

Time for A Change: Modernizing the Railroad Commission's Enforcement Policy and Transparency of Enforcement Data

House Committee on Energy Resources

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Issues

- Transparency and access to enforcement data on oil and gas issues and pipeline issues
- Transparency and access to complaint data and results of complaints
- Levels of fines and role of severance
- Role of economic benefits if not following the law
- More inspectors needed

	2012	2013	2014	2015	2016 First quarter
Oil and Gas Inspections Performed	118,484	125,878	130,812	134,484	31,306
Alleged Violations	55,960	55,030	62,385	61,189	9,347
Complaints	727	791	754	680	132
Complaints Resolved	561	663	724	664	140
Severance/Seal Orders	8,980	11,526	11,541	9,481	1,915
Total Severance Fines	\$1,261,625	\$1,937,625	\$3,100,525	\$2,116,879	\$
Repeat Violations	144	102	106	108	33
Total Cases Sent to Attorney General	1,208	1,624	2,178	1,211	327
Number of Enforcement Dockets	217	194	277	262	90
Total Fines Issued	\$1,965,019	\$1,178,631	\$2,616,723	\$3,603,050	\$1,292,293

Transparency of Enforcement Data

- Railroad Commission under a budget requirement, publishes quarterly data on overall enforcement activity, including what it send over to the Attorney General
- However, this is aggregated data – there is no way to see whether a particular well or particular company has had enforcement or compliance issues
- Pipeline safety enforcement data is published separately as a list – there is no overall data on enforcement or inspections provided
- Previous 2011 Sunset Commission reports have recommended that Railroad Commission create a searchable database of complaint and enforcement data
- Railroad Commission of Texas was given an extra \$16 million back in 2013 for technological upgrades, including enforcement – we should be able to get something for that money
- There are models that exist in Texas and in other states for creating a searchable, well-by-well, county-by-county, company database

Recommendation

- Either through budget process or in statute, require RRC by 2018 to create a searchable online database on enforcement data for both oil and gas and pipeline safety issues
- Also require a searchable database of complaints (Agency should be required to maintain publicly accessible complaint databases that include basic information including the operators and/or oil and gas facilities, if an inspection occurred as a result of the complaint, any violations found, any enforcement actions taken, and when and how the complaint was fully resolved.)

Maximum Fines

- Statutes for Railroad Commission set maximum daily fines for oil and gas violations in 1983 at \$10,000 per day per fine and \$5,000 per day for certain water violation fines
- Statutes for Railroad Commission for pipeline violations were adjusted by Legislature in 2011 to comply with federal requirements – up to \$200,000
- Recognize that RRC does have other tools like severance and seal orders... but...
- 1983 was a long time ago
- See next page for what 1983 looked like

1983 - 2016

1983 - \$10,000



2016 - still \$10,000?



What other agencies do

EPA -- \$25,000

TCEQ -- \$25,000

Other states – All over the map but range from low of \$5,000 (New Mexico) to up to \$75,000 (Pennsylvania). \$25,000 a good median

Attorney General -- \$25,000

\$10,000 dollars in 1983 in 2016?

- ◆ Value: \$24,234.11
- ◆ Annual Inflation: 2.72%
- ◆ Total Inflation: 142.34%

Good Enforcement Policy- Economic Benefit

- Consideration of economic benefit – if you gain economically by knowingly violating the law, your fines should be increased by some portion of that benefit – TCEQ, EPA and other states already consider economic benefit in environmental enforcement policy
- The enforcement policy adopted under this section must consider:
 - the economic benefit of noncompliance gained by the entity violating a law, rule or regulation “
- Other Issues -- Severity of violation
- Repeat Violations
- Deterrence

Other Issues – Increase Inspections

- More inspections needed: RRC asked for 33 new inspectors but were denied;
- RRC should establish required minimum inspector-to-well ratios, and annual-inspections-per-well requirements for each stage of well development (including inactive wells, which fail over time). Also, follow-up inspections should be conducted as frequently as is necessary to ensure that violations have been corrected in a timely and complete manner.