

MOMENTUM

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Via email: rulescoordinator@rrc.texas.gov

Dear Rules Coordinator and Commissioners Craddick, Wright, Christian

Please accept my appreciation for this opportunity to address each of you with regard to the proposed adoption of a new 16 Texas Administrative Code (TAC) §3.8 (also known as Statewide Rule 8) and 16 TAC Chapter 4, Subchapter B with regard to rules of the Texas Railroad Commission.

As I have stated in prior public hearings and in written testimony. This is the first time in the 38 years as the chief executive officer of an active independent oil and gas operator in Texas, that I felt it necessary to offer my input into the rulemaking processes and procedures of the Railroad Commission of Texas. However, if the independent oil and gas operators of Texas learned anything from the rules imposed by the Commission at the behest of the Legislature with regard to the Critical Infrastructure (CID/CIX) in 2022 it is that we must be engaged. Without input from independent operators, what should be common sense solutions become loosely and poorly written rules that do not accomplish the original intent of the Legislature and oppose the mandate of that same Legislature to the RRC when it was formed, which is preventing waste, ensuring safety, and promote long-term economic vitality of the state oil and natural gas resources. Therefore please allow this to be Momentum Operating Co., Inc. formal written comments to the proposed changes and adoption of amendments to 16 Texas Administrative Code (TAC) §3.8 (also known as Statewide Rule 8) and 16 TAC Chapter 4, Subchapter B.

By the Commission's own testimony, the review and adoption of the amendment to amended rules in 16 Texas Administrative Code (TAC) §3.8 (also known as Statewide Rule 8) and 16 TAC Chapter 4, Subchapter B to update oil and gas waste management procedures were in direct response to bills

passed by the Legislature. The Legislature requested that the RRC review the various rules and regulations with regard to oil and gas waste and pits they have been impacted by horizontal shale drilling activities. These drilling and completion activities which began 15 years ago have operated under rules and regulations which were adopted over 40 years ago. Rules and regulations that were written prior to the advent of horizontal shale drilling, fracking, and completion should not be utilized to govern these type of operational activities today. There is no dispute that the “shale revolution” which was created by independents has transformed our industry and has led Texas to becoming the leader in driving the United States to energy independence. Momentum fully supports the “shale revolution” and its profound impact on Texas and our nation.

However, rules and regulations such as those proposed under amended rules in 16 Texas Administrative Code (TAC) §3.8 (also known as Statewide Rule 8) and 16 TAC Chapter 4, Subchapter B should not be arbitrarily imposed on vertical well operators in the State of Texas. The rules and regulations as currently written and administered adequately achieves the RRC mandate of **preventing waste, ensuring safety, and promoting long-term economic vitality of the State of Texas oil and natural gas** for all the vertical well operators in the state . The proposed amended rules ignore significant regional geographic, geologic and ecologic differences in Texas. They also ignore physical, economic and operational differences between horizontal drilling, fracking, and completion operations and small conventional vertical stripper well operations. So, to address the absence of rules regulating horizontal well operations, the proposed rules completely ignore the impact on vertical well operations. There is incontrovertible evidence that the existing rules governing pits were more than adequate for vertical wells and particularly stripper wells in Texas.

Had the Rules Coordinator or any of the Commission staff followed the mandate of Texas Government Code, {2006.002{ Adoption of Rules with Adverse Economic Effect as and completed an economic impact statement and a regulatory flexibility analysis as required by the law, it would have become obvious that the rule amendment as proposed would not have been able to be implemented due to detrimental impact on small business in Texas. By the RRC own evidence, 93% of the independent operators in Texas are small business that produce approximately 43% of Texas oil and gas daily production. They are mostly located in rural areas of the state and provide a majority of the jobs related to oil and gas production. If such a study had been conducted, as mandated, the RRC would have no other alternative legally but to adopted two sets of rules governing these subjects, one for vertical wells and one for horizontal wells. By ignoring the Texas Government Code, {2006.002{ the RRC is further ignoring its **legislative mandate of preventing waste, promote long-term economic vitality of the state oil and natural gas resources, without any evidence of a threat to safety**. The stated reason for the proposed rules is to address the massive volumes of drill cutting, completion fluids, and recycling and produced water pits for horizontal drilling operations. We agree those areas should to be addressed. But shallow (*Less than 5000'*) vertical stripper wells in Texas handle a fraction of those materials in pits of an even smaller fraction in size on a daily basis. The RRC has seen fit to address different spacing and production allowable along with other rules and regulations unique to horizontal shale wells. We think the same common sense approach should be applied with the proposed amendment to 16 TAC Chapter 4.

