

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

RECEIVED OCD

2012 MAR -2 A 9:01

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION FOR  
THE AMENDMENT OF 19.15.14.8.A NMAC.**

**CASE NO.14805**

**APPLICATION FOR RULE AMENDMENT**

The New Mexico Oil Conservation Division (“Division”) applies for an order amending 19.15.14.8.A NMAC to amend certain provisions pertaining to permit to drill, deepen, plug back or commencing an additional lateral.

**BACKGROUND**

1. On or about February 13, 2012 the Division applied for a rehearing in Case Number 14744 to amend 19.15.14.8.A NMAC to have the Oil Conservation Commission (“Commission”) delete the language “an approved application for permit to drill” and to substitute the language “a permit.”.

2. The Commission considered the Division’s Application for Rehearing (“Application”) at its February 23, 2012 meeting. The Commission denied the Division’s Application because the Commission lacked jurisdiction to reopen rulemaking in Case 14744. Instead the Commission treated the Application as a petition to initiate a new rulemaking pursuant to 19.15.3.8 NMAC. (See Order R-13499-B)

3. Therefore, the Division now submits this Application for Rulemaking in order to satisfy the requirements of 19.15.3.8.A NMAC.

4. The proposed rule change’s intended effect is to allow for operators to obtain a permit prior to drilling, deepening, plugging back or commencing a lateral. A

permit should be required versus “an approved application for permit to drill” because the United States Bureau of Land Management requires a Notice of Intent for these activities (except for initial drilling) and not an Application for Permit to Drill. This change will clarify what an operator is required to obtain.

5. The draft proposed rule change is attached as Exhibit A.
6. The published legal notice is attached as Exhibit B.

WHEREFORE, the Division hereby applies to the Commission to enter an order:

- A. Adopting the proposed amendment as set forth in Exhibit A.
- B. Granting such other and further relief as the Commission deems appropriate.

RESPECTFULLY SUBMITTED,



Gabrielle A. Gerholt  
Assistant General Counsel  
Energy, Minerals and Natural  
Resources Department of the State of  
New Mexico  
1220 S. St. Francis Drive  
Santa Fe, NM 87505  
Office Number: (505) 476-3451  
Fax Number: (505) 476-3462  
Email: [gabrielle.gerholt@state.nm.us](mailto:gabrielle.gerholt@state.nm.us)

Attorney for the New Mexico Oil  
Conservation Division

## **Exhibit A**

### **19.15.14.8 PERMIT TO DRILL, DEEPEN OR PLUG BACK:**

A. Permit required. An operator shall obtain ~~an approved application for permit to drill~~ a permit from the division prior to commencing drilling, deepening or re-entry operations, commencing an additional lateral, plugging a well back to a different pool, or completing or re-completing a well in an additional pool.

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION  
SANTA FE, NEW MEXICO

The State of New Mexico, through its Oil Conservation Commission hereby gives notice pursuant to law and Commission rules of the following meeting and public hearing to be held at 9:00 A.M. on **March 27, 2012**, in Porter Hall at 1220 South St. Francis Drive, Santa Fe, New Mexico, before the Oil Conservation Commission. The Commission will hear the application of the Oil Conservation Division concerning the amendment of 19.15.14.8 NMAC issued pursuant to the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38. If additional time is needed, the hearing may continue at a later date announced by the Commission. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter or any other form of auxiliary aid or service to attend or participate in the hearing please contact Commission Clerk Florene Davidson at (505) 476-3458 or through the New Mexico Relay Network (1-800-659-1779) by **March 17, 2012**. Public documents can be provided in various accessible forms. Please contact Ms. Davidson if a summary or other type of accessible form is needed. A preliminary agenda will be available to the public no later than two weeks prior to the meeting. A final agenda will be available no later than 24 hours preceding the meeting. Members of the public may obtain copies of the agenda by contacting Ms. Davidson at the phone number indicated above. Also, the agenda will be posted on the Oil Conservation Division website at [www.emnrd.state.nm.us](http://www.emnrd.state.nm.us).

