ATTACHMENT A

WILDEARTH GUARDIANS' SECOND AMENDED PROPOSED RULE

PROPOSED AMENDMENTS TO PART 2

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 2 GENERAL PROVISIONS FOR OIL AND GAS OPERATIONS

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19.15.2.7 DEFINITIONS: These definitions apply to 19.15.2 NMAC through 19.15.39 NMAC.

C. Definitions beginning with the letter "C".

(4) **"Chemical"** means any element, chemical compound, or mixture of elements or chemical compounds that has a specific name or identity, including a Chemical Abstracts Service number.
(5) **"Chemical disclosure list"** means a list of all chemicals used in downhole operations at a well site.
~~(4)~~(6) **"Cm/sec"** means centimeters per second.
~~(5)~~(7) **"CPD"** means central point delivery.
~~(6)~~(8) **"Combination multiple completion"** means a multiple completion in which two or more common sources of supply are produced through a combination of two or more conventional diameter casing strings cemented in a common well bore, or a combination of small diameter and conventional diameter casing strings cemented in a common well bore, the conventional diameter strings of which might or might not be a conventional multiple completion.
~~(7)~~(9) **"Commission"** means the oil conservation commission.
~~(8)~~(10) **"Commission clerk"** means the division employee the director designates to provide staff support to the commission and accept filings in rulemaking or adjudicatory cases before the commission.
~~(9)~~(11) **"Common purchaser for gas"** means a person now or hereafter engaged in purchasing from one or more producers gas produced from gas wells within each common source of supply from which it purchases.
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~~(11)~~(13) **"Common source of supply"**. See pool.
~~(12)~~(14) **"Condensate"** means the liquid recovered at the surface that results from condensation due to reduced pressure or temperature of petroleum hydrocarbons existing in a gaseous phase in the reservoir.

~~(13)~~(15) **"Contiguous"** means acreage joined by more than one common point, that is, the common boundary is at least one side of a governmental quarter-quarter section.
~~(14)~~(16) **"Conventional completion"** means a well completion in which the production string of casing has an outside diameter exceeding 2.875 inches.
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~~(16)~~(18) **"Correlative rights"** means the opportunity afforded, as far as it is practicable to do so, to the owner of each property in a pool to produce without waste the owner's just and equitable share of the oil or gas in the pool, being an amount, so far as can be practically determined, and so far as can be practicably obtained without waste, substantially in the proportion that the quantity of recoverable oil or gas under the property bears to the total recoverable oil or gas in the pool, and for the purpose to use the owner's just and equitable share of the reservoir energy.
~~(17)~~(19) **"Cubic feet of gas or cubic foot of gas"** means that volume of gas contained in one cubic foot of space and computed at a base pressure of 10 ounces per square inch above the average barometric pressure of 14.4 psi (15.025 psi absolute), at a standard base temperature of 60 degrees fahrenheit.

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P. **Definitions beginning with the letter "P".**

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~~(6)~~(7) **"Potential"** means a well's properly determined capacity to produce oil or gas under division-prescribed conditions.
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~~(11)~~(12) **"Producer"** means the owner of a well or wells capable of producing oil or gas or both in paying quantities.
~~(12)~~(13) **"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)~~(14) **"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)~~(15) **"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)~~(16) **"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)~~(17) **"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)~~(18) **"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)~~(19) **"Prospective spacing unit"** means a hypothetical spacing unit that does not yet have a producing well.
~~(19)~~(20) **"PVC"** means poly vinyl chloride.
~~(20)~~(21) **"Psi"** means pounds per square inch.

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T. Definitions beginning with the letter "T".

(7) **"Trade secret"** means any information meeting the definition in NMSA 1978 § 57-3A-2(D).
~~(7)~~(8) **"Treating plant"** means a plant constructed for wholly or partially or being used wholly or partially for reclaiming, treating, processing or in any manner making tank bottoms or other waste oil marketable.
~~(8)~~(9) **"Tribal lands"** means those lands for which the United States government has a trust responsibility to a native American tribe or a member

of a native American tribe. This includes reservations, pueblo land grants, tribal trust lands and individual trust allotments.

~~(9)~~(10) **"Tribal leases"** means those leases of minerals or interests in or rights to minerals for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe.

~~(10)~~(11) **"Tribal minerals"** means those minerals for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe.

~~(11)~~(12) **"True vertical depth"** means the difference in elevation between the ground level at the surface location of the well and the deepest point in the well bore.

~~(12)~~(13) **"Tubingless completion"** means a well completion in which the production string of casing has an outside diameter of 2.875 inches or less.

~~(13)~~(14) **"Tubingless multiple completion"** means completion in which two or more common sources of supply are produced through an equal number of casing strings cemented in a common well bore, each such string of casing having an outside diameter of 2.875 inches or less, with the production from each common source of supply completely segregated by cement.

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U. Definitions beginning with the letter "U".

(3) **"Undisclosed chemicals"** means either chemicals that are listed without a Chemical Abstracts Service number in the FracFocus database pursuant to 19.15.16.19(B) NMAC, or if a safety data sheet lists ingredients that comprise less than one-hundred percent of the whole chemical product, those chemicals that make up any unlisted portion of a chemical product on a safety data sheet.

~~(3)~~(4) **"Unit of proration for gas"** consists of such multiples of 40 acres as may be prescribed by division-issued special pool orders.

~~(4)~~(5) **"Unit of proration for oil"** consists of one 40-acre tract or such multiples of 40-acre tracts as may be prescribed by division-issued special pool orders.

~~(5)~~(6) **"Unorthodox well location"** means a location that does not conform to the spacing requirements division rules establish.

~~(6)~~(7) **"Unstable area"** means a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all a division-approved facility's structural components. Examples of unstable areas are areas of poor foundation conditions, areas susceptible to mass earth movements and karst terrain areas where karst topography is developed because of dissolution of limestone, dolomite or other soluble rock.

Characteristic physiographic features of karst terrain include sinkholes, sinking streams, caves, large springs and blind valleys.

~~(7)~~(8) **"Upstream facility"** means a facility or operation associated with the exploration, development, production or storage of oil or gas that is not a downstream facility.

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PROPOSED AMENDMENTS TO PART 7

19.15.7.16 WELL COMPLETION OR RECOMPLETION REPORT AND LOG (Form C-105):

A. Within 45 days following the completion or recompletion of a well, the operator shall file form C-105 with the division accompanied by a summary of special tests conducted on the well, including drill stem tests, and the chemical disclosure list. In addition, the operator shall file a certification that no undisclosed chemicals or PFAS were used in the completion or recompletion of the well, a copy of electrical and radio-activity logs run on the well with form C-105. If the division does not receive form C-105 with attached certification, chemical disclosure list, logs and summaries within the specified 45-day period, the division shall withhold the allowable authorizations for the well or suspend injection authority, as appropriate, until the operator has complied with 19.15.7.16 NMAC.

B. In the case of a dry hole, a complete record of the well on form C-105, or if applicable form C-103, with the attachments listed in Subsection A of 19.15.7.16 NMAC shall accompany the notice of intention to plug the well, unless previously filed. The division shall not approve the plugging report or release the bond the operator has complied with 19.15.7.16 NMAC.

C. The division shall not keep form C-105, or if applicable form C-103, and accompanying attachments confidential unless the well's owner requests in writing that the division keep it confidential. Upon such request, the division shall keep these data confidential for 90 days from the date of the well's completion, provided, however, that the report, logs and other attached data shall ~~may~~, when pertinent, be introduced in a public hearing before division examiners, the commission or in a court of law, regardless of the request that they be kept confidential.

D. If there is a change in the information provided under this part, the operator must submit the change to the division within 30 days after the date the operator first knew of the change.

E. The division shall retain each form C-105 and form C-103 indefinitely.

[19.15.7.16 NMAC - Rp, 19.15.13.1105 NMAC, 12/1/2008; A, 9/26/2017; A, 8/23/2022]

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PROPOSED AMENDMENTS TO PART 14

19.15.14.9 APPLICATIONS: An operator shall file a complete form C-101 and complete form C-102 with the division and meet the following requirements, if applicable:

A. an applicant for a permit to drill a well within the corporate limits of a city, town or village shall give notice to the duly constituted governing body of the city, town or village or its duly authorized agent and certify on form C-101 that it gave such notice;

B. an applicant for a permit to drill in a quarter-quarter section containing an existing well or wells operated by another operator shall concurrently file a plat or other acceptable document locating and identifying the well or wells, furnish a copy of the application to the other operator or operators in the quarter-quarter section and certify on form C-101 that it furnished the copies;

C. an applicant for a permit to drill, deepen, or plug back shall certify that they will not introduce any undisclosed chemicals or PFAS in downhole operations of the well; and

~~C~~ D. an applicant for a permit to operate a well in a spacing or proration unit containing an existing well or wells operated by another operator shall also comply with Subsection B of 19.15.15.12 NMAC.

