



NEW MEXICO OIL AND NATURAL GAS REGULATION FOR OZONE PRECURSORS

On July 20, 2020, the New Mexico Environment Department (NMED) proposed regulations to address the elevated levels of ozone in the counties of Chaves, Eddy, Lea, Rio Arriba, Sandoval, and San Juan. These proposed regulations are found in New Mexico Administrative Code (NMAC) Title 20, Chapter 2 Part 50 pursuant to New Mexico Statute 74-2-5.3. This statute requires action by NMED to reduce ozone in areas where the ozone concentration exceeds 95 percent of the national standard, 66.5 parts per billion (ppb).

Also on July 20, 2020, the Energy, Minerals and Natural Resources Department Oil Conservation Department (OCD) issued a set of draft regulations addressing the venting and flaring of natural gas in NMAC Title 19 Chapter 15 Part 27. This brief summary is intended to raise the level of awareness regarding both sets of potential new regulations and provide details for concerned parties to make timely comments to the NMED and the OCD.

The proposed NMED regulations will target oxides of nitrogen (NO_x) and volatile organic compounds (VOCs). By reducing the emissions of these precursors to ozone, the NMED anticipates that not only will the ambient levels of ozone be reduced, but that the emission of methane, a greenhouse gas (GHG), will be curtailed. The OCD draft regulations have the same basic intent, but the reductions will be realized by limiting the amount of natural gas flared during well completions and subsequent operations.

The regulations proposed by NMED have targeted numerous issues. The following is a representative sample:

- Implementation of an emission source tagging system known as the Emission Monitoring Information and Tracking (EMITT) system. This system will require operators to “physically tag the unit with an EMITT that is scannable with a handheld scanner (RFID or QR) that uniquely identifies the unit to which it is assigned”. This tagging system is intended to track various information electronically and has the potential to significantly increase the monitoring and reporting requirements of the site owners/operators. The tracked information is to be maintained in a company developed database by the owner/operator with access provided to state inspectors.
- Based on emission levels and source size designations (pertaining to emission levels), owners/operators will be required to retrofit compression engines to meet stringent emission rates. A schedule of implementation has been proposed that has the potential to cause market shortages for the components necessary to retrofit the engines throughout the regulated community.
- “Prior to the transfer of ownership of any equipment subject to this Part, the current owner or operator shall conduct and document a full compliance evaluation of all equipment subject to the rule. The documentation shall indicate whether or not each piece of equipment subject to requirements under this Part

is currently complying with those requirements”. This provision places the onus on the ‘seller’ of an asset to provide the buyer with documentation indicating that the site is in compliance with these regulations. This compliance review must have been conducted within 12 months prior to the sale of the assets.

The OCD draft regulations address several potential concerns related to flaring. The following is a representative sample:

- OCD has proposed an aggressive statewide reduction of vented and flared natural gas from producers to capture 98 percent of gas produced and gathered in a period of six and half years (19.15.27.9.A & 19.15.28.23.A)
- Operators must file a natural gas management plan (19.15.27.9.D) which may include competitive forward-looking production information to include anticipated natural gas production and gathering system contracts.
- 19.15.28.22 states: *“(1) The operator shall measure the volume of natural gas that is vented, flared or beneficially used by the natural gas gathering system regardless of the reason or authorization for such venting and flaring.”* It may not be practicable or technically infeasible to ‘measure’ all volumes of natural gas that is vented. The regulation should allow for calculation of vented natural gas and make corrections to reference to 43 CFR 3175.29.
- 19.15.28.14.B states: *“The operator shall maintain a record of the inspection, including the certification of the inspector and the inspector’s certification that the gathering pipeline was constructed as prescribed by the manufacturer’s specifications and in accordance with 19.15.28 NMAC”*. Pipe manufacturers do not design pipeline systems. In general, there are several such references that are either unclear of the intention or tend to include unreasonable requirements.

The NMED and OCD have both requested public input on these proposed regulations. The current public comment period was recently extended to September 16th for both sets of proposed regulations. Public comments should be addressed to the respective agency at the following:

- NMED: <https://www.env.nm.gov/new-mexico-methanestrategy/wp-content/uploads/sites/15/2020/07/Draft-Ozone-Precursor-Rule-for-Oil-and-Natural-Gas-Sector-Version-Date-7.20.20.pdf>.
- OCD: <http://www.emnrd.state.nm.us/OCD/documents/19.15.19NMAC-Draft-July202020.docx>

We highly recommend that as an owner/operator of oil and gas facilities in New Mexico you should strongly consider submitting comments that represent your position and interest. We have been active in assisting clients with their comments and are willing to assist you. If you have any questions regarding these proposed regulations, please contact us at one of the listed numbers below.

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