



T E X A S
A S S O C I A T I O N
O F
B U I L D E R S

March 14, 2014

Via Electronic Mail

Mr. David Ferguson
Pipeline Safety Division
Railroad Commission of Texas
P.O. Box 12967
Austin, TX 78711

Dear Mr. Ferguson: *David*

On behalf of the Texas Association of Builders (TAB), I would like to submit the following preliminary informal comments regarding the current discussion draft amendments to existing rules at 16 TAC Ch. 18, relating to Underground Pipeline Damage Prevention, as updated on February 10, 2014. Let me begin by thanking you and the Railroad Commission of Texas (Commission) for the inclusion of TAB in the multiple workshops involving the stakeholders of this issue; TAB certainly appreciates the opportunity to comment on this important issue.

As you may recall, I stated verbally and in writing during the 2012-2013 portion of the draft rules process that TAB had concerns regarding the removal of the current exemption under the existing rules for the movement of earth that does not exceed a depth of 16 inches, which was being deleted under 16 TAC Sec. 18.1(d) of previous draft amendments. The current draft rules exempt the movement of earth by hand digging that does not exceed a depth of 12 inches and the movement of earth by tillage that does not exceed 16 inches. TAB thanks the Commission for allowing these exemptions and appreciates their inclusion in the current draft rules.

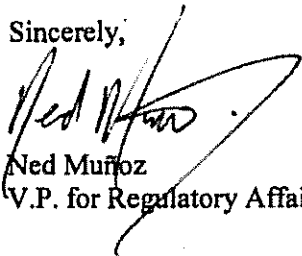
As before, however, TAB continues to have concerns regarding the type of information that must be shared by excavators under Sec. 18.1(l)(2) of the updated discussion draft. As I stated in my February 5, 2013 written comments to the 2012-2013 draft rules:

“Making all records, reports, supplemental data, other documents and information available to the Commission as the section proposes is overly broad and may include certain information that contains proprietary or confidential records that fall outside of the Commission’s scope of regulating underground pipeline damage. Furthermore, while general contractors are typically not the excavators on a building site, many times an excavator will incorrectly name the general contractor on a locate ticket. Under this scenario, draft Sec. 18.1(l)(2) could make all such contractor’s records, reports, etc. available to the Commission, including any proprietary or confidential information that falls outside of the Commission’s scope of regulation.”

Those concerns still exist under the updated 2014 discussion draft rules. TAB proposes that the language be limited to information that is directly relevant to excavation activities, and that there be a provision that clearly excludes contractors that are mistakenly or incorrectly identified as excavators on a locate ticket.

In conclusion, I would like to again thank the Commission for its inclusion of TAB in this process and again state that TAB stands ready to work with the Commission and all parties to address any amendments to 16 TAC Ch. 18. Thank you for your time and attention to this matter; please feel free to contact me should you have any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Ned Muñoz", is written over a large, stylized, handwritten flourish or scribble that extends upwards and to the right.

Ned Muñoz

V.P. for Regulatory Affairs and General Counsel