

**STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION**

**IN THE MATTER OF PROPOSED AMENDMENTS TO  
19.15.2, 19.15.5, 19.15.8, 19.15.9, AND 19.15.25 NMAC**

**Case No. 24683**

**HEARING OFFICER REPORT**

This matter comes before the Oil Conservation Commission on the Application for Rulemaking filed June 24, 2024 by Western Environmental Law Center, Citizens Caring for the Future, Conservation Voters New Mexico Education Fund, Diné C.A.R.E., Earthworks, Naeva, New Mexico Interfaith Power and Light, Sierra Club, and WildEarth Guardians (collectively, Applicants), for the adoption of proposed amendments to 19.15.2, 19.15.5, 19.15.8, 19.15.9, and 19.15.25 NMAC.

An evidentiary hybrid hearing was held October 20-24, October 27-31, and November 3-6, 2025 in Santa Fe, New Mexico and on a virtual platform; all interested persons had an opportunity to submit data, views, and arguments, and to examine witnesses testifying at the hearing. Persons and organizations participating as a party in addition to Applicants included the New Mexico Energy, Minerals and Natural Resources Department Oil Conservation Division (OCD or Division); the New Mexico State Land Office (SLO); New Energy Economy (NEE); the New Mexico Oil and Gas Association (NMOGA); Independent Petroleum Association of New Mexico (IPANM); OXY USA (OXY); EOG Resources, Inc. (EOG); and Nicholas Maxwell.

Following the hearing, and consistent with procedural orders entered by the Hearing Officer, many parties submitted written closing argument, proposed findings and conclusions, supplemental briefs on the impact of House Bill 80, and a Joint Stipulation among some parties, as follows:

1. Joint Stipulation reflecting post-hearing negotiations among Applicants, OCD, OXY, NMOGA, and IPANM. Note that the Stipulation includes proposed amendment text in legislative format and in a table showing the Parties' respective positions.
2. Applicants' Closing Argument and Proposed Statement of Reasons; Applicants' final Proposed Rule Amendments; Applicants' Notice of Filing Complete Set of Exhibits; and Applicants' Supplemental Briefing on HB 80.
3. OCD's Closing Statement and Proposed Statement of Reasons, supporting Applicants.
4. SLO's Post-Hearing Statement, supporting Applicants' final proposals and addressing the impact of HB 80.
5. OXY's Closing Argument, Final Proposed Amendment to 19.15.25.13.C NMAC, and Proposed Findings of Fact and Conclusions of Law.
6. NMOGA's Closing Brief with Proposed Findings of Fact and Conclusions of Law; NMOGA's Supplemental Brief on the Impacts of House Bill 80; and NMOGA's Final Proposed Rule Amendments.
7. IPANM's Closing Argument, and Proposed Findings and Conclusions; IPANM's final Proposed Alternative Language; IPANM's Supplemental Closing Argument on HB 80.

### **Major Questions**

The major questions the Commission should answer as part of its deliberations include these:

- 1. The Commission's Statutory Authority**—The question of whether the proposed rule amendments exceed the Commission's authority under Section 70-2-14.A NMSA 1978 was raised by industry prior to hearing, in a Motion to Dismiss, during the hearing through testimony and exhibits, and after the hearing in closing arguments. The

relevant statutory provision is 70-2-14.A NMSA 1978:

**70-2-14. Requirement for financial assurance.**

A. Each person, firm, corporation or association who operates any oil, gas or service well within the state shall, as a condition precedent to drilling or producing the well, furnish financial assurance in the form of an irrevocable letter of credit or a cash or surety bond or a well-specific plugging insurance policy pursuant to the provisions of this section to the oil conservation division of the energy, minerals and natural resources department running to the benefit of the state and conditioned that the well be plugged and abandoned in compliance with the rules of the oil conservation division. **The oil conservation division shall establish categories of financial assurance after notice and hearing. Such categories shall include a blanket plugging financial assurance, which shall be set by rule in an amount not to exceed two hundred fifty thousand dollars (\$250,000), a blanket plugging financial assurance for temporarily abandoned status wells, which shall be set by rule at amounts greater than fifty thousand dollars (\$50,000), and one-well plugging financial assurance in amounts determined sufficient to reasonably pay the cost of plugging the wells covered by the financial assurance. In establishing categories of financial assurance, the oil conservation division shall consider the depth of the well involved, the length of time since the well was produced, the cost of plugging similar wells and such other factors as the oil conservation division deems relevant.** The oil conservation division shall require a one-well financial assurance on any well that has been held in a temporarily abandoned status for more than two years or, at the election of the operator, may allow an operator to increase its blanket plugging financial assurance to cover wells held in temporarily abandoned status. All financial assurance shall remain in force until released by the oil conservation division. The oil conservation division shall release financial assurance when it is satisfied the conditions of the financial assurance have been fully performed.

