

William R. Brancard
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 505.476.3210

EDUCATION

Harvard Law School	J.D. 1987 (cum laude) Editor, <u>Harvard Environmental Law Review</u>
University of New Mexico	1981-83: graduate studies in archaeology
Hamilton College	B.A. 1979 (magna cum laude, Phi Beta Kappa)
London School of Economics	1977-78: general course student

LEGAL EXPERIENCE

2003 to present	New Mexico Energy, Minerals & Natural Resources Department <u>Hearings Bureau Chief</u> (2021-present) Oversee administrative hearing program at Oil Conservation Division and conduct hearings. <u>General Counsel</u> (2009-2021) Oversee staff of attorneys and other support staff for Department. <u>Director, Mining & Minerals Division</u> : (2003 to 2010) Oversee programs that regulate the reclamation of coal and hard rock mines and that reclaim abandoned mines.
2018 to 2019	University of New Mexico Law School <u>Adjunct Professor</u> : Taught course in Oil and Gas Law
2000 to 2002	New Mexico State Land Office <u>Associate Counsel</u> : Serve as in-house counsel focusing primarily on commercial development projects, federal land exchanges and legal policy issues.
1999 to 2000	Sutin, Thayer & Browne , Santa Fe NM Practice concentrated in real estate, administrative, public finance and environmental law.
1997 to 1999	New Mexico State Land Office <u>Assistant Commissioner for Legislation and Policy</u> : Served as policy and legal advisor to the elected Commissioner of Public Lands.
1991 to 1997	New Mexico Attorney General <u>Assistant Attorney General</u> : Served as counsel to state rulemaking and adjudicatory boards and commissions primarily in the environmental and mining areas.
1987 to 1991	Sutin, Thayer & Browne , Albuquerque NM Practice concentrated in real estate and environmental law, including real estate conveyances and financing and environmental aspects of real estate transactions.

REPORTED DECISIONS

Jalapeno Corp. v. New Mexico Oil Conservation Comm'n, 2020-NMCA-____

Earthworks v. New Mexico Oil Conservation Comm'n, 2016-NMCA-055, 374 P.3d 710
Memorial Medical Center. v. Tatsch Construction, 2000-NMSC-030, 129 N.M. 677, 12 P.3d 431
Inca Construction Co. v. Rogers, 1997-NMCA-056, 123 N.M. 514, 943 P.2d 548
New Mexico Mining Association v. New Mexico Mining Comm'n, 1996-NMCA-098, 122 N.M. 332, 924 P.2d 741
Old Abe Co. v. New Mexico Mining Comm'n, 121 N.M. 83, 908 P.2d 776 (Ct. App. 1995)
Joab, Inc. v. Espinosa, 116 N.M. 554, 865 P.2d 1198 (Ct. App. 1993)

PUBLICATIONS and PRESENTATIONS

“A Long Time Coming: New Mexico Legislature Adopts Uniform Rulemaking Procedures”, New Mexico Lawyer 12:3 (August 2017)
 “Structuring Financial Assurance for Reclamation – A Regulator’s Perspective”, Proceedings of the Rocky Mountain Mineral Law Foundation 52nd Annual Institute, (2006) (with C. Leach)
 “The New Mexico Mining Act: A Primer”, Mining In New Mexico: The Environment, Water, Economics and Sustainable Development, New Mexico Bureau of Geology and Mineral Resources (2005)
 “Environmental Rulemaking In New Mexico: The New State Procedures”, New Mexico Natural Resources Law Reporter 8:49 (1993)
 “Strict Liability Under the New Mexico Solid Waste Act: A Comparison with CERCLA”, New Mexico Law Review 21:195 (1990) (with R. Virtue)
 “To Make Shareholders of Them: Congress and the Alaska Natives”, Harvard Journal on Legislation 2 4:589 (1987)

Presentations: I have given a number of CLE presentations on different topics including environmental law, administrative law and ethics. Most recent are:

“New Mexico Litigation”, Conference of Government Mining Attorneys 2021, August 31, 2021
 “OCD Hearings”, Re-opening in 3...2...1..., State Bar Public Law Section Brown Bag, August 16, 2021
 “OCD and the Produced Water Act”, Interstate Oil & Gas Compact Commission webinar, April 15, 2020

