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NMAC
Transmittal FormVolume: 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)

Most recent filing date:

New ☐ Amendment ☒ Repeal ☐ Emergency ☐ Renumber ☐

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?

Please list attachments or Internet sites if applicable.

Yes ☐ No ☒

If materials are attached, has copyright permission been received?

Yes ☐No ☐Public domain ☐**Specific statutory or other authority authorizing rulemaking:**

Notice date(s):

Hearing date(s):

Rule adoption date:

Rule effective date:

2020 SEP 29 AM 11: 54

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:

Adrienne Sandoval

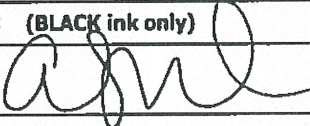
Check if authority has been delegated

☐

Title:

Oil Conservation Commission Chair

Signature: (BLACK ink only)



Date signed:

9/24/20

2020 SEP 29 AM 11: 54

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.

2020 SEP 29 AM 11: 55

This is an amendment to 19.15.16 NMAC, adding Section 21 effective 10/13/ 2020.

19.15.16.21 WATER USE REPORT:

A. For a hydraulically fractured well, an operator shall report, on form C-103 or C-105, the amount of water reported on the disclosure required by Subsection B of 19.15.16.19 NMAC and the breakdown of that amount by:

- (1) produced water;
- (2) water other than produced water that has 10,000 or more mg/l TDS;
- (3) water other than produced water that has more than 1,000 mg/l TDS but less than 10,000 mg/l TDS; and
- (4) water other than produced water that has 1,000 mg/l TDS or less.

B. All such reports shall be compiled and reported monthly on the division section of the department website.

[19.15.16.21 NMAC – N, 10/13/2020]