OXY USA EXHIBIT 1

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 2 AIR QUALITY (STATEWIDE)
PART 50 OIL AND GAS SECTOR - OZONE PRECURSOR POLLUTANTS

20.2.50.1 ISSUING AGENCY: Environmental Improvement Board.
[20.2.50.1 NMAC - N, XX/XX/2021]

20.2.50.2 SCOPE: This Part applies to sources located within areas of the state under the board's jurisdiction that, as of the effective date of this rule or anytime thereafter, are causing or contributing to ambient ozone concentrations that exceed ninety-five percent of the national ambient air quality standard for ozone, as measured by a design value calculated and based on data from one or more department monitors. Once a source becomes subject to this rule, the requirements of the rule are irrevocably effective unless the source obtains a federally enforceable air permit limiting the potential to emit to below such applicability thresholds established in this Part.
[20.2.50.2 NMAC - N, XX/XX/2021]

20.2.50.3 STATUTORY AUTHORITY: Environmental Improvement Act, Section 74-1-1 to 74-1-16 NMSA 1978, including specifically Paragraph (4) and (7) of Subsection A of Section 74-1-8 NMSA 1978, and Air Quality Control Act, Sections 74-2-1 to 74-2-22 NMSA 1978, including specifically Subsections A, B, C, D, F, and G of Section 74-2-5 NMSA 1978 (as amended through 2021).
[20.2.50.3 NMAC - N, XX/XX/2021]

20.2.50.4 DURATION: Permanent.
[20.2.50.4 NMAC - N, XX/XX/2021]

20.2.50.5 EFFECTIVE DATE: Month XX, 2021, except where a later date is specified in another Section.
[20.2.50.5 NMAC - N, XX/XX/2021]

20.2.50.6 OBJECTIVE: The objective of this Part is to establish emission standards for volatile organic compounds (VOC) and oxides of nitrogen (NOx) for oil and gas production, processing, and transmission sources.
[20.2.50.6 NMAC - N, XX/XX/2021]

20.2.50.7 DEFINITIONS: In addition to the terms defined in 20.2.2 NMAC - Definitions, as used in this Part, the following definitions apply.

A. "Approved instrument monitoring method" means an optical gas imaging, United States environmental protection agency (U.S. EPA) reference method 21 (RM21) (40 CFR 60, Appendix B), or other instrument-based monitoring method or program approved by the department in advance and in accordance with 20.2.50 NMAC.

B. "Auto-igniter" means a device that automatically attempts to relight the pilot flame in the combustion chamber of a control device in order to combust VOC emissions, or a device that will automatically attempt to combust the VOC emission stream.

C. "Bleed rate" means the rate in standard cubic feet per hour at which natural gas is continuously or intermittently vented from a pneumatic controller.

D. "Calendar year" means a year beginning January 1 and ending December 31.

E. "Centrifugal compressor" means a machine used for raising the pressure of natural gas by drawing in low-pressure natural gas and discharging significantly higher-pressure natural gas by means of a mechanical rotating vane or impeller. Screw, sliding vane, and liquid ring compressor is not a centrifugal compressor.

F. "Closed vent system" means a system that is designed, operated, and maintained to route the VOC emissions from a source or process to a process stream or control device with no loss of VOC emissions to the atmosphere.

G. "Commencement of operation" means for an oil and natural gas wellhead, the date any permanent production equipment is in use and product is consistently flowing to a sales lines, gathering line or storage vessel from the first producing well at the stationary source, but no later than the end of well completion operation.

H. "Component" means a pump seal, flange, pressure relief device (including thief hatch or other opening on a storage vessel), connector or valve that contains or contacts a process stream with hydrocarbons, except for components where process streams consist solely of glycol, amine, produced water or methanol.

I. "Connector" means flanged, screwed, or other joined fittings used to connect pipe line segments, tubing, pipe components (such as elbows, reducers, "T's" or valves) to each other; or a pipe line to a piece of equipment; or an instrument to a pipe, tube or piece of equipment. A common connector is a flange. Joined fittings welded completely around the circumference of the interface are not considered connectors for the purpose of this Part.

J. "Construction" means fabrication, erection, installation or relocation of a stationary source, including but not limited to temporary installations and portable stationary sources.

K. "Custody transfer" means the transfer of oil or natural gas after processing or treatment in the producing operation, or from a storage vessel or automatic transfer facility or other processing or treatment equipment including product loading racks, to a pipeline or any other form of transportation.

L. "Control device" means air pollution control equipment or emission reduction technologies that thermally combust, chemically convert, or otherwise destroy or recover air contaminants. Examples of control devices include but are not limited to open flares, enclosed combustion devices (ECDs), thermal oxidizers (TOs), vapor recovery units (VRUs), fuel cells, condensers, air fuel ratio controllers (AFRs), catalytic converters (oxidative, selective, and non-selective), or other emission reduction equipment. A control device may also include any other air pollution control equipment or emission reduction technologies approved by the department to comply with emission standards in this Part.

M. "Department" means the New Mexico environment department.

N. "Downtime" means the period of time when equipment is not in operation, or when a well is producing, and the control device is not in operation.

O. "Enclosed combustion device" means a combustion device where gaseous fuel is combusted in an enclosed chamber. This may include, but is not limited to an enclosed flare, reboiler, and heater.

P. "Existing" means constructed or reconstructed before the effective date of this Part and has not since been modified or reconstructed.

Q. "Gathering and boosting station" means a permanent combination of equipment that collects or moves natural gas, crude oil, condensate, or produced water between a wellhead site and a midstream oil and natural gas collection or distribution facility, such as a storage vessel battery or compressor station, or into or out of storage.

R. "Glycol dehydrator" means a device in which a liquid glycol absorbent, including ethylene glycol, diethylene glycol, or triethylene glycol, directly contacts a natural gas stream and absorbs water.

S. "Hydrocarbon liquid" means any naturally occurring, unrefined petroleum liquid and can include oil, condensate, and intermediate hydrocarbons.

T. "Liquid unloading" means the removal of accumulated liquid from the wellbore that reduces or stops natural gas production.

U. "Liquid transfer" means the loading and unloading of a hydrocarbon liquid or produced water between a storage vessel and tanker truck or tanker rail car for transport.

V. "Local distribution company custody transfer station" means a metering station where the local distribution (LDC) company receives a natural gas supply from an upstream supplier, which may be an interstate transmission pipeline or a local natural gas producer, for delivery to customers through the LDC's intrastate transmission or distribution lines.

W. "Natural gas compressor station" means one or more compressors designed to compress natural gas from well pressure to gathering system pressure before the inlet of a natural gas processing plant, or to move compressed natural gas through a transmission pipeline.

X. "Natural gas-fired heater" means an enclosed device using a controlled flame and with a primary purpose to transfer heat directly to a process material or to a heat transfer material for use in a process.

Y. "Natural gas processing plant" means the processing equipment engaged in the extraction of natural gas liquid from natural gas or fractionation of mixed natural gas liquid to a natural gas product, or both. A Joule-Thompson valve, a dew point depression valve, or an isolated or standalone Joule-Thompson skid is not a natural gas processing plant.

Z. "New" means constructed or reconstructed on or after the effective date of this Part.

AA. "Operator" means the person or persons responsible for the overall operation of a stationary source.

BB. "Optical gas imaging (OGI)" means an imaging technology that utilizes a high-sensitivity infrared camera designed for and capable of detecting hydrocarbons.

CC. "Owner" means the person or persons who own a stationary source or part of a stationary source.

DD. **"Permanent pit"** means a pit used for collection, retention, or storage of produced water or brine and is installed for longer than one year.

EE. **"Pneumatic controller"** means an instrument that is actuated using pressurized gas and used to control or monitor process parameters such as liquid level, gas level, pressure, valve position, liquid flow, gas flow, and temperature.

FF. **"Pneumatic diaphragm pump"** means a positive displacement pump powered by pressurized natural gas that uses the reciprocating action of flexible diaphragms in conjunction with check valves to pump a fluid. A pump in which a fluid is displaced by a piston driven by a diaphragm is not considered a diaphragm pump. A lean glycol circulation pump that relies on energy exchange with the rich glycol from the contactor is not considered a diaphragm pump.

GG. **"Potential to emit (PTE)"** means the maximum capacity of a stationary source to emit an air contaminant under its physical and operational design. The physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and a restriction on the hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation is federally enforceable. The PTE for nitrogen dioxide shall be based on total oxides of nitrogen.

HH. **"Produced water"** means a fluid that is an incidental byproduct from drilling for or the production of oil and gas.

II. **"Produced water management unit"** means a recycling facility or a permanent pit that is a natural topographical depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to accumulate produced water and has a design storage capacity equal to or greater than 50,000 barrels.

JJ. **"Qualified Professional Engineer"** means an individual who is licensed by a state as a professional engineer to practice one or more disciplines of engineering and who is qualified by education, technical knowledge, and experience to make the specific technical certifications required under this Part.

KK. **"Reciprocating compressor"** means a piece of equipment that increases the pressure of process gas by positive displacement, employing linear movement of a piston rod.

LL. **"Reconstruction"** means a modification that results in the replacement of the components or addition of integrally related equipment to an existing source, to such an extent that the fixed capital cost of the new components or equipment exceeds fifty percent of the fixed capital cost that would be required to construct a comparable entirely new facility.

MM. **"Recycling facility"** means a stationary or portable facility used exclusively for the treatment, re-use, or recycling of produced water and does not include oilfield equipment such as separators, heater treaters, and scrubbers in which produced water may be used.

NN. **"Responsible official"** means one of the following:

(1) for a corporation: president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of the corporation if the representative is responsible for the overall operation of the source.

(2) for a partnership or sole proprietorship: a general partner or the proprietor, respectively.

OO. **"Small business facility"** means, for the purposes of this Part, a source that is independently owned or operated by a company that is a not a subsidiary or a division of another business, that employs no more than 10 employees at any time during the calendar year, and that has a gross annual revenue of less than $250,000. Employees include part-time, temporary, or limited service workers.

PP. **"Startup"** means the setting into operation of air pollution control equipment or process equipment.

QQ. **"Stationary Source"** or **"source"** means any building, structure, equipment, facility, installation (including temporary installations), operation, process, or portable stationary source that emits or may emit any air contaminant. Portable stationary source means a source that can be relocated to another operating site with limited dismantling and reassembly.

RR. **"Storage vessel"** means a single tank or other vessel that is designed to contain an accumulation of hydrocarbon liquid or produced water and is constructed primarily of non-earthen material including wood, concrete, steel, fiberglass, or plastic, which provide structural support, or a process vessel such as a surge control vessel, bottom receiver, or knockout vessel. A well completion vessel that receives recovered liquid from a well after commencement of operation for a period that exceeds 60 days is considered a storage vessel. A storage vessel does not include a vessel that is skid-mounted or permanently attached to a mobile source and located at the site for less than 180 consecutive days, such as a truck railcar, or a pressure vessel designed to operate in excess of 204.9

kilopascals without emissions to the atmosphere.

SS. **"Well workover"** means the repair or stimulation of an existing production well for the purpose of restoring, prolonging, or enhancing the production of hydrocarbons.

TT. **"Wellhead site"** means the equipment directly associated with one or more oil wells or natural gas wells upstream of the natural gas processing plant. A wellhead site may include equipment used for extraction, collection, routing, storage, separation, treating, dehydration, artificial lift, combustion, compression, pumping, metering, monitoring, and product piping.

[20.2.50.7 NMAC - N, XX/XX/2021]

20.2.50.8 SEVERABILITY: If any provision of this Part, or the application of this provision to any person or circumstance is held invalid, the remainder of this Part, or the application of this provision to any person or circumstance other than those as to which it is held invalid, shall not be affected thereby.

[20.2.50.8 NMAC - N, XX/XX/2021]

20.2.50.9 CONSTRUCTION: This Part shall be liberally construed to carry out its purpose.

[20.2.50.9 NMAC - N, XX/XX/2021]

20.2.50.10 SAVINGS CLAUSE: Repeal or supersession of prior versions of this Part shall not affect administrative or judicial action initiated under those prior versions.

[20.2.50.10 NMAC - N, XX/XX/2021]

20.2.50.11 COMPLIANCE WITH OTHER REGULATIONS: Compliance with this Part does not relieve a person from the responsibility to comply with other applicable federal, state, or local laws, rules or regulations, including more stringent controls.

[20.2.50.11 NMAC - N, XX/XX/2021]

20.2.50.12 DOCUMENTS: Documents incorporated and cited in this Part may be viewed at the New Mexico environment department, air quality bureau.

[20.2.50.12 NMAC - N, XX/XX/2021]

[The Air Quality Bureau is located at 525 Camino de los Marquez, Suite 1, Santa Fe, New Mexico 87505.]

20.2.23.13-20.2.23.110 [RESERVED]

20.2.50.111 APPLICABILITY:

A. This Part applies to crude oil and natural gas production and processing equipment and operations that extract, collect, separate, dehydrate, store, process, transport, transmit, or handle hydrocarbon liquid or produced water in the areas specified in 20.2.50.2 NMAC and are located at wellhead sites, tank batteries, gathering and boosting sites, natural gas processing plants, and transmission compressor stations, up to the point of the local distribution company custody transfer station.

B. In determining if any source is subject to this Part, including a small business facility as defined in this Part, the owner or operator shall calculate the Potential to Emit (PTE) or actual emissions of such source and shall have the PTE or actual emissions calculation certified by a qualified professional engineer or in-house engineer with expertise regarding the calculation of PTE or actual emissions. The calculation shall be kept on file for a minimum of five years and shall be provided to the department upon request.

C. An owner or operator of a small business facility as defined in this Part shall comply with the requirements of this Part as specified in 20.2.50.125 NMAC.

D. Oil refinery and transmission pipelines are not subject to this Part.

[20.2.50.111 NMAC - N, XX/XX/2021]

20.2.50.112 GENERAL PROVISIONS:

A. General requirements:

(1) Sources subject to emissions standards and requirements under this Part shall be operated and maintained consistent with manufacturer specifications, and good engineering and maintenance practices. The owner or operator shall keep manufacturer specifications and maintenance practices on file and make them available upon request by the department. For sources constructed prior to 1980 for which no manufacturer specifications and maintenance practices are available, the owner or operator shall develop and follow a maintenance schedule sufficient to operate and maintain such units in good working order. The owner or operator shall keep such maintenance schedules on file and make them available to the department upon request.

(2) Sources subject to emission standards or requirements under this Part shall be operated to minimize emissions of air contaminants, including VOC and NOR.

(3) The owner or operator shall manage the source's record of data in a database that is able to generate a Compliance Database Report (CDR) adequate to provide the department with compliance assurance. The CDR is an electronic report generated by the owner or operator's database and submitted to the department upon request. The format of the CDR shall be determined by the department.

(4) The CDR is a report distinct from the owner or operator's database. The department does not require access to the owner or operator's database, only the CDR.

(5) If read by the owner or operator's authorized representative, the Equipment Monitoring Tags (EMT) for sources that utilize EMT shall access the owner or operator's database record for that source.

(6) The owner or operator shall contemporaneously track each compliance event for each source subject to the requirements of this Part, and shall comply with the following:

(a) data gathered during each monitoring or testing event shall be contemporaneously uploaded into the database as soon as practicable, but no later than three business days of each compliance event.

(b) data required by this Part shall be maintained in the database for at least five years.

(7~~3~~) Within two years of the effective date of this Part, owners and operators of a source ~~requiring an~~utilizing an ~~Equipment Monitoring Tag (~~EMT~~)~~ system for compliance assurance shall physically tag each unit with an EMT, the format of which shall be either RFID, QR, or bar code such that, when scanned it provides a unique identifier of the source. This unique identifier shall act as an index to the source's record of the data required by this Part. The EMT shall be maintained by the owner or operator, and data in the EMT shall provide at a minimum, the following information:

(a) unique unit identification number;

(b) location of the source;

(c) type of source (e.g., tank, VRU, dehydrator, pneumatic controller, etc.);

(d) for each source, the VOC (and NOR, if applicable) PTE or actual emissions in lbs./hr. and tpy;

(e) for a control device, the controlled VOC and NOR PTE or actual emissions in lbs./hr. and tpy;

(f) make, model, and serial number; and

(g) a link to the manufacturer's maintenance schedule or repair recommendations.

(8~~4~~) The EMT shall be installed and maintained by the owner or operator of the facility.

(~~5~~9) The EMT shall be of a format scannable by an owner or operator's authorized representatives and, upon scanning, shall provide unique identifier that shall index the source's record of the data required by this Part.

~~**(6)** The owner or operator shall manage the source's record of data in a database that is able to generate a Compliance Database Report (CDR). The CDR is an electronic report generated by the owner or operator's database and submitted to the department upon request. The format of the CDR shall be determined by the department.~~

~~**(7)** The CDR is a report distinct from the owner or operator's database. The department does not require access to the owner or operator's database, only the CDR.~~

~~**(8)** If read by the owner or operator's authorized representative, the EMT shall access the owner or operator's database record for that source.~~

~~**(9)** The owner or operator shall contemporaneously track each compliance event for each source subject to the EMT requirements of this Part, and shall comply with the following:~~

~~**(a)** data gathered during each monitoring or testing event shall be contemporaneously uploaded into the database as soon as practicable, but no later than three business days of each compliance event.~~

~~**(b)** data required by this Part shall be maintained in the database for at least five years.~~

(10) The department may request that an owner or operator retain a third party at their own expense to verify any data or information collected, reported, or recorded pursuant to this Part, and make recommendations to correct or improve the collection of data or information. Such requests may be made no more than once per year. The owner or operator shall submit a report of the verification and any recommendations made by the third party to the department by a date specified and implement the recommendations in the manner approved by the department.

B. Monitoring requirements:

(1) Sources subject to emission standards and monitoring (e.g. inspection, testing, parametric monitoring) requirements under this Part shall be inspected monthly to ensure proper maintenance and operation, unless a different schedule is specified in the Section applicable to that source type. If the equipment is shut down at the time of required periodic testing, monitoring, or inspection, the owner or operator shall not be required to restart the unit for the sole purpose of performing the testing, monitoring, or inspection, but shall note the shut down in the records kept for that equipment for that monitoring event.

(2) An owner or operator may submit for the department's review and approval an equally effective, enforceable, and equivalent alternative monitoring strategy. Such requests shall be made on an application form provided by the department. The department shall issue a letter approving or denying the requested alternative monitoring strategy. An owner or operator shall comply with the default monitoring requirements required under the applicable Section and shall not operate under an alternative monitoring strategy until it has been approved by the department.

(a) For sources that implement alternative monitoring strategies, initial scanning of the EMT before a monitoring event and final scanning of an EMT at the end of the monitoring event are not required provided that electronic data retrieved from the monitoring event satisfies the requirements found at 20.2.50.112(B)(3)(a)-(e) NMAC and is uploaded to the owner or operator's database following the monitoring event.

(3) ~~Each~~ For sources that utilize an EMT, each monitoring event (e.g. testing, inspection, parametric monitoring) shall be initiated by an initial scanning of the EMT, the results of which shall then be directly uploaded into the database or temporarily into the handheld or other device. Upon completion of the monitoring event, a final scanning of the EMT shall terminate the monitoring event. At a minimum, the uploaded data shall include:

(a) date and time of the testing, monitoring, or inspection event;

(b) name of the personnel conducting the testing, monitoring, or inspection;

(c) identification number and type of unit;

(d) a description of any maintenance or repair activity conducted; and

(e) results of testing, monitoring, or inspection as required under this Part.

C. Recordkeeping requirements:

(1) Within three business days of a monitoring event, an electronic record shall be made of the monitoring event and shall include the following data:

(a) date and time of the testing, monitoring, or inspection event;

(b) name of the personnel conducting the testing, monitoring, or inspection;

(c) identification number and type of unit;

(d) a description of any maintenance or repair activity conducted; and

(e) results of any testing, monitoring, or inspections required under this Part.

