PERMIAN BASIN
PETROLEUM ASSOCIATION

The Standard:
Federal Update

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Members,

The Federal Government has been busy this week! On Tuesday, the U.S. Environmental Protection Agency (EPA) published proposed new rules on methane emissions, on Thursday the U.S. Occupational Safety and Health Administration (OSHA) provided a new emergency temporary standard regarding coronavirus in the workplace, and today the U.S. House of Representatives is taking up H.R. 5376, the Build Back Better Act. PBPA staff and the volunteers of numerous PBPA committees have been following and engaging on these issues helping to advocate for and protect your operations in the Permian Basin. In this edition of the Standard, we wanted to update you on that work:

EPA Proposed Rule on Emissions

On Tuesday, November 2, 2021, the EPA announced new proposed rules regarding methane emissions that will impact both new and existing oil and natural gas facilities. The public will have 60 days to provide comment on these proposed rules once they are published in the Federal Register, which has not occurred yet but is expected in the immediate future.

The proposed rule can be found here: https://www.epa.gov/system/files/documents/2021-11/san-8510-ong-climate-review-proposal-frn-2021-11_1.pdf. A Regulatory Impact Analysis along with the press release on the proposed rule can be found here: https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry/epa-proposes-new-source-performance.

The key features of the proposed rule include:

- a comprehensive monitoring program for new and existing well sites and compressor stations;
- a compliance option that allows owners and operators the flexibility to use advanced technology that can find major leaks more rapidly and at lower cost than ever before;
- a zero-emissions standard for new and existing pneumatic controllers (with a limited

alternative standard for sites in Alaska), certain types of which account for approximately 30 percent of current methane emissions from the oil and natural gas sector;
- standards to eliminate venting of associated gas, and require capture and sale of gas where a sales line is available, at new and existing oil wells;
- proposed performance standards and presumptive standards for other new and existing sources, including storage tanks, pneumatic pumps, and compressors; and
- a requirement that states meaningfully engage with overburdened and underserved communities, among other stakeholders, in developing state plans.

EPA is also requesting information on additional sources of methane for the Agency to consider in developing a supplemental proposal to reduce emissions even further. In addition, EPA is taking comment on how to structure a community monitoring program that would empower the public to detect and report large emission events for appropriate follow-up by owners and operators for possible further development in a supplemental proposal. EPA intends to issue the supplemental proposal in 2022, and to issue a final rule before the end of 2022.

As PBPA continues to review the nearly 600 page proposal and the more than 200 page regulatory impact statement of the rule, we are concerned that this approach continues to put political posturing ahead of sensible policy. This proposal offered at an environmental conference where thousands of representatives flew to Glasgow where the world's largest polluters (China, India and Russia) didn't even attend, is another affront to American's paying more and more to live their daily lives.

PBPA members are continuing to aggressively refine operations and have already seen a 77% reduction in methane intensity from 2011-2019. We know our members are committed to continuing this progress and we will work with all stakeholders to craft meaningful rules that are reflective of our industry's global role in emissions reduction targets. However, such rules need to be practicable and effective in actually achieving that target. We will be developing comments through the the PBPA Regulatory Practices Committee. If you're interested in being involved in the development of those comments, please let us know.

OSHA Emergency Temporary Standard

On Thursday, November 4, 2021, OSHA announced a newemergency temporary standard concerning the spread of the coronavirus on the job. According to the OSHA press release, under this temporary standard, covered employers must develop, implement and enforce a mandatory COVID-19 vaccination policy, unless they adopt a policy requiring employees to choose to either be vaccinated or undergo regular COVID-19 testing and wear a face covering at work.

The standard covers employers with 100 or more employees – firm or company-wide – and provides options for compliance. It also requires employers to provide paid time to workers to get vaccinated and to allow for paid leave to recover from any side effects.

The standard is effective immediately upon its publication in the Federal Register and employers must comply with most requirements within 30 days of publication (and with testing requirements within 60 days of publication).

The standard also serves as a proposal for normal rulemaking regarding a final standard. If PBPA members are interested, OSHA is seeking comment on all aspects of the standard including whether the agency should adopt it as a final standard.

Build Back Better Act

The Build Back Better Act, being H.R. 5376, is a piece of legislation that masquerades as an infrastructure bill. The proposal, as it came out of the Senate and is now being considered by the House, includes sections covering topics such as climate change, agriculture, oil and natural gas production, renewable energy production, transportation, veteran affairs, paid family leave, education, labor, health care, medicare, homeland security, immigration, community violence, oh, and infrastructure.

