

CHRISTI CRADDICK, *CHAIRMAN*
WAYNE CHRISTIAN, *COMMISSIONER*
JIM WRIGHT, *COMMISSIONER*



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RAILROAD COMMISSION OF TEXAS

OFFICE OF GENERAL COUNSEL

MEMORANDUM

TO: Chairman Christi Craddick
Commissioner Wayne Christian
Commissioner Jim Wright

FROM: Haley Cochran, Assistant General Counsel
Office of General Counsel

THROUGH: Alexander C. Schoch, General Counsel

DATE: December 17, 2024

SUBJECT: Adoption of amendments to 16 TAC §1.201, relating to Time Periods for Processing Applications and Issuing Permits Administratively

Attached is Staff's recommendation to adopt amendments to 16 Texas Administrative Code §1.201, relating to Time Periods for Processing Applications and Issuing Permits Administratively.

The Commission adopts the amendments to ensure §1.201 more closely aligns with Government Code §2005.003, the statute which requires adoption of §1.201. The table in §1.201(a) is amended to reflect current permits, operating division names, and permit processing time periods. Sections 3.8 (relating to Water Protection) and 3.57 (relating to Reclaiming Tank Bottoms, Other Hydrocarbon Wastes, and Other Waste Materials) are currently amended in a separate Commission rulemaking. Thus, the obsolete sections of those rules and the permits issued pursuant to those rules are removed from the table. The amendments also correct other outdated references and remove permits the Commission no longer issues.

On October 15, 2024, the Commission approved the publication of the proposed amendments in the Texas Register for a public comment period, which ended on December 2, 2024. Staff recommends that the Commission adopt the amendments to §1.201 with changes to the proposed text published in the November 1, 2024, issue of the Texas Register (49 TexReg 8647). The recommended changes appear in the table included §1.201(a) and are described in the attached adoption preamble.

cc: Danny Sorrells, Acting Executive Director and Director of the Oil and Gas Division
Paul Dubois, Assistant Director, Oil and Gas Division, Director of Technical Permitting
Stephanie Weidman, Pipeline Safety Director, Oversight and Safety Division

1 The Railroad Commission of Texas (Commission) adopts amendments to §1.201, relating to
2 Time Periods for Processing Applications and Issuing Permits Administratively, with changes to the
3 proposed text as published in the November 1, 2024, issue of the Texas Register (49 TexReg 8647). The
4 Commission adopts the amendments to update cross-references to other Commission rules in the rule and
5 in the table, as well as other nonsubstantive clarifications.

6 The Commission received one comment from the Texas Pipeline Association (TPA). TPA
7 specifically commented on the entry in the table regarding §3.70 (SWR 70), Pipeline Permits Required,
8 Permit to Operate a Pipeline. TPA stated it is unclear whether the 21-day Initial Review Period and the
9 15-day Final Review Period are meant to be taken in the aggregate and potentially exceeding 30 days, or
10 if it is meant to indicate that each period may take no longer than the specified time, and in no event shall
11 the aggregate exceed 30 days. TPA's understanding is that Commission staff intends for the maximum
12 period for approval to remain 30 days. TPA recommends a modification to the table to reflect this
13 intention.

14 The Commission agrees with TPA's comment and adopts the figure with a change to the entry to
15 §3.70 to indicate the correct timelines.

16 The Commission adopts an additional change to the figure to remove the row for §3.82, Permit
17 for Brine Production Projects and Associated Class V Spent Brine Return Wells. This row was proposed
18 to be added pursuant to a separate rulemaking which has not yet been finalized; therefore, the
19 Commission adopts the figure to remove that row.

20 The Commission amends §1.201(a) to more closely align with Government Code §2005.003, the
21 statute which requires adoption of §1.201. The amendments clarify that §1.201 does not apply to all
22 permits issued by the Commission, but only those permits for which the median time for processing a
23 permit application from receipt of the initial application to the final permit decision exceeds seven days.
24 The amendments also replace the definition of "permit" with a reference to Government Code §2005.003
25 to ensure the Commission's rule is consistent with the statutory definition of the term.

