



# SIERRA CLUB

## LONE STAR CHAPTER

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**Re: Proposed amendments to 16 Texas Administrative Code §3.70, relating to Pipeline Permits Required, and various rules in 16 Texas Administrative Code Chapter 8.**

From: Cyrus Reed, Legislative and Conservation Director, Lone Star Chapter, Sierra Club, [cyrus.reed@sierraclub.org](mailto:cyrus.reed@sierraclub.org)

The Lone Star Chapter of the Sierra Club is the state chapter of the Sierra Club, the nation's oldest and largest conservation organization. We frequently comment on proposed rules at the Railroad Commission ("RRC" or "the Commission") related to oil and gas production, pipelines and other issues. We are also active in discussions at the state legislature where many policies, budgets and issues are discussed.

Recently, the Commission has proposed amendments in 16 Texas Administrative Code §3.70 (§3.70) to incorporate federal categories of pipelines and to clarify reporting requirements proposed in Chapter 8. Proposed amendments in §3.70 also add a procedure for filing and processing of a "single-signature" Form T-4.

The concurrently proposed amendments in §8.1 update the effective date of the rule to incorporate federal pipeline safety requirements added in recent federal rulemakings by the Pipeline and Hazardous Materials Safety Administration (PHMSA). Section 8.1 is proposed to be amended to adopt the federal requirements by reference as of December 9, 2024, and therefore, would incorporate several federal rulemakings. Included is PHMSA's rulemaking extending reporting requirements to all gas gathering operators and setting minimum safety requirements for certain gas gathering pipelines with large diameters and high operating

pressures. Other updates and corresponding amendments are proposed in other sections of Chapter 8, including changes related to pipelines related to LNG.

The Sierra Club has had a particular concern regarding LNG pipelines and their potential impacts on the environment, safety and climate change concerns and we welcome additional regulatory requirements for such pipelines, as required by federal legislation.

While we generally support the proposal in §3.70 and Chapter 8, we do have some specific additions and concerns we would like addressed.

### **The RRC should consider raising fees to cover the additional cost to run the new reporting and safety requirements**

The only change in fees proposed in the rules is to now subject Class C operators to a \$20 per mile fee rather than a \$10 per mile fee. According to the RRC, “Based on data gathered as of the end of calendar year 2023, the Commission estimates that approximately 39,500 miles of Type C gathering lines will be impacted by the fee increase. Therefore, the Commission will receive additional fee revenue of approximately \$395,000. The fee increase for operators of Type C facilities is prompted by PHMSA’s recent regulations for these facilities, which were formally not regulated.”

While the Sierra Club does not object to this small increase in fees for Class C gathering lines, we would note that permit, permit renewal, and annual fees at the Commission are low compared to what many industries pay to other agencies such as TCEQ for permits, and do not raise the revenues that the Commission needs to carry out its functions. We would note in its latest Legislative Appropriations Request the Commission is requesting nearly \$35 million in exceptional items requests and an overall budget of nearly \$490 million over two years. While we are generally supportive of this request, in recent years, the RRC has asked the Legislature to cover its budget request more and more with general revenue as opposed to General Revenue-dedicated fees (such as permit fees) that flow to the Oil and Gas Regulatory and Clean-up Fund. One way to reduce the reliance on general revenue is to increase permit fees.

We would suggest the RRC consider charging pipelines in Group B \$15 per mile rather than \$10 per mile, and also consider doubling the permit fee for all permitted pipelines from \$500 to \$1,000. While Category B pipelines are “reporting-only” lines that are not subject to certain CFR regulations, they still must obtain a valid T-4 permit and they still require significant Commission work. A small increase per mile could help better oversee the pipeline industry.

### **We support the required signatory in a transfer of a T-4 permit**

Sierra Club supports the changes in the transfer form T-4B that is found in section (o). We believe it makes sense to have both the transferor and transferee sign the document, but allow some flexibility where the transferor operator failed to do so. This will provide added protection

to the public – and to the agency – so there is no question who the owner of a pipeline is, and who is responsible should a problem arise.

