

COMMITTEE REPORTS

REGULATORY PRACTICES COMMITTEE

Mark Henkhaus, Apache Corporation

The Permian Basin Petroleum Association's Regulatory Practices Committee, RPC meets on the third Tuesday of each month. The meetings are open to RPC members only, and topics will range from local issues such as city or county regulations to federal actions which impact our business. The RPC coordinates with and receives updates from the PBPA HSE Committee and SHOC Committee and from PBPA staff. This coordination and the updates are to ensure that the vital information the other committees are working on are shared with the RPC while not duplicating the other committee efforts.

In this quarterly update, the most significant issues the RPC dealt with in 2018 will be reviewed for Texas, New Mexico, and the federal government. An outlook for 2019 is provided, as well.

TEXAS

Rulemaking:

PBPA staff and committee members participated in work groups, communicated with Agency decision makers and submitted written comments in several proposed regulations.

- The Railroad Commission revised several rules in the first quarter of 2019. Included are Statewide Rules 25, 26, and 27 (relating to commingling and oil and gas measurement); Rules 37 and 38 (relating to spacing exception notice); and conforming changes to the commingling permit application (Form P-17 and new form P-17A). The Commission also approved a spreadsheet version of its acreage allocation form, P-16.
- The changes to the commingling rules are significant in that now, in some cases, what was formerly considered commingling may not be under the new rules. This is especially important for allocation and PSA wells, which constitute the majority of Spraberry Trend wells being drilled now. Additionally in some cases, what was a "rule exception" now becomes essentially a registration to allow production to be reported accurately. PBPA supported these changes and these new rules will make a significant impact in how facilities are managed and production reporting is done.
- The Rule 37 and 38 changes were supported by PBPA also. While minor, these changes reduce the publication requirements for spacing and acreage exceptions from four consecutive weeks to two consecutive weeks.
- The RPC, again working with the other trades, continues to work the Statewide Rule 40 problem. Commission staff have been instructed to delay further actions until the legislative session is over, at which time we will remind RRC staff of the necessity of amending Rule 40.

Significant Issues:

- The Commission also 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 inspection and violation data. PBPA strongly urged its members to look up their

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own information and if necessary, reach out to the appropriate district to follow up on open violations.

- The RPC, working in partnership with TXOGA's RPC, has been addressing members' concerns about the RRC's injection and disposal well permitting process. There have been discussions about the permit application and approval process, seismic issues, multiple data requests, delays in permit approvals, and confusion about commercial permitting. While these issues are not solved completely, an open dialogue with the Commission staff has been ongoing and staff seems receptive to issues regarding UIC permitting.
- With the Legislature in session, the RPC has been kept current with proposed bills and current status of proposed legislation by PBPA staff. In order to facilitate the communication between PBPA committees, the RPC and Texas Legislative Committee held a joint meeting in February.

NEW MEXICO

Rulemaking:

- The Oil Conservation Division revised its rules regarding financial assurance, Rules 19.15.2, 19.15.8, and 19.15.25. The bonding amounts for most operators increased somewhat, from a former cap of \$50,000 to a new maximum of \$250,000. This puts New Mexico in line with Texas and PBPA did not strongly oppose this rule change.
- A part of HB546 authorizes the Division to levy administrative penalties for certain environmental violations.

Significant Issues:

- The OCD is working on a draft guideline for permitting and operating deep Delaware Basin disposal wells. While still in draft form, the distribution of this draft informs RPC members where the Division is headed with disposal permits. Among the Division's concerns are seismic activity, an increased notice and area of review, increased pressure monitoring, SWD spacing, and certain tubular considerations.
- The Division is soliciting "FAQs" for the horizontal rules enacted last year. RPC member Yolanda Perez with Oxy is coordinating the collection of issues created by the new rules for the Division to use in creating a policy document in lieu of additional rulemaking.
- In conjunction with the new administration, the NM State Land Office released an updated fee schedule.

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- Jalapeno Corp, a small operator based in Albuquerque, filed a brief challenging the horizontal rules implemented last year. This triggers a 45-day deadline, in which the Commission must file an Answer Brief. The Commission's attorney does not appear to be "vigorous" in his defense of the new rule in response to Jalapeno's brief, therefore the operator group under NMOGA's banner is drafting an answer brief in addition to the Commission's brief. You will recall the PBPA played a significant role in the rule changes. Those involved in the original rulemaking are funding the brief. It is important to note that Jalapeno's argument is based mostly on the risk penalty on multiple horizontal wells on a pooled unit, which they constitute in effect taking without compensation. Be aware of this as the Court of Appeals, if it sides with Jalapeno, could nullify the horizontal rule changes recently implemented.
- The RPC has been keeping members informed of significant legislation in New Mexico. Now that the session is completed, industry was successful in killing a state NEPA statute, opposed increasing oil and gas royalties, and buried a proposal to "study" hydraulic fracturing for a four year period. Significantly, HB546 passed, which addresses water use and ownership for oil and gas operators, among other things.

FEDERAL GOVERNMENT

- PBPA commented on the EPA's Quad Oa emission standard proposals.
- At each RPC meeting, Stephen Robertson updates the RPC on PBPA's ESA efforts and changes in the status of ESAs in our area. These updates include the lesser prairie chicken, dune sagebrush lizard, and the Texas hornshell mussel.