(2) The owner or operator shall keep an electronic record required by this Part for five years. The department may treat loss of data or failure to maintain a record, including failure to transfer a record upon sale or transfer of ownership or operating authority, as a failure to collect the data.

~~**(3)** Before the transfer of ownership of equipment subject to this Part, the current owner or operator shall conduct and document a full compliance evaluation of such equipment. The documentation shall include a certification by a responsible official as to whether the equipment is in compliance with the requirements of this Part. The compliance determination shall be conducted no earlier than three months before the transfer of ownership. The owner or operator shall keep the full compliance evaluation and certification by the responsible official for for five years.~~

D. Reporting requirements: Within ~~24 hours~~3-5 business days of a request by the department, the owner or operator shall for each unit subject to the request, provide the requested information either by electronically submitting a CDR to the department's Secure Extranet Portal (SEP), or by other means and formats specified by the department in its request.

[20.2.50.112 NMAC - N, XX/XX/2021]

20.2.50.113 ENGINES AND TURBINES:

A. Applicability: Portable and stationary natural gas-fired spark ignition engines, compression ignition engines, and natural gas-fired combustion turbines located at wellhead sites, tank batteries, gathering and boosting sites, natural gas processing plants, and transmission compressor stations, with a rated horsepower greater than the horsepower ratings of Table 1, 2, and 3 of 20.2.50.113 NMAC are subject to the requirements of 20.2.50.113 NMAC.

B. Emission standards:

(1) The owner or operator of a portable or stationary natural gas-fired spark-ignition engine, compression ignition engine, or natural gas-fired combustion turbine shall ensure compliance with the emission standards by the dates specified in Subsection B of 20.2.50.113 NMAC.

(2) The owner or operator of an existing natural gas-fired spark-ignition engine shall complete an inventory of all existing engines by January 1, 2023, and shall prepare a schedule to ensure that each existing engine does not exceed the emission standards in table 1 of Paragraph (2) of Subsection B of 20.2.50.113 NMAC as follows:

(a) by January 1, 2025, the owner or operator shall ensure at least thirty percent of the company's existing engines meet the emission standards.

(b) by January 1, 2027, the owner or operator shall ensure at least an additional thirty-five percent of the company's existing engines meets the emission standards.

(c) by January 1, 2029, the owner or operator shall ensure that the remaining thirty-five percent of the company's existing engines meets the emission standards.

(d) in lieu of meeting the emission standards for an existing natural gas-fired spark ignition engine, an owner or operator may reduce the annual hours of operation of an engine such that the annual NOx and VOC emissions are reduced by at least ninety-five percent per year.

Table 1 - EMISSION STANDARDS FOR NATURAL GAS-FIRED SPARK-IGNITION ENGINES CONSTRUCTED, RECONSTRUCTED, OR INSTALLED BEFORE THE EFFECTIVE DATE OF 20.2.50 NMAC.

Engine Type	Rated bhp	NOx	CO	NMNEHC (as propane)
Lean-burn	>1,000	0.50 g/bhp-hr	47 ppmv @ 15% O2 or 93% reduction	0.70 g/bhp-hr
Rich-burn	>1,000	0.50 g/bhp-hr	0.60 g/bhp-hr	0.70 g/bhp-hr

(3) The owner or operator of a new natural gas-fired spark ignition engine shall ensure the engine does not exceed the emission standards in table 2 of Paragraph (3) of Subsection B of 20.2.50.113 NMAC upon startup.

Table 2 - EMISSION STANDARDS FOR NATURAL GAS-FIRED SPARK-IGNITION ENGINES CONSTRUCTED, RECONSTRUCTED, OR INSTALLED AFTER THE EFFECTIVE DATE OF 20.2.50 NMAC.

Engine Type	Rated bhp	NOx	CO	NMNEHC (as propane)
Lean-burn	>500 - <1,000	0.50 g/bhp-hr	0.60 g/bhp-hr	0.70 g/bhp-hr
Lean-burn	>1,000	0.30 g/bhp-hr uncontrolled or 0.05 g/bhp-hr with control	0.60 g/bhp-hr	0.70 g/bhp-hr
Rich-burn	>500	0.50 g/bhp-hr	0.60 g/bhp-hr	0.70 g/bhp-hr

(4) The owner or operator of a natural gas-fired spark ignition engine with NOx emission control technology that uses ammonia or urea as a reagent shall ensure that the exhaust ammonia slip is limited to 10 ppmvd or less, corrected to fifteen percent oxygen.

(5) The owner or operator of a compression ignition engine shall ensure compliance with the following emission standards:

(a) a new portable or stationary compression ignition engine with a maximum design power output equal to or greater than 500 horsepower that is not subject to the emission standards under Subparagraph (b) of Paragraph (5) of Subsection B of 20.2.50.113 NMAC shall limit NOx emissions to not more than nine g/bhp-hr upon startup.

(b) a stationary compression ignition engine that is subject to and complying with Subpart IIII of 40 CFR Part 60, Standards of Performance for Stationary Compression Ignition Internal Combustion Engines, is not subject to the requirements of Subparagraph (a) of Paragraph (5) of Subsection B of 20.2.50.113 NMAC.

(6) The owner or operator of a portable or stationary compression ignition engine with NOx emission control technology that uses ammonia or urea as a reagent shall ensure that the exhaust ammonia slip is limited to 10 ppmvd or less, corrected to fifteen percent oxygen.

(7) The owner or operator of a stationary natural gas-fired combustion turbine with a maximum design rating equal to or greater than 1,000 bhp shall comply with the applicable emission standards for an existing, new, or reconstructed turbine listed in table 3 of Paragraph (7) of Subsection B of 20.2.50.113 NMAC.

Table 3 - EMISSION STANDARDS FOR STATIONARY COMBUSTION TURBINES

<table>
<tr><td colspan="4">For each natural gas-fired combustion turbine constructed or reconstructed and installed before the effective date of 20.2.50 NMAC, the owner or operator shall ensure the turbine does not exceed the following emission standards no later than two years from the effective date of this Part:</td></tr>
<tr><td>Turbine Rating (bhp)</td><td>NO. (ppmvd @15% O2)</td><td>CO (ppmvd @ 15% O2)</td><td>NMNEHC (as propane, ppmvd @15% O2)</td></tr>
<tr><td>>1,000 and <5,000</td><td>50</td><td>50</td><td>9</td></tr>
<tr><td>>5,000 and <15,000</td><td>50</td><td>50</td><td>9</td></tr>
<tr><td>>15,000</td><td>50</td><td>50 or 93% reduction</td><td>5 or 50% reduction</td></tr>
<tr><td colspan="4">For each natural gas-fired combustion turbine constructed or reconstructed and installed on or after the effective date of 20.2.50 NMAC, the owner or operator shall ensure the turbine does not exceed the following emission standards upon startup:</td></tr>
<tr><td>Turbine Rating (bhp)</td><td>NO. (ppmvd @15% O2)</td><td>CO (ppmvd @ 15% O2)</td><td>NMNEHC (as propane, ppmvd @15% O2)</td></tr>
<tr><td>>1,000 and <5,000</td><td>25</td><td>25</td><td>9</td></tr>
<tr><td>>5,000 and <15,900</td><td>15</td><td>10</td><td>9</td></tr>
<tr><td>>15,900</td><td>9.0 Uncontrolled or
2.0 with Control</td><td>10 Uncontrolled or
1.8 with Control</td><td>5</td></tr>
</table>

(8) The owner or operator of a stationary natural gas-fired combustion turbine with NO. emission control technology that uses ammonia or urea as a reagent shall ensure that the exhaust ammonia slip is limited to 10 ppmvd or less, corrected to fifteen percent oxygen.

(9) The owner or operator of an engine or turbine that utilizes EMT shall install an EMT on the engine or turbine in accordance with 20.2.50.112 NMAC.

(10) The owner or operator of an emergency use engine that is operated less than 100 hours per year is not subject to the emissions standards in this Part but shall be equipped with a non-resettable hour meter to monitor and record any hours of operation.

C. Monitoring requirements:

(1) Maintenance and repair for a spark-ignition engine, compression-ignition engine, and stationary combustion turbine shall meet the minimum manufacturer recommended maintenance schedule. The following maintenance, adjustment, replacement, or repair events for engines and turbines shall be documented as they occur:

(a) routine maintenance that takes a unit out of service for more than two hours during any 24-hour period; and

(b) unscheduled repairs that require a unit to be taken out of service for more than two hours during any 24-hour period.

(2) Catalytic converters (oxidative, selective and non-selective) and AFR controllers shall be maintained according to manufacturer or supplier recommended maintenance schedules, including replacement of oxygen sensors as necessary for oxygen-based controllers. During periods of catalytic converter or AFR controller maintenance, the owner or operator shall shut down the engine or turbine until the catalytic converter or AFR controller can be replaced with a functionally equivalent spare to allow the engine or turbine to return to operation.

(3) For equipment operated for 500 hours per year or more, compliance with the emission standards in Subsection B of 20.2.50.113 NMAC shall be demonstrated by performing an initial emissions test, followed by annual tests, for NON, CO, and non-methane non-ethane hydrocarbons (NMNEHC) using a portable analyzer or U.S. EPA reference method. For units with g/hp-hr emission standards, the engine load shall be calculated using the following equations:

$$\text{Load (Hp)} = \frac{\text{Fuel consumption (scf/hr) x Measured fuel heating value (LHV btu/scf)}}{\text{Manufacturer's rates BSFC (btu/bhp-hr) at 100\% load or best efficiency}}$$

$$\text{Load (Hp)} = \frac{\text{Fuel consumption (gal/hr) x Measured fuel heating value (LHV btu/gal)}}{\text{Manufacturer's rated BSFC (btu/bhp-hr) at 100\% load or best efficiency}}$$

Where: LVH = lower heating value, btu/scf, or btu/gal, as appropriate; and
BSFC = brake specific fuel consumption

(a) emissions testing events shall be conducted at ninety percent or greater of the unit's capacity. If the ninety percent capacity cannot be achieved, the monitoring and testing shall be conducted at the maximum achievable capacity or load under prevailing operating conditions. The load and the parameters used to calculate it shall be recorded to document operating conditions at the time of testing and shall be included with the test report.

(b) emissions testing utilizing a portable analyzer shall be conducted in accordance with the requirements of the current version of ASTM D 6522. If a portable analyzer has met a previously approved department criterion, the analyzer may be operated in accordance with that criterion until it is replaced.

(c) the default time period for a test run shall be at least 20 minutes.

(d) an emissions test shall consist of three separate runs, with the arithmetic mean of the results from the three runs used to determine compliance with the applicable emission standard.

(e) during emissions tests, pollutant and diluent concentration shall be monitored and recorded. Fuel flow rate shall be monitored and recorded if stack gas flow rate is determined utilizing U.S. EPA reference method 19. This information shall be included with the periodic test report.

(f) stack gas flow rate shall be calculated in accordance with U.S. EPA reference method 19 utilizing fuel flow rate (scf) determined by a dedicated fuel flow meter and fuel heating value (Btu/scf). The owner or operator shall provide a contemporaneous fuel gas analysis (preferably on the day of the test, but no earlier than three months before the test date) and a recent fuel flow meter calibration certificate (within the most recent quarter) with the final test report. Alternatively, stack gas flow rate may be determined by using U.S. EPA reference methods 1 through 4 or through the use of manufacturer provided fuel consumption rates.

(g) upon request by the department, an owner or operator shall submit a notification and protocol for an initial or annual emissions test.

(h) emissions testing shall be conducted at least once per calendar year. Emission testing required by Subparts GG, IIII, JJJJ, or KKKK of 40 CFR 60, or Subpart ZZZZ of 40 CFR 63, may be used to satisfy the emissions testing requirements if it meets the requirements of 20.2.50.113 NMAC and is completed at least once per calendar year.

(4) The owner or operator of equipment operated less than 500 hours per year shall monitor the hours of operation using a non-resettable hour meter and shall test the unit at least once per 8760 hours of operation in accordance with the emissions testing requirements in Paragraph (3) of Subsection C of 20.2.50.113 NMAC.

(5) An owner or operator of an emergency use engine operated for less than 100 hours per year shall monitor the hours of operation by a non-resettable hour meter.

(6) An owner or operator limiting the annual operating hours of an engine to meet the requirements of Paragraph (2) of Subsection B of 20.2.50.113 NMAC shall monitor the hours of operation by a non-resettable hour meter.

(7) Prior to monitoring, testing, inspection, or maintenance of an engine or turbine that utilizes EMT, the owner or operator shall scan the EMT, and the monitoring data entry shall be made in accordance with the requirements of 20.2.50.112 NMAC.

D. Recordkeeping requirements:

(1) The owner or operator of a spark ignition engine, compression ignition engine, or stationary combustion turbine shall maintain a record in accordance with 20.2.50.112 NMAC for the engine or turbine. The record shall include:

(a) the make, model, serial number, and EMT for the engine or turbine, if EMT is utilized;

(b) a copy of the engine, turbine, or control device manufacturer recommended maintenance and repair schedule;

(c) all inspection, maintenance, or repair activity on the engine, turbine, and control device, including:

(i) the date and time of an inspection, maintenance or repair;

(ii) the date a subsequent analysis was performed (if applicable);

(iii) the name of the personnel conducting the inspection, maintenance or repair;

(iv) a description of the physical condition of the equipment as found during the inspection;

(v) a description of maintenance or repair activity conducted; and

(vi) the results of the inspection and any required corrective actions.

(2) The owner or operator of a spark ignition engine, compression ignition engine, or stationary combustion turbine shall maintain records of initial and annual emissions testing for the engine or turbine. The records shall include:

(a) the make, model, serial number, and EMT for the tested engine or turbine, if EMT is utilized;

(b) the date and time of sampling or measurements;

(c) the date analyses were performed;

(d) the name of the personnel and the qualified entity that performed the analyses;

(e) the analytical or test methods used;

(f) the results of analyses or tests;

(g) for equipment operated less than 500 hours per year, the total annual hours of operation as recorded by the non-resettable hour meter; and

(h) operating conditions at the time of sampling or measurement.

(3) The owner or operator of an emergency use engine operated less than 100 hours per year shall record the total annual hours of operation as recorded by the non-resettable hour meter.

(4) The owner or operator limiting the annual operating hours of an engine to meet the requirements of Paragraph (2) of Subsection B of 20.2.50.113 NMAC shall record the hours of operation by a non-resettable hour meter. The owner or operator shall calculate and record the annual NOx and VOC emission calculation, based on the engine's actual hours of operation, to demonstrate the ninety-five percent emission reduction requirement is met.

E. Reporting requirements: The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

[20.2.50.113 NM-C - N, XX/XX/2021]

20.2.50.114 COMPRESSOR SEALS:

A. Applicability:

(1) Centrifugal compressors using wet seals and located at tank batteries, gathering and boosting sites, natural gas processing plants, or transmission compressor stations are subject to the requirements of 20.2.50.114 NMAC. Centrifugal compressors located at wellhead sites are not subject to the requirements of 20.2.50.114 NMAC.

(2) Reciprocating compressors located at tank batteries, gathering and boosting sites, natural gas processing plants, or transmission compressor stations are subject to the requirements of 20.2.50.114 NMAC. Reciprocating compressors located at wellhead sites are not subject to the requirements of 20.2.50.114 NMAC.

B. Emission standards:

(1) The owner or operator of an existing centrifugal compressor shall control VOC emissions from a centrifugal compressor wet seal fluid degassing system by at least ninety-five percent within two years of the effective date of this Part. Emissions shall be captured and routed via a closed vent system to a control device, recovery system, fuel cell, or a process stream.

(2) The owner or operator of an existing reciprocating compressor shall, either:

(a) replace the reciprocating compressor rod packing after every 26,000 hours of compressor operation or every 36 months, whichever is reached later. The owner or operator shall begin counting the hours of compressor operation toward the first replacement of the rod packing upon the effective date of this Part; or

(b) beginning no later than two years from the effective date of this Part, collect emissions from the rod packing under negative pressure and route them via a closed vent system to a control device, recovery system, fuel cell, or a process stream.

(3) The owner or operator of a new centrifugal compressor shall control VOC emissions from the centrifugal compressor wet seal fluid degassing system by at least ninety-eight percent upon startup. Emissions shall be captured and routed via a closed vent system to a control device, recovery system, fuel cell, or process stream.

(4) The owner or operator of a new reciprocating compressor shall, upon startup, either:

(a) replace the reciprocating compressor rod packing after every 26,000 hours of compressor operation, or every 36 months, whichever is reached later; or

(b) collect emissions from the rod packing under negative pressure and route them via a closed vent system to a control device, a recovery system, fuel cell or a process stream.

(5) The owner or operator of a centrifugal or reciprocating compressor utilizing EMT shall install an EMT on the compressor in accordance with 20.2.50.112 NMAC.

(6) The owner or operator complying with the emission standards in Subsection B of 20.2.50.114 NMAC through use of a control device shall comply with the control device requirements in 20.2.50.115 NMAC.

C. Monitoring requirements:

(1) The owner or operator of a centrifugal compressor complying with Paragraph (1) or (3) of Subsection B of 20.2.50.114 NMAC shall maintain a closed vent system encompassing the wet seal fluid degassing system that complies with the monitoring requirements in 20.2.50.115 NMAC.

(2) The owner or operator of a reciprocating compressor complying with Subparagraph (a) of Paragraph (2) or Subparagraph (a) of Paragraph (4) of Subsection B of 20.2.50.114 NMAC shall continuously monitor the hours of operation with a non-resettable hour meter and track the number of hours since initial startup or since the previous reciprocating compressor rod packing replacement.

(3) The owner or operator of a reciprocating compressor complying with Subparagraph (b) of Paragraph (2) or Subparagraph (b) of Paragraph (4) of Subsection B of 20.2.50.114 NMAC shall monitor the rod packing emissions collection system semiannually to ensure that it operates under negative pressure and routes emissions through a closed vent system to a control device, recovery system, fuel cell, or process stream.

(4) The owner or operator of a centrifugal or reciprocating compressor complying with the requirements in Subsection B of 20.2.50.114 NMAC through use of a closed vent system or control device shall comply with the monitoring requirements in 20.2.50.115 NMAC.

(5) The owner or operator of a centrifugal or reciprocating compressor shall comply with the monitoring requirements in 20.2.50.112 NMAC.

D. Recordkeeping requirements:

(1) The owner or operator of a centrifugal compressor using a wet seal fluid degassing system shall maintain a record of the following:

(a) the location of the centrifugal compressor;

(b) the date of construction, reconstruction, or modification of the centrifugal compressor;

(c) the monitoring required in Subsection C of 20.2.50.114 NMAC, including the time and date of the monitoring, the personnel conducting the monitoring, a description of any problem observed during the monitoring, and a description of any corrective action taken; and

(d) the type, make, model, and identification number of a control device used to comply with the control requirements in Subsection B of 20.2.50.114 NMAC.

(2) The owner or operator of a reciprocating compressor shall maintain a record of the following:

(a) the location of the reciprocating compressor;

(b) the date of construction, reconstruction, or modification of the reciprocating compressor; and

(c) the monitoring required in Subsection C of 20.2.50.114 NMAC, including:

(i) the number of hours of operation since initial startup or the last rod packing replacement;

(ii) the records of pressure in the rod packing emissions collection system; and

(iii) the time and date of the inspection, the personnel conducting the inspection, a notation of which checks required in Subsection C of 20.2.50.114 NMAC were completed, a description of problems observed during the inspection, and a description and date of corrective actions taken.

(3) The owner or operator of a centrifugal or reciprocating compressor complying with the requirements in Subsection B of 20.2.50.114 NMAC through use of a control device or closed vent system shall comply with the recordkeeping requirements in 20.2.50.115 NMAC.

(4) The owner or operator of a centrifugal or reciprocating compressor shall comply with the recordkeeping requirements in 20.2.50.112 NMAC.

