

COMMITTEE REPORTS

REGULATORY PRACTICES COMMITTEE

Mark Henkhaus, Permian Regulatory Solutions, and
Jimmy Carlile, Fasken Oil and Ranch

TEXAS

Texas Railroad Commission:

- **New SWR 66, Winterization:**
 - Winterization attestations were due in November. If you were on the electrical supply chain map, you were required to file an attestation that winterization was complete.
- **Revising SWR 65, Critical Infrastructure**
 - The RRC has amended SWR 65 relating to Critical Designation of Natural Gas Infrastructure. The amendments simplify the rule language and the process for designating certain natural gas facilities and entities critical during energy emergencies.
 - PBPA has been involved in these discussions and strongly supported changing the thresholds for critical designation from 15 mdcf gas/50 mcf oil lease to 250 mcf gas/500 mcf oil lease minimum.
- **SWR 8 Water Protection Revisions**
 - There is a concerted effort by the commission to revise SWR 8. This started this spring but has developed into more of an official effort over the last month. These revisions relate to current practices and updates in technology. Many of the former rule definitions are proposed to change, and there is potential for a negative impact on operations in the Permian Basin.
 - As initially proposed, the Commission would do away with SWR 8 and incorporate the rule into a new Chapter 4, Subchapter A, with the Rule 8 provisions spread among 10 new divisions under Subchapter A.
 - PBPA's RPC, and the other trade orgs, are in dialogue with Commission staff during the drafting phase of the amendment process. We will keep members updated and will call on RPC participants to help comment and participate on behalf of PBPA. This rule change will be critical and will need to be followed closely.
- **SWR 32, Flaring**
 - There are still discussions on either revising this rule or making certain exceptions more available. Will update as the situation warrants.
- **Seismic Update:**
 - In November, a M5.4 earthquake, with several >M4.5 aftershocks, hit near the sulfur plant along the Reeves and Culberson County lines. This has caused the RRC to demand action from the disposal operators in the area, and the RRC has unilaterally redefined the seismic response area to enlarge it and encompass additional wells.
 - A meeting was held December 7 in Austin the RRC, industry, TexNet, and the state Seismologist regarding response to the event. Expect additional restrictions to disposal in earthquake prone areas.

Texas Commission on Environmental Quality

- **Air Quality Monitoring**
 - Air Quality Monitoring: PBPA continues to receive frequent notices from TCEQ about H₂S and SO₂ exceedances and different Midland and Ector monitoring stations. This information is sent to the RPC and ESH committee members.

NEW MEXICO

Oil Conservation Division

- OCD is working on an updated UIC rule (SWD's) addressing seismicity in New Mexico. OCD has now stated there is no specific timeline on when this will be coming out.

COMMITTEE REPORTS

REGULATORY PRACTICES COMMITTEE CONTINUED

- Updated “beneficial use” categories for filing the C-115B waste reports are now available.
- The NMOCD has announced that all facilities that have the potential to discharge liquids will be required to file for Discharge Permits. This is a new interpretation of an existing rule on the books. Currently, OCD is working with refineries and gas processing plants, but will notify oil and gas operators in the next 6 months or so of which facilities will be targeted next to gain compliance.
- Updated Form C-137 Release: OCD has updated Form C-137 which is required for a new surface waste management facility (SWMF), to modify an existing SWMF, or for a permit renewal under 19.15.36.8(C) NMAC. The applicant has the option to utilize the new amended application form or the older version of the form until January 28, 2023 (i.e., 60-days from the new form upload date). After January 28, 2023, all applications using the old application form will be rejected and submitted application fees will be forfeited.
- Updated Compulsory Pooling Checklist and Hearings Processes Going Forward: OCD has updated the Compulsory Pooling Checklist (“Checklist”). This Checklist will be used for all Compulsory Pooling cases beginning on January 5, 2023. Additionally, effective the January 5, 2023 hearing, any information requested by the examiners must be submitted to OCD within two weeks. If the OCD has not received the information by the end of that two week time period then the OCD will dismiss the application for being incomplete.

Environment Department

- Ozone Precursor Rule: The rule became effective August 5th. See rule here. The new rules set requirements for oil and gas operators to calculate emission rates and reduce the emission requirements by a percentage each year. There are 16 different categories with various timetables to gain compliance. First compliance date is January 1, 2023.

State Land Office:

- The cultural property rule (archaeology) became effective on December 1, 2022.
- Environmental compliance will be a major emphasis going forward to be certain all remediation/reclamation efforts are done to SLO minimum standards.

FEDERAL

BLM:

- Carlsbad Resource Management Plan is scheduled for release in July 2024.
- On November 28th BLM announced its Waste Prevention Rule dealing with venting and flaring on federal and Indian lands. Once in the Federal Register stakeholders will have 90 days to submit comments on the proposed rule.

Environmental Protection Agency

- Update on the EPA discretionary non-attainment declaration for the Permian Basin. One point of concern that has been raised is EPA may be looking at a moderate declaration instead of the marginal standard. This would go against precedent in EPA’s protocols by not allowing a state to attempt to gain compliance before enforcing more stringent standards.
- EPA issued the final draft of the methane emissions rules on November 11, 2022. These regulations update portions of OOOOa and add new sections OOOOb and OOOOc. All stakeholders have 90 days to submit comments on the proposed rules.

COMMITTEE REPORTS

REGULATORY PRACTICES COMMITTEE CONTINUED

Methane Emissions: On November 2, 2021, the Environmental Protection Agency (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 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;
- a zero-emissions standard for new and existing pneumatic controllers (with a limited alternative standard for sites in Alaska);
- 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 also is 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.