26 The table in §1.201(a) is amended to reflect current permits, operating division names, and permit
27 processing time periods. Sections 3.8 (relating to Water Protection) and 3.57 (relating to Reclaiming Tank
28 Bottoms, Other Hydrocarbon Wastes, and Other Waste Materials) are currently adopted in a separate
29 Commission rulemaking. Thus, the obsolete sections of those rules and the permits issued pursuant to
30 those rules are removed from the table in §1.201(a). The amendments also correct other outdated
31 references and remove permits the Commission no longer issues.

32 The Commission also restructures the table to limit the information for each permit to: (1) the
33 permit and rule or law governing the permit; (2) the Commission division responsible for processing the

1 permit; and (3) the initial and final review periods as required by Government Code §2005.003. The
2 previous table included information on Commission forms and fees associated with the permits. However,
3 form and fee information is more easily obtained from the Commission's website. The Commission's
4 website is more frequently updated and allows more information about each permit to be accessible to
5 persons seeking a permit from the Commission. The amendments to the table also remove column names
6 to simplify future updates. Column name references are removed throughout the section and are replaced
7 with general references to the table.

8 Several permit types are also removed from the table because the permit processing time no
9 longer exceeds seven days, the permit type is no longer issued, or the authorization does not meet the
10 definition of a permit under Government Code §2005.003.

11 Finally, the Commission adopts amendments in §1.201(c)(7) and (e) to reflect the current name of
12 the division which contains the Docket Services Section.

13 The Commission adopts the amendments under Texas Government Code §2005.003, which
14 requires a state agency that issues permits to adopt procedural rules for processing permit applications and
15 issuing permits; Texas Government Code §2001.004, which requires a state agency to adopt rules of
16 practice stating the nature and requirements of all available formal and informal procedures; and Texas
17 Natural Resources Code §81.051 and §81.052, which provide the Commission with jurisdiction over all
18 persons owning or engaged in drilling or operating oil or gas wells in Texas and the authority to adopt all
19 necessary rules for governing and regulating persons and their operations under the jurisdiction of the
20 Commission.

21 Statutory Authority: Texas Government Code §§2005.003 and 2001.004; Texas Natural
22 Resources Code §§81.051 and 81.052.

23 Cross-reference to statute: Texas Government Code Chapters 2001 and 2005; Texas Natural
24 Resources Code Chapter 81.

25
26 §1.201. Time Periods for Processing Applications and Issuing Permits Administratively.

27 (a) Applicability. This rule applies to permits issued administratively by the Commission through
28 the operating divisions listed in Table 1 of this section and for which the median permit processing time
29 exceeds seven days. These permits are listed in [the permits listed in Column A of] Table 1 of this
30 section. For purposes of this rule, the term "permit" has the meaning assigned in Texas Government Code
31 Chapter 2005. [includes any authorization issued administratively by the Commission, through the Oil
32 and Gas Division, the Gas Services Division, the Surface Mining and Reclamation Division, or the
33 Rail/LP-Gas/Pipeline Safety Division, and required by the Commission either to engage in or conduct a

1 ~~specific activity or to deviate from requirements, standards, or conditions in statutes or Commission rules~~
2 ~~and for which the median processing time exceeds seven days].~~

3 Figure: 16 TAC §1.201(a)

4 [~~Figure: 16 TAC §1.201(a)~~]

5 (b) Completeness. An application is complete when the division or section shown in [~~Column B~~
6 ~~of~~] Table 1 has determined that the application contains information addressing each application
7 requirement of the regulatory program and all information necessary to initiate the final review by the
8 division or section processing the application. For purposes of this section, certain applicants[~~, as shown~~
9 ~~in Column D of Table 1,~~] are required to have an approved organization report (Form P-5) on file with the
10 Commission in order for an application to be complete.

11 (c) Time periods.

12 (1) The date a permit application is received under this section is the date the application
13 reaches the designated division or section within a division as shown in [~~Column B of~~] Table 1.

14 (2) The division or section shown in [~~Column B of~~] Table 1 shall process permit
15 applications in accordance with the time periods shown in [~~Columns F and G of~~] Table 1 for a particular
16 permit. Time periods are counted on the basis of calendar days.