E. Reporting requirements: The owner or operator of a centrifugal or reciprocating compressor shall comply with the reporting requirements in 20.2.50.112 NMAC.

[20.2.50.114 NM-C - N, XX/XX/2021]

20.2.50.115 CONTROL DEVICES:

A. Applicability: These requirements apply to control devices as defined in 20.2.50.7 NMAC and used to comply with the emission standards and emission reduction requirements in this Part.

B. General requirements:

(1) Control devices used to demonstrate compliance with this Part shall be installed, operated, and maintained consistent with manufacturer specifications, and good engineering and maintenance practices.

(2) Control devices shall be adequately designed and sized to achieve the control efficiency rates required by this Part and to handle fluctuations in emissions of VOC or NON.

~~**(3)** The owner or operator of a control device used to comply with the emission standards in this Part shall install an EMT on the control device in accordance with 20.2.50.112 NMAC.~~

(4) The owner or operator shall inspect control devices used to comply with this Part at least monthly to ensure proper maintenance and operation. Prior to an inspection or monitoring event, ~~the~~ owners or operators that utilize EMT shall scan the EMT and the required monitoring data shall be electronically captured in accordance with this Part. Owners or operators utilizing other compliance databases shall make an electronic record of the inspection.

(5) The owner or operator shall ensure that a control device used to comply with emission standards in this Part operates as a closed vent system that captures and routes VOC emissions to the control device, and that unburnt gas is not directly vented to the atmosphere.

(6) The owner or operator of a closed vent system for a centrifugal compressor wet seal fluid degassing system, reciprocating compressor, pneumatic controller or pump, or storage vessel using a control device or routing emissions to a process shall:

(a) ensure the control device or process is of sufficient design and capacity to accommodate all emissions from the affected sources;

(b) conduct an assessment to confirm that the closed vent system is of sufficient design and capacity to ensure that all emissions from the affected equipment are routed to the control device or process; and

(c) have the closed vent system certified by a qualified professional engineer or an in-house engineer with expertise regarding the design and operation of the closed vent system in accordance with Paragraphs (c)(i) and (ii) of this Section.

(i) The assessment of the closed vent system shall be prepared under the direction or supervision of a qualified professional engineer or an in-house engineer who signs the certification in Paragraph (c)(ii) of this Section.

(ii) the owner or operator shall provide the following certification, signed and dated by a qualified professional engineer or an in-house engineer: “I certify that the closed vent system design and capacity assessment was prepared under my direction or supervision. I further certify that the closed vent system design and capacity assessment was conducted, and this report was prepared pursuant to the requirements of this Part. Based on my professional knowledge and experience, and inquiry of personnel involved in the assessment, the certification submitted herein is true, accurate, and complete.”

(7) The owner or operator shall keep manufacturer specifications for all control devices on file. The information shall include:

(a) manufacturer name, make, and model;

(b) maximum heating value for an open flare, ECD, or TO;

(c) maximum rated capacity for an open flare, ECD/TO, or VRU;

(d) gas flow range for an open flare, ECD, or TO; and

(e) designed destruction or vapor recovery efficiency.

C. Requirements for open flares:

(1) Emission standards:

(a) the flare shall combust the gas sent to the flare and combustion shall be maintained for the duration of time that gas is sent to the flare. The owner or operator shall not send gas to the flare in excess of the manufacturer maximum rated capacity.

(b) the owner or operator shall equip each new and existing flare (except those flares required to meet the requirements of Paragraph (C) of this Subsection) with a continuous pilot flame, an operational auto-igniter, or require manual ignition, and shall comply with the following:

(i) a flare with a continuous pilot flame or an auto-igniter shall be equipped with a system to ensure the flare is operated with a flame present at all times when gas is being sent to the flare.

(ii) the owner or operator of a flare with manual ignition shall inspect and ensure a flame is present upon initiating a flaring event.

(iii) a new flare controlling a continuous gas stream shall be equipped with a continuous pilot flame upon startup.

(iv) an existing flare controlling a continuous gas stream constructed before the effective date of this Part shall be equipped with a continuous pilot no later than one year after the effective date of this Part.

(c) an existing flare located at a site with an annual average daily production of equal to or less than 10 barrels of oil per day or an average daily production of 60,000 standard cubic feet of natural gas shall be equipped with an auto-ignitor, continuous pilot, or technology (e.g. alarm) that alerts the owner or operator of a flare malfunction, if replaced or reconstructed after the effective date of this Part.

(d) the owner or operator shall operate a flare with no visible emissions, except for periods not to exceed a total of 30 seconds during any 15 consecutive minutes. The flare shall be designed so that an observer can, by means of visual observation from the outside of the flare or by other means such as a continuous monitoring device, determine whether it is operating properly.

(e) the owner or operator shall repair the flare within three business days of any alarm activation.

(2) Monitoring requirements:

(a) the owner or operator of a flare with a continuous pilot or auto igniter shall continuously monitor the presence of a pilot flame, or presence of flame during flaring if using an auto igniter, using a thermocouple equipped with a continuous recorder and alarm to detect the presence of a flame. An alternative equivalent technology alerting the owner or operator of failure of ignition of the gas stream may be used in lieu of a continuous recorder and alarm, if approved by the department;

(b) the owner or operator of a manually ignited flare shall monitor the presence of a flame using continuous visual observation during a flaring event;

(c) the owner or operator shall, at least quarterly, and upon observing visible emissions, perform a U.S. EPA method 22 observation while the flare pilot or auto igniter flame is present to certify compliance with visible emission requirements. The observation period shall be a minimum of 15 consecutive minutes;

(d) if the flare utilizes EMT, prior to an inspection or monitoring event, the EMT on the flare shall be scanned and the required monitoring data shall be electronically captured during the event in accordance with the monitoring requirements of 20.2.50.112 NMAC; and

(e) the owner or operator shall monitor the technology that alerts the owner or operator of a flare malfunction and any instances of technology or alarm activation.

(3) Recordkeeping requirements: The owner or operator of an open flare shall keep a record of the following:

(a) any instance of alarm activation, including the date and cause of alarm activation, action taken to bring the flare into a normal operating condition, the name of the personnel conducting the inspection, and any maintenance activity performed;

(b) the results of the U.S. EPA method 22 observations;

(c) the monitoring of the presence of a flame on a manual flare during a flaring event as required under Subparagraph (b) of Paragraph (2) of Subsection C of 20.2.50.115 NMAC;

(d) the results of the gas analysis for the gas being flared, including VOC content and heating value; and

(e) any instance of technology or alarm activation of a malfunctioning flare, including the date and cause of the activation, the action taken to bring the flare into normal operating condition, date of repair, name of the personnel conducting the inspection, and any maintenance activities performed.

(4) Reporting requirements: The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

D. Requirements for enclosed combustion devices (ECD) and thermal oxidizers (TO):

(1) Emission standards:

(a) the ECD/TO shall combust the gas sent to the ECD/TO. The owner or operator shall not send gas to the ECD/TO in excess of the manufacturer maximum rated capacity.

(b) the owner or operator shall equip an ECD/TO with a continuous pilot flame or an auto-igniter. Existing ECD/TO shall be equipped with a continuous pilot flame or an auto-igniter no later than one year after the effective date. New ECD/TO shall be equipped with a continuous pilot flame or an auto-igniter upon startup.

(c) ECD/TO with a continuous pilot flame or an auto-igniter shall be equipped with a system to ensure that the ECD/TO is operated with a flame present at all times when gas is sent to the ECD/TO. Combustion shall be maintained for the duration of time that gas is sent to the ECD/TO.

(d) the owner or operator shall operate an ECD/TO with no visible emissions, except for periods not to exceed a total of 30 seconds during any 15 consecutive minutes. The ECD/TO shall be designed so that an observer can, by means of visual observation from the outside of the ECD/TO or by other means such as a continuous monitoring device, determine whether it is operating properly.

(2) Monitoring requirements:

(a) the owner or operator of an ECD/TO with a continuous pilot or an auto igniter shall continuously monitor the presence of a pilot flame, or of a flame during combustion if using an auto-igniter, using a thermocouple equipped with a continuous recorder and alarm to detect the presence of a flame. An alternative equivalent technology alerting the owner or operator of failure of ignition of the gas stream may be used in lieu of a continuous recorder and alarm, if approved by the department.

(b) the owner or operator shall, at least quarterly, and upon observing visible emissions, perform a U.S. EPA method 22 observation while the ECD/TO pilot flame or auto igniter flame is present to certify compliance with the visible emission requirements. The period of observation shall be a minimum of 15 consecutive minutes.

(c) prior to an inspection or monitoring event, ~~the~~ operators that utilize EMT on the unit shall ~~be scanned~~scan the EMT and the required monitoring data shall be electronically captured during the monitoring event in accordance with the monitoring requirements of 20.2.50.112 NMAC.

(3) Recordkeeping requirements: The owner or operator of an ECD/TO shall keep records of the following:

(a) any instance of an alarm activation, including the date and cause of the activation, any action taken to bring the ECD/TO into normal operating condition, the name of the personnel conducting the inspection, and any maintenance activities performed;

(b) the result of the U.S. EPA method 22 observation; and

(c) the results of gas analysis for the gas being combusted, including VOC content and heating value.

(4) Reporting requirements: The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

E. Requirements for vapor recover units (VRU):

(1) Emission standards:

(a) the owner or operator shall operate the VRU as a closed vent system that captures and routes all VOC emissions directly back to the process or to a sales pipeline and does not vent to the atmosphere.

(b) the owner or operator shall control VOC emissions during startup, shutdown, maintenance, or other VRU downtime with a backup control device (e.g. flare, ECD, TO) or redundant VRU. For sites that already have a VRU installed as of the effective date of this Part, the owner or operator shall install backup control devices or redundant VRUs within five years of the effective date of this Part.

(2) Monitoring Requirements:

(a) the owner or operator shall comply with the standards for equipment leaks in 20.2.50.116 NMAC, or, alternatively, shall implement a program that meets the requirements of Subpart OOOOa of 40 CFR 60.

(b) prior to a VRU inspection or monitoring event, ~~the~~ operators that utilize EMT shall scan the unit and ~~on the unit shall be scanned and~~ the required monitoring data shall be electronically captured during the monitoring event in accordance with the monitoring requirements of 20.2.50.112 NMAC.

(3) Recordkeeping requirements: For a VRU inspection or monitoring event, the owner or operator shall record the result of the event in accordance with 20.2.50.112 NMAC, including the name of the personnel conducting the inspection, and any maintenance or repair activities required. The owner or operator shall record the type of redundant control device used during VRU downtime.

(4) Reporting requirements: The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

F. **Recordkeeping requirements:** The owner or operator of a control device shall maintain a record of the following:

(1) the certification of the closed vent system as required by this Part; and

(2) the information required in Paragraph (7) of Subsection B of 20.2.50.115 NMAC.

G. **Reporting requirements:** The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

[20.2.50.115 NM-C - N, XX/XX/2021]

20.2.50.116 EQUIPMENT LEAKS AND FUGITIVE EMISSIONS:

A. **Applicability:** Wellhead sites, tank batteries, gathering and boosting sites, gas processing plants, transmission compressor stations, and associated piping and components are subject to the requirements of 20.2.50.116 NMAC.

B. **Emission standards:** The owner or operator of oil and gas production and processing equipment located at wellhead sites, tank batteries, gathering and boosting sites, gas processing plants, or transmission compressor stations shall demonstrate compliance with this Part by performing the monitoring, recordkeeping, and reporting requirements specified in 20.2.50.116 NMAC.

C. **Default Monitoring requirements:** Owners and operators shall comply with the following monitoring requirements and the monitoring requirements in 20.2.50.112 NMAC:

(1) The owner or operator of a facility with an annual average daily production of greater than 10 barrels of oil per day or an average daily production of greater than 60,000 standard cubic feet per day of natural gas shall, at least weekly, conduct audio, visual, and olfactory (AVO) inspections of thief hatches, closed vent systems, pumps, compressors, pressure relief devices, open-ended valves or lines, valves, flanges, connectors, piping, and associated equipment to identify defects and leaking components as follows:

(a) conduct a visual inspection for: cracks, holes, or gaps in piping or covers; loose connections; liquid leaks; broken or missing caps; broken, cracked or otherwise damaged seals or gaskets; broken or missing hatches; or broken or open access covers or other closure or bypass devices;

(b) conduct an audio inspection for pressure leaks and liquid leaks;

(c) conduct an olfactory inspection for unusual or strong odors;

(d) any positive detection during the AVO inspection shall be considered a leak; and

(e) a leak discovered by an AVO inspection shall be tagged with a visible tag and reported to management or their designee within three calendar days.

(2) The owner or operator of a facility with an annual average daily production of equal to or less than 10 barrels of oil per day or an average daily production of equal to or less than 60,000 standard cubic feet per day of natural gas shall, at least monthly, conduct an audio, visual, and olfactory (AVO) inspection of thief hatches, closed vent systems, pumps, compressors, pressure relief devices, open-ended valves or lines, valves, flanges, connectors, piping, and associated equipment to identify a defect and leaking component as specified in Subparagraphs (a) through (e) of Paragraph (1) of Subsection (C) of 20.2.50.116 NMAC.

(3) The owner or operator of the following facilities shall conduct an inspection using U.S. EPA method 21 or optical gas imaging (OGI) of thief hatches, closed vent systems, pumps, compressors, pressure relief devices, open-ended valves or lines, valves, flanges, connectors, piping, and associated equipment to identify leaking components at a frequency determined according to the following schedules:

(a) for wellhead sites or tank battery facilities constructed prior to the effective date of this Part:

(i) annually at facilities with a PTE or actual emissions greater than two and less than five tpy VOC by January 2023;

(ii) semi-annually at facilities with a PTE or actual emissions greater than two and less than five tpy VOC by January 2025;

(iii) semi-annually at facilities with a PTE or actual emissions greater than or equal to five tpy VOC by January 2023; and

(iv) quarterly at facilities with a PTE or actual emissions greater than or equal to five tpy VOC by January 2025.

(~~a~~b) for wellhead sites or tank battery facilities:

(i) annually at facilities with a PTE or actual emissions less than two tpy VOC;

(ii) semi-annually at facilities with a PTE or actual emissions equal to or greater than two tpy and less than five tpy VOC; and

(iii) quarterly at facilities with a PTE or actual emissions equal to or greater than five tpy VOC.

(~~b~~c) for gathering and boosting sites, gas processing plants, and transmission compressor stations:

(i) quarterly at facilities with a PTE or actual emissions less than 25 tpy VOC; and

(ii) monthly at facilities with a PTE or actual emissions equal to or greater than 25 tpy VOC.

(4) The leak survey requirements of Paragraph (3) of Subsection (C) of 20.2.50.116 NMAC shall not apply to facilities where leak surveys are not anticipated to result in emissions reductions. Such facilities include satellite facilities, injection facilities, inactive facilities, and wellhead-only facilities.

(~~4~~5) Inspections using U.S. EPA method 21 shall meet the following requirements:

(a) the instrument shall be calibrated before each day of its use by the procedures specified in U.S. EPA method 21;

(b) the instrument shall be calibrated with zero air (less than 10 ppm of hydrocarbon in air), and a mixture of methane or n-hexane and air at a concentration near, but nor more than, 10,000 ppm methane or n-hexane; and

(c) a leak is detected if the instrument records a measurement of 500 ppm or greater of hydrocarbon and the measurement is not associated with normal equipment operation, such as pneumatic device actuation and crank case ventilation.

(~~5~~6) Inspections using OGI shall meet the following requirements:

(a) the instrument shall comply with the specifications, daily instrument checks, and leak survey requirements set forth in Subparagraphs (1) through (3) of Paragraph (i) of 40 CFR 60.18;

(b) a leak is detected if the emission images recorded by the OGI instrument are not associated with normal equipment operation, such as pneumatic device actuation or crank case ventilation.

(~~6~~7) Components that are difficult, unsafe, or inaccessible to monitor, as determined by the following conditions, are not required to be inspected until it becomes feasible to do so:

(a) difficult to monitor components are those that require elevating the monitoring personnel more than two meters above a supported surface, or that cannot be reached via a wheeled scissor-lift or hydraulic type scaffold that allows access to components up to seven and six tenths meters (25 feet) above the ground;

(b) unsafe to monitor components are those that cannot be monitored without exposing monitoring personnel to an immediate danger as a consequence of completing the monitoring; and

(c) inaccessible to monitor components are those that are buried, insulated, or obstructed by equipment or piping that prevents access to the components by monitoring personnel.

D. Alternative equipment leak monitoring plans: As an equivalent means of compliance with Subsection C of 20.2.50.116 NMAC, an owner or operator may comply with the equipment leak requirements through an alternative monitoring plan as follows:

(1) An owner or operator may comply with an individual alternative monitoring plan, subject to the following requirements:

(a) proposed alternative monitoring plans may utilize alternative monitoring methods.

(~~a~~b) the proposed alternative monitoring plan shall be submitted to and approved by the department prior to conducting monitoring under that plan.

(~~b~~c) the department may terminate an approved alternative monitoring plan if the department finds that the owner or operator failed to comply with a provision of the plan and failed to correct and disclose the violation to the department within 15 calendar days of identifying the violation.

(~~c~~d) upon department denial or termination of an approved alternative monitoring plan, the owner or operator shall comply with the default monitoring requirements under Subsection C of 20.2.50.116 NMAC within 15 days.

(2) An owner or operator may comply with a pre-approved monitoring plan maintained by the department, subject to the following requirements:

(a) the owner or operator shall notify the department of the intent to conduct monitoring under a pre-approved monitoring plan, and identify which pre-approved plan will be used, at least 15 days prior to conducting monitoring under that plan.

(b) the department may terminate the use of a pre-approved monitoring plan by the owner or operator if the department finds that the owner or operator failed to comply with the provision of the plan and failed to correct and disclose the violation to the department within 15 calendar days of identifying the violation.

(c) upon department denial or termination of an approved alternative monitoring plan, the owner or operator shall comply with the default monitoring requirements under of Subsection C of 20.2.50.116.0 NMAC within 15 days.

E. Repair requirements: For a leak detected pursuant to monitoring conducted under 20.2.50.116 NMAC:

(1) the owner or operator shall place a visible tag on the leaking component until the component has been repaired;

(2) leaks shall be repaired within 15 days of discovery~~, except for leaks detected using OGI, which shall be repaired within seven days of discovery~~;

(3) the equipment must be re-monitored no later than 15 days after discovery of the leak to demonstrate that it has been repaired; and

(4) if the leak cannot be repaired within 15 days of discovery ~~, or within seven days for a leak detected using OGI,~~ without a process unit shutdown, the leak may be designated "Repair delayed," and must be repaired before the end of the next process unit shutdown.

F. Recordkeeping requirements:

(1) The owner or operator shall keep a record of the following for all AVO, RM21, OGI, or alternative equipment leak monitoring inspection conducted as required under 20.2.50.116 NMAC, and shall provide the record to the department upon request:

(a) facility location;

(b) date of inspection;

(c) monitoring method (e.g. AVO, RM 21, OGI, alternative method approved by the department);

(d) name of the personnel performing the inspection;

(e) a description of any leak requiring repair or a note that no leak was found; and whether a visible flag was placed on the leak or not;

(2) The owner or operator shall keep the following record for any leak that is detected:

(a) the date the leak is detected;

(b) the date of attempt to repair;

(c) for a leak with a designation of "repair delayed" the following shall be recorded:

(i) reason for delay if a leak is not repaired within the required number of days after discovery;

(ii) signature of the authorized representative who determined that the repair could not be implemented without a process unit shutdown;

(d) date of successful leak repair;

(e) date the leak was monitored after repair and the results of the monitoring; and a description of the component that is designated as difficult, unsafe, or
inaccessible to monitor, an explanation stating why the component was so designated, and the schedule for repairing and monitoring the component.

(3) For a leak detected using OGI, the owner or operator shall keep records of the specifications, the daily instrument check, and the leak survey requirements specified at 40 CFR 60.18(i)(1)-(3).

