

1 §3.70. Pipeline Permits Required.

2 (a) Each operator of a pipeline or gathering system, other than a production or flow line that does not leave
3 a lease or contiguous leases or an operator excluded under §8.1(b)(4) of this title, relating to General Applicability
4 and Standards, subject to the jurisdiction of the Commission, shall obtain a pipeline permit, to be renewed annually,
5 from the Commission as provided in this rule.

6 (b) To obtain a new pipeline permit or to amend a permit because of a change of classification, an operator
7 shall file an application for a pipeline permit on the Commission's online permitting system. The operator shall
8 include or attach the following documentation and information:

9 (1) the contact information for the individual who can respond to any questions concerning the
10 pipeline's construction, operation or maintenance;

11 (2) the requested classification and purpose of the pipeline or pipeline system as a common carrier,
12 a gas utility or a private line;

13 (3) a sworn statement from the pipeline applicant providing the operator's factual basis supporting
14 the classification and purpose being sought for the pipeline, including, if applicable, an attestation to the applicant's
15 knowledge of the eminent domain provisions in Texas Property Code, Chapter 21, and the Texas Landowner's Bill
16 of Rights as published by the Office of the Attorney General of Texas; and

17 (4) documentation to provide support for the classification and purpose being sought for the
18 pipeline, if applicable; and

19 (5) any other information requested by the Commission.

20 (c) To renew an existing permit, to amend an existing permit for any reason other than a change in
21 classification, or to cancel an existing permit, an operator shall file an application for a pipeline permit on the
22 Commission's online filing system. The operator shall include or attach:

23 (1) the contact information for the individual who can respond to any questions concerning the
24 pipeline's construction, operation, or maintenance; change in operator or ownership; or other change including
25 operator cessation of pipeline operation;

26 (2) a statement from the pipeline operator confirming the current classification and purpose of the
27 pipeline or pipeline system as a common carrier, a gas utility or a private line, if applicable; and

1 (3) any other information requested by the Commission.

2 (d) Upon receipt of a complete permit application, the Commission has 30 calendar days to issue, amend, or
3 deny the pipeline permit as filed. If the Commission determines that the application is incomplete, the Commission
4 shall promptly notify the applicant of the deficiencies and specify the additional information necessary to complete
5 the application. Upon receipt of a revised application, the Commission has 30 calendar days to determine if the
6 application is complete and issue, amend, or deny the pipeline permit as filed.

7 (e) If the Commission is satisfied from the application and the documentation and information provided in
8 support thereof, and its own review, that the proposed line is, or will be laid, equipped, managed and operated in
9 accordance with the laws of the state and the rules and regulations of the Commission, the permit may be granted.
10 The pipeline permit, if granted, shall classify the pipeline as a common carrier, a gas utility, or a private pipeline
11 based upon the information and documentation submitted by the applicant and the Commission's review of the
12 application.

13 (f) This rule applies to applications made for new pipeline permits and to amendments, renewals, and
14 cancellations of existing pipeline permits. The classification of a pipeline under this rule applies to extensions,
15 replacements, and relocations of that pipeline.

16 (g) The Commission may delegate the authority to administratively issue pipeline permits.

17 (h) The pipeline permit, if granted, shall be revocable at any time after a hearing, held after 10 days' notice,
18 if the Commission finds that the pipeline is not being operated in accordance with the laws of the state and the rules
19 and regulations of the Commission including if the permit is not renewed annually as required in subsection (a) of
20 this section.

21 (i) Each pipeline operator shall pay an annual fee based on the pipeline operator's permitted mileage of
22 pipeline by August 31, 2018, for the initial year that the requirement is in effect, and by April 1 for each subsequent
23 year.

24 (1) For purposes of calculating the mileage fee, the Commission will categorize pipelines into two
25 groups.

26 (A) Group A includes transmission and gathering pipelines that are required by
27 Commission rules to have a valid T-4 permit to operate and are subject to the regulations in 49 CFR Parts 192 and

1 195, such as [~~Group A pipelines include~~] natural gas transmission and storage pipelines, natural gas gathering
2 pipelines, hazardous liquids transmission and storage pipelines, and hazardous liquids gathering pipelines.

3 (B) Group B includes [~~gathering~~] pipelines that are required by Commission rules to have a
4 valid T-4 permit to operate but are not subject to the regulations in 49 CFR Parts 192 and 195 such as [~~Group B~~
5 ~~pipelines include~~] intrastate production pipelines leaving a lease and gathering pipelines [~~leaving a lease~~]. Group B
6 also includes gathering pipelines required to comply with § 8.110 of this title, relating to Gathering Pipelines.

7 (2) An operator of a Group A pipeline shall pay an annual fee of \$20 per mile of pipeline based on
8 the number of miles permitted to that operator as of June 29, 2018, for the initial year that the requirement is in
9 effect and as of December 31 for each subsequent year.

10 (3) An operator of a Group B pipeline shall pay an annual fee of \$10 per mile of pipeline based on
11 the number of miles permitted to that operator as of June 29, 2018, for the initial year that the requirement is in
12 effect and as of December 31 for each subsequent year.

13 (4) Any pipeline distance that is a fraction of a mile will be considered as one mile and will be
14 assessed a \$20 or \$10 fee, as appropriate.

