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VIA EMAIL

August 15, 2022

Rules Coordinator
Railroad Commission of Texas
Office of General Counsel
P.O. Drawer 12967
Austin, TX 78711-2967
rulescoordinator@rrc.texas.gov

Dear Rules Coordinator:

Re: Ovintiv USA Inc.'s Comments on the Proposed New §3.66 relating to Weather Emergency Preparedness Standards

Ovintiv USA Inc. ("Ovintiv") appreciates the opportunity to submit the following comments on the proposed new 16 Texas Administrative Code §3.66 relating to Weather Emergency Preparedness Standards ("Proposal") and the current 16 Texas Administrative Code §3.65 ("Current Rule").

Ovintiv is a leading North American resource play company that is focused on developing its multi-basin portfolio of top tier oil and natural gas assets located in the United States and Canada. Our products fuel the world and make modern life possible. Oil, natural gas and natural gas liquids are essential to every aspect of life from transportation to education to healthcare.

Ovintiv has a history of successfully collaborating with regulators, NGOs, investors and many other stakeholders to achieve constructive solutions on a number of issues including air emissions, hydraulic fracturing, and protected species, among others. We are committed to preparing to operate during a weather emergency through strategic design, innovation and efficiency for the lifecycle of our operations.

Ovintiv hereby adopts and incorporates the comments to the Proposal submitted by the Texas Oil and Gas Association (TXOGA).

In addition, Ovintiv offers the following specific comments to the Proposal.

Preamble

There are points of clarification that Ovintiv recommends addressing in the preamble.

When considering the public benefit of the Proposal, there is no mention of the negative impact of the potential lost gas production from some wells due to economics.



Supply chain issues are impacting every industry. This should be considered in the preamble. To the extent such operator has not been able to complete all required weather emergency preparation measures described in subsection (c) by such December 1, 2022 date, a plan submitted by such operator for the implementation of additional weather emergency preparation measures that are in progress as of such date, or that it plans to complete subsequent to that date, in accordance with the measures described in subsection (c) of this section.

There should be additional language that provides guidance to the enforcement division on providing allowances for scenarios where an operator is not able to complete all required weatherization requirements by the 12/1/22 attestation due to, among other reasons, supply chain issues, permit delays, etc.

Amend Proposal subsection §3.66 (b)

As for changes to the Proposal, subsection (b), Ovintiv recommends amending defined terms. "Sustained operation" is currently defined as a gas supply chain facility that does not experience a weather-related forced stoppage. Many different issues can occur in the gas supply chain that are not related to Ovintiv's specific facilities, nor caused by a weather emergency, but could affect the "sustained operation" of Ovintiv's specific facilities during a weather emergency. E&P operators are not able to maintain perfectly sustained operations. Ovintiv recommends the definition of "sustained operation" be amended to provide flexibility for operational downtime that occurs via acting as a reasonably prudent operator, submitting an exception request explaining the cause and/or request for a hearing.

Ovintiv believes it should not be held responsible for its facility not sustaining operation should a non-Ovintiv gas supply chain facility shut-in. The preamble should clarify that a forced stoppage due to third party issues will not be considered a violation. Compliance requirements and enforcement potential as prescribed in the Proposal should be based on stoppages due to issues within the operator's control and that occur during a weather-emergency event. Operators can have rental agreements that prohibit the operator from starting and/or modifying rented equipment. In this case, the operability, maintenance, and return to service of the third-party equipment would be at the third party's discretion, safety procedures, and protocols. The Proposal should not hold enforce against an E&P operator in this circumstance.

Further, the definition of critical component should be modified to: "Any component, including components on equipment rented or leased from a third party over whom the operator has the contractual authority to control, that is susceptible to weather-related interruptions, such as those caused by freezing temperatures, freezing precipitation, or extreme heat, the occurrence of which is likely to significantly hinder sustained operation of the gas pipeline or gas supply chain facility." This inclusion would clarify that weatherization is required only for susceptible components, whether operator owned or rented/leased.



