

COMMITTEE REPORTS

REGULATORY COMMITTEE

Mark Henkhaus, Apache Corp., and Jimmy Carlile, Fasken Oil and Ranch

IN GENERAL

This quarter, the RPC is pleased to announce that former RPC Chairman Jimmy Carlile will rejoin RPC in a leadership role. Jimmy will join Mark Henkhaus and co-chair the RPC, with Jimmy's concentration in New Mexico and Federal issues, and Mark's concentration in Texas issues. Jimmy was formerly the RPC chair before Mark took chairmanship. Jimmy and Mark have worked together in various roles over the last 25+ years. The RPC and PBPA will be much stronger with Jimmy's new co-chair role.

Due to the complexities and specialization needed to properly manage an air program, PBPA's RPC and EHS committees have provided information to the air professionals in our groups of PBPA's new Air Quality Work group. This subspecialty will focus on air issues in Texas and New Mexico, and especially the Federal regulatory impact of air regs. This group is headed by Jason Zapalac of Anadarko and meets on an as-needed basis.

TEXAS

- Rule 40 was docketed for September 11, 2019 on the Commission's agenda for publication. However, due to language concerns and the double assignment issue discussed next topic, the item was bumped from consideration and should appear on the agenda for the next open meeting.
- Rule 40 "Double assignment of acreage:" NOV's and severances: It seems the RRC staff responsible for approving completions is withholding approval on certain completions in cases where multiple leases or operators may occupy the same base lease, even if they are not claiming the same proration acreage. Several are receiving violation letters and pre-severances, forcing at least one operator to request a hearing to determine Rule 40 compliance. This represents a change in staff's interpretation of Rule 40, and is flatly incorrect. This is still being worked out.
- The Commission recently launched its new Online Inspection Lookup (or "OIL") database of inspections and violations. The OIL database is publicly accessible and contains a large volume of inspections and violation data. There are inaccuracies and out of date information on this database, and conversations have been started with Commission management to reduce the errors or make the information current. Information was provided to members about how to ensure their companies' data was current and correct.
- Published for comment is revisions in Chapter 8 (General Applicability and Standards, Pipeline Safety Regulation) and Statewide Rule 70 (Pipeline Permits Required). The Commission is seeking input on proposed changes related to Class 1 and rural gathering lines, implementation of HB 864 and HB 866 requirements, reductions to late fees for certain pipeline operators, other amendments to the pipeline permits rule, and other various clean-up amendments to Chapter 8.. The RPC is watching this closely.
- The Commission is now able to accept H-9 forms filed on line via the RRC system. Also available on line are submissions of P-4 changes for multiple leases for gatherer or purchaser changes. This is an entirely new capability, where previously hard copies were only allowed.

NEW MEXICO

- SB 553-OCD Fees: The Division is now requiring fees for certain applications, OCD issued an announcement with FAQs on paying the fee and how to establish an account. So far the system seems to be working properly.
- NMOCD is grossly short staffed with a 45% vacancy rate statewide. It appears some job functions may be temporarily moved to Santa Fe for approval. They simply cannot find anyone to work for them.
- OCD Reorganization: The NMOCD formally announced that it is going to re-organize and add an office in Albuquerque. Santa Fe will become a centralized hub where all paperwork will be submitted. Engineering (and geology) will become a new Bureau, as will Environmental (including UIC and spills), and Hearings. Engineering will only do technical work, no more hearings. Hearings will hire

COMMITTEE REPORTS

REGULATORY COMMITTEE CONTINUED

administrative law judges to do full time hearings work. The move of UIC into Environmental is a little worrisome, but the process simply does not work at the moment with too many applications and only 1 full time employee working them. Technical staff in Hobbs, Artesia and Aztec will not be forced to move to Santa Fe, but the positions will be moved upon retirement of current staff. Each District Office will become Field Offices that do only field work. As it is easier to hire staff for Santa Fe, and the talent pool is larger in Albuquerque, the hope is to be able to staff the OCD easier and become more efficient in handling paper. This will also allow the Field Offices to get out of the office and do field inspections. This will require an increase of around 6 employees (plus filling the 45% vacancy) to the OCD. The plan is to start the process one Bureau at a time and one District Office at a time and will take an undetermined time to complete. This decision has been vetted and approved all the way through the Governor's office. This will be monitored closely by RPC.

