The story of energy is quite simple. It is the story of freedom. Freedom from back-breaking toil. What does a human spirit free from toil create? Our World. The Modern World.”—Chris Wright, Liberty Frac CEO

ESG Reporting has been a boardroom topic turned new department project for several years. While our industry has been busy innovating to become cleaner, more efficient, more affordable, more safety-conscience, more diverse and more environmentally mindful, we have not historically been busy telling the public about these internal goals and achievements. Suddenly the boasting became necessary, so here we are.

The DEPA ESG Committee began discussions early in 2020 about how to be of assistance to our membership on the task of ESG writing. While always looking for resources, we stumbled across the Liberty Frac 2020 ESG report, a great example of an effective ESG.

The choice to showcase the global energy poverty situation was interesting and not something I’ve seen before to that extent. Providing this information could educate some investors on the problem and create awareness of the positive impact fossil fuels have on reducing global energy poverty.

With the advent of technology-based production, companies are competing against each other for the best and brightest employees. Today’s college graduates are concerned with sustainability and are looking for environmentally and socially conscious employers. Liberty does a great job of appealing to the younger generation.

There is a big emphasis on the environmental piece of ESG reports. Liberty’s efforts are commendable. From reducing truck traffic to using “dry” chemical additives and deploying Tier IV engines, the company really walks the walk. Their efforts to reduce noise levels at production sites and the use of alternative water sources show they understand the concerns of the local communities and take great measures to address them.

There is pressure now from investors for E&P companies to examine the ESG initiatives of their vendors. By Liberty compiling this report, they are helping their customers achieve supply chain transparency while making themselves an appealing investment option. Liberty’s emphasis on technology also helps the producers look good to investors.
We see three global energy challenges today: energy poverty; maintaining reliable, affordable, and clean energy; and climate change. There is no reason that we can’t master all these challenges. But doing so will require honest assessment, rational evaluation of tradeoffs, continued technology advancement, and the will to get it right.

Unfortunately, the first and most urgent issue, energy poverty, afflicts poor countries and lower income residents of the wealthier countries, hence it garners tragically little attention. This is wrong.

The second global energy challenge is maintaining reliable, affordable and clean energy. This issue is starting to garner more attention as power grids become more expensive and less reliable, amply illustrated by the recent serious blackouts in California, Texas, and the U.K.

The third global energy challenge, climate change, has become so politicized and emotionally charged that rational, fact-based decision-making is becoming scarce. Urgent desires to visibly take politically appealing action have often driven up energy prices, made power grids less reliable, and grown energy poverty without making meaningful progress on climate change. Climate change is a long-term challenge requiring broad-based actions with significant technology and system advancements required.

“This report explains why the longer, healthier, opportunity-rich lives in the modern world are simply not possible without oil and gas. Borrowing Thomas Hobbes’ words, life for most everyone in history was “nasty, brutish, and short” when liberty was scarce and energy was supplied only by human toil and draught animals.” - Liberty Frac ESG Report

“Addressing the ESG standards is vital to any company in the oil and gas industry. Whether you are looking for investors, recruiting top-notch young talent, or sharing information with lawmakers, these criteria will be judged on multiple levels. It’s imperative that companies outline how their businesses are environmentally and socially responsible, while they are constantly innovating to seek the best practices for improvement,”

Kristin VanVeen-Hincke
ESG Director Flogistic, LP and DEPA ESG Committee member.

Next Board Meeting
Teleconference | July 14 10:00 AM Central Time

DEPA believes in seeking common ground, through common sense solutions, to the challenges facing our industry. Our bipartisan approach provides a uniquely powerful voice for our members at the state and national level.

Our work is critical. Your support is vital.
Diana Chance started her career serving Rucker Pharmaceuticals as assistant to the Vice President during which time the company went public in a merger with Boots Pharmaceuticals. She then joined the oil and gas industry where she acquired a broad knowledge of land, legal and governmental issues over the next forty years, primarily, as the Managing Director of Donner Properties, LLC in Shreveport, LA. She has spent thirty-eight years overseeing 500,000 acres for the company in Louisiana, Texas, Oklahoma and New Mexico. She periodically serves as an outside consultant and works actively in the industry with oil and gas companies, landowners, organizations and politicians on energy related matters.

Chance serves on the board of the Louisiana Oil and Gas Association (LOGA). During her twenty-four years on the board, she was elected as the first and only female LOGA Chairman of the Board. Chance’s articles were frequently featured in the Oil & Gas Journal while serving as chairman, as well as articles in other magazines including American Association of Petroleum Geologists Explorer, May 2006. The 50th Anniversary issue of The American Oil & Gas Reporter featured her as one of a few emerging females in the industry. Chance was described as “the cheerleader” for the development and promotion of coal seam natural gas exploration in Louisiana. She was surprised to see this article prominently displayed at a booth at the North American Prospect Expo. Through LOGA and other organizations, Chance has served within the political process on a variety of bills and issues affecting the fossil fuel industry.