[19.15.14.9 NMAC – Rp, 19.15.3.102 NMAC and 19.15.13.1101 NMAC, 12/1/2008]

19.15.14.10 APPROVAL OR DENIAL OF A PERMIT TO DRILL, DEEPEN OR PLUG BACK:

A. The director or the director's designee may deny a permit to drill, deepen or plug back if the applicant is not in compliance with Subsection A of 19.15.5.9 NMAC and shall deny a permit to drill, deepen, or plug back, or any permit authorizing the transport of nondomestic waste, including produced water, if the applicant does not provide the certification required by Subsection C of 19.15.14.9 or provides a false certification. In determining whether to grant or deny the permit, the director or the director's designee shall consider such factors as whether the non-compliance with Subsection A of 19.15.5.9 NMAC is caused by the operator not meeting the financial assurance requirements of 19.15.8 NMAC, being subject to a division or commission order finding the operator to be in violation of an order requiring corrective action, having a penalty assessment that has been unpaid for more than 70 days since the issuance of the order assessing the penalty or having more than the allowed number of wells out of compliance with 19.15.25.8 NMAC. If the non-compliance is caused by the operator having more than the allowed number of wells not in compliance with 19.15.25.8 NMAC, the director or director's designee shall consider the number of wells not in compliance, the length of time the wells have been out of compliance and the operator's efforts to bring the wells into compliance.

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PROPOSED AMENDMENTS TO PART 16

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 16 DRILLING AND PRODUCTION

19.15.16.17 COMPLETION OPERATIONS, SHOOTING AND CHEMICAL TREATMENT OF WELLS:

A. If completing, shooting, fracturing or treating a well has the potential to negatively impact ~~injures~~ the producing formation, injection interval, communicates with other

strata, casing or casing seat or may create underground waste or contaminate fresh water, the operator shall within five working days notify ~~in writing~~ the division in writing and proceed with diligence to use the appropriate method and means for rectifying the loss of containment or any damage.

(1) diligence shall include but is not limited to verifying casing integrity and isolation of strata. This can include pressure testing in accordance with 19.15.25 NMAC, performing casing integrity logs, cement bond logs and any other means determined necessary by the operator or required by the division.

(2) If damage from the shooting, fracturing or treating of a well has the potential to impact surface or groundwater, the operator will test for all chemicals disclosed in previous downhole operations and will use a third party, accredited laboratory to conduct any in appropriate testing necessary to verify any potential impact. The testing shall include all chemicals used in the well and may also include but is not limited to PFAS, chemicals listed in 20.6.2. NMAC and chemicals listed in 19.15.29.11.A.(5)(e) NMAC. The may require more robust sampling than what is proposed by the operator if deemed necessary due to the nature of the potential chemicals.

(3) If it is deemed there is an impact to surface or groundwater the operator shall report the impact as a major release in accordance with 19.15.29 NMAC and respond accordingly.

(4) If testing reveals the presence of PFAS or undisclosed chemicals, the Division may take enforcement action pursuant to 19.15.5 NMAC.

B. If completing, shooting, fracturing or chemical treating results in the well's irreparable injury the division may require the operator to properly plug and abandon the well and take any necessary actions to mitigate any resulting impacts.

[19.15.16.17 NMAC - Rp, 19.15.3.115 NMAC, 12/1/2008; 19.15.16.17 NMAC - Rn, 19.15.16.16 NMAC, 2/15/2012]

19.15.16.19 LOG, COMPLETION AND WORKOVER REPORTS

A. Completion report. Within 45 days after the completion of a well drilled for oil or gas, or the recompletion of a well into a different common source or supply, the operator shall file a completion report with the division on form C-105. For the purpose of 19.15.16.19, a hole drilled or cored below fresh water that penetrates oil- or gas-bearing formations or that an owner drills is presumed to be a well drilled for oil or gas. The operator shall signify on form C-105, or alternatively on form C-103, whether the well has been hydraulically fractured.

B. Hydraulic fracture disclosure. For a hydraulically fractured well, the operator shall also complete and file with the FracFocus chemical disclosure registry a completed hydraulic fracturing disclosure within 45 days after completion, recompletion, or other hydraulic fracturing treatment of the well. The hydraulic fracturing disclosure shall be completed on a then current edition of the hydraulic fluid product component information form published by FracFocus and shall include complete and correct responses disclosing all information called for by the FracFocus form, provided that:

~~(1) the division does not require the reporting of information beyond the material safety data sheet data as described in 29 C.F.R. 1910.1200;~~

~~(2)~~ (1) the division does not require the reporting or disclosure of proprietary, trade secret or confidential business information; and

~~(3)~~ (2) the division shall download and archive New Mexico FracFocus submissions on a quarterly basis.

C. If the FracFocus chemical disclosure registry is temporarily inoperable, the operator of a well on which hydraulic fracturing treatment(s) were performed shall file the information required by the then most recent FracFocus form with the division along with Well Completion Report (form C-105) or Sundry Notice (form C-103) reporting the hydraulic fracture treatment and file the information on the FracFocus internet website when the website is again operable. If the FracFocus chemical disclosure registry is discontinued or becomes permanently inoperable, the operator shall continue filing the information with the division until otherwise provided by rule or order.

D. On or before [DATE], an operator shall provide the chemical disclosure list to the following persons and entities unless the person or entity opts out of the notification:

(1) All owners of a private water well that are within five thousand two hundred and eighty feet of the well site;

(2) The State Land Office if the state owns minerals that are being developed at the well site;

(3) The federal bureau of land management if the United States owns the minerals that are being developed at the well site;

(4) To any tribe if the minerals being developed at the well site are within the exterior boundary of that tribe's reservation and are subject to the jurisdiction of the division;

(5) Police departments, fire departments, emergency service agencies, and first responder agencies that have a jurisdiction that includes the well site;

(6) Local governments that have a jurisdiction within five thousand two hundred and eighty feet of the well site;

(7) The administrator of any public water system that operates:

(a) A surface water public water system intake that is located fifteen stream miles or less downstream from the well site;

(b) A groundwater source under the direct influence of a surface water public water system supply well within five thousand two hundred and eighty feet of the well site; and

(c) A public water system supply well completed within five thousand two hundred and eighty feet of the well site; and

E. The chemical disclosure list must be disclosed to the above parties within thirty days after the operator's chemical disclosure to the division.

F. Chemical disclosure lists shall be made conspicuously available on the Energy, Minerals and Natural Resources Department's website.

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PROPOSED AMENDMENTS TO PART 25

19.15.25.14 DEMONSTRATING MECHANICAL INTEGRITY:

A. An operator may use the following methods of demonstrating internal casing integrity for casing investigations, casing repairs and wells to be placed in approved temporary abandonment:

(1) the operator may set a cast iron bridge plug within 100 feet of uppermost perforations or production casing shoe, load the casing with inert fluid and pressure test to 500 psi surface pressure with a pressure drop of not more than 10 percent over a 30 minute period;

(2) the operator may run a retrievable bridge plug or packer to within 100 feet of uppermost perforations or production casing shoe, and test the well to 500 psi surface pressure for 30 minutes with a pressure drop of not greater than 10 percent over a 30 minute period; or

(3) the operator may demonstrate that the well has been completed for less than five years and has not been connected to a pipeline.

B. During the testing described in Paragraphs (1) and (2) of Subsection A of 19.15.25.14 NMAC the operator shall:

(1) open all casing valves during the internal pressure tests and report a flow or pressure change occurring immediately before, during or immediately after the 30 minute pressure test;

(2) top off the casing with inert fluid prior to leaving the location;

(3) report flow during the test in Paragraph (2) of Subsection A of 19.15.25.14 NMAC to the appropriate division district office prior to completion of the temporary abandonment operations; the division may require remediation of the flow prior to approving the well's temporary abandonment.

C. An operator may use any method approved by the EPA in 40 C.F.R. section 146.8(c) to demonstrate external casing and cement integrity for wells to be placed in approved temporary abandonment.

D. The division shall not accept mechanical integrity tests or logs conducted more than 12 months prior to submittal.

E. The operator shall record mechanical integrity tests on a chart recorder with a maximum two hour clock and maximum 1000 pound spring, which has been calibrated within the six months prior to conducting the test. Witnesses to the test shall sign the chart. The operator shall submit the chart with form C-103 requesting approved temporary abandonment.

F. The division may approve other testing methods the operator proposes if the operator demonstrates that the test satisfies the requirements of Subsection B of 19.15.25.13 NMAC.

[19.15.25.14 NMAC - Rp, 19.15.4.203 NMAC, 12/1/2008]

OCD EXHIBIT 1

OCD MODIFICATIONS TO AMENDED PROPOSED RULE

PROPOSED AMENDMENTS TO PART 2

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D. Definitions beginning with the letter "D".

~~(6) **"Downhole operations"** means oil and gas production operations that are conducted underground.~~
~~(6)~~(7) **"Downstream facility"** means a facility associated with the transportation (including gathering) or processing of gas or oil (including a refinery, gas plant, compressor station or crude oil pump station); brine production; or the oil field service industry.
~~(7)~~(8) **"DRO"** means diesel range organics.

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H. Definitions beginning with the letter "H".