POSITIONS

Conference of Government Mining Attorneys (Vice-Chair, 2014-2015, Chair 2015-2016)
 New Mexico Supreme Court Minimum Continuing Legal Education Board (2002-2010; Chair, 2008-2010)

New Mexico Supreme Court Board of Legal Specialization (1995-2001)

State Bar of New Mexico:

Board Member, Public Law Section (1996-2001, 2005-2008); Chair (1998-2000)
 Board Member, Natural Resources, Energy and Environmental Law Section (1997-2004);
 Chair (2003)

American Bar Association:

Government and Public Sector Lawyers Division (Council Member, 2006-09) Sections on Environment, Energy and Resources (Vice-Chair, Special Committee on Legal Competence & Specialization: 1999-2000; Vice-Chair, State and Regional Cooperation Committee 2002-03)

CURRICULUM VITAE

BRANDON POWELL

SUMMARY

Mr. Powell is the Oil Conservation Division's (OCD) Engineering Bureau Chief. He has served with OCD for more than sixteen years. He began his career in 2006 as an environmental specialist overseeing environmental releases and remediation. In 2011, he was promoted to inspection and enforcement supervisor for OCD's district office in Aztec. In that position, he supervised down-hole engineering and compliance with OCD rules. In 2019, he was promoted to District Supervisor, which involved oversight of day-to-day operations for the San Juan Basin. In 2020 he was promoted to the Engineering Bureau Chief. Mr. Powell has extensive experience applying OCD rules to all aspects of oil and gas development and has testified as an expert in OCC rulemakings, including the pit rule (19.15.17 NMAC), the produced water rule (19.15.34 NMAC), the release rule (19.15.29 NMAC) and the natural gas waste rules (19.15.27 and 19.15.28 NMAC).

EMPLOYMENT

November 2020 - Current
New Mexico Oil Conservation Division
Chief, Engineering Bureau

- Oversight and Management of the OCD's Engineering Bureau which includes
 - Administrative Compliance Program
 - Underground Injection Control (UIC) Program
 - Administrative Permitting Program.
- Ensures that OCD goals and objectives are met by assigning and directly supervising the work of the Administrative Compliance, UIC, and Administrative Permitting Programs.
- Conducts training and performance evaluations of personnel and acts upon leave requests. This position designs and develops programs to address new technical issues as they arise and as technical advances in the oil and gas industry are implemented.

May 2019- November 2020
New Mexico Oil Conservation Division
District Supervisor

- Managed operations for OCD's Northern District, ensuring the proper management of more than 24,000 oil and gas wells and associated facilities to protect public health and the environment.
- Managed relations with four tribes and allottees, federal agencies including Bureau of Land Management, Bureau of Reclamation, and Forest Service, and private landowners.
- Supervised seven staff members, including geologist, compliance officers, and environmental specialists.

- Managed office assignments, fleet repair and maintenance, and the District's Reclamation Fund (RFA) plugging program.
- Coordinated with the Engineering and Environmental Bureaus to ensure consistency in permitting and enforcement across the state.
- Supervised the District's UIC activities and coordinated with the UIC Program Manager to ensure consistency in testing and compliance.
- Conducted training for OCD and District staff.
- Assisted in the tasks described below when necessary for District operations, particularly in the absence of staff.
- Served as the District's representative on the New Mexico Oil and Gas Northwest Public Lands Committee.
- Assisted in development of standard operating procedures for wide range of OCD's business practices.
- Participated in strategic planning for OCD, including crisis management, electronic transition, enforcement, and rulemaking.

April 2011 - May 2019

New Mexico Oil Conservation Division

Staff Manager & Inspection and Enforcement Supervisor

- Supervised four district compliance officers and their activities regarding oil, gas, injection, brine and non-hazardous waste wells to protect public health, fresh water and other natural resources, including the review and approval of applications the conduct of investigations, and the recommendation of engineering solutions.
- Supervised environmental specialists, geologists, and data managers when the District Supervisor was not available and after he retired.
- Substituted for the geologist and environmental specialists during their absence and position vacancy for two years, including reviewing pools, logs and formation tops.
- Reviewed drilling, production, and closure of wells and other oil and gas facilities to ensure compliance with OCD rules, including:
 - Scheduled and conducted field inspections;
 - Initiated enforcement actions;
 - Reviewed applications for well work-overs, completion and plugging; and
 - Observed field activities.
- Provided technical assistance to OCD staff and operators.
- Coordinated office activities, including the review and approval of personnel documents and the conduct of other supervisory duties on behalf of the District Supervisor.
- Assisted in the development of rules.
- Served as the District's representative for the New Mexico Oil and Gas Northwest Public Lands Committee.

