.
1.07(a), eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1279 (H.B. 1675), Sec. 2.05,
eff. June 14, 2013.

Acts 2017, 85th Leg., R.S., Ch. 57 (H.B. 1818), Sec. 1, eff.
September 1, 2017.

Sec. 81.01002. CHAIRMAN. The commissioners shall elect one
commissioner as the chairman.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02,
eff. April 1, 2011.

Sec. 81.01003. QUALIFICATIONS FOR OFFICE. A commissioner
must be:

(1) a qualified voter under the constitution and laws;
and

(2) at least 25 years of age.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02,
eff. April 1, 2011.

Sec. 81.01004. PERSONAL FINANCIAL DISCLOSURE, STANDARDS OF
CONDUCT, AND CONFLICT OF INTEREST. A commissioner is subject to the
provisions of Chapter 572, Government Code, that apply to elected
officers, including the requirements governing personal financial
statements, standards of conduct, and conflicts of interest.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02,
eff. April 1, 2011.

Sec. 81.01005. NAME AND SEAL. (a) The commissioners are
known collectively as the "Railroad Commission of Texas."

(b) The seal of the commission contains a star of five
points with the words "Railroad Commission of Texas" engraved on
it.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02, eff. April 1, 2011.

Sec. 81.01006. PROCEDURAL RULES. The commissioners may adopt all rules necessary for the commission's government and proceedings.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02, eff. April 1, 2011.

Sec. 81.01007. SUPPLIES. The commissioners shall be furnished necessary furniture, stationery, supplies, and expenses, to be paid for on the order of the governor.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02, eff. April 1, 2011.

Sec. 81.01008. SESSIONS. The commission may hold sessions at any place in this state when considered necessary.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02, eff. April 1, 2011.

Sec. 81.01009. RECORDS RESEARCH FEE. The commission shall charge a person who requests an examination or search of commission records \$5 for each half hour or fraction of a half hour that a commission employee spends in the examination or search unless the person requesting the search represents this state or a county.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02, eff. April 1, 2011.

Sec. 81.01010. FEE FOR COPIES. (a) The commission may charge a fee for copies of papers provided by the commission to a person other than a department of this state.

(b) The fee for a copy of a paper, document, or record in the commission's office, including the certificate and seal to be applied by the secretary, is 15 cents for each 100 words.

(c) This section does not authorize the commission to charge a person a fee for a tariff sheet for the person's own use if the tariff sheet is in effect.

(d) The fees charged and collected under this section shall be accounted for by the secretary of the commission and paid into the treasury as provided by Chapter 603, Government Code. Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02, eff. April 1, 2011.

Sec. 81.01011. METHOD OF MAKING PAYMENTS TO COMMISSION. (a) The commission may authorize payment, as prescribed by the commission, of a regulatory fee, fine, penalty, or charge for goods and services by means of an electronic payment method or a credit card issued by a financial institution chartered by a state or the United States or issued by a nationally recognized credit organization approved by the commission. A payment by the authorized method may be made in person, by telephone, or through the Internet.

(b) The commission may require a person who makes a payment to the commission by means of an electronic payment method or credit card to pay a discount or service charge in an amount reasonable and necessary to reimburse the commission for the costs involved in processing the payment.

(c) The commission may adopt rules as necessary to implement this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02, eff. April 1, 2011.

Sec. 81.01012. GIFTS, GRANTS, AND DONATIONS. (a) In this section, "contested case" has the meaning assigned by Section 2001.003, Government Code.

(b) The commission may apply for, request, solicit, contract for, receive, accept, and administer gifts, grants, and donations of money or other assistance from any source to carry out any commission purpose or power.

(c) The commission may not, under Subsection (b), accept a gift or donation of money or of property from a party in a contested case during the period from the inception of the contested case until the 30th day after the date a final order is signed in the contested case.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02, eff. April 1, 2011.

Sec. 81.01013. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be an employee of the commission employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in a business or industry regulated by the commission; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in a business or industry regulated by the commission.

(c) A person who is required to register as a lobbyist under Chapter 305, Government Code, may not act as the general counsel to the commission.

(d) The commission shall provide to commissioners and to agency employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02, eff. April 1, 2011.

Sec. 81.01014. EQUAL EMPLOYMENT OPPORTUNITY. (a) The commission shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the commission to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the commission's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must:

(1) be updated annually;

(2) be reviewed by the Texas Workforce Commission civil rights division for compliance with Subsection (b); and

(3) be filed with the governor's office.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02, eff. April 1, 2011.

Sec. 81.01016. SEPARATION OF RESPONSIBILITIES. The commission shall develop and implement policies that clearly separate the policy-making responsibilities of the commissioners and the management responsibilities of the staff of the commission. Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.02, eff. April 1, 2011.

Sec. 81.011. CHIEF SUPERVISOR. (a) The commission shall employ a chief supervisor of its oil and gas division to assist the commission in enforcing the laws relating to the production, transportation, and conservation of oil and gas and rules and orders of the commission adopted under these laws.

(b) The chief supervisor also shall perform the duties of the pipeline expert as provided in the pipeline laws of this state. Acts 1977, 65th Leg., p. 2508, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.012. QUALIFICATIONS OF CHIEF SUPERVISOR. In addition to other qualifications that may be required by the

commission, a person appointed chief supervisor must have had at least five years' experience in some line of the oil or gas business, or in some other business or profession that would provide the necessary knowledge and experience for the performance of his duties.

Acts 1977, 65th Leg., p. 2508, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.013. DEPUTY SUPERVISORS, ASSISTANTS, AND CLERICAL PERSONNEL. The commission may appoint a chief deputy supervisor, deputy supervisors, assistants, and clerical personnel necessary to execute the laws relating to oil and gas.

Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.014. QUALIFICATIONS OF CHIEF DEPUTY SUPERVISOR. A person appointed chief deputy supervisor must have had at least three years' experience in oil and gas field work.

Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.015. QUALIFICATIONS OF DEPUTY SUPERVISORS. Any person appointed deputy supervisor must have had at least two years' experience in oil and gas field work, including substantial experience in drilling or production.

Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.016. SALARIES. The salary of the chief supervisor, the chief deputy supervisor, and the deputy supervisors shall be the same as that provided in the General Appropriations Act.

Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.0165. SALARY OF SECRETARY. The salary of the secretary of the commission shall be the amount appropriated for that purpose by the legislature.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. [1540](#)), Sec. 3.02, eff. April 1, 2011.

Sec. 81.017. ADDITIONAL EMPLOYEES. The commission may employ gaugers, inspectors, investigators, supervisors, and clerical employees. These employees shall include a chief engineer, chief petroleum engineer, and an administrative chief, and their salaries shall be paid in the amounts provided in the General Appropriations Act.

Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 144, ch. 65, Sec. 1, eff. Sept. 1, 1981.

Sec. 81.018. PAYMENT OF SALARIES AND OTHER EXPENSES.

(a) Salaries and other expenses necessary in the administration and enforcement of the oil and gas laws shall be paid by warrants drawn by the comptroller on the State Treasury from general revenue.

(b) Warrants for expenses shall be issued only on duly verified statements of the persons entitled to the funds and on approval of the chairman of the commission.

Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 470 (S.B. [757](#)), Sec. 3, eff. September 1, 2015.

Sec. 81.019. DUTIES OF CHIEF SUPERVISOR, CHIEF DEPUTY SUPERVISOR, DEPUTY SUPERVISORS, AND OTHER EMPLOYEES. The chief supervisor, chief deputy supervisor, deputy supervisors, and other employees shall perform the duties prescribed by the commission in conformity with rules of the commission relating to the production, transportation, and conservation of crude oil and natural gas.

Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.020. ADDITIONAL DUTIES OF CHIEF SUPERVISOR AND HIS

DEPUTIES. (a) The chief supervisor and his deputies shall supervise the plugging of all abandoned wells and the shooting of wells and shall follow the rules of the commission relating to the production and conservation of oil and gas.

(b) The chief supervisor shall gather information and assist the commission in the performance of its duties under this title.

Acts 1977, 65th Leg., p. 2509, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.021. INTELLECTUAL PROPERTY. (a) The commission may:

(1) apply for, register, secure, hold, and protect under the laws of the United States or any state or nation:

(A) a patent for the invention, discovery, or improvement of any process, machine, manufacture, or composition of matter;

(B) a copyright for an original work of authorship fixed in any tangible medium of expression, known or later developed, from which it can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device;

(C) a trademark, service mark, collective mark, or certification mark for a word, name, symbol, device, or slogan that the commission uses to identify and distinguish the commission's goods and services from other goods and services; or

(D) other evidence of protection or exclusivity issued for intellectual property;

(2) contract with a person for the sale, lease, marketing, or other distribution of the commission's intellectual property;

(3) obtain under a contract described in Subdivision (2) a royalty, license right, or other appropriate means of securing reasonable compensation for the development or purchase of the commission's intellectual property; and

(4) waive or reduce the amount of compensation secured by contract under Subdivision (3) if the commission determines that

the waiver or reduction will:

- (A) further a goal or mission of the commission;
- and
- (B) result in a net benefit to the state.

(b) Money paid to the commission under this section shall be deposited to the credit of the oil and gas regulation and cleanup fund as provided by Section [81.067](#).

Added by Acts 2017, 85th Leg., R.S., Ch. 72 (S.B. [1422](#)), Sec. 1, eff. May 22, 2017.

SUBCHAPTER C. JURISDICTION, POWERS, AND DUTIES

Sec. 81.051. JURISDICTION OF COMMISSION. (a) The commission has jurisdiction over all:

(1) common carrier pipelines defined in Section [111.002](#) of this code in Texas;

(2) oil and gas wells in Texas;

(3) persons owning or operating pipelines in Texas;

and

(4) persons owning or engaged in drilling or operating oil or gas wells in Texas.

(b) Persons listed in Subsection (a) of this section and their pipelines and oil and gas wells are subject to the jurisdiction conferred by law on the commission.

Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1977, 65th Leg., p. 2694, ch. 871, art. II, Sec. 5, eff. Sept. 1, 1977.

Sec. 81.052. RULES. The commission may adopt all necessary rules for governing and regulating persons and their operations under the jurisdiction of the commission as set forth in Section [81.051](#), including such rules as the commission may consider necessary and appropriate to implement state responsibility under any federal law or rules governing such persons and their operations.

Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 19, ch. 12, Sec. 1, eff.

March 15, 1979.

Sec. 81.0521. FEE FOR APPLICATION FOR EXCEPTION TO RAILROAD COMMISSION RULE. (a) With each application for an exception to any commission rule contained in Chapter 3 of Part I of Title 16 of the Texas Administrative Code, the applicant shall submit to the commission a fee of \$150.

(b) The application fee for an exception to any commission rule may not be refunded.

(c) The proceeds from this fee, excluding any penalties collected in connection with the fee, shall be deposited to the oil and gas regulation and cleanup fund as provided by Section 81.067.

Added by Acts 1985, 69th Leg., ch. 239, Sec. 73, eff. Sept. 1, 1985.

Amended by Acts 2001, 77th Leg., ch. 1233, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.01, eff. September 28, 2011.

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 26, eff. September 1, 2015.

Sec. 81.0522. NATURAL GAS POLICY ACT APPLICATION FEE. (a) With each Natural Gas Policy Act (15 U.S.C. Sections 3301-3432) application, the applicant shall submit to the commission a fee. The commission shall set the application fee in an amount necessary to cover the cost of the commission's well category determination program but not to exceed \$150.

(b) The fee for any Natural Gas Policy Act application may not be refunded.

Added by Acts 1985, 69th Leg., ch. 239, Sec. 73, eff. Sept. 1, 1985.