Chance currently serves on the executive board of directors for the National Association of Royalty Owners, the Domestic Energy Producers Alliance and the Council for a Secure America. She is a member of the Independent Petroleum Association of America, Texas Independent Producers and Royalty Owners Association, Texas Land & Minerals Owners Association, Shreveport Geological Society, the American Association of Professional Landmen, the Ark-La-Tex Association of Professional Landmen. Chance serves on the board for the State of Louisiana Oil City Oil and Gas Museum and participates in her local community and church affairs. She is the widow of Wilton Chance and the mother of two adult children and has one teenage granddaughter.
Before the middle of June, when nature’s furnace was not really even cranked up yet, the Electric Reliability Council of Texas (ERCOT) released a warning to its customers that conditions were expected to be “tight.” “A significant number of forced generator outages combined with potential record electric use for the month of June has resulted in tight grid conditions,” ERCOT said in a release. This translated into an unexpected 12,000 megawatts of generation offline—enough to supply 2.4 million homes on a hot day.

After last February’s winter brown and blackouts, Texas citizens were not ready for this warning. The public reaction surrounding the announcement could only be summed up by the famous meme below.

Matt Smith, director of commodity research at ClipperData, a commodities data, and analytics provider, told Reuters the grid was “supposed to have enough reserves to meet peak demand this summer,”

“We will be conducting a thorough analysis with generation owners to determine why so many units are out of service,” ERCOT VP of Grid Planning and Operations, Woody Rickerson.

“And sometimes like maybe right now those wind generators in West Texas probably aren’t producing a lot of electricity, wind accounts for about 20% of installed capacity in the state. We rely so heavily on renewables, while we have not been investing in gas plants or nuclear plants that are on 24/7.” Bernard Weinstein, former associate director SMU Maguire Energy Institute.
Flying Their True Colors In Texas

The fossil fuel protesting masses are seemingly all onboard with a full green initiative and the phasing out of oil and gas, until things get real. And in Texas terms that means—real hot— or even just uncomfortably warm. Twitter lit up this month with unhappy Texans who were mostly angry, generally funny, completely frustrated and ready to point fingers, undeservedly toward Republican Leadership.

Hi, I'm Heather @warmheatherette - Jun 15
It is not quite 11:30 my time and we are on our second power loss of the day. First one lasted two hours starting at 6:25 AM and the current one started a little before 11:00. Doing a great job, Texas leg. #Texasgrid

Don Julio @DonJuli088 - Jun 15
Ok Tx... I understand the winter blackouts... But now we can't handle the heat either?! I mean it's Texas... you'd think we'd be prepared for the heat at least! Stop moving here Californians!!! 😠
#Texasgrid

Texas Tribune @TexasTribune - Jun 14
Breaking: Texas' main power grid struggled to keep up with the demand for electricity Monday, prompting the operator to ask Texans to conserve power until Friday. bit.ly/3gumeww
Show this thread

Sgt Joker @SGJoker - Jun 15
Texas...it's like a whole other (3rd World) Country...without a reliable source of electricity. #Texasgrid #AbbottFailedTexas

Thom @CorvusCorax77 - 17h
Yikes, TX. It's only June. #ERCOTFailsTexasAgain

Jeff St. Andre @jsstandre - 20h
Would anyone be interested in signing my petition that would require @ERCOT_ISO or the Electric Reliability Council of Texas to remove the R from their title? #ERCOTFailsTexasAgain #AbbottFailedTexas @GregAbbott_TX

becs @pndsc06 - 17h
if Eccot can't warm us when it's cold or cool us down when it's hot- what the # is good for?

#ERCOTFailsTexasAgain #TexasDeservesBetter #ercot

Eric Hanke @erichanke - 4h
How is it that we can land a rover on Mars, but our Governor and #Ercot can't seem to get enough electricity to power the largest energy-producing state in America? #Texasgrid

Eric Hanke @erichanke - 1h
For Texans, somehow rocket science is easier than generating electricity. #ERCOTFailsTexasAgain #Texasgrid

BreeRee @bri_ree - Jun 15
I'm happy to eat cereal and wear old burlap sacks all week. But 78 degrees? Nah fam. #Texasgrid #ERCOT

TIPS ON REDUCING ENERGY USE
1. Set your thermostat at 78 degrees or higher
2. Turn off lights/pool pumps
3. Avoid using large appliances
Magellan Midstream Partners, L.P. (NYSE: MMP), Enterprise Products Partners L.P. (NYSE: EPD) and Intercontinental Exchange, Inc. (NYSE: ICE) today announced the establishment of a new futures contract for the physical delivery of crude oil in the Houston area. The Midland WTI American Gulf Coast contract (ICE: HOU) is being launched in response to market interest for a Houston-based index with greater scale, flow assurance and price transparency. It will utilize the capabilities and global reach of ICE’s industry-recognized, state-of-the-art trading platform and is due to be launched by ICE by early 2022, subject to regulatory approval.

The quality specifications of the new futures contract will be consistent with a West Texas Intermediate (“WTI”) crude oil originating from the Permian Basin with common delivery options at either the Magellan East Houston (“MEH”) terminal or the Enterprise Crude Houston (“ECHO”) terminal. In support of this new futures contract, Magellan and Enterprise anticipate discontinuing their existing provisions for delivery services under the current futures contracts deliverable at each terminal once the new contract receives regulatory approval and is finalized.

Magellan owns the longest refined petroleum products pipeline system in the country, with access to nearly 50% of the nation’s refining capacity, and can store more than 100 million barrels of petroleum products such as gasoline, diesel fuel and crude oil.