Industry interprets this section to set out three categories of financial assurance:

a blanket plugging financial assurance, a blanket plugging financial assurance for temporarily abandoned status (TA) wells, and one-well plugging financial assurance in amounts determined sufficient to reasonably pay the cost of plugging the wells covered by the financial assurance.

Applicants, OCD, and SLO urge the Commission to adopt two new specific categories of financial assurance, one for “low producing” wells (formerly “marginal”

wells); and one for operators with a high-risk portfolio including 20% or more wells in inactive or TA status. They interpret Section 70-2-14.A to provide the Commission with the legal authority to adopt these new requirements under the third clause above: “one-well plugging financial assurance in amounts determined sufficient to reasonably pay the cost of plugging the wells covered by the financial assurance.” Relevant factors for this financial assurance are set out in the next sentence. Industry argues that the first clause above, establishing a maximum amount for a “blanket,” prohibits the Commission from adopting any new category of financial assurance not subject to that blanket.

The Commission discussed these legal arguments prior to hearing, and chose not to grant the Motion to Dismiss. Whatever further discussion the Commission has in its deliberations, the Statement of Reasons supporting the Commission’s ultimate decision must include conclusions of law on the contours of the Commission’s authority to establish new categories of financial assurance under Section 70-2-14.A.

[See Applicants’ Closing Argument pp. 3-9; OCD’s Closing Statement pp. 3-7; SLO’s Post-Hearing Statement pp. 1-2; Oxy’s Closing Argument pp. 6-14; NMOGA’s Closing Brief pp. 4-16; and IPANM’s Closing Argument pp. 4-8.]

- 2. Preventing Waste**—IPANM and NMOGA assert that the proposed amendments will cause premature plugging of wells, resulting in “waste” of the resource contrary to Sections 70-2-2 and 70-2-11 NMSA 1978. Applicants and OCD assert a lack of substantial evidence supporting industry’s argument; describe the waste caused by orphan wells; and note that the proposed amendments do not require any operator to

plug a well—that decision remains an economic one for each operator and each well.

[See Applicants’ Closing Argument pp. 9-11; OCD’s Closing Statement pp. 7-8; NMOGA’s Closing Brief pp. 16-21; and IPANM’s Closing Argument pp. 12-14.]

- 3. Regulating Operator Registration and Change of Operator**—In their pre-hearing Motion to the Dismiss, NMOGA and IPANM asserted that Applicants’ proposed amendment to 19.15.8.9.A reflected an attempt to regulate real property transactions by using the word “acquisition.” Applicants and OCD explained that “acquisition” in this section refers to operating authority—the registration of a well to a particular operator or the transfer of registration of a well between operators, and not to any ownership interest in real property. In its Closing Brief, NMOGA acknowledges partial agreement under the Joint Stipulation, but continues to challenge the use of the word “acquisition,” and also challenges Division review/approval of asset retirement obligations (ARO) in Section 19.15.9.9.C(6). At the same time, Oxy had its concerns around operator registration and change of operator sufficiently addressed through the post-hearing negotiations, and describes the agreed-upon proposed revisions in the Stipulation as important.

[See Applicants’ Closing Argument pp. 11-12; OCD’s Closing Statement p. 9; Oxy’s Closing Argument pp. 3, and 25-26; NMOGA’s Closing Brief pp. 21-24.]

- 4. House Bill 80**—HB 80 was passed as part of the 2026 New Mexico Legislative Session and signed by the Governor. Effective July 2027, the bill increases the amount of severance tax on oil and gas production distributed to the Oil and Gas Reclamation Fund, from just under 20% to between 50%-100%. For this proceeding, administrative notice has been taken of the Bill and supporting documents—see the Bill and

Attachments A-D filed with the Expedited Joint Motion to Reopen Evidentiary Record filed March 13, 2026 by NMOGA and IPANM. NMOGA/IPANM raise these questions:

- a. Does the passage of HB 80 following the hearing require the recalibration of the “reasonably pay” standard under the Oil and Gas Act, Section 70-2-14.A, due to the difference between OCD’s plugging costs and industry’s plugging costs?
- b. Does OCD’s practice of rarely pursuing financial assurance because collections are minimal and callable only after the expenditure of public funds preclude any Commission finding that existing bond levels are inadequate?
- c. Has HB 80 rendered the proposed rule amendments unnecessary with a legislative choice about the proper fiscal mechanism for addressing abandoned-well liabilities?

[See the supplemental briefing filed by Applicants, SLO, NMOGA, and IPANM.]