(4) The owner or operator shall comply with the recordkeeping requirements in 20.2.50.112 NMAC.

G. Reporting requirements:

(1) The owner or operator shall certify the use of an alternative equipment leak monitoring plan under Subsection D of 20.2.50.116 NMAC to the department annually, if used.

(2) The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

[20.2.50.116 NMAC - N, XX/XX/2021]

20.2.50.117 NATURAL GAS WELL LIQUID UNLOADING:

A. Applicability: Liquid unloading operations including down-hole well maintenance events at natural gas wells are subject to the requirements of 20.2.50.117 NMAC.

B. Emission standards:

(1) The owner or operator of a natural gas well shall use best management practices during the life of the well to avoid the need for liquid unloading.

(2) The owner or operator of a natural gas well shall use the following best management practices during liquid unloading to minimize emissions, consistent with well site conditions and good engineering practices:

(a) reduce wellhead pressure before blowdown;

(b) monitor manual liquid unloading in close proximity to the well or via remote telemetry; and

(c) close well head vents to the atmosphere and return the well to normal production operation as soon as practicable.

(3) The owner or operator of a natural gas well shall use one of the following methods to reduce emissions during an unloading event:

(a) installation and use of a plunger lift;

(b) installation and use of an artificial lift engine; or

(c) installation and use of a control device.

(4) The owner or operator of a natural gas well that utilizes EMT shall install an EMT on the natural gas well in accordance with 20.2.50.112 NMAC.

C. Monitoring requirements:

(1) The owner or operator shall monitor the following parameters during liquid unloading:

(a) wellhead pressure;

(b) flow rate of the vented natural gas (to the extent feasible); and

(c) duration of venting to the storage vessel or atmosphere.

(2) The owner or operator shall calculate the volume and mass of VOC vented during a liquid unloading event.

(3) A liquid unloading event at a site that utilizes EMT shall include the scanning of the EMT and monitoring data entry in accordance with the requirements of 20.2.50.112 NMAC.

(4) The owner or operator shall comply with the monitoring requirements in 20.2.50.112 NMAC.

D. Recordkeeping requirements:

(1) The owner or operator shall keep the following records for liquid unloading:

(a) identification number and location of the well;

(b) date the liquid unloading was performed;

(c) wellhead pressure;

(d) flow rate of the vented natural gas (to the extent feasible. If not feasible, the owner or operator shall use the maximum potential flow rate in the emission calculation);

(e) duration of venting to the storage vessel or atmosphere;

(f) a description of the management practice used to minimize release of VOC emissions before and during the liquid unloading;

(g) the type of control device used to control VOC emissions during the liquid unloading; and

(h) a calculation of the VOC emissions vented during the liquid unloading based on the duration, volume, and mass of VOC.

(2) The owner or operator shall comply with the recordkeeping requirements in 20.2.50.112 NMAC.

E. Reporting requirements: The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

[20.2.50.117 NMAC - N, XX/XX/2021]

20.2.50.118 GLYCOL DEHYDRATORS:

A. **Applicability:** Glycol dehydrators with a PTE <u>or actual emissions</u> equal to or greater than two tpy of VOC and located at wellhead sites, tank batteries, gathering and boosting sites, natural gas processing plants, and transmission compressor stations are subject to the requirements of 20.2.50.118 NMAC.

B. **Emission standards:**

(1) Existing glycol dehydrators with a PTE <u>or actual emissions</u> equal to or greater than two tpy of VOC shall achieve a minimum combined capture and control efficiency of ninety-five percent of VOC emissions from the still vent and flash tank no later than two years after the effective date. If a combustion control device is used, the combustion control device shall have a minimum design combustion efficiency of ninety-eight percent.

(2) New glycol dehydrators with a PTE <u>or actual emissions</u> equal to or greater than two tpy of VOC shall achieve a minimum combined capture and control efficiency of ninety-five percent of VOC emissions from the still vent and flash tank upon startup. If a combustion control device is used, the combustion control device shall have a minimum design combustion efficiency of ninety-eight percent.

(3) The owner or operator of a glycol dehydrator shall comply with the following requirements:

(a) still vent and flash tank emissions shall be routed at all times to the reboiler firebox, condenser, combustion control device, fuel cell, to a process point that either recycles or recompresses the emissions or uses the emissions as fuel, or to a VRU that reinjects the VOC emissions back into the process stream or natural gas gathering pipeline;

(b) if a VRU is used, it shall consist of a closed loop system of seals, ducts and a compressor that reinjects the natural gas into the process or the natural gas pipeline. The VRU shall be operational at least ninety-five percent of the time the facility is in operation, resulting in a minimum combined capture and control efficiency of ninety-five percent. The VRU shall be installed, operated, and maintained according to the manufacturer's specifications;

(c) still vent and flash tank emissions shall not be vented to the atmosphere; and

(d) the owner or operator of a glycol dehydrator <u>that utilizes EMT</u> shall install an EMT on the glycol dehydrator in accordance with 20.2.50.112 NMAC.

(4) an owner or operator complying with the requirements in Subsection B of 20.2.50.118 NMAC through use of a control device shall comply with the requirements in 20.2.50.115 NMAC.

(5) The requirements of Subsection B of 20.2.50.118 NMAC cease to apply when the uncontrolled actual annual VOC emissions from a new or existing glycol dehydrator are less than two tpy VOC.

C. **Monitoring requirements:**

(1) The owner or operator of a glycol dehydrator shall conduct an annual extended gas analysis on the dehydrator inlet gas and calculate the uncontrolled and controlled VOC emissions in tpy.

(2) The owner or operator of a glycol dehydrator shall inspect the glycol dehydrator, including the reboiler and regenerator, and the control device or process the emissions are being routed, semi-annually to ensure it is operating as initially designed and in accordance with the manufacturer recommended operation and maintenance schedule.

(3) An owner or operator complying with the requirements in Subsection B of 20.2.50.118 NMAC through the use of a control device shall comply with the monitoring requirements in 20.2.50.115 NMAC.

(4) Owners and operators shall comply with the monitoring requirements in 20.2.50.112 NMAC.

D. **Recordkeeping requirements:**

(1) The owner or operator of a glycol dehydrator shall maintain a record of the following:

(a) dehydrator location and identification number;

(b) glycol circulation rate, monthly natural gas throughput, and the date of the most recent throughput measurement;

(c) data and methodology used to estimate the PTE <u>or actual emissions</u> of VOC (must be a department approved calculation methodology);

(d) amount of controlled and uncontrolled VOC emissions in tpy;

(e) type, make, model, and identification number of the control device or process the emissions are being routed;

(f) date and results of any equipment inspection, including maintenance or repair activities required to bring the glycol dehydrator into compliance; and

(g) a copy of the glycol dehydrator manufacturer operation and maintenance recommendations.

(2) An owner or operator complying with the requirements in Paragraph (1) or (2) of

Subsection B of 20.2.50.118 NMAC through use of a control device as defined in this Part shall comply with the recordkeeping requirements in 20.2.50.115 NMAC.

(3) The owner or operator shall comply with the recordkeeping requirements in 20.2.50.112 NMAC.

E. **Reporting requirements:** The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

[20.2.50.118 NMAC - N, XX/XX/2021]

20.2.50.119 HEATERS:

A. **Applicability:** Natural gas-fired heaters with a rated heat input equal to or greater than 10 MMBtu/hour including heater treaters, heated flash separators, evaporator units, fractionation column heaters, and glycol dehydrator reboilers in use at wellhead sites, tank batteries, gathering and boosting sites, natural gas processing plants, and transmission compressor stations are subject to the requirements of 20.2.50.119 NMAC.

B. **Emission standards:**

(1) Natural gas-fired heaters shall comply with the emission limits in table 1 of 20.2.50.119 NMAC.

Table 1 – EMISSION STANDARDS FOR NOx AND CO

Date of Construction:	NO (ppmvd @ 3% O_2)	CO (ppmvd @ 3% O_2)
Constructed or reconstructed before the effective date of 20.2.50 NMAC	30	300
Constructed or reconstructed on or after the effective date of 20.2.50 NMAC	30	130

(2) Existing natural gas-fired heaters shall comply with the requirements of 20.2.50.119 NMAC no later than one year after the effective date of this Part.

(3) New natural gas-fired heaters shall comply with the requirements of 20.2.50.119 NMAC upon startup.

(4) The owner or operator of a natural gas-fired heater that utilizes EMT shall install an EMT on the heater in accordance with 20.2.50.112 NMAC.

C. **Monitoring requirements:**

(1) The owner or operator shall:

(a) conduct emission testing for NOx and CO within 180 days of the compliance date specified in Paragraph (2) or (3) of Subsection B of 20.2.50.119 NMAC and at least every two years thereafter.

(b) inspect, maintain, and repair the heater in accordance with the manufacturer specifications at least once every two years following the applicable compliance date specified in 20.2.50.119 NMAC. The inspection, maintenance, and repair shall include the following:

(i) inspecting the burner and cleaning or replacing components of the burner as necessary;

(ii) inspecting the flame pattern and adjusting the burner as necessary to optimize the flame pattern consistent with the manufacturer specifications and good engineering practices;

(iii) inspecting the AFR controller and ensuring it is calibrated and functioning properly;

(iv) optimizing total emissions of CO consistent with the NOx requirement, manufacturer specifications, and good combustion engineering practices; and

(v) measuring the concentrations in the effluent stream of CO in ppmvd and O2 in volume percent before and after adjustments are made in accordance with Subparagraph (c) of Paragraph (2) of Subsection C of 20.2.50.119 NMAC.

(2) The owner or operator shall comply with the following periodic testing requirements:

(a) conduct three test runs of at least 20-minutes duration within ten percent of one-hundred percent peak, or the highest achievable, load;

(b) determine NOx and CO emissions and O2 concentrations in the exhaust with a portable analyzer used and maintained in accordance with the manufacturer specifications and following the procedures specified in the current version of ASTM D6522;

(c) if the measured NOx or CO emissions concentrations are exceeding the emissions limits of table 1 of 20.2.50.119 NMAC, the owner or operator shall repeat the inspection and tune-up in Subparagraph (b) of Paragraph (1) of Subsection C of 20.2.50.119 NMAC within 30 days of the periodic testing; and

(d) if at any time the heater is operated in excess of the highest achievable load plus ten percent, the owner or operator shall perform the testing specified in Subparagraph (a) of Paragraph (2) of Subsection C of 20.2.50.119 NMAC within 60 days from the anomalous operation.

(3) When conducting periodic testing of a heater, the owner or operator shall follow the procedures in Paragraph (2) of Subsection C of 20.2.50.119 NMAC. An owner or operator may deviate from those procedures by submitting a written request to use an alternative procedure to the department at least 60 days before performing the periodic testing. In the alternative procedure request, the owner or operator must demonstrate the alternative procedure's equivalence to the standard procedure. The owner or operator must receive written approval from the department prior to conducting the periodic testing using an alternative procedure.

(4) Prior to a monitoring, inspection, maintenance, or repair event, the owner or operator of a unit that utilizes EMT shall scan the EMT and the required monitoring data shall be captured in accordance with this Part.

D. **Recordkeeping requirements:** The owner or operator shall maintain a record of the following:

(1) location of the heater;

(2) summary of the complete test report and the results of periodic testing; and

(3) inspections, testing, maintenance, and repairs, which shall include at a minimum:

(a) the date the inspection, testing, maintenance, or repair was conducted;

(b) name of the personnel conducting the inspection, testing, maintenance, or repair;

(c) concentrations in the effluent stream of CO in ppmv and O2 in volume percent; and

(d) the results of the inspections and any the corrective action taken.

E. **Reporting requirements:** The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

[20.2.50.119 NMAC - N, XX/XX/2021]

20.2.50.120 HYDROCARBON LIQUID TRANSFERS:

A. **Applicability:** Hydrocarbon liquid transfers located at existing wellhead sites, tank batteries, gathering and boosting sites, natural gas processing plants, or transmission compressor stations are subject to the requirements of 20.2.50.120 NMAC ~~beginning one~~within two years from the effective date of this Part. New, modified, or reconstructed operations that begin after the effective date of this Part are subject to the requirements of 20.2.50.120 NMAC.

B. **Emission standards:**

(1) The owner or operator of a hydrocarbon liquid transfer operation shall use vapor balance, vapor recovery, or a control device to control VOC emissions by at least ninety-eight percent when transferring liquid from a storage vessel to a transfer vessel, or when transferring liquid from a transfer vessel to a storage vessel.

(2) An owner or operator using vapor balance during a liquid transfer operation shall:

(a) transfer the vapor displaced from the vessel being loaded back to the vessel being emptied via a pipe or hose connected before the start of the transfer operation;

(b) ensure that the transfer does not begin until the vapor collection and return system is properly connected;

(c) ensure that connector pipes, hoses, couplers, valves, and pressure relief devices are maintained in a leak-free condition;

(d) check the liquid and vapor line connections for proper connections before commencing the transfer operation; and

(e) operate transfer equipment at a pressure that is less than the pressure relief valve setting of the receiving transport vehicle or storage vessel.

(3) Bottom loading or submerged filling shall be used for the liquid transfer.

(4) Connector pipes and couplers shall be maintained in a leak-free condition.

(5) Connections of hoses and pipes used during liquid transfer operations shall be supported on drip trays that collect any leaks, and the materials collected shall be returned to the process or disposed of in a manner compliant with state law.

(6) Liquid leaks that occur shall be cleaned and disposed of in a manner that prevents emissions to the atmosphere, and the material collected shall be returned to the process or disposed of in a manner compliant with state law.

(7) An owner or operator complying with Paragraph (1) of Subsection B of 20.2.50.120

NMAC through use of a control device shall comply with the control device requirements in 20.2.50.115 NMAC.

C. Monitoring requirements:

(1) The owner or operator shall visually inspect the transfer equipment during a transfer operation to ensure that liquid transfer lines, hoses, couplings, valves, and pipes are not dripping or leaking. Leaking components shall be repaired to prevent dripping or leaking before the next transfer operation.

(2) The owner or operator of a liquid transfer operation controlled by a control device must follow manufacturer recommended operation and maintenance procedures for the device.

(3) Tanker trucks and tanker rail cars used in liquid transfer service shall be tested annually for vapor tightness in accordance with the following test methods and vapor tightness standards:

(a) method 27 of appendix A of 40 CFR Part 60. Conduct the test using a time period (t) for the pressure and vacuum tests of five minutes. The initial pressure (Pi) for the pressure test shall be 460 mm H2O (18 inches H2O), gauge. The initial vacuum (Vi) for the vacuum test shall be 150 mm H2O (six inches H2O) gauge. The maximum allowable pressure and vacuum changes (Ap, Av) are shown in table 1 of 20.2.50.120 NMAC.

Table 1 – ALLOWABLE CARGO TANK TESET PRESSURE OR VACUUM CHANGE

Cargo tank or compartment capacity, liters (gallons)	Allowable vacuum change (Δv) in five minutes, mm H_2O (inches H_2O)	Allowable pressure change (Δp) in five minutes, mm H_2O (inches H_2O)
< 3,785 (< 1,000)	64 (2.5)	102 (4.0)
3,785 < 5,678 (1,000 < 1,500)	51 (2.0)	89 (3.5)
5,678 < 9,464 (1,500 < 2,500)	38 (1.5)	76 (3.0)
> 9,464 (> 2,500)	25 (1.0)	64 (2.5)

(b) pressure test the tanker truck or tanker railcar tank's internal vapor valve as follows:

(i) after completing the tests under Subparagraph (a) of Paragraph (3) of Subsection C of 20.2.50.120 NMAC, use the procedures in method 27 to re-pressurize the tank to 460 mm H2O (18 inches H2O) gauge. Close the tank's internal vapor valve, thereby isolating the vapor return line and manifold from the tank.

(ii) relieve the pressure in the vapor return line to atmospheric pressure, then reseal the line. After five minutes, record the gauge pressure in the vapor return line and manifold. The maximum allowable five-minute pressure increase is 130 mm H2O (five inches H2O).

(4) Owners and operators complying with Paragraph (1) of Subsection B of 20.2.50.120 NMAC through use of a control device shall comply with the monitoring requirements in 20.2.50.115 NMAC.

(5) Owners and operators shall comply with the monitoring requirements in 20.2.50.112 NMAC.

D. Recordkeeping requirements:

(1) The owner or operator shall maintain a record of the location of the storage vessel and if using a control device, the type, make, and model of the control device:

(2) The owner or operator shall maintain a record of the inspections and testing required in Subsection C of 20.2.50.120 NMAC and shall include the following:

(a) the time and date of the inspection and testing;

(b) the name of the personnel conducting the inspection and testing;

(c) a description of any problem observed during the inspection and testing; and

(d) the results of the inspection and testing and a description of any repair or corrective action taken.

(3) The owner or operator shall maintain a record for each site of the annual total hydrocarbon liquid transferred and annual total VOC emissions. Each calendar year, the owner or operator shall create a company-wide record summarizing the annual total hydrocarbon liquid transferred and the annual total calculated VOC emissions.

(4) The owner or operator shall comply with the recordkeeping requirements in 20.2.50.112 NMAC.

E. Reporting requirements: The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

[20.2.50.120 NMAC - N, XX/XX/2021]

20.2.50.121 PIG LAUNCHING AND RECEIVING:

A. Applicability: Pipeline pig launching and receiving operations located within or outside of the property boundary of wellhead sites, tank batteries, gathering and boosting sites, natural gas processing plants, and transmission compressor stations are subject to the requirements of 20.2.50.121 NMAC.

B. Emission standards:

(1) Owners and operators of pipeline pig launching and receiving operations with a PTE <u>or actual emissions</u> equal to or greater than one tpy of VOC shall capture and reduce VOC emissions by at least ninety-eight percent, beginning on the effective date of this Part.

(2) The owner or operator conducting the pig launching and receiving operation shall:

(a) employ best management practices to minimize the liquid present in the pig receiver chamber and to prevent emissions from the pig receiver chamber to the atmosphere after receiving the pig in the receiving chamber and before opening the receiving chamber to the atmosphere;

(b) employ a method to prevent emissions, such as installing a liquid ramp or drain, routing a high-pressure chamber to a low-pressure line or vessel, using a ball valve type chamber, or using multiple pig chambers;

(c) recover and dispose of receiver liquid in a manner that prevents emissions to the atmosphere; and

(d) ensure that the material collected is returned to the process or disposed of in a manner compliant with state law.

(3) The emission standards in Paragraphs (1) and (2) of Subsection **B** of 20.2.50.121 NMAC cease to apply to a pipeline pig launching and receiving operation if the uncontrolled actual annual VOC emissions of the operation are less than one half ton per year of VOC.

(4) An owner or operator complying with Paragraph (2) of Subsection **B** of 20.2.50.121 NMAC through use of a control device shall comply with the control device requirements in 20.2.50.115 NMAC.

C. Monitoring requirements:

(1) The owner or operator of pig launching and receiving operations shall monitor the type and volume of liquid cleared.

(2) The owner or operator of pig launching and receiving operations shall inspect the equipment for a leak using RM 21 or OGI immediately before the commencement and immediately after the conclusion of the pig launching or receiving operation, and according to the requirements in 20.2.50.116 NMAC.

(3) An owner or operator complying with Paragraph (1) of Subsection **B** of 20.2.50.121 NMAC through use of a control device shall comply with the monitoring requirements in 20.2.50.115 NMAC.

(4) The owner or operator shall comply with the monitoring requirements in 20.2.50.112 NMAC.

D. Recordkeeping requirements:

(1) The owner or operator of pig launching and receiving operations shall maintain a record of the following:

(a) the pigging operation, including the date and time of the pigging operation and the type and volume of liquid cleared;

(b) the data and methodology used to estimate the actual emissions to the atmosphere and used to estimate the PTE <u>or actual emissions</u>; and

(c) the type of control device and its location, make, and model.

(2) The owner or operator shall comply with the recordkeeping requirements in 20.2.50.112 NMAC.