- **OCD New Injection Rules:** OCD Director Sandoval announced that there will be new injection rules coming out soon, simply stating the "existing rules do not function". She did not clarify what will change but alluded to more of an efficient paper process that OCD can handle.
- **OCD Illegal Dumping:** OCD and SLO are concerned about the increase in illegal dumping that is taking place in Southeast New Mexico. They are seeking input from industry on how to get the issue under control.
- **SLO Arch Surveys:** It has been confirmed that the State Land Office is going to begin requiring full archaeological reports on all surface disturbance activities on their lands. These reports must be approved by the SLO prior to any work beginning. SLO has assured us that the approval process will not cause a delay. This is expected to begin in the Fall of this year.
- **SLO SWD Protests:** It has also been confirmed that the State Land Office is charging a fee for storage of salt water in the pore space under their lands. A policy has been set to protest all SWD applications and renewals within ½ mile of their lands. They will withdraw their protest if the applicant will pay them a fee for storage of salt water in the pore space under their lands. Fee per barrel is 2 cents to 5 cents injected in the well depending on how close the well is to SLO lands. The cause of this policy is that commercial operators are placing SWDs within 100' of SLO lands to avoid paying SLO's fee for disposal. And the OCD is not allowing any new SWDs within 1 ½ miles of an existing SWD to avoid seismic activity. Both SLO and OCD believe they have legal authority to do so based off case law dealing with gas storage. Last month an operator refused to pay the SLO fees. The SLO claimed there was potential future trespass on SLO lands, but provided no evidence to support their claim. The OCD granted the SWD permit to the operator.
- **OCD/NMED Methane Emissions:** New Mexico Governor Grisham has charged the NMED and EMNRD (OCD) to develop methane emissions regulations. OCD will review and propose regulations to curb methane emissions as a waste. Three public meetings were held recently seeking input on the proposal. Both the ED and OCD used assuring language stating "no undue burden" on industry, but their proposals will certainly be a burden. ED is concerned over non-permitted emissions (upset conditions) and admitted they will be looking at not just methane, but all constituents of gas vented or flared. This will include NOX, SOX, formaldehyde, BTEX, ozone, etc. Based on comments from NMED, it appears that emissions will be addressed by component, not facility wide; with specific focus on pneumatics and other venting sources. The OCD will be focusing on the length of time a well can be flared after completion (currently 60 days) and whether or not a well being permitted to drill has a gas line in close proximity. Also, expect exceptions allowing wells to flare to change. A stakeholder's group will be formed to review every aspect of venting/flaring from permitting to exceptions to a review of each individual piece of equipment on location. Expect the regulations to take 18 months to be developed and approved.

COMMITTEE REPORTS

REGULATORY COMMITTEE CONTINUED

FEDERAL GOVERNMENT

- Federal APDs: BLM APDs are moving very slowly due to a lawsuit won by Wild Earth Guardians. BLM is having to modify their standard Conditions of Approval to fit the court's findings. BLM expects APD approvals to pick up in August as this process is nearing completion.
- Spill Rule on Federal Lands: BLM Carlsbad is not in agreement with the NMOCD's new spill rule remediation standards and are actively pursuing publishing their own. BLM does not believe the new rule protects the environment appropriately. Jim Amos at BLM is heading up this project.
- RMP: The BLM Carlsbad Resource Management Plan should be published in the Federal Register in late August for final comments. BLM hopes to have the approved document published by April 2020. This document will govern the management of BLM surface and minerals for the next 20 years or so.
- EPA proposed changes include reduction in LDAR frequency and extension on repairing leaks. New EPA Region 6 Administrator Ken McQueen has confirmed that the goal is to have a technical update of OOOOa by the end of December. EPA received over 500,000 responses to their proposal and are working through those. LDAR frequency is expected to be biannual for all facilities, with no exclusion for low production.
- EPA announced the withdrawal of the Obama era (2015) "waters of the US" WOTUS rule and restores the pre-2015 rules. These rules are consistent with the Supreme Court's ruling in SWANCC Vs. Corp of Engineers. In their announcement EPA noted numerous legal deficiencies in the 2015 rule. This will be effective 60 days after publication in the Federal Register.