April 2006 – April 2011

New Mexico Oil Conservation Division

Environmental Specialist, Deputy Oil and Gas Inspector, and Loss Control Officer

- Supervised operators' remediation of releases.
- Responded to releases that endangered public health or the environment.

- Reviewed applications to perform and complete work.
- Drafted environmental compliance and enforcement documents.
- Testified in environmental compliance and enforcement cases.
- Coordinated work with other governmental agencies.
- Prepared and delivered environmental training to industry and other agencies.
- Worked with operators to ensure their compliance with OCD's rules.
- Tracked the district's occupational safety and prepared the annual OSHA reports.
- Responded to citizens' complaints.

June 2004 – April 2006

Envirotech, Inc.

Senior Environmental Technician, Soil Remediation Facility Manager, and Mold Inspector

- Prepared reports for various types of releases.
- Managed the soil remediation facility and personnel which averaged 1-3 people.
- Evaluated whether wastes could be disposed at different facilities.
- Performed hazardous waste characterization and disposal of oil field and non-oilfield wastes.
- Prepared job quotes and project summaries.

June 2003 – June 2004

San Juan County, Utah

Team Leader

- Managed projects and supervised teams.
- Mapped oil & gas seismograph and mine roads.
- Determined the environmental impacts of the historic roads and operations.
- Advised regarding road closures.
- Logged GPS coordinates.
- My mentor was a retired minerals manager for the Bureau of Land Management.

EXPERT TESTIMONY IN RULEMAKING PROCEEDINGS

19.15.17 NMAC – *Pits, Close-Loop Systems, Below-Grade Tanks and Sumps, 2008 and 2013*

19.15.34 NMAC – *Produced Water, Drilling Fluids, and Liquid Oil Field Waste, 2015*

19.15.29 NMAC – *Releases, 2018*

19.15.27 NMAC – *Venting and Flaring of Natural Gas, 2021*

19.15.28 NMAC – *Natural Gas Gathering Systems, 2021*

CERTIFICATIONS AND TRAINING

Hazardous Waste Management Certification, Lion Technologies, September 2004

Hazmat Site Supervisor Training, High Desert Safety, 2005

Confined Space Certification, High Desert Safety, 2005

Hot Work Certification, High Desert Safety, 2005

OSHA Forty Hour Certification, 2005

Surveillance Detection Course for Commercial Operators, Department of Homeland Security, 2008

OTHER ACCOMPLISHMENTS

New Mexico Public Servant Leadership Program, 2013

Tribal Energy Management Seminar Series, San Juan College, 2018

OCD Employee of the Quarter, First Quarter 2013

*Exhibit 1:
Proposed Rule Changes (March 30, 2022 Draft)*

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

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

A. Definitions beginning with the letter “A”.

(4) “Act” or “Oil and Gas Act” means chapter 70, article 2 NMSA 1978, as it may be modified or amended.

C. Definitions beginning with the letter “C”.

(3) “Certified mail” or “certified mail, return receipt requested” means United States Postal Service Certified Mail or equivalent service that provides tracking and signature receipt, including Federal Express, United Parcel Service, or similar courier services.

R. Definitions beginning with the letter “R”.

(7) “Rules” means the rules enacted pursuant to the Oil and Gas Act, 19.15.2 to 19.15.39 NMAC, as they may be modified or amended.

19.15.2.10 GENERAL WAIVERS AND EXCEPTIONS: ~~[RESERVED]~~ ONLINE APPLICATION AND SUBMITTALS:

A. The division shall establish online application and submittal procedures on the division’s website for the electronic filing of all forms, applications and other written documents and information with the division.

B. All applications that require the payment of a fee, as provided in NMSA 1978, §70-2-39, shall include the fee payment with the application.

C. A person whose filing is made untimely due to a technical failure of the division’s web-based online application process may request an extension of time. Technical failures not originating with the division’s process, such as problems with the filer’s equipment, software, or telecommunications facility will not constitute a basis for relief.

