



Ozone Precursor Rule FAQ 9/1/22

The Ozone Precursor Rule (“OPR”, 20.2.50 NMAC, or “Part 50”) went into effect on August 5, 2022. This document contains questions that have been asked of the New Mexico Environment Department (“NMED” or “The Department”) prior to September 1, 2022. It will be updated regularly.

Effective Date and Compliance Timelines

- Q)** The effective date of the rule is 08/05/2022, but there are phase-in dates for some sections of the rule. What does this mean for a facility if there is no phase-in date listed?
- A)** If a phase-in date is listed, the facility must comply with the associated date listed in the rule. If there is no phase-in date listed, the facility must comply with the rule on 08/05/2022.
- Q)** If a parent company owns subsidiaries with individually permitted facilities and equipment subject to the rule, will NMED consider the entire inventory of the parent company for compliance scheduling?
- A)** Yes. For example, in the parts of the rule that state a company’s percentage of equipment needed to comply by a certain date, the parent company may use a percentage of all of their assets to meet these requirements.
- Q)** Can you confirm whether the first monthly/quarterly OGI inspections for gathering and boosting stations should occur by September 5, 2022?
- A)** If monthly OGI inspections are required and no other time extension applies, the first will be due on or before September 5, 2022, 1 month after the effective date of the rule (August 5, 2022). For quarterly inspections, the first will be due on or before November 5, 2022, 3 months after the effective date of the rule.

Alternative Equipment Leak Monitoring Plans

- Q)** What is the process for proposing an alternative equipment leak monitoring plan?
- A)** NMED is in the process of developing an application for an alternative equipment leak monitoring plan. Until this application is developed, monitoring as specified in the rule must be followed.
- Q)** Will applications be allowed to be administratively amended?
- A)** All applications, whether original or amended, will need to come through the Office of Compliance & Enforcement. Each original or amended application will be considered on a case-by-case basis.

Applicability

- Q)** Does the rule apply to natural gas liquids transmission pipeline and associated pump stations?
- A)** No, but transmission compressor stations are subject to the rule.
- Q)** Are amine reboilers included under heaters if they are over 20 MMBtu/hr?
- A)** Yes, amine reboilers are considered heaters under the rule.



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General Compliance

Q) Does 20.2.50.13(C)(4)(i) indicate that for both the initial emissions test and subsequent periodic emissions test, it would be acceptable to only collect data on NOx and CO emissions rates, and use the CO results to show compliance for VOC standards?

A) Yes.

Q) Where can I find forms, files and other items an operator must file with NMED to satisfy the requirements of the rule?

A) We are currently developing these forms. Once they have been developed you will be able to find them on our website.

Q) Can NMED provide guidance as to an acceptable calculation methodology for SSM as it relates to PTE, so that we can more precisely discern what will need quarterly vs. monthly OGI?

A) PTE is defined in 20.2.50.7.P(4); PTE must include SSM. This is the same as in our Permitting rules. Therefore, the same calculation methodology used in permit applications should be used here.

Q) Is an owner or operator to complete an Alternative Compliance Plan for every facility that operates engines or turbines, or are they to complete one plan that covers all facilities in New Mexico?

A) Each facility that wishes to use an alternative compliance plan needs a written and approved plan and the engines or turbines to be covered must be listed in the plan. In any submission to the AQB, the company must demonstrate that they have fulfilled all requirements in paragraph 20.2.50.113.B(10). Until such plan is approved, all other compliance requirements must be met.

Q) Will NMED consider the removal of an existing piece of equipment a suitable means of achieving compliance?

A) Hypothetically, this would be possible. However, we would need assurance that eliminating the use of this equipment would not cause an increase in the use of other equipment, simply transferring emissions from one piece of equipment to another. If this option is used for compliance, the Department would require documented evidence that a transfer of emissions is not occurring.

Monitoring

Q) Is there guidance on technologies for monitoring requirements? Specifically for time stamp, GPS tracking, and other monitoring activities outlined in the rule?

A) NMED has a year to provide companies with guidance on monitoring technologies, and companies will have at least an additional year after the release of that guidance to comply and implement technologies.

Q) Does NMED require a standard piece of equipment to collect data necessary for the Ozone Precursor Rule?

