

**STATE OF NEW MEXICO
ENVIRONMENTAL IMPROVEMENT BOARD**

IN THE MATTER OF	)	
PROPOSED NEW REGULATION	)	
20.2.50 NMAC	)	NO. EIB-21-27 (R)
Oil and Gas Sector–Ozone Precursor Pollutants	)	

COMMERCIAL DISPOSAL GROUP’S PROPOSED STATEMENT OF REASONS

NGL Energy Partners LP (“NGL”), Solaris Water Midstream, LLC (“Solaris”), OWL SWD Operating, LLC (“OWL”), Goodnight Midstream, LLC (“Goodnight”), and 3 Bear Energy, LLC (“3 Bear”), (collectively the “Commercial Disposal Group” or the “Group”) hereby submit this Proposed Statement of Reasons pursuant to EIB Rulemaking Procedures - 20.1.1.404 Post-Hearing Submissions and the Hearing Officer’s Order on Content of Post-Hearing Submittals (November 19, 2021). The Group participated in this rulemaking proceeding by submitting written testimony on specific topics and provisions of the New Mexico Environment Department’s (“NMED”) Ozone Precursor Pollutants Proposed Rule (“Proposed Rule”) by filing a notice of intent to present direct technical testimony (July 28, 2021) (“CDG NOI Direct Testimony”) and a notice of intent to present rebuttal technical testimony on (September 7, 2021) (“CDG NOI Rebuttal Testimony”). The Group presented oral testimony on these same topics and provisions throughout the hearing before the EIB from September 20 through October 1, 2021.

The Commercial Disposal Group’s members all have commercial saltwater disposal operations in the state of New Mexico that provide environmental services to the exploration and production (“E&P”) sector of the oil and gas industry through recycling and/or underground

injection of produced water. Although the Group provides produced water services to E&P companies, its member's facilities are not E&P facilities and they do not operate like E&P facilities.

**SALT WATER DISPOSAL FACILITIES NOT SUBJECT TO THE RULE
AS THEIR EMISSIONS OF OZONE PRECURSORS ARE NEGLIGIBLE.**

20.2.50.111D. APPLICABILITY

The emissions profile at disposal wells is entirely different than the producing operations that create the incoming water. The disposal wells do not have the same emission sources as production facilities and do not receive produced natural gas or oil. The water received from the producing wells is low volatility, post-flash, and has gone through separation, processing, and treatment at the producing sites. Therefore, the water is at atmospheric conditions.

Once the produced water has been separated from hydrocarbons at the producing operations, it is then transported by truck or pipeline to Salt Water Disposal ("SWD") facilities for further hydrocarbon removal. Typically, incoming water is comprised of about 0.5 percent hydrocarbons. SWDs remove remaining hydrocarbons and then inject the water into an injection well regulated by the U.S. Environmental Protection Agency's underground injection control program, which is administered by the New Mexico Energy and Minerals Department, Oil Conservation Division. The disposal well itself is not an emission point because it is injecting water that has been cleaned and filtered and therefore, contains only trace amounts of hydrocarbons.

The oil that is separated from the water at SWD facilities is also different than the oil produced from and E&P sites. It is less volatile and is considered "dead" oil because it has limited flashing and emission potential. Any recovered oil is transported offsite typically to

refineries ultimately for beneficial use. Therefore, it is appropriate under Subsection D of 20.2.50.111 to identify these SWD facilities as not subject to the Proposed Rule.

[CDG NOI Direct Testimony: Lori Marquez, pgs. 5-6; Il Kim, pgs. 3-4; Jill Cooper, pgs. 4-6; Ashley Campsie, pgs. 5-6; Exhibit CDG 4 - Streams with High Moisture Content; Exhibit CDG 5 - Cost Estimate of the Economic Impacts; Hearing Transcript, Volume 9, 2935:20 – 2936:16; 3033:12 – 3034:6.]

THE RULE’S MONITORING REQUIREMENTS ARE APPROPRIATE AND REALISTIC.

