

Happy Thanksgiving

From your friends at



The Voice of the Permian Basin



The Standard: PBPA Update

Vol 4., Issue No. 20



Members,

As you can imagine, there continues to be work to report on occurring in Texas, New Mexico, and certainly by our Federal counterparts in the District of Columbia.

PBPA continues to advocate at every level for domestic energy producers because of the positive economic and environmental benefits that domestic producers are uniquely positioned to provide.

In case you missed it, after reports showing that inflation rose 6.2% over the last year we urged the Biden Administration to lean on American producers, including those of us in the Permian Basin. Our producers stand ready to perform in these times and we should be relying on Americans rather than foreign actors. You can read more about that in the [Midland Reporter-Telegram here](#).

And not only know that our focus on environmental stewardship outshines energy produced in other regions of the globe, we also now that domestic production enhances national security, [and you can read more about how our production makes America safer](#).

Over the last week, PBPA has monitored multiple Legislative Finance Meetings in New Mexico, as they prepare to enter their next legislative session in less than 60

days and met with lawmakers in Texas to discuss important issues like winter preparations and rulemakings at various state agencies.

We will continue to put the pressure on political leaders to rely on energy leaders right here in the Permian Basin and as we discuss the actions by the Federal Government below, or about activities in Texas and New Mexico, remember that we're here to help advise and assist, so please let us know how we can be most helpful!

Regards,

Ben Shepperd



USFWS Receives "Notice of Intent to Sue" on Dune Sagebrush Lizard

On November 17, 2021 the Portland, Oregon based group, Center for Biological Diversity (CBD) filed two formal notices, including a 60 day notice of intent to sue on a variety of species with the U.S. Fish and Wildlife Service (USFWS) for denying or delaying Endangered Species Act (ESA) protections. Among those species includes the Dunes sagebrush lizard (DSL) which has become a particular focus for PBPA members over the years.

According to the CBD "On June 1, 2018, the Service received the Center's petition to list the Dunes sagebrush lizard as endangered or threatened under the ESA. On July 16, 2020, the Service published a 90-day finding that the petition presented substantial information indicating that listing may be warranted. 85 Fed. Reg. 43,203. The Service's 12-month finding is overdue."

PBPA has led on efforts to protect species and their habitats as well as pushing back on the abuse of the ESA and its weaponization to attack various industries including agriculture, oil, and natural gas development in and beyond the Permian Basin. Our members continue to visit to determine the best course of action and ask that all members continue to stay engaged on this and other important issues at USFWS.



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 rules were officially published on November 15, 2021 and are due by January 14, 2021.

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.



Public Hearing on EPA's Proposal to Reduce Methane and Other Harmful Emissions from the Oil and Natural Gas Industry

EPA will hold a virtual public hearing November 30, December 1 and December 2, 2021 to provide the public the opportunity to present comments and information on the Agency's proposed New Source Performance Standards and Emissions Guidelines for the oil and natural gas industry. The proposal would expand and strengthen emissions reduction requirements that are currently on the books for new, modified and reconstructed oil and natural gas sources, and would require states to reduce methane emissions from hundreds of thousands of existing sources nationwide for the first time.

To register for the hearing:

To register to speak at the hearing, please click the link below.

Register by visiting the link: [Eventbrite/Oil and Gas Virtual HearingEXIT](#)

Dates of hearing: Tuesday, November 30, 2021, Wednesday, December 1, 2021

and December 2, 2021.

Times: 11 a.m. to 9 p.m. Eastern time on November 30 and December 1;

11 a.m. to 6 p.m. on December 2.

Note: EPA will consider opening an evening session on December 2 based on registration.

Registration closes November 24, 2021.

Language/Reasonable Accommodation Request: If you need assistance in a language other than English or if you need a reasonable accommodation, please contact the public hearing team no later than November 22, 2021. You can reach the public hearing team by email at SPPDpublichearing@epa.gov or by telephone at 888-372-8699. Note: We may not be able to arrange accommodations beyond this date.

Watching the Hearing: If you do not wish to speak but would like to watch the hearing, EPA will post a link to a livestream shortly before the hearing starts each day. No registration is required to watch the livestream, and EPA encourages you to view the hearing this way. If you would prefer to watch the hearing via the virtual hearing platform, you must register by the deadline above.



