

COMMITTEE REPORTS

REGULATORY PRACTICES COMMITTEE

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

The Permian Basin Petroleum Association's Regulatory Practices Committee meets on the third Tuesday of each month. Meetings have been held monthly this quarter. Of note, with legislatures in session in both Texas and New Mexico, the new regulatory topics have largely been limited to the flaring issues and the February "snowid" winter storm.

TEXAS

Texas Railroad Commission:

- **New Commissioner:** Jim Wright became the state's newest oil and gas regulator after he was sworn-in during a ceremony at the Railroad Commission of Texas on Monday morning, January 4, 2021. Commissioner Wright announced staff appointments in his office as follows: Kate Zaykowski will serve as director of public affairs for the commissioner, Megan Moore has been named Commissioner Wright's executive assistant and Christopher Hotchkiss will serve as general counsel. You may remember Hotchkiss formerly served the commission as a staff attorney in the Enforcement Section, and was an administrative law judge in the Railroad Commission's Hearings Division
- **New Website:** The RRC launched a new website at the end of January. This refreshed site is organized by subject, not by department.
- **Flaring: PR Revisions Proposed:** PBPA, through the Texas Methane Flaring Coalition, commented favorably on the RRC's request for comments regarding amending the Form PR to accept more detailed remarks relating to flaring, venting, and status of Rule 32 exceptions on such leases. Comments attached.
- **Flaring:** Commissioner Wright remanded several flaring cases back to Legal for review, questioning the economics of flaring in comments he made at the open conference on February 9. It is apparent the Commissioners are looking at flaring applications and PFDs much more critically. Be prepared to fully justify at hearing any long-term exceptions, including economics of infrastructure vs. flaring. As part of the Rule 32 permit revisions, the Commission adopted changes in the PR form for reporting flaring and venting volumes and permit status. Starting September 1, flared or vented gas will have to be reported using new codes 10 (flared) and 11 (vented) and remarks as to permit status included. Four status codes are allowed: AR – Authorized by Rule; AE – Authorized by Exception; EP – Exception Pending; EX – Exempt. The status codes will become mandatory January 1, 2022 to allow production accounting systems to be programmed for these changes.
- **Disposal/Injection MIT Reports, Form H-5:** Effective May 1, 2021, the Railroad Commission will no longer accept hard copy filings of the Form H-5, Disposal/Injection Well Pressure Test Report. The report can be filed using the RRC Online System. Note that a high-resolution color scan of the chart-including back side- is required when filing online.

Texas Commission on Environmental Quality

- **NPDES:** EPA has delegated NPDES permitting authority for oil and gas produced water discharges to Waters of the US to TCEQ effective January 15. A memorandum of understanding between RRC and TCEQ on this subject has been agreed to. Note that this now included hydrostatic test water that was previously permitted by the RRC under their "minor permit" process, and which now may or may not fall under the "general permit."

NEW MEXICO

Oil Conservation Division:

- **NMOCD UIC Permit Example:** NMOCD issued a sample permit packet in December; this example is attached for reference.

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REGULATORY PRACTICES COMMITTEE CONTINUED

- **NMOCD Waste Rule:** NMOCD issued their preliminary waste rules on July 20th. The OCC hosted a hearing on the matter from January 4th – 15th. PBPA, other trades and individual companies provided both verbal and written comments for the hearing. The final rule was issued on March 25th.

New Mexico Oil Conservation Commission

- **Spill Rule Amendment:** On the agenda at the NMOCC agreed to hear a request by the Wild Earth Guardians for a rulemaking to amend 19.15.29.20 NMAC Spill Rule “to regulate the disposition, handling, transport, storage, recycling, treatment and disposal of produced water...in a manner that protects public health, the environment, and fresh water resources.” The rules currently do not prohibit spills or releases of produced water. OCD stated “the proposed rule would fill that glaring regulatory hole by specifically prohibiting the spilling or releasing of produced water”. This hearing has been set for April 15, 2021.

New Mexico Environment Department

- **NMED Methane Rule:** NMED issued their preliminary methane emissions rule on July 20th. PBPA, other trades and individual companies filed comments prior to their September 16th comment deadline. NMED is expected to issue their final draft rule by summer 2021.

State Land Office

- **Pore space issue:** It has also been confirmed that the SLO is charging a fee for storage of salt water in the pore space under their lands from offsetting SWDs. This issue has mostly resolved itself as operators have either moved wells more than ½ mile from SLO surface or have agreed to pay the fees. There is still one case unresolved with an operator that may go before the OCC for final resolution.
- **Archaeology:** SLO will begin looking at this issue again sometime in 2021. We continue to request the stipulations for arch surveys be identical to BLM’s stipulations to maintain consistency.
- **Bonding:** 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”. SLO has established an advisory committee to discuss bonding on SLO lands. “The goal is to understand where there are gaps in energy bonding, where we should be sensitive to potential duplication, how bonding can best be accomplished, etc.” First meeting was held on for September 29th with discussions around the purpose of bonds and the financial instruments that industry uses to gain compliance. Second meeting was held Friday October 30th. Discussion was around industry’s need for the context of what the SLO actually wants to be bonded. SLO was wanting P&A bond along with surface reclamation. Industry and OCD both agreed that the OCD has that legal authority. SLO has asked industry to come up with reclamation costs on various scenarios to help them understand the actual cost of reclamation. Commissioner Garcia Richard determined not to continue with this issue at this time and did not make a request of the Legislature for changes to bonding for the SLO.

Bureau of Land Management

- **ROW Bond:** BLM bonding for ROW continues to grind along. 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. Industry reps met with BLM staff from both NM and DC. DC staff has yet to respond to industry’s questions and concerns.
- **Carlsbad RMP:** Carlsbad Resource Management Plan is still under review in Washington DC. No date on when it will be issued in the Federal Register.