20.2.50.112 GENERAL PROVISIONS:

A. General Requirements and C. Recordkeeping requirements

The Commercial Disposal Group, similar to most operators, have internal compliance programs that regularly evaluate compliance of their operations. Subsection A(3) of 20.2.50.112 requires operators to develop and implement a data system capable of storing information for each source in a manner consistent with this section. Utilizing the term “data system” rather than “database system” gives owners and operators the flexibility to choose their own data system and to work from their existing software or select some other appropriate software. For small operators, for example, spreadsheets may be acceptable if they track all data points and store and retrieve all information necessary to comply with Section 20.2.50.112.

Owners and operators can then readily generate the Compliance Database Report (“CDR”) required by Subsection C of 20.2.50.112. from the information in their data system. In addition, allowing owners and operators to generate their CDRs on July 1st of each year instead of March 1 alleviates the burden on companies during a time when a number of other air quality reports are due to state and federal agencies.

[CDG NOI Direct Testimony: Lori Marquez, pgs. 2-4; Hearing Transcript Volume. 5, 1471:3-12; 1582:18 – 1583:18; 1488:17 – 1493:15; 1583: -1585:20.]

THE RULE APPROPRIATELY OMITTS WILDEARTH GUARDIANS' PROPOSED LANGUAGE REQUIRING DENIAL OF CERTAIN PERMIT APPLICATIONS.

20.2.50.112 GENERAL PROVISIONS: A. General Requirements

WildEarth Guardians proposed to add a new paragraph within Subsection A of 20.2.50.112 requiring NMED to deny applications for permits or permit revisions, including general construction permit registrations, where construction or modification would cause or contribute to ozone concentrations in excess of 95% of any primary National Ambient Air Quality Standard. NMED appropriately declined to add this prohibition to Subsection A of 20.2.50.112.

WildEarth Guardians did not demonstrate that its proposal would reduce emissions, provided no estimate of its costs or benefits, and did not show that its proposal could be successfully implemented. The proposal would disrupt the NMED's permitting program by restricting the use of general construction permits in designated attainment areas. The proposal could require individual minor sources to model their single-source ozone impacts. However, this process is not economically feasible and is intentionally not required under current regulations. The proposal would also conflict with federal law by preventing the issuance of Nonattainment Area New Source Review permits to applicants who generate or acquire emissions offsets. Thus, WildEarth Guardian's proposal will not be part of the Rule.

[CDG NOI Rebuttal Testimony: Lori Marquez, pgs. 1-11.]

UNDER THE RULE, PWMUS AND THEIR STORAGE TANKS MUST USE GOOD OPERATIONAL OR ENGINEERING PRACTICES TO MINIMIZE VOC EMISSIONS.

**20.2.50.126 PRODUCED WATER MANAGEMENT UNITS:
B. Emission Standards and C. Monitoring Requirements**

The Commercial Disposal Group provides services for disposal of produced water at underground injection well facilities and recycling of produced water at produced water

management unit (“PWMU”) facilities. Millions of barrels of produced water are recycled each year at PWMUs and returned to oil and gas producers for use in hydraulic fracturing and other reuse operations in lieu of using fresh water. These recycle ponds are several acres in size and often have the capacity to contain several hundred thousand barrels of water. A common and successful approach to minimizing emissions from PWMUs is to implement good operational and engineering practices through the reduction of hydrocarbons in the water prior to entering the pond. The water sent to these PWMUs goes through good operational and engineering practices to reduce emissions.

The Proposed Rule recognizes these distinctions and is drafted to achieve the legislative purpose to protect and enhance the environment and water conservation while enabling Group members to responsibly conduct their businesses in compliance with the Rule’s provisions. The goal of reducing ozone emissions is achieved through the Proposed Rule, while preserving the continued utilization of produced water recycling, reuse, and treatment operations so important to New Mexico’s efforts to safeguard its valuable water resources. The Proposed Rule encourages further responsible investment in and operation of critical water recycling, reuse, and treatment operations in New Mexico.