Amended by Acts 2001, 77th Leg., ch. 1233, Sec. 4, eff. Sept. 1, 2001.

Sec. 81.0523. EXCLUSIVE JURISDICTION AND EXPRESS PREEMPTION. (a) In this section:

(1) "Commercially reasonable" means a condition that would allow a reasonably prudent operator to fully, effectively,

and economically exploit, develop, produce, process, and transport oil and gas, as determined based on the objective standard of a reasonably prudent operator and not on an individualized assessment of an actual operator's capacity to act.

(2) "Oil and gas operation" means an activity associated with the exploration, development, production, processing, and transportation of oil and gas, including drilling, hydraulic fracture stimulation, completion, maintenance, reworking, recompletion, disposal, plugging and abandonment, secondary and tertiary recovery, and remediation activities.

(b) An oil and gas operation is subject to the exclusive jurisdiction of this state. Except as provided by Subsection (c), a municipality or other political subdivision may not enact or enforce an ordinance or other measure, or an amendment or revision of an ordinance or other measure, that bans, limits, or otherwise regulates an oil and gas operation within the boundaries or extraterritorial jurisdiction of the municipality or political subdivision.

(c) The authority of a municipality or other political subdivision to regulate an oil and gas operation is expressly preempted, except that a municipality may enact, amend, or enforce an ordinance or other measure that:

(1) regulates only aboveground activity related to an oil and gas operation that occurs at or above the surface of the ground, including a regulation governing fire and emergency response, traffic, lights, or noise, or imposing notice or reasonable setback requirements;

(2) is commercially reasonable;

(3) does not effectively prohibit an oil and gas operation conducted by a reasonably prudent operator; and

(4) is not otherwise preempted by state or federal law.

(d) An ordinance or other measure is considered prima facie to be commercially reasonable if the ordinance or other measure has been in effect for at least five years and has allowed the oil and gas operations at issue to continue during that period.

Added by Acts 2015, 84th Leg., R.S., Ch. 30 (H.B. 40), Sec. 2, eff.

May 18, 2015.

Sec. 81.053. COMMISSION POWERS. In the discharge of its duties and the enforcement of its jurisdiction under this title, the commission shall:

- (1) institute suits;
- (2) hear and determine complaints;
- (3) require the attendance of witnesses and pay their expenses out of funds provided for that purpose;
- (4) obtain the issuance of writs and process which may be necessary for the enforcement of its orders; and
- (5) punish for contempt or disobedience of its orders in the manner provided for the district courts.

Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.0531. ADMINISTRATIVE PENALTY. (a) If a person violates provisions of this title which pertain to safety or the prevention or control of pollution or the provisions of a rule, order, license, permit, or certificate which pertain to safety or the prevention or control of pollution and are issued under this title, the person may be assessed a civil penalty by the commission.

(b) The penalty may not exceed:

- (1) \$10,000 a day for each violation that is not related to pipeline safety; or
- (2) \$200,000 a day for each violation that is related to pipeline safety.

(b-1) Each day a violation continues may be considered a separate violation for purposes of penalty assessments, provided that the maximum penalty that may be assessed for any related series of violations related to pipeline safety may not exceed \$2 million.

(c) In determining the amount of the penalty, the commission shall consider the permittee's history of previous violations, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the person charged. In determining the amount of the penalty for a violation of a provision of this title or a rule, order, license, permit, or

certificate that relates to pipeline safety, the commission shall consider the guidelines adopted under Subsection (d).

(d) The commission by rule shall adopt guidelines to be used in determining the amount of the penalty for a violation of a provision of this title or a rule, order, license, permit, or certificate that relates to pipeline safety. The guidelines shall include a penalty calculation worksheet that specifies the typical penalty for certain violations, circumstances justifying enhancement of a penalty and the amount of the enhancement, and circumstances justifying a reduction in a penalty and the amount of the reduction. The guidelines shall take into account:

- (1) the permittee's history of previous violations, including the number of previous violations;
 - (2) the seriousness of the violation and of any pollution resulting from the violation;
 - (3) any hazard to the health or safety of the public;
 - (4) the degree of culpability;
 - (5) the demonstrated good faith of the person charged;
- and
- (6) any other factor the commission considers relevant.

(e) A penalty collected under this section shall be deposited to the credit of the oil-field cleanup fund.

Added by Acts 1983, 68th Leg., p. 1407, ch. 286, Sec. 1, eff. Sept. 1, 1983. Amended by Acts 1999, 76th Leg., ch. 1089, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1233, Sec. 5, eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 104 (S.B. 900), Sec. 1, eff. September 1, 2013.

Sec. 81.0532. PENALTY ASSESSMENT PROCEDURE. (a) A civil penalty may be assessed only after the person charged with a violation described under Section 81.0531 of this code has been given an opportunity for a public hearing.

(b) If a public hearing has been held, the commission shall make findings of fact, and it shall issue a written decision as to

the occurrence of the violation and the amount of the penalty that is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(c) If appropriate, the commission shall consolidate the hearings with other proceedings.

(d) If the person charged with the violation fails to avail himself of the opportunity for a public hearing, a civil penalty may be assessed by the commission after it has determined that a violation did occur and the amount of the penalty that is warranted.

(e) The commission shall then issue an order requiring that the penalty be paid.

Added by Acts 1983, 68th Leg., p. 1407, ch. 286, Sec. 1, eff. Sept. 1, 1983.

Sec. 81.0533. PAYMENT OF PENALTY; REFUND. (a) On the issuance of an order finding that a violation has occurred, the commission shall inform the person charged within 30 days of the amount of the penalty.