~~(6) **"Hydraulic fracturing treatment"** means all stages of the treatment of a well by the application of hydraulic fracturing fluid under pressure, which treatment is expressly designed to initiate or propagate fractures in an underground geologic formation to enhance the production of oil and gas.~~
~~(6)~~(7) **"H_2S"** means hydrogen sulfide.

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P. **Definitions beginning with the letter "P".**

~~**(3) "PFAS chemicals"** means a perfluoroalkyl or polyfluoroalkyl substance with at least one fully fluorinated carbon atom~~

"PFAS chemicals" means any chemical with at least a perfluorinated methyl group (−CF3) or a perfluorinated methylene group (−CF2−), excluding those with a Hydrogen [H], Chlorine [Cl], Bromine [Br], or Iodine [I] atom attached to the subject carbon atom. For the purposes of completing environmental investigations, the specific PFAS chemicals that can be included in the chemical analysis include those listed in United States Environmental Protection Agency (US EPA) Standard Analytical Methods documents (specifically, Method 537.1 [drinking water], Method 533 [drinking water], Method 8327 [groundwater, surface water, and wastewater], Method 1633 [wastewater, surface water, groundwater, soil, biosolids, sediment, landfill leachate, and fish tissue], OTM-45 [air: semi-volatile and particulate-bound PFAS], and OTM-50 [air: volatile PFAS]; including updated versions for each standard method).

~~(3)~~(4) **"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.
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~~(10)~~(11) **"Produced water"** means a fluid that is an incidental byproduct from drilling for or the production of oil and gas.
~~(11)~~(12) **"Producer"** means the owner of a well or wells capable of producing oil or gas or both in paying quantities.
~~(12)~~(13) **"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)~~(14) **"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)~~(15) **"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)~~(16) **"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)~~(17) **"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)~~(18) **"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)~~(19) **"Prospective spacing unit"** means a hypothetical spacing unit that does not yet have a producing well.

~~(19)~~(20) **"PVC"** means poly vinyl chloride.

~~(20)~~(21) **"Psi"** means pounds per square inch.

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T. Definitions beginning with the letter "T".

(7) **"Trade secret"** means any information meeting the definition in 1978 NMSA 57-3A-2.D. ~~Section, including a formula, pattern, compilation, program, device, method, technique or process, that:~~

~~(1) derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and~~

~~(2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.~~

~~(7)~~(8) **"Treating plant"** means a plant constructed for wholly or partially or being used wholly or partially for reclaiming, treating, processing or in any manner making tank bottoms or other waste oil marketable.

~~(8)~~(9) **"Tribal lands"** means those lands for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe. This includes reservations, pueblo land grants, tribal trust lands and individual trust allotments.

~~(9)~~(10) **"Tribal leases"** means those leases of minerals or interests in or rights to minerals for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe.

~~(10)~~(11) **"Tribal minerals"** means those minerals for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe.

~~(11)~~(12) **"True vertical depth"** means the difference in elevation between the ground level at the surface location of the well and the deepest point in the well bore.

~~(12)~~(13) **"Tubingless completion"** means a well completion in which the production string of casing has an outside diameter of 2.875 inches or less.

~~(13)~~(14) **"Tubingless multiple completion"** means completion in which two or more common sources of supply are produced through an equal number of casing strings cemented in a common well bore, each such string of casing having an outside diameter of 2.875 inches or less, with the production from each common source of supply completely segregated by cement.

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U. Definitions beginning with the letter "U".

~~(3) **"Undisclosed chemicals"** means either chemicals that are listed without a Chemical Abstracts Service number in the FracFocus database pursuant to 19.15.16.19(B) NMAC, or if a safety data sheet lists ingredients that comprise less than one-hundred percent of the whole chemical product, those chemicals that make up any unlisted portion of a chemical product on a safety data sheet~~.

~~(3)~~(4) **"Unit of proration for gas"** consists of such multiples of 40 acres as may be prescribed by division-issued special pool orders.

~~(4)~~(5) **"Unit of proration for oil"** consists of one 40-acre tract or such multiples of 40-acre tracts as may be prescribed by division-issued special pool orders.

~~(5)~~(6) **"Unorthodox well location"** means a location that does not conform to the spacing requirements division rules establish.

~~(6)~~(7) **"Unstable area"** means a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all a division-approved facility's structural components. Examples of unstable areas are areas of poor foundation conditions, areas susceptible to mass earth movements and karst terrain areas where karst topography is developed because of dissolution of limestone, dolomite or other soluble rock. Characteristic physiographic features of karst terrain include sinkholes, sinking streams, caves, large springs and blind valleys.

~~(7)~~(8) **"Upstream facility"** means a facility or operation associated with the exploration, development, production or storage of oil or gas that is not a downstream facility.

W. Definitions beginning with the letter "W".

~~**(8) "Well site"** means the area that is disturbed by oil and gas operations within the boundaries of the lease.~~

~~**(8)**~~**(9) "Wellhead protection area"** means the area within 200 horizontal feet of a private, domestic fresh water well or spring used by less than five households for domestic or stock watering purposes or within 1000 horizontal feet of any other fresh water well or spring. Wellhead protection areas does not include areas around water wells drilled after an existing oil or gas waste storage, treatment or disposal site was established.

~~**(9)**~~**(10) "Wetlands"** means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions in New Mexico. This definition does not include constructed wetlands used for wastewater treatment purposes.

~~**(10)**~~**(11) "Working interest owner"** means the owner of an operating interest under an oil and gas lease who has the exclusive right to exploit the oil and gas minerals. Working interests are cost bearing.

~~**(11)**~~**(12) "WQCC"** means the New Mexico water quality control commission.

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19.15.7.16 WELL COMPLETION OR RECOMPLETION REPORT AND LOG (Form C-105):

A. Within 45 days following the completion or recompletion of a well, the operator shall file form C-105 with the division accompanied by a summary of special tests conducted on the well, including drill stem tests, ~~and the chemical disclosure list.~~ In addition, the operator shall file a certification that no ~~undisclosed chemicals or~~ PFAS chemicals were ~~used~~ added to the fluid used in the completion or recompletion of the well, a copy of electrical and radio-activity logs run on the well with form C-105. If the division does not receive form C-105 with attached certification, ~~chemical disclosure list,~~ logs and summaries within the specified 45-day period, the division shall withhold the allowable authorizations for the well or suspend injection authority, as appropriate, until the operator has complied with 19.15.7.16 NMAC.

B. In the case of a dry hole, a complete record of the well on form C-105, or if applicable form C-103, with the attachments listed in Subsection A of 19.15.7.16 NMAC shall accompany the notice of intention to plug the well, unless previously filed. The division shall not approve the plugging report or release the bond the operator has complied with 19.15.7.16 NMAC.

C. The division shall not keep form C-105, or if applicable form C-103, and accompanying attachments confidential unless the well's owner requests in writing that the division keep it confidential. Upon such request, the division shall keep these data confidential for ~~60~~ 90 ~~90~~ days from the date of the well's completion, provided, however, that the report, logs and other attached data ~~shall~~ may ~~may~~, when pertinent, be introduced in a public hearing before division examiners, the commission or in a court of law, regardless of the request that they be kept confidential.

D. If there is a change in the information provided under this part, the operator must submit the change to the division within 30 days after the date the operator first knew of the change.

~~E. The division shall retain each form C-105 and form C-103 indefinitely.~~

[19.15.7.16 NMAC - Rp, 19.15.13.1105 NMAC, 12/1/2008; A, 9/26/2017; A, 8/23/2022]

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19.15.14.9 APPLICATIONS: An operator shall file a complete form C-101 and complete form C-102 with the division and meet the following requirements, if applicable:

A. an applicant for a permit to drill a well within the corporate limits of a city, town or village shall give notice to the duly constituted governing body of the city, town or village or its duly authorized agent and certify on form C-101 that it gave such notice;

B. an applicant for a permit to drill in a quarter-quarter section containing an existing well or wells operated by another operator shall concurrently file a plat or other acceptable document locating and identifying the well or wells, furnish a copy of the application to the other operator or operators in the quarter-quarter section and certify on form C-101 that it furnished the copies;

C. an applicant for a permit to drill, deepen, or plug back shall certify that they will not introduce any additives that contain ~~undisclosed chemicals or~~ PFAS chemicals in ~~downhole operations~~ the completion or recompletion ~~operations~~ of the well; and

~~C~~ D. an applicant for a permit to operate a well in a spacing or proration unit containing an existing well or wells operated by another operator shall also comply with Subsection B of 19.15.15.12 NMAC.