E. Reporting requirements: The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

[20.2.50.121 NMAC – N, XX/XX/2021]

20.2.50.122 PNEUMATIC CONTROLLERS AND PUMPS:

A. Applicability: Natural gas-driven pneumatic controllers and pumps located at wellhead sites, tank batteries, gathering and boosting sites, natural gas processing plants, and transmission compressor stations are subject to the requirements of 20.2.50.122 NMAC. <u>Pneumatic controllers used as emergency shutdown devices located on a wellhead and artificial lift controllers located on a wellhead are exempt from these requirements.</u>

B. Emission standards:

(1) A new natural gas-driven pneumatic controller or pump shall comply with the requirements of 20.2.50.122 NMAC upon startup.

(2) An existing natural gas-driven pneumatic pump shall comply with the requirements of 20.2.50.122 NMAC within three years of the effective date of this Part.

(3) An existing natural gas-driven pneumatic controller shall comply with the requirements of 20.2.50.122 NMAC according to the following schedule:

Table 1 – ~~WELLHEAD SITES, TANK BATTERIES, GATHERING AND BOOSTING FACILITIES~~COMPLIANCE SCHEDULE BY HISTORIC LIQUIDS PRODUCTION

Total Historic ~~Percentage of Non-Emitting Controllers~~Non-Emitting Facility – Percent Production	Total Required Percentage of Non- Emitting ~~Controllers~~ Pneumatic Controllers in Compliance by January 1, 2024	Total Required Percentage of Pneumatic Controllers in Compliance ~~Non-Emitting Controllers~~ by January 1, 2027	Total Required Percentage of Pneumatic Controllers in Compliance ~~Non-Emitting Controllers~~ by January 1, 2030
> 75 %	80%	85%	90%
> 60-75 %	80%	85%	90%
> 40-60 %	65%	70%	80%
> 20-40 %	45%	70%	80%
0-20 %	25%	65%	80%

Table 2 – NATURAL GAS COMPRESSOR STATIONS AND GAS PROCESSING PLANTS

Total Historic Percentage of Non-Emitting Controllers	Total Required Percentage of Non-Emitting Controllers by January 1, 2024	Total Required Percentage of Non-Emitting Controllers by January 1, 2027	Total Required Percentage of Non-Emitting Controllers by January 1, 2030
> 75 %	80%	95%	98%
> 60-75 %	80%	95%	98%
> 40-60 %	65%	95%	98%
> 20-40 %	50%	95%	98%
0-20 %	35%	95%	98%

(4) Standards for natural gas-driven pneumatic controllers.

(a) new pneumatic controllers shall have an emission rate of zero.

(b) existing pneumatic controllers with access to commercial line electrical power shall have an emission rate of zero.

(c) existing pneumatic controllers shall meet the required percentage of non-emitting controllers within the deadlines in tables 1 and 2 of Paragraph (3) of Subsection B of 20.2.50.122 NMAC, and shall comply with the following:

(i) by January 1, 2023, the owner or operator shall determine the total controller count for all controllers at all of the owner or operator's affected facilities that commenced construction before the effective date of this Part. The total controller count must include all emitting pneumatic controllers and all non-emitting pneumatic controllers, except that pneumatic controllers necessary for a safety or process purpose that cannot otherwise be met without emitting natural gas shall not be included in the total controller count.

(ii) determine which controllers in the total controller count are non-emitting and sum the total number of non-emitting controllers and designate those as total historic non-emitting controllers.

(iii) determine the total historic non-emitting percent of controllers by dividing the total historic non-emitting controller count by the total controller count and multiplying by 100.

(iv) based on the percent calculated in (iii) above, the owner or operator shall determine which provisions of tables 1 and 2 of Paragraph (3) of Subsection B of 20.2.50.122 NMAC apply and the replacement schedule the owner or operator must meet.

(v) if an owner or operator meets at least seventy-five percent total non-emitting controllers by January 1, 2025, the owner or operator has satisfied the requirements of tables 1 and 2 of Paragraph (3) of Subsection B of 20.2.50.122 NMAC.

(vi) if after January 1, 2027, an owner or operator's remaining pneumatic controllers are not cost-effective to retrofit, the owner or operator shall submit a cost analysis of retrofitting those remaining units to the department. The department shall review the cost analysis and determine whether those units qualify for a waiver from meeting additional retrofit requirements.

(d) a pneumatic controller with a bleed rate greater than six standard cubic feet per hour is permitted when the owner or operator has demonstrated that a higher bleed rate is required based on functional needs, including response time, safety, and positive actuation. An owner or operator that seeks to maintain operation of an emitting pneumatic controller must prepare and document the justification for the safety or process purposes prior to the installation of a new emitting controller or the retrofit of an existing controller. The justification shall be certified by a qualified professional engineer.

(5) Standards for natural gas-driven pneumatic pumps.

(a) pneumatic pumps located at a natural gas processing plants shall have an emission rate of zero.

(b) pneumatic pumps located at a wellhead sites, tank batteries, gathering and boosting sites, or transmission compressor stations with access to commercial line electrical power shall have an emission rate of zero.

(c) owners and operators of pneumatic pumps located at wellhead sites, tank batteries, gathering and boosting sites, or transmission compressor stations without access to commercial line electrical power shall reduce VOC emissions from the pneumatic pumps by ninety-five percent if it is technically feasible to route emissions to a control device, fuel cell, or process. If there is a control device available onsite but it is unable to achieve a ninety-five percent emission reduction, and it is not technically feasible to route the pneumatic pump emissions to a fuel cell or process, the owner or operator shall route the pneumatic pump emissions to the control device.

(6) The owner or operator of a pneumatic controller or pump that utilizes EMT shall install an EMT on the controller or pump in accordance with 20.2.50.112 NMAC.

C. Monitoring requirements:

(1) Pneumatic controllers or pumps with a natural gas bleed rate equal to zero are not subject to the monitoring requirements in Subsection C of 20.2.5.122 NMAC.

(2) The owner or operator of a pneumatic controller subject to the deadlines set forth in tables 1 and 2 of Paragraph (3) of Subsection B of 20.2.50.122 NMAC shall monitor the compliance status of each subject controller at each facility.

(3) The owner or operator of a pneumatic controller with a bleed rate greater than zero shall, on a monthly basis, scan the controller and conduct an AVO inspection, and shall also inspect the pneumatic controller, perform necessary maintenance (such as cleaning, tuning, and repairing a leaking gasket, tubing fitting and seal; tuning to operate over a broader range of proportional band; eliminating an unnecessary valve positioner), and maintain the pneumatic controller according to manufacturer specifications to ensure that the VOC emissions are minimized.

(4) For units that utilize EMT, t~~T~~he EMT shall be linked to a database that contains the following:

(a) pneumatic controller identification number;

(b) type of controller (continuous or intermittent);

(c) if continuous, design continuous bleed rate in standard cubic feet per hour;

(d) if intermittent, bleed volume per intermittent bleed in standard cubic feet; and

(e) design annual bleed in standard cubic feet per year.

(5) The owner or operator of a pneumatic pump with a bleed rate greater than zero shall, on a monthly basis, scan the pump and conduct an AVO inspection and shall also inspect the pneumatic pump and perform necessary maintenance, and maintain the pneumatic pump according to manufacturer specifications to ensure that the VOC emissions are minimized.

(6) The owner or operator shall comply with the monitoring requirements in 20.2.50.112 NMAC.

D. Recordkeeping requirements:

(1) Pneumatic controllers and pumps with a natural gas bleed rate equal to zero are not subject to the recordkeeping requirements in Subsection D of 20.2.5.122 NMAC.

(2) The owner or operator shall maintain a record of the total controller count for all controllers at all of the owner's or operator's affected facilities that commenced operation before the effective date of this Part. The total controller count must include all emitting and non-emitting pneumatic controllers.

(3) The owner or operator shall maintain a record of the total count of pneumatic controllers necessary for a safety or process purpose that cannot otherwise be met without emitting VOC.

(4) The owner or operator of a pneumatic controller subject to the requirements in tables 1 and 2 of Paragraph (3) of shall generate a schedule for meeting the compliance deadlines for each pneumatic controller. The owner or operator shall keep a record of the compliance status of each subject controller.

(5) The owner or operator shall maintain an electronic record for each pneumatic controller with a natural gas bleed rate greater than zero. The record shall include the following:

(a) pneumatic controller identification number;

(b) inspection dates;

(c) name of the personnel conducting the inspection;

(d) AVO inspection result;

(e) AVO level discrepancy in continuous or intermittent bleed rate;

(f) maintenance date and maintenance activity; and

(g) a record of the justification and certification required in Subparagraph (d) of Paragraph (4) of Subsection B of 20.2.50.122 NMAC.

(6) The owner or operator of a natural gas-driven pneumatic controller with a bleed rate greater than six standard cubic feet per hour that utilizes EMT shall maintain a record in the EMT database of the pneumatic controller documenting why a bleed rate greater than six scf/hr is necessary, as required in Subsection B of 20.2.50.122 NMAC.

(7) The owner or operator shall maintain a record in the EMT database for a natural gas-driven pneumatic pump with an emission rate greater than zero and the associated pump number at the facility if EMT is utilized. The record shall include:

(a) for a natural gas-driven pneumatic pump in operation less than 90 days per calendar year, a record for each day of operation during the calendar year.

(b) a record of any control device designed to achieve at least a ninety-five percent emission reduction, including an evaluation or manufacturer specifications indicating the percentage reduction the control device is designed to achieve.

(c) records of the engineering assessment and certification by a qualified professional engineer that routing pneumatic pump emissions to a control device, fuel cell, or process is technically infeasible.

(8) The owner or operator shall comply with the recordkeeping requirements in 20.2.50.112 NMAC.

E. Reporting requirements: The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

[20.2.50.122 NMAC - N, XX/XX/2021]

20.2.50.123 STORAGE VESSELS

A. Applicability: Storage vessels with an uncontrolled PTE or actual emissions equal to or greater than two tpy of VOC and located at wellhead sites, tank batteries, gathering and boosting sites, natural gas processing plants, or transmission compressor stations are subject to the requirements of 20.2.50.123 NMAC.

B. Emission standards:

(1) An existing storage vessel with a PTE or actual emissions equal to or greater than ~~two tpy and less than~~ 10 tpy of VOC shall have a combined capture and control of VOC emissions of at least ninety-five percent no later than ~~three~~ one year~~s~~ after the effective date of this Part.

(2) By January 1, 2025, the owner or operator shall ensure at least 30% of the company's existing uncontrolled storage vessels are controlled.~~An existing storage vessel with a PTE equal to or greater than 10 tpy of VOC shall have a combined capture and control of VOC emissions of at least ninety-eight percent no later than one year after the effective date of this Part.~~

(3) By January 1, 2027, the owner or operator shall ensure at least an additional 35% of the company's existing storage vessels are controlled~~A new storage vessel with a PTE equal to or greater than two tpy and less than 10 tpy of VOC shall have a combined capture and control of VOC emissions of at least ninety-five percent upon startup~~.

(4) By January 1, 2029, the owner or operator shall ensure at least an additional 35% of the company's existing storage vessels are controlled~~A new storage vessel with a PTE equal to or greater than 10 tpy of VOC shall have a combined capture and control of VOC emissions of at least ninety-eight percent upon startup~~.

(5) The emission standards in Subsection B of 20.2.50.123 NMAC cease to apply to a storage vessel if the uncontrolled actual annual VOC emissions decrease to less than two tpy.

~~**(6)** If a control device is not installed by the date specified in Paragraphs (1) through (4) of Subsection B of 20.2.50.123 NMAC, an owner or operator may comply with Subsection B of 20.2.50.123 NMAC by shutting in the well supplying the storage vessel by the applicable date, and not resuming production from the well until the control device is installed and operational.~~

~~**(7)** The owner or operator of a new or existing storage vessel with a thief hatch shall install a control device that allows the thief hatch to open sufficiently to relieve overpressure in the vessel and to automatically close once the vessel overpressure is relieved. The thief hatch shall be equipped with a manual lock-open safety device to ensure positive hatch opening during times of human ingress. The lock-open safety device shall only be engaged when an owner or operator are present and during an active ingress activity.~~

~~**(8)** The owner or operator of a new or existing storage vessel shall install an EMT on the storage vessel in accordance with 20.2.50.112 NMAC.~~

(~~9~~6) An owner or operator complying with Paragraphs (1) through (4) of Subsection B of 20.2.50.123 NMAC through use of a control device shall comply with the control device operational requirements in 20.2.50.115 NMAC. Owners or operators of storage vessels with a PTE or actual emissions less than or equal to 5 TPY of VOC may comply with these requirements through use of an alternative control technology approved by the department.

C. Monitoring requirements: The owner or operator of a storage vessel shall:

(1) monitor on a monthly basis the total monthly liquid throughput (in barrels) and the upstream separator pressure (in psig). When a storage vessel is unloaded less frequently than monthly, the throughput and separator pressure monitoring shall be conducted before the storage vessel is unloaded;

(2) conduct an AVO inspection on a weekly basis. If the storage vessel is unloaded less frequently than weekly, the AVO inspection shall be conducted before the storage vessel is unloaded;

(3) inspect the vessel monthly to ensure compliance with the requirements of 20.2.50.123 NMAC. The inspection shall include a check to ensure the vessel does not have a leak;

(4) scan the EMT, if EMT is utilized, and enter the required monitoring data in accordance with the requirements
of 20.2.50.112 NMAC;

(5) comply with the monitoring requirements in 20.2.50.115 NMAC if using a control device to comply with the requirements in Paragraphs (1) through (4) of Subsection B of 20.2.50.123 NMAC; and

(6) comply with the monitoring requirements in 20.2.50.112 NMAC.

D. Recordkeeping requirements:

(1) The owner or operator shall, on a monthly basis, maintain a record in accordance with 20.2.50.112 NMAC for a storage vessel. The record shall include:

(a) the vessel location and identification number;

(b) monthly liquid throughput and the most recent date of measurement;

(c) the average monthly upstream separator pressure;

(d) the data and methodology used to calculate the PTE or actual emissions of VOC (the calculation methodology shall be department approved);

(e) the controlled and uncontrolled VOC emissions (tpy); and
the type, make, model, and identification number of any control device.

(2) A record of liquid throughput in shall be verified by a dated delivery receipt from the purchaser of the hydrocarbon liquid, the metered volume of hydrocarbon liquid sent downstream, or other proof of transfer.

(3) A record of the inspection required in Subsection C of 20.2.50.123 NMAC shall include:

(a) the time and date of the inspection;

(b) the personnel conducting the inspection;

(c) a notation that the required leak check was completed;

(d) a description of any problem observed during the inspection; and

(e) a description and date of any corrective action taken.

(4) An owner or operator complying with the requirements in Paragraphs (1) through (4) of Subsection B of 20.2.50.123 NMAC through use of a control device shall comply with the recordkeeping requirements in 20.2.50.115 NMAC.

(5) The owner or operator shall comply with the recordkeeping requirements in 20.2.50.112 NMAC.

E. Reporting requirements:

(1) An owner or operator complying with the requirements in Paragraphs (1) through (4) of

Subsection B of 20.2.50.123 NMAC through use of a control device shall comply with the reporting requirements in 20.2.50.15 NMAC

(2) The owner or operator shall comply with the reporting requirements in 20.2.50.112 2 NMAC.

[20.2.50.123 NMAC - N, XX/XX/2021]

20.2.50.124 WELL WORKOVERS

A. Applicability: Workovers performed at oil and natural gas wells are subject to the requirements of 20.2.50.124 NMAC as of the effective date of this Part.

B. Emission standards: The owner or operator of an oil or natural gas well shall use the following best management practices during a workover to minimize emissions, consistent with the well site condition and good engineering practices:

(1) reduce wellhead pressure before blowdown to minimize the volume of natural gas vented;

(2) monitor manual venting at the well until the venting is complete; and

(3) route natural gas to the sales line, if possible.

C. Monitoring requirements:

(1) The owner or operator shall monitor the following parameters during a workover:

(a) wellhead pressure;

(b) flow rate of the vented natural gas (to the extent feasible); and

(c) duration of venting to the atmosphere.

(2) The owner or operator shall calculate the volume and mass of VOC vented during a workover.

(3) The owner or operator shall comply with the monitoring requirements in 20.2.50.112 NMAC.

D. Recordkeeping requirements:

(1) The owner or operator shall keep the following record for a workover:

(a) identification number and location of the well;

(b) date the workover was performed;

(c) wellhead pressure;

(d) flow rate of the vented natural gas to the extent feasible, and if measurement of the flow rate is not feasible, the owner or operator shall use the maximum potential flow rate in the emission calculation;

(e) duration of venting to the atmosphere;

(f) description of the management practices used to minimize release of VOC before and during the workover; and

(g) calculation of the VOC emissions vented during the workover based on the duration, volume, and mass of VOC.

(2) The owner or operator shall comply with the recordkeeping requirements in 20.2.50.112 NMAC.

E. Reporting requirements

(1) The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

(2) If it is not feasible to prevent VOC emissions from being emitted to the atmosphere from a workover event, the owner or operator shall notify by certified mail all residents located within one-quarter mile of the well of the planned workover at least three calendar days before the workover event.

[20.2.50.124 NMAC - N, XX/XX/2021]

20.2.50.125 SMALL BUSINESS FACILITIES

A. Applicability: Small business facilities as defined in this Part are subject to the requirements of 20.2.50.125 NMAC.

B. General requirements:

(1) The owner or operator shall ensure that all equipment is operated and maintained consistent with manufacturer specifications, and good engineering and maintenance practices. The owner or operator shall keep manufacturer specifications and maintenance practices on file and make them available to the department upon request.

(2) The owner or operator shall calculate the VOC and NO_x emissions from the facility on an annual basis. The calculation shall be based on the actual production or processing rates of the facility

(3) The owner or operator shall maintain a database of company-wide VOC and NO_x emission calculations for all subject facilities and associated equipment and shall update the database annually.

(4) The owner or operator shall comply with Paragraph (10) of Subsection A of 20.2.50.112 NMAC if requested by the department.

C. Monitoring requirements: The owner or operator shall comply with the requirements in Subsections C or D of 20.2.50.116 NMAC.

D. Repair requirements: The owner or operator shall comply with the requirements of Subsection E of 20.2.50.116 NMAC.

E. Recordkeeping requirements: The owner or operator shall maintain the following electronic records for each facility:

(1) annual certification that the small business facility meets the definition in this Part;

(2) calculated VOC and NO_x emissions from each facility and the company-wide VOC and NOx emissions for all subject facilities;

(3) records as required under Subsection F of 20.2.50.116 NMAC.

F. Reporting requirements: The owner or operator shall submit to the department an initial small business certification within sixty days of the effective date of this Part, and by March 1 each calendar year thereafter. The certification shall be made on a form provided by the department. The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

G. Failure to comply with 20.2.50.125 NMAC: Notwithstanding the provisions of Section 20.2.50.125 NMAC, a source that meets the definition of a small business facility can be required to comply with the other Sections of 20.2.50 NMAC if the Secretary finds based on credible evidence that the source (1) presents an imminent and substantial endangerment to the public health or welfare or to the environment; (2) is not being operated or maintained in a manner that minimizes emissions of air contaminants; or (3) has violated any other requirement of 20.2.50.125 NMAC.

[20.2.50.125 NMAC - N, XX/XX/2021]

20.2.50.126 PRODUCED WATER MANAGEMENT UNITS

A. Applicability: Produced water management units as defined in this Part are subject to 20.2.50.126 NMAC and shall comply with these requirements no later than 180 days after the effective date of this Part.

B. Emission standards:

(1) The owner or operator shall use best management and good engineering practices to minimize emissions of VOC from produced water management units.

(2) The owner or operator shall control VOC emissions from each produced water management unit to less than two tons per year.

C. Monitoring requirements: The owner or operator shall:

(1) calculate the monthly rolling 12-month total of VOC emissions in tons from each unit;

(2) monthly, monitor the best management and engineering practices implemented to reduce emissions at each unit to ensure their effectiveness; and

(3) comply with the monitoring requirements in 20.2.50.112 NMAC.

D. Recordkeeping requirements:

(1) The owner or operator shall maintain the following electronic records for each produced water management unit:

(a) name or identification of the unit and UTM coordinates of the unit and county;

(b) a description of the best management and engineering practices used to minimize release of VOC at the unit; and

(c) a record of the monthly rolling 12-month total VOC emissions from each unit.

(2) The owner or operator shall comply with the recordkeeping requirements in 20.2.50.112 NMAC.

E. Reporting requirements: The owner or operator shall comply with the reporting requirements in 20.2.50.112 NMAC.

[20.2.50.126 NMAC - N, XX/XX/2021]

20.2.50.127 PROHIBITED ACTIVITY AND CREDIBLE INFORMATION PRESUMPTION

A. Failure to comply with the emissions standards, monitoring, recordkeeping, reporting or other requirements of this Part within the timeframes specified shall constitute a violation of this Part subject to. enforcement action under Section 74-2-12 NMSA 1978.

B. Information from the use of the following methods is presumptively credible evidence of whether a violation has occurred at the source:

(1) A monitoring or information gathering method approved for the source pursuant to 20.2.70 NMAC and incorporated in an operating permit; or

(2) Compliance methods specified in the New Mexico State Implementation Plan.

C. The following testing, monitoring or information gathering methods are presumptively credible testing, monitoring or information gathering methods:

(1) Any federally enforceable monitoring or testing methods, including those in 40 CFR, parts 51, 60, 61 and 75; and

(2) Other testing, monitoring or information gathering methods that produce information comparable to that produced by any method in this rule.

~~B~~D. If credible information obtained by the department or provided to the department by a member of the public indicates that a source is not in compliance with the provisions of this Part, that information may be used for the purpose of establishing whether a person has violated or is in violation ~~the source shall be presumed to be in violation~~ of this Part ~~unless and until the owner or operator provides credible evidence or information demonstrating otherwise~~.

~~**C.** If credible information provided to the department by a member of the public indicates that a source is not in compliance with the provisions of this Part, the source shall be presumed to be in violation of this Part unless and until the owner or operator provides credible evidence or information demonstrating otherwise.~~

[20.2.50.127 NMAC - N, XX/XX/2021]

HISTORY OF 20.2.50 NMAC: [RESERVED]

OXY USA EXHIBIT 2

STATE OF NEW MEXICO
ENVIRONMENTAL IMPROVEMENT BOARD

IN THE MATTER OF PROPOSED NEW REGULATION, 20.2.50 NMAC OIL AND GAS SECTOR – OZONE PRECURSOR POLLUTANTS	**No. EIB 21-27 (R)**

WRITTEN DIRECT TESTIMONY OF DANNY HOLDERMAN

ON BEHALF OF

OXY USA INC.

I. Introduction

My name is Danny Holderman. I am the Asset Director for the Onshore Resources and Carbon Management Delaware Basin Business Unit with Oxy USA Inc. ("the Company" or "Oxy USA"), and I am presenting this testimony on behalf of the Company. As an Asset Director, I am responsible for oil and gas production operations and related activities carried out on the Company's assets in the Delaware Basin, and ensuring that those operations and related activities prioritize the health and safety of our employees, contractors and the surrounding communities; comply with all applicable local, state and federal regulations; and generate value for all stakeholders. I received a Bachelor of Science degree with honors in Chemical Engineering from Oklahoma State University in May 2004. My experience, duties, and responsibilities are outlined in my resume, which is attached to my testimony as Oxy USA Exhibit 3. My testimony will comment on the New Mexico Environment Department's ("NMED's") proposed rulemaking.

Oxy USA is a subsidiary of Occidental Petroleum Corporation (collectively, "Oxy"), which is an international energy company with assets in the United States, Middle East, Africa and Latin America. Oxy is one of the largest oil producers in the United States and is a leading producer in the Permian Basin. Oxy set a target to reach net-zero emissions associated with our operations before 2040 and an ambition to achieve net-zero emissions associated with the use of our products by 2050. Through the work of Oxy's subsidiary formed in 2018, Oxy Low Carbon Ventures, Oxy is advancing leading-edge technologies and innovative solutions to economically grow our business while reducing emissions. Oxy is committed to using our global leadership in carbon dioxide management to advance a low-carbon world.

Oxy has been an operator in New Mexico's portion of the Permian Basin since the 1960s, and our company is the second largest oil and gas producer in the state. Over a ten-year span, from 2010 to 2019, Oxy paid $1.2 billion in state and federal royalties on production from its New

Mexico oil and gas properties and more than $32 million in New Mexico state, local and payroll taxes. Additionally, in that same span of time, Oxy paid approximately $845 million in severance taxes.

Oxy USA's comments focus on timing and implementation considerations to comply with the requirements of the proposed rule, ensuring that operators are provided the flexibility to implement alternative technologies and systems to reduce, prevent, monitor, record and report emissions and related data, and concerns relating to the creation of a new presumption of noncompliance based on third-party claims. Oxy USA appreciates the opportunity to submit the following comments.

II. Oxy USA Supports the New Mexico Environment Department's Overall Mission to Further Reduce Emissions, and Requests a Phased-In Compliance Approach that Targets Highest Emitting Sources First.

Oxy USA is in agreement that reducing volatile organic compounds ("VOC") and nitrogen oxide ("NOx") emissions must be a priority. Oxy USA's longstanding policy is to seek continuous improvement in resource recovery, conservation, pollution prevention, and energy efficiency, including ongoing efforts to manage and capture VOCs, NOx, methane and other greenhouse gas ("GHG") emissions. Oxy USA takes a hands-on approach to improve the efficiency and reliability of the equipment and facilities used in our oil and gas activities. To reduce our carbon and emissions footprint while maximizing the efficient use of existing infrastructure, Oxy USA employs multiple techniques to minimize and prevent flaring, improve energy efficiency and deploy innovative technologies.

We support NMED's initiative to further reduce emissions from oil and gas activities. In order to advance this initiative, Oxy USA suggests that the proposed rule provide operators with the option to determine applicability thresholds based either on potential to emit ("PTE") or on actual emissions. Further, Oxy USA proposes the following phased-in compliance schedule, which will target highest-emitting facilities first and become more broadly applicable over time:

Source	**Requested Retrofit Phase-in Time**
Control Devices	• Request five years from effective date of the rule for installing redundant control devices for facilities with existing vapor recovery units (“VRUs”).
Equipment Leaks and Fugitive Emissions	• VOC emissions > 2 and < 5 tons per year (“TPY”), inspect at least annually by January 2023; • VOC emissions > 2 and < 5 TPY, inspect at least semi-annually by January 2025; • VOC emissions > 5 TPY, inspect at least semi-annually by January 2023; • VOC emissions > 5 TPY, inspect at least quarterly by January 2025.
Storage Vessels	• Within one year of the effective date of the proposed rule, the owner or operator shall ensure that all of the company’s existing uncontrolled storage vessels that have a PTE or actual emissions of 10 TPY or greater are controlled; • By January 1, 2025, the owner or operator shall ensure at least 30% of the company’s existing uncontrolled storage vessels are controlled; • By January 1, 2027, the owner or operator shall ensure at least an additional 35% of the company’s existing storage vessels are controlled; and • By January 1, 2029, the owner or operator shall ensure at least an additional 35% of the company’s existing storage vessels are controlled.
Wellhead Sites, Tank Batteries, Gathering and Boosting Pneumatic Controllers	• Request that the retrofit requirements are based on production rather than controller counts. • No requested changes to the proposed retrofit schedule.
Hydrocarbon Liquid Transfers	• New operations subject to the requirements upon effective date of the rule. • Existing operations phased in over a two-year time frame from the effective date of the rule, with higher threshold locations controlled first.
Glycol Dehydrators	No requested changes to proposed retrofit schedule
Heaters	No requested changes to proposed retrofit schedule
Pig Launching and Receiving	No requested changes to proposed retrofit schedule
Natural Gas Compressor Stations and Gas Processing Plants Pneumatic Controllers	No requested changes to proposed retrofit schedule
Pneumatic Pumps	No requested changes to proposed retrofit schedule
Engines and Turbines	No requested changes to proposed retrofit schedule
Compressor Seals	No requested changes to proposed retrofit schedule

A. Oxy USA is Proposing Phased-in Compliance Schedules to Prioritize Higher-Emitting Facilities and Ensure Significant Emissions Reductions on Storage Vessels.

The core of NMED's proposed rule is a series of technology-based standards imposing requirements for retrofitting old equipment and installing new equipment by certain established timeframes based on the equipment's PTE. Oxy USA supports additional retrofit and installation requirements to further reduce emissions, but proposes that operators have the option to determine applicability based on actual emissions as an alternative to relying solely on PTE, and that NMED incorporates a feasible phase-in schedule for compliance timelines.

Oxy USA already devotes significant resources to capturing emissions of VOCs, NOx, and methane by retrofitting existing facilities and optimizing the design and construction of new facilities. Oxy USA currently has over 250 control devices installed on storage vessels at our facilities in New Mexico, including primary and redundant controls. Given the anticipated demand for control devices and significant supply chain concerns, as discussed in more detail below, Oxy USA's proposed revisions to the retrofit and installation schedule allow and encourage industry to target and prioritize highest emitting storage vessels.

Section 20.2.50.123 of the proposed rule requires that, within three years of the effective date of the proposed rule, operators retrofit existing storage vessels with a PTE greater than or equal to 2 TPY and less than 10 TPY of VOCs to achieve a 95% combined capture and control efficiency rate. Storage vessels with a PTE of greater than or equal to 10 TPY of VOC emissions must be retrofitted within one year.

Federal regulations found at 40 CFR Part 60, Subparts OOOO ("Quad O") and OOOOa ("Quad Oa") have required that if the PTE of a storage vessel that was constructed, modified, or re-constructed since August 2011 is determined to be greater than or equal to 6 TPY of VOCs, the associated VOC emissions must be reduced by 95%.[1] More than 85% of Oxy USA's production in New Mexico comes from 19 facilities that were built after 2017 and have storage vessels that are controlled pursuant to Quad Oa requirements. The remaining storage vessels affected by this rule would account for only 15% of Oxy USA's production. The emissions impact of a phased-in retrofit or installation schedule on these lower-emitting storage vessels would be minimal, but the resource demand to comply with the proposed rule's timeframes would be significant: 178 facilities with up to four oil storage vessels and 128 facilities with up to four water storage vessels would require retrofit or installation of controls.

In light of these concerns, Oxy USA proposes the following phase-in schedule that aligns with the engine retrofit schedule and would allow operators to prioritize additional emissions controls at higher producing facilities, while still accomplishing NMED's emissions reduction goals:

a. Within one year of the effective date of the proposed rule, the owner or operator shall ensure that all of the company's existing uncontrolled storage vessels that have a PTE or actual emissions of 10 TPY or greater are controlled;

b. By January 1, 2025, the owner or operator shall ensure at least 30% of the company's existing uncontrolled storage vessels are controlled;

c. By January 1, 2027, the owner or operator shall ensure at least an additional 35% of the company's existing storage vessels are controlled; and

[1] Quad O applies to crude oil and natural gas facilities for which construction, modification or reconstruction commenced after August 23, 2011 and on or before September 18, 2015; Quad Oa applies to crude oil and natural gas facilities for which construction modification or reconstruction commenced after September 18, 2015.

d. By January 1, 2029, the owner or operator shall ensure at least an additional 35% of the company's existing storage vessels are controlled.

Oxy USA is also suggesting that operators be allowed to utilize alternative methods to control emissions and achieve 95% emissions reduction for lower-emitting storage vessels. VRUs on storage vessels with low PTE or low actual emissions do not operate reliably. Oxy USA's smallest VRU compressor operates at an average throughput of 100 MCFD. This compressor can operate at a throughput as low as 40-50 MCFD. Operating below this throughput value increases the temperatures on the unit, which in turn results in maintenance and reliability issues, increased equipment downtime, and increased emissions.

Utilizing a combustion device would not provide an adequate solution either, because an operator would have to add in assist gas, such as methane or propane, to ensure both reliability of the pilot and efficient combustion of the gas. For these storage vessels with a low PTE or low actual emissions, requiring a VRU or combustion device would effectively result in higher emissions of CO and NOx. Therefore, Oxy USA suggests that the proposed rule provide operators the flexibility to utilize alternative technology beyond a VRU or combustion device to control emissions for storage vessels with low PTE or low actual emissions. Examples of such alternative technologies include using biomass or carbon filters on the storage vessels.

1. A More Phased-in Approach Will Also Account for Supply Chain Concerns and Lessen Regulatory Burdens.

The proposed rule's control device requirements will affect and/or require installation of hundreds of pieces of equipment at Oxy USA facilities. Oxy USA is concerned that the anticipated market demand for VRUs, vapor combustion units ("VCUs"), flares, and other control devices cannot be met, which would affect Oxy USA's ability to comply with the proposed rule.

As an example, control device manufacturers have estimated during recent discussions that the market as a whole can produce up to 500 VRUs of various sizes in any given year. Oxy USA would not be the only operator affected by the proposed rules: every other operator impacted by this rule would also need to begin obtaining VRUs, VCUs, flares, and other control devices shortly after rule finalization in order to comply. Given the number of impacted operators and affected facilities in New Mexico, and demand for equipment, the proposed timeline to retrofit and install control devices is not realistic. Moreover, recent discussions with control device manufacturers and suppliers have confirmed that there is already a shortage of qualified personnel who can build, service and repair control devices. Simply put, the need under the proposed rule would greatly exceed the maximum possible supply, making compliance through retrofitting equipment or installing new equipment infeasible under the proposed regulatory timeline.

Moreover, control devices are made up of one key material: steel. The unprecedented COVID-19 pandemic forced steel manufacturers to shut down production in Spring 2020. As the country began to recover, steel mills have been slow to ramp up production, resulting in a massive steel shortage and surging prices.[2] Operators in New Mexico would likely have difficulty obtaining even 500 VRUs in the near future. At the time these comments were filed, there was a 16- to 24-week delay in obtaining parts and building a larger-sized VRU. *See* Oxy USA Exhibit 4. Once the VRU is built, it typically takes another four weeks for installation, although that time may vary depending on safety considerations, availability of qualified contractors to install, and complexity of the installation.[3] This current delay means that even if operators begin phasing in

[2] *See* Rajesh Kumar Singh, "U.S. Manufacturers Grapple with Steel Shortages, Soaring Prices," Reuters, Feb. 23, 2021, available at https://www.reuters.com/article/us-usa-economy-steel-insight/u-s-manufacturers-grapple-with-steel-shortages-soaring-prices-idUSKBN2AN0YQ (discussing effects of steel shortage on manufacturers across industries); Bob Tita, "Steelmakers Keep Old Plants Idle Despite Surging Prices," The Wall Street Journal, June 10, 2021, available at https://www.wsj.com/articles/steelmakers-keep-old-plants-idle-despite-surging-prices-11623322802 (discussing how steel mills remaining closed is exacerbating the ongoing shortage).

[3] Smaller-sized VRUs can take up to 12 weeks to obtain parts and build, with up to an additional 4 weeks to install.

new equipment now, it will still be difficult – if not impossible – to install VRUs according to the proposed rule's timeline. Control device manufacturers have also confirmed that the same considerations and delays apply to VCUs, flares, and other control devices. Should the proposed rule be finalized as drafted, demand will increase greatly and exacerbate those long lead times. Although Oxy USA anticipates that supply chain delays due to the COVID-19 pandemic will begin to ease, the steel shortage remains ongoing and will continue to build the backlog.

The same concerns are relevant and applicable to redundant control requirements. Section 20.2.50.115(E)(1)(b) of the proposed rule requires that owners or operators control VOC emissions during startup, shutdown, maintenance, or other VRU downtime with a backup control device or redundant VRU. Currently, Oxy USA locations that have control devices installed are reducing emissions during all normal operating conditions. In light of this fact, and the control device supply chain difficulties discussed above, Oxy USA requests a five-year time frame to install redundant controls at locations that already have VRUs.

The proposed rule mirrors rules from other states with one significant distinction: those other states conducted a series of rulemakings that, over time, created more stringent standards that are more broadly applicable. For example, in 2014, Colorado conducted a rulemaking that entirely replaced its regulations regarding control of ozone precursors in oil and gas emissions. Since then, Colorado has modified those regulations – including adjustments to retrofit timelines – on an almost annual basis, giving operators time to begin phasing in compliant control devices. Furthermore, the Colorado rules were not immediately applicable to all sources: over time, the standards became more stringent and more broadly applicable.

On the federal level, EPA's Quad Oa emission standards for new, reconstructed, and modified sources in the oil and natural gas sector acknowledged equipment shortages and extended the initial compliance period accordingly. *See* 81 Fed. Reg. 35,824, 35,855 (June 3, 2016) (noting that because the Quad Oa standards "will more than double the number of wells requiring [reduced emissions completion ("REC")] equipment over [previous regulations]," EPA is providing an additional 180 days for compliance). Even though REC equipment suppliers had ramped up production in light of previous regulations, EPA acknowledged that additional time was still needed to increase production to the level required by Quad Oa. *Id.* Compare those facts against the backdrop of today's market realities for control devices, and an additional 180 days would be insufficient: there is an ongoing steel shortage, lingering supply chain effects from the COVID-19 pandemic, and no previous (or current) ramp-up in production. It is apparent that a substantial additional phase-in time will be required in order for the proposed rule's requirements to be feasible.

a. Re-routing Wells to Facilities with Control Devices Already Retrofitted or Installed Presents Commingling and Royalties Roadblocks.

The proposed rule allows for operators that cannot timely obtain and install control devices to comply by shutting in wells. *See* NMAC 20.2.50.123.B(6). In this scenario, rather than shutting in wells, Oxy USA would prefer to achieve compliance with the proposed rule's storage vessel emission reduction requirements by re-routing wells to facilities that already have control devices in place. However, the New Mexico Oil Conservation Division ("NMOCD") and federal Bureau of Land Management ("BLM") have commingling requirements that mean wells cannot easily be re-routed to share equipment in New Mexico.

For example, NMOCD requires operators that seek to commingle oil or gas from two or more leases or pools to submit an application for surface commingling that may be approved or denied by the department; to provide notice to interest owners; and, if any interest owner timely files an objection, to complete a hearing process. *See* NMAC 19.15.12.10(C). BLM regulations, meanwhile, provide that all measurement of oil and gas must be on the lease from which the oil or gas originated and "must not be commingled with [oil or gas] originating from other sources" unless approved by the BLM. 43 C.F.R. §§ 3162.7-2, -3. The approval and notice processes for each agency can take several months, which, when combined with the time needed to negotiate and obtain any new required rights-of-way and actually complete the rerouting process, would significantly hamper Oxy USA's attempts to timely comply with NMED's proposed rule. Oxy USA's proposed phase-in timeline would account for these regulatory challenges.

b. NMED's Proposed Compliance Alternative to Control Device Retrofitting or Installation Conflicts with Other State Requirements.

Shutting in wells to comply with the proposed rule when control devices cannot be timely retrofitted or installed conflicts with other agencies' rules regarding production timeframes for active wells. If finalized as drafted, the proposed rule would require operators to shut in, regardless of well-documented supply chain delays that are beyond an operator's control, and run a significant risk of noncompliance with NMOCD rules.

