

COMMITTEE REPORTS

REGULATORY PRACTICES COMMITTEE

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

TEXAS

Texas Railroad Commission:

UIC Issues: PBPA continues to lead the Trades' cooperative effort to simplify the Commission's interpretation and processing rules for MIT tests, UIC applications, and associated filings. Some of this is helping get tests approved in more efficient fashion.

Rule 32 and Flaring Issues: Several operators have reached out regarding problems in obtaining flaring permits. The issues tend to data requirements and documentation. Sometimes data requests are very specific and not necessarily as the rule requires, and backup data is questioned. If you are having issues of this nature, please let us know. PBPA worked with several other trades in solving these problems for the membership.

SWR 65 Critical Infrastructure Rule, SWR 66 Winterization:

The commission has published for public comment SWR 66, winterization. PBPA plans on commenting on this very impactful rule, as are many individual companies. The Commission has requested Emergency Operations Plans ("EOP") from any operator listed on the Texas Critical Infrastructure Supply Chain map. This creates several issues: first, no one can see the map, so there is a lot of guessing about what infrastructure is in the 'chain' for a particular facility. Second, many smaller operators, including one-person organizations, have asked without getting an answer to what constitutes an emergency plan for the small, unsophisticated operator?

On July 5, the Commission held an online meeting and presentation about EOPs. Many questions were asked, but no answers were given, and the Commission staff refused to share the presentation. Regardless, EOPs are due August 1.

We also understand the commission may revisit SWR 65 and redefine what a critical facility is. Currently, it's any gas well making more than 15 mcf, and any oil lease making more than 50 mcf. As you can see, the definition of critical is overly broad, and RPC members support redefining these thresholds to 250 mcf.

CID has conducted audits of operators to verify their reporting on the CI-D forms from January. These are phone/on-line audits of 60 operators. The audits are conducted with the three regional directors and the division director. The CI is attempting to see if operators properly notified their electrical providers by requesting copies of emails, etc.

Statewide Rule 8: As an update, we have confirmed that certain RRC staff are in the process of drafting a revision to SWR 8, the pollution rule. Nothing has been released publicly, but PBPA is now involved in the process pending the Commission's release of their draft. Expect more on this later this summer.

Seismic Update:

- Earthquake rate increasing with 33 M3.5+ events in 2022 compared to 40 in all of 2021.
 - North Reeves-Culberson SRA area has had 10 M4.0+ events thus far in 2022
 - Gardendale SRA – no M3.0+ events since December 2022.
 - Stanton SRA and Knott area – seismicity continues to increase with more events recorded YTD in 2022 than all of 2020 & 2021 combined.
- S. New Mexico now with six seismic response areas
- Stanton SRA OLRP approved by TRRC May 2022
- Knott area operators meeting to discuss operational response action to increasing seismicity.
- New Mexico – operator led response, data acquisition and pressure testing on-going near County Line response area.

COMMITTEE REPORTS

REGULATORY PRACTICES COMMITTEE CONTINUED

Texas Commission on Environmental Quality

Air Quality Monitoring: Air Quality Monitoring: PBPA is still receiving 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

The NMOCD announced on June 28th that new rule amendments are being drafted concerning Underground Injection Control, specifically SWDs. We believe the major issues to be addressed deal with seismicity. At this point we do not have a proposed effective date.

NMOCD also announced stronger enforcement of shut in/inactive well and plugging and remediation policies.

State Land Office

The New Mexico State Land Office on June 28th announced that they will be enforcing their rules to the letter of the regulation starting immediately. Historically SLO was somewhat lax in their enforcement of the rules and allowed operators to not be fully in compliance. Examples of where they are looking to strengthen enforcement include historic and current environmental compliance, bonding, communitization agreements and unitization.

The SLO also announced the long-awaited cultural resources rule is expected to become final in September 2022. This rule is expected to mirror BLM's rule for cultural resources.