17 (3) The Initial Review Period, shown in [~~Column F of~~] Table 1, begins on the date the
18 designated division or section receives the application and ends on the date the division or section gives
19 written notice to the applicant indicating that either:

20 (A) the application is complete and accepted for filing; or

21 (B) the application is incomplete, as described in paragraph (4) of this subsection.

22 (4) If the division or section determines that an application is incomplete, the division or
23 section shall notify the applicant in writing and shall describe the specific information required to
24 complete the application. An applicant may make no more than two supplemental filings to complete an
25 application. The Initial Review Period shall start again each time the division or section receives a
26 supplemental filing relating to an incomplete application. After the second supplemental submission, if
27 the application is complete, the division or section shall administratively rule on the application; if the
28 application is still incomplete, the division or section shall administratively deny the application. The
29 division or section specifically does not have the authority to accept or review any other additional
30 supplemental submissions. The division or section shall notify the applicant in writing of the
31 administrative decision and, in the case of an administrative denial, the applicant's right to request a
32 hearing on the application as it stands. The applicant may withdraw the application.

1 (5) The Final Review Period, shown in [~~Column G of~~] Table 1, begins on the date the
2 division or section makes a determination under paragraph (3)(A) of this subsection and ends on the date
3 the permit is:

- 4 (A) administratively granted;
5 (B) administratively denied; or
6 (C) docketed as a contested case proceeding if the application is neither
7 administratively granted nor administratively denied.

8 (6) An applicant whose application has been administratively denied may request a
9 hearing by filing a written request for a hearing addressed to the division or section processing the
10 application, within 30 days of the date the application is administratively denied.

11 (7) Within seven days of either docketing an application under paragraph (5)(C) of this
12 subsection or receiving a written request for a hearing under paragraph (6) of this subsection, the division
13 or section processing the application shall forward the file and any request for hearing, including any
14 memoranda or notes explaining or describing the reasons for docketing or administrative denial, to the
15 Docket Services Section of the Hearings Division, which [~~Office of General Counsel. The Office of~~
16 ~~General Counsel~~] shall process the application as prescribed in subsection (e) of this section.

17 (d) Complaint procedure.

18 (1) An applicant may complain directly to the Executive Director if a division or section
19 does not process an application within the applicable time periods shown in [~~Columns F and G of~~] Table
20 1, and may request a timely resolution of any dispute arising from the claimed delay. All complaints shall
21 be in writing and shall state the specific relief sought, which may include the full reimbursement
22 of any [~~the~~] fee paid in that particular application process[~~, if any, as shown in Column E of Table 1~~]. As
23 soon as possible after receiving a complaint, the Executive Director shall notify the appropriate division
24 director of the complaint.

25 (2) Within 30 days of receipt of a complaint, the division director of the division or
26 section processing the application that is the subject of the complaint shall submit to the Executive
27 Director a written report of the facts relating to the processing of the application. The report shall include
28 the division director's explanation of the reason or reasons the division or section did or did not exceed
29 the established time periods. If the Executive Director does not agree that the division or section has
30 violated the established periods or finds that good cause existed for the division or section to have
31 exceeded the established periods, the Executive Director may deny the relief requested by the complaint.

32 (3) For purposes of this section, good cause for exceeding the established period means:

1 (A) the number of permit applications to be processed by the division or section
2 exceeds by at least 15 percent the number of permit applications processed by that division or section in
3 the same quarter of the previous calendar year;

4 (B) the division or section must rely on another public or private entity to process
5 all or part of the permit application received by the agency, and the delay is caused by that entity; or

6 (C) other conditions exist that give the division or section good cause for
7 exceeding the established period, including but not limited to circumstances such as personnel shortages,
8 equipment outages, and other unanticipated events or emergencies.

9 (4) The Executive Director shall make the final decision and provide written
10 notification of the decision to the applicant and the division or section within 60 days of receipt of the
11 complaint.

12 (e) Hearings. If an application is docketed as a contested case proceeding, it is governed by the
13 time periods in this chapter (relating to Practice and Procedure) once the application has been filed with
14 the Docket Services Section of the Hearings Division [~~Office of General Counsel~~].

15 This agency hereby certifies that the rules as adopted have been reviewed by legal counsel and
16 found to be a valid exercise of the agency's legal authority.