US House passes "Build Back Better Act"

In the early hours of the morning, the U.S. House voted to pass the "Build Back Better Act" which would spend roughly \$2 Trillion for a bevy of spending items. The vote was passed 220-213. With this vote the bill is off to the Senate, where lawmakers in that chamber will surely try their hand at changes to the bill as passed by the House.

Among its many provisions the legislation as of now includes:

Green Energy: The measure includes a variety of green energy tax incentives that would cost \$300.5 billion over 10 years.

It would structure various credits as tiered incentives, providing either a "base rate" or a "bonus rate" of five times the base amount for projects that meet certain prevailing wage and apprenticeship requirements. An additional increased credit amount could be claimed in certain cases if projects comply with domestic content requirements, such as ensuring that any steel, iron, or manufactured product was produced in the U.S.

The new structure would apply to several new and existing credits, including:

- The production tax credit for energy facilities that produce electricity from renewable energy sources, which would be extended through 2026 and increased for facilities in "energy communities" where a coal mine or a coal-fired electric generating unit has been shut down. The PTC for solar facilities would also be reinstated through 2026.

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- The investment tax credit, which would be extended through 2026 for most property and increased for projects in energy communities and for solar and wind facilities that serve low-income communities.

- A clean electricity production tax credit and investment tax credit based on carbon emissions. Both would be available after 2026 and phase out beginning in 2031 or when U.S. emissions targets are achieved.

- A new investment credit for electric transmission property that would apply to facilities placed in service through 2031.

- A new zero-emission nuclear power production credit for facilities that produce electricity, available through 2027.

- A new credit for producing clean hydrogen, based on lifecycle greenhouse gas emission rates, through 2028.

- An investment tax credit for advanced manufacturing facilities that start construction before

2026 and a production tax credit for eligible components that would begin to phase down in 2027.

- A credit for the domestic production of clean fuels that would be based on their lifecycle carbon emissions, which would also phase out beginning in 2031 or when emissions targets are achieved.

Several other existing tax incentives would be extended through 2031, including the:

- Carbon oxide sequestration credit.
- Nonbusiness energy property credit, with an increased percentage for installing energy efficiency improvements.
- Residential energy efficient property credit, which would fully phase out after 2033 and be made refundable starting in 2024.
- Energy efficient commercial buildings deduction, with an increased maximum deduction.
- New energy efficient home credit, which would be increased for homes certified as “zero energy ready homes.”
- Advanced energy project credit for investments in energy manufacturing facilities.



OSHA Emergency Temporary Standard SUSPENDED

UPDATE:

Last week we shared information about OSHA's new emergency temporary standard regarding OSHA's COVID-19 Vaccination and Testing Emergency Temporary Standard , however since that time the 5th Circuit of the U.S. Court of Appeals granted a motion to stay the implementation on November 12th, meaning this standard is currently not in effect.

Per OSHA "**While OSHA remains confident in its authority to protect workers in emergencies, OSHA has suspended activities related to the implementation and enforcement of the ETS pending future developments in the litigation.**"

We do expect continued litigation and the 6th Circuit based in Cincinnati will be the venue for consolidated lawsuits raised against the standard. We will keep you apprised as developments unfold.



New Mexico announces "Hydrogen Hub Act"

New Mexico recently announced the The Hydrogen Hub Act, which would provide tax incentives to attract capital investment in clean hydrogen infrastructure across multiple sectors of the economy. This would include income tax credits equal to 5 percent of eligible costs related to hydrogen electric generation and production, as well as gross receipts tax deductions related to hydrogen production, distribution, equipment, and refueling stations.

According to the release:

The Hydrogen Hub Act will incentivize the production, distribution and use of low carbon-intensity hydrogen. The Act will drive technological innovation, create clean energy jobs, and diversify our economy – all while accelerating New Mexico’s efforts to reach net-zero carbon emissions by no later than 2050.

The Administration is currently accepting feedback on this legislative proposal. For more information, please reach out to us.



The Hydrogen Hub Act

Why hydrogen?