[CDG NOI Direct Testimony: Il Kim, pgs. 3-4; Jill Cooper, pgs. 4-6; Ashley Campsie, pgs. 5-6; Exhibit CDG 4 - Streams with High Moisture Content; Exhibit CDG 5 - Cost Estimate of the Economic Impacts; Hearing Transcript, Volume 9, 2935:20 – 2936:16; 3033:12 – 3034:6.]

**PWMUS HAVE OPTION TO DEMONSTRATE THAT CONTROLLING VOCS
IS TECHNICAL INFEASIBILITY WITHOUT SUPPLEMENTAL FUEL.**

20.2.50.126 PRODUCED WATER MANAGEMENT UNITS: B. Emission Standards

Generally, the produced water received by the Group has been processed by the producers prior to its receipt and is then typically further processed by the members of the Group. This water is therefore considered “post-flash” water that characteristically contains very low levels of

VOCs. In some situations, emission reductions are technically infeasible without the use of supplemental fuel for combustion of vapors. In these situations, sites with very low hydrocarbon concentrations in the vapors could end up increasing total emissions of not only VOCs, but oxides of nitrogen (“NO_x”) and carbon monoxide (“CO”) as well, due to the use of supplemental fuel for combustion. In order to avoid these unintended and harmful results, the Proposed Rule provides a process for a PWMU operator to submit a VOC minimization plan to NMED demonstrating that controlling VOC emissions from storage vessels associated with the PWMU in accordance with the requirements of Section 20.2.50.123 NMAC is technically infeasible without supplemental fuel.

This option assures that the requirements of the Proposed Rules, which apply to the commercial produced water recycling and disposal industry, are technically feasible and cost effective with commensurate environmental benefit.

[CDG NOI Direct Testimony: Il Kim, pgs. 3-4, 8; Jill Cooper, pgs. 4-6; Ashley Campsie, pgs. 5-6; Exhibit CDG 4 - Streams with High Moisture Content; Exhibit CDG 5 - Cost Estimate of the Economic Impacts; Hearing Transcript, Volume 9, 2935:20 – 2936:16; 3033:12 – 3034:6.]

FINAL PROPOSED DRAFT OF RULE PROVISIONS ADDRESSED BY CDG

20.2.50.7 DEFINITIONS: In addition to the terms defined in 20.2.2 NMAC - Definitions, as used in this 52 Part, the following definitions apply.

AAA. “Tank battery” means a storage vessel or group of storage vessels that receive or store crude oil, condensate, or produced water from a well or wells for storage. The owner or operator shall designate whether a tank battery is a standalone tank battery or is associated with a well site, gathering and boosting station, natural gas processing plant, or transmission compressor station. The owner or operator shall maintain records of this designation and make them available to the department upon request. A tank battery associated with a well site, gathering or boosting station, natural gas processing plant, or transmission compressor station is subject to the requirements in this Part for those facilities, as applicable. Tank battery does not include storage vessels at saltwater disposal facilities or produced water management units.

20.2.50.111 APPLICABILITY:

D. Oil transmission pipelines, oil refineries, natural gas transmission pipelines (except 23 transmission compressor stations), and saltwater disposal facilities are not subject to this Part.

20.2.50.112 GENERAL PROVISIONS

A. General requirements:

(5) The owner or operator shall manage the source’s record of data in the data system(s). The owner or operator shall generate a Compliance Database Report (CDR) from the information in the data system. The CDR is an electronic report maintained by the owner or operator and that can be submitted to the department upon request as required by 20.2.50.112(C)(3) and 112(D).

[Revision: “Data system” changed to “database system” throughout Section 20.2.50.112. Hearing Transcript: Proposal by CDG, Lori Marquez, Volume 5, pg. 1471, lines 3-12. Acceptance by NMED: Elizabeth Bisbey-Kuehn, Volume 5, pg. 1582, line 18 through pg. 1583, line 18.]