[repeal current 19.15.2.12 and replace with new section]

~~19.15.2.12 NUMBERING OF DIVISION ORDERS:~~

~~**A. Division orders entered after January 1, 1950, pertaining to the allocation of production of oil and gas shall be prefixed with the letter “A” or “AG” in the case of gas pools and shall be numbered consecutively, commencing with the number one, *i.e.*, the first allocation order issued after January 1, 1950, is No. A 1, the next A 2, etc. or AG 1 and AG 2.**~~

~~**B. Other division orders entered after January 1, 1950, shall be prefixed with the letter “R” and shall be numbered consecutively, commencing with the number 1, *i.e.*, the first such order issued after January 1, 1950, is No. R 1, the next R 2, etc.**~~

19.15.2.12 FILING AND NOTIFICATION: All requirements in the rules:

A. to file a form or application with the division or commission, including documents required to be filed with district offices or the Santa Fe office, shall be accomplished by using the applicable online process on the division’s website,

B. to otherwise notify, advise, contact, or report to the division, including to any unit of the division (such as a bureau or office) or any division official (such as the director or a bureau chief), may be accomplished by electronic mail or as otherwise provided on the division's website. The division shall provide contact instructions on the division's website, and

C. to file an original financial assurance instrument with the division as provided in 19.15.8 NMAC shall require delivery to the Santa Fe office unless otherwise directed by the division.

19.15.2.13 COMPUTATION OF TIME: In computing a period of time ~~19.15.2 NMAC through 19.15.39 NMAC prescribes~~ prescribed by the Oil and Gas Act, the rules or an order, the division and commission shall comply with the Uniform Statute and Rule Construction Act, NMSA 1978, Section 12-2A-7. day from which the period of time begins to run shall not be included. The last calendar day of the time period shall be included in the computation unless it is a Saturday, Sunday or a day on which state agencies observe a legal holiday. In such case, the period of time runs to the close of business on the next regular workday. If the period is less than 11 days, a Saturday, Sunday or legal holiday is excluded from the computation.

19.15.2.16 DUTIES AND AUTHORITY OF ~~DIVISION~~ FIELD PERSONNEL: ~~Division personnel~~ Oil and gas inspectors, deputy oil and gas inspectors, scouts, engineers and geologists the division duly appoints have the authority and duty to enforce division rules. Upon a showing by an operator that changes are necessary to avoid waste or protect public health or the environment, division personnel may allow minor deviations from approved field operational plans such as drilling and plugging plans. The operator shall file a Form C-103 as a notice of intention showing the change of plans within two business days of the approval. Oil and gas inspectors and their deputies may allow minor deviations from 19.15.2 NMAC through 19.15.39 NMAC's requirements as to field practices where, by so doing, waste is prevented or burdensome delay or expense on the part of the operator is avoided.

[repeal current 19.15.2.12 and replace with new section]

19.15.2.17 DISTRICT OFFICES:

A. To expedite administration of the division's work and its rules' enforcement, the state is divided into four districts as follows:

(1) district 1 consisting of Lea, Roosevelt and Curry counties and that portion of Chaves county lying east of the north-south line dividing ranges 29 and 30 east, NMPM with the district office in Hobbs;

(2) district 2 consisting of Eddy, Otero, Dona Ana, Luna, Hidalgo, Grant, Sierra, Lincoln and De Baca counties and that portion of Chaves county lying west of the north-south line dividing ranges 29 and 30 east, NMPM with the district office in Artesia;

(3) district 3 consisting of San Juan, Rio Arriba, McKinley and Sandoval counties with the district office in Aztec; and

(4) district 4 consisting of the remainder of state with the district office in Santa Fe.

B. Each district office shall be under the charge of a district supervisor, an oil and gas inspector or a deputy oil and gas inspector, unless otherwise specifically required.

C. The district office of the district in which the affected land is located shall take care of matters pertaining to the division.

19.15.2.17 ORGANIZATIONAL UNITS: When necessary to assist in the administration of the Oil and Gas Act, the director may divide the state into districts or other organizational units as appropriate. Upon establishment of, or revisions to, such units, the director shall provide or amend a map on the division's website with the boundaries of the units. Contact information for the units, including any assigned personnel, shall be maintained on the division's website.