[19.15.14.9 NMAC – Rp, 19.15.3.102 NMAC and 19.15.13.1101 NMAC, 12/1/2008]

19.15.14.10 APPROVAL OR DENIAL OF A PERMIT TO DRILL, DEEPEN OR PLUG BACK:

A. The director or the director's designee may deny a permit to drill, deepen or plug back if the applicant is not in compliance with 19.15.14.9 NMAC and Subsection A of 19.15.5.9 NMAC ~~and shall deny a permit to drill, deepen, or plug back, or any permit authorizing the transport of nondomestic waste, including produced water, if the applicant does not provide the certification required by Subsection C of 19.15.14.9 or provides a false certification.~~ In determining whether to grant or deny the permit, the director or the director's designee shall consider such factors as whether the non-compliance with Subsection A of 19.15.5.9 NMAC is caused by the operator not meeting the financial assurance requirements of 19.15.8 NMAC, being subject to a division or commission order finding the operator to be in violation of an order requiring corrective action, having a penalty assessment that has been unpaid for more than 70 days since the issuance of the order assessing the penalty or having more than the allowed number of wells out of compliance with 19.15.25.8 NMAC. If the non-compliance is caused by the operator having more than the allowed number of wells not in compliance with 19.15.25.8 NMAC, the director or director's designee shall consider the number of wells not in compliance, the length of time the wells have been out of compliance and the operator's efforts to bring the wells into compliance.

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TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 16 DRILLING AND PRODUCTION

19.15.16.17 COMPLETION OPERATIONS, SHOOTING AND CHEMICAL TREATMENT OF WELLS:

A. If ~~Completing~~completing, shooting, fracturing or treating a well has the potential to negatively impact the producing formation, injection interval, communicates with other strata, casing or casing seat or may create underground waste or contaminate fresh water, the operator shall within five working days notify the division in writing ~~the division~~ and proceed with diligence to use the appropriate method and means for rectifying the loss of containment or any damage.

(1) diligence shall include but is not limited to verifying casing integrity and isolation of strata. This can include pressure testing in accordance with 19.15.25 NMAC, performing casing integrity logs, cement bond logs and any other means determined necessary by the operator or required by the division.

(2) If damage from the shooting, fracturing or treating of a well has the potential to impact surface or groundwater, then the operator will disclose to the Division all additives used in the applicable fluid stream including trade secret additives as necessary to identify all potential contaminates. If trade secret chemical information is received by the Division, the Division will hold that information confidential as required by 1978 NMSA 14-2-1. Based on the chemicals identified by the operator and the Division the operator will test for all identified potentially harmful chemicals ~~disclosed in previous downhole operations~~ and will use a third party, verified laboratory to conduct any in appropriate testing necessary to verify any potential impact. The testing ~~shall include all chemicals used in the well and~~ may also include but is not limited to PFAS, chemicals listed in 20.6.2. NMAC and chemicals listed in 19.15.29.11.A.(5)(e) NMAC. The division ~~can elect to request~~ may require more robust sampling than what is proposed by the operator if deemed necessary due to the nature of the potential chemicals.

(3) If it is deemed there is an impact to surface or groundwater the operator shall report the impact as a major release in accordance with 19.15.29 NMAC and respond accordingly.

~~(4) If testing reveals the presence of PFAS or undisclosed chemicals, the Division may revoke authorization to operate upon consideration of whether the current operator or a previous well owners' operations contributed to the presence of PFAS or undisclosed chemicals.~~

D. If completing, shooting, fracturing or chemical treating results in the well's irreparable injury the division may require the operator to properly plug and abandon the well and take any necessary actions to mitigate any resulting impacts.

[19.15.16.17 NMAC - Rp, 19.15.3.115 NMAC, 12/1/2008; 19.15.16.17 NMAC - Rn, 19.15.16.16 NMAC, 2/15/2012]

19.15.16.19 LOG, COMPLETION AND WORKOVER REPORTS

A. **Completion report.** Within 45 days after the completion of a well drilled for oil or gas, or the recompletion of a well into a different common source or supply, the operator shall file a completion report with the division on form C-105. For the purpose of 19.15.16.19, a hole drilled or cored below fresh water that penetrates oil- or gas-bearing formations or that an owner drills is presumed to be a well drilled for oil or gas. The operator shall signify on form C-105, or alternatively on form C-103, whether the well has been hydraulically fractured.

B. **Hydraulic fracture disclosure.** For a hydraulically fractured well, the operator shall also complete and file with the FracFocus chemical disclosure registry a completed hydraulic fracturing disclosure within 45 days after completion, recompletion, or other hydraulic fracturing treatment of the well. The hydraulic fracturing disclosure shall be completed on a then current edition of the hydraulic fluid product component information form published by FracFocus and shall include complete and correct responses disclosing all information called for by the FracFocus form, provided that:

~~(1)~~ the division does not require the reporting of information beyond the material safety data sheet data as described in 29 C.F.R. 1910.1200;

~~(2)~~ (1) the division does not require the reporting or disclosure of proprietary, trade secret or confidential business information; and

~~(3)~~ (2) the division shall download and archive New Mexico FracFocus submissions on a quarterly basis.

C. If the FracFocus chemical disclosure registry is temporarily inoperable, the operator of a well on which hydraulic fracturing treatment(s) were performed shall file the information required by the then most recent FracFocus form with the division along with Well Completion Report (form C-105) or Sundry Notice (form C-103) reporting the hydraulic fracture treatment and file the information on the FracFocus internet website when the website is again operable. If the FracFocus chemical disclosure registry is discontinued or becomes permanently inoperable, the operator shall continue filing the information with the division until otherwise provided by rule or order.

D. On or before [DATE], an operator shall provide the chemical disclosure list to the following regulatory agencies unless the agency opts out of the notification:

~~(1) All owners of minerals that are being developed at the well site;~~

~~(2) All surface owners, building unit owners, and residents, including tenants of both residential and commercial properties, that are within five thousand two hundred and eighty feet of the well site;~~

(3) The State Land Office if the state owns minerals that are being developed at the well site;

(4) The federal bureau of land management if the United States owns the minerals that are being developed at the well site;

~~(5) To any tribe if the minerals being developed at the well site are within the exterior boundary of that tribe's reservation and are subject to the jurisdiction of the division;~~

~~(6) All schools, child care centers, and school governing bodies within five thousand two hundred and eighty feet of the well site;~~

~~(7) Police departments, fire departments, emergency service agencies, and first responder agencies that have a jurisdiction that includes the well site;~~

~~(8) Local governments that have a jurisdiction within five thousand two hundred and eighty feet of the well site;~~

~~(9) The administrator of any public water system that operates:~~

~~(a) A surface water public water system intake that is located fifteen stream miles or less downstream from the well site;~~

~~(b) A groundwater source under the direct influence of a surface water public water system supply well within five thousand two hundred and eighty feet of the well site; and~~

~~(c) A public water system supply well completed within five thousand two hundred and eighty feet of the well site; and~~

E. The chemical disclosure list must be disclosed to the above parties within thirty days after the operator's chemical disclosure to the division.

****

19.15.25.14 DEMONSTRATING MECHANICAL INTEGRITY:

A. An operator may use the following methods of demonstrating internal casing integrity for casing investigations, casing repairs and wells to be placed in approved temporary abandonment:

(1) the operator may set a cast iron bridge plug within 100 feet of uppermost perforations or production casing shoe, load the casing with inert fluid and pressure test to 500 psi surface pressure with a pressure drop of not more than 10 percent over a 30 minute period;

(2) the operator may run a retrievable bridge plug or packer to within 100 feet of uppermost perforations or production casing shoe, and test the well to 500 psi surface pressure for 30 minutes with a pressure drop of not greater than 10 percent over a 30 minute period; or

(3) the operator may demonstrate that the well has been completed for less than five years and has not been connected to a pipeline.

B. During the testing described in Paragraphs (1) and (2) of Subsection A of 19.15.25.14 NMAC the operator shall:

(1) open all casing valves during the internal pressure tests and report a flow or pressure change occurring immediately before, during or immediately after the 30 minute pressure test;

(2) top off the casing with inert fluid prior to leaving the location;

(3) report flow during the test in Paragraph (2) of Subsection A of 19.15.25.14 NMAC to the appropriate division district office prior to completion of the temporary abandonment operations; the division may require remediation of the flow prior to approving the well's temporary abandonment.

C. An operator may use any method approved by the EPA in 40 C.F.R. section 146.8(c) to demonstrate external casing and cement integrity for wells to be placed in approved temporary abandonment.

D. The division shall not accept mechanical integrity tests or logs conducted more than 12 months prior to submittal.

E. The operator shall record mechanical integrity tests on a chart recorder with a maximum two hour clock and maximum 1000 pound spring, which has been calibrated within the six months prior to conducting the test. Witnesses to the test shall sign the chart. The operator shall submit the chart with form C-103 requesting approved temporary abandonment.

F. The division may approve other testing methods the operator proposes if the operator demonstrates that the test satisfies the requirements of Subsection B of 19.15.25.13 NMAC.

[19.15.25.14 NMAC - Rp, 19.15.4.203 NMAC, 12/1/2008]

WG EXHIBIT 1

FIRST AMENDED PROPOSED RULE

PROPOSED AMENDMENTS TO PART 2

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 2 GENERAL PROVISIONS FOR OIL AND GAS
OPERATIONS

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19.15.2.7 DEFINITIONS: These definitions apply to 19.15.2 NMAC through 19.15.39 NMAC.