Environment Department

New Mexico Ozone Precursor Rules were approved by the Environmental Improvement Board on April 14th. Their press release brags "the new rule is more protective of public health and the environment than current federal requirements....." and allows for the use of satellites, air ships, drones and fence line monitoring to comply with leak detection provisions. The new rules set foundational requirements for all oil and gas operators to calculate emission rates and have those calculations certified by a qualified engineer, perform monthly checks for leaks and fix them within 15 days, and establishes emission reduction requirements for well workovers, liquid transfers, liquid unloading etc. The rule is scheduled to be in the New Mexico Register on July 6 with an effective date of August 6th.

Federal

Department of the Interior - Bureau of Land Management

President Biden signed an executive order on January 27th directing DOI to pause new oil and gas leasing on public lands and offshore waters pending a comprehensive review of the federal oil and gas program. Biden's review identifies significant reforms that should be made to ensure the program provides a fair return to taxpayers, discourages speculation, hold operators responsible for remediation and more fully includes and communicates to Tribal, state and local governments in decision-making. The report identifies fiscal terms, leasing processes, and remediation requirements as having necessary reforms that need to be made. Drilling permits are being processed at a "normal" rate on pre-September 2016 leases. Newer leases are hung up in WildEarth Guardian lawsuits and NEPA issues. BLM has drafted a supplemental environmental assessment (EA) that should be out in September 2022 that should help address this suit.

COMMITTEE REPORTS

REGULATORY PRACTICES COMMITTEE CONTINUED

BLM Santa Fe confirmed on June 28th that the leasing rule dealing with royalty rates, fees, terms, etc. will be issued in 2023. The latest lease sale listed federal leases at a 3/16th royalty rate.

The Carlsbad Resource Management Plan started prior to the Trump Administration is now expected to be issued in July of 2024. This document will provide surface use requirements for all BLM lands in the Carlsbad Resource Area.

WildEarth Guardians and Centers for Biological Diversity have filed another lawsuit against BLM citing over 3,500 APDs that were approved in New Mexico and Wyoming in 2021 and 2022. Their claim deals with NEPA issues as follows: 1. BLM failed to consult with FWS on GHG emissions and the effect on T&E species. 2. BLM violated FLPMA by failing to take action on undue degradation to public lands. 3. BLM failed to take a hard look at cumulative GHG emission and climate impacts. 4. BLM failed to take a look at environmental justice under NEPA..

BLM has confirmed the promulgation of both a Waste Prevention Rule dealing with venting and flaring issues and an Oil and Gas Measurement Rule that are scheduled to be issued in 2023.

Environmental Protection Agency

EPA Methane Emissions – EPA has issued new proposed methane emissions rules that will impact both new and existing oil and gas facilities. We expect the proposal to include leak detection and monitoring (LDAR) requirements for new and existing well sites and compressor stations, a zero emissions standard for new and existing pneumatic controllers, standards to eliminate venting of associated gas and require capture and sale of gas where a sales line is available, and a requirement that states meaningful engagement with overburdened and underserved communities in developing state wide plans. EPA had also asked for comments on how to structure a community monitoring program that would empower the public to detect and report large emissions events for appropriate follow up by operators. The final rule is expected in late 2022. TCEQ will have to implement the final rule in Texas.

The Environmental Protection Agency announced a review of the redesignation of portions of the Permian Basin for the 2015 Ozone National Ambient Air Quality Standards. In 2017, EPA designated certain counties in southeastern New Mexico and West Texas located in the area known as the Permian Basin attainment/ unclassifiable for the 2015 ozone NAAQS. EPA is now considering a discretionary redesignation for (portions of) these counties in New Mexico and Texas for the 2015 ozone NAAQS under Clean Air Act section 107(d)(3) based on current monitoring data and other air quality factors. If the area is redesignated to nonattainment, the state(s) will be required to submit a State Implementation Plan to bring the area into attainment with the 2015 ozone NAAQS. It is hopeful that both the NMED and TCEQ SIP reports show compliance with the rule or worst case allow for only a “marginal” non-attainment designation.