

EIB 21-27

Day 6 Hearing Summary

In the Matter of Proposed New Regulation, 20.2.50 NMAC - Oil and Gas Sector – Ozone Precursor Pollutants

Monday, September 27 was Day 6 of the New Mexico Environmental Improvement Board (EIB) hearing on the New Mexico Environment Department's (NMED's) proposed ozone precursor rule.

Day 6 Highlights

- **Section 113/Engines and Turbines.** NMED witnesses presented testimony regarding the engine and turbine emission standards, and how the NMED changed the proposed standards based on comments from stakeholders.
- GCA witnesses John Dutton and Vic Sheldon presented testimony explaining why the NMED's original proposed standards for existing and new engines were not feasible, and supporting the engine emission standards in the NMED's updated September 16 proposal. John Dutton also presented testimony opposing the testimony of a National Park Service witness seeking additional engine emission standards for smaller engines not currently covered by the NMED proposal. No party attempted to cross-examine John Dutton or Vic Sheldon.
- GCA witnesses Mark Copeland presented testimony explaining how the NMED's updated engine maintenance requirements in the September 16 draft of the rule addressed his concerns with the earlier draft of the rule by allowing for an owner or operator to comply with the maintenance requirements using a tailored operation and maintenance plan.
- GCA witness Randy Bartley presented testimony regarding emissions testing for engines and the importance of allowing emissions test results for carbon monoxide (CO) to serve as a surrogate to demonstrate compliance with the engine emission standard for non-methane, non-ethane hydrocarbons. His testimony supported the GCA's requested rule change that would clarify that CO could be used as a surrogate for all engine emissions testing; the NMED indicated its agreement to the requested change.
- Witnesses for other parties presented testimony in support of other changes to the proposed rule, including requests to raise the CO emission standards for engines and reduced frequency of engine emissions testing under the rule.
- The National Park Service (NPS) filed testimony in support of the NMED regulating additional size categories of engines; the NMED declined to add those additional standards to the September 16 version of the proposed rule. An NPS witness is expected to testify on Tuesday 9/28.
- **Section 114/Compressor Seals.** Witnesses for the NMED presented testimony describing the proposed compressor seal emission standards and the bases for those standards. A NMOGA witnesses also testified about the control device requirements.
- **Section 115/Control Devices.** Witnesses for the NMED presented testimony describing the proposed requirements for control devices and the bases for those requirements. Witnesses for multiple industry participants also testified about the control device requirements.
- Counsel for the GCA presented the testimony of GCA witness Brendan Filby regarding control device and catalytic converter inspections, and stated that the September 16 draft of the rule addressed the GCA's concerns with the earlier draft of the rule by clarifying that catalytic converters can be inspected and maintained in accordance with the manufacturer's recommendations and are not subject to monthly physical inspections.

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- **Section 119/Heaters.** Witnesses for the NMED presented testimony describing the proposed heater emission standards and the bases for those standards. A NMOGA witnesses also testified about the heater requirements.
- **Section 120/Hydrocarbon Liquid Transfers.** Witnesses for the NMED presented testimony describing the proposed hydrocarbon liquid transfer emission standards and the bases for those standards. Witnesses for multiple industry participants also testified about the hydrocarbon liquid transfer requirements.
- **Section 127/Credible Evidence.** A witness for the NMED presented the credible evidence language in the proposed rule, which had been negotiated by stakeholders. The language allows the department to use credible evidence that it obtains or is provided to it for purposes of establishing a violation, and codifies enforcement authority already held by the NMED. NMED dropped the language from an earlier draft of the rule establishing a presumption of a violation based on that credible evidence.

Looking Ahead to Day 7

- Expected topics: the regulation of pneumatic controllers under Section 122.
- National Park Service will testify on engine emission standards/Section 113.

Other Important Notes

- We expect the hearing to address the topic of fugitive emissions monitoring (Section 116) on Wednesday.