17 Issued in Austin, Texas, on 12/17/2024, 2024.

Filed with the Office of the Secretary of State on 12/17/2024, 2024.

DocuSigned by:
Christi Craddick
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Christi Craddick, Chairman

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Wayne Christian
C1C746B4F446422...

Wayne Christian, Commissioner

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Jim Wright
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Jim Wright, Commissioner

ATTEST DocuSigned by:
Callie Farrar
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Secretary of the Commission

Signed by:
Haley Cochran
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Haley Cochran
Assistant General Counsel
Office of General Counsel

Railroad Commission of Texas
16 TAC Chapter 1--Practice and Procedure

Railroad Commission of Texas

Figure: 16 TAC §1.201(a)

Table 1. Initial and Final Review Periods for Permits Issued by the Railroad Commission of Texas,
For Which Median Permit Processing Time Exceeds Seven Days

Rule and Permit All references are to Title 16, Tex. Admin. Code	Division, Section Receiving Application	Initial Review Period	Final Review Period
§3.6 (SWR 6), Application for Multiple Completion Multiple Completion Authorization	Oil and Gas Division, Administrative Compliance Section	60	10
§3.9 (SWR 9), Disposal Wells Disposal Well Permits	Oil and Gas Division, Injection-Storage Permits Section	30	15
§3.10 (SWR 10), Restriction of Production of Oil and Gas from Different Strata Authority to Commingle	Oil and Gas Division, Administrative Compliance Section	14	21
§3.23 (SWR 23), Vacuum Pumps Authorization to Use Vacuum Pump	Oil and Gas Division, Administrative Compliance Section	7	21
§3.41 (SWR 41), Application for New Oil or Gas Field Designation and/or Allowable New Oil or Gas Field Designation and/or Allowable	Oil and Gas Division, Administrative Compliance Section	14	7
§3.46 (SWR 46), Fluid Injection into Productive Reservoirs Injection Permit	Oil and Gas Division, Injection-Storage Permits Section	30	15
§3.46 (SWR 46), Fluid Injection into Productive Reservoirs Injection Permit with Authorization to Inject Fresh Water	Oil and Gas Division, Injection-Storage Permits Section	30	15
§3.46 (SWR 46), Fluid Injection into Productive Reservoirs Area Permit	Oil and Gas Division, Injection-Storage Permits Section	45	45
§3.48 (SWR 48), Capacity Oil Allowables for Secondary or Tertiary Recovery Projects Capacity Oil Allowables	Oil and Gas Division, Administrative Compliance Section	7	21
§3.50 (SWR 50), Enhanced Oil Recovery Projects Approval and Certification for Tax	Oil and Gas Division, Administrative Compliance Section	7	25

Rule and Permit All references are to Title 16, Tex. Admin. Code	Division, Section Receiving Application	Initial Review Period	Final Review Period
Incentive Certificate for Recovered Oil Tax Rate			
§3.50 (SWR 50) Enhanced Oil Recovery Projects Approval and Certification for Tax Incentive Approval Concurrent With Recovered Oil Tax Rate	Oil and Gas Division, Administrative Compliance Section	7	25
§3.50 (SWR 50), Enhanced Oil Recovery Projects Approval and Certification for Tax Incentive Positive Production Response Certificate	Oil and Gas Division, Administrative Compliance Section	7	25
§3.70 (SWR 70), Pipeline Permits Required Permit to Operate a Pipeline	Oversight and Safety Division, Pipeline Safety Department	15	15
§3.81 (SWR 81), Brine Mining Injection Wells Brine Mining Injection Permit	Oil and Gas Division, Technical Permitting Section	30	30
§3.82 (SWR 82), Permit for Brine Production Projects and Associated Class V Spent Brine Return Wells	Oil and Gas Division, Technical Permitting Section	60	90
§3.83 (SWR 83), Tax Exemption for Two-and Three-year Inactive Wells Certification of Inactivity	Oil and Gas Division, Administrative Compliance Section	20	45
§3.93 (SWR 93), Water Quality Certification 401 Certification	Oil and Gas Division, Technical Permitting Section	30	15
3.95 (SWR 95), Underground Storage of Liquid or Liquified Hydrocarbons in a Salt Formation Permit to Create, Operate, and Maintain an Underground Hydrocarbon Storage Facility	Oil and Gas Division, Technical Permitting Section	45	45
§3.96 (SWR 96), Underground Storage of Gas in Production or Depleted Reservoirs Permit to Operate a Gas Storage Project	Oil and Gas Division, Technical Permitting Section	45	45

