



Friday, March 14, 2014

Mr. David Ferguson  
Damage Prevention  
Railroad Commission of Texas  
P.O. Box 12967  
Austin, TX 78711-2967

**RE: Comments on Informal Chapter 18 Rulemaking**

Dear David:

The following comments and recommendations to the Railroad Commission of Texas are made on behalf of the Texas Pipeline Safety Coalition, the "Coalition". The Coalition consists of representatives from nearly 20 large and small operators in the state. The Coalition was formed in 2005 specifically for the purpose of addressing damage prevention related issues and seeking more comprehensive safety standards and greater oversight of underground damage prevention.

The Coalition appreciates the Commission's effort to seek feedback regarding updates to Chapter 18. The issue is critically important to the pipeline industry as excavation damage remains the greatest cause of damage to underground facilities. The Coalition has participated in the recent public workshop relating to this informal draft in addition to the series of meetings held in 2012. We appreciate the opportunity to comment further on the proposed rulemaking that seek to move the existing process and requirements to the next level.

The Coalition acknowledges changes have been made to the current draft in response to our, and others, comments provided in February of 2013, and particularly with respect to the definition of "tolerance zone." The Commission has taken steps to clarify the definition, which is consistent with the comments submitted by the Coalition at that time.

Per our comments at the recent workshop, the Coalition is seeking to provide more extensive, detailed comments in the attached document. We will also be submitting a redline version of the current rulemaking, but that will be submitted at a later date. The attached document provides the comments initially submitted to the first informal draft in the left column, with new and updated comments regarding the current proposal in the right-hand column. In

addition to the comments provided, we have offered alternative language in many cases that address the concerns raised.

There are also several issues that are not covered by the comments in the accompanying documents that are also important to note. They relate to the overall simplification and streamlining of the requirement as well as the clarification of its applicability both to operators and other stakeholders. Specifically:

- The current draft remains overly complicated, disjointed in areas and spreads many requirements over several sections, which results in rule that is hard to follow. The Coalition suggests that a better approach maybe to establish what provisions will be included in the rule, including the wording of such provisions, and then put them together in a clear and concise manner that flows and is easier to follow.

As stated in its previous comments, the Coalition believes the existing rule needs to be streamlined, clarified and additional safety provisions added or tweaked to address the true processes and conditions that operators and excavators experience during the course of the one-call notification process. All of these suggestions can be accomplished within the confines of the existing statute and will result in a better, more straightforward process for all stakeholders to follow going forward.

- The draft includes many references to other sections and rules, including the titles of sections that make the rule unnecessarily wordy, lengthy and text heavy. The Coalition recommends this extra language be deleted as all stakeholders will find it easier to read and utilize.
- The current applicability of the rule remains unclear. No where in the rule does it state what pipelines are covered by the Chapter 18 requirements. The Coalition would offer that the rule covers intrastate pipelines- all gathering, transmission and local distribution systems regardless of whether they are subject to 49 CFR 192 or 195. If this is the case, additional language should be added to clarify this and the provisions relating to public awareness, construction, operator qualifications, integrity management and others required under federal minimum standards should be removed from the rule proposal as if left unchanged, it would be a large expansion of the Commission's regulatory scope and the resulting costs would be simply enormous.
- In addition to clarifying the applicability to pipelines, the Coalition would request the Commission consider how flowlines are handled. While it is likely unfeasible to require existing flowlines to be covered by the rule, or included in the state one call notification process, those being built today can and should be included.
- During the recent workshop, AT & T requested an exemption from the rules based on several statutes referencing the Commission's authority. Great discussion occurred regarding the applicability of safety standards to all stakeholders, including the telecommunications industry when the legislature granted the Commission authority

regarding damage prevention in 2005. Specific comments were recorded in the House journal dated April 26, 2005 on pages 2287 and 2288 that clarify that while the Commission does not have jurisdiction for the purposes of their right-of-way issues, but the Commission does have jurisdiction over them with regard to safety standards, and particularly those in the Health and Safety Code, which is one of several that grant the Commission the authority to implement, administer and enforce this rule. For this reason alone, the Coalition strongly urges the Commission to deny the request of AT & T as it is inconsistent with the intent of the statute as well as the recent Federal pipeline safety statute.

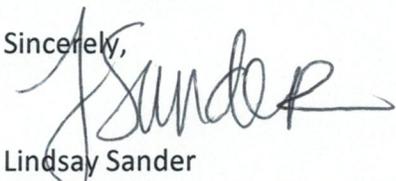
In addition to these comments, the Coalition's top priorities (in no specific order) relate to the following issues:

- Adopting positive Response mechanism that works consistently with how the process actually works
- Combining and streamlining "Point Protocols"
- Adding provision to address false reporting of an emergencies
- Inclusion of provisions relating to 49 CFR 192 and 195
- Eliminating exemptions for any stakeholders
- Resolve conflicting and complex combination of "accuracy of markings" and "(excavation) tolerance zone" provisions
- Adopting provision to address "trouble locates"
- Removing provisions relating to abandoned lines
- Resolving "Calendar" vs. "Working" Day issues
- Clarifying of investigations and reporting information to RRC and excavators
- Revising the date by which assets must be submitted to one call notification center when put into service

Damage prevention remains one of the top priorities for the Pipeline Safety and Hazardous Materials Administration (PHMSA) as well as operators. Because of the focus and effort being spent on one call damage prevention reform throughout the country, it is imperative that we adopt standards that set an example for the rest of the country to follow. Frankly, it is absolutely critical that we get this right.

The members of the Texas Pipeline Safety Coalition (TPSC) appreciate the opportunity to submit comments and feedback. We look forward to working with the Commission as the rulemaking goes forward. If you have any questions regarding the above comments or if the Coalition can be of assistance, please do not hesitate to contact me at (713) 208-0273 or [LNS@SanderResources.com](mailto:LNS@SanderResources.com).

Sincerely,



Lindsay Sander  
Texas Pipeline Safety Coalition