



Texas Pipeline Association

Thure Cannon  
President

November 18, 2019

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

Re: Comments on Revisions to Chapter 8 - Pipeline Safety Regulations

Dear Coordinator:

The Texas Pipeline Association (TPA) appreciates the opportunity to provide these comments on the proposed revisions of the Commission's pipeline safety regulations in 16 Texas Administrative Code (TAC) Chapter 8. TPA and its members are fully supportive of revisions to the pipeline safety regulations that enhance pipeline safety. TPA offers these informal comments in an effort to support such enhancements and to provide input to the Commission as it moves to adopt the revisions.

TPA consists of over 40 gas and hazardous liquid pipeline operators within the State of Texas. TPA's members operate a majority of the natural gas and hazardous liquids pipeline and gathering mileage within the State of Texas. TPA's members operating hazardous liquid and gas transmission and gathering pipelines will be directly impacted by the proposed revisions to Chapter 8.

TPA's members have always placed a top priority on safe operation of their facilities and on the continued enhancement of the pipeline safety standards in order to protect the public, the members' employees and property. The revisions by the Commission to the proposed rules from the time of circulation of those rules for informal comment to the time of publication in the Texas Register for formal comment represent significant improvement. TPA appreciates the changes made in the proposed revisions that were responsive to TPA's informal comments. TPA remains ready and willing to work with the Commission to achieve our mutual goal of safer pipelines.

Good regulation is based on facts. TPA supports the Commission's proposal to begin requiring reports on all gathering pipeline incidents and hazardous liquid pipeline accidents through telephonic and written reports as well as annual reports. House Bill 2982 was very clear that any regulations of Class 1 gas gathering pipelines and rural hazardous liquid gathering pipelines must

address risks to the public safety. These information collections will populate the database on which further risk-based regulation can be developed. This is consistent with the Pipeline and Hazardous Materials Safety Administration's (PHMSA) approach on liquids gathering pipelines and will facilitate development of future regulation in a manner consistent with the jurisdictional limitations of House Bill 2982. TPA has long advocated for reporting for gathering pipelines and commends the Commission's initiative in this area.

TPA is willing to work with the Commission on appropriate additional regulations for Class 1 and rural gathering pipelines once risk data has been collected and reviewed.

In §8.101 (b), TPA re-urges the Commission to delete the second and third sentences of this subsection. The deadlines set out in these sentences for initial assessments are long past, and there is no longer a need for these provisions. They also provide no value from a historical perspective and should be removed.

Until the Commission collects additional information on the operation and risk to the public from gas gathering pipelines in Class 1 locations, The Commission should be very limited in pursuing enforcement related to gathering pipelines in Class 1 locations. Under HB 2982, the Commission can clearly pursue enforcement for an operator's failure to cooperate with a Commission investigation and for an operator's failure to follow a corrective plan. Going beyond those two areas, the Commission must limit enforcement to actions that pose a risk to public safety. That is the limiting standard to the Commission's jurisdiction in HB 2982 and the Commission should not go beyond the authority granted by the Legislature.

Section 8.110(b) of the proposed rule includes a requirement that "Each operator of a gathering pipeline described in subsection (a) of this section shall operate its pipeline in a **reasonably prudent manner** to promote safe operation of the pipeline." There is no definition of "reasonably prudent manner" in the proposed rule or in the PHMSA federal safety standards and there is no line of case law interpreting this phrase in connection with gathering pipeline operations. Introduction of a new and undefined term incorporates uncertainty from the industry perspective, fails to provide pipeline operators with guidance and is subject to multiple interpretations. TPA would respectfully request removal of the phrase "reasonably prudent manner" and instead suggests the addition of the phrase "utilizing processes and technologies that are technically feasible, reasonable, cost-effective and practicable". These terms are the standards used by the Gas Pipeline Advisory Committee in evaluating proposed regulations by PHMSA. This would provide the Commission and the industry with predictable regulatory standards that the industry is familiar with instead of the introduction and uncertainty of a new and undefined term. Therefore, TPA requests the subsection be revised to read as follows:

"Section 8.110(b) Safety. Each operator of a gathering pipeline described in subsection (a) of this section shall operate its pipeline utilizing processes and technologies that are technically feasible, reasonable, cost-effective and practicable."