Rule and Permit All references are to Title 16, Tex. Admin. Code	Division, Section Receiving Application	Initial Review Period	Final Review Period
§3.97 (SWR 97), Underground Storage of Gas in Salt Formations Permit to Create, Operate, and Maintain an Underground Gas Storage Facility	Oil and Gas Division, Technical Permitting Section	45	45
§3.101 (SWR 101), Certification for Severance Tax Exemption for Gas Produced from High-Cost Gas Wells Area Designation	Oil and Gas Division, Administrative Compliance Section	7	45
§§4.120-4.135, 4.150-4.154 Non-Commercial and Non-Centralized Pit Permits	Oil and Gas Division, Technical Permitting/ Environmental Permitting	45	90
§§4.120-4.135, §§4.140-4.143, and §§ 4.150-4.154 Commercial or Centralized Pit Permits	Oil and Gas Division, Technical Permitting/ Environmental Permitting	45	90
§4.120-4.135 Non-Commercial and Non-Centralized Landfarming, Landtreatment	Oil and Gas Division, Technical Permitting/ Environmental Permitting	45	90
§§4.120-4.135, §§4.140-4.143, and §§4.160-4.164 Commercial and Centralized Landfarming, Landtreatment	Oil and Gas Division, Technical Permitting/ Environmental Permitting	45	90
§§4.190-4.195 Waste Hauler Permit	Oil and Gas Division, Technical Permitting/ Environmental Permitting	30	15
§4.182 Minor Permit, Hydrostatic Test Discharge and other minor permits	Oil and Gas Division, Technical Permitting/ Environmental Permitting, District Offices	15	15
§§4.120-4.135, §§4.140-4.143, and §§4.170-4.173 Reclamation Plant Permit	Oil and Gas Division, Technical Permitting/ Environmental Permitting	45	90
§4.184 Non-Commercial Recycling Plant	Oil and Gas Division, Technical Permitting/ Environmental Permitting	45	90

Rule and Permit All references are to Title 16, Tex. Admin. Code	Division, Section Receiving Application	Initial Review Period	Final Review Period
§§4.202-4.211 Commercial Recycling Plant	Oil and Gas Division, Technical Permitting/ Environmental Permitting	45	90
§§4.202-4.211, §§4.212-4.224 Commercial On-Lease Solid Oil and Gas Waste Recycling	Oil and Gas Division, Technical Permitting/ Environmental Permitting	45	90
§§4.202-4.211, §§4.230-4.245 Commercial Off-Lease or Centralized Solid Oil and Gas Waste Recycling	Oil and Gas Division, Technical Permitting/ Environmental Permitting	45	90
§§4.202-4.211, §§4.247-4.261 Commercial Stationary Solid Oil and Gas Waste Recycling	Oil and Gas Division, Technical Permitting/ Environmental Permitting	45	90
§§4.202-4.211, §§4.262-4.277 Commercial Off-Lease Fluid Recycling	Oil and Gas Division, Technical Permitting/ Environmental Permitting	45	90
§§4.202-4.211, §§4.278-4.293 Commercial Stationary Fluid Recycling	Oil and Gas Division, Technical Permitting/ Environmental Permitting	45	90
§4.301, §4.302 Beneficial Use of Drill Cutting Permits (Treatment and Recycling)	Oil and Gas Division, Technical Permitting/ Environmental Permitting	45	90
§§5.201-5.208 Permit to Construct a Geologic Storage Facility and Associated Class VI Injection Wells	Oil and Gas Division, Technical Permitting Section	60	120
§§5.201-5.208 Permit to Injection and Store Anthropogenic Carbon Dioxide	Oil and Gas Division, Technical Permitting Section	60	120
Class V Closed-Loop Geothermal Injection Wells	Oil and Gas Division, Technical Permitting Section	15	15
§9.27, Application for an Exception to a Safety Rule LPG Rule Exception	Oversight and Safety Division, Alternative Fuels Safety Department	21	21
§9.54, Commission-Approved Outside Instructors- LPG Outside Instructor Application	Oversight and Safety Division, Alternative Fuels Safety Department	14	10

