

# EIB 21-27

## Day 10 Hearing Summary

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

Friday, October was Day 10, *the final day*, of the New Mexico Environmental Improvement Board (EIB) hearing on the New Mexico Environment Department's (NMED's) proposed ozone precursor rule.

### Day 10 Highlights

- **EDF/CAA/PPP/NAVA Flowback Proposal.** The Environmental Defense Fund presented its witness, who worked in the oil and gas industry, in support of the flowback proposal. EDF's second witness presented brief testimony regarding the economic analysis for CAA/EDF's flowback proposal. The CAA presented its witness in support of the CAA/EDF's flowback proposal. Oxy presented sur-rebuttal in support of flowback proposal with two changes, removing the rule's vapor tight reference and a change to the proposed compliance timeline, both of which were accepted by EDF and CAA. NMOGA presented a witness who testified regarding why the Board should reject this proposed rule. In the testimony, NMOGA's witness reviewed current OCD rules and regulations in context of the proposed rule and provided testimony regarding safety and economic concerns with the proposed rule. NMED presented testimony from its witnesses stating it cannot take a position on the proposal because it does not have the technical expertise to evaluate it.
- **EDF Witness.** EDF's witness presented testimony regarding Section 117 (natural gas well liquid unloading), Section 116 (LDAR), Section 122 (pneumatic controllers) and Section 123 (storage vessels). EDF's witness offered testimony supporting NMED's natural gas well liquid unloading requirements (specifically the use and inclusion of artificial lift), NMED's LDAR proposal, EDF's proximity proposal and EDF's pneumatic controller retrofit proposal.
- **Oxy Witness.** Oxy presented sur-rebuttal testimony regarding well workers and the notification requirements set forth therein.
- **NMOGA Witness.** NMOGA's witness presented testimony regarding Section 123 and NMOGA's storage vessels measurement proposal and Section 116 and NMOGA's LDAR proximity proposal.
- **Solar Turbines.** A witness for Solar Turbines presented testimony supporting NMED's September 16<sup>th</sup> rule, specifically the inclusion of Solar Turbine's changes to Section 113 of the rule. The witness testified regarding Solar Turbine's outstanding request to remove references to CO in the turbine section of the proposed rule.

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## Day 9 Hearing Summary

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#### Looking Ahead

#### Post-Hearing Timeline:

- The Notice of Transcript Filing will be issued by the court reporter to the parties indicating that the hearing transcripts are available. The Notice of Transcript Filing will include the deadline for post-hearing submissions. The deadline for post-hearing submissions will be 45 days from the Notice of Transcript Filing.
- Post-hearing submissions should include: (a) Closing Argument, which should include any and all legal arguments; (b) proposed findings and conclusions that are part of the parties' statement of reasons. As part of this submission, the parties should "explode" the rule and provide an explanation under each paragraph/provision of the rule and cite to evidence in support of the parties' position on the provision. This "exploded" version of the rule should be provided to the Hearing Officer in Word format. The Hearing Officer will provide a sample of such a submission to the parties.
- The Hearing Officer will synthesize all of the comments from the parties into one document, which will be included in the Hearing Officer's Report. The Hearing Officer's report will include the synthesized comments and the basic facts of the hearing. It will not include any recommendations, except for those regarding the admission of evidence.
- 30 days after the post-hearing submissions are filed, the Hearing Officer will provide the Hearing Officer's Report to the Board.
- Parties will not have an opportunity to request a hearing on the Hearing Officer's Report, but can contact the Hearing Officer if any corrections to the report are needed (typographical errors, etc.).
- The Board will deliberate on the rule at a meeting, likely a special meeting, to be scheduled after it receives the Hearing Officer's Report. It has to deliberate on the rule within 60 days of receipt of the Hearing Officer's Report.