From:	Christopher Mann
To:	WasteRule, EMNRD, EMNRD
Subject:	[EXT] 350 Santa Fe comments on draft methane reduction rule
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Attachments:	350 Santa Fe comments on draft natural gas waste and pollution rules 20200915.docx

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Hello--

Attached please find the comments of 350 Santa Fe on the Department's draft rules for reducing methane emissions from oil and gas production. Thank you for considering our thoughts and comments on this important rule.

Chris Mann

Comments of 350 Santa Fe on the State of New Mexico draft natural gas waste and ozone precursor rules

Methane, the predominant component of natural gas, is eighty times more potent at trapping the sun's energy than carbon dioxide over a twenty-year period. It comprises 31 percent of the New Mexico's GHG emissions—more than three times the national average of emissions by U.S. states—because of our state's substantial oil and gas production. Volatile organic compounds (VOCs), such as benzene and toluene, are emitted along with methane when natural gas escapes or is vented during oil and gas production. Although present in relatively small concentrations in natural gas, these chemicals contribute strongly to ground-level ozone pollution—a major health hazard.

The State is to be commended for undertaking rulemaking to reduce waste of natural gas and emission of ozone precursors associated with oil and natural gas production. Updating state regulation of the oil and gas industry to address threats to the climate and air quality is overdue and is especially timely given efforts by the Trump Administration to roll back air quality protections at the federal level. We strongly support the Governor's commitment to 100% renewable energy by 2045, but while oil and gas production continue in New Mexico, the state will benefit from the estimated $40 million in revenue that would be derived from capturing most of the natural gas currently lost in production in the state.

The draft rules released by the Department of the Environment and the Energy, Minerals and Natural Resources Department are a strong start, and we strongly support the goal to capture 98 percent of natural gas lost during oil and gas production by 2026. To ensure that this goal is achieved, however, regulatory exemptions and exclusions need to be narrowed; gas capture and pollution reduction requirements need to be applied geographically, not just on a per-operator basis; and the state's commitment to enforcement of the new rules should be clarified and strengthened.

We understand that reducing these pollutants under New Mexico law requires a coordinated approach between the Environment Department, which regulates air quality, and the Energy, Minerals and Natural Resources Department, which has jurisdiction over the development and conservation of natural resources. We appreciate the considerable effort that has gone into developing these rules, within each department, between the two departments, and in soliciting and considering the views of stakeholders, both through the Methane Advisory Panel and through briefings of and listening sessions for community members. To support that effort, and in the spirit of constructive engagement, below we address comments on each rule separately.

Department of Energy, Minerals and Natural Resources draft rule on natural gas waste

The Department is to be commended for moving aggressively to reduce venting and flaring of natural gas from wells. Intentional venting and incomplete combustion during flaring are major sources of methane loss into the atmosphere. A recent study used satellite imagery to show that the Permian Basin has the largest flux of methane of any oil-producing region, and that flux is more than two times bottom-up estimates. Provisions of the EMNRD rule calling for more frequent and rigorous monitoring will greatly improve our understanding of the scope and sources of emissions in New Mexico, and the establishment of a more reliable baseline in 2021 incentivizes operators to rapidly reduce these losses.

The requirement to capture 98 percent of produced natural gas by 2026 ensures rapid progress in reducing venting and flaring. Given the rule's reliance on reductions in these areas, however, EMNRD

should require adequate takeaway capacity—lack of which is a major cause of venting and flaring—as a condition for issuance or renewal of drilling permits. In addition, the rule's effectiveness would be improved by extending the lookback period for emergencies to 120 days to reduce the scope of emergency venting and by establishing criteria under which operators would be expected to reinject gas that cannot be routed to a gathering system instead of releasing it.

As drafted, the rule takes a far less aggressive approach to downstream losses. Imposing emission limits on pneumatic controllers is an appropriate measure, but including the volume vented from these and other equipment as part of their normal operation in the baseline assessment would ensure a more accurate accounting of losses, and would provide an incentive to electrify such controllers.

Lastly, enforcement is a challenge given the sprawling nature of New Mexico's oil and gas industry and the challenging politics of energy development and environmental protection. While we believe the Department, under current leadership, has every intention of fully enforcing these rules, we are concerned that existing language in New Mexico law provides too much discretion regarding enforcement actions by the Oil Conservation Division. This could allow a future administration hostile to the intent of these rules to simply fail to take enforcement action for violations or to impose minimal civil penalties that would not deter violations.

Department of the Environment draft rule on ozone precursors

Because of statutory restrictions, the Environment Department is not allowed to limit air pollutants beyond the level needed to comply with federal standards for ground-level ozone. We are concerned, however, that the rule, as drafted, is unlikely to achieve this goal in all localities. The rule defines low-volume "stripper wells" and exempts these, along with facilities that produce less than 15 tons per year of VOCs, from direct limitations on emissions of VOCs and nitrogen oxides. By some estimates, this would exempt 95 percent of the wells in the state from the new emission standards.

There is a point of diminishing return on monitoring and enforcement for both the regulators and the regulated, and perhaps an exemption for low-volume wells can be made up for by substantial reductions from the smaller number of large wells. Also, the requirement under the EMNRD rule for each operator to capture 98 percent of produced gas by 2026 will result in concomitant reductions of ozone precursors. But if the state is relying on such a theory, it should make data and/or credible modeling available to the public to show how this would work, and what its effects are expected to be at a local level.

Absent convincing evidence that the Environment Department and EMNRD rules, working in concert, will address New Mexico's widespread ground-level ozone problem, the Department should dramatically reduce, if not eliminate, the regulatory exemption for low-volume facilities, which predominate in New Mexico's oil and gas industry. There are more than 100,000 New Mexicans who are particularly vulnerable to health effects from air pollution—children under five years of age, Latinos and Native Americans—living in the San Juan and Permian Basins. They deserve confidence that the state will restore local air quality to healthy levels.

In addition to addressing the threshold for regulation, the Department should extend requirements for leak detection and repair to pneumatic devices and phase in requirements for zero-bleed pneumatics.

Because the rules rely heavily on reductions from larger facilities, monthly inspections should be required for these wells.

Lastly, provisions of state law that restrict the Department to imposing air quality standards "not more stringent" than federal standards are a severe and arbitrary limitation on environmental protection. In recent decades, we have seen how dramatically the political winds from Washington, DC can shift, with profound effects on our land, water, and natural resources. Most federal environmental law sets minimum standards for states to meet but they are not intended as a ceiling. We urge the Lujan Grisham Administration to consider legislation to repeal these "not more stringent" provisions in state air quality law and wherever else they might appear, so that the state can make its own determinations about what is needed to protect the environment for the long-term benefit of New Mexicans.

Conclusion

We appreciate the opportunity to comment on these rules at a preliminary stage and look forward to working with the Departments to finalize strong and effective rules to reduce greenhouse gas emissions and improve air quality in New Mexico.

Paul Biderman, J.D.
350 Santa Fe Chapter co-facilitator
New Mexico Secretary of Energy and Minerals, 1983–1986

Robert Cordingley
350 Santa Fe Chapter co-facilitator

Chris Mann
Consultant
Former Director for Strategy,
The Pew Charitable Trusts

Rev. Jean Siegfried Darling
Minister Emerita, Peoples Church of Chicago
Co-Chair, UU Santa Fe Environmental Justice Team

Robb Hirsch
Climate Change Leadership Institute

Dickinson Reed Eckhardt

Judith Stanley

The Rev. Benjamin Larzelere III

Barbara Sinha

James Eagle

Maj-Britt Eagle