(b) Within the 30-day period immediately following the day on which the decision or order is final as provided in Subchapter F, Chapter 2001, Government Code, the person charged with the penalty shall:

(1) pay the penalty in full; or

(2) if the person seeks judicial review of either the amount of the penalty or the fact of the violation, or both:

(A) forward the amount to the commission for placement in an escrow account; or

(B) in lieu of payment into escrow, post with the commission a supersedeas bond in a form approved by the commission for the amount of the penalty, such bond to be effective until all judicial review of the order or decision is final.

(c) If through judicial review of the decision or order it is determined that no violation occurred or that the amount of the penalty should be reduced or not assessed, the commission shall, within the 30-day period immediately following that determination, if the penalty has been paid to the commission, remit the appropriate amount to the person, with accrued interest, or where a

supersedeas bond has been posted, the commission shall execute a release of such bond.

(d) Failure to forward the money to the commission within the time provided by Subsection (b) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.

(e) Judicial review of the order or decision of the commission assessing the penalty shall be under the substantial evidence rule and shall be instituted by filing a petition with the district court of Travis County, Texas, and not elsewhere, as provided for in Subchapter G, Chapter 2001, Government Code.

Added by Acts 1983, 68th Leg., p. 1407, ch. 286, Sec. 1, eff. Sept. 1, 1983. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(53), (59), eff. Sept. 1, 1995.

Sec. 81.0534. RECOVERY OF PENALTY. Civil penalties owed under Sections 81.0531-81.0533 of this code may be recovered in a civil action brought by the attorney general at the request of the commission.

Added by Acts 1983, 68th Leg., p. 1407, ch. 286, Sec. 1, eff. Sept. 1, 1983.

Sec. 81.054. ENFORCEMENT BY ATTORNEY GENERAL. (a) The attorney general shall enforce the provision of this title by injunction or other adequate remedy and as otherwise provided by law.

(b) If an action is instituted by the attorney general under this section alleging a violation of an NPDES permit or the failure to obtain an NPDES permit under Chapter 91 or Chapter 141 of the Natural Resources Code, the attorney general may not oppose intervention by a person who has standing to intervene, as provided by Rule 60, Texas Rules of Civil Procedure.

Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1995, 74th Leg., ch. 310, Sec. 5, eff. Aug. 28, 1995.

Sec. 81.055. PIPELINE SYSTEM FINANCIAL RESPONSIBILITY

REQUIREMENTS.

(a) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(132), eff. June 17, 2011.

(b) If the legislature finds that adoption of such a requirement is desirable, the commission by rule may require an owner, operator, or manager of a pipeline system to obtain evidence of financial responsibility. The rules must specify the appropriate form and amount of that evidence and may require evidence of financial responsibility in different amounts for different pipeline systems, taking into consideration whether the pipeline system:

(1) has a history of discharges or other violations of regulatory requirements; or

(2) is located over a public drinking water supply, a natural resource, or a critical groundwater resource or near a school or populated area.

Added by Acts 2001, 77th Leg., ch. 1233, Sec. 6, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. [1179](#)), Sec. 25(132), eff. June 17, 2011.

Sec. 81.056. CONTAMINATION REPORT. (a) In this section:

(1) "Common carrier" has the meaning assigned by Section [111.002](#).

(2) "Owner of the land" or "landowner" means the first person who is shown on the appraisal roll of the appraisal district established for the county in which a tract of land is located as owning an interest in the surface estate of the land at the time a contamination report is required to be made under this section.

(b) If in the process of placing, repairing, replacing, or maintaining a pipeline a common carrier or an owner or operator of a pipeline observes or detects any petroleum-based contamination of soil or water in proximity to the pipeline, the common carrier or pipeline owner or operator shall report the contamination to the commission and the owner of the land on which the pipeline is located. Petroleum-based contamination of soil or water that is observed or detected is required to be reported under this

subsection if:

(1) hydrocarbons are present on the surface of the water;

(2) at least five linear yards of soil have been affected by hydrocarbons; or

(3) soil affected by hydrocarbons extends beyond the face of the excavation in which the contamination is observed or detected.

(c) The contamination report:

(1) must be made not later than 24 hours after the common carrier or pipeline owner or operator observes or detects the contamination;

(2) must include the global positioning satellite coordinates of the location of the contamination; and

(3) may be made by telephone, facsimile, or electronic mail.

(d) Not later than the third business day after the date the commission receives the contamination report, a person authorized by the commission shall withdraw a soil sample from the contaminated land. The person is entitled to enter the land for the purpose of withdrawing the sample.

(e) A common carrier or pipeline owner or operator that makes a contamination report under this section is released from all liability for the contamination or the cleanup of the contamination covered by the report, except for any contamination caused by the common carrier or pipeline owner or operator.

(f) The commission shall adopt rules to implement this section.

(g) The commission may use money in the oil-field cleanup fund to implement this section. The amount of money in the fund the commission may use for that purpose may not exceed the amount of money in the fund that is derived from fees collected under Section [91.142](#) from common carriers or owners or operators of pipelines as determined annually by the commission.

Added by Acts 2005, 79th Leg., Ch. 339 (S.B. [1130](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 166 (H.B. 472), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 166 (H.B. 472), Sec. 2, eff. September 1, 2009.

Sec. 81.057. EXEMPTION FROM CERTAIN PURCHASING RULES. The commission is not required to follow any purchasing procedures prescribed by or under Subchapter E, Chapter 2155, Government Code, when the commission makes a purchase in connection with the remediation of surface locations or well plugging.

Added by Acts 2003, 78th Leg., ch. 1272, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 514 (H.B. 773), Sec. 2, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. 1705), Sec. 3.06, eff. September 1, 2009.

Sec. 81.058. ADMINISTRATIVE PENALTY FOR CERTAIN NATURAL GAS-RELATED ACTIVITIES. (a) The commission, after notice and opportunity for hearing, may impose an administrative penalty against a purchaser, transporter, gatherer, shipper, or seller of natural gas, a person described by Section 81.051(a) or 111.081(a), or any other entity under the jurisdiction of the commission under this code that the commission determines has:

(1) violated a commission rule adopting standards or a code of conduct for entities in the natural gas industry prohibiting unlawful discrimination; or

(2) unreasonably discriminated against a seller of natural gas in the purchase of natural gas from the seller.

