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FISCAL IMPACT REPORT

ORIGINAL DATE 2-03-07
 SPONSOR Stewart LAST UPDATED 2-23-07 HB 386/aHHGAC
 SHORT TITLE Oil & Gas Operation Emissions Standards SB _____
 ANALYST Aubel

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
		0.1*	Recurring	General Fund Severance Tax Bond Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total			(.01)*		Recurring	General Fund Severance Tax Bond Fund

(Parenthesis () Indicate Expenditure Decreases)

*See Fiscal Impact

Relates to HB 318

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)

New Mexico Department of Environment (NMED)

Energy, Minerals, Natural Resources Department (EMNRD)

SUMMARY

Synopsis of HHGAC Amendment

The House Health and Government Affairs Committee amendment addresses the “broad language” concerns reported by Energy, Minerals and Natural Resources Department by limiting

House Bill 386 to apply to emissions from certain engine emissions. Specifically, the amendment now authorizes the Environmental Improvement Board (EIB) and local air quality boards to adopt rules prescribing performance standards for nitrogen oxide emissions from new stationary reciprocating internal combustion engines of less than 500 horsepower used in oil and gas extraction. The original bill would have authorized the adoption of rules concerning any airborne emissions from all oil and gas production or processing facilities.

In adopting standards that the bill authorizes, the EIB may adopt standards more stringent than applicable federal standards, if any. The amendment adds requirements that the standards adopted shall reflect the best available technology that is economically reasonable and shall consider the non-air-quality health and environmental impacts, as well as the energy requirements, of such engines. The amendments also add a 5-year review clause for reviewing the performance standards adopted by EIB or local boards.

Synopsis of Original Bill

House Bill 386 would amend the Air Quality Control Act to specifically authorize the Environmental Improvement Bureau (EIB) to adopt rules governing emissions from oil, natural gas, and carbon dioxide gas production and processing facilities that may be more stringent than the applicable federal standards. This latter provision would change existing law, which requires that EIB emissions standards be no more stringent than applicable federal standards. Under this provision also, EIB could establish rules for facilities and sources for which no federal rules or standards exist.

FISCAL IMPLICATIONS

There are no direct fiscal impacts from HB 386 to the state. However, DOH points out that indirect savings in health care costs may result from any significant reduction in health-related illness due to air quality impairment. NMED maintains that if oil and gas development was curtailed due to non-attainment of federal air quality standards, the state would lose the additional severance royalty revenues, and suggests that HB 386 would help prevent such a scenario.

SIGNIFICANT ISSUES

According to NMED, oil and gas exploration, development, production, treatment, transport, storage and refinement facilities are being constructed at an increasing pace throughout the west. In the Four Corners region of New Mexico alone, the United States Bureau of Land Management (BLM) has a resource plan to allow for the drilling of thousands of new gas wells. Those wells add to the thousands already operating in the area. In the Otero Mesa area, plans for drilling and exploration for oil and gas are also proposed.

Emissions include nitrogen oxides, sulfur oxides, volatile organic compounds and many hazardous air pollutants, as well as carbon dioxide and methane. DOH reports that the Four Corners region nearly exceeds the national ambient air quality standard for ozone, which is formed from emissions of nitrogen oxides and volatile organic compounds. DOH has conducted studies of ozone in the Farmington area and found increased hospital emergency room visits for asthma were positively correlated with increased ozone concentrations. DOH also reports that asthma rates in the southeastern new Mexico near oil and gas operations are the highest in the

state, and that several of the toxic organics from oil and gas operations are also associated with cancer, including benzene and 1,3-butadiene.

Current law does not allow the state to require standards for emission control on oil and gas production to be more stringent than federal standards. NMED asserts that federal requirements are limited and do not reflect many of the cost effective, and often cost-saving, up-to-date, technically-feasible, commercially-available air pollution control technologies available. NMED also points out that some federal requirements have been established for oil and gas equipment with large emissions, but the requirements do not address the thousands of oil-and-gas-well-site equipment that produce small amounts of emissions individually, but large cumulative emissions collectively. The agency also asserts that the efficient and economical air pollution control technologies that exist for oil and gas equipment, but are not required under federal standards, could reduce air pollution by between 75 percent to 90 percent over existing conditions.