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 7 FORMS AND REPORTS

19.15.7.8 GENERAL:

A. Development of Forms and Applications~~Where to file reports.~~ The division shall develop standard forms and applications for the purposes required by the commission in any rule. The division may also develop online forms, applications and other submittal processes to provide standard mechanisms for any other required notices, requests, applications, or reports. All submittal processes for forms and applications shall be available on the division's website. Unless otherwise specifically provided for in a division rule or order, the operator shall file forms and reports 19.15.7 NMAC requires with the appropriate division district office as provided in 19.15.2.17 NMAC and 19.15.7.10 NMAC.

B. Additional data. 19.15.7 NMAC does not limit or restrict the division's authority to require the furnishing of additional reports, data or other information relative to the production, transportation, storing, refining, processing or handling of oil, gas or products in the state as may appear to the division to be necessary or desirable, either generally or specifically, for compliance with or implementation of the Oil and Gas Act ~~the prevention of waste and the conservation of the state's natural resources.~~

C. Books and records. A person subject to the Oil and Gas Act ~~producer, injector, transporter, storer, refiner, gasoline or extraction plant operator, treating plant operator and initial purchaser of gas within the state~~ shall make and keep appropriate books and records for a period of not less than five years, covering operations in New Mexico, in order to make and substantiate the reports the division requires.

D. Written notices, requests, permits and reports. A person required to file notices, requests, permits or reports shall use the forms listed division's website below for the purpose shown in accordance with the instructions provided on the website or required printed on the form and their in any rule covering the form's use or special order pertaining to its use. ~~The following list of forms is intended for informational purposes and is not intended to limit the division's authority to establish new forms or revise existing forms:~~

- (1) form C-101 - application for permit to drill, deepen or plug back;
- (2) form C-102 - well location and acreage dedication plat;
- (3) form C-103 - sundry notices and reports on wells;
- (4) form C-104 - request for allowable and authorization to transport oil and gas;
- (5) form C-105 - well completion or recompletion report and log;
- (6) form C-106 - notice of intention to utilize automatic custody transfer equipment;
- (7) form C-107 - application for multiple completion;
- (8) form C-107-A - application for downhole commingling;
- (9) form C-107-B - application for surface commingling (diverse ownership);
- (10) form C-108 - application to dispose of [salt] produced water by injection into a porous formation;
- (11) form C-109 - application for discovery allowable and creation of a new pool;
- (12) form C-111 - gas transporter's monthly report (sheet 1 and sheet 2);
- (13) form C-112 - transporter's and storer's monthly report;
- (14) form C-112-A - receipts continuation sheet;

- (15) form C-112-B - deliveries continuation sheet;
- (16) form C-113 - refiner's monthly report (sheet 1 and sheet 2);
- (17) form C-115 - operator's monthly report;
- (18) form C-115B - volume of vented and flared natural gas;
- (19) form C-115-EDP - operator's monthly report (electronic data processing);
- (20) form C-116 - gas-oil ratio tests;
- (21) form C-117-A - tank cleaning, sediment oil removal, transportation of miscellaneous hydrocarbons and disposal permit;
- (22) form C-117-B - monthly sediment oil disposal statement;
- (23) form C-118 - treating plant operator's monthly report (sheet 1 and sheet 2);
- (24) form C-120-A - monthly water disposal report;
- (25) form C-121 - oil purchaser's nomination;
- (26) form C-121-A - purchaser's gas nomination;
- (27) form C-122 - multi-point and one point back pressure test for gas wells;
- (28) form C-122-A - gas well test data sheet-San Juan basin (initial deliverability test, blue paper; annual deliverability test, white);
- (29) form C-122-B - initial potential test data sheet;
- (30) form C-122-C - deliverability test report;
- (31) form C-122-D - worksheet for calculation of static column wellhead pressure (P_w);
- (32) form C-122-E - worksheet for stepwise calculation of (surface) (subsurface) pressure (P_c and P_w);
- (33) form C-122-F - worksheet for calculation of wellhead pressures (P_c or P_w) from known bottom hole pressure (P_f or P_s);
- (34) form C-122-G - worksheet for calculation of static column pressure at gas liquid interface;
- (35) form C-123 - request for the creation of a new pool;
- (36) form C-124 - reservoir pressure report;
- (37) form C-125 - gas well shut-in pressure report;
- (38) form C-126 - permit to transport recovered load oil;
- (39) form C-127 - request for allowable change;
- (40) form C-129 - report of vented or flared natural gas;
- (41) form C-130 - notice of disconnection;
- (42) form C-131-A - monthly gas storage report;
- (43) