

RAILROAD COMMISSION OF TEXAS

TEMPORARY EXCEPTION TO STATEWIDE RULE 95

Comes now, the Railroad Commission of Texas (“Commission”), and, in consideration of the unprecedented economic conditions currently impacting the oil and gas industry and shortage of unfilled crude oil storage capacity, grants the following exception to its administrative rules regarding the underground storage of liquid hydrocarbons. The Commission is authorized to grant exceptions to its rules.

No operator shall construe these exceptions as exceptions to a rule regulating public safety, health, or the prevention of pollution. Furthermore, any exception not expressly described herein is hereby denied.

The Commission hereby grants an exception to 16 Texas Administrative Code § 3.95. As of the effective date of this document, an applicant for a permit to store crude oil underground may submit an application for an underground hydrocarbon storage facility located in a geological formation other than an underground salt formation. The application must otherwise comply with the requirements of 16 Texas Administrative Code § 3.95 and Texas Natural Resources Code § 91.201 – 91.207.

The Commission notes that it will continue to accept applications for storage facilities located in underground salt formations during the duration of this exception.

An applicant for an underground hydrocarbon storage facility located in a geological formation other than an underground salt formation shall be required to demonstrate that the proposed storage facility will be created, operated, and maintained in a manner that will prevent waste of stored crude oil, uncontrolled escape of crude oil, pollution of subsurface water, and danger to life or property. *See* 16 Tex. Admin. Code § 3.95(d)(1); *see also* Tex. Nat. Res. Code § 91.202. An application to store crude oil in a formation other than an underground salt formation will need to demonstrate that the formation is confined so as to prevent the waste or uncontrolled escape of crude oil.

In addition to the exception described above, the Commission hereby grants an exception of the hearing requirement, detailed in 16 Texas Administrative Code § 3.95(e)(4), for all applications for underground crude oil storage facilities. This exception is not limited to only those applications for storage in an underground crude oil storage facility located in a geological formation other than underground salt formations. An application for an underground crude oil storage facility will be reviewed by Staff. If Staff administratively approves the application for an underground crude oil storage facility, the application and draft permit will be submitted to the Commissioners for approval on the consent agenda at an open meeting. The applicant is still entitled to a hearing if Staff does not administratively approve the application. A hearing will still be required if the application is protested.

The Commission’s grant of these exceptions is intended to be temporary. They are subject to extension or modification as necessitated by the adverse economic and industry condition or as the Commission otherwise determines. This exception shall be effective as of the date of the open meeting, May 5, 2020, and shall remain in effect for one (1) year after the May 5, 2020 effective date, unless this exception is earlier terminated or continued by subsequent Commission action. Moreover, any crude oil stored in a hydrocarbon storage facility located in a geological formation other than an underground salt formation must be removed from the storage facility no later than five (5) years after

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the May 5, 2020 effective date, unless this exception is earlier terminated or continued by subsequent Commission action.

Signed on May 5, 2020.

RAILROAD COMMISSION OF TEXAS

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CHAIRMAN WAYNE CHRISTIAN

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