“Magellan is pleased to join forces with Enterprise and ICE to offer this leading-edge joint futures contract,” said Aaron Milford, Magellan’s chief operating officer. “The new contract improves the transparency, flexibility and marketability of Midland WTI crude oil for Gulf Coast and export customers while maintaining industry-recognized quality and consistency.”

Harold Hamm, Chairman of the Board of Continental Resources and Founding Member of the American Gulf Coast Select Best Practices Task Force Association said, “On April 20th last year, when the Cushing, Oklahoma WTI contract traded down to negative $38 it was a wake-up call to the oil industry that the storage constraints and landlocked location of the Cushing contract could no longer be ignored. I started the American Gulf Coast Select Best Practices Task Force to develop specifications for a new U.S. light sweet crude oil price benchmark in the American Gulf Coast, and to advocate for its implementation and adoption as the main pricing point for the U.S. oil markets. We think a futures contract in the most interconnected market center in the country, with a widely accepted quality spec, which settles with guaranteed delivery of crude oil is an important new alternative for the industry. The task force has worked tirelessly to create a marker with transparency and liquidity that is waterborne for this modern era. The Midland WTI American Gulf Coast futures contract established by the alliance between ICE, Magellan and Enterprise is a huge step forward.
for the industry and goes a long way to accomplishing the mission on which the task force has been working.

A.J. “Jim” Teague, co-chief executive officer of Enterprise’s general partner, and Michael Mears, Magellan’s chief executive officer, said, “We are grateful for Harold’s continued leadership on behalf of the industry and being a champion of this very important step for the industry.”

Enterprise Products Partners’ assets include approximately 50,000 miles of pipelines; 260 million barrels of storage capacity for NGLs, crude oil, refined products and petrochemicals; and 14 Bcf of natural gas storage capacity.

Brent Secrest, executive vice president and chief commercial officer of Enterprise’s general partner said, “We are excited about this new crude oil futures contract, which features the combined strength of two extensive and complementary networks of midstream assets with a world-class trading platform to provide customers with greater supply reliability, flexibility and price transparency. As the market hub for Permian Basin production, Houston represents the most logical choice for a new futures contract. Between Magellan and Enterprise, we offer access to virtually all of the export capacity in the Houston region, redundant connectivity to all area refineries, a robust Gulf Coast storage position and interconnects to all of the relevant supply pipelines, including those owned by third parties.”

Jeff Barbuto, Global Head of Oil Markets at ICE stated, “Combining efforts with Magellan and Enterprise to establish a benchmark for pricing Midland quality WTI on the Gulf Coast allows ICE to offer the industry a futures contract with over 4 million barrels per day of supply capacity from Midland into Houston, access to both domestic and foreign demand, and nearly 60 million barrels of storage capacity in the Magellan and Enterprise systems. Traded on the same global platform as ICE Brent, Murban and Platts Dubai Crude Oil futures contracts, the new Midland WTI American Gulf Coast contract can also offer significant capital efficiencies to the industry and provide industry-leading quality that buyers have grown accustomed to in the Houston market.”
HAROLD HAMM ON US OIL’S LATEST MILESTONE MOMENT

America reached energy independence in 2019 and, more recently, achieved another milestone that Harold Hamm says will better align where the U.S. oil and gas industry is headed in the future.

There is an old saying that goes, “The difficult is done at once, the impossible takes a little longer.”

I’ve often looked to that saying throughout my career. In fact, at Continental we have adopted a culture of “the possible.” Pioneering horizontal drilling in the late 70s and 80s was the necessary ingredient which created the American Energy Renaissance, which led to the need to lift the archaic ban on energy exports. In 2015 we did that. I am used to taking on the daunting tasks that adversaries, and oftentimes, even friends would call impossible.

Today the industry has accomplished another one of those milestone moments with the creation of a new futures contract for the physical delivery of crude oil in the U.S. Gulf Coast. You may recall just over a year ago, April 20th to be exact, the WTI contract based out of Cushing, Oklahoma traded down to negative $37.63. It was a wake-up call to the oil industry that the storage constraints and landlocked location of the Cushing contract could no longer be ignored or tolerated.

I realized in that moment we had reached an inflection point. The benchmark on which we had relied on for decades was no longer reflective of the migration of U.S. crude oil production to the global market. I knew we needed to shift toward a benchmark that could more accurately and reliably price crude oil in America. The Gulf is the energy hub of America today. Its rapidly growing infrastructure and a naturally occurring migration of resources supports not just the U.S., but the entire world.

American Gulf Coast Select Best Practices Task Force was initiated to develop best practices specifications for a new U.S. light, sweet crude oil price benchmark in the American Gulf Coast. It was also important to advocate for its implementation and adoption as a competitive pricing point for U.S. oil markets. We think a futures contract in the most interconnected market center in the country, with a widely accepted quality spec, which settles with guaranteed delivery of crude oil is an important new alternative for the industry. The task force has worked tirelessly to create a marker with transparency and liquidity that is waterborne for this modern era.

The Midland WTI American Gulf Coast futures contract established by the alliance between ICE, Magellan and Enterprise is a huge step forward for the industry and goes a long way to accomplishing the mission on which the task force has been working. I greatly appreciate the tireless efforts of the task force. This also would not have been possible without the dedicated members of the Domestic Energy Producers Alliance. Despite the unprecedented challenges we faced as an industry over the past year, we got the job done. As a result, our industry, our country and the world are better off for it.