(b) The commission, after notice and opportunity for hearing, may impose an administrative penalty against a purchaser, transporter, or gatherer of natural gas if the commission determines that the person engaged in prohibited discrimination against a shipper or seller of natural gas because the shipper or seller filed a formal or informal complaint with the commission against the person relating to the person's purchase, transportation, or gathering of the gas.

(c) The commission, after notice and opportunity for hearing, may 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 commission to have:

(1) failed to participate in the proceeding; or

(2) failed to provide information requested by a mediator in the proceeding.

(d) An administrative penalty imposed under this section may not exceed \$5,000 a day for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty under this section.

(e) If the commission determines after notice and opportunity for hearing that an entity has engaged in prohibited discrimination for which a penalty may be imposed under this section, the commission may issue any order necessary and reasonable to prevent the discrimination from continuing.

(f) The remedy provided by this section is cumulative of any other remedy the commission may order.

Added by Acts 2007, 80th Leg., R.S., Ch. 757 (H.B. [3273](#)), Sec. 1, eff. September 1, 2007.

Sec. 81.059. APPOINTMENT OF MEDIATORS FOR INFORMAL COMPLAINTS. (a) The commission may provide for the appointment of a commission staff member as the mediator of an informal complaint filed with the commission, or the parties may agree to employ and pay an independent mediator for the purpose of mediating the complaint.

(b) If the parties request that the mediation be conducted at a location other than the offices of the commission in Austin, the parties shall reimburse the commission for the commission's costs related to travel to those other locations.

(c) This section does not prohibit the commission from requiring that the parties participate in a formal complaint resolution proceeding.

(d) At least annually, the commission shall notify oil and gas producers of the existence of any informal complaint resolution

process provided for by the commission.

(e) Filing an informal complaint is not a prerequisite for filing a formal complaint.

Added by Acts 2007, 80th Leg., R.S., Ch. 757 (H.B. 3273), Sec. 1, eff. September 1, 2007.

Sec. 81.0591. COMPLAINTS. (a) The commission shall maintain a file on each written complaint filed with the commission. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the commission;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) an explanation of the reason the file was closed, if the commission closed the file without taking action other than to investigate the complaint.

(b) The commission shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the commission's policies and procedures relating to complaint investigation and resolution.

(c) The commission, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.03, eff. April 1, 2011.

Sec. 81.0592. CONSUMER INTEREST INFORMATION. (a) The commission shall prepare information of consumer interest describing the regulatory functions of the commission and the procedures by which consumer complaints are filed with and resolved by the commission.

(b) The commission shall make the information available to the public and appropriate state agencies.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.03, eff. April 1, 2011.

Sec. 81.060. CONFIDENTIALITY PROVISIONS. (a) A confidentiality provision may not be required in a contract to which a producer is a party for the sale, transportation, or gathering of natural gas that is entered into on or after September 1, 2007.

(b) A confidentiality provision in a contract to which a producer is a party for the sale, transportation, or gathering of natural gas that was entered into before September 1, 2007, becomes unenforceable on the date the term of the contract expires.

Added by Acts 2007, 80th Leg., R.S., Ch. 757 (H.B. 3273), Sec. 1, eff. September 1, 2007.

Sec. 81.061. AUTHORITY TO ESTABLISH MARKET-BASED RATES.

(a) This section does not apply to rates established under Chapter 103, Utilities Code, or Subchapter C or G, Chapter 104, of that code.

(b) The commission may use a cost-of-service method or a market-based rate method in setting a rate in a formal rate proceeding.

(c) On the filing of a complaint by a shipper or seller of natural gas, the commission may set a transportation or gathering rate in a formal rate proceeding if the commission determines that the rate is necessary to remedy unreasonable discrimination in the provision of transportation or gathering services. The commission may set a rate regardless of whether the transporter or gatherer is classified as a utility by other law.

Added by Acts 2007, 80th Leg., R.S., Ch. 757 (H.B. 3273), Sec. 1, eff. September 1, 2007.

Sec. 81.062. PUBLIC PARTICIPATION. The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak

on any issue under the jurisdiction of the commission.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.03, eff. April 1, 2011.

Sec. 81.063. ISSUANCE, SUSPENSION, OR REVOCATION OF LICENSE, PERMIT, OR CERTIFICATE. (a) If the commission proposes to suspend or revoke a person's license, permit, or certificate of public convenience and necessity, the person is entitled to a hearing before the commission.

(b) The commission may not:

(1) refuse to issue a license, permit, or certificate to a person because of the person's race, religion, color, sex, or national origin; or

(2) revoke or suspend the license, permit, or certificate of a person because of the person's race, religion, color, sex, or national origin.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.03, eff. April 1, 2011.

Sec. 81.064. POWERS OF COMMISSIONER OR DESIGNATED EMPLOYEE IN CASES BEFORE COMMISSION. (a) In a case before the commission, a commissioner, or an authorized commission employee, designated by the commission for that purpose, in the same manner as if the entire commission were present, may:

(1) hold a hearing;

(2) conduct an investigation;

(3) make a record of a hearing or investigation for the use and benefit of the commission;

(4) administer an oath;

(5) certify to an official act; and

(6) compel the attendance of a witness and the production of papers, books, accounts, and other pertinent documents and testimony.

(b) The record of a hearing or investigation made under this section that is certified to by the commissioner or employee has the same effect as if made before the commission. The commission shall determine a case in which the record is made under this section in

the same manner as if the record had been made before the commission.

(c) The commission may punish for contempt a person who:

(1) refuses to comply with this section; or

(2) obstructs or attempts to obstruct a proceeding under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. [1540](#)), Sec. 3.03, eff. April 1, 2011.