According to NMED, BLM is currently requiring the installation of air pollution controls in the Four Corners region as part of its Application for Permit to Drill. However, that requirement only applies within New Mexico on BLM land. NMED points out that if the boards were empowered to adopt regulations more stringent than federal requirements for oil and gas operations as provided for in HB 386, a comprehensive statewide regulation could be adopted by the boards for oil and gas operations to streamline the regulatory process, provide regulatory certainty, protect the environment, and ensure equity in regulation for all oil and gas operations. This would be an active step to ensure continued attainment of the National Ambient Air Quality Standards and responsible economic development.

PERFORMANCE IMPLICATIONS

An existing legislative performance measure for NMED is to improve visibility at Class I areas such as national parks and wilderness areas throughout the state. NMED states that BLM predicts that visibility in New Mexico's Class I areas would be adversely affected by the planned construction of oil and gas operations in the Four Corners region in the future if oil and gas operations are not required to install air pollution control technologies. HB 386 will allow the state to mandate air pollution control technologies that may improve visibility at Class I areas in New Mexico.

Preserving and improving visibility of New Mexico's unique blue skies may improve economic development associated with tourism and movie production in the state.

ADMINISTRATIVE IMPLICATIONS

NMED specifies that current resources are adequate to develop and propose such regulations to the board. The permitting process may actually improve due to the standardization of permit conditions among similar sources.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 386 relates to House Bill 318, which also strives to grant the state authority to specify emission standards that are more stringent than federal standards for mercury.

TECHNICAL ISSUES

According to NMED, 24 states in the nation are not precluded from adopting rules more stringent than EPA, and that several states (Wyoming, Texas and Colorado) already have regulatory programs in place for oil and gas operations that require specific control technologies for oil and gas operations.

Section 74-2-5 NMSA 1978 already contains language that allows EIB to promote standards that may be more stringent than federal standards for governing emissions from solid waste incinerators.

OTHER SUBSTANTIVE ISSUES

Because HB 386 would allow more stringent standards than federal requirements and would allow EIB to fill gaps in particular instances if no federal standard applied, NMED asserts that HB 386 will allow the boards to adopt regulations that result in lower emissions for oil and gas operations in the state. The Governor’s Performance and Accountability Contract Goal 3, “Make New Mexico the Clean Energy State,” contains a task to “Improve Oversight and Environmental Management of Oil and Gas Facilities.” The task lists reduction in emissions from oil and gas well sites and compressor stations as an objective. NMED maintains that the state cannot accomplish this task without the additional authority set out in HB 386, which will allow the state to require the most effective technologies for emission control.

NMED also states that these control technologies can be installed at reasonable costs to address emissions from oil and gas operations, ensure environmental protection, and provide regulatory certainty without the burden of case-by-case permitting for thousands of facilities.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

EIB regulation of emissions from oil and gas facilities will continue to be subject to the requirement that standards may be no more stringent than applicable federal standards. Air pollution may increase as operations expand and new drilling occurs statewide. Increased air pollution will most likely result in greater health risks to New Mexico citizens, reduced visibility at the state’s scenic vistas, and continued contribution to global warming. Non-attainment status for air quality in any region of the state would hamper economic development in that area, including development of the oil and gas resources.

AMENDMENTS

EMNRD expressed some concern regarding what it considered the “broad language” of HB 386 as introduced. The following amendment was presented as a response from NMED to address this concern:

Page 3 Line 14 (new Paragraph (4) of Section 74-2-5.A):

(4) include regulations defining standards of performance for combustion engine emissions from all oil and gas exploration, development, extraction, production, treatment, separation, processing, storage, transport, refining or sale of unrefined hydrocarbons, field gas, natural gas, natural gas liquids, condensate, or CO₂ that

shall be at least as stringent as, and may be more stringent than, any applicable federal standards or limitation;

POSSIBLE QUESTIONS

1. What other contributors to air pollution exist in the same areas as oil and gas operations, and what is the contributing breakdown?
2. What strategies are being adopted to address the total load of emissions?

MA/nt:csd