Including the phrase “and other facilities” in the introductory language of §8.115 (a) introduces unnecessary ambiguity into the reporting requirements. The remainder of the section is clear that only the reporting of pipelines meeting certain length requirements or breakout tanks is required. The breadth of the definition of “other facilities” can be read to require single meter installations for customers to be noticed 60-days prior to construction or installation. Elimination of the phrase “and other facilities” should remove any ambiguity.

TPA urges the Commission to revise subsection 8.115(a)(3) to include an exemption to the 30-day notice for the installation of any mobile, prefabricated or temporary breakout tank. Circumstances occasionally arise requiring the need for a mobile, prefabricated or temporary breakout tank and it is not possible to provide 30 days advance notice. For those circumstances, TPA respectfully requests that the subsection be revised to read as follows:

“8.115(a)(3) For installation of any mobile or temporary breakout tank, an operator shall notify the Commission no later than the time the mobile, prefabricated or temporary breakout tank is placed in service. For installation of any permanent breakout tank, an operator shall notify the Commission not later than 30 days before installation.”

The Commission should also clarify the meaning of breakout tanks. The common understanding of the term is a tank used for surge control on a hazardous liquid gathering pipeline. It should not be interpreted to include drip or condensate tanks used to keep pipelines clear of accumulated liquids.

With regard to §8.210, the Commission should keep in mind that gathering operators will not have all of the information for all of their pipelines needed to fully complete the forms for written reports. In some cases, this will be due to the fact that these pipelines have been unregulated, and the necessary records may not have been retained. In other cases, the pipelines may have been sold once or multiple times and the records have been lost in the transitions. Regardless of the reason, there must be provision for responses indicating that the information is not known. It must also be kept in mind that the federal reporting forms currently in use require a large amount of information that will not be applicable to gathering pipelines. This information should not be required.

TPA appreciates the clarifications added regarding the federal regulation references in §8.301(a) but recommends that the “and” between “195.50” and “195.52” be replaced with an “or”. TPA also urges the Commission to revise proposed §8.301 concerning the reporting requirements for hazardous liquids and carbon dioxide pipelines to incorporate the PHMSA reporting requirements which recognizes the distinction between accidents that require reporting within one hour of confirmed discovery pursuant to 49 CFR 195.52 and those minor releases that require a 30 day written report pursuant to 49 CFR 195.50. As published, the proposed rule is ambiguous because it first references 49 CFR 195.50 and 195.52 as the determining factor if an accident is reportable and under what timeline, but then fails to follow 49 CFR 195.50 which specifies that releases of certain volumes are not reportable if it is confined to operator property or pipeline right away and cleaned up promptly. Pursuant to PHMSA regulations, pipeline operators must have a written procedure to calculate and provide a reasonable initial estimate of the amount of product released. A one-hour reporting deadline following confirmed discovery of these minor spills is not required by PHMSA and in order to have a consistent regulatory scheme in Texas, reporting of minor spills should not be required by the Commission.

As with the gas gathering reporting in §8.210 for written reports, the Commission needs to keep in mind that gathering operators will not have all the information on their systems needed to fully report incidents within the one-hour deadline for telephonic reports

Again, TPA appreciates the changes made in the proposed rules following the informal comment process and urges the Commission to make the additional revisions highlighted in these formal comments. If you have questions concerning these comments, please contact Thure Cannon (512-478-2871) or Charles Yarbrough (214-206-2809).

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Thure Cannon', with a long horizontal flourish extending to the right.

Thure Cannon  
President