A) No, the company can decide the technology used.



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Flowback Vessels and Preproduction Operations

Q) In Colorado's rule, applicability to flowback vessels excludes tanks used for sand collection. Also, flowback that goes directly to permanent tanks would be covered under storage vessel requirements, not those applicable to flowback vessels and preproduction operations. Is this correct?

- A)** The definition of "Flowback" includes entrained solids after drilling or hydraulic fracturing/refracturing; flowback does not include drill-out. The definition also states that flowback is from well stimulation in preparation for treatment or cleanup and moving into the production phase. Flowback ends when temporary flowback equipment is removed from service.
- A)** Therefore, if tanks are used to collect sand retrieved from the well during flowback, the sand tank would be subject to the provisions found in 20.2.50.127. Production products that are sent to permanent tanks would be subject to storage vessel requirements. *NMED has been asked to reconsider this answer.*

Prohibited Activity and Credible Evidence

Q) Will the NMED develop a protocol for third parties to demonstrate credible evidence?

- A)** 20.2.50.128 NMAC does not create a new standard; rather, it codifies NMED's existing practice with respect to evidence or information received by the Department from any person or entity. When members of the public submit evidence or information to NMED, NMED staff evaluate the evidence and, in consultation with NMED attorneys, determine whether it is "credible" such that it warrants further investigation and/or enforcement action. As part of this evaluation, NMED may seek further information from the person that provided the evidence to the Department, as well as from the alleged violator. NMED is not going to develop or provide any type of protocol for 3rd parties to make a "demonstration" of credibility under 20.2.50.128 NMAC. As has always been the case, the determination of whether evidence submitted by any person is sufficiently "credible" such that it can support an enforcement action lies solely within the discretion of NMED based on its own internal technical and legal review.

Reporting and Recordkeeping

Q) If a company owns or operates multiple subsidiary companies in New Mexico which have their own individually permitted facilities and equipment subject to the rule, can the parent company combine the affected equipment inventories of the subsidiaries for purposes of determining compliance with the rule?

- A)** Companies can keep and track their inventories for compliance as an aggregate list if they would like but should be able to pull information on a specific set of equipment if necessary or requested by the Department. If the Department requests a single facility's data, we should only receive what is requested and not an entire database of unrequested data. A Compliance Database Report (CDR) should be able to be run by facility.



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Inspection

Q) May facilities skip inspection and monitoring due to weather events?

A) There are no force majeure provisions in the rule, so the requirements must be met. However, NMED is not unreasonable and understands that situations may arise and a company or facility will need to act accordingly. In such cases, the company *may* be able to document the event to our satisfaction and request an “enforcement discretion” due to the event. NMED anticipates these events to be extremely rare. There is also no penalty for completing inspections early, so if a dramatic weather event is predicted in the forecast the facility may meet their inspection requirements prior to the weather event. Additionally, no enforcement discretion will be approved for “skipping” a monitoring event as it must still be completed as soon as possible.

Q) If a well is not producing any gas, can inspections be suspended due to shut in status?

A) Equipment that has been shut down does not need to be restarted solely for the purpose of testing, monitoring, or inspection. If a well is shut in, equipment that still has the potential for emissions would need to be monitored. For example, a storage vessel containing hydrocarbons would still need any applicable inspection; if it has been emptied and degassed it would not.

Miscellaneous

Q) Does NMED have guidance on the data sources to use for determining impacted residents and occupied areas?

A) NMED does not have guidance on what data sources to use for determining occupied areas. As defined in 20.2.50.7.O(1), publicly available information should suffice to make determinations.

Q) What does the term “Maximum design rating” for turbine horsepower refer to?

A) Any turbine that has a design rating at or above 1,000 bhp in the unit specifications should follow Table 3 in section 20.2.50.113.B.7.

Q) Definition of well site

A) The equipment under the operator’s control directly associated with one or more oil wells or natural gas wells upstream of the natural gas processing plant or gathering and boosting station, if any. “Wellhead only facilities” are a subset of well sites.

Q) Does NMED have a threshold based on \$/ton of emissions reduced for economic infeasibility?

A) NMED does not have a set model for calculating economic feasibility.

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