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From: Tulsi Oberbeck <toberbeck@txoga.org>
Sent: Monday, November 18, 2019 10:17 AM
To: Rules Coordinator
Subject: Chapter 8 & 3.70 Formal Comments
Attachments: Chapter 8 and 3.70 formal comments - TXOGA - 11.18.19 - Final.pdf

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Please see attached letter for comments from TXOGA regarding proposed rules for Chapter 8 and 3.70. Please let me know if you have any questions.

Tulsi Oberbeck
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TXOGA
TEXAS OIL & GAS ASSOCIATION | SINCE 1919



David Killam
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November 18, 2019

Rules Coordinator
Office of General Counsel
Railroad Commission of Texas
P.O. Box 12967
Austin, Texas 78711-1267

Submitted to: rulescoordinator@rrc.texas.gov

Re: Formal Comments on Amendments to Chapter 8 and §3.70

Dear Coordinator:

The Texas Oil and Gas Association (TXOGA) appreciates the opportunity to provide formal comments to the proposed amendments to pipeline safety regulation and permits in Chapter 8 and §3.70. TXOGA is a statewide trade association representing every facet of the Texas oil and gas industry including small independents and major producers. Collectively, the membership of TXOGA produces in excess of 90 percent of Texas' crude oil and natural gas, operates over 80 percent of the state's refining capacity, and is responsible for the vast majority of the state's pipelines. In fiscal year 2018, the oil and natural gas industry supported more than 348,000 direct jobs and paid just over \$14 billion in state and local taxes and state royalties, funding our state's schools, roads and first responders.

We appreciate Commission's willingness to discuss and work on the initial amendments through the informal comments process and are encouraged by the progress that was made. However, there are a few remaining issues we would like to bring to your attention:

On page 6 of the Chapter 8 proposed rules, line 23 – 25, of the memo states that "the primary public benefit will be consistency with federal requirements and state statutes, removal of redundant requirements..." However, the following proposals contradicts this statement:

Inconsistent with PHMSA Requirements:

- 8.110(c) para. 1 & 2 proposes non-regulated gas and liquid gathering pipelines follow the same reporting requirements as regulated pipelines. This is inconsistent with PHMSA's recent final rule only requiring the 30-day accident

report to be filed for non-regulated liquid gathering pipelines – no telephonic report is required [see exemption per 195.15(c)(2)].

- This would require any incident or accident to be reported within 1-hour of confirmed discovery to the TRRC. The TRRC's existing regulation (§8.301) for accident reporting of regulated pipelines are already more stringent than PHMSA's since the TRRC require immediate notice on all accidents, not just those that meet the criteria in 49 CFR 195.52. This proposal further deviates Chapter 8 from 49 CFR 195 by requiring immediately telephonic notification of any release of five (5) gallons or more on a non-regulated pipeline to the Commission.
 - It should be noted that reported incidents and accidents are not always immediately followed-up on by the Commission, especially during nights and weekends where it may take the next business day to receive inquiry from the Commission. Therefore, adding the requirement for operators to immediately notify the Commission of incidents and accidents that occur in unpopulated areas only adds burden on the operators with little to no benefit.
- 8.115(a)(3) proposes to require notification for installation of any breakout tank at least 30 days before installation. This is inconsistent with current PHMSA regulation which limits notification of construction for facilities, which would include breakout tanks, costing \$10 million or more.
 - The proposed notification does not contain any limitations (such as cost or storage size) nor clarification (such as "new, relocated, or replacement") that is present for pipeline notifications. Accordingly, this requirement is inconsistent with PHMSA regulations and creates situations where operators may need to delay replacement or installation of breakout tanks where an emergency request is not warranted (e.g. replacement of a small breakout tank used for surge relief).

Redundant requirements:

- 8.115(a)(1) requires notification of new, relocated, or replacement pipeline 10 miles or more within 60 days. This is a redundant requirement of 49 CFR 191.22(c)(1)(li) and 195.64(c)(1)(ii). If the Commission is proposing to eliminate the requirements for operators to submit the "written DOT forms and annual reports to the Commission" then it is a contradiction to require operators to submit this notice via the PS-48 form when operators already submit the DOT National Registry Notification Form 1000.2 for this event.

8.1(a)(1) – Page 8

- There is no proposed revision to this applicability section, but there could be some clarification added to the applicability language in 8.1(a)(1)(B). Specifically, there are two points of confusion:

- “onshore pipeline and gathering...facilities...ending as defined by 49 CFR Part 192 as the beginning of an onshore gathering line.” This is confusing because we are unsure how a gathering line ends at the beginning of a gathering line.
- “The gathering and production beyond this first point of measurement shall be subject to 49 CFR 192.8 and shall be subject to the rules as defined as Type A or Type B gathering lines as those Class 2, 3, or 4 areas as defined by 49 CFR 192.5.” Is RRC saying that beyond the first point of measurement, it will regulate production lines as Type A or B gathering lines in Class 2, 3, and 4 locations?

Revising 8.1(a)(1)(B) is important because it determines which pipelines RRC has jurisdiction over and therefore require permits. The cover memo and preamble for Chapter 3.70 make clear RRC will only require permits for those lines subject to pipeline safety regulations per the new 8.110 (for gathering lines in Class 1 locations) or per 8.1(a)(a)(B) (for lines regulated per 49 CFR 192).

8.110(d)(1) – Page 17

- (C) - A threat to public safety; needs to be clearly defined.
- (D) - A complaint related to operational safety; needs to be clearly defined.

TXOGA appreciates the opportunity to comment and looks forward to working with the Commission during the rulemaking process. Should you have questions or feedback, please contact Tulsi Oberbeck by email at toberbeck@txoga.org or by phone at 512-478-6631.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tulsi Oberbeck', written in a cursive style.

Tulsi Oberbeck
Director of Government Relations & Regulatory Affairs