C. Definitions beginning with the letter "C".

~~(4) **"Chemical"** means any element, chemical compound, or mixture of elements or chemical compounds that has a specific name or identity, including a Chemical Abstracts Service number.~~
(5) ~~**"Chemical disclosure list"** means a list of all chemicals used in downhole operations at a well site.~~
~~(4)~~(6) **"Cm/sec"** means centimeters per second.
~~(5)~~(7) **"CPD"** means central point delivery.
~~(6)~~(8) **"Combination multiple completion"** means a multiple completion in which two or more common sources of supply are produced through a combination of two or more conventional diameter casing strings cemented in a common well bore, or a combination of small diameter and conventional diameter casing strings cemented in a common well bore, the conventional diameter strings of which might or might not be a conventional multiple completion.
~~(7)~~(9) **"Commission"** means the oil conservation commission.
~~(8)~~(10) **"Commission clerk"** means the division employee the director designates to provide staff support to the commission and accept filings in rulemaking or adjudicatory cases before the commission.
~~(9)~~(11) **"Common purchaser for gas"** means a person now or hereafter engaged in purchasing from one or more producers gas produced from gas wells within each common source of supply from which it purchases.
~~(10)~~(12) **"Common purchaser for oil"** means every person now engaged or hereafter engaging in the business of purchasing oil to be transported through pipelines.
~~(11)~~(13) **"Common source of supply"**. See pool.

NMOGA Exhibit A

~~(12)~~(14) **"Condensate"** means the liquid recovered at the surface that results from condensation due to reduced pressure or temperature of petroleum hydrocarbons existing in a gaseous phase in the reservoir.

~~(13)~~(15) **"Contiguous"** means acreage joined by more than one common point, that is, the common boundary is at least one side of a governmental quarter-quarter section.

~~(14)~~(16) **"Conventional completion"** means a well completion in which the production string of casing has an outside diameter exceeding 2.875 inches.

~~(15)~~(17) **"Conventional multiple completion"** means a completion in which two or more common sources of supply are produced through one or more strings of tubing installed within a single casing string, with the production from each common source of supply completely segregated by means of packers.

~~(16)~~(18) **"Correlative rights"** means the opportunity afforded, as far as it is practicable to do so, to the owner of each property in a pool to produce without waste the owner's just and equitable share of the oil or gas in the pool, being an amount, so far as can be practically determined, and so far as can be practicably obtained without waste, substantially in the proportion that the quantity of recoverable oil or gas under the property bears to the total recoverable oil or gas in the pool, and for the purpose to use the owner's just and equitable share of the reservoir energy.

~~(17)~~(19) **"Cubic feet of gas or cubic foot of gas"** means that volume of gas contained in one cubic foot of space and computed at a base pressure of 10 ounces per square inch above the average barometric pressure of 14.4 psi (15.025 psi absolute), at a standard base temperature of 60 degrees fahrenheit.

Justification – NMOGA has removed both the definitions of (1) "chemical" and (2) "chemical disclosure list" for the reasons outlined in its Pre-Hearing Statement and the testimony of Drs. Anderson and Richardson, which NMOGA incorporates here.

- Principal among its reasons for removing the term "chemical," is that the present rulemaking specifically concerns PFAS in hydraulic fracturing fluids not the use of every potential, indiscriminate "chemical" in hydraulic fracturing. Accordingly, NMOGA has removed the broad, sweeping, and unspecific term "chemical" from the proposed definitions, which does not inform this rulemaking.
- Likewise, NMOGA has removed the term "chemical disclosure list" from the proposed amendments, for a multitude of reasons, including, but not limited to, the fact that operators must already disclose the constituents in their hydraulic fracturing fluids in the FracFocus chemical registry databases pursuant to 19.15.16.19(B) NMAC. Adding a "chemical disclosure list" to the rules is redundant of existing FracFocus disclosure requirements and is unnecessary.

D. Definitions beginning with the letter "D".

~~(6) "Downhole operations" means oil and gas production operations that are conducted underground.~~

~~(6)~~(7) **"Downstream facility"** means a facility associated with the transportation (including gathering) or processing of gas or oil (including a refinery, gas plant, compressor station or crude oil pump station); brine

production; or the oil field service industry.
~~(7)~~(8) **"DRO"** means diesel range organics.

Justification – NMOGA has removed the definition of "downhole operations" from the proposed amendments, as further outlined in its Pre-Hearing Statement and the testimony of Drs. Anderson and Richardson, which NMOGA incorporates here.

- WEG's definition is vague and unduly broad. As proposed, it includes a wide array of well activities not subject to this rulemaking and unrelated to hydraulic fracturing. WEG's definition of "downhole operations" is so broad—including nearly all activities conducted in the subsurface, such as running seismic logs—that it is virtually meaningless.
- Further, this rulemaking is concerned particularly with hydraulic fracturing of wells and any proposed, additional definitional terms should be tailored to this scope.
- Because WEG's definition of "downhole operations" (1) is so broad it is virtually meaningless and (2) because it is unrelated to this rulemaking addressing hydraulic fracturing, NMOGA has, appropriately, removed the term "downhole operations" from the proposed amendments.

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H. Definitions beginning with the letter "H".

(6) **"Hydraulic fracturing treatment"** means all stages of the treatment of a well by the application of hydraulic fracturing fluid under pressure, which treatment is expressly designed to initiate or propagate fractures in an underground geologic formation to enhance the production of oil and gas.
~~(6)~~(7) **"H_2S"** means hydrogen sulfide.

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I. Definitions beginning with the letter "I"

(8) **"Intentionally added PFAS"** means PFAS that are deliberately added during the manufacture of a chemical production to serve an intended function in the final product.

Justification – NMOGA has added the definition of "intentionally added PFAS," as further summarized in its Pre-Hearing Statement and the testimony of Drs. Anderson and Richardson, which NMOGA incorporates here.

- "Intentionally added" is needed to properly capture both (1) the reality that PFAS are ubiquitous and could be present in the environment despite not be contained in hydraulic fracturing fluid, and (2) the intended scope of this rulemaking, which is to prohibit the use of hydraulic fracturing fluids that contain PFAS.

****

P. Definitions beginning with the letter "P".

(3) "PFAS ~~chemicals" means a perfluoroalkyl or polyfluoroalkyl substance with at least one fully fluorinated carbon atom~~ means a perfluoroalkyl or polyfluoroalkyl substance with two or more sequential fully fluorinated carbon atoms.

~~(3)~~(4) **"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)~~(5) **"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)~~(6) **"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)~~(7) **"Potential"** means a well's properly determined capacity to produce oil or gas under division-prescribed conditions.

~~(7)~~(8) **"Ppm"** means parts per million by volume.

~~(8)~~(9) **"PQL"** means practical quantitation limit.

~~(9)~~(10) **"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)~~(11) **"Produced water"** means a fluid that is an incidental byproduct from drilling for or the production of oil and gas.

~~(11)~~(12) **"Producer"** means the owner of a well or wells capable of producing oil or gas or both in paying quantities.

~~(12)~~(13) **"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)~~(14) **"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)~~(15) **"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)~~(16) **"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)~~(17) **"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)~~(18) **"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)~~(19) **"Prospective spacing unit"** means a hypothetical spacing unit that does not yet have a producing well.
~~(19)~~(20) **"PVC"** means poly vinyl chloride.
~~(20)~~(21) **"Psi"** means pounds per square inch.

Justification – NMOGA has revised WEG's proposed definition of "PFAS," as discussed in its Pre-Hearing Statement and the testimony of Drs. Anderson and Richardson, both of which NMOGA incorporates herein.

- NMOGA removed the modifier "chemicals" from WEG's proposed term "PFAS Chemicals." PFAS are in and of themselves chemicals, therefore, WEG's use of "Chemicals" as part of this definition is redundant and wholly unnecessary.
- NMOGA has, additionally, revised the definition of "PFAS" to be consistent with (1) federal and other regulations defining "PFAS," (2) other states' regulations defining PFAS, and (2) the generally accepted scientific definition of "PFAS," which requires at least two or more fully fluorinated carbon atoms.

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T. Definitions beginning with the letter "T".

~~(7) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique or process, that:~~
~~(1) derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and~~
~~(2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.~~

~~(7)~~(8) **"Treating plant"** means a plant constructed for wholly or partially or being used wholly or partially for reclaiming, treating, processing or in any manner making tank bottoms or other waste oil marketable.
~~(8)~~(9) **"Tribal lands"** means those lands for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe. This includes reservations, pueblo land grants, tribal trust lands and individual trust allotments.
~~(9)~~(10) **"Tribal leases"** means those leases of minerals or interests in or rights to minerals for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe.
~~(10)~~(11) **"Tribal minerals"** means those minerals for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe.
~~(11)~~(12) **"True vertical depth"** means the difference in elevation between the ground level at the surface location of the well and the deepest point in the

well bore.

~~(12)~~(13) **"Tubingless completion"** means a well completion in which the production string of casing has an outside diameter of 2.875 inches or less.

~~(13)~~(14) **"Tubingless multiple completion"** means completion in which two or more common sources of supply are produced through an equal number of casing strings cemented in a common well bore, each such string of casing having an outside diameter of 2.875 inches or less, with the production from each common source of supply completely segregated by cement.