**STATE OF NEW MEXICO TO:**

**All named parties and persons  
having any right, title, interest  
or claim in the following cases  
and notice to the public.**

**NOTICE OF RULE MAKING**

**Case No: 14805:** The Oil Conservation Division seeks a hearing concerning the following changes to Section 8 of Title 19, Chapter 15 Part 14 of the New Mexico Administrative Code: amend Subsection A of 19.15.14.8 NMAC. The proposed change would require an operator to obtain a permit prior to commencing drilling operations, deepening or plugging back a well. Copies of a summary of the intended effect of the proposed rule change and of the text of the proposed new rule and amendment are available from commission clerk Florene Davidson at (505) 476-3458 or from the Division's web site at <http://www.emnrd.state.nm.us/ocd> under "Rules/Proposed Rules." Written comments on the proposed amendments and pre-hearing statements must be received no later than 5:00 p.m. on March 20, 2012. Any person may present non-technical testimony or make an un-sworn statement at the hearing. Any person who intends to present technical testimony or cross-examine witnesses at the hearing shall, no later than 5:00 p.m. on March 20, 2012 file six sets of a pre-hearing statement with Ms. Davidson. The pre-hearing statement shall include the person's name and the name of the person's attorney; the names of all witnesses the person will call to testify at the hearing; a concise statement of each witnesses' testimony; all technical witnesses' qualifications including a description of the witnesses' education and experience; and the approximate time needed to present the testimony. The person shall attach to the pre-hearing statement any exhibits he or she plans to offer as evidence at the hearing. Any person recommending modifications to a proposed rule change shall, no later than March 13, 2012, file a notice of recommended modifications with Ms. Davidson including the text of the recommended modifications, an explanation of the modifications' impact, and the reasons for adopting the modifications. Written comments, pre-hearing statements and notices of recommended modifications may be hand-delivered or mailed to Ms. Davidson at 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, or may be faxed to Ms. Davidson at (505) 476-3462. Faxed documents must be entirely received prior to 5:00 p.m., Mountain Time, on the due date.

**Given under the Seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 28th day of February 2012.**

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION



Jami Bailey  
Director, Oil Conservation Division

S E A L

*Exhibit B*

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

RECEIVED OGD

2017 FEB 13 P 4: 23

APPLICATION OF THE NEW MEXICO  
OIL CONSERVATION DIVISION FOR  
REHEARING OF RULE AMENDMENT  
19.15.14.8

14805  
CASE NO. 14744

APPLICATION FOR REHEARING

COMES NOW the New Mexico Oil Conservation Division (Division), by its undersigned attorney, requests that the Oil Conservation Commission (Commission) re-hear Case No. 14744 for the limited purpose of reconsidering 19.15.14.8.A.

The Division submits that the portion of Order R-13499 which adopted the language "an approved application for permit to drill" was erroneous.

19.15.14.8.A should be amended to read as stated on Exhibit A attached hereto.

This Application for Re-hearing is filed pursuant to NMSA 70-2-25.

Respectfully Submitted,

Gabrielle A. Gerholt

Gabrielle A. Gerholt  
Assistant General Counsel  
Energy, Mineral and Natural Resources  
Department  
1220 South Saint Francis  
Santa Fe, NM 87501  
505-476-3451

**CERTIFICATE OF SERVICE**

I hereby certify that on February 13, 2012 I electronically served this pleading on the following parties:

The New Mexico Oil and Gas Association

William F. Carr, Esq.

Michael H. Feldewert, Esq.

Adam Rankin, Esq.

Holland & Hart LLP

Post Office Box 2208

Santa Fe, NM 87504-2208

(505) 988-4421

mfeldewert@hollandhart.com

Independent Petroleum Association of New Mexico

Karin V. Foster

5805 Mariola Place NE

Albuquerque, NM 87111

(505) 238-8385

Fosterassociates2005@yahoo.com

Earl E. DeBrine, Jr.

Modrall, Sperling, Roehl, Harris & Sisk, P.A.

P.O. Box 2168

Albuquerque, NM 87103-2168

(505) 848-1800

(505) 848-9710

edebrine@modrall.com

Patrick A. Fort

Attorney for Jalapeno Corporation

6725 Orphelia NE Albuquerque, NM 87109

(505) 828-0323

patrickfort@msn.com

I further certify a copy of this pleading was mailed to the following party on February 13, 2012.

Arlene T. Rowland

Vice President for Harvey E. Yates Company

500 N Main Street, Suite 1 Roswell, NM 88201

(575) 623-6601

## Exhibit A

### 19.15.14.8 PERMIT TO DRILL, DEEPEN OR PLUG BACK:

A. Permit required. An operator shall obtain ~~an approved application for permit to drill a~~ permit from the division prior to commencing drilling, deepening or re-entry operations, commencing an additional lateral, plugging a well back to a different pool, or completing or re-completing a well in an additional pool.