This is a great day for American energy. It’s a historic day for American energy. The Gulf Coast offers near limitless storage options and represents both the domestic and international markets. Water access is imperative to making a viable market.

This new benchmark will better align where our industry is headed in the future. America reached energy independence in 2019—one of those milestones many said would never happen—as we became a net exporter of oil and petroleum products. Our role today as an energy exporter has grown exponentially and has potential to continue to grow for the next several years. This pricing mechanism will allow us to serve the American market, exporting to global markets the highly sought-after light, sweet crude that is changing our world for the better.

Some people stop at impossible. I’m not in that camp. I know anything is possible—it may just take a little longer.

Harold Hamm joined CNBC’s Squawk on the Street to discuss the new oil futures contract the day of the partnership release.

Mr. Hamm explained the need for the new market and the benefits of the almost limitless storage capacity available to the US oil market by using ships. When asked by host David Faber if he thought AGS would prevent a negative market like we experienced in 2020 Hamm replied, “I never say never, but we shouldn’t. That was inspired somewhat by the storage capacity that was overrun at Cushing, or was close to it. As long as you can pull up another ship, you’re not going to have that in the Gulf Coast.”
DEPA was delighted to participate in the 2021 Williston Basin Conference again this year in mid-May. Congressional Liaison Pete Regan manned the DEPA expo booth to greet old friends and make new ones.

Greg Schnacke, and Rhett Winter, both with Denbury Inc (top photo left to right) have been longtime DEPA friends and members.

North Dakota Governor Doug Burgum took a moment to speak with Pete after his presentation (middle photo).

Also spotted at the event was The Crude Life Multi-Media Journalist Jason Spiess. You can still hear DEPA President/CEO Jerry Simmons’ interview with The Crude Life on their website. We were proud to see Jerry was on their new convention booth banner!

This great event had over 50 presenters, many of whom are members of DEPA. Next year’s event will be May 17-18 in Regina.
Section 625 tasks the EPA with determining whether oil and gas production byproducts—including produced water—“meet the criteria promulgated under this section for the identification or listing of hazardous waste.”

March 2, 2021, the Energy and Commerce Committee Chairman Frank Pallone, Jr. (D-NJ), Environment and Climate Change Subcommittee Chairman Paul Tonko (D-NY), and Energy Subcommittee Chairman Bobby L. Rush (D-IL) introduced the Climate Leadership and Environmental Action for our Nation’s (CLEAN) Future Act. This new climate legislation was built with the promise that it would ensure the United States acts aggressively to tackle the climate crisis this decade and achieve net-zero greenhouse gas pollution.

The discussion draft issued presents both sector-specific and economy-wide solutions to meet those targets, offering a sweeping set of policy proposals that will put the US “on the path to a cleaner and more economically prosperous future.”

The press released last March on this act broke down the sectors addressed: Power, Building, Transportation and Industrial were all addressed with information specific to how they would be changed. Additionally, Worker and Community Transition, Environmental Justice, and Waste Reduction were all addressed explicitly in the press release.

The press release ends with “The CLEAN Future Act also features a suite of complementary policies, including proposals to remove barriers to clean energy and reduce super pollutants like methane. The legislation is the result of 27 hearings in the Energy and Commerce Committee on the climate crisis over the last two years. Today’s introduction marks the beginning of the legislative process; hearings on the CLEAN Future Act will continue in the months ahead.”

**INSIDE THE ACTUAL CLEAN FUTURE ACT**

**TITLE VII – SUPER POLLUTANTS**

- Directs EPA to address methane pollution from the oil and gas sector by requiring existing sources to cut emissions 65 percent below 2012 levels by 2025 and 90 percent below 2012 levels by Prepared by the Committee on Energy and Commerce 2030. Further directs EPA to address pollution from liquified natural gas facilities and offshore oil and gas operations.

- Prohibits routine flaring from new oil and gas sources, limits routine flaring for existing sources to 80 percent below 2017 levels by 2025, and completely phases out the practice by 2028. Establishes a $1.25 billion grant program at DOE to prevent methane leaks from the natural gas distribution system and to offset rate increases for low-income communities.

- Addresses domestic black carbon pollution by directing EPA to promulgate new rules if existing rules are insufficient to cut emissions 70 percent below 2013 levels by 2025. Also directs EPA to participate in international efforts to reduce black carbon emissions and provides support for Arctic indigenous communities affected by black carbon.

- NEW Establishes an EPA grant program for states to construct large-scale composting or anaerobic digestion food waste-to-energy projects.

“(2) Not later than 1 year after the date of enactment of the CLEAN Future Act, the Administrator shall—

‘(A) determine whether drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy meet the criteria promulgated under this section for the identification or listing of hazardous waste;

‘(B) identify or list as hazardous waste any drilling fluids, produced waters, or other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy that the Administrator determines, pursuant to subparagraph (A), meet the criteria promulgated under this section for the identification or listing of hazardous waste.
Before we begin recounting the late 1980s regulatory happenings that frustrate those who worked so hard to put this produced water issue to bed, we need to step back just a little further to start from the beginning.