Justification – NMOGA has removed the term "trade secret" from the proposed definitional terms, as analyzed in detail in its Pre-Hearing Statement, incorporated herein.

- Although the WEG's proposed definition of "trade secret" is consistent with the New Mexico Uniform Trade Secret Act, NMSA 1978, §§ 57-3A-1 to 57-3A-7 (1989), the Commission has no authority to enact regulations that, when applied, mandate operators publicly disclose trade secreted hydraulic fracturing fluid components.
- Because NMOGA removed WEG's proposed revisions to 19.15.14.10, 19.15.16.17, 19.15.16.19 NMAC, the applicable Parts of the rules applying the "trade secret" definition, NMOGA has correspondingly removed the definitional term of the same.

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U. Definitions beginning with the letter "U".

~~(3) "Undisclosed chemicals" means either chemicals that are listed without a Chemical Abstracts Service number in the FracFocus database pursuant to 19.15.16.19(B) NMAC, or if a safety data sheet lists ingredients that comprise less than one-hundred percent of the whole chemical product, those chemicals that make up any unlisted portion of a chemical product on a safety data sheet.~~

~~(3)~~(4) **"Unit of proration for gas"** consists of such multiples of 40 acres as may be prescribed by division-issued special pool orders.

~~(4)~~(5) **"Unit of proration for oil"** consists of one 40-acre tract or such multiples of 40-acre tracts as may be prescribed by division-issued special pool orders.

~~(5)~~(6) **"Unorthodox well location"** means a location that does not conform to the spacing requirements division rules establish.

~~(6)~~(7) **"Unstable area"** means a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all a division-approved facility's structural components. Examples of unstable areas are areas of poor foundation conditions, areas susceptible to mass earth movements and karst terrain areas where karst topography is developed because of dissolution of limestone, dolomite or other soluble rock. Characteristic physiographic features of karst terrain include sinkholes, sinking streams, caves, large springs and blind valleys.

~~(7)~~(8) **"Upstream facility"** means a facility or operation associated with the exploration, development, production or storage of oil or gas that is not a downstream facility.

Justification – NMOGA has removed the term "undisclosed chemicals" from the proposed definitional terms, as analyzed in detail in its Pre-Hearing Statement, incorporated herein.

- WEG includes the definition of "undisclosed chemicals" in relation to the proposed regulatory amendments that would require full disclose of all constituents or additives in hydraulic fracturing fluids without regard to claims of trade secret protections.
- As discussed above regarding WEG's proposed definition of "trade secret," the Commission has no authority to require operators to waive their claims of trade secret. For the reasons stated above in 19.5.2.7 regarding the definition of "trade secret" and in the Pre-Hearing Statement, incorporated herein by reference, NMOGA has removed the term "undisclosed chemicals" from WEG's proposed revised regulations.

W. Definitions beginning with the letter "W".

~~(8) "Well site" means the area that is disturbed by oil and gas operations within the boundaries of the lease.~~

~~(8)~~(9) **"Wellhead protection area"** means the area within 200 horizontal feet of a private, domestic fresh water well or spring used by less than five households for domestic or stock watering purposes or within 1000 horizontal feet of any other fresh water well or spring. Wellhead protection areas does not include areas around water wells drilled after an existing oil or gas waste storage, treatment or disposal site was established.

~~(9)~~(10) **"Wetlands"** means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions in New Mexico. This definition does not include constructed wetlands used for wastewater treatment purposes.

~~(10)~~(11) **"Working interest owner"** means the owner of an operating interest under an oil and gas lease who has the exclusive right to exploit the oil and gas minerals. Working interests are cost bearing.

~~(11)~~(12) **"WQCC"** means the New Mexico water quality control commission.

Justification – NMOGA has removed the term "well site" from the proposed definitional regulations, as analyzed in detail in its Pre-Hearing Statement, incorporated herein.

- WEG uses the term in one location, at 19.15.16.19(D), in its proposed amendments. Because NMOGA recommends rejecting WEG's amendments at 19.15.16.19(D), it has correspondingly removed the definition of "well site" from 19.15.2.7.

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PROPOSED AMENDMENTS TO PART 7

19.15.7.16 WELL COMPLETION OR RECOMPLETION REPORT AND LOG (Form C-105):

A. Within 45 days following the completion or recompletion of a well, the operator shall file form C-105 with the division accompanied by a summary of special tests conducted on the well, including drill stem tests.~~, and the chemical disclosure list.~~ In addition, the operator shall file a certification that no PFAS was intentionally used in the completion or recompletion of the well, ~~undisclosed chemicals or PFAS were used in the completion or recompletion of the well~~, a copy of electrical and radio-activity logs run on the well with form C-105. If the division does not receive form C-105 with attached certification~~, chemical disclosure list.~~ logs and summaries within the specified 45-day period, the division shall withhold the allowable authorizations for the well or suspend injection authority, as appropriate, until the operator has complied with 19.15.7.16 NMAC.

B. In the case of a dry hole, a complete record of the well on form C-105, or if applicable form C-103, with the attachments listed in Subsection A of 19.15.7.16 NMAC shall accompany the notice of intention to plug the well, unless previously filed. The division shall

not approve the plugging report or release the bond the operator has complied with 19.15.7.16 NMAC.

C. The division shall not keep form C-105, or if applicable form C-103, and accompanying attachments confidential unless the well's owner requests in writing that the division keep it confidential. Upon such request, the division shall keep these data confidential for 60 ~~90~~ days from the date of the well's completion, provided, however, that the report, logs and other attached data shall ~~may~~, when pertinent, be introduced in a public hearing before division examiners, the commission or in a court of law, regardless of the request that they be kept confidential.

D. If there is a change in the information provided under this part, the operator must submit the change to the division within 30 days after the date the operator first knew of the change.

E. The division shall retain each form C-105 and form C-103 indefinitely.

[19.15.7.16 NMAC - Rp, 19.15.13.1105 NMAC, 12/1/2008; A, 9/26/2017; A, 8/23/2022]

Justification – NMOGA has made the above-identified revisions to 19.15.7.16 NMAC.

- NMOGA supports requiring operators to certify that no intentionally added PFAS were used in their hydraulic fracturing operations.
- As outlined in its (1) Pre-Hearing Statement and testimony of Drs. Anderson and Richardson, incorporated herein by reference, and (2) above in 19.15.2.7, definitional terms, the target of this rulemaking is a prohibition on the use of PFAS-containing hydraulic fracturing fluids. NMOGA recommends the revisions to 19.15.7.16 to properly capture the focus of this rulemaking.

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PROPOSED AMENDMENTS TO PART 14

19.15.14.9 APPLICATIONS: An operator shall file a complete form C-101 and complete form C-102 with the division and meet the following requirements, if applicable: an applicant for a permit to drill a well within the corporate limits of a city, town or village shall give notice to the duly constituted governing body of the city, town or village or its duly authorized agent and certify on form C-101 that it gave such notice;

~~A.~~ an applicant for a permit to drill in a quarter-quarter section containing an existing well or wells operated by another operator shall concurrently file a plat or other acceptable document locating and identifying the well or wells, furnish a copy of the application to the other operator or operators in the quarter-quarter section and certify on form C-101 that it furnished the copies;

~~B.~~ an applicant for a permit to drill, deepen, or plug back shall certify that they will not intentionally introduce any PFAS containing hydraulic fracturing fluids in hydraulic fracturing operations of the well; and ~~utilize any hydraulic fracturing undisclosed chemicals or PFAS in downhole operations of the well ; and~~

~~C~~ D. an applicant for a permit to operate a well in a spacing or proration unit containing an existing well or wells operated by another operator shall also comply with Subsection B of 19.15.15.12 NMAC.

[19.15.14.9 NMAC – Rp, 19.15.3.102 NMAC and 19.15.13.1101 NMAC, 12/1/2008]

Justification – NMOGA has made the above-identified strike throughs and revisions to 19.15.7.16 NMAC.

- NMOGA supports requiring operators to certify that no PFAS-containing fracturing fluids were used in hydraulic fracturing operations in New Mexico.
- As analyzed in its (1) Pre-Hearing Statement and testimony of Drs. Anderson and Richardson, incorporated herein by reference, and (2) identified above in 19.15.2.7, definitional terms, the target of this rulemaking is a prohibition on the use of PFA-containing fracturing fluids in hydraulic fracturing operations. NMOGA recommends the revisions to 19.15.14.9, as it has drafted them, to properly capture the focus of this intended PFAS prohibition.

