

# Association Is Providing Perspective On Rules

By Dan Larson  
Special Correspondent

ALBUQUERQUE, N.M.—Buffeted by tremendous growth and a regulation-minded state government, independent oil and natural gas operators in New Mexico can benefit from clearheaded perspectives that cut through the clutter, say leaders of the Independent Petroleum Association of New Mexico.

"After the last legislative session, most of us breathed a sigh of relief," says IPANM Chairman John D. Thomas, production and asset manager for Robert L. Bayless, Producer LLC in Denver. "With the billions in revenue from oil and gas flowing into state coffers, there were enough moderate Democrats who joined Republicans to ensure there were no drastic changes to state oil and gas rules. It wasn't easy, however, and there are some legislative changes our members must adjust to."

What did pass were several bills that will require rule-making sessions before new regulations can be applied. To help members sort through issues, IPANM built an annual convention business agenda that "highlights how things will be implemented and puts policymakers right in front of our members," reveals President Jim Winchester.

IPANM's annual meeting is scheduled for July 24-26 at Hotel Chaco in Albuquerque. Jake Corley and Mark Lacour, hosts of a popular weekly podcast, *Oil and Gas This Week*, are featured speakers, Winchester says.

A majority of issues up for discussion at this year's convention are a consequence of the state legislative session in Santa Fe, he mentions. From new permitting fees to produced water ownership and administrative penalties for violations, the new governor and Democrat majority in both houses of the legislature have put their thumbprints on changes coming to New Mexico's oil and gas regulations, Winchester indicates.

## Methane Emission Rules

For those reasons, the IPANM Executive Board directed Winchester to produce an annual meeting that "cuts through the

clutter and presents the nuts and bolts issues facing independents," he reports.

"This will be one of our most important meetings for members," Winchester says. "Our goal is to give members an inside look at how things are changing now that we have entered the implementation phase for all the things that happened during the legislative session. That is why we have policymakers speaking directly to our members."

Most of the regulatory revisions that passed out of the legislature this year will require one or several rule-making sessions before becoming effective. However, Winchester says, the most immediate revision—one that likely will have the widest impact on oil and gas operations—was not the result of legislation.

That revision is the result of an executive order issued by Governor Michelle Lujan Grisham, a Democrat, shortly after taking office. The Jan. 29 directive swept methane emission controls into the state's new climate action goals. Although a draft of proposed methane rules had not been issued yet, in May the state announced a round of public comment sessions to get the ball rolling, Winchester relates.

Among other climate initiatives, the governor's order declares state support for the 2015 Paris Climate Accord and specifically directs two state oil and gas regulatory agencies to "develop a statewide, enforceable framework to secure reductions in oil- and gas-sector methane emissions and prevent waste."

The new administration has begun individual, preliminary group discussions with industry and environmental groups. Kicking off the development of a public framework were a trio of stakeholder meetings to "build collaboration among regulators, communities, industry and environmental groups, and (to) enact lasting changes to methane regulations," said New Mexico Environment Secretary James Kenney.

The three public meetings are scheduled between July 29 and Aug. 7 in Farmington, Albuquerque and Carlsbad, N.M. Separate rule-making hearings are to be held later. One will be held by the Energy, Minerals and Natural Resources Department's Oil

Conservation Division, and will cover "regulation of methane emissions as a wasted resource." The other rule making is to be at the Environment Department's Environment Improvement Board and cover regulation of air impacts from methane and volatile organic compound emissions.

The two agencies "are working together to ensure these rules are complementary and do not result in redundant requirements," according to a NMED release in June.

## STRONGER Review

"The methane rules are a top priority for this administration," Winchester says. "The state's current rules on methane are being reviewed by STRONGER Inc., and we expect its report shortly after Labor Day."

STRONGER, the State Review of Oil and Natural Gas Environmental Regulations, is a national nonprofit that develops guidelines for state oil and gas environmental regulations, and publishes periodic reports of state regulatory programs.

"We are providing feedback as (STRONGER) builds its review," Winchester advises. "We expect a draft mid-summer. It is critical that independents be included in the process, and IPANM is constantly reminding the new administration of that necessity."

To demonstrate the point, IPANM's annual meeting will feature a round-table discussion of emission reduction goals and possible methane rules. Both the state energy secretary and the director of NMED have been invited. The session will include time for questions from the membership, Winchester says.

