

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**

**APPLICATION OF NEW MEXICO OIL CONSERVATION
DIVISION TO ADOPT 19.15.27 NMAC AND 19.15.28 NMAC,
AND TO AMEND 19.15.7 NMAC, 19.15.18 NMAC, AND
19.15.19 NMAC; STATEWIDE**

CASE No. 21528

**NEW MEXICO OIL CONSERVATION DIVISION'S
NOTICE OF FILING OF FINAL PROPOSED RULES**

The New Mexico Oil Conservation Division (“OCD”) gives notice that, as directed by the Oil Conservation Commission, it is filing its final proposed rules in track change and clean formats:

OCD Exhibit 2C – Part 27 – Track Change Format
OCD Exhibit 2D – Part 27 – Clean Format
OCD Exhibit 3C – Part 28 – Track Change Format
OCD Exhibit 3D – Part 28 – Clean Format

OCD’ final proposed rules are based on the versions filed with its prehearing statement on December 17, 2020, as modified by OCD’s *Notice of Errata for OCD Exhibits 2A and 3A* filed on January 4, 2021; OCD Exhibit 4B admitted into evidence on January 5, 2021; OCD Exhibit 4C (Rebuttal Testimony for Part 27), OCD Exhibit 4D (Rebuttal Testimony for Part 28), and OCD Exhibit 4E (Rebuttal Powerpoint Presentation), admitted into evidence on January 15, 2021; and the following changes, which are supported by testimony and evidence presented at the hearing:

Part 27

Section 8(C)(1): OCD proposes to add language requiring operators to flare rather than vent natural gas if technically feasible under the applicable well conditions. EDF witness Alexander testified that in most cases, operators can capture and flare natural gas during initial flowback. On cross-examination, Alexander clarified that “most cases” referred to wells drilled in natural gas reservoirs. During rebuttal, Chair Sandoval asked OCD witness Bolander whether the initial flowback provision could be modified to require operators to capture and flare natural gas in those circumstances, and he responded affirmatively.

Section 8(F)(2): OCD proposes to remove the words “to or” in response to NMOGA witness Leonard’s testimony that measuring equipment is properly located on pipes carrying

natural gas from equipment such as separators, heater treaters, and vapor recovery units to a vent or flare, not on the pipes carrying natural gas from the equipment itself. OCD also proposes to remove the first reference to “after May 31, 2021” because it is redundant of another modification in the same paragraph.

Section 8(G)(2): OCD proposes to add the phrase “For each well or facility at which venting or flaring occurred” in response to Chair Sandoval’s suggestion and the testimony of OCD witness Powell that Form C115B is intended to report volumes of vented and flared natural gas for wells or facilities.

Section 8(G)(2)(h)(ii): OCD proposes to add the phrase “except during commissioning of pipelines, equipment, or facilities pursuant to Subparagraph (1) of Paragraph (4) of Subsection D of 19.15.27.8 NMAC” in response to the testimony of OCD and NMOGA witnesses that natural gas vented or flared due to O₂ concentrations during commissioning activities should be exempted from both the prohibition on venting and flaring in Section 8(D)(4)(l) and the reporting requirement in Section 8(G)(2).

Section 8(G)(4): OCD proposes to postpone the reporting of vented and flared natural gas until March 2022 in response to Chair Sandoval’s observation that operators are not required to submit monthly reports until January 2022. OCD also proposes to require reporting only to “owners in the mineral estate” in response to the testimony of OCD and NMOGA witnesses that overriding royalty mineral interest owners do not have correlative rights in the oil and gas being produced by a well or facility.

Part 28

Section 8(F)(2): OCD proposes to add the phrase “For each natural gas gathering system at which venting or flaring occurred” in response to Chair Sandoval’s suggestion and the testimony of OCD witness Powell that Form C115B is intended to report volumes of vented and flared natural gas for natural gas gathering systems.

Respectfully submitted,



Eric Ames
Assistant General Counsel
New Mexico Energy Minerals and Natural
Resources Department
1220 S. St. Francis Drive
Santa Fe, New Mexico 87505
(505) 476-3463
eric.ames@state.nm.us

CERTIFICATE OF SERVICE

I hereby certify that a copy of this pleading was mailed electronically on January 20, 2021 to:

Michael H. Feldewert, Esq.
Adam Rankin, Esq.
Kaitlin Luck, Esq.
Holland & Hart
P.O. Box 2208
Santa Fe, New Mexico 87504
mfeldewert@hollandhart.com
agrarkin@hollandhart.com
kaluck@hollandhart.com

Attorneys for New Mexico Oil & Gas Association

Tannis Fox, Esq.
Erik Schlenker-Goodrich, Esq.
Western Environmental Law Center
208 Paseo del Pueblo Sur, #602
Taos, New Mexico 87571
fox@westernlaw.org
eriksg@westernlaw.org

Attorneys for Center for Civic Policy, Conservation Voters New Mexico, Dine C.A.R.E., Earthworks, Natural Resources Defense Council, San Juan Citizens Alliance, Sierra Club, and 350 New Mexico

David Baake, Esq.
2131 North Main Street
Las Cruces, New Mexico 88001
david@baakelaw.com

Attorney for Sierra Club

Elizabeth Paranhos, Esq.
deLone Law Inc.
1555 Jennine Place
Boulder, CO 80304
303 442-0610
elizabethparanhos@delonelaw.com

Attorney for Environmental Defense Fund

Ari Biernoff
General Counsel
New Mexico State Land Office
P.O. Box 1148
310 Old Santa Fe Trail
Santa Fe, NM 87504
abiernoff@slo.state.nm.us

Attorney for Commissioner of Public Lands and New Mexico State Land Office



Eric Ames