19.15.14.9 [10] APPROVAL OR DENIAL OF A PERMIT TO DRILL, DEEPEN OR PLUG BACK:

A. The director or the director's designee may deny a permit to drill, deepen or plug back if the applicant is not in compliance with Subsection A of 19.15.5.9 NMAC and shall deny a permit to drill, deepen, or plug back~~, or any permit authorizing the transport of nondomestic waste, including produced water~~, if the applicant does not provide the certification required by Subsection C of 19.15.14.9 ~~or provides a false certification.~~ In determining whether to grant or deny the permit, the director or the director's designee shall consider such factors as whether the non-compliance with Subsection A of 19.15.5.9 NMAC is caused by the operator not meeting the financial assurance requirements of 19.15.8 NMAC, being subject to a division or commission order finding the operator to be in violation of an order requiring corrective action, having a penalty assessment that has been unpaid for more than 70 days since the issuance of the order assessing the penalty or having more than the allowed number of wells out of compliance with 19.15.25.8 NMAC. If the non-compliance is caused by the operator having more than the allowed number of wells not in compliance with 19.15.25.8 NMAC, the director or director's designee shall consider the number of wells not in compliance, the length of time the wells have been out of compliance and the operator's efforts to bring the wells into compliance.

Justification – NMOGA has struck through portions of proposed 19.15.14.9, namely language in WEG's proposed amendments that includes revisions outside the scope of this rulemaking and that improperly attempt to redefine produced water as a "nondomestic waste."

- As analyzed in more detail in its (1) Pre-Hearing Statement and testimony of Drs. Anderson and Richardson, incorporated herein by reference, and (2) enumerated above in 19.15.2.7, the target of this rulemaking is a prohibition on the use of PFAS-containing fracturing fluids in hydraulic fracturing. This rulemaking has nothing to do with "transport" of either produced water or nondomestic waste and has not been properly noticed to consider any such issues. NMOGA recommends the revisions to proposed 19.15.14.9 to properly capture the scope of this rulemaking, which targets PFAS-containing fracturing fluids.
- Secondly, as discussed in the Pre-Hearing Statement, to the extent that WEG's amendments in 19.15.14.9 attempt to redefine or equate produced water with or to "nondomestic waste," such amendment is contrary to existing statutory and regulatory definitions that provide separate and differing definitions of each term, and is a procedurally and legally improper method by which to attempt to redefine these terms.

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PROPOSED AMENDMENTS TO PART 16

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 16 DRILLING AND PRODUCTION

19.15.16.17 COMPLETION OPERATIONS, SHOOTING AND CHEMICAL TREATMENT OF WELLS:

~~A. If Completing, shooting, fracturing or treating a well has the potential to negatively impact the producing formation, injection interval, communicates with other strata, casing or casing seat or may create underground waste or contaminate fresh water, the operator shall within five working days notify in writing the division and proceed with diligence to use the appropriate method and means for rectifying the damage.~~

~~(1) diligence shall include but is not limited to verifying casing integrity and isolation of strata. This can include pressure testing in accordance with 19.15.25 NMAC, performing casing integrity logs, cement bond logs and any other means determined necessary by the operator or required by the division.~~

~~(2) If damage from the shooting, fracturing or treating of a well has the potential to impact surface or groundwater, the operator will test for all chemicals disclosed in previous downhole operations and will use a third party, verified laboratory to conduct any in appropriate testing necessary to verify any potential impact. The testing shall include all chemicals used in the well and may also include but is not limited to PFAS, chemicals listed in20.6.2. NMAC and chemicals listed in 19.15.29.11.A.(5)(e) NMAC. The division can elect to request more robust sampling than what is proposed by the operator if deemed necessary due to the nature of the potential chemicals.~~

~~(3) If it is deemed there is an impact to surface or groundwater the operator shall report the impact as a major release in accordance with 19.15.29 NMAC and respond accordingly.~~

~~(4) If testing reveals the presence of PFAS or undisclosed chemicals, the Division may revoke authorization to operate upon consideration of whether the current operator or a previous well owners' operations contributed to the presence of PFAS or undisclosed chemicals.~~

~~D. If completing, shooting, fracturing or chemical treating results in the well's irreparable injury the division may require the operator to properly plug and abandon the well and take any necessary actions to mitigate any resulting impacts.~~

A. If shooting, fracturing or treating a well injures the producing formation, injection interval, casing or casing seat and may create underground waste or contaminate fresh water, the operator shall within five working days notify in writing the division and proceed with diligence to use the appropriate method and means for rectifying the damage. If shooting, fracturing or chemical treating results in the well's irreparable injury the division may require the operator to properly plug and abandon the well; or

B. If a well integrity event occurs from the hydraulic fracturing of a well and causes a loss of containment outside the target strata or damages the well casing or casing seat or may create underground waste or contaminate fresh water, the operator shall within five working

days notify in writing the division and proceed with diligence to use the appropriate method and means for rectifying the loss of containment or any damage.

(1) Diligence shall include, but is not limited to, verifying casing integrity and isolation of the target strata. This can include pressure testing in accordance with 19.15.25 NMAC, performing casing integrity logs, cement bond logs, and any other means determined necessary by the operator or required by the division.

(2) If a well integrity event of the type enumerated in paragraph B of this section occurs and has a reasonable probability to contaminate surface or groundwater, then:

(a) the division may request that the supplier, service company, or operator who submitted the FracFocus hydraulic fracturing disclosure, in accordance with NMAC 19.15.16.19 (B), submit to the division additional information regarding the specific identity and/or Chemical Abstracts Service (CAS) number of any additive or chemical ingredient(s) used in the hydraulic fracturing operations, including confidential, proprietary, or trade-secreted information. Any confidential, proprietary, or trade-secreted information must be submitted to the division in an envelope clearly marked "confidential." Should the division receive a request for disclosure of any information marked "confidential," including, but not limited to, requests under NMSA 1978,§§ 14-2-1 to 14-2-12, for disclosure of the information, the division will forward the request to the party claiming the information is confidential. Not later than five business days after receiving the request, the party claiming confidentiality shall submit to the division a verification that the information remains wholly or partially confidential, identifying any portions of the information that is no longer confidential, and setting out the specific facts and legal authority supporting nondisclosure. If requested by the party seeking disclosure of the information, the division may provide to the party seeking disclosure of the information, the name, contact information, and/or other identifying information of the party claiming the information is confidential.

(b) the division may require the operator to test surface or groundwater within the immediate vicinity of the well integrity event and the division may require the operator to sample for the following contaminants:

(i) all contaminants identified on Table I of 19.15.29.12, and as may be amended; and

(ii) all chemicals disclosed in the FracFocus hydraulic fracturing disclosure in accordance with 19.15.16.19(B) NMAC and which are also identified as groundwater contaminants in 20.6.2.3103 NMAC, and as may be amended.

(c) The operator must use an appropriately certified, third-party laboratory to conduct the commensurate sampling and analysis; and will engage with the division to gain access to valid sampling points within the immediate vicinity of the well integrity event.

C. If the division determines that the well integrity event caused a major release, as defined in 19.15.29 NMAC, then the operator shall report the release in accordance with 19.15.29 NMAC or has polluted, as defined in 19.15.30 NMAC, subsurface water then the operator shall abate the pollution in accordance with 19.15.30 NMAC as applicable.

D. If the well integrity event from completing, shooting, fracturing or treating a well results in the well's irreparable injury the division may require the operator to properly plug and abandon the well and take any necessary actions to mitigate harm to human health, animal or plant life, or property.

[19.15.16.17 NMAC - Rp, 19.15.3.115 NMAC, 12/1/2008; 19.15.16.17 NMAC - Rn, 19.15.16.16 NMAC, 2/15/2012]

Justification – NMOGA has made several revisions to WEG's amendments to 19.15.16.17.

- NMOGA has struck through the majority of WEG's proposed amendments to 19.15.16.17, the rationale for which is further detailed and discussed in NMOGA's (1) Pre-Hearing Statement, and both (2) Drs. Anderson and Richardson's testimony.
- Part A and Proposed Part B – NMOGA has proposed adding Part B to this rule, in recognition of feedback from the OCD that it prefers to leave Part A largely unchanged because of the current scope of Part A, which includes offset fracturing. Consequently, NMOGA proposes new language at Part B to specifically and more particularly address well integrity events from hydraulic fracturing treatment(s), while also leaving Part A largely unchanged from its existing language.
- Part B(1) – NMOGA only had small changes to this Part B(1), which included modifying the WEG language from "strata" to "target strata" to more accurately identify the geophysical location meant to be addressed by the regulation.
- Part B(2) – NMOGA recommends further modifications to WEG's proposed language because WEG's language is imprecise and, therefore, creates ambiguity. NMOGA's language at Part B(2), on the other hand, clearly conveys that it is a well integrity event that triggers possible follow-on action and what, specifically, that/those action(s) must be should a well integrity event occur.
- Part B(2)(a) – NMOGA's revisions recognize that FracFocus is and remains the depository for hydraulic fracturing disclosures. Additionally, NMOGA has attempted to strike the right balance in Part B(2)(a) by creating a process—similar ones of which are in place in both Alaska and Wyoming—whereby, trade secreted information can remain so, while at the same time, if a well integrity event were to occur, the Division could confidentially obtain *all* necessary information regarding the constituents in the hydraulic fracturing operations that caused the event. Adopting NMOGA's revisions to Part B(2)(a) also recognizes the strong public policy for and legal protections ensuring against disclosure of proprietary, business confidential, trade-secreted information in New Mexico.
- Part B(2)(b)(i)-(ii) – the revisions to these parts expressly identify (1) the media-to-be tested, (2) the geographic scope to be-examined, and (3) the contaminants to be sampled and analyzed should a well integrity event occur. Moreover, this language tracks the language of both existing WQCC regulations at 20.6.2.3103 and OCD regulations at 19.15.16.29 and 19.15.16.30 to ensure continuity and clarity in the regulatory requirements.
- Part B(2)(c) – WEG's proposed language regarding a "third party verified laboratory" is not the generally accepted terminology to discuss analytical laboratories. Furthermore, it fails to recognize that laboratories are "certified" to perform certain analytical methods based on requirements from regulatory agencies, such as the US Environmental Protection Agency. Accordingly, NMOGA has modified the language in Part B(2)(c) to reflect the generally accepted terminology regarding analytical laboratories.
- Part C – NMOGA revised Part C to clearly articulate that should a well integrity event occur, the remedy for such event is to be found in existing OCD regulations at 19.15.16.29 and 19.15.16.30, respectively.

