

# COMMITTEE REPORTS

## REGULATORY PRACTICES COMMITTEE

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The Permian Basin Petroleum Association's Regulatory Practices Committee meets on the third Tuesday of each month. Meetings have continued, virtually, using Zoom during the Covid-19 precautions. While in-person meetings are always better, compliments should be given to the RPC membership for maintaining continuity and open discussion even when not possible in person.

### TEXAS

- As most are no doubt aware, the Commission voted to not pursue proration at its May 5 open conference. Membership positions were both for and against reinstating proration, and PBPA and the RPC maintained no position on the matter.
- The Commission cancelled the April 1 and 2 seminars due to the coronavirus threat. An on-line replacement seminar was held Wednesday, May 13.
- At conference May 5, the Commission voted to approve a series of relief measures for operators in Texas. These are in addition to the several relief items approved in March and April. Included are:
  - Rule 8—an operator may submit a notification of an extension to the deadline to dewater, backfill, and close certain authorized pits, expiring May 5, 2021.
  - Rule 13—Rule 13 casing exceptions are not valid for one year
  - Rule 14—If a well produced in February 2020, and then shut-in, it is eligible for a two-year plugging deferral. Notification is required; see the order
  - Rule 107—certain penalties can be lessened
  - Rule 78—certain fees have been waived
  - Rule 95—applications for underground storage of liquid hydrocarbons will avoid the hearing process if otherwise no protests have been made after due notice
- In early April, the RRC issued “Extension of Certain Expirations and Filing Requirements Administered by the Administrative Compliance and Technical Permitting Sections” to provide guidance on ongoing compliance deadlines and extensions.
- Flaring: PBPA has formed an informal “flaring group” to review ideas and make suggestions to the RRC regarding flaring. This is separate from and in addition to the Texas Methane and Flaring Coalition.
- Texas Methane & Flaring Coalition Update: The multi-organization MFC group is meeting regularly and will propose several changes affecting PBPA members. It appears that the group will not recommend the Gas Capture Plan approach after receiving feedback from PBPA and others but will likely suggest drilling permit “conditions of approval” addressing flaring. Please visit this site for the public face of this group: <https://texasmethaneflaringcoalition.org/>
- Seismic Shared Practices for Delaware Basin: This multi-trade group issued a draft of the Northern Delaware Basin Recommended Practices concerning seismic potential related to oil and gas activities. The same has been shared with the PBPA Water and HSE Committees for their reviews. PBPA and the other trades have been working to develop a joint best-practices document regarding seismic monitoring and response. There has been some discussion about supporting or recommending changes to the draft based on some feedback from several members.
- TCEQ issued a memorandum of guidance for bulk hydrocarbon storage. This is timely given the interest in storage of crude oil in temporary facilities on lease or at centralized locations. Those considering storage of crude oil should understand the significant air issues this may cause.

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- Cementing: We have learned that the RRC has solicited input into certain cementing practices and potential changes in RRC cementing policy, if not rulemaking. These are potentially major changes and will adversely affect the operator drilling in the Permian and Delaware especially. As we understand it, the input regards these items:
  - Extenders are not to be used in the tail system of the surface pipe unless approved by the Oil and Gas Director. There are many additives on the market, and it is difficult for the RRC District personnel to determine that additives that act as extenders are being used unless the additive is noted by the operator. Some additives and extenders enhance cement quality, but many do not.
  - If circulation is lost during the cementing of strings required to cover productive zones, potential flow zones, or zones with corrosive formation fluids the RRC District must be notified and a temperature survey or cement evaluation log may be required to determine top of cement.
  - The definition of “zone of critical cement” includes both surface casing and production/intermediate casing, but requirements for cement in zone of critical cement are only in section dealing with surface casing in land and bay wells. Should be applicable for all wells and both types of strings. Propose moving the requirement for cement in zone of critical cement to (a) which applies to all wells and make it applicable to both surface and intermediate/production casing.
  - Before, the RRC was requiring neat cement within the tail slurry and requiring neat cement across all water zones identified by the GAU. Attempting to place neat cement across the GAU recommendations is problematic when exceptions to set deep surface casing are approved.
- The RPC has put a sub-group together to formulate PBPA’s response to these proposals. The PBPA effort is being lead by David Wantuck of Diamondback. This group will participate with a multi-trade workgroup formed to advise the RRC of what should, or should not, be changed in current Rule 13 or commission guidance documents.