In general under H.R. 5376 as passed by the Senate, surface transportation programs would be reauthorized for five years through fiscal year 2026, while additional funding would be authorized for energy, water, and broadband infrastructure. The legislation—which its sponsors say would increase spending on infrastructure by $550 billion over five years—would extend highway, safety, transit, rail, and research programs that are typically included in surface transportation reauthorizations and are operating under a short-term extension through Dec. 3. However, as can be derived from the list of topics the act covers provided above, the act also includes provisions to address climate change, codify parts of a Trump-era policy on environmental reviews, impose domestic content requirements, authorize programs to enhance the electric grid and replace lead pipes, and appropriate $445.9 billion in emergency funds.

While the measure includes provisions to offset some of the increases in spending, the Congressional Budget Office, in an Aug. 9 cost estimate, said that implementing the legislation released by Senate negotiators would increase the deficit by $256.1 billion over a decade; that analysis didn't cover amendments adopted on the floor, however. Sens. Rob Portman (R-Ohio) and Kyrsten Sinema (D-Ariz.), who led the negotiations, said that they had identified $519 billion in offsets, some of which weren't reflected in the official estimate "as CBO is limited in what it can include in its formal score."

As the debate commences, or continues, we wanted to provide some topics of interest regarding possible impacts on the oil and gas industry in the Permian Basin.

TITLE III: Committee on Energy and Commerce
Tackling Climate Change
Reducing Climate Pollution

- **Climate Pollution Reduction Grants:** Includes $5 billion to EPA to establish a climate pollution reduction grant program for states, municipalities, and Tribes to implement greenhouse gas pollution reduction plans.
- **Greenhouse Gas Reduction Fund:** $29 billion to nonprofit, state and local climate finance institutions that support the rapid deployment of low- and zero-emission technologies – with at least 40 percent of investments to be made in low-income and disadvantaged communities.
- **Reducing Air Pollution at Ports:** $3.5 billion for the purchase and installation of zero-emission equipment and technology at ports and for the development of climate action plans.
- **Reducing Methane Pollution:** Provides over $700 million to immediately reduce methane pollution from petroleum and natural gas systems, and holds companies accountable for wasted methane pollution above industry targets.

TITLE VII: Committee on Natural Resources
Building a Stronger, Cleaner American Economy that Fights Climate Change

- **Protecting Public Lands:** $2.5 billion for the conservation, protection, restoration and resiliency of public lands administered by the National Park Service and Bureau of Land Management.

- **New Fees and Royalties on the Extraction of Public Resources:** Raises billions of dollars in fossil fuel industry fees by increasing outdated royalty rates and extending royalties to methane pollution, ending noncompetitive leasing, charging annual fees for the extraction of public resources, strengthening bonding standards for oil and gas leaseholders, charging fees on offshore pipelines and idled oil and gas wells, eliminating royalty relief, and requiring companies pay for annual inspection costs.
- **Repeals Drilling in ANWR:** Repeals the Arctic National Wildlife Refuge Oil and Gas Program which was passed as part of the House Republicans' 2017 Tax Act and cancels the leases sold in January 2021 at the end of the Trump Administration.

TITLE VIII: Committee on Oversight and Reform

Making Key Investments to Combat Climate Change

GSA Emerging Technologies

- **Promoting Emerging and Sustainable Technologies:** Provides $975 million to GSA for emerging and sustainable technologies, allowing the federal government to benefit from cutting-edge solutions to reduce pollution and cut costs.

GSA Procurement and Technology

- **Providing Funding for GSA to Promote Green Materials:** The bill provides $3.25 billion for the purchase of goods, services, and systems to improve energy efficiency, promote the purchase of lower-carbon materials, and reduce the carbon footprint.

TITLE XIII: Committee on Ways and Means

Fighting Climate Change, With Numerous Green Energy Provisions

- Invests over $320 billion in renewable energy and energy efficiency tax incentives in order to meet President Biden's goal of reducing US carbon emissions by 50% below 2005 levels by 2030.
- Ensures green energy incentives in the tax code will create good, well-paying jobs in the emerging green economy.

Renewable Electricity and Reducing Carbon Emissions - Below are key provisions in the bill promoting renewable energy and reducing carbon emissions.

