

Environmental Newsletter

Quarter 2

TECHNICAL EXPERTISE

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LEADERS**

White House Happenings -

Migratory Bird Rule – During the Trump administration, an effective date was set for the final rule, “Regulations Governing Take of Migratory Birds.” This rule provided a compliance structure regarding “incidental take.” Let the term be defined as the unintentional unlawful, by any means, take capture, hunt or kill of any migratory bird. As the definition indicates, this rule is in direct support of the overarching Migratory Bird Treaty Act (MBTA). The Oil and Gas Industry advocated for the implantation of this final rule because migratory bird patterns and nesting can severely impact operations. The final rule intention was to provide clarity on the different interpretations of incidental take and how compliance may be enforced. Historically these regulations have allowed for selective persecution of our industry by activist groups when other means have failed.

The Biden administration decided to delay the effective date of the rule. Citing the rule was in opposition to the Jan 20, White House memorandum on how Federal agencies consider postponement of rules already published in the Federal Registrar due to reviewing questions of fact, law, and policy they may raise. The Administrative Procedure Act (APA) requires any postponement of effective dates of rules must have a public notice and comment period, which the Biden administration did not provide or address. It could be interpreted that the Biden Administration justification for postponement is that the final rule is not consistent with the purpose of the MBTA, however an official rebuttal has not been published. If that is the stance the Biden Administration takes, case law will have to be provided proving the MBTA’s historical purpose was to include birds not in migration. Ultimately resulting in a lengthy and arduous battle of case law interpretation leaving the industry open to potential incidental take violations and costly fines.

Order 3395 – The Department of Interior (DOI) stated they will not be renewing the 60 day order requiring administrative (appointed) political officials to approve the processing of Oil and Gas Operation permits on Federal lands. The Bureau of Land Management (BLM) has resumed the duty. This news will be closely monitored and anyone having any information related to it is encouraged to share with the group.

GCA Environmental Committee - What is Happening

Great news! The GCA Expo and Conference is happening from August 17-20, 2021 at Moody Gardens. Please make sure to registration at the link below and keep in mind that as an attendee you receive a reduced room rate at the hotel. Given that we have not been able to have a meeting, it would be really great to see as many smiling faces as possible.

Important Conference Topics

If it’s not too much trouble can everyone send me an email that plans to attend the committee meeting? If we can generate enough attendance, this year it may be possible to do an Environmental Committee activity, such as a breakfast. Any suggestions on this are highly encouraged.

Due to COVID restrictions our planned Texas Commission on Environmental Quality Compliance Officer will be unable to attend. Does anyone have any viable speakers or suggested topics? Please keep in mind that these topics do not have to be centralized to Texas. All suggestions will considered so please speak up!

As the conference gets closer I will be sending out an official Agenda.

<https://form.jotform.com/210614048888>

Colorado Climate Action Plan to Reduce Pollution –

The initial Stake holder/ Public Listening Sessions have concluded. Attached you will find several pieces of information for your review regarding this issue. While these initial listening sessions did not provide any direct action plan or finalized time frame, it's vital that we continue to monitor this situation closely. As everyone is aware, the zero bleed pneumatics rule will have a major impact on our industry. Please note that the Methane Reduction Task Force stated during the last listening session that the CDPHE specifically requested the Task Force create an action plan to eliminate all pneumatics that are not zero bleed. Any opportunity that the GCA has to provide comments that include financial impacts, etc. need to be ceased or at the very least evaluated.

The zero bleed pneumatics is just one issue being evaluated, it's very possible this Task Force will create many infeasible and financially grueling mandates on our industry and we need to make every effort to thwart this attack. Included below is the Draft Climate Equity Framework. I realize this is a bit lengthy but please take a moment to read this as it is going to set the ground work for how our industry is impacted by new rules in the near future.

[Draft Climate Equity Framework](#)

UPCOMING REGULATORY MEETINGS –

The Environmental Improvement Board ("EIB") will hold a virtual public hearing on June 25, 2021 beginning at 9:00 a.m. The hearing is being held via video conferencing and telephonic means with instructions to join provided below. Comments will also be received via email (to pamela.jones@state.nm.us) through the conclusion of the hearing. The purpose of the hearing is to consider the matter of [EIB 21-07 \(R\)](#), proposed revisions to the New Mexico State Implementation Plan ("SIP") regarding proposed amendments to the Air Quality Control Regulation codified in the New Mexico Administrative Code ("NMAC") at 20.2.79 NMAC, *Permits - Nonattainment Areas*.

Join via Zoom

<https://zoom.us/j/97135613307?pwd=eWs5OS9KRG5XRmg4QmVFNS9RWThWdz09>

Meeting ID: 971 3561 3307

Passcode: 130269

New Mexico Methane Strategy – Draft Ozone Precursor Rule for Oil and Gas Sector

If anyone wishes to read the public comments currently being reviewed for the above mentioned rule please click the link below.

<https://www.env.nm.gov/air-quality/ozone-draft-rule-stakeholder-comments/>

Should anyone have any other regulatory updates pertaining to other states please send that information along so that the GCA can be proactively involved. As always if there are any questions or the need for specific documents please feel free to contact me at any of the numbers or email listed below.

Thanks again for everyone's continued support,

Dalyce M. Watson, M.A. ENV LAW
Environmental Specialist
Office: (903) 291.2742
Cell: (903) 331.8264
dhoooper@jwenergy.com

122 Dovel Road
Longview, TX 75605