- Part D – NMOGA added the language "human health, animal, or plant life," which is both more defined than WEG's language, consistent with the Division's enumerated powers in Section 70-2-12(B), and tracks language used elsewhere in existing OCD and WQCC regulations.

19.15.16.19 LOG, COMPLETION AND WORKOVER REPORTS

A. Completion report. Within 45 days after the completion of a well drilled for oil or gas, or the recompletion of a well into a different common source or supply, the operator shall file a completion report with the division on form C-105. For the purpose of 19.15.16.19, a hole drilled or cored below fresh water that penetrates oil- or gas-bearing formations or that an owner drills is presumed to be a well drilled for oil or gas. The operator shall signify on form C-105, or alternatively on form C-103, whether the well has been hydraulically fractured.

B. Hydraulic fracture disclosure. For a hydraulically fractured well, the operator shall also complete and file with the FracFocus chemical disclosure registry a completed hydraulic fracturing disclosure within 45 days after completion, recompletion, or other hydraulic fracturing treatment of the well. The hydraulic fracturing disclosure shall be completed on a then current edition of the hydraulic fluid product component information form published by FracFocus and shall include complete and correct responses disclosing all information called for by the FracFocus form, provided that:

(1) ~~the~~ the division does not require the reporting of information beyond the material safety data sheet data as described in 29 C.F.R. 1910.1200, with the exception of section 19.15.16.17(B)(2) for events requiring the confidential disclosure to the Division of otherwise proprietary, trade secret, or confidential business information;

(2) ~~(1)~~ the division does not require the reporting or disclosure of proprietary, trade secret or confidential business information; and

(3) ~~(2)~~ the division shall download and archive New Mexico FracFocus submissions on a quarterly basis.

C. If the FracFocus chemical disclosure registry is temporarily inoperable, the operator of a well on which hydraulic fracturing treatment(s) were performed shall file the information required by the then most recent FracFocus form with the division along with Well Completion Report (form C-105) or Sundry Notice (form C-103) reporting the hydraulic fracture treatment and file the information on the FracFocus internet website when the website is again operable. If the FracFocus chemical disclosure registry is discontinued or becomes permanently inoperable, the operator shall continue filing the information with the division until otherwise provided by rule or order.

~~**D. On or before [DATE], an operator shall provide the chemical disclosure list to:**~~

~~(1) All owners of minerals that are being developed at the well site;~~

~~(2) All surface owners, building unit owners, and residents, including tenants of both residential and commercial properties, that are within five thousand two hundred and eighty feet of the well site;~~

~~(3) The State Land Office if the state owns minerals that are being developed at the well site;~~

(4) The federal bureau of land management if the United States owns the minerals that are being developed at the well site;
(5) To any tribe if the minerals being developed at the well site are within the exterior boundary of that tribe's reservation and are subject to the jurisdiction of the division;
(6) All schools, child care centers, and school governing bodies within five thousand two hundred and eighty feet of the well site;
(7) Police departments, fire departments, emergency service agencies, and first responder agencies that have a jurisdiction that includes the well site;
(8) Local governments that have a jurisdiction within five thousand two hundred and eighty feet of the well site;
(9) The administrator of any public water system that operates:
(a) A surface water public water system intake that is located fifteen stream miles or less downstream from the well site;
(b) A groundwater source under the direct influence of a surface water public water system supply well within five thousand two hundred and eighty feet of the well site; and
(c) A public water system supply well completed within five thousand two hundred and eighty feet of the well site; and

- The chemical disclosure list must be disclosed to the above parties within thirty days after the operator's chemical disclosure to the division.

Justification – NMOGA has made several revisions to WEG's amendments to 19.15.16.19.

- As outlined in more detail in its (1) Pre-Hearing Statement and testimony of Drs. Anderson and Richardson, incorporated herein by reference, and (2) discussed above in 19.15.2.7, this rulemaking has been noticed to enact a prohibition on the use of PFAS-containing fracturing fluids in hydraulic fracturing operations and the disclosure of PFAS constituents, with limited exceptions, in the FracFocus chemical registry, disclosures that are already required under New Mexico law. NMOGA recommends the revisions to 19.15.14.9 to properly confine this rulemaking to the scope clearly identified in WEG's Application and the PFAS Public Notice.
- NMOGA recommends the addition at 19.15.14.9(B)(1), specifically, to be consistent with its proposed amendments at 19.15.16.17.
- Additionally, NMOGA recommends removing WEG's proposed additional language at 19.15.16.19(D). As Dr. Anderson testifies, and incorporated here, making chemical disclosures in the manner WEG proposes in this Part does not advance public health or create positive community outcomes. On the contrary, making such disclosures out of context, without additional information can cause negative physical and mental health effects for community members, amongst other negative outcomes.
- NMOGA supports the continued disclosure of hydraulic fracturing fluids, with limited exceptions, discussed above in 19.15.16.19(B)(1)-(3), to the FracFocus chemical registry, which is available to the public, free of cost, for anyone interested in such information. Continuing to require disclosures be made in FracFocus provides a transparent process that also does not unnecessarily burden communities with information for which they have no context. At the same time, however, for those interested or curious the disclosure information is readily available, free of cost.

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PROPOSED AMENDMENTS TO PART 25

19.15.25.14 DEMONSTRATING MECHANICAL INTEGRITY:

A. An operator may use the following methods of demonstrating internal casing integrity for ~~for casing investigations,~~ casing repairs and wells to be placed in approved temporary abandonment:

(1) the operator may set a cast iron bridge plug within 100 feet of uppermost perforations or production casing shoe, load the casing with inert fluid and pressure test to 500 psi surface pressure with a pressure drop of not more than 10 percent over a 30 minute period;

(2) the operator may run a retrievable bridge plug or packer to within 100 feet of uppermost perforations or production casing shoe, and test the well to 500 psi surface pressure for 30 minutes with a pressure drop of not greater than 10 percent over a 30 minute period; or

(3) the operator may demonstrate that the well has been completed for less than five years and has not been connected to a pipeline.

B. During the testing described in Paragraphs (1) and (2) of Subsection A of 19.15.25.14 NMAC the operator shall:

(1) open all casing valves during the internal pressure tests and report a flow or pressure change occurring immediately before, during or immediately after the 30 minute pressure test;

(2) top off the casing with inert fluid prior to leaving the location;

(3) report flow during the test in Paragraph (2) of Subsection A of 19.15.25.14 NMAC to the appropriate division district office prior to completion of the temporary abandonment operations; the division may require remediation of the flow prior to approving the well's temporary abandonment.

C. An operator may use any method approved by the EPA in 40 C.F.R. section 146.8(c) to demonstrate external casing and cement integrity for wells to be placed in approved temporary abandonment.

D. The division shall not accept mechanical integrity tests or logs conducted more than 12 months prior to submittal.

E. The operator shall record mechanical integrity tests on a chart recorder with a maximum two hour clock and maximum 1000 pound spring, which has been calibrated within the six months prior to conducting the test. Witnesses to the test shall sign the chart. The operator shall submit the chart with form C-103 requesting approved temporary abandonment.

F. The division may approve other testing methods the operator proposes if the operator demonstrates that the test satisfies the requirements of Subsection B of 19.15.25.13 NMAC.

[19.15.25.14 NMAC - Rp, 19.15.4.203 NMAC, 12/1/2008]

Justification – NMOGA has revised WEG's amendments to 19.15.25.14, as discussed in its Pre-Hearing Statement and incorporated here.

- WEG's amendment adds the term, "casing investigation" to 19.15.24.14(A). However, WEG fails to define this term or otherwise use it in context, which creates regulatory ambiguity. It is unclear what a "casing investigation" is; how it may

differ from a "casing integrity test"; and under what circumstances the OCD would require a "casing investigation" rather than a "casing integrity test," amongst other issues.

- Additionally, because WEG does not use the term "casing investigation" in context anywhere else in its proposed amendments, this amendment introduces a phrase with no contextual application for how the OCD may apply or implement the "casing investigation" requirements. Thus, WEG's amendment adding "casing investigation" introduces an unnecessary regulatory ambiguity into 19.15.25.14 and should not be adopted.

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