In the meantime, the NMED released an online tool operators may use to calculate methane emissions from their facilities. After collecting feedback from IPANM members, Winchester says, he discussed the tool with NMED staff, advising them of what worked and what did not.

"This tool is one of the many things we are seeing from this administration," Thomas offers. "The flow of announcements from the state can be overwhelming, so it is important for the association to put

## IPANM Annual Meeting – Albuquerque, N.M.

### Wednesday, July 24

- 2-4 p.m. Board of Directors Meeting, Hotel Chaco Gathering Room  
Board Members Only
- 3 p.m. Check-In Begins, Hotel Chaco Lobby
- 4-7 p.m. Registration and Welcome Reception, Hotel Chaco Terrace Suite

### Thursday, July 25

- 6:30-8:30 a.m. Welcome Breakfast, Hotel Albuquerque at Old Town Outdoor Pavilion
- 7:30-11 a.m. Opening Session, Hotel Albuquerque Franciscan Ballroom
- 10-10:30 a.m. Exhibit Hall and Coffee Break, Hotel Albuquerque Franciscan Ballroom and Foyer
- 11:15 a.m.-Noon Golf Tournament Luncheon, Albuquerque Country Club Ventana Room and Patio  
Golfers Only
- Noon-5 p.m. Golf Tournament, Albuquerque Country Club

- 2-4 p.m. Wine Tasting, Hotel Chaco Gathering Room
- 4:30-6 p.m. Golfers' Patio Reception, Albuquerque Country Club Ventana Room and Patio
- 7-9 p.m. President's Reception, Hotel Albuquerque Casa Eseneta

### Friday, July 26

- 6:45-8:30 a.m. Breakfast and Live Podcast, Hotel Albuquerque Franciscan Ballroom
- 8:15-10 a.m. General Session I  
Industry Round Table
- 10-10:30 a.m. Exhibit Hall and Coffee Break, Hotel Albuquerque Franciscan Ballroom and Foyer
- 10:30-11:30 a.m. General Session 2  
Methane Round Table
- 11:30 a.m.-12:15 p.m. Awards Session, Hotel Albuquerque Franciscan Ballroom
- 12:30-2 p.m. Keynote Luncheon, Hotel Albuquerque Alvarado ABCD Ballroom

it all into context at the annual meeting.”

Further to the point, Thomas observes that most small independent operators do not have the regulatory expertise on staff to process the rapid flow of regulatory reviews, and potentially damaging and expensive revisions under consideration.

“Most of us have an engineer, a couple of technicians and an administrative assistant in the office,” he remarks. “With the level of work needed to keep up, we have to turn to the association for direction. That is what the board tasked IPANM with doing.”

Winchester credits Thomas' leadership with making IPANM members the focus of this year's annual meeting, noting that the theme is “Addressing Operator Needs in 2019.”

The list of other significant changes of which operators need be aware are a revised framework for how penalties are levied, reclassification of produced water, and a new fee regime for everything from state land-surface use to drilling applications.

### New Permitting Fee

During the legislative session, state officials argued that permit filings and hearing applications at the Oil Conservation Division had increased 400% over the past five years while its budget had been cut by 44%.

Newly appointed OCD Director Adrienne Sandoval told a newspaper in Carlsbad that an early priority for her administration was reducing the staff vacancy level from 40% to zero. Additionally, the division struggled with “an antiquated

IT system that has us doing much of our work on paper,” Sandoval said.

Lawmakers this session passed SB 553, which, for the first time, imposes fees on filings with the OCD and apportioned revenues collected to the division for modernizing its permitting systems and to defray administrative costs.

The entire industry followed SB 533's movement through the legislature because New Mexico had not had a permitting fee previously, Winchester recalls.

“Independents had significant concerns because they saw it as another tax on their operations,” he says.

He adds that operators also are concerned about concurrent fee increases at the U.S. Bureau of Land Management, although a memorandum of understanding between the state and BLM precludes double fees for the same well.

The \$1.9 million in fee revenue generated for the nonreverting OCD fund created by SB 553 does not address staffing at OCD, Sandoval indicated in her newspaper report. She added her appreciation for the support the division received from the governor and the legislature. The bill, which passed both houses without a “no” vote, was signed by the governor April 4 and became effective July 1.

According to the OCD, permit fees under its new schedule include:

- Nonfederal, non-Indian applications for permits to drill: \$500;
- Administrative approvals: \$150;
- Underground Injection Control wells: \$500;
- Surface waste management or land-

fill: \$10,000;

- Administrative hearing: \$500; and
- Request for rehearing: \$150.