20.2.50.113 ENGINES AND TURBINES

C. Monitoring requirements:

(4)(h) emissions testing shall be conducted at least once per calendar year every 8760 hours of operation or 3 years, whichever comes first. 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~~

(5) 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 or every 3 years of operation in accordance with the emissions testing requirements in Paragraph (3) of Subsection C of 20.2.50.113 NMAC.

[Revision: To be consistent with federal regulations and avoid conflicting requirements between the Proposed Rule and federal regulations, the Proposed Rule. CDG NOI Direct Testimony: Ashley Campsie pgs. 3-4; CDG NOI Rebuttal Testimony: Ashley Campsie pgs. 3-4.]

20.2.50.121 PIG LAUNCHING AND RECEIVING

B. Emission standards:

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

(a) employ best management practices to minimize the liquid present in the pig receiver chamber and to minimize 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-minimize 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 minimizes emissions to the atmosphere to the extent practicable; and

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

[Revision: Changed for consistency with (B)(2)(a) and (B)(2)(c).]

20.2.50.123 STORAGE VESSELS

A. Applicability: New storage vessels with a PTE equal to or greater than two tpy of VOC, existing storage vessels ~~in multi-tank batteries~~ with a PTE equal to or greater than three tpy of VOC in multi-tank batteries, existing storage vessels ~~in single-tank batteries~~ with a PTE equal to or greater than four tpy of VOC in single-tank batteries are subject to the requirements of 20.2.50.123 NMAC. Storage vessels in multi-tank batteries manifolded together such that all vapors are shared between the headspace of the storage vessels and are routed to a common outlet or endpoint may determine an individual storage vessel PTE by averaging the emissions across the total number of storage vessels.

[Revision: Phrases relocated for clarification of provision.]

20.2.50.126 PRODUCED WATER MANAGEMENT UNITS

A. Applicability: Produced water management units as defined in this Part and their associated storage vessels 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 good operational or engineering practices to minimize emissions of VOC from produced water management units (PWMU) and their associated storage vessels.

(2) The owner or operator shall not allow any transfer of untreated produced water to a PWMU without first processing and treating the produced water in a separator and/or storage vessel to minimize entrained hydrocarbons.

(3) Within two years of the effective date of this Part for storage vessels associated with existing PWMUs, or upon startup for storage vessels associated with new PWMUs, the owner or operator shall either:

(a) control such storage vessels in accordance with the requirements of Section 20.2.50.123 NMAC that are applicable to tank batteries; or

(b) submit a VOC minimization plan to the department demonstrating that controlling VOC emissions from storage vessels associated with the PWMU in accordance with the requirements of Section 20.2.50.123 NMAC is technically infeasible without supplemental fuel. The plan shall state the good operational or engineering practices used to minimize VOC emissions. The plan shall be enforceable by the department upon submission. The department may require revisions to the plan, and must approve any proposed revisions to the plan.

[Revision: Addition of provision regarding technical infeasibility without supplemental fuel. Proposal: CDG NOI Direct Testimony - Il Kim, pgs. 3-4, CDG Attachment D - Streams with High Moisture Content, CDG Attachment E - Cost Estimate of the Economic Impacts, and Hearing Transcript - Il Kim, Volume 9, pg. 2935, line 20 through pg. 2936, line 16. Acceptance of concept by NMED: Transcript -Elizabeth Bisbey-Kuehn, Volume 9, pg. 3033, line 12 through pg. 3034, line 6.]

C. Monitoring requirements: The owner or operator shall:

(1) develop a protocol to calculate the VOC emissions from each PWMU. The protocol shall include at a minimum: produced water throughput monitoring, semi-annual sampling and analysis of the liquid composition, hydrocarbon measurement method(s), representative sample size, and sample chain of custody requirements.

[Revision: Term “sample” added for clarification of provision.]

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing COMMERCIAL DISPOSAL GROUP'S PROPOSED STATEMENT OF REASONS was filed via electronic mail with the New Mexico Environment Department and served via electronic mail to the following parties on this 20th day of January 2022:

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