Freezing conditions and extreme heat can occur in the Permian Basin but very few, if any, cause an energy emergency. Further, the definition of weather emergency is ambiguous due to the lack of detail on who forecasts and communicates an energy emergency and how. The proposed definition of a major weather-related forced stoppage puts complete discretion as to whether the event results in a significant impact to public safety with the Critical Infrastructure Director. Operators need more definable criteria as to what constitutes a significant impact to public safety. The Proposal should also specify which state agency or elected official will forecast and determine when and where a weather emergency occurs that springs the Proposal into effect and how the weather emergency is communicated. Finally, clarity is also needed in the final rule on what criteria define a weather emergency. All conditions not included in the definition of weather emergency should be clear in the rule. Ovintiv suggests adding high winds, lightning, and fires to the exclusion list.

Ovintiv also suggests amending the definition of “weatherization” as it is ambiguous and does not provide discernible criteria for compliance with the Proposal. The Commission should clarify this definition to specify the actions, implementation and installations only apply to matters within operator’s control. It should be clear that instances beyond an operator’s control, e.g. a facility losing power due to utility curtailment or loss, should not be a part of the weatherization requirements.

As proposed, the definition of sustained operation needs to allow for downtime that results in impacts less than the notification requirements. Further, the definition of weather-related forced stoppage should be reworded to “An unanticipated and/or unplanned outage of a Sustained Operation by weather conditions such as freezing temperatures, freezing precipitation, or extreme heat during a weather emergency event.”

Amend Proposal subsection §3.66 (c)

Ovintiv requests the RRC not specify possible weatherization methods and allow for operators to choose their own weatherization methods based on characteristics consistent with their facility operating practices and use of technology. If weatherization methods are specified in the Proposal or on inspection checklists, Ovintiv suggests the RRC specify that operators will not be responsible for ensuring third-party equipment availability and inventory of sand or gravel stock to allow for public road access. Finally, Ovintiv believes the weatherization method “burying all new water transportation subsurface pipeline four feet or deeper and insulating and tracing above-ground piping” must be removed from the rule, or an exception provided for the Permian Basin, as these requirements are infeasible and will not lead to greater reliability of gas production in the Texas Permian Basin.

Subsection §3.66 (c)(2)(D)

Modify lead-in as follows:

Weatherization of the facility considering industry-accepted methods considered by the operator to be appropriate and effective to the facility based on the type of facility, the facility’s critical components, the facility’s location, and weather data for the facility’s county or counties. Weather data that may be considered by the operator includes the data illustrated in the table



of this subsection, as well as alternate weather data regarding low and high temperature patterns in the geographic area where the facility is located. Weatherization methods to be considered and at the option of the operator include but are not limited to the following:"

We recommend the Commission reconsider this Section. The phrase "may include but are not limited to" creates uncertainty for operators. It could be interpreted in such a way that the following list is required, but the Commission might enforce more. We recommend editing this Section to clarify that the methods are exclusive to matters within operators' control. We recommend consideration of workforce safety, protection of the environment, and measures proportionate to volume of gas be added to the weather preparedness section.

Amend Proposal subsection §3.66 (f)

Ovintiv requests that **§3.66(f)(1)** be modified to state "In the event a weather-related forced stoppage in sustained operations during a weather emergency results in a loss of production exceeding 5,000 Mcf of natural gas per day..." Additionally, only material weather-related forced stoppages should require notification to the Commission, and notification as promptly as practicable, rather than immediately, should be allowed by the Proposal. Finally, forced stoppages caused by third-party actions or inactions do not subject the operator to enforcement action.

Amend Proposal subsection §3.66 (g)

Subsection (1) should include the following, "The notice shall be sent by certified mail and state the facts or conduct alleged to comprise the violation. The notice shall give the operator at least 30 days to demonstrate or achieve compliance with this section or request a hearing."

Figure 16 TAC §3.66 (g)(1)

Ovintiv suggests adding a line item to give consideration of safety of operator's personnel with a score of -15. This number is designed to offset the value in the table for hazard to health, safety, or economic welfare of the public, intentional conduct of operator, and no effort to remedy violation.

Thank you for the opportunity for to discuss, comment, and your consideration of Ovintiv's comments to the Proposal. We remain open and available to the opportunity to work in a collaborative fashion toward a constructive solution.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Johnson".

Aaron Johnson
Vice President and General Manager, Texas Operations