In 1965 the Solid Waste Disposal Act was established. In October 1976, the Resource Conservation and Recovery Act (RCRA) was passed and it amended the ’65 Solid Waste Disposal Act. RCRA gave the EPA the authority to control hazardous waste from the cradle to the grave. This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA also set forth a framework for the management of non-hazardous solid wastes. Subtitle D of the Act is dedicated to non-hazardous solid waste requirements, and Subtitle C focuses on hazardous solid waste. Solid waste includes solids, liquids, and gases and must be discarded to be considered waste. All of this happened to address the increasing problem from the growing volume of municipal and industrial waste. Additionally, RCRA set national goals for:

- Protecting human health and the environment from the potential hazards of waste disposal.
- Conserving energy and natural resources. Reducing the amount of waste generated.
- Ensuring that wastes are managed in an environmentally-sound manner.

In December 1978, EPA proposed hazardous waste management standards that included reduced requirements for several types of large volume wastes (including oil and gas exploration and production “E&P” wastes). Generally, EPA believed these large volume “special wastes” are lower in toxicity than other wastes being regulated as hazardous waste under RCRA. Subsequently, Congress exempted these wastes from the RCRA Subtitle C hazardous waste regulations pending a study and regulatory determination by EPA.

In 1988, ten years after the EPA determined that human health and the environment were not at risk and oil and gas produced water was given an exemption from the special class of hazardous materials the NRDC filed a petition to reconsider the exemption. At the time Jerry Simmons (DEPA CEO/President) was the Associate Executive Director of the Interstate Oil and Gas Compact Commission (IOGCC). The IOGCC was deeply involved in maintaining state regulatory control of the oil and gas industry. The IOGCC had hired Jerry due to these regulatory issues.

“I remember the Governors of the Compact working members of Congress to maintain the E&P exemption. I attended numerous meetings with Governors and members of Congress. One notable meeting included Governor’s George Sinner (D) ND., Mike Sullivan (D) WY., Ann Richards (D) TX., and Norman Bangerter (R) UT. Governor Richards took the lead in our meetings. This group of bipartisan Governors met with Republican and Democratic members of the House and Senate, who all agreed the issues were best left to the states. No one let partisan politics influence their decision on how to do what was best for the citizens of this country. Sadly, we have come a long way from trusting...
designed and operated. States play the lead role in implementing non-hazardous waste programs under Subtitle D. EPA has developed regulations to set minimum national technical standards for how disposal facilities should be designed and operated. State’s issue permits to ensure compliance with EPA and state regulations.

If you are interested here is the summary from the US EPA Archive document presented to Congress July 6, 1988 almost exactly 33 years ago.

“This action presents the Agency’s regulatory determination required by section 3001(b)(2)(B) of the Resource Conservation and Recovery Act (RCRA) for drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy. RCRA requires the Administrator to determine either to promulgate regulations under Subtitle C for wastes from oil, gas, and geothermal exploration, development, and production, or that such regulations are unwarranted. In making this determination, the Administrator is required to utilize information developed and accumulated by the Agency pursuant to a study required under RCRA section 8002(m).

The Agency completed this study and published its results in December, 1987 in a Report to Congress entitled "Management of Wastes from the Exploration, Development, and Production of Crude Oil, Natural Gas, and Geothermal Energy.""

In completing the Report to Congress and this determination, EPA gathered and evaluated information on all of the issues raised in section 8002(m), including three key factors pertaining to wastes from the exploration, development, and production of oil, gas, and geothermal energy:

1. The characteristics, management practices, and resulting impacts of these wastes on human health and the environment;
2. the adequacy of existing State and Federal regulatory programs; and
3. the economic impacts of any additional regulatory controls on industry.

In considering the first factor, EPA found that a wide variety of management practices are utilized for these wastes, and that many alternatives to these current practices are not feasible or applicable at individual sites. EPA found that oil, gas, and geothermal wastes originate in very diverse ecologic settings and contain a wide variety of hazardous constituents. EPA documented 62 damage cases resulting from the management of these wastes, but found that many of these were in violation of existing State and Federal requirements.

As to the second factor, EPA found that existing State and Federal regulations are generally adequate to control the management of oil and gas wastes. States play the lead role in implementing non-hazardous waste programs under Subtitle D. EPA has developed regulations to set minimum national technical standards for how disposal facilities should be designed and operated. State’s issue permits to ensure compliance with EPA and state regulations.

EPA’s review of the third factor found that imposition of Subtitle C regulations for all oil and gas wastes could subject billions of barrels of waste to regulation under Subtitle C as hazardous wastes and would cause a severe economic impact on the industry and on oil and gas production in the U.S. Additionally, because a large part of these wastes is managed in off-site commercial facilities, removal of the exemption could cause severe short-term strains on the capacity of Subtitle C Treatment, Storage, and Disposal Facilities (TSDFs), and a significant increase in the Subtitle C permitting burden for State and Federal hazardous waste programs.