NMOCD rules require wells to be plugged within 90 days of a 60 day period following suspension of drilling operations; a determination that the well is no longer usable for beneficial purposes; or a period of one year in which a well has been continuously inactive. *See* NMAC 19.15.25.8(B). An operator that operates more than 1,000 wells is in compliance with NMOCD rules if they have no more than ten wells that fail to comply with the plugging requirement. *See* NMAC 19.15.5.9(A)(4). Operators with more than ten wells that fail to comply with the plugging requirement are subject to NMOCD enforcement actions. *See* NMAC 19.15.5.10. The infeasibility of obtaining control devices in a timely fashion due to supply chain concerns means that operators would be required to shut in wells, which – due to the severe and likely worsening state of the supply chain – would create conflicts with NMOCD plugging rules and potentially lead to NMOCD enforcement actions. Furthermore, shutting in wells in order to comply with the proposed rule is inconsistent with NMOCD requirements to minimize waste.[4]

B. Oxy USA Suggests an Alternative Inspection Frequency Schedule that Aligns with Other Significant Compliance Deadlines and Targets Higher-Emitting Facilities to Ensure Significant Emissions Reductions.

Oxy USA proposes that the proposed rule's leak survey requirement for facilities constructed prior to the proposed rule's effective date also be phased in over time. Due to the significant number of facilities that would be required to perform leak surveys, Oxy USA suggests a phased-in schedule that ensures all facilities would be surveyed at least once by 2023 and all facilities would be surveyed, according to their required schedule, by 2025. Per the proposed rule, AVO inspections must be conducted on a weekly or monthly basis and any identified leaks must be repaired within a set timeframe. These inspections and required repairs would serve to identify any potential leaks, while operators phase-in and ramp up inspection frequencies under the leak survey program. The compliance schedule Oxy USA proposes, including compliance dates and inspection frequencies, is described below:

[4] Section 70-2-11 of the New Mexico Statutes, on the New Mexico Oil Conservation Commission and NMOCD's powers to prevent waste and protect correlative rights, states that "[t]he division is hereby empowered, and it is its duty, to prevent waste prohibited by this act and to protect correlative rights, as in this act provided. To that end, the division is empowered to make and enforce rules, regulations and orders, and to do whatever may be reasonably necessary to carry out the purpose of this act, whether or not indicated or specified in any section hereof." Section 70-2-3 of the New Mexico Statutes defines "waste" to include:

> "[U]nderground waste" as those words are generally understood in the oil and gas business, and in any event to embrace the inefficient, excessive or improper, use or dissipation of the reservoir energy, including gas energy and water drive, of any pool, and the locating, spacing, drilling, equipping, operating or producing, of any well or wells in a manner to reduce or tend to reduce the total quantity of crude petroleum oil or natural gas ultimately recovered from any pool, and the use of inefficient underground storage of natural gas.

VOC Emissions	**Inspection Frequency**	**Compliance Dates**
> 2 and < 5 TPY	All surveyed annually	January 2023
> 2 and < 5 TPY	All surveyed semi-annually	January 2025
VOC Emissions	**Inspection Frequency**	**Compliance Dates**
≥ 5 TPY	All surveyed semi-annually	January 2023
≥ 5 TPY	All surveyed quarterly	January 2025

Further, under the proposed rule there are no exemptions to the leak survey requirements for facilities that have little or no potential for leaks. Facilities such as satellite facilities, injection facilities, inactive facilities, and wellhead-only facilities either include very few pieces of equipment that could potentially cause an increase in emissions due to leaks or are inactive and therefore cannot increase emissions because they are not handling any material that could leak. The costs of conducting leak surveys at these facilities, which Oxy USA estimates at approximately $2.5 million per year, far outweighs the minimal risk of leaks at these locations. Accordingly, Oxy USA requests that the proposed rule include a targeted exemption for locations where leak surveys are not expected to result in emissions reductions.

C. Oxy USA Proposes a Phased-In Implementation of Hydrocarbon Liquid Transfer Control Requirements, Which Would Provide a More Realistic Compliance Timeline.

Under Section 20.2.50.120(A) of the proposed rule, hydrocarbon liquid transfers at wellhead sites, tank batteries, gathering and boosting sites, natural gas processing plants, or transmission compressor stations are subject to the proposed rule's requirements one year after the effective date. There are 154 Oxy USA sites that will require installation of control devices under the proposed rule, and Oxy USA estimates that installation for all 154 sites would take approximately 770 days total. Oxy USA requests a phase-in of the control requirements: new operations subject to the requirements upon effective date of the rule, and existing operations phased in over a two-year time frame, with higher threshold locations controlled first.

D. Oxy USA Requests that Requirements for Pneumatic Controllers at Wellhead Sites, Tank Batteries, and Gathering and Boosting Facilities Be Phased In Based on Historic Liquids Production.

As drafted, the proposed rule includes a compliance schedule that requires a certain percentage of pneumatic controllers and pumps be in compliance by a specific date. However, Oxy USA suggests that basing the compliance timeline for pneumatic controllers on historic liquids production as opposed to the number of pneumatic controllers at a site – *i.e.*, requiring that the pneumatic controllers with highest historic liquids production be addressed first – would better ensure that the pneumatic controllers that are actuated most frequently, and therefore have the potential to emit more often, are retrofitted first.[5] These suggestions would have no effect on the current compliance timeframes in the proposed rule.

[5] For example, Colorado's Regulation 7 control requirements for on-site natural gas-actuated pneumatic controllers are based on the controller's bleed rate and prioritizes controls for high-bleed pneumatic controllers (designed to have a continuous bleed rate above 6 SCFH). As noted in a pre-hearing statement given by the Joint Industry Workgroup at the Regulation 7 hearing, this approach better accounts for the fact that "(1) facilities with greater total liquids production typically have more pneumatic controllers; and (2) facilities with greater liquids production have pneumatic controllers that actuate more frequently." Joint Industry Workgroup, "AQCC Regulation 7 Rulemaking Hearing," Feb. 18, 2021, available at https://drive.google.com/drive/folders/17WCpy4JKXFXUmjZ_mK-OB76fO7_5w0JC.

Total Historic Non-Emitting Facility – Percent Liquids Production	Total Required Percentage of Pneumatic Controllers In Compliance by January 1, 2024	Total Required Percentage of Pneumatic Controllers In Compliance by January 1, 2027	Total Required Percentage of Pneumatic Controllers In Compliance by January 1, 2030
>75%	80%	85%	90%
>60-75%	80%	85%	90%
> 40-60%	65%	70%	80%
> 20-40%	45%	70%	80%
0-20%	25%	65%	80%

Additionally, Oxy USA requests exemptions for pneumatic controllers that are used as emergency shutdown devices ("ESDs") located on a wellhead, as those pneumatic controllers are rarely used and provide a negligible contribution to emissions; each actuation of these safety valves emits less than 6 SCF of gas. An ESD is designed to minimize consequences of emergency situations, and will only emit in certain isolated circumstances, such as if a well must be shut in. Because these pneumatic controllers are rarely activated, their emissions impact is minimal.[6]

The requirement in the proposed rule to retrofit existing pneumatic controllers with access to commercial line electrical power is problematic for ESD and artificial lift controllers located on a wellhead. It is not always logistically feasible to electrify a location due to issues outside of Oxy USA's control, which include right of way issues, distance from line power, and capacity to electrify a facility. Even without the foregoing concerns, the cost and timing can be prohibitive, with costs to run an electrical line to a facility around $200,000 per mile and lead time up to a year.

[6] As a point of reference, compare the EPA emission factor for intermittent controllers in the West, which is 17.1 SCF/hr/component, against that of Oxy USA's pneumatic safety devices, at less than 6 SCF per actuation per component up to 12 times a year. Emissions from pneumatic safety devices such as Oxy USA's are de minimis. As such, requiring them to be included would gain very little to no emissions benefit and divert resources better used to address higher-emitting sources.

Electrification of wellhead only facilities with artificial lift and ESD controllers would take significant resources to implement with minimal emissions reductions.[7] Oxy USA requests that ESD and artificial lift requirements are exempt from the requirement to retrofit with access to commercial line electrical power, which allows operators to focus resources to retrofit larger producing locations and would result in the greatest emission reductions.

III. Oxy USA Suggests Removing Control Device Requirements for Thief Hatches Due to Safety Concerns.

Oxy USA also requests that NMED remove the requirements in Section 20.2.250.123 B(7) to install a control device on a thief hatch. The proposed rule defines a "control device" as "air pollution control equipment or emission reduction technologies that thermally combust, chemically convert, or otherwise destroy or recover air contaminants," and provides that control devices include but are not limited to:

> [O]pen flares, enclosed combustion devices (ECDs), thermal oxidizers (TOs), vapor recovery units (VRUs), fuel cells, condensers, air fuel ratio controllers (AFRs), catalytic converters (oxidative, selective, and non-selective), or other emission reduction equipment. A control device may also include any other air pollution control equipment or emission reduction technologies approved by the department to comply with emission standards in this Part.

Based on that definition, Oxy USA is not aware of control devices that may be installed on thief hatches. Thief hatches provide an operator access to the tank interior for inspection, gauging or sampling operations, and usually also provide pressure and vacuum relief of the tank's vapor space through integral, spring-loaded pressure and vacuum relief mechanisms. Any requirement that does not allow a thief hatch's pressure relief device to release pressure during a safety event would be of significant concern. There are no control devices specifically associated with thief hatches by design and for good reason: the risk of installing control devices would create additional

[7] These wellhead only facilities with artificial lift and ESD controllers typically have fewer than 10 total controllers.

back pressure and limit and/or restrict the ability of the pressure relief device to relieve tank pressure. This would increase the risk of catastrophic events, including excess emissions and environmental concerns, as well as health and safety risks.

Oxy USA proposes that in lieu of requiring a control device on a thief hatch, NMED should consider that the proposed rule's AVO, LDAR and external tank gauging requirements would adequately serve to identify and mitigate leaks around the thief hatches and pressure relief devices.

IV. Oxy USA Supports Flexibility in the Types of Technology Permitted by the Proposed Rule so that Operators Can Continue to Drive Innovation and Reduce Emissions.

Many new emission detection technologies and methods have demonstrated that they can be as effective as hand-held Optical Gas Imaging ("OGI") surveys or Audio, Visual and Olfactory ("AVO") inspections. Continued innovation in emission detection technologies is an important tool for compliance assurance and emission reductions: better technology means better emission detection capabilities. The proposed rule requires leak surveys at a significant number of locations and allows operators to apply for alternative leak monitoring and detection methods, empowering operators to create an all-encompassing surveillance platform that can continue to evolve as newer technologies emerge.

Oxy USA supports NMED's proposal to allow for alternative equipment leak monitoring plans (*see* Proposed Rule at NMAC 20.2.50.116(D)), and also requests that NMED allow for alternative methods to be utilized instead of being wedded to the AVO inspection requirements and schedules. As an example, Oxy USA has been piloting small-sensors that can be placed in multiple positions on location, combined with image and sound recording, as an alternative compliance method to AVO inspections. This method allows for real-time monitoring and alarming of hydrocarbon levels with video and audio surveillance being captured several times per day. The sensors are wireless and can be placed in multiple locations for critical process monitoring. In addition to the small-sensor technology, automation and measurement has the potential to be an alternative compliance method for AVO and LDAR. These are examples of alternative technologies that have the potential to result in more rapid response than AVO inspections, and which can lead to greater emission reductions.

V. There are Opportunities to Reduce the Administrative Burden Imposed by the Proposed Rule's Recordkeeping, Monitoring and Reporting Requirements While Maintaining Compliance Assurance and Emissions Reduction.

Oxy USA recognizes that recordkeeping and reporting requirements are an important component of NMED's ability to ensure compliance. However, Oxy USA is concerned that, as drafted, the proposed rule would greatly increase the administrative burden on operators without providing significant improvements in compliance assurance and emissions reductions.

A. The Proposed Rule's Requirement that Operators Install and Utilize EMT Creates a Significant Administrative Burden Without Improving on Current Compliance Databases or Reducing Emissions.

If finalized as proposed, the rule would require operators to install and utilize Equipment Monitoring Tags ("EMT"). All equipment subject to control device or monitoring requirements under the proposed rule would be required to have monthly equipment scans, monitoring, and recordkeeping. Oxy USA estimates that over 8,000 pieces of equipment, including storage vessels, VRUs, VCUs, flares, pneumatic valves, and engines would fall under the purview of these requirements. Furthermore, Oxy USA has estimated that the initial and reoccurring EMT scans required under the proposed rule, which have equipment-specific inputs that must be adjusted for each piece of tagged equipment, would require a staggering 16,892 hours of survey time and 3,370 hours of verification time to complete.

Notably, the proposed rule provides no flexibility with respect to how data may be collected and maintained for compliance assurance. The proposed rule also requires operators conducting monitoring activities to scan the EMT for each piece of equipment before and after each monitoring event. Functionally, this requirement disincentivizes the use of flyovers and alternative technologies for monitoring purposes. If finalized as proposed, the rule would require operators to scan each piece of equipment implicated in the flyover before and after the flyover occurs, thereby requiring far more time and manpower than is currently associated with flyover monitoring. Disincentivizing this efficient, effective monitoring method cuts against the intent of the proposed rule. Instead, Oxy USA suggests that the rule allow for alternative methods of monitoring without requiring operators to scan in and scan out each piece of equipment surveyed using an alternative monitoring method.

Oxy USA currently maintains databases that contain equipment information, emissions data, and documentation of leak inspections. These databases are robust and have historically proven adequate to ensure that Oxy USA is in material compliance with NMED air rules. While EMT provides component-specific tracking, this approach provides little or no additional compliance assurance beyond the facility-level approach already in place by Oxy USA. Any benefits are heavily outweighed by the time and cost associated with development and implementation of an EMT system, especially given that the functionality of an EMT system is overwhelmingly duplicative of the databases that are already in use. Rather than imposing EMT requirements on operators, like Oxy USA, that currently collect and retain the data and reports necessary for compliance assurance, the proposed rule should be modified to allow for use of any database that can produce a report that provides NMED with reasonable compliance assurance.

B. The Proposed Rule's Requirement That PTE Calculations be Certified by a Qualified Professional Engineer Is Unduly Burdensome and Internally Inconsistent.

As drafted, the proposed rule requires operators to calculate the PTE for each emission source and to have those PTE calculations certified by a qualified professional engineer ("PE"). *See* Proposed Rule at 20.2.50.111(B). Certification of PTE calculations is a reasonable requirement to confirm the validity of those calculations. However, the proposed rule's requirement that only a qualified PE may make that certification creates a significant burden in terms of time required for a PE to complete and certify PTE calculations for each emission source. In New Mexico, Oxy USA has approximately 645 facilities and 2,745 wells for which a PTE calculation would be required. Assuming two hours per calculation for each source, this means that PEs would be required to conduct 6,780 hours of work, or approximately 3.25 years of eight-hour workdays, to complete this certification requirement. At standard rates, hiring a consultant to assist with this effort would cost approximately $800,000. Modifying the rule to allow a qualified in-house engineer to certify PTE calculations as an accommodation for the number of calculations that will need to be certified would significantly lighten this burden.

Modifying the proposed rule to allow certification by a qualified in-house engineer would also make the proposed rule more internally consistent. Section 20.2.50.115(B)(6)(c) of the proposed rule requires certification of closed vent systems for a centrifugal compressor wet seal fluid degassing system, reciprocating compressor, pneumatic controller or pump, or storage vessel using a control device or routing emissions to a process. However, in this instance, the proposed rule explicitly provides that this certification may be made "by a qualified professional engineer or an in-house engineer with expertise regarding the design and operation of the closed vent system." Updating Section 20.2.50.111(B) of the proposed rule to allow certification of PTE calculations by an in-house engineer would create greater consistency within the rule. Oxy USA also proposes that if an operator were to choose the option to determine applicability based on actual emissions, an in-house engineer would be able to certify those calculations.

C. The Leak Repair Requirements Included in the Proposed Rule Are Not Always Feasible.

Under the proposed rule, once a leaking component has been identified by using an OGI camera, the operator must repair that component within seven days of detection. *See* Proposed Rule at 20.2.50.116(E). If the leak is identified through another method, such as an AVO inspection or Method 21, the operator must repair the component within 15 days of detection. Although Oxy USA appreciates the need for timely leak repair and endeavors to complete all repairs as efficiently as possible, it is not always technically feasible to complete repairs within a calendar week.

Depending on the nature and location of the leak, an operator may need to order and obtain new parts. Even if a new part is already on hand or readily available, operators may need to work with qualified personnel or a third-party contractor to complete and verify the repair. Supply timelines and personnel or contractor work schedules do not always allow for immediate leak repair. Recent discussions with control device manufacturers and suppliers have confirmed that there is already a shortage of qualified personnel who can build, service and repair control devices. The market demand for control devices borne of operators' attempts to comply with the proposed rule will create even more of a strain on trained and qualified personnel to service and repair control devices. While Oxy USA believes the proposed seven-day timeline could be feasible if recast as a deadline for an initial repair attempt, the repeated shutdowns that would be required to attempt compliance with a seven-day full repair requirement would negatively affect facility emissions. Modifying the proposed rule to allow for delay of repair in limited circumstances, or allowing for 15 days to repair leaks identified through either OGI or AVO, would address this issue.

In light of these considerations, Oxy USA respectfully requests that the proposed rule allow for a delay of repair under limited situations, such as when required parts are unavailable; when the repair requires a shutdown; when qualified personnel or contractors are not available within the required repair timeframe; or for other documented good cause.

D. The 24-Hour Reporting Requirement Does Not Provide Flexibility for Information Requests That Require Time to Complete.

Oxy USA understands that timely reporting plays a key role in NMED's ability to ensure that New Mexico operators are complying with the department's emissions rules. However, the proposed rule requires owners or operators to provide NMED with information within 24 hours of a request from the department. *See* Proposed Rule at 20.2.50.112(D). This extremely short timeframe provides little flexibility for situations where the requested information must be collected from multiple sources or where the requested information will otherwise take time to assemble. Because extending that timeline would have no effect on a facility's emissions, Oxy USA suggests that the proposed rule require reporting within three to five business days of a request from NMED. This would provide operators with enough time to assess the request; determine which documentation is responsive; and assemble the full set of requested information, thereby ensuring that the department receives its requested material efficiently.

E. The Third-Party Data Verification Requirement Should Be Modified to Include Reasonable Limitations.

Oxy USA recognizes the utility in allowing for a third party to verify data or information collected, reported, or recorded under the proposed rule. However, allowing NMED to require that an operator retain a third party at the operator's expense with no limitations on frequency creates an unfair burden. Oxy USA takes great pains to ensure that the data and information it collects and reports to the department is accurate. Oxy USA requests that the proposed rule be modified to limit the number of times NMED can require an operator to retain a third party to verify data to once a year.

VI. The Proposed Rule's Approaches to Credible Information and the Presumption of Noncompliance Pose Significant Concerns and Effectively Restrain an Operator from Being Able to Defend Itself.

Oxy USA appreciates NMED's efforts to establish meaningful opportunities for members of the public to engage with industry. In some instances, this includes the development and use of evidence collected by third parties in connection with compliance assessment. NMED has proposed a concept that all information collected by a third party be considered "credible information," regardless of the methodology used to collect that information, and that such information creates a presumption of noncompliance unless rebutted. Oxy USA is concerned that the lack of a definition for the term "credible information" and the proposed rule's unprecedented approach to information collected by third parties – especially the presumption of noncompliance – provides no boundaries on what information may be considered "credible," creates a considerable burden on operators to constantly defend themselves against improper presumptions of noncompliance, misallocates NMED and operator resources, implicates constitutional due process rights, and poses a threat to public safety.

A. The Proposed Rule Provides No Parameters to Ensure Third-Party Information is Accurate.

Generally, credible evidence provisions work by allowing third parties to collect evidence and submit it to the relevant state agency for further screening and proceedings. The proposed rule takes this principle a step further by also creating a presumption of noncompliance based on third-party evidence. However, the proposed rule does not account for the fact that not all evidence is equally valid or accurate. The proposed rule provides no guidance on what types of third-party information would be considered "credible," and automatically creates a presumption of noncompliance if a member of the public provides NMED with information.