Sec. 81.065. ALTERNATIVE DISPUTE RESOLUTION POLICY.

(a) The commission shall develop and implement a policy to encourage the use of appropriate alternative dispute resolution procedures under Chapter [2009](#), Government Code, to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for alternative dispute resolution; and

(3) collect information concerning the effectiveness of those procedures.

Added by Acts 2017, 85th Leg., R.S., Ch. 57 (H.B. [1818](#)), Sec. 2, eff. September 1, 2017.

Sec. 81.066. OIL AND GAS DIVISION MONITORING AND ENFORCEMENT STRATEGIC PLAN. (a) The oil and gas division of the

commission shall develop and publish an annual plan for each state fiscal year to use the oil and gas monitoring and enforcement resources of the commission strategically to ensure public safety and protect the environment.

(b) The commission shall seek input from stakeholders when

developing each annual plan.

(c) The commission shall collect and maintain information that accurately shows the commission's oil and gas monitoring and enforcement activities. Each annual plan must include a report of the information collected by the commission that shows the commission's oil and gas monitoring and enforcement activities over time.

(d) The information described by Subsection (c) must include data regarding violations of statutes or commission rules that relate to oil and gas, including:

(1) the number, type, and severity of:

(A) violations the commission found to have occurred;

(B) violations the commission referred for enforcement to the section of the commission responsible for enforcement; and

(C) violations for which the commission imposed a penalty or took other enforcement action;

(2) the number of major violations for which the commission imposed a penalty or took other enforcement action; and

(3) the number of repeat major violations, categorized by individual oil or gas lease, if applicable.

(e) The commission shall publish each annual plan on the commission's Internet website not later than July 1 of the year preceding the state fiscal year in which the commission implements the plan.

Added by Acts 2017, 85th Leg., R.S., Ch. 57 (H.B. [1818](#)), Sec. 2, eff. September 1, 2017.

Sec. 81.067. OIL AND GAS REGULATION AND CLEANUP FUND.

(a) The oil and gas regulation and cleanup fund is created as an account in the general revenue fund of the state treasury.

(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 55 (H.B. [2675](#)), Sec. 3, eff. September 1, 2019.

(c) The fund consists of:

(1) proceeds from bonds and other financial security required by this chapter and benefits under well-specific plugging

insurance policies described by Section 91.104(c) that are paid to the state as contingent beneficiary of the policies, subject to the refund provisions of Section 91.1091, if applicable;

(2) private contributions, including contributions made under Section 89.084;

(3) expenses collected under Section 89.083;

(4) fees imposed under Section 85.2021;

(5) costs recovered under Section 91.457 or 91.459;

(6) proceeds collected under Sections 89.085 and 91.115;

(7) interest earned on the funds deposited in the fund;

(8) oil and gas waste hauler permit application fees collected under Section 29.015, Water Code;

(9) costs recovered under Section 91.113(f);

(10) hazardous oil and gas waste generation fees collected under Section 91.605;

(11) oil-field cleanup regulatory fees on oil collected under Section 81.116;

(12) oil-field cleanup regulatory fees on gas collected under Section 81.117;

(13) fees for a reissued certificate collected under Section 91.707;

(14) fees collected under Section 91.1013;

(15) fees collected under Section 89.088;

(16) fees collected under Section 91.142;

(17) fees collected under Section 91.654;

(18) costs recovered under Sections 91.656 and 91.657;

(19) fees collected under Section 81.0521;

(20) fees collected under Sections 89.024 and 89.026;

(21) legislative appropriations;

(22) any surcharges collected under Section 81.070;

(23) fees collected under Section 91.0115;

(24) fees collected under Subchapter E, Chapter 121, Utilities Code;

(25) fees collected under Section 27.0321, Water Code;

(26) fees collected under Section 81.071; and

(27) money collected under Section [81.021](#).

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. [1](#)), Sec. 19.02, eff. September 28, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 835 (H.B. [7](#)), Sec. 10, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1075 (H.B. [3309](#)), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. [7](#)), Sec. 27, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 57 (H.B. [1818](#)), Sec. 3, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 72 (S.B. [1422](#)), Sec. 2, eff. May 22, 2017.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. [1488](#)), Sec. 13.001, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 55 (H.B. [2675](#)), Sec. 3, eff. September 1, 2019.

Reenacted and amended by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. [4170](#)), Sec. 11.001, eff. September 1, 2019.

Sec. 81.068. PURPOSES OF OIL AND GAS REGULATION AND CLEANUP FUND. Money in the oil and gas regulation and cleanup fund may be used by the commission or its employees or agents for any purpose related to the regulation of oil and gas development, including oil and gas monitoring and inspections, oil and gas remediation, and oil and gas well plugging, the study and evaluation of electronic access to geologic data and surface casing depths necessary to protect usable groundwater in this state, the administration of pipeline safety and regulatory programs, public information and services related to those activities, and administrative costs and state benefits for personnel involved in those activities.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. [1](#)), Sec. 19.02, eff. September 28, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 835 (H.B. [7](#)), Sec. 11, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1075 (H.B. 3309), Sec. 2, eff. September 1, 2013.

Reenacted and amended by Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 28, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 57 (H.B. 1818), Sec. 4, eff. September 1, 2017.

Sec. 81.069. REPORTING ON PROGRESS IN MEETING PERFORMANCE GOALS FOR THE OIL AND GAS REGULATION AND CLEANUP FUND. (a) The commission, through the legislative appropriations request process, shall establish specific performance goals for the oil and gas regulation and cleanup fund for the next biennium, including goals for each quarter of each state fiscal year of the biennium for the number of:

(1) orphaned wells to be plugged with state-managed funds;

(2) abandoned sites to be investigated, assessed, or cleaned up with state funds; and

(3) surface locations to be remediated.