MOMENTUM OPERATING CO., INC. PROPOSAL: Pits of less than 80 barrels in total volume would be exempt from registration.

Section 4.102 and 4.110 "Responsibility of Oil and Gas Wastes" we believe has several areas that need to be addressed. One area is an undefined term that should be fully defined as proposed, discussed and vetted prior to adoption. The term "**process knowledge**" is not a defined term and should be considering the impact this term will have on the application of the rule. Without a definition, the term "processed knowledge" could be as narrow or broad as the RRC may interpret. The other two areas of concern is the utilization of a term "**hazardous oil and gas waste**" and "**nonhazardous oil and gas waste**". The EPA/RCRA (Resource Conservation and Recovery Act) does not deem any oil and gas wastes as hazardous. The RRC and our industry have operated under those definitions since their adoption. Why would the RRC attempt to change the definition of oil and gas waste from "non-hazardous" to "hazardous" ? Surly this simply a poorly written error that could have a profound impact on our industry.

MOMENTUM OPERATING CO., INC, PROPOSAL: Define the term "process knowledge" in a very broad term or remove it. Remove all terms in the proposed rule that state "hazardous oil and gas waste" or "nonhazardous oil and gas waste" and replace with "oil and gas waste". If these items are not replaced then a proposed definition of what is a "hazardous oil and gas waste" and nonhazardous oil and gas waste" needs to be proposed, discussed, vetted and reviewed prior to adoption. Any such definition should be

Section 4.109 Exceptions : The Exception is poorly worded.

MOMENTUM OPERATING CO., INC. PROPOSAL: Schedule A Authorized Pits should be added to the Exception Provision. The District Director should receive any written request and be authorized to grant an Exception. The District Director are fully qualified to determine if a request for an exception to a Schedule A pit is warranted due to their knowledge of the area, geology, geography and their experience with the Operator requesting the exception.

Schedule 4.113 Requires that the operator maintains documentation demonstrating closure requirements have been met. The operator will be required to maintain these records for at least three years from the date of closure and provide copies of these records to the Commission upon request. This is a change in the way the RRC has historically had operators file and maintain reporting information.

MOMENTUM OPERATING CO., INC. PROPOSAL: Simply have the operator to certify that the closure of the pit was made under the rules and requirements.

4.114 Schedule A Authorized Pits. According to the proposed rule authorized pits include reserve pits, mud circulation pits, completion/workover/ pits, freshwater makeup pits fresh mining water pits, and water condensate pits. Plugging pits were omitted from the definition.

MOMENTUM OPERATING CO., INC. PROPOSAL Plugging pits are necessity for the plugging and abandonment of all wells. Plugging pits should be added to the definition of an Schedule A Authorized Pit

4.111 and 4.114 Schedule A Authorized Pits Contents. The contents authorized or not allowed in each of these two rules are different. This can cause confusion and conflict in interpretation of what is authorized to be placed in an Schedule A Authorized Pit and what is nor authorized.

MOMENTUM OPERATING CO., INC PROPOSAL The language of 4.11 and 4.114 should be the same in defining what is an authorized pit content.

Proposed Penalties Table 1-4 –The penalty tables include proposed fines and also include enhanced penalties. They cite threaten pollution in Table 3. However, this is not a defined term in the rule and leaves open interpretation that is unfounded in fact. It is vague and impossible to determine.

MOMENTUM OPERATING CO., INC.. PROPOSAL The level of proposed fines and penalties should be reduced. Enhance penalties are a new concept that can be abused and arbitrary in their enforcement and should be eliminated. Any fine should be based on actual damages or a reasonable deterrent for a lack of observation of the rules.