As explained in more detail in Section IV of this notice, EPA found that regulation under Subtitle C presents several serious problems. First, Subtitle C contains an unusually large number of highly detailed statutory requirements. It offers little flexibility to take into account the varying geological, climatological, geographic, and other differences characteristic of oil and gas drilling and production sites across the country. At the same time, it does not provide the Agency with the flexibility to consider costs when applying these requirements to oil and gas wastes. Consequently, EPA would not be able to craft a regulatory program to reduce or eliminate the serious economic impacts that it has predicted. Furthermore, since existing State and Federal programs already control oil and gas wastes in many waste management scenarios, EPA needs to impose only a limited number of additional controls targeted to fill the gaps in the existing programs. Subtitle C, with its comprehensive “cradle to grave” management requirement, is not well suited to this type of gap-filling regulation. EPA concluded that it would be more efficient and appropriate to fill the gaps by strengthening under the Clean Water Act and UIC programs and promulgating the remaining rules needed under RCRA under the less prescriptive statutory authorities set out in Subtitle D. This narrower approach would also reduce disruption of existing State and Federal control programs.

Thus, the Agency has decided not to promulgate regulations under Subtitle C for wastes generated by the exploration, development, and production of crude oil, natural gas, and geothermal energy for the following reasons:

1. Subtitle C does not provide sufficient flexibility to consider costs and avoid the serious economic impacts that regulation would create for the industry’s exploration and production operations;
(2) Existing State and Federal regulatory programs are generally adequate for controlling oil, gas, and geothermal wastes. Regulatory gaps in the Clean Water Act and UIC program are already being addressed, and the remaining gaps in State and Federal regulatory programs can be effectively addressed by formulating requirements under Subtitle D of RCRA and by working with the States;

(3) Permitting delays would hinder new facilities, disrupting the search for new oil and gas deposits;

(4) Subtitle C regulation of these wastes could severely 

(5) It is impractical and inefficient to implement Subtitle C for all or some of these wastes because of the disruption and, in some cases, duplication of State authorities that administer programs through organizational structures tailored to the oil and gas industry; and

(6) It is impractical and inefficient to implement Subtitle C for all or some of these wastes because of the permitting burden that the regulatory agencies would incur if even a small percentage of these sites were considered Treatment, Storage and Disposal Facilities (TSDFs).

The Agency plans a three-pronged approach toward filling the gaps in existing State and Federal regulatory programs by:

(1) Improving Federal programs under existing authorities in Subtitle D of RCRA, the Clean Water Act, and Safe Drinking Water Act;

(2) Working with States to encourage changes in their regulations and enforcement to improve some programs; and

(3) Working with the Congress to develop any additional statutory authority that may be required. EPA plans to revise its existing standards under Subtitle D of RCRA, tailoring these standards to address the special problems posed by oil, gas, and geothermal wastes and filling the regulatory gaps. Also, the Agency is moving ahead with improvements in its NPDES and UIC programs under the Clean Water Act and the Safe Drinking Water Act. EPA also plans to work with Congress to obtain any additional authorities that may be required. For example, Subtitle D of RCRA currently does not provide EPA with the authority to address treatment or transportation of wastes. Throughout the process of improving the Federal regulatory program, EPA will work closely with States to encourage improvements in their regulatory programs.

View the full document at www.archiev.epa.gov search Regulatory Determination for Oil and Gas and Geothermal Exploration, Development and Production Wastes

For all of the woke-ness that permeates our society today the idea that bipartisan efforts for what is best for the country seems to be lost. Yet history shows us that bipartisan cooperation is what has pushed us forward to maintain our status as a world leader.
CALIFORNIA EV OWNERS LEFT HOLDING THEIR PLUG

Summer just arrived, but temperatures hit triple digits in mid-June, which prompted the California Independent System Operator (ISO) to began asking residents to conserve energy and be mindful of peak hours to help the stressed grid. Charging electric vehicles became one of the specific warnings. Owners were asked to volunteer to participate in FlexAlerts, which gave energy conservation tips and greenlighted when appliance and car charging was okay to do.

In a press release June 16th, California ISO said, "When past Flex Alerts have been called, consumers have answered the call and cut back their electricity use. Those actions have helped California avoid or limit power outages that can, if conditions persist or worsen, become necessary when demand for electricity outstrips capacity." The Flex Alert was extended for a second day, asking consumers to conserve energy by setting thermostats to 78 degrees or higher, avoid using major appliances, and encouraged residents to turn off all unnecessary lights and devices.

“Charging behaviors matter when it comes to California grid goals,” Patty Monahan with the California Energy Commission recently told Newsweek. Obviously, more cars spend the evening and nighttime hours charging. However, this heavy draw on the grid coupled with generally higher residential electricity needs (A/C, lights, appliances) has turned out to be more and more problematic. When solar and wind production is at its lowest, electric consumption is at its highest. How much are consumers willing to adjust to shift heavy electricity use to daytime hours? This is the question the proponents of California’s new wind and solar energy transition are considering.

June 15 a “Heat Bulletin” from the ISO stated “The ISO’s own projections currently show electricity demand exceeding power supplies that are guaranteed under the state’s Resource Adequacy (RA) requirements for several days this week. The biggest deficit is projected for Thursday between 8 p.m. and 9 p.m. when demand is forecasted to be 43,261 megawatts (MW), including required contingency reserves, or 3,374 MW more than expected to be available under the RA program. The ISO has steps it can take to close that gap, including Demand Response programs that utilities use to provide incentives for customers to conserve, but one regularly relied on asset—imported electricity from neighboring states—could be affected. That’s because the National Weather Service is now forecasting that extreme heat is expected to engulf much of the Western United States. Triple-digit heat is forecast from the deserts east of Los Angeles all the way north to the Canadian border, resulting in tight energy supplies over a large geographic area.”

