From:	Methanestrategy, NM, NMENV
To:	Kuehn, Elizabeth, NMENV
Subject:	Fw: [EXT] Proposed Rulemaking – Oil and Natural Gas Regulation for Ozone Precursors (Part 50, Sections , et seq.)
Date:	Wednesday, September 16, 2020 10:55:53 AM
Attachments:	Correspondence re Proposed Rulemaking - Oil and Natural Gas Regulation for Ozone Precursors.pdf

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From: Timothy A. French <TFrench@clpchicago.com>
Sent: Monday, September 14, 2020 9:09 AM
To: Methanestrategy, NM, NMENV
Subject: [EXT] Proposed Rulemaking – Oil and Natural Gas Regulation for Ozone Precursors (Part 50, Sections , et seq.)

Ms. Bisbey-Kuehn:

Please see the attached correspondence.

Thank you,
Tim French

Timothy A. French
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September 14, 2020

VIA E-MAIL (nm.methanestrategy@state.nm.us)

Ms. Liz Bisbey-Kuehn
NMED Air Quality Bureau
525 Camino de los Marquez
Santa Fe, New Mexico 87505

Re: Proposed Rulemaking — Oil and Natural Gas Regulation for Ozone Precursors (Part 50, Sections 20.2.50.1, et seq.)

Dear Ms. Bisbey-Kuehn:

I am writing on behalf of the Truck and Engine Manufacturers Association ("EMA") to comment on the State of New Mexico's proposed regulation to achieve further reductions of ozone precursor emissions from oil and gas operations in the State, to be codified at Title 20, Chapter 2, Part 50, Sections 20.2.50.1, et seq. (hereinafter, the "Proposed Regulation"). EMA is the trade association that represents the world's leading manufacturers of internal combustion engines, including the spark-ignition and compression-ignition engines that would be covered under the Proposed Regulation. Accordingly, EMA has a direct and significant interest in the rulemaking process for the Proposed Regulation.

EMA has two specific comments regarding the Proposed Regulation, and EMA specifically endorses the comments that the Gas Compressor Association ("GCA") previously submitted on these two points. First, the Proposed Regulation would cover "new and existing *portable* natural gas-fired spark-ignition engines and compression-ignition engines." (See Proposed Sections 20.2.50.13 A(1), B(1), B(5)(b), and B(6)). The State of New Mexico is expressly and absolutely preempted from adopting or attempting to enforce any standard or other requirement relating to the control of emissions from any new or existing portable engines, which are a subset of "nonroad engines," under Section 209(e) of the federal Clean Air Act. See 40 U.S.C. 7543(e); see also 40 CFR section 1068.30 (which controlling federal regulation specifically defines the term "nonroad engine" to include any engine that is "in or on a piece of equipment that is portable or transportable"); EMA v. EPA, 88 F.3rd 1075 (D.C. Cir. 1996). Accordingly, all of the provisions of the Proposed Regulation that would adopt any standard or other requirement relating to the control of emissions from new or existing portable engines need to be deleted from the Proposed Regulation to avoid direct violation of federal law.

Second, the proposed NMNEHC standard for lean-burn natural-gas-fired spark-ignition engines greater that 500 horsepower (0.30 g/bhp-hr) is not feasible. To adopt such a standard, New Mexico would need to ensure that the field and wellhead natural gas available throughout the State is of sufficient quality to support such a low NMNEHC standard. New Mexico is not doing that. Without such assurances of natural gas quality, the oxidation catalysts utilized on large lean-burn engines may not function at the levels required to meet a 0.30 g/bhp-hr standard. More specifically,

the oxidation catalysts at issue are not as effective at reducing hydrocarbon emissions if the natural gas fuel contains less than four carbon atoms. Consequently, the lean-burn standard at issue should be increased to 0.7 g/bhp-hr for new large stationary lean-burn engines, and to 1.0 g/bhp-hr for existing large stationary lean-burn engines, to match the corollary federal standard.

Thank you for your consideration of EMA's comments, and please let me know if you have any questions.

Very truly yours,

Timothy A. French
EMA General Counsel

cc: EMA Stationary Engine Committee