Railroad Commission of Texas
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Rule and Permit All references are to Title 16, Tex. Admin. Code	Division, Section Receiving Application	Initial Review Period	Final Review Period
§9.101, Filings Required for Stationary LP-Gas Installations LPG Plan Review	Oversight and Safety Division, Alternative Fuels Safety Department	30	N/A
§11.93, Elements of Permit Application New Permit Application	Surface Mining and Reclamation Division	120	N/A
§11.97, Renewal Permit Renewal	Surface Mining and Reclamation Division	120	N/A
§11.98, Transfer Permit Transfer	Surface Mining and Reclamation Division	90	N/A
§11.114, Revision on Motion or with Consent Permit Revision	Surface Mining and Reclamation Division	120	N/A
§§11.131-11.137, Notice of Exploration Through Over-burden Removal; Content of Notice; Extraction of Minerals; Removal of Minerals; Lands Unsuitable for Surface Mining; Notice of Exploration Involving Hole Drilling; Permit Uranium Exploration	Surface Mining and Reclamation Division	30	30
§§11.205, 11.206, Changes in Coverage; Release or Reduction of Bonds Bond Adjustment	Surface Mining and Reclamation Division	90	N/A
§12.110, General Requirements: Exploration of less than 250 Tons Coal Exploration < 250 Tons	Surface Mining and Reclamation Division	90	N/A
§12.111, General Requirements: Exploration of More than 250 Tons Coal Exploration > 250 Tons	Surface Mining and Reclamation Division	120	N/A
§12.205, In Situ Processing Activities In Situ Coal Gasification	Surface Mining and Reclamation Division	120	N/A
§12.216, Criteria for Permit Approval or Denial New Mine Permit	Surface Mining and Reclamation Division	120	N/A
§12.226, Permit Revisions Permit Revision-Administrative	Surface Mining and Reclamation Division	60	N/A

Rule and Permit All references are to Title 16, Tex. Admin. Code	Division, Section Receiving Application	Initial Review Period	Final Review Period
§12.226, Permit Revisions Permit Revision-Significant	Surface Mining and Reclamation Division	120	N/A
§§12.227-12.230, Permit Renewals: General Requirements; Permit Renewals: Completed Applications; Permit Renewals: Terms; Permit Renewals: Approval or Denial Permit Renewal	Surface Mining and Reclamation Division	120	N/A
§§12.227-12.230, Permit Renewals: General Requirements; Permit Renewals: Completed Applications; Permit Renewals: Terms; Permit Renewals: Approval or Denial Permit Renewal/Revision	Surface Mining and Reclamation Division	120	N/A
§§12.231-12.233, Transfer, Assignment, or Sale of Permit Rights: General Requirements; Transfer, Assignment or Sale of Permit Rights: Obtaining Approval; Requirements for New Permits for Persons Succeeding to Rights Granted under a Permit Permit Transfer	Surface Mining and Reclamation Division	90	N/A
§12.307, Adjustment of Amount Bond Adjustment	Surface Mining and Reclamation Division	60	30
§12.707, Certification Blaster Certification	Surface Mining and Reclamation Division	90	N/A
13.25, Filings Required for Stationary CNG Installations – CNG Plan Review	Oversight and Safety Division, Alternative Fuels Safety Department	30	N/A
§13.35, Application for an Exception to a Safety Rule CNG Rule Exception	Oversight and Safety Division, Alternative Fuels Safety Department	21	21
§14.2019, Certification Requirements LNG Employee Exam	Oversight and Safety Division, Alternative Fuels Safety Department	10	N/A
§14.2040, Filings and Notice Requirements for Stationary LNG Installations LNG Plan Review	Oversight and Safety Division, Alternative Fuels Safety Department	30	N/A
§14.2052, Application for an	Oversight and Safety	21	21

Rule and Permit All references are to Title 16, Tex. Admin. Code	Division, Section Receiving Application	Initial Review Period	Final Review Period
Exception to a Safety Rule LNG Rule Exception	Division, Alternative Fuels Safety Department		