

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

APPLICATION OF THE NEW MEXICO OIL AND GAS ASSOCIATION FOR AMENDMENT OF CERTAIN PROVISIONS OF TITLE 19, CHAPTER 15 OF THE NEW MEXICO ADMINISTRATIVE CODE CONCERNING PITS, CLOSED-LOOP SYSTEMS, BELOW GRADE TANKS, SUMPS AND OTHER ALTERNATIVE METHODS RELATED TO THE FOREGOING AND AMENDING OTHER RULES TO CONFORMING CHANGES, STATEWIDE.

CASE NO. 14784

and

APPLICATION OF THE INDEPENDENT PETROLEUM ASSOCIATION OF NEW MEXICO FOR AMENDMENT OF CERTAIN PROVISIONS OF TITLE 19, CHAPTER 15 OF THE NEW MEXICO ADMINISTRATIVE CODE CONCERNING PITS, CLOSED-LOOP SYSTEMS, BELOW GRADE TANKS, SUMPS AND OTHER ALTERNATIVE METHODS RELATED TO THE FOREGOING AND AMENDING OTHER RULES TO CONFORMING CHANGES, STATEWIDE.

CASE NO. 14785

OIL CONSERVATION DIVISION PRE-HEARING STATEMENT

The Oil Conservation Division (OCD) submits this pre-hearing statement pursuant to 19.15.3.11.B.2 NMAC.

Appearances

Party: New Mexico Oil Conservation Division

Party's Attorney: Gabrielle A. Gerholt  
Oil Conservation Division  
Energy, Minerals and Natural Resources  
Department  
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## Statement of the Case

The New Mexico Oil and Gas Association (NMOGA) and the Independent Petroleum Association of New Mexico (IPANM) have proposed to amend Part 17 of Title 19, Chapter 15 of the New Mexico Administrative Code to (i) revise the permitting and registration requirements for permanent pits, temporary pits and below grade tanks; (ii) eliminate the permitting, design, construction and operational requirements for closed-loop systems while requiring that drying pads be designed and constructed to prevent contamination of water; for sumps used to collect liquids from cuttings; and for berms constructed to prevent run-on; (iii) revise the siting, design, construction, operation, closure and site reclamation provisions for temporary pits, permanent pits, drying pads, below grade tanks and tanks associated with closed-loop systems, (iv) authorize standardized plans for pit construction, closure and other matters; (v) adopt a definition for “low chloride” drilling fluids and the establishment of siting, closure and remediation requirements for temporary pits based on the chloride concentration in the waste and the distance between the waste and ground water or a flowing water course; (vi) authorize and adopt requirements for the permitting, siting, design, construction, operation and closure for “multi-well fluid management pits”; (vii) revise the rules governing the testing and removal of below grade tanks; (viii) revise the rules governing onsite disposal in pits and trenches; (ix) revise the rules governing releases, waste testing and excavation and the concentration of wastes disposed in temporary pits or burial trenches; (x) revise the requirements for remediation and site reclamation including contouring and re-vegetation; (xi) revise the rules governing variances and exceptions to these rules to provide for their approval by the appropriate division district office pursuant to procedures set out in the proposed amendments; (xii) revise and adopt rules and procedures set out in the proposed amendments; (xiii) revise and adopt rules and procedures governing the Oil Conservation Division’s notice, processing and approval of applications filed pursuant to these rules, (xiv) revise the rules governing transfer of a permit; and (xv) otherwise change the Commission’s requirements concerning permitting, design, construction, operation and closure of pits and below grade tanks, operation of sumps and other alternative methods that may be proposed for use in lieu of pits or below grade tanks used in oil and gas operations.

The Oil Conservation Division (Division) has submitted modifications to NMOGA’s and IPANM’s proposed amendments and modifications pertaining to (i) administrative feasibility of the proposed amendments, (ii) New Mexico Register publication requirements and (iii) general editing. The Division has not submitted modifications pertaining to the technical merits of the proposed amendments.