(b) The commission shall provide quarterly reports to the Legislative Budget Board that include:

(1) the following information with respect to the period since the last report was provided as well as cumulatively:

(A) the amount of money deposited in the oil and gas regulation and cleanup fund;

(B) the amount of money spent from the fund for the purposes described by Subsection (a);

(C) the balance of the fund; and

(D) the commission's progress in meeting the quarterly performance goals established under Subsection (a) and, if the number of orphaned wells plugged with state-managed funds, abandoned sites investigated, assessed, or cleaned up with state funds, or surface locations remediated is at least five percent less than the number projected in the applicable goal established under Subsection (a), an explanation of the reason for the variance; and

(2) any additional information or data requested in writing by the Legislative Budget Board.

(c) The commission shall submit to the legislature and make available to the public, annually, a report that reviews the extent to which money provided under Section 81.067 has enabled the commission to better protect the environment through oil-field cleanup activities. The report must include:

(1) the performance goals established under Subsection (a) for that state fiscal year, the commission's progress in meeting those performance goals, and, if the number of orphaned wells plugged with state-managed funds, abandoned sites investigated, assessed, or cleaned up with state funds, or surface locations remediated is at least five percent less than the number projected in the applicable goal established under Subsection (a), an explanation of the reason for the variance;

(2) the number of orphaned wells plugged with state-managed funds, by region;

(3) the number of wells orphaned, by region;

(4) the number of inactive wells not currently in compliance with commission rules, by region;

(5) the status of enforcement proceedings for all wells in violation of commission rules and the period during which the wells have been in violation, by region in which the wells are located;

(6) the number of surface locations remediated, by region;

(7) a detailed accounting of expenditures of money in the fund for oil-field cleanup activities, including expenditures for plugging of orphaned wells, investigation, assessment, and cleaning up of abandoned sites, and remediation of surface locations;

(8) the method by which the commission sets priorities by which it determines the order in which orphaned wells are plugged;

(9) a projection of the amount of money needed for the next biennium for plugging orphaned wells, investigating, assessing, and cleaning up abandoned sites, and remediating surface

locations; and

(10) the number of sites successfully remediated under the voluntary cleanup program under Subchapter O, Chapter 91, by region.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.02, eff. September 28, 2011.

Sec. 81.070. ESTABLISHMENT OF SURCHARGES ON FEES.

(a) Except as provided by Subsection (b), the commission by rule shall provide for the imposition of reasonable surcharges as necessary on fees imposed by the commission that are required to be deposited to the credit of the oil and gas regulation and cleanup fund as provided by Section 81.067 in amounts sufficient to enable the commission to recover the costs of performing the functions specified by Section 81.068 from those fees and surcharges.

(b) The commission may not impose a surcharge on an oil-field cleanup regulatory fee on oil collected under Section 81.116 or an oil-field cleanup regulatory fee on gas collected under Section 81.117.

(c) The commission by rule shall establish a methodology for determining the amount of a surcharge that takes into account:

(1) the time required for regulatory work associated with the activity in connection with which the surcharge is imposed;

(2) the number of individuals or entities from which the commission's costs may be recovered;

(3) the effect of the surcharge on operators of all sizes, as measured by the number of oil or gas wells operated;

(4) the balance in the oil and gas regulation and cleanup fund; and

(5) any other factors the commission determines to be important to the fair and equitable imposition of the surcharge.

(d) The commission shall collect a surcharge on a fee at the time the fee is collected.

(e) A surcharge collected under this section shall be deposited to the credit of the oil and gas regulation and cleanup fund as provided by Section 81.067.

(f) A surcharge collected under this section shall not exceed an amount equal to 185 percent of the fee on which it is imposed.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.02, eff. September 28, 2011.

Sec. 81.071. PIPELINE SAFETY AND REGULATORY FEES. (a) The commission by rule may establish pipeline safety and regulatory fees to be assessed for permits or registrations for pipelines under the jurisdiction of the commission's pipeline safety and regulatory program.

(b) The commission may establish fees to be assessed annually against permit or registration holders, as well as individual fees for new permits or registrations, permit or registration renewals, and permit or registration amendments.

(c) The fees must be in amounts that in the aggregate are sufficient to support all pipeline safety and regulatory program costs, including:

- (1) permitting or registration costs;
- (2) administrative costs; and
- (3) costs of employee salaries and benefits.

(d) The commission by rule must establish the method or methods by which the fees will be calculated and assessed so that fee amounts will reflect the time spent and costs incurred to perform the regulatory work associated with permitting or registering pipelines, the effects of required fees on operators of all sizes, and other factors the commission determines are important to the fair imposition of the fees. The commission may base the fees on any factor the commission considers necessary to efficiently and fairly recover the pipeline safety and regulatory program's costs, including:

- (1) the length of the pipeline;
- (2) the number of new permits or registrations, permit or registration renewals, or permit or registration amendments; or
- (3) the number of pipeline systems.

(e) The commission by rule may establish a reasonable late payment penalty for a fee charged under this section.

(f) The authority provided by this section is in addition to the authority provided by Section 121.211, Utilities Code, and the commission shall consider any fees assessed under that section in establishing the fees to be assessed under this section.

(g) A fee collected under this section shall be deposited to the credit of the oil and gas regulation and cleanup fund as provided by Section 81.067.

Added by Acts 2017, 85th Leg., R.S., Ch. 57 (H.B. 1818), Sec. 5, eff. September 1, 2017.

Sec. 81.072. VERIFICATION BY CONTRACTORS. (a) In this section, "E-verify program" has the meaning assigned by Section 673.001, Government Code.

(b) The commission may not award a contract for goods or services in this state to a contractor unless the contractor and any subcontractor register with and participate in the E-verify program to verify employee information. The contractor and any subcontractor shall continue to participate in the program during the term of the contract.

(c) The commission shall develop procedures for the administration of the E-verify program under this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 57 (H.B. 1818), Sec. 6, eff. September 1, 2017.

