



# RAILROAD COMMISSION OF TEXAS

## EXECUTIVE OFFICE

February 17, 2017

Docket Operations, M-30  
U.S. Department of Transportation  
Room W12-140, West Building Ground Floor  
1200 New Jersey Avenue, SE.  
Washington, DC 20590-0001

Re: Docket No. PHMSA-2016-0016; Amdt Nos. 191-24; 192-122  
Pipeline Safety: Safety of Underground National Gas Storage Facilities

Dear Sirs and Madams:

The Railroad Commission of Texas (RRC) submits its comments on the Pipeline and Hazardous Materials Safety Administration's (PHMSA's) interim final rule on the operation of underground natural gas storage facilities.

The RRC has effectively regulated the oil and natural gas industry in the State of Texas since 1919. The RRC's primary statutory responsibilities in the regulation of Texas oil, gas and geothermal resources, as well as lignite mining, are: to conserve the State's natural resources; protect the correlative rights of mineral interest owners; protect the environment from pollution associated with oil, gas, geothermal, and surface mining activities; and ensure public safety in areas such as oil and gas drilling and production operations in the presence of hydrogen sulfide and the operation of underground natural gas and hydrocarbon storage facilities.

Texas is the nation's largest producer of oil and natural gas with over 149,000 active oil wells and almost 95,000 active gas wells. Further, Texas stores one of the largest inventories of underground natural gas in the nation. Natural gas is stored underground in depleted reservoir and salt cavern storage facilities spread throughout the state. According to the U. S. Energy Information Administration, as of September 2015, more than 725.6 billion cubic feet of natural gas is stored underground in Texas, making Texas the state with the third largest inventory of natural gas stored underground.

The RRC has successfully regulated underground natural gas storage in Texas since the 1950s. The current versions of the RRC's rules on the Underground Storage of Gas in Productive or Depleted Reservoirs [16 Texas Administrative Code (TAC) §3.96] and the Underground Storage of Gas in Salt Formations (16 TAC §3.97) were originally adopted in 1994 and replaced the previously existing rules on these subjects.

PHMSA's interim final rule has far reaching implications but is extremely limited in details regarding implementation. The lack of planning in the rushed implementation of this rule is alarming. We note concerns in four specific areas.

1. The interim final rule incorporates as requirements the American Petroleum Institute's (API's) Recommended Practices (RPs) 1170 and 1171 relating to the *Design and Operation of Solution-mined Caverns Used for Natural Gas Storage* and the *Functional Integrity of Natural Gas Storage in Depleted Hydrocarbon Reservoirs and Aquifer Reservoirs*, respectively. However, the API RPs were published as guidance and not as mandatory rules. PHMSA is adopting the RPs as written, but the non-mandatory parts of the RPs (*i.e.*, provisions containing the word "should" or other non-mandatory language) are adopted as mandatory provisions. We are concerned that wholesale adoption of recommended practices as mandatory requirements will lead to confusion and have unintended consequences.
2. While PHMSA accurately states that there are no comprehensive federal rules on underground gas storage, the interim final rule's narrative downplays the role of the states in ensuring the safe underground storage of natural gas. As previously mentioned, the RRC has over 30 years of successful experience safely regulating underground gas storage facilities. However, PHMSA failed to reach out to the RRC to learn from its long-term experience regulating underground storage. As a result, PHMSA is embarking on a path of regulating an industry with which it has little familiarity. Pipelines and underground storage facilities are completely different, and the RRC believes PHMSA does not have necessary experience to safely and fully implement the interim final rule. PHMSA acknowledges that it has no experience regulating down-hole operations. Natural gas storage is too important to Texas and the nation for PHMSA to take a learn as you go approach, and without proper integration with existing Texas regulations.
3. The interim final rule became effective in mid-January with no established protocol for PHMSA to successfully implement the rule and provide adequate regulatory oversight of these facilities. Further, no established procedures are available for a state to obtain delegated authority. The void created by PHMSA hastily adopting this interim final rules without clear plans on how it will implement this authority is unacceptable, creates confusion as to the state regulatory programs, and leaves citizens at risk.
4. The interim rule provides no specifics regarding permitting areas that clearly fall to the states. While the interim rule accurately states that permitting is not a PHMSA function, it incorrectly concludes that the traditional role of permitting intrastate facilities falls to the states and the permitting of interstate facilities falls to the Federal Energy Regulatory Commission (FERC). FERC is not set up to conduct permitting of individual wells, ensuring proper notification is provided to all entitled parties, reviewing and adequately protecting groundwater, and protecting correlative rights. The RRC is required by state law to regulate the downhole portion of these facilities to fulfill our mandate with respect to conservation of state natural resources and environmental protection. Therefore, all of these functions fall to the state regardless of whether a well is part of an intrastate or interstate facility. The failure of PHMSA to properly address these scenarios indicates a

lack of a clear understanding of underground natural gas storage and the historical role many states have had in its successful regulation of underground hydrocarbon storage.

The RRC appreciates the opportunity to comment on the interim final rule and requests that PHMSA coordinate and cooperate with experienced, knowledgeable state regulators in the implementation of the underlying statutory requirements.

Sincerely,

A handwritten signature in blue ink that reads "Kimberly Corley". The signature is written in a cursive, flowing style.

Kimberly Corley  
Executive Director  
Railroad Commission of Texas