### **New Safety Standards for Certain Pipelines are Overdue**

The Sierra Club participated in recent rulemakings at the PHMSA related to onshore gas transmission. Under Docket No. PHMSA-2013-0255, Type A gas gathering and hazardous liquid pipelines with diameters of six inches or greater, requires operators of these lines to install rupture-mitigation valves (i.e., remote-control or automatic shut-off valves) or alternative equivalent technologies, and establishes minimum performance standards for those valves' operation to prevent or mitigate the public safety and environmental consequences of pipeline ruptures. This final rule establishes requirements for rupture-mitigation valve spacing, maintenance and inspection, and risk analysis. The final rule also requires operators of gas and hazardous liquid pipelines to contact 911 emergency call centers immediately upon notification of a potential rupture and conduct post-rupture investigations and reviews. PHMSA promulgated these regulations in response to congressional directives following major pipeline incidents where there were significant environmental consequences or losses of human life. The revisions are intended to achieve better rupture identification, response, and mitigation of safety, greenhouse gas, and environmental justice impacts.

### **While Sierra Club wishes the Commission had acted sooner to incorporate these federal rules, the proposed timeline is reasonable**

The Commission in the proposed rule makes pipeline operators comply with new federal requirements on December 9, 2024, which should be approximately 30 days after these rules are finalized. Given that the federal rules have been approved for some time, this is reasonable. Under the proposed rules, operators shall amend gas permits to include all gas gathering pipelines defined as Type A, Type B, Type C, or Type R in 49 CFR §192.8, and file the application through the Commission's online permitting system by March 31, 2025. This timeline is reasonable and the Sierra Club supports the new permitting requirement.

### **We appreciate the new requirements to notify the Commission on new LNG plants or facilities but disagree with the provision that pipelines less than 3 miles do not have to report to the Commission**

Under the proposal in Chapter 8, the commission now requires that an operator notify the Commission not later than 60 days before construction for construction of a new LNG plant or LNG facility. That is a good change.

However, we disagree with a provision that would exempt certain reporting for pipelines less than three miles. The Commission proposes amendments in current §8.115(a)(4) to clarify that for liquefied petroleum gas distribution systems, natural gas distribution systems, or master meter systems, distribution relocation or replacement is not required to be reported to the RRC if the construction is less than three miles in length. We would prefer that this exemption be removed and that these operators continue to report to the commission.

## **We disagree with the provision in 8.208. Mandatory Removal and Replacement Program to remove required reporting in favor of maintenance of records**

The Commission has chosen to remove a mandatory reporting requirement in 8.208 in favor of a maintenance requirement of records. We appreciate the updating of dates for the keeping of records, and do not disagree with keeping annual records versus having to file reports every six years, but believe it is better public policy for the operators to report annually to the division on their efforts to replace compression couplings.

## **Requiring reporting on leaks whether or not there are leaks is a good public policy**

We are very supportive of the clarification in the requirement under 8.210 (e) that operators submit leak detection reports twice a year even if there are no leaks discovered. Given the widespread issues in the industry with valves or pipes that can leak methane or other chemicals, giving industry the requirement to file leak detection reports twice a year is a welcome and needed change. We appreciate this requirement since it creates an expectation of continual improvement.

## **§8.101. Prescriptive Pressure Tests, In-Line Inspection or Risk Based Approach Can Be Improved by moving to 5 year timeline**

To assure pipeline integrity of certain hazardous liquid pipelines and natural gas pipelines, the proposed rules allow pipeline operators to take either a risk-based approach or an actual physical test to assure integrity. Sierra Club does not object to these options - whether risk-based or prescriptive, but believes that in both cases, the expectation should be for the assessment to occur every five years, rather than every 10. Thus, we would suggest making the maximum reassessment period in 8.101 (b) (1) (F) be changed from 10 to 5 years. Similarly, in Figure 2, we would make the maximum time for the physical inspections and pressure tests to be every 5 years, whether in a rural or more urban setting.

## **Conclusions**

The Sierra Club generally supports the proposed improvements in reporting, safety inspections, and other new requirements for pipeline operators in 3.70 and Chapter 8, as proposed by the Commission. However, we believe that the rule could be improved by:

- Increasing mileage fee and permit fees to provide more resources to the agency;
- Moving expected pressure tests and in-line inspections of pipeline integrity from 10 to 5 years;
- Eliminating the option to report annually to the agency on efforts to replace couplings;
- Removing reporting exemptions for pipelines less than 3 miles as proposed.

Nonetheless, we are very supportive of the incorporation of new federal safety and reporting requirements, of the requirement to report on leak detection twice a year -whether or not a leak is found - on the required timing to seek a new permit by March of 2025 - reporting on construction of LNG facilities at least 60 days before construction and the other changes proposed.