From:	Scott Spicher
To:	WasteRule, EMNRD, EMNRD; Polak, Tiffany, EMNRD
Cc:	Liz Klein; Chris Colclasure
Subject:	[EXT] 3 Bear Comments on OCD rule 19.15.28 gas gathering systems
Date:	Wednesday, September 16, 2020 1:05:12 PM
Attachments:	3 Bear Comments on OCD rule 19.15.28 gas gathering systems.pdf

---

Please see our comments attached.

Thanks,

Scott Spicher, P.E.
Executive Vice President &
Chief Operating Officer
3 Bear Energy, LLC
1512 Larimer Street, Suite 540
Denver Colorado 80202
Office: 303-862-3960
Cell: 303-921-9117

1512 Larimer Street
Suite 540
Denver, CO 80202
PH: 303.626.8290

September 16, 2020
New Mexico Energy, Minerals and Natural Resources Department
Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, NM 87505

SUBMITTED VIA EMAIL to emnrd.wasterule@state.nm.us

Re: 3 Bear Energy, LLC's Comments on the New Mexico Energy, Minerals and Natural Resources Department's Draft Rules for Natural Gas Gathering Systems

3 Bear Energy, LLC (3 Bear) is pleased to submit comments on the New Mexico Energy and Natural Resources Department's (EMNRD's) draft rules for natural gas gathering systems, Title 19, Chapter 15, part 28, NMAC (Draft Rules). 3 Bear thanks EMNRD and staff for its work on the draft rule and its extensive public outreach and stakeholder engagement process. 3 Bear is a full-service midstream company that gathers, processes and treats oil, natural gas and produced water. The company operates produced water reuse facilities that provide oil and gas operators an alternative to consuming fresh water. 3 Bear supports cost-effective strategies that deliver real emission reductions to protect public health, improve air quality and protect pipeline safety. Our comments are intended to facilitate progress toward these shared goals.

EMNRD Should Consider the Cumulative Impact of the Draft Rules and Prioritize its Rulemaking Efforts

The Oil Conservation Division (OCD) prepared far-reaching draft rules affecting multiple aspects of oil and gas development, including natural gas gathering, venting and flaring, production and operating practices for oil and for natural gas, and forms and reports. The new Mexico Environment Department (NMED) is simultaneously proposing comprehensive air quality regulations affecting equipment tagging, engines, turbines, compressor seals, control devices, equipment leaks, natural gas well liquids unloading, glycol dehydrators, heaters, hydrocarbon liquid transfers, pig launching and receiving, pneumatic controllers and pumps, storage tanks, workovers, stripper wells, facilities with the potential to emit less than 15 tons per year (tpy) of volatile organic compounds (VOCs), and evaporation ponds. Together the proposals transform the regulation of air emissions from oil and gas operations in New Mexico.

We encourage the OCD to consider the cumulative costs and compliance burdens of the Draft Rules. While the burdens of individual rules or categories of rules could be reasonable, the combined burdens are considerable, particularly for smaller operators. OCD should consider which proposals are likely to result in the greatest benefit. Proposed rules should be strategically presented to the EMNRD based on their relative benefits and costs. Proposals with a comparatively smaller benefit may appropriately be deferred for future consideration to allow

regulated entities and state agencies to focus on the most beneficial requirements first. At minimum, compliance deadlines for the various categories of rules should be staggered and extended as appropriate to recognize the difficulty of simultaneously complying with multiple new requirements.

The methane benefits of the Draft Rules for natural gas gathering systems have not been evaluated. The Draft Methane Advisory Panel (MAP) Technical Report identified venting and flaring as sources of GHGs but did not allocate those emissions between the production, gathering, transmission or distribution sectors. Draft MAP Report at 147 (Dec. 19, 2019). Citing the Bureau of Land Management, the Draft MAP Report noted that "in the Permian, while almost all of the producing wells are connected to gas-gathering infrastructure, gas production growth is nonetheless overwhelming the capacity of the gathering system." *Id.* This suggests that greater methane reductions may be achieved by encouraging the accelerated development of gas gathering infrastructure than by imposing additional regulatory requirements that may delay construction of gathering systems.

EMNRD Should Maintain Consistency with PHMSA Regulations

3 Bear encourages OCD to maintain consistency with regulations implemented by the Department of Transportation (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA). On October 1, 2019, PHMSA published the first phase of its so-called Mega Rule. 84 Fed. Reg. 52180. Phase 1 of the Mega Rule established new and more stringent integrity management requirements for transmission pipelines, among other things.

PHMSA has previously announced that it would consider strengthening the requirements for certain gathering lines with a nominal diameter of 8" or greater. 81 Fed. Reg. 20722, 20802 (April 8, 2016). At the same time, PHMSA considered the advantages and disadvantages of extending integrity management requirements to gathering lines and concluded that doing so was unwarranted. PHMSA noted that Type B gathering lines "pose low risk" and seemed to agree with commenters that there is no evidence that gathering pipelines pose a risk that justifies application of integrity management rules. *Id.* at 20805. PHMSA announced a gas pipeline regulatory reform initiative in June 2020. 85 Fed. Reg. 35240 (June 9, 2020). The reform initiative will revise the standards for a variety of equipment types but does not indicate any forthcoming changes to natural gas gathering pipelines other than "farm taps."

Consistency with federal requirements is valuable for regulated entities. The Draft Rules for gas gathering systems would impose additional cathodic inspection and integrity management requirements for new and existing gathering pipelines. Draft Rule § 19.15.28.18. These appear to duplicate PHMSA rules for gas gathering lines greater than 8" diameter and to impose requirements that PHMSA found to be unnecessary for smaller gathering lines. The proposed inspection and recordkeeping requirements are not necessary to ensure safe operation of natural gas gathering system pipelines.

Draft Rule Sections 19.15.28.19.A(5) and (6) propose to require operators to use a portable stack flare to combust natural gas blowdown during scheduled maintenance of natural gas gathering systems and to "make every attempt possible" to flare during unscheduled maintenance. These requirements will increase costs and compliance burdens for small operators, particularly for unscheduled maintenance. While the phrase "make every attempt possible" may have been intended to provide flexibility, it introduces ambiguity and does not fully inform operators of their compliance obligations. It would be more appropriate to require operators to "make reasonable attempts to flare the natural gas." This alternate language is consistent with the proposed language in Draft Rule § 19.15.28.19.A(4), which requires operators to take reasonable precautions to prevent the unintentional release of natural gas. Finally, the proposed requirement to use a portable stack flare should include a safety exemption. Requiring operators to "make every attempt possible" to flare natural gas during unscheduled maintenance could force operators to make difficult decisions under time pressure regarding how to appropriately balance safety and emission reductions. OCD can prioritize safety over emission reductions by requiring "reasonable attempts" to flare the gas.

Conclusion

3 Bear thanks the Energy, Minerals and Natural Resources Department, Oil Conservation Division, for considering its comments on the proposed Natural Gas Gathering System rules. If you have questions please contact Liz Klein at lklein@3BearLLC.com.

Scott Spicher
Executive Vice President and COO
3 Bear Energy, LLC

cc: Tiffany Polak, tiffany.polak@state.nm.us