### NEW MEXICO

#### NMOCD

- OCD Draft SWD Permit Template: “OCD proposes to adopt a new UIC Class II permit template for the approval of injection authority in disposal wells. The template applies only to new approval of produced water disposal wells, and will not be used for other Class II wells...” The intent of the template is to consolidate federal and state UIC requirements and clarifies the responsibilities of the permittee and the role of the agency. The new permit will be accompanied by an order that includes findings of fact to support the issuance of the permit and an SWD Number to facilitate electronic tracking. The template will be used to approved SWDs in both the administrative and hearing processes. PBPA responded to OCD’s request for comments on June 24th.
- OCD Material Changes or Deficiencies in Applications: OCD issued a notice on June 11 that they will deny applications for which the applicant proposes a material change during the review process or when a material deficiency is identified during the review process. OCD provided a non-exclusive list of examples.
- OCD Enforcement Rules: First major fine under the OCD’s new Enforcement Rules was reported in the Midland Reporter Telegram on 6/11. Two businesses are facing civil penalties for the illegal dumping of produced water resulting from oil and gas operations in Southeast New Mexico. The operator where the water came from was fined \$7,600 and the water hauler was fined \$8,700. The fines were for transporting produced water without a license, dumping produced water on public land and failing to report the release to the state.

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### New Mexico Environmental Department

- **Produced Water Consortium:** The PWC received input in October and November 2019 and is finishing up Phase 1 and getting ready to draft regulations governing produced water usage. The intent of the Produced Water Act is to minimize the use of fresh water in industry by recycling produced water, and also to develop ways to treat produced water for both use in other industries and to discharge it onto the ground or into waterways, thus minimizing the need for salt water disposal. As part of OCD efforts to assist industry, OCD has stated that they will require operators to list type of water (recycled produced/potable 1000 ppm TDS or less/non-potable greater than 1000 ppm TDS) on Frac Focus so they can have a record of how much of each type is being used. The new Produced Water rules is set for hearing on July 30 and 31.

### State Land Office

- **Emergency Shut In Order:** SLO issued FAQ's on the emergency temporary rule. Also, the proposed amendment to the SLO rules making this shut in order effective for 1 year was approved at hearing on June 12.
- **Bonding:** SLO had put forth a Memorial during the 30 day legislative session authorizing a study of bonding of oil and gas wells. This Memorial was not voted on in the Legislature. Commissioner Garcia Richards believes bonding is inadequate to plug and reclaim all the wells on SLO land and believes "taxpayers and our state trust land beneficiaries are on the hook for potentially millions of dollars". Expect a select task force of industry, OCD and SLO members to be formed soon to review this issue. SLO could raise bond requirements through a rule making process.

### Bureau of Land Management

- **BLM Suspension of Operations and Royalty Rate Reduction Guides:** BLM issued these final guides allowing for operators to shut in leases without losing them, and asking for royalty rate reductions, both due to the on-going COVID 19 impact on operations. BLM is asking for requests to shut-in wells to be on a well by well basis, not for a lease. Sheila Mallory, Assistant Director, BLM, Santa Fe, reports no royalty rate reductions have been received, and asks that operators call her directly before submitting such. BLM wants to avoid these if at all possible and is willing to work with operators.
- **ROW Bond:** BLM bonding for ROW continues to be stalled. Carlsbad BLM wants to use a simple statewide bond for all ROWs, but no word yet if that will be done or bonds for individual ROWs will be required.
- **Carlsbad RMP:** Carlsbad Resource Management Plan is still under review in Washington DC. No date on when it will be released.