The agency points out that financial assurance bonds and fees applied by the State Land Office have remained unchanged since May 2017. The SLO road right-of-way fee is \$30 a rod for 35 years for a new road, and \$20 a rod for an existing road. Pipeline ROW fees remain \$40-\$65 a rod, depending on quadrant, for pipes up to 12½ inches and \$75 for all pipes larger than that.

### Produced Water Reuse

Another issue for discussion at IPANM's annual meeting, Winchester says, is the successful effort to encourage companies to reuse produced water and how that legislation got wedded to the administrative penalties bill.

He says the Produced Water Act, HB 546, gives ownership of produced water to the operator and working interest owners for treatment, reuse and transfer. Liability is likewise transferred to whomever takes possession of the water.

When a separate bill, SB 186, that was aimed at revising the state's enforcement of violations of its Oil and Gas Act languished, Winchester relates, legislative leadership added it to the produced water bill. After much give and take, the bill passed late in the session.

He says IPANM opposed the newly-combined bill primarily because it allowed the OCD to impose administrative penalties up to \$200,000. “For fines at that level, the operator should have the ability to appeal to an impartial court,” Winchester noted at the time. “We would have preferred a much lower threshold (*AOGR*, April 2019, pg. 26).”

Details of the framework for administrative penalties and a schedule of penalties for various violations also will be worked out in rule making, Winchester says, adding, “We want to hear more about the implementation and inspection portions of the rules.”

IPANM will participate in the rule, and he notes that with HB 546 directing the new penalties should go into effect on Jan. 1, there is some urgency in getting the rule-making process under way.

As a veteran of the political process, Winchester says he is not surprised at the rapid and complete change in heading for New Mexico government.

“We expected to see a change in direction, and now that the administration is settled in, we have seen (agencies) pick up the pace for pushing out the things they want to get done,” he remarks. “It is important for us to sort things out for our members at the annual meeting.”

### Holding Steady

Active participation in rule makings and holding a seat at the table during the legislative session keep the IPANM Executive Board and staff busy throughout the year, Thomas observes. He adds that despite consolidations and relocations, association membership and interest in the annual meeting remain strong.

"The board tasked (Winchester) with growing our membership despite the challenges," Thomas relates. "We are seeing lots of new players in northwestern New Mexico and in the Delaware (in the Permian Basin), and we see companies relocating their headquarters from the small towns to the major hubs in Houston and Denver."

The IPANM membership roster has remained steady at 350 since the industry revival in 2017, but the players have changed, Winchester says, commenting, "This is especially true because of new acquisitions in the San Juan Basin and a mad scramble for acreage in the red-hot Permian."

He says a majority of members, both new and old, are affiliated with independent oil and gas producers and operators, but the association also draws from the large integrated companies, service companies, law firms and even from communications firms, among others.

"The diverse backgrounds among our members provides a nice variety of perspective for the issues we face," Winchester offers.

Throughout various changes, he adds, IPANM has stayed true to its guiding principle: be the voice of the independent in New Mexico.

This year's annual meeting continues a change begun last year when the meeting venue was moved to Albuquerque. In the association's earlier years, the meeting venue changed with a traditional northwest-to-southwest rotation that coincided with the chairman's locale. Winchester credits the central venue for improving attendance numbers and sponsorships last year.

Both are expected to do well again this year, with sponsorships for the 2019 meeting surpassing 2018's level by July 1, he reports.

With the uncertain outlook brought by the Lujan Grisham administration, the tone of the association's annual meeting could have descended into doom-and-gloom, Thomas speculates. That will not happen this year, he assures.

"We have so much going for us in New Mexico," Thomas offers. "We are

seeing new dollars, new production and new opportunities for independents. We expect a lot of positive energy this year. Our agenda highlights the new outlook at IPANM and what we are doing for our members. The dynamics in our industry have changed and we want to share that energy with our members to keep the buzz going."

The theme for this year's meeting, "Addressing Operator Needs in 2019,"

includes providing members with stories about the positive impact oil and gas activity—and the jobs and revenue that come with it—is having across the state, Winchester says.

"These record sums of money coming into the state are affecting all walks of life. We can see it in public safety, healthcare and education. These stories are exciting, and this is what we should be talking about in our communities," he avers. □

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E-mail: [info@amtechdrives.com](mailto:info@amtechdrives.com)