The state that has done more to promote electric cars and ban the sale of new gasoline cars by 2035 is a long way from the reality of all-electric vehicles. After California gets their grid stability sorted out, it needs an additional one million, one hundred twenty seven thousand charging stations in the next eight and a half years to support their 2035 goal, according to a recent California Energy Commission report. Until then will they can continue to rely on diesel generation to supplement power when demand is high as they did in 2020. We are here.
As we move into the second quarter of Biden’s second year in office, the pandemic appears to be withering away in the ashes of this administration and the country has become somewhat resuscitated at the recovery of the economy. However, “climate change” remains the over-riding topic upon which every action is justified, and environmental justice, social justice, etc. remain the order of the day. Greenhouse gases are being counted as matters of public health even though health standards have yet to be justified. Many of the rules addressed below are being either ignored or blatantly violated by this administration. We can either sit back and allow that to continue or we can do as the NGO’s have heretofore done and that is to seek legal remedies. Ignoring the NEPA and the ESA reform rules can and will have a significant impact on our business from stopping leasing and drilling to halting or impeding the construction of pipelines that get our products to their respective markets. The responsibility lies with us to make recommendations to the DEPA board regarding which battles we will need to fight.

The Social Cost of GHG

The US-EPA has released a Technical Support Document advocating the Social Cost of carbon, methane, and nitrous oxide developed under Executive Order 13990, and lumps these all into one category as the Social Cost of GHG (SC-GHG). The TSD proceeds on the assumption that all the figures used in the models are absolute facts instead of the theory that they represent. All climate change articles and books that I have read make these same assumptions, including the “fact” that 97% of scientists polled (all 77 of them) agree by consensus that climate change might be due to some influence from the activities of man. None of them give any credence to the science that indicates influence by the sun or other acts of nature.

Comments are due in writing by June 21st (on the web portal). I plan to prepare comments for DEPA and will most likely challenge the assumptions based on the science and economics. I welcome input from this committee.

This proposed action falls on the heels of another action that was filed in January of this year that we have discussed earlier, the Blue State A.G.’s challenge to the December 2020 Ozone NAAQS Rule. The EPA and the NGO’s have equated the SC-GHG with a health hazard under the CAA and will use the SCGHG justification to include perceived "health effects" that may, in turn, be used to justify a GHG-NAAQS which will add teeth to their enforcement effort. A GHG-NAAQS would require states to adjust their SIP’s to cover control of GHG emissions. The Biden administration was reviewing a similar measure pre-Trump. The EPA is giving serious consideration to setting ‘secondary’ NAAQS For CO2 according to a March 12, 2021, article from Inside EPA.

PHMSA

PHMSA has added to the Climate GHG push by including Climate Change under the realm of pipeline safety.

“Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2020” (PIPES Act of 2020) contains a self-executing mandate requiring operators to update their inspection and maintenance plans to address eliminating hazardous leaks and minimizing releases of natural gas (including intentional venting during normal operations) from their pipeline facilities. Operators must also revise their plans to address the replacement or remediation of pipeline facilities that are known to leak based on their material, design, or past operating and maintenance history. The statute requires pipeline operators to complete these updates by December 27, 2021.
PHMSA released this statement in an advisory document [Docket No. PHMSA-2021-0050] issued on June 4th (See Attachment 4). The justification for this request is the suspicion of methane as a GHG. Methane has never been proven to be a pollutant under the CAA and was removed from the OOOA revision rule (“Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Review” passed in 2020). PHMSA therefore has left itself open to some legal scrutiny by basing this action on climate change woes alone.

EPA – “Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Review” … the “Methane Rule”.

The Senate passed up the opportunity to roll this rule back on May 27th, the last day for the Senate to vote under the CRA Rule. But the Biden administration is proceeding to take the measures that the Obama administration neglected to make a “Significant Contribution Finding” under CAA Section 111. The CAA section 111 requires the EPA to make a finding that emissions of that air pollutant from the source category cause or contribute significantly (which the EPA terms the significant contribution finding, or SCF) to air pollution which may reasonably be anticipated to endanger public health or welfare (which is also referred to as dangerous air pollution). Congress and the EPA is currently looking at alternatives to this rule that would allow the regulation of methane as a GHG and as a pollutant.

NEPA Reform

The 2020 Trump NEPA reform rule still stands legally, as no action has been taken by the Biden administration to rescind the rule. As I mentioned above, this rule has had a significant impact on our business as it has been weaponized by the NGO’s and their administrative partners to halt critical projects or at least to slow them to the point that they become obsolete or uneconomical. The DAPL project is a prime example of this activity, as well as many of the gas pipelines that have been halted at least temporarily.

The EPA - 2020 Cost Benefit Analysis Rule

No action had been taken yet on this rule

Revoking of the Trump USFWS Migratory Bird Treaty Act Rule

This rule was revoked by a proposed rule issued on May 7, 2021; the comment period was closed on June 7, 2021. The loss of status as incidental take under this proposed rule also leaves windmills and solar panels subject to the MBTA rule.

