From:	Patrick Padilla
To:	Polak, Tiffany, EMNRD; Kuehn, Elizabeth, NMENV
Cc:	Methanestrategy, NM, NMENV; WasteRule, EMNRD, EMNRD
Subject:	[EXT] FW: NM rulemaking comment letter
Date:	Wednesday, September 16, 2020 3:28:49 PM
Attachments:	image001.png NM Rulemaking Comment Letter_Signed.pdf

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Tiffany and Liz:

Attached for your reference are comments on behalf of EOG Resources, Inc., pertaining to New Mexico's multi-agency proposed methane rules. Thank you both for the ability to participate in these discussions.

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September 14, 2020

Elizabeth Bisbey-Kuehn
New Mexico Environment Department
Air Quality Bureau
525 Camino de los Marquez, Suite 1
Santa Fe, NM 87505

Tiffany Polak
Energy, Mineral and Natural Resources Dept.
Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, NM 87505

Re: NMED Draft Ozone Precursor Emissions Rules
EMNRD-OCD Draft Natural Gas Waste Rule
EOG Resources, Inc. Initial Comments

Dear Mses. Bisbey-Kuehn and Polak:

EOG Resources, Inc. (EOG) appreciates the opportunity to comment on the draft Ozone Precursor Emissions Rules developed by the New Mexico Environment Department (NMED) and the draft Natural Gas Waste Rule developed by the Energy, Minerals and Natural Resources Department's Oil Conservation Division (OCD). Having participated in the earlier Methane Advisory Panel (MAP) process, EOG remains committed to working with the agencies on implementing ongoing improvements to equipment and operating practices that benefit the environment.

EOG supports your goal of taking steps that are protective of the environment and that can be easily implemented by the agencies among operators with a broad variety of operations within the industry sector. Many of the standards you are seeking to implement relate to practices we currently have in place.

EOG strongly believes in using innovative solutions to address environmental issues, and supports structuring regulations in ways that allow for future developments in technology, and other innovations, which will improve performance. We believe regulations that use performance-based measures incentivize continuous improvement and are preferable to regulations that are overly prescriptive or based on the lowest common denominator of existing methodologies within an industry.

With respect to the NMED draft regulations, we understand that your goal in targeting oil and natural gas equipment that emit volatile organic compounds (VOCs) and oxides of nitrogen (NOx) is to keep New Mexico in ozone attainment by reducing VOC and NOx emissions while

also receiving the co-benefit of reducing methane emissions. Our comments are intended to be supportive of those overall goals while offering suggestions for alternatives that will impose less prescriptive methodologies. We also have some comments directed at portions of the draft regulations that we believe create a conflict with existing OCD requirements and will cause unintended consequences that undermine environmentally beneficial operating practices related to water reuse.

Capturing 98% of natural gas gathered by 2026, as proposed in OCD's draft rule, is a capture level that EOG meets and exceeds. We agree with the agency that using innovation and flexibility to reduce flaring by the oil and gas industry is critical to responsible future development of oil and natural gas resources. Our comments on these draft regulations are targeted toward eliminating duplicative data gathering and submission requirements, and encouraging technological advances. In addition, we suggest including the addition of a suitably defined wildcat/exploratory well exemption.

Our comments on specific sections of the draft regulations follow below.

NMED Draft Ozone Precursor Emissions Rules Comments

20.2.50.8 NMAC Definitions

20.2.50.8.H NMAC defines a compressor station as "any permanent combination of two or more compressors that move natural gas at increased pressure through gathering or transmission pipelines, or into or out of storage. This includes, but is not limited to, gathering and boosting stations and transmission compressor stations." As currently drafted, this definition includes compressors servicing wells and/or on well pad locations. As a result, gas lift engines and gas lift stations could be treated as compressor stations. This was likely not the agency's intent, since other state and federal rules specifically exempt gas lift locations, but without revising the definition, thousands of previously exempt compressors could be included.

EOG believes this can easily be addressed by: 1) aligning the definition with the compressor station definition in NSPS OOOO/OOOOa (i.e., adding an additional sentence to the current 20.2.50.8.H NMAC definition), and 2) creating an exemption within the applicability sections of the potentially applicable provisions, similar to the language in NSPS OOOO/OOOOa.

As revised, the new compressor station definition would read (new language in italics):

20.2.50.8. DEFINITIONS:

H. "Compressor station" means any permanent combination of two or more compressors that move natural gas at increased pressure through gathering or transmission pipelines, or into or out of storage. This includes, but is not limited to, gathering and boosting stations and transmission compressor stations. *The combination of one or more compressors located at a well site, or located at an onshore natural gas processing plant, is not a compressor station for purposes of this Part 50."*

The new language to be added to the applicability sections of the following sections would read (new language in italics):

20.2.50.14.A.(2) All new and existing reciprocating compressors located at tank batteries, gathering and boosting sites, natural gas processing plants, and transmission compressor

stations are subject to the requirements of 20.2.50.14 NMAC. Any new or existing reciprocating compressor located at a wellhead *or at an adjacent site and servicing one or more wellheads* is not subject to the requirements of 20.2.50.14 NMAC.