The need for clean, domestically produced energy has never been greater. Climate experts agree that the energy challenges facing the world cannot be solved by any single approach – that’s why New Mexico is developing a portfolio of clean energy solutions: solar, wind, geothermal and now hydrogen.

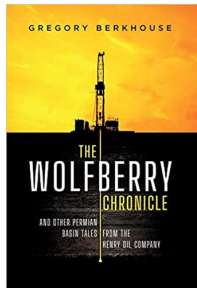
Hydrogen is already a global multi-billion-dollar industry and integral to decarbonizing transportation, manufacturing, the power sector and more. Around the world, government and industry are partnering to produce, distribute, and use hydrogen to reduce greenhouse gas emissions. While expanding wind and solar energy will continue to reduce emissions from businesses, homes and passenger vehicles, hydrogen can reduce emissions from industrial sectors (i.e. cement manufacturing, chemical manufacturing, global logistics, mining, petroleum refining, transportation industry (i.e. aviation, tractor-trailer trucks, trains). Emissions from these sources often disproportionately affect frontline and environmental justice communities. Using hydrogen to decarbonize these sources would reduce and/or eliminate emissions of harmful air pollutants that adversely affect human health (i.e. particulate matter like soot, heavy metals like lead and cadmium, organic carcinogens like benzene and formaldehyde).

The Hydrogen Hub Act will incentivize the production, distribution and use of low carbon-intensity hydrogen. The Act will drive technological innovation, create clean energy jobs, and diversify our economy – all while accelerating New Mexico’s efforts to reach net-zero carbon emissions by no later than 2050.

Highlights of the Hydrogen Hub Act

- Provide tax incentives to attract capital investment in clean hydrogen infrastructure across multiple sectors of the economy**
 - A comprehensive menu of tax credits and deductions to incentivize the production, distribution, and use of clean hydrogen.
 - Income tax credits equal to 5 percent of eligible costs related to hydrogen electric generation and production, as well as gross receipts tax deductions related to hydrogen production, distribution, equipment, and refueling stations.
- Aggressively reduces carbon emissions in less than a decade while protecting natural resources**
 - Tax incentives are only available for hydrogen produced below the carbon intensity levels within the Act.
 - The carbon intensity limit in the Act decreases every two years.
 - Tax incentives not available for hydrogen made using fresh water.
- Creates a safe, thriving and equitable clean hydrogen workforce**
 - Requires the adoption of safety standards to protect workers, communities and the industry.
 - Will establish workforce training programs in New Mexico.
 - Ensures communities in hydrogen hub areas reap the most benefits from the industry.

This stakeholder discussion draft of the New Mexico Hydrogen Hub Act is intended for review and comment. Please provide suggested edits and/or feedback to hydrogen.feedback@state.nm.us.



New Release: The Wolfberry Chronicle

Since its start in 1969, the family-owned Henry company had been viewed by the Permian Basin oil community as "a little ol' Spraberry driller," reliable and determined but quaintly plodding.

But in summer 2003, the company inconspicuously drilled two wells on picked-over acreage and quietly deployed an experimental "slickwater" frac. Both wells roared to life at high producing rates, and Henry hushed the results and launched a covert land grab ringing the entire basin.

When reports of their success finally leaked, scores of other operators scrambled into the fray, mustering hundreds of rigs, leasing thousands of acres and eventually producing millions of barrels of oil. Within a decade, the "Wolfberry play" catapulted the Permian Basin to the top of the global oil chart as the vertical program turned sideways into the hot horizontal shale play of today.

The Wolfberry Chronicle tells the Henry tale, from the company's obscure beginning through its maturing into a stalwart operator, then striking the Wolfberry motherlode before segueing into horizontal expertise. The requisite components are all there-wild wells, big wealth and colorful characters-but also an element of much greater moment: uncommon goodwill.

Gregory Berkhouse has worked in the petroleum industry as both a geologist and an engineer for 35 years, spending the last two decades with Henry. He relays firsthand accounts and personal acquaintances with insight, style and wit, and provides technical explanations-both

accurate and accessible-of the geology, hydraulic fracturing and horizontal drilling essential to Henry's Permian Basin epic.

For more information, [click here](#).