- **Extension and Modification of Credit for Electricity Produced from Certain Renewable Resources:** Builds on current successful tax incentives that promote the deployment of green energy technologies, while providing new incentives for activities that reduce greenhouse gas emissions.
- Extends and expands the existing suite of renewable energy tax provisions to provide five years of incentives for transmission, energy storage, geothermal, microgrid controllers under the current Investment Tax Credit (ITC) and Production Tax Credit (PTC) framework.
- Allows a 100% PTC for wind energy property and allows solar energy property the option of taking the PTC.
- In 2027, transitions many of the current green energy tax incentives to a "technology neutral" ITC and PTC.
- Expands the investor base for these technologies by allowing an election for a direct payment of green energy tax incentives.
- Provides an enhanced benefit for projects targeting low-and moderate-income communities, tribal communities, and energy communities.
- Attaches strong labor and domestic content standards to key tax incentives to ensure good-paying jobs.
- Extends and expands the 45Q credit for carbon oxide sequestration.

Renewable Fuels - Builds on successful tax incentives to reduce transportation emissions and further promote the production and uptake of renewable fuels.

- Extends tax incentives promoting the production and expansion of renewable fuels and

creates new incentives for sustainable aviation fuel. In 2027, this package transitions many of the current fuel tax incentives to a "technology neutral" ITC and PTC.
- Creates a new credit to jumpstart the development of clean hydrogen.

Investments in the Green Workforce - Invests in the green workforce by providing tax credits for advanced manufacturing facilities and mechanical insulation.

- Provides additional tax incentives for renewable energy and efficiency projects that engage in high-road labor practices to ensure that the emerging green economy provides good, sustainable, high-paying jobs for workers
- Revives the advanced energy project credit for facilities engaging in green energy and energy efficiency technology manufacturing.
- Creates new tax credits for domestic manufacturing of semiconductor and solar and wind components.
- Provides a credit for the labor costs of installing mechanical insulation property.

How the Bill Is Paid For: Ensuring Multinational Corporations and High-Income Individuals Pay Their Fair Share

- The Build Back Better Act responsibly pays for our priorities while ensuring that taxpayers making less than $400,000 a year won't see their taxes go up by one penny.
- The comprehensive set of revenue provisions in the bill listed below will ensure that the bill is fully paid for.

15% Corporate Alternative Minimum Tax

- Establishes a new "alternative minimum tax" of 15 percent on all U.S. corporations earning more than $1 billion a year in profits. The minimum tax would be assessed on "book" income reported to shareholders, rather than profits reported to IRS.

Strengthening the Global Minimum Tax

- Ensures that U.S. companies pay a minimum tax of 15 percent on profits they earn overseas, as part of our international agreement to end the "race to the bottom" in business taxation, and prevents base erosion by foreign-parented companies in low-tax jurisdictions.

Making Sure High-Income Individuals Pay Their Fair Share

- Provides a new surtax on the income of multi-millionaires and billionaires – the wealthiest 0.02 percent of Americans. The surtax would apply a 5 percent rate above income of $10 million, and an additional 3 percent surtax on income above $25 million.
- Reforms and makes permanent rules that allow high income taxpayers to offset investment income with unrelated losses

IRS Investments to Close the Tax Gap

- Provides for closing the tax gap – the difference between what is owed to the IRS in taxes and what is actually collected each year – with $80 billion in investments in the IRS to hire new agents and modernize IRS technology, improving taxpayer experience and ensuring everyone pays their share.

Closing Medicare Tax Loophole for Wealthy

- Closes the loopholes that allow some wealthy taxpayers to avoid paying the 3.8% Medicare tax on non-employment income.

Tax on Stock Buybacks

- Provides a 1 percent surcharge on corporate stock buybacks, which corporate executives too often use to enrich themselves rather than investing in workers and growing their businesses.

Repealing Trump Rebate Rule

- Repealing the Trump rebate rule saves taxpayers, as well as seniors, money. Among its negative effects, the Trump rebate rule had the effect of increasing the monthly Medicare premium that seniors have to pay.

The PBPA, including Chris Kearney in D.C. who continues to provide incredible insight, analysis and opportunities to engage on multiple federal issues, remains your voice and resource for action in our nation's capitol. If you have any questions on the progress of the Build Back Better Act, the proposed methane rules released by the EPA on Tuesday, or the OSHA emergency temporary standard released on Wednesday, or how to engage on any of these issues please let us know.

Regards,

Ben Shepperd