20.2.50.16.A Applicability
All new and existing wellheads, tank batteries, gathering and boosting sites, gas processing plants, transmission compressor stations and associated piping are subject to the requirements of 20.2.50.16 NMAC. *Any new or existing compressor located at a wellhead or at an adjacent site and servicing one or more wellhead is not subject to the requirements of 20.2.50.16 NMAC.*

20.2.50.12 NMAC General Provisions (EMITT)

EOG sees the value in companies using environmental management systems (EMS), and has been using such systems for years as a framework to manage environmental processes and improve performance. EMS organize large quantities of information in a database structure, which allows for easy retrieval, review and use in day-to-day operations.

Our systems enable the company to manage equipment inventory and location through barcoding, perform permit calculations, schedule inspections, assign tasks, track monitoring and reporting schedules, maintain monitoring and other records, and fulfill reporting obligations.

EOG believes that information technology systems are critical to driving continuous improvement, and suggests that this section of the regulations be revised to clearly allow companies to use their existing EMS to satisfy the agency's need for records related to events and compliance. As drafted, the regulations make it appear as though the agency intends to impose a prescriptive system for gathering data on all companies, which would result in a significant duplication of effort, without any material environmental benefit, for companies already using advanced systems and able to provide timely responses to agency inquiries.

20.2.50.16 NMAC Standards for Equipment Leaks

We appreciate NMED providing operators with the opportunity to comply with the equipment leak monitoring requirements through an alternative monitoring plan approved by the agency, and believe that is an effective way to encourage operators to continuously improve their methodologies and pursue new innovations and technology. 20.2.50.16.C(3) NMAC

EOG believes that the future depends on technological improvements and the superior data-gathering capability provided by automated systems and instantaneous information. Our information technology system applications capture LDAR data electronically, including mobile application data capture directly from our field locations. These applications improve the accuracy of our data, eliminate paper processes, monitor components, and allow timely repairs and re-inspections.

One area of the draft regulations where we have concerns is the time periods listed for the repair and re-inspection requirements. The time periods set forth in 20.2.50.16.D NMAC are extremely short and, in many cases, will not allow operators adequate time to complete the repairs. Generally, operators try to fix leaks upon discovery but when that is not possible (e.g., specialized parts or equipment must be ordered), the time needed to coordinate the parts, equipment and crews will exceed the time periods listed in these draft regulations. EOG suggests that these time periods be adjusted to match the time periods used in NSPS OOOOa.

20.2.50.21 NMAC Standards for Controlling Pig Launching and Receiving

EOG understands that the agency is currently collecting emissions data for these activities and that the draft regulations will likely change based on a review of that data. Once those changes are made, we may provide further comments. At this point, we would ask the agency to take into consideration that OGI monitoring of pig launching and receiving would require numerous OGI cameras to be available across the field and be quite impractical to implement given that the launching and receiving locations are typically miles apart.

20.2.50.26 NMAC Standards for Evaporation Ponds

EOG uses a variety of water sources with the ongoing goal of continuing to reduce its reliance on fresh water and increase the reuse of produced water. New Mexico state public policy strongly encourages the reuse and recycling of produced water to offset fresh water used in oil and gas operations. *See* NMSA 1978, Section 70-13-5; *see also* 19.54.34.6 NMAC

In 2019, 98% of the water used in EOG's Permian Basin operations was from reuse of produced water, or non-fresh water sources (77% was reuse of produced water). EOG has built an extensive water infrastructure in New Mexico that includes a network of pipelines and recycling containments. These recycling containments are encouraged and permitted by the OCD pursuant to 19.15.34 NMAC. As currently drafted, the evaporation pond regulations are likely to result in the unintended consequence of limiting the ability of operators to have extensive water reuse programs.

We understand the intent of these draft regulations is to address the sorts of pits and ponds that are potential pollution sources and create concerns for local communities, and not the modern high tech recycling facilities and containment we are operating; however, as currently drafted, the regulations do not make that distinction and are potentially inconsistent with stated public policy and existing OCD regulations. Adding a definition of "evaporation pond" clarifying that recycling containments are excluded would resolve that issue.

We therefore propose the following definition:

"Evaporative Pond" is a pond built for and operated with the purpose of disposing of produced water through evaporative loss with a capacity equal to or greater than [TBD barrels]; provided, however, that "Recycling facility" and "Recycling containment," as defined in 19.15.34 NMAC, shall be excluded from this definition.

If NMED intends to extend the applicability of this requirement to produced water recycling containments regulated by OCD under Rule 34, then there are alternative approaches to reaching that goal. For example, requiring a constituent analysis at the inlet to the recycling containment with a specified maximum hydrocarbon concentration level in parts per million (ppm). Water not meeting that standard would need to undergo additional treatment before it could be stored in the recycling containment. Water and recycling containments that meet the standard would not be subject to the requirement to install an impermeable continuous barrier or cover over the entire surface area of the containment, or to the monitoring and recordkeeping requirements.