Endangered Species Act Reform Regulations

These rules are being reviewed but have yet to be rewritten. However, I have heard that the Biden USFW plans to list a multitude of species soon. The ESA reform rule will come in very handy if it is not changed back to the original form. This rule had been weaponized to stop any progress, as were others previously authorized by NEPA, the FMLA, etc. DEPA will need to stand ready to sue on NEPA and ESA reform, rescission rules.
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DEPA REPORT ON INDUSTRY, LEADERSHIP, LEGISLATION, AND ENERGY REGULATION   JUNE 2021   17
Dear Secretary Haaland:

On June 15, 2021, the United States District Court Western District of Louisiana, Lake Charles Division, issued a nationwide preliminary injunction against President Biden’s Executive Order 14008, Section 208 (EO), that mandated a “pause” on new oil and gas leasing on both federal offshore and onshore lands. Through the preliminary injunction, the Court acknowledged the injury caused by the “pause,” noting millions of dollars at stake. Additionally, the Court’s decision indicates the strong likelihood the states will succeed in their challenge against the Biden Administration. We look forward to the Department of the Interior’s resumption of lease sales, in compliance with the Court’s order.

We remain concerned, however, about the harms already caused by the mandated “pause.” For example, immediate impacts of the EO’s “pause” included cancellation of Gulf of Mexico Oil and Gas Lease Sale 257, Planned Lease Sales 259 and 2614 and BLM lease sales scheduled for March 9, 2021 in Nevada and March 23, 2021 in Montana. In addition to resuming lease sales, the Department should provide remedies for the cancellation of leases that occurred this year.

Additionally, the Department is expected to release its review of the onshore and offshore oil and gas leasing programs in the coming weeks. Despite requesting additional information from the public related to the March 25, 2021 forum on the review of the leasing programs, it is unclear what information was received and how it was incorporated in the Department’s interim report. Without access to this information, Congress and the public cannot fully evaluate whether the Department thoughtfully considered the input of interested stakeholders in reviewing the programs. The Department’s lack of transparency increases our concerns surrounding how the review was conducted.

Congress made the requirement of regular lease sales clear through statutes, including the Outer Continental Shelf Lands Act and the Mineral Leasing Act. To understand the Department’s plans to comply with the Court’s order and its statutory obligations, we request you provide the following documents and information as soon as possible, but no later than 5:00 p.m. on July 1, 2021:

1. A document sufficient to describe the Department’s plans to resume regular lease sales.
2. A document sufficient to describe the Department’s plans to hold additional lease sales to remedy the cancellation of sales between January 27, 2021 and June 15, 2021.
3. A document sufficient to describe the Department’s legal analysis to support its decision to pause oil and gas leasing.
4. A document sufficient to show the impact of lease cancellations on Gulf of Mexico Energy Security Act funding resulting from lost bonus bids, royalties and rents and the
Department’s proposed remedy for the related revenue loss.

5. A document sufficient to show the impact of lease cancellations on federal energy revenues made available to states under the Mineral Leasing Act resulting from lost bonus bids, royalties and rent, and the Department’s proposed remedy for the related revenue loss.

6. A document sufficient to describe the Department’s plans to make the comments and additional information submitted for the March 25, 2021 forum available to the public.

7. A document listing all members of the Paris Climate Agreement that have banned oil and gas development.

8. A document sufficient to describe the Department’s analysis on how U.S. energy independence would be impacted prior to executing the decision to pause new oil and gas leasing on both federal offshore and onshore lands.
Dear DEPA Members,

The DEPA charge for 2021 is *persistence.* The objective is to amplify the message of our essential place in modern everyday life.

We do not write many PAC checks but do try to support those members of Congress or candidates that have/will support DEPA and our political agenda. As a result, our PAC account has become pretty low, so we are seeking your support to help replenish our funds.

With the new administration’s outlook on energy and the key leaders being nominated for the cabinet positions important to our industry, 2021 will be a year of uphill battles to hold our ground. It is vital for you to help us help you! Please do what you can to support our efforts by donating to our DEPA PAC.

PAC donation rules are very stringent. Please follow the instructions on the donation card to make your contribution.

Thank you for all you do, and for your support of DEPA, and our mission.

Jerry Simmons
DEPA Executive Director
DONATE TODAY!

Fill out these forms and send them in with your support of our mission work in 2021.

What does your contribution to DEPA do?

We believe the only way to accomplish our sharply focused agenda is to establish common ground. We consistently seek common sense solutions to the challenges that face us in business, including our relationships with the legislative and executive branches of the Federal government.

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Any contribution levels listed are merely suggestions. You are free to contribute more, or less, than the guidelines suggest or nothing at all, and you will not benefit or be disadvantaged by the amount of contribution, or a decision not to contribute.

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☐ $5,000: Affiliate Investor
☐ $2,500: Colleague
☐ $1,000: Advocate
☐ $500: Friend of the Industry
☐ $100: DEPA Supporter

“...I’m not convinced there is a better industry that supplies as many jobs, and as many products worldwide... when you’re looking at the bottom of your shoes, or a bicycle seat, or the grips, or a steering wheel... if you sit inside an airplane and look around, everything that is in the airplane is made from fossil fuels. And I just can’t imagine that anywhere in someone’s mind that they believe that they could literally replace all of those products and kill an industry over a myth.”

-Judy Stark, Pres. Panhandle Producers and Royalty Owners Assoc, on the fight to protect the oil and gas industry from misinformation

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