SUBCHAPTER D. WITNESSES

Sec. 81.091. INCRIMINATING TESTIMONY. If a witness fails or refuses to appear on being summoned, to answer any question he is asked, or to produce any record or data required by subpoena, the claim that the testimony may tend to incriminate the person giving it does not excuse the witness from testifying or producing the records and data, but the evidence or testimony may not be used against the person on the trial of any criminal proceeding.

Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.092. FEE FOR EXECUTING PROCESS. The sheriff or

constable executing process shall receive the compensation authorized by the commission.

Acts 1977, 65th Leg., p. 2510, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.093. DEPOSITIONS. (a) In a matter pending for hearing before the commission or a division of the commission, the commission or an interested party may produce the testimony of a witness by written or oral deposition instead of compelling the personal attendance of the witness. For that purpose, the commission may issue a commission or other process necessary to take a deposition.

(b) The deposition shall be taken, to the extent applicable and to the greatest extent possible, in accordance with the provisions of the Texas Rules of Civil Procedure relating to written and oral depositions.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 3.04, eff. April 1, 2011.

SUBCHAPTER E. FEES

Sec. 81.115. APPROPRIATIONS TO COMMISSION FOR OIL AND GAS REGULATION AND CLEANUP PURPOSES. Money appropriated to the commission under the General Appropriations Act for the purposes described by Section 81.068 shall be paid from the oil and gas regulation and cleanup fund or other fund indicated by the appropriation.

Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 144, ch. 65, Sec. 1, eff. Sept. 1, 1981.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.03, eff. September 28, 2011.

Sec. 81.116. OIL-FIELD CLEANUP REGULATORY FEE ON OIL. (a) An oil-field cleanup regulatory fee is imposed on crude petroleum produced in this state in the amount of five-eighths of one cent on

each barrel of 42 standard gallons.

(b) The fee is in addition to, and independent of any liability for, the tax imposed under Chapter 202, Tax Code.

(c) Except as provided by Subsection (d) of this section, Chapter 202, Tax Code, applies to the administration and collection of the fee, and the penalties provided by that chapter apply to any person who fails to pay or report the fee.

(d) The exemptions and reductions set out in Sections 202.052, 202.054, 202.056, 202.057, 202.059, and 202.060, Tax Code, do not affect the fee imposed by this section.

(e) Proceeds from the fee, excluding any penalties collected in connection with the fee, shall be deposited to the oil and gas regulation and cleanup fund as provided by Section 81.067.

Added by Acts 1991, 72nd Leg., ch. 603, Sec. 2, eff. Sept. 1, 1991.

Amended by Acts 2001, 77th Leg., ch. 1233, Sec. 7, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 200, Sec. 17, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 267 (H.B. 2161), Sec. 1, eff. January 1, 2006.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.04, eff. September 28, 2011.

Acts 2015, 84th Leg., R.S., Ch. 470 (S.B. 757), Sec. 5, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 55 (H.B. 2675), Sec. 1, eff. September 1, 2019.

Sec. 81.117. OIL-FIELD CLEANUP REGULATORY FEE ON GAS. (a) An oil-field cleanup regulatory fee is imposed on gas initially produced and saved in this state in the amount of one-fifteenth of one cent for each thousand cubic feet.

(b) The fee is in addition to, and independent of any liability for, the tax imposed under Section 201.052, Tax Code.

(c) Except as provided by Subsection (d), the administration, collection, and enforcement of the fee is the same as for the tax imposed under Section 201.052, Tax Code.

(d) The exemptions and reductions set out in Sections 201.053, 201.057, 201.058, and 202.060, Tax Code, do not affect the

fee imposed by this section.

(e) Proceeds from the fee, excluding any penalties collected in connection with the fee, shall be deposited to the oil and gas regulation and cleanup fund as provided by Section 81.067.

Added by Acts 1991, 72nd Leg., ch. 603, Sec. 2, eff. Sept. 1, 1991.

Amended by Acts 2001, 77th Leg., ch. 1233, Sec. 8, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 200, Sec. 18, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 267 (H.B. 2161), Sec. 2, eff. January 1, 2006.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 19.05, eff. September 28, 2011.

Acts 2019, 86th Leg., R.S., Ch. 55 (H.B. 2675), Sec. 2, eff. September 1, 2019.

SUBCHAPTER F. CAMPAIGNING

Sec. 81.151. PENALTY FOR CAMPAIGNING. A person who receives a salary from funds provided under this title and who uses his time or a state-owned automobile for campaign purposes or for the purpose of furthering the candidacy of his employer or any other candidate for state office is guilty of a misdemeanor and on conviction shall be fined not less than \$100 nor more than \$500 and shall be confined in jail for not less than 30 nor more than 90 days. Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.152. DISCHARGE AND INELIGIBILITY. A person found guilty under Section 81.151 of this code shall be discharged immediately from his position and shall be ineligible for employment by the state in the future.

Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.153. SETTING CIVIL COMPLAINT FOR HEARING. If a citizen of this state files a civil complaint with a district court in Travis County charging an employee with use of his time or a

state-owned automobile for campaign purposes or to further the candidacy of his employer or any other candidate for state office, the court shall set the complaint for hearing at a time not less than 10 nor more than 20 days after the day on which the complaint is filed.

Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.154. NOTICE TO EMPLOYEE. The court shall have notice of the hearing served on the employee against whom the complaint was filed at least five days before the date of the hearing.

Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.155. COURT'S ORDER. At the hearing, if the court determines that the employee has used his time or a state-owned automobile as charged in the complaint, the court shall certify the fact to the department, agency, or commission which employs the person and order the employee's immediate discharge.

Acts 1977, 65th Leg., p. 2511, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 81.156. APPEAL. Any person against whom charges have been filed is entitled to appeal to the court of appeals, but the pendency of the appeal does not suspend his discharge.

Acts 1977, 65th Leg., p. 2512, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 799, ch. 291, Sec. 91, eff. Sept. 1, 1981.