In contrast, the proposed rule contains specific monitoring and reporting requirements for operators, such as allowable inspection methods and instrument calibration requirements, that are designed to ensure NMED receives accurate information. *See* Proposed Rule at NMAC 20.2.50.116. If an operator wishes to use an alternative emissions monitoring method, they must submit a plan to NMED and the agency has discretion to accept or reject that plan.[8] *See* Proposed Rule at 20.2.50.112(B). Industry employees who submit information to the agency have access to calibrated instruments and accurate data, and agencies performing compliance investigations use trained investigators and calibrated equipment. But the proposed rule contains no requirement that members of the public use monitoring methods approved under the proposed rule, and there is no guarantee that members of the public have the training, expertise, or equipment necessary to investigate matters correctly. This means a presumption of noncompliance could be created based on information that is misleading or simply inaccurate, either because it was gathered using methods not approved by permit or regulation or because it was collected with poorly calibrated instruments.

This approach is unprecedented, as other rules regarding third-party information require that the third-party information be collected in accordance with permit or regulatory requirements – a measure that, if incorporated into the proposed rule, could address some of the concerns surrounding information submitted by members of the public. For example, Colorado's rules provide that "[w]hen compliance or non-compliance is demonstrated **by a test or procedure**

[8] Oxy USA suggests that NMED develop formal guidance, standards and/or methodologies to be used for determining whether to accept an alternative emissions monitoring method plan.

provided by permit or other applicable requirement, the owner or operator shall be presumed to be in compliance or non-compliance unless other relevant credible evidence overcomes that presumption." 5 Colo. Code Regs. § 1001-2:II.I (emphasis added).

Similarly, Texas rules authorize the executive director of the Texas Commission on Environmental Quality ("TCEQ") to initiate an enforcement action based on information provided by private individuals, but require individuals to use agency protocols, procedures, or guidelines when collecting and submitting information or evidence, as well as proper chain of custody procedures for any samples collected. Tex. Water Code § 7.0025; 30 Tex. Admin. Code § 70.4; *see also* TCEQ, "Title V Deviation Reporting and Permit Compliance Certification," 2012, at pages 11-12 (noting that credible evidence can include, among other things, "credible citizen-collected evidence indicating noncompliance with a permit term or condition brought to the permit holder's attention"); TCEQ, "Gathering and Preserving Information and Evidence Showing a Violation," available at https://www.tceq.texas.gov/compliance/complaints/protocols.

Even in New Mexico's own regulations, such as those applicable to construction permits, the state creates no presumption of noncompliance and rather provides a list of information gathering methods that are presumptively credible. *See* NMAC 20.2.72.218. In short, creating a *per se* presumption of non-compliance, without any procedural safeguards in place to ensure the validity of the collected information means operators face the unfair, unprecedented, and perhaps impossible task of "proving the negative" to avoid substantial penalties, effectively hindering an operator's ability to adequately defend itself from state-mandated presumptions of non-compliance.

B. The Proposed Rule Puts Operators at a Disadvantage When Defending Against Presumptions of Noncompliance.

Under the proposed rule, AVO inspections must be conducted either weekly or monthly, based on each facility's production amounts. If there is a time delay of days or weeks between when a member of the public gathers information that allegedly demonstrates noncompliance and when the operator learns of the presumptive noncompliance, or if the alleged noncompliance occurred between scheduled inspections, the data required to rebut that presumption may be difficult or impossible to obtain. Operators that are in compliance with monitoring and recordkeeping requirements under the proposed rule would still be at a disadvantage when defending against a presumption of noncompliance if information provided by a third party is stale. This would effectively prevent operators from being adequately able to defend themselves against presumptions of noncompliance, even if they have been in compliance with the rule all along. When combined with the concerns surrounding accuracy of third-party information, this means that operators could find themselves in a position where they are presumed to be noncompliant based on inaccurate information and unable to adequately rebut that presumption.

C. As Drafted, the Proposed Rule Creates the Risk of Constitutional Due Process Violations and Associated Administrative Burdens.

Presuming noncompliance based on any evidence submitted by third parties, without additional screening, confirmation, or validation by NMED, creates the possibility of due process violations under the U.S. Constitution. *See City of Las Cruces v. Rodriguez*, 2014 WL 5866773, at *6 (Ct. App. N.M. Oct. 16, 2014) (noting that monetary fines are a property interest sufficient to support a procedural due process claim under the 14th Amendment of the U.S. Constitution). In New Mexico, courts have found that imposition of a monetary fine or penalty is a sufficient property interest to support a procedural due process claim, and therefore the legal residuum rule – which requires that administrative actions be supported by at least a residuum of competent evidence which would support a verdict in a court of law – applies. *See Rodriguez*, 2014 WL 5866773, at *6; *Bransford v. State Taxation and Revenue Dep't, Motor Vehicle Div.*, 960 P.2d 827, 832 (Ct. App. N.M. 1998).

Presuming non-compliance, pursuing enforcement, and assessing a fine or penalty based on third party information alone would create an actionable due process issue because, as noted above, the proposed rule neither establishes standards to ensure the accuracy of third-party information nor adequately accounts for concerns surrounding a compliant operator's ability to adequately rebut presumed noncompliance. Establishing the accuracy of third-party information before utilizing that information to assess fines or penalties would create a significant regulatory burden for NMED. Modifying the proposed rule to require that third-party information follow methodologies included in relevant permits and regulations and removing the presumption of noncompliance could help reduce this administrative burden and alleviate the constitutional due process concerns.

D. The Proposed Rule Could Result in Potentially Unsafe Behavior by the Public.

Industry employees receive regular and extensive training, wear personal protective equipment, and are provided with gas monitors while on site to ensure their safety. There is no guarantee that members of the public will have the same training and experience at oil and gas facilities. Oxy USA's Level 1 Operations and Maintenance Training requires 36 hours of training, while Oxy USA's Level 2 Production Operations program totals 118 hours of training covering topics such as regulatory and compliance requirements, production facility operations, gas processing and compression, enhanced recovery operations, and measurement controls and treatment. Oxy USA also provides study materials for each class and an additional 268 hours of optional computer-based training, and requires additional HSE courses covering various safety topics. These training courses and requirements are in place to ensure that Oxy USA employees understand how to keep themselves and others safe. If a member of the public enters or approaches a facility to obtain information without undergoing adequate training and without fully understanding how to be safe in such a facility, members of the public could intentionally or unintentionally put themselves or others in situations where there is a significant risk of harm for themselves, operators and surrounding communities.

VII. The Proposed Rule's Burden Shifting from Buyer to Seller on Due Diligence Responsibilities and Equipment Certification Significantly Impacts Transactions.

As proposed, the rule itself provides robust compliance assurance requirements in the form of monitoring, recordkeeping, and reporting obligations. As such, current operators (*i.e.,* sellers) are already tasked with ensuring compliance with agency requirements. Adding an additional certification requirement creates significant obstacles to transactions, conflicts with established New Mexico principles concerning freedom of contract, and disincentivizes buyers from investing in assets they could improve.

A. The Proposed Rule Impedes Freedom of Contract.

New Mexico case law establishes that "New Mexico has a strong public policy in favor of freedom of contract." *Midway Leasing, Inc. v. Wagner Equipment Co*., 356 F.Supp.3d 1207, 1211 (D.N.M. 2018) (*citing Berlangieri v. Running Elk Corp.*, 2003-NMSC-024, ¶20, 134 N.M. 341). In addition, "[P]ublic policy encourages freedom between competent parties of the right to contract, and requires enforcement of contracts, unless they clearly contravene some positive law or rule of public morals." *General Elec. Credit Corp. v. Tidenberg*, 1967-NMSC-126, ¶ 14, 78 N.M. 59, 62. NMED has offered no explanation to override New Mexico's strong public policy in favor of freedom of contract, and there is no readily identifiable benefit to NMED in transferring the due diligence requirement from the buyer to the seller. In fact, this provision of the proposed rule could prevent investment in facility upgrades designed to ensure that facilities come into compliance with the proposed rule. As such, this provision could thwart the overall purpose of emission reduction.

B. The Proposed Rule Significantly Impacts the Cost and Timing of Transactions Between Private Parties.

In typical transactions, the seller makes certain representations and warranties concerning compliance with laws, but the buyer typically completes its own evaluation of facilities and equipment as part of its due diligence. The proposed rule shifts the burden for due diligence to the seller. This increases costs for the seller, and that cost increase may ultimately be passed along to the buyer. This provision of the proposed rule arguably interferes with the risk allocation structure that buyers and sellers agree to in their contractual relationship, which customarily includes materiality qualifications and monetary thresholds, deductibles and caps, and other limitations. The proposed rule may effectively add another basis of liability for the seller, *i.e.*, failure to identify a potential instance of noncompliance to the buyer, or may result in a further limitation of the scope of due diligence a seller permits a buyer to conduct. The proposed rule also disincentivizes the buyer from conducting a thorough review of the subject assets, which increases the possibility that the buyer could fail to identify other issues outside the proposed rule that need to be addressed.

In addition to concerns associated with risk allocation, the application of this rule may impede the current owner's ability to make a sale within the time frame the seller and buyer have agreed to, as the seller will now be required to complete a "full compliance evaluation" in a specifically prescribed window before a sale. This could potentially delay the timing of sale transactions and, in some cases, could entirely prevent a seller from completing a sale. Should the timing of a sale be delayed for any commercial reason, the proposed rule would require the seller to repeat the same full compliance evaluation – with the same timing risks – in order to abide by the prescribed three month window, thereby doubling the costs of compliance for the transacting parties. The proposed rule also contains no exceptions for material compliance. Taken to the extreme, if one piece of equipment out of several thousands fails to meet one requirement of the proposed rule, this provision could prevent the owner from selling the asset lest they risk noncompliance.

This compliance evaluation is more consistent with a buyer's due diligence activities in a transaction, as indicated by new owner audit programs enacted on both the state and federal level. For example, the Texas Environmental, Health, and Safety Audit Privilege Act provides that prospective purchasers may initiate a pre-acquisition audit to identify potential areas of noncompliance and that new owners may qualify for immunity against enforcement so long as certain notice and disclosure requirements are met. Tex. Health & Safety Code § 1101.154, 1101.155. On the federal level, EPA's audit policy provides incentives tailored to new owners that conduct an audit of newly acquired assets, such as penalty mitigation beyond that offered by EPA's standard audit policy and an expanded range of violations that may be eligible for audit policy benefits. *See* EPA, "EPA's Interim Approach to Applying the Audit Policy to New Owners," 2021, available at https://www.epa.gov/compliance/epas-interim-approach-applying-audit-policy-new-owners. As drafted, the proposed rule creates additional burdens for transacting parties and chills transactions within the state with little to no benefit to NMED.

C. If Implemented, the Proposed Rule Will Require Significant Clarifications.

Section 20.2.50.112(C)(3) of the proposed rule provides that "[b]efore the transfer of ownership of equipment subject to this Part, the current owner or operator shall conduct and document a full compliance evaluation of such equipment. . . . [and] include a certification by a responsible official as to whether the equipment is in compliance with the requirements of this Part." The term "owner" is defined as "the person or persons who own a stationary source or part of a stationary source." There are several parties who own assets but do not operate them, including joint working interest partners. If a joint working interest owner is selling its non-operated interests, it may not have access to the equipment to conduct a "full compliance review," and it may not have the ability to cause the operator to conduct such a compliance review. In this situation, the working interest owner would be precluded from selling its non-operated interests in the equipment, amounting to a restriction on alienability of its real property interests.

The rule is also vague regarding what the term "compliance" means. The term "compliance" is not quantified or qualified by any objective measure except for the "[compliance] with the requirements of [the rule]." It is not clear how an owner would know whether its activities amounted to a "full compliance evaluation" without specific guidance from NMED, nor is it clear how an owner would be able to ascertain the costs and efforts required to comply with the rule. For example, there is nothing to indicate whether a "full compliance evaluation" involves a review of records and permits or an on-site inspection, or who must complete the record review or on-site inspection. Nor is there clarification as to whether the compliance review includes each provision of the proposed rule, or if it is meant to focus on recordkeeping and monitoring requirements, reporting requirements, and/or installation and retrofitting requirements. Furthermore, the proposed rule provides no clarity as to whether it requires full compliance or material compliance, if a responsible official would be able to certify equipment is in compliance if a seller lacks certain monitoring or reporting records, or even which parties NMED envisions enforcing the rule.

Oxy USA believes this certification requirement should be removed. In the alternative, Oxy USA suggests modifying the proposed rule to require that the buyer of the assets conduct a compliance audit within a certain number of months following the completion of a transaction, as the compliance evaluation is more consistent with a buyer's due diligence activities in a transaction. An owner of equipment is required to comply with applicable law and regulatory requirements, but this rule as proposed would add additional burdens to transacting parties with little or no benefit to the environment.

OXY USA EXHIBIT 3

DANNY HOLDERMAN
5 Greenway Plaza, Ste. 110, Houston TX 77046
daniel_holderman@oxy.com

PROFESSIONAL EXPERIENCE

Oxy USA Inc., Houston, TX

Asset Director, Delaware Basin Business Unit, October 2018 – Present
- Lead and direct engineering and operations teams.
- Accountable for the Health, Safety and Environmental (HSE) performance of the Production Operations, Facilities and Construction teams within the business unit, and ensuring compliance with applicable laws and regulations.
- Responsible for business unit Profit and Loss (P&L) performance.
- Responsible for driving value delivery of the assets including accountability for the business units:
    - Maintenance capital expense (CAPEX) budget including facility upgrades, infrastructure de-bottlenecking and the downhole recompletion and workover program
    - Operating Expense (OPEX) spend budget for regulatory compliance, surface maintenance repairs, infrastructure spend, downhole repairs and well enhancement work
- Consult with the Development Director on potential acquisitions or divestitures that might improve the business units P&L performance.

Asset Manager, East Wolfberry Asset & South Texas Assets, October 2016 – October 2018
- Led engineering and operations teams responsible for production operations in the Midland Basin.
- Accountable for production operations compliance with applicable HSE regulations and standards.
- Accountable for P&L of asset area.
- Led divestment team for Oxy's South Texas Assets.

Drilling & Completions Manager, Delaware Basin Business Unit, January 2015 – September 2016
- Led engineering and operations team responsible for drilling and stimulating Wolfcamp and Bone Springs horizontal wells in western Texas and New Mexico.
- Accountable for overall Drilling and Completion HSE, cost, and well delivery performance.
- Implemented a continuous improvement (CI) program and developed CI culture within the team.
- Ensured processes, procedures, and team culture were in place to prioritize health and safety of operators and the surrounding community.
- Ensured compliance with all applicable regulations, and optimized value for stakeholders by facilitating knowledge transfer, maximizing efficiency, reward innovation, and manage risk exposure.
- Ensured all projects were staffed with appropriate engineering manpower, all company standards and best practices were implemented, all business unit performance Key Performance Indicators were met, and all engineering goals were aligned with the business unit's yearly business plan.

Drilling Manager, South Texas Business Unit, August 2014 – January 2015
- Led engineering and operations team responsible for drilling Vicksburg and Frio vertical wells with managed pressure drilling and Eagleford horizontal wells in Oxy's South Texas Assets.
- Accountable for overall Drilling safety, environmental, cost, and well delivery performance.
- Responsible to ensure operating standards prioritized Health and Safety of employees, contractors and local community and that team complied with all applicable laws, regulations, and company operating standards.

Occidental Oil & Gas Corporation, Houston, TX

Drilling Engineering Supervisor, Central Drilling Group, December 2013 – August 2014

- Led engineering team supporting global drilling operations, mainly focusing on technical project development and global performance benchmarking.
- Coordinated company's Drilling Engineering training and intern programs.
  Reviewed and updated company drilling standards and best practices.

ExxonMobil Corporation, Houston, TX; Rifle, CO; Hanover, Germany; Jakarta, Indonesia

Drilling Advisor, Indonesia Drill Team, January 2013 – November 2013

- Responsible for coordination/mentoring of seven drilling engineers and strengthening team performance by: promoting HSE values within the engineering team, ensuring technical accuracy/completeness of engineering work, implementing continuous improvement processes, providing performance monitoring and conducting contractor oversight.

Drilling Engineer, U.S. and Germany Drill Teams, June 2009 – January 2013

- ***Well Planning Team Lead*** (January 2013 – Nov 2013) for 9 well, $150M USD land, tight gas drilling project in northern Germany responsible for coordinating a 12-person, multi-functional team designing a multi-well program for deep (5,000m – 5,500m) HPHT tight gas reservoir development.
- ***Lead Drilling Engineer*** (June 2009 – January 2013) responsible for wellbore technical design, AFE cost estimation, rig selection & acceptance and operations surveillance/support.
- ***Lead Planning Engineer*** (November 2007 – June 2009) responsible for the development and roll-out of 'Wellbore Manufacturing' processes focused on maximizing the benefits of batch drilling and minimizing environmental footprint in a Colorado tight gas program.

Project Engineer; Team Lead, Global Drilling Materials Procurement Team, July 2004 – Nov 2007

- Responsible for contracting, purchasing, inventory management and logistics of Oil Country Tubular Goods (OCTG), wellheads, completion equipment and other tangible accessories.

PUBLICATIONS

- Co-authored patent "Reactor and process for converting alkanes to alkenes." US Patent WO2005061092 A1. 07 July 2005.
- Co-authored and presented paper titled "Multi-well Pad Design – A German Case Study" focusing on risk management on multi-well pads at the 2012 SPE ATW in Hamburg, Germany.
- Authored presentation titled "Drilling Fluid Design Practices to Overcome Coal Drilling Challenges" presented at the 4Q2010 DEA Conference on Drilling Fluids in Hannover, Germany.

EDUCATION

Oklahoma State University, Stillwater, OK
Bachelor of Science in Chemical Engineering, ***cum laude***, May 2004

OXY USA EXHIBIT 4

Occidental Oil and Gas

THIS NUMBER MUST APPEAR ON ALL DOCUMENTS PERTAINING TO THE ORDER

Order Number 4500436156

Standard Purchase

CONTRACTOR	SHIP TO	CONSIGNEE	INVOICE TO
[redacted]	[redacted]		TX South OCCIDENTAL PERMIAN LTD Invoices via Ariba or OxyPermInv@OXY.COM PO BOX 2004 HOUSTON TX 77252 US

Mode of Transportation	Payment Terms	IncoTerms 2010	IncoTerm Place	Validity Start	Validity End
	Net 30				

Clearing Agent	Port of Entry	Requested By	Final Destination
		[redacted]	[redacted]

Contract Proponent	General Description
	VRU PURCHASE FOR OXY INVENTORY PER [redacted] QUOTE # 16693 DATED 6/17/21 (ATTACHED). T AND C'S IN THE "OTHER CONTRACTUAL STIPULATIONS" SECTION OF PO WERE COPIED/PASTED FROM BPA 21000037941 EFFECTIVE JANUARY 15, 2016. BPA HAS ALSO BEEN ATTACHED TO EMAIL SUBMISSION TO [redacted]. T AND C'S IN "OTHER CONTRACTUAL STIPULATIONS" SECTION OVERRIDES OXY STANDARD T AND C UNLESS SPECIFIC T AND C'S ARE SILENT IN THE BPA. Delivery updated on quote 16693 from 20 weeks to 16 weeks for first 3 units. 3 units every month thereafter.

PO Line	PR Number	Material No	DESCRIPTION	UOM	QTY	Unit Price	Total Item Value	Promised Date
10	10250780/10	1000257750	COMPRESSOR:SCREW;VAPOR RECOVERY UNIT (VRU);FLOODED SCREW PACKAGE,G20 SERIES,STANDARD SERVICE,INCLUDES VFD,NO PLC;[redacted],PN:HG20XXXVIE-250-18D (2019 V2) --	EA	10.00	322,690.000	3,226,900.000	15-OCT-21
	Exempt Export	X	This Purchase will adhere to OXY Terms and Conditions as per attachment.			**Total Amount (USD)**	**3,226,900.00**	

Authorized Signature

Date: 25-JUN-2021

Buyer
[redacted]