

NMAC

Transmittal Form

Volume: Issue: Publication date: Number of pages: (ALD Use Only) Sequence No.

Issuing agency name and address: Agency DFA code:

Contact person's name: Phone number: E-mail address:

Type of rule action: (ALD Use Only)
New ☐ Amendment ☒ Repeal ☐ Emergency ☐ Renumber ☐ Most recent filing date:

Title number: Title name:

Chapter number: Chapter name:

Part number: Part name:

Amendment description (If filing an amendment): Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference? Yes ☐ No ☒ Please list attachments or Internet sites if applicable.

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Specific statutory or other authority authorizing rulemaking:

Notice date(s): Hearing date(s): Rule adoption date: Rule effective date:

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Concise Explanatory Statement For Rulemaking Adoption:

Findings required for rulemaking adoption:

Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

See attached 11 page document titled Oil Conservation Commission Order No. R-21343-A Order of the Commission.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

Check if authority has been delegated

Adrienne Sandoval

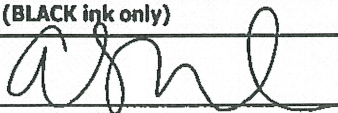
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Title:

Oil Conservation Commission Chair

Signature: (BLACK ink only)

Date signed:



9/24/20

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STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION COMMISSION

IN THE MATTER OF PROPOSED
AMENDMENTS TO THE COMMISSION'S
RULES ON PRODUCED WATER
19.15.2, 19.15.16, and 19.15.34 NMAC

CASE NO. 21281
ORDER NO. R-21343-A

ORDER OF THE COMMISSION

THIS MATTER came before the New Mexico Oil Conservation Commission ("Commission") on the application of the Oil Conservation Division of the Energy, Minerals and Natural Resources Department ("Division") to amend Rules 19.15.2, 19.15.16, and 19.15.34 NMAC. The Commission conducted a hearing in this matter on July 30 and 31, 2020, and deliberated in open session following the hearing and also during the September 3, 2020 meeting. The Commission, having considered the testimony, the record, and the arguments of the parties, and being otherwise fully advised, enters the following findings, conclusions, and order.

THE COMMISSION FINDS THAT:

1. Statutory Authority. The Commission is authorized to adopt rules, after a hearing, under the Oil and Gas Act, NMSA 1978, Sections 70-2-1 to -38 ("Act"). NMSA 1978, § 70-2-12.2. The Commission and the Division are given the duty to regulate the disposition, handling, transport, storage, recycling, treatment and disposal of produced water during, or for reuse in, the exploration, drilling, production, treatment or refinement of oil or gas in a manner that protects public health, the environment, and fresh water resources. NMSA 1978, § 70-2-12(B)(15).

2. In 2019, the New Mexico Legislature passed House Bill 546 ("HB 546") which specified, among other things, the jurisdictional limits of the Division and Commission as it relates to the regulation of produced water. NMSA 1978, §§ 70-13-1 through -5. HB 546 limits the Division and Commission's regulatory authority over produced water to the "exploration, drilling, production, treatment or refinement of oil or gas, including disposal by injection." NMSA 1978, § 70-2-12(B)(15). It also transfers to the Water Quality Control Commission ("WQCC") and the Department of the Environment ("NMED") the authority to regulate produced water outside of the oil and gas industry to include produced water used in road construction or maintenance or other construction, in the generation of electricity or in other industrial processes. NMSA 1978, § 74-6-4(P). Prior to the 2019 amendments, the Division and Commission had concurrent authority to regulate the use of produced water in road construction or maintenance or other construction, in the generation of electricity or in other industrial processes. Additionally, HB 546 provides a consistent definition of "produced water" within the Oil and Gas and Water Quality Acts. NMSA 1978, § 70-2-33(K). It also promotes the reuse of produced water within the oil and gas industry. *See* NMSA 1978, § 70-13-4.

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This is an amendment to 19.15.2 NMAC, amending Section 7 effective 10/13/2020.

Explanatory statement: This is a short form amendment to 19.15.2 NMAC, Section 7. Subsections A through O and Q through W are not shown as no changes were made to these subsections.

P. Definitions beginning with the letter “P”.

(1) **“Penalized unit”** means a proration unit to which, because of an excessive gas-oil ratio, the division assigns an allowable that is less than top proration unit allowable for the pool in which it is located and also less than the ability of the well or wells on the unit to produce.

(2) **“Person”** means an individual or entity including partnerships, corporations, associations, responsible business or association agents or officers, the state or a political subdivision of the state or an agency, department or instrumentality of the United States and of its officers, agents or employees.

(3) **“Pit”** means a surface or sub-surface impoundment, man-made or natural depression or diked area on the surface. Excluded from this definition are berms constructed around tanks or other facilities solely for safety, secondary containment and storm water or run-on control.

(4) **“Playa lake”** means a level or nearly level area that occupies the lowest part of a completely closed basin and that is covered with water at irregular intervals, forming a temporary lake.

(5) **“Pool”** means an underground reservoir containing a common accumulation of oil or gas. Each zone of a general structure, which zone is completely separated from other zones in the structure, is covered by the word pool as used in 19.15.2 NMAC through 19.15.39 NMAC. “Pool” is synonymous with “common source of supply” and with “common reservoir”.

(6) **“Potential”** means a well’s properly determined capacity to produce oil or gas under division-prescribed conditions.

(7) **“Ppm”** means parts per million by volume.

(8) **“PQL”** means practical quantitation limit.

(9) **“Pressure maintenance”** means the injection of gas or other fluid into a reservoir, either to maintain the reservoir’s existing pressure or to retard the reservoir pressure’s natural decline.

(10) **“Produced water”** means [water] a fluid that is an incidental byproduct from drilling for or the production of oil and gas.

(11) **“Producer”** means the owner of a well or wells capable of producing oil or gas or both in paying quantities.

(12) **“Product”** means a commodity or thing made or manufactured from oil or gas, and derivatives of oil or gas, including refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, treated crude oil, fuel oil, residuum, gas oil, naphtha, distillate, gasoline, kerosene, benzene, wash oil, lubricating oil and blends or mixtures of oil or gas or a derivative thereof.

(13) **“Proration day”** consists of 24 consecutive hours that begin at 7:00 a.m. and end at 7:00 a.m. on the following day.

(14) **“Proration month”** means the calendar month that begins at 7:00 a.m. on the first day of the month and ends at 7:00 a.m. on the first day of the next succeeding month.

(15) **“Proration period”** means for oil the proration month and for gas the 12-month period that begins at 7:00 a.m. on January 1 of each year and ends at 7:00 a.m. on January 1 of the succeeding year or other period designated by general or special order of the division.

(16) **“Proration schedule”** means the division orders authorizing the production, purchase and transportation of oil, casinghead gas and gas from the various units of oil or of gas in allocated pools.

(17) **“Proration unit”** means the area in a pool that can be effectively and efficiently drained by one well as determined by the division or commission (see Subsection B of Section 70-2-17 NMSA 1978) as well as the area assigned to an individual well for the purposes of allocating allowable production pursuant to a prorationing order for the pool.

(18) **“Prospective spacing unit”** means a hypothetical spacing unit that does not yet have a producing well.

(19) **“PVC”** means poly vinyl chloride.

(20) **“Psi”** means pounds per square inch.

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[19.15.2.7 NMAC - Rp, 19.15.1.7 NMAC, 12/1/2008; A, 3/31/2015; A, 6/30/2016; A, 6/26/2018; A, 1/15/2019; A, 10/13/2020]