**5. The Joint Stipulation**--During the hearing, Commissioners strongly encouraged the parties to discuss the proposed rules and try to narrow their differences prior to Commission deliberations. Several parties entered into extended good faith negotiations, including Applicants, OCD, OXY, NMOGA, and IPANM. Legal disagreements remain, but the parties made progress identifying rule provisions supported by substantial evidence. The details and specific provisions subject to stipulation and the rights still reserved are identified in the Joint Stipulation.

Reserving its legal argument that the proposed amendments exceed the Commission’s statutory authority, OXY ultimately supports nearly all of the negotiated amendments (the exceptions in Section 19.15.25.13.C(2) are set out below); NMOGA

and IPANM agree only that they are supported by substantial evidence.

Beyond the agreements reached as to rule provisions, OCD agreed to issue formal industry guidance documents on several topics within six months of rule promulgation. Applicants, the Division, SLO, and Oxy (with its caveat) encourage the Commission to think of the Joint Stipulation as a package, with carefully negotiated interdependent language that should not be substantially adjusted if it is adopted.

Should the Commission adopt the Joint Stipulation as submitted, adopt it with alternative language or modifications proposed by industry, or reject it on legal grounds? The Commission may want to review each Part of the proposed Rule amendments first, below.

#### **6. 19.15.2 NMAC—General Provisions for Oil and Gas Operations**

Applicants' final proposed amendments in Part 19.15.2 are set out in legislative format in Exhibit 89-A. Their final proposals revise definitions for "temporary abandonment" and "expired temporary abandonment," "barrel of oil equivalent," "beneficial purposes" or "beneficial use," "inactive well," and "low-producing" or "marginal" well. Through negotiation, the metric for defining "low producing well" (1,000 BOE) was unchanged. Relevant support and proposed findings are at Applicants' Closing Argument, pp. 23-27.

Oxy's statements on the final proposed definitions can be found in their Proposed Findings and Conclusions, pp. 2-5 and p. 21 of their Closing Argument.

IPANM's proposed alternative language for this Part can be found on p. 4 of their redline Proposed Alternative Language document.

NMOGA's proposed alternative language can be found on pp. 1-12 of NMOGA's Closing Brief Exhibit 1; its narrative statements on the definitions are on pp. 65-66 of the Closing Brief.

#### **7. 19.15.5 NMAC—Enforcement and Compliance**

Applicants' final proposed amendments in Part 19.15.5 are set out in legislative format in Exhibit 89-B. Their final proposal tightens the basis for a compliance determination while still providing for such a determination while a compliance order is in place; adds an express provision that venting and flaring are a compliance criterion; and as a result of negotiations allows a two-month period for plugging a well or placing it in TA and adding to the inactive well list wells with a determination of no beneficial use. Relevant support and proposed findings are at Applicants' Closing Argument, pp. 27-31.

Oxy's statements on the final proposed provisions can be found in their Proposed Findings and Conclusions, p. 6.

NMOGA's proposed alternative language can be found on pp. 1-6 of NMOGA's Closing Brief Exhibit 2.

#### **8. 19.15.8 NMAC—Financial Assurance**

Applicants' final proposed amendments in Part 19.15.8 are set out in legislative format in Exhibit 89-C. Their final proposal includes numerous negotiated provisions: excluding low producing wells; increasing the high-risk criteria threshold from 15 to 20%; delaying implementation of certain single-well bonding requirements until May 1, 2029; maintaining the requirement for immediate single-well bonding for low producing

wells upon transfer; including a variance to the low producing well category for reduced takeaway capacity; and retaining a 90 BOE threshold for creating a rebuttable presumption around beneficial use. Relevant support and proposed findings are at Applicants' Closing Argument, pp. 31-49.

Oxy's statements on the final proposed provisions can be found in their Closing Argument, pp. 18-22, and Proposed Findings and Conclusions, pp. 6-12.

NMOGA's proposed alternative language can be found on pp. 1-6 of NMOGA's Closing Brief Exhibit 3.

#### **9. 19.15.9 NMAC—Well Operator Provisions**

Applicants' final proposed amendments in Part 19.15.9 are set out in legislative format in Exhibit 89-D. Their final proposal adds new criteria for disclosure and upon which OCD may approve or deny operator registration, along with provisions to prevent "bad actors" elsewhere from coming into New Mexico. Post-hearing negotiations resulted in many adjustments in the final proposal. Relevant support and proposed findings are at Applicants' Closing Argument, pp. 49-57 and in Section III.C.

Oxy's statements on the final proposed provisions can be found in their Proposed Findings and Conclusions, p. 13.

NMOGA's proposed alternative language can be found on pp. 1-4 of NMOGA's Closing Brief Exhibit 4.

#### **10. 19.15.25 NMAC—Plugging and Abandonment of Wells**

Applicants' final proposed amendments in Part 19.15.25 are set out in legislative format in Exhibit 89-E. Their final proposal tightens the timelines for plugging, revises