15 (5) Fees due to the Commission for mileage transferred from one operator to another operator
16 pursuant to subsection (o) [~~(m)~~] of this section will be captured in the next mileage fee to be calculated on the
17 following December 31 and paid by the new operator.

18 (j) Each [~~Beginning October 1, 2018, each~~] pipeline operator shall pay a \$500 permit processing fee for
19 each new permit application and permit renewal. Operators shall file their annual renewals by the last day of the
20 operator's designated month as follows:

21 (1) Companies with names beginning with letters A through C shall file in February;

22 (2) Companies with names beginning with letters D through E shall file in March;

23 (3) Companies with names beginning with letters F through L shall file in April;

24 (4) Companies with names beginning with letters M through P shall file in May;

25 (5) Companies with names beginning with letters Q through T shall file in June; and

26 (6) Companies with names beginning with letters U through Z and companies with names
27 beginning with numerical values shall file in July.

1 ~~[The permit renewal date for a pipeline operator who has an existing, valid permit in the Commission's~~
2 ~~online filing system will be the date shown in the online filing system on June 29, 2018, when the pipeline mileage~~
3 ~~is calculated for purposes of paying the mileage fee. A permit renewal date will not be affected or changed by an~~
4 ~~operator requesting or receiving a permit amendment.]~~

5 (k) If a permit is transferred, in the year of the transfer the acquiring operator shall renew that permit in the
6 month designated for the transferor operator. On September 1st of the following Commission fiscal year, the permit
7 will be added to the acquiring operator's list of permits such that thereafter the permit shall be renewed in the
8 month designated for the acquiring operator. If an operator adds a new permit after its renewal month has passed,
9 the new permit shall be renewed the following year in the operator's renewal month, even if a full year has not
10 passed since the permit was added.

11 (l) ~~(k)~~ A pipeline operator who fails to renew a permit on or before the renewal deadline which is the last
12 day of the operator's required filing month as specified in subsection (j) of this section ~~[permit expiration date]~~ shall
13 pay a late-filing fee as follows:

14 (1) \$250, if the renewal application is received within 30 calendar days after the renewal deadline
15 [expiration] date;

16 (2) \$500, if the renewal application is received more than 30 calendar days and no more than 60
17 calendar days after the renewal deadline~~[expiration]~~ date; and

18 (3) \$700, if the renewal application is received more than 60 calendar days after the renewal
19 deadline ~~[expiration]~~ date.

20 (4) If the renewal application is not received within 90 calendar days of the renewal
21 deadline~~[expiration]~~ date, the Commission may assess a penalty and/or revoke the operator's permit in accordance
22 with subsection (h) of this section.

23 (m) A pipeline operator with a total mileage of 50 miles or less who fails to pay the annual mileage fee
24 shall pay a late-filing fee as follows:

25 (1) \$125, if the fee is received within 30 calendar days of August 31 for the initial year that the
26 requirement is in effect and April 1 for each subsequent year;

27 (2) \$250, if the fee is received more than 30 calendar days and no more than 60 calendar days after

1 August 31 for the initial year that the requirement is in effect and April 1 for each subsequent year; and

2 (3) \$350, if the fee is received more than 60 calendar days after August 31 for the initial year that
3 the requirement is in effect and April 1 for each subsequent year.

4 (4) If the fee is not received within 90 calendar days of August 31 for the initial year that the
5 requirement is in effect or April 1 for each subsequent year, the Commission may assess a penalty and/or revoke the
6 operator's permit in accordance with subsection (h) of this section.

7 (n) [(t)] A pipeline operator with a total mileage of more than 50 miles who fails to pay the annual mileage
8 fee shall pay a late-filing fee as follows:

9 (1) \$250, if the fee is received within 30 calendar days of August 31 for the initial year that the
10 requirement is in effect and April 1 for each subsequent year;

11 (2) \$500, if the fee is received more than 30 calendar days and no more than 60 calendar days after
12 August 31 for the initial year that the requirement is in effect and April 1 for each subsequent year; and

13 (3) \$700, if the fee is received more than 60 calendar days after August 31 for the initial year that
14 the requirement is in effect and April 1 for each subsequent year.

15 (4) If the fee is not received within 90 calendar days of August 31 for the initial year that the
16 requirement is in effect or April 1 for each subsequent year, the Commission may assess a penalty and/or revoke the
17 operator's permit in accordance with subsection (h) of this section.

18 (o) [(m)] A pipeline operator who has been issued a permit and is transferring the pipeline or a portion of
19 the pipeline included on the permit to another operator shall file a notification of transfer with the Commission
20 within 30 days following the transfer. An operator may file a fully executed Form T-4B as a notification of transfer.
21 The Commission may use a fully executed Form T-4B to remove the pipeline that is the subject of the transfer from
22 the transferor operator and assign the mileage to the transferee operator for calculation of the annual mileage fee.
23 The operator to which the pipeline has been transferred shall amend its permit to include the pipeline or portion of
24 the pipeline within 30 days following the transfer or the operator may be subject to a penalty for operating without a
25 permit pursuant to subsection (p) [(n)] of this section.

26 (p) [(n)] A pipeline operator who operates a pipeline without a permit, with an expired permit, or who
27 otherwise fails to comply with this section, may be assessed a penalty as prescribed in §8.135 of this title, relating

- 1 to Penalty Guidelines for Pipeline Safety Violations.
- 2 (q) [~~(e)~~] Interstate pipelines are exempt from the fee requirements of this section.