If the Oil Conservation Commission amends Part 17 of Title 19, Chapter 15 of the New Mexico Administrative Code, the Division requests that the following modifications also be included:

1. definitions for terms used in other rules remain as defined previously (19.15.17.7);
2. allow for single permits for permanent, temporary or multi-well fluid management pits (19.15.17.8(B));
3. require operators to register below-grade tanks and allow for single registrations (19.15.17.8(C));

4. require operators to notify the Division if using a closed-loop system (19.15.17.9(A));
5. require “or other significant watercourse or lakebed, sinkhole or playa lake (measured from the ordinary high water mark)” be included in siting requirements for pits and below-grade tanks (19.15.17.10);
6. require an operator to repair or replace a damaged liner within 48 hours of discovery or request a variance from the appropriate division district office (19.15.17.12(A)4);
7. require an operator to comply with the “Spill Rule” 19.15.30 NMAC if there is wet or discolored soil (19.15.17.12.D.6);
8. grammatical edits of closure requirements (19.15.17.13 A & B)
9. require operators to identify on-site burial closures (19.15.17.13(D)3);
10. the definitions and notification requirements for exceptions and variances as proposed by the Division (19.15.17.15); and
11. provide the Division the opportunity to have 30 days to determine whether a permit is administratively complete and an additional 30 days to approve, deny or approve with conditions (19.15.17.16 A & B).

### Witnesses

1. Brandon Powell, Inspection and Enforcement Supervisor District III

#### Qualifications and Experience:

New Mexico Oil Conservation Division (6 years):

Environmental Specialist District III - 5 years

Inspection and Enforcement Supervisor District III – 1 year

#### Concise statement of testimony:

Mr. Powell’s testimony will include the composition of the workgroup and the review the workgroup undertook of NMOGA and IPANM’s applications and subsequent modifications. He will be testifying as to why the Division is seeking to have particular definitions remain as defined and the inclusion of others. Mr. Powell will explain why permitting pits and registering below-grade tanks is administratively feasible.

Additionally, Mr. Powell will testify why the Division has re-inserted the protection of ground water but is not commenting on distance from unconfined ground water. His testimony will also include why the Division is asking the Commission adopt language which requires a pit to be located away from significant watercourses, not just continuously flowing watercourses. The re-insertion of “or other significant watercourse or lakebed, sinkhole or playa lake (measured from the ordinary high water mark)” will be explained.

Spill reporting will also be discussed by Mr. Powell and why the Division’s modifications pertaining to operational requirements should be adopted.

Finally, he will provide testimony regarding the Division’s edits of NMOGA’s and IPANM’s closure requirements modifications. Certain Division modifications are re-writes are for administrative ease and not a comment on technical aspects. He will also be able to discuss closure identification and timing requirements for closure.

Approximate time of testimony: 1 – 1 ½ hours

2. Ed Martin, Oil and Gas Inspector, District IV Supervisor

Qualifications and Experience:

Bachelor of Science in Economics from University of New Mexico, 1980.  
Oilfield experience with a geophysical service company in Houston from 1981 to 1993  
New Mexico Oil Conservation Division (18 years):  
    ONGARD project manager - 8 years  
    Environmental Bureau - 4 years  
    District IV Supervisor - 6 years

Concise statement of testimony:

Mr. Martin will be able to discuss closed-loop notification. He will also discuss certain design and construction specifications, focusing on the need for a shut-off control device for below-grade tanks.

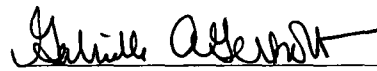
Exceptions and variances will be described by Mr. Martin and why the Division believes the distinction between exceptions and variances, and the procedures for obtaining an exception or variance, will be reasonable for an applicant to use and for the Division to administer.

Finally, Mr. Martin will explain why the Division is requiring 30 days to review an application for administrative completeness and an additional 30 days for review to approve, deny or approve with conditions. Testimony will also be presented about the Division's proposed notice and hearing provisions.

Approximate time of testimony: 1 – 1 ½ hours

3. Any additional witness needed for rebuttal.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on May 4, 2012 I served this pleading with exhibits on the following parties:

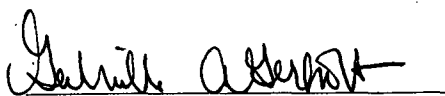
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