



State of New Mexico
House of Representatives

State Capitol
Santa Fe

September 15, 2021

The Honorable James Kenney
Cabinet Secretary
New Mexico Environment Department
1190 Saint Francis Drive, Suite N4050
Santa Fe, New Mexico 87505

Dear Secretary Kenney:

We are writing to join a number of our legislative colleagues in expressing major concerns about your department's proposed new rule to reduce volatile organic compounds (VOCs) and the negative fiscal impact this new rule will have on New Mexico's oil and gas industries, especially on small and independent producers operating low-volume oil and gas wells. Similarly, we share the concerns of the bipartisan leadership of the Legislative Finance Committee as to the large negative fiscal impact this new proposed rule will have on state revenues that are derived from New Mexico's oil and natural gas production.

Therefore, we strongly encourage your department to review closely the analyses conducted by John Dunham and Associates (JDA) and the New Mexico Tax Research Institute (NMTRI) as to the financial and fiscal impact of this new proposed rule. As you may already know, the JDA study estimates that 37 percent of currently operating oil wells and 87 percent of operating natural gas wells would become uneconomical after accounting for increased regulatory costs associated with the proposed new ozone precursor rule. Equally alarming was the estimate by the NMTRI which projected that the total annual cost to state and local governments of the proposed rule would be \$730 million --- \$569 million in lost revenue to state government and \$160 million in lost revenue for local governments.

These analyses should result in a comprehensive review of the new proposed ozone precursor rule as neither the state or local governments can afford such a major loss in revenue during the uncertain economic times associated with the ongoing spread of COVID-19. Granted, recent revenue estimates are showing a significant amount of new revenues in Fiscal Years 2022 and 2023, yet history has taught state legislators that those projected revenues can quickly evaporate due to domestic and international events that can dramatically reduce fossil fuel prices and which are completely outside of New Mexico's control. Thus, any environmental-oriented rule which could add to the oil and gas industries' cost of production and lessen state revenues must be carefully considered for all of its negative effects.

Further, this review of the new proposed ozone rule should also take a second look at the "small business exemption" as it is our understanding the current definition is so limited that few, if any, oil and gas operators would qualify. If the intent of the "small business exemption" is to truly provide needed regulatory relief for small oil and gas producers, then the definition must be modified in order to achieve the stated goal.

Finally, we encourage your department to address the various questions and concerns expressed in the Legislative Finance Committee's letter dated August 25, 2021 when the proposed new rule is presented

to the Environmental Improvement Board on September 20, 2021. The future sustainability of New Mexico's oil and gas industries, as well as state and local governments' revenue bases, could well be threatened if the proposed ozone precursor rule is poorly drafted and creates a number of negative unintended consequences.

Thank you for your consideration of our concerns and we look forward to future changes to the proposed new rule that protects the environment, but also allows New Mexico oil and gas industries to operate successfully.

Sincerely yours,



Rebecca Dow
House Republican Caucus Chair



Rod Montoya
House Republican Whip



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State Representative District 35



Gail Armstrong
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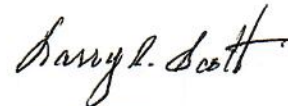
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