EMNRD-OCD Draft Methane Rule Comments

19.15.27 NMAC Venting and Flaring of Natural Gas

Wildcat/exploratory wells

As currently drafted, the regulations do not allow venting and flaring in the context of wildcat/exploratory wells, which could significantly reduce exploration and the development of oil and gas resources in New Mexico. EOG installs gas gathering infrastructure early in the development of an oil field to maximize efficiencies and minimize flaring; however, in unproven areas, where the company is testing the productive capabilities of the formation or acreage, building pipelines that may never be utilized would be economically infeasible, and an unnecessary footprint to impose on the land.

As a result, EOG proposes an exemption be included in 19.15.27.8.D.(2) NMAC to allow flaring from wildcat/exploratory wells. EOG recognizes that the exemption will need to include a definition of what qualifies as a wildcat/exploratory well to limit potential abuse of the exemption.

We therefore propose the following definition:

19.15.2.7 DEFINITIONS

D. Definitions beginning with the letter "D"

"Delineation Well" means a well that is a drilled, or is proposed to be drilled, the spacing unit of which is a distance of two miles or more from:

(a) the outer boundary of a defined pool that has produced oil or gas from the formation to which the well is projected to be drilled;

(b) existing gas gathering infrastructure; and

(c) is confirmed to meet the foregoing criteria by the Division.

Additionally, we propose adding the following subsection to 19.15.27.8.D(2) NMAC as subsection (d), and renumbering the existing subsection (d) to be subsection (e), to provide that the venting or flaring of natural gas would be allowed during the first 12 months of production from a Delineation Well under specified circumstances.

19.15.27.8.D(2) NMAC Venting and flaring during production operations.

...

(d) during the first twelve months of production from a Delineation Well; provided, however,

(i) if a Delineation Well is proven to be capable of producing in paying quantities before twelve months has elapsed, then the operator of the well shall submit an updated Form C-129 to the Division, providing a gas capture plan and timeline for connecting the well to a gas gathering facility, which plan shall be updated monthly; and

(ii) in no event shall a Delineation Well be authorized to vent or flare for longer than twelve months from the date of first production unless an extension is granted by the Director for good cause shown.

(e) ...

Natural Gas Management Plan

The data collection requirements in 19.15.27.9.D NMAC are extensive, and much of the data is not within the operator's control or readily available to the operator. Operators will need to obtain the data from pipeline companies, and obtaining that level of detail from those companies will be challenging given their understandable concerns with respect to the confidentiality of proprietary information (e.g., data sought in 19.15.27.9.D.(2)(e)(vi)-(x) NMAC).

This issue is magnified for EOG because we have multiple natural gas takeaway options. As part of our infrastructure planning and takeaway optionality approach, EOG secures the ability to sell to multiple markets in order to execute on our takeaway plans. The company does its own gathering and compression, and is able to deliver to multiple gas processors at various custody transfer points along its gathering system. This methodology allows maximum flexibility and the ability to reduce flaring due to third party processor pipeline upsets; however, it also means that EOG will not always know with certainty which third party processor will be receiving product in the future.

At a minimum, revisions to the language to allow operators with multiple pipeline takeaway options to provide the data for just one of those takeaway options, would satisfy the intent of the requirement by demonstrating that the operator had planned ahead and secured the necessary takeaway capacity without causing duplicative data gathering and submission efforts.

Given the stated goal of reducing natural gas gathering system flaring and having operators meet a gas capture rate of 98%, we believe that operators who are already at that wellhead gas capture level should be exempted from the requirements of this section altogether. Subjecting operators who are using best management practices and are focused on ongoing improvements to the same regulations that are intended to push lagging operators toward better performance seems to send a mixed message. If a complete exemption is not possible, we suggest that the agency at least significantly pare down data requirements for operators meeting the 98% threshold. For example, only 19.15.27.9.D.(4)-(6) NMAC would apply to those operators.

We understand that the agency needs to be able to hold operators accountable for flaring caused by a lack of takeaway planning but respectfully suggest that the agency do so in a way that does not add an undue paperwork burden to companies already meeting the 98% gas capture standards.

Reporting Requirements

The AVO inspection and recordkeeping requirements in 19.15.27.8.D.(3) NMAC make sense as a default option for operators without automation or other more advanced technological solutions in place to detect and repair leaks in a timely manner. EOG requests that the agency add language to the regulation allowing operators with more advanced methodologies for detecting leaks and maintaining records to be able to use those methodologies.

With respect to the annual gas capture report submission referenced in 19.15.27.9.B NMAC, EOG requests that the submission deadline be changed from mid-February to March 31 in order to allow adequate time to confirm the data and prepare the report. A March 31 reporting deadline would also coincide with the reporting cycle for federal reporting of related data.

EOG appreciates that NMED and OCD are focused on finding innovative and flexible solutions to environmental issues, and using performance-based measures in a manner that encourages continuous improvement.

Sincerely,

Jeff Leitzell

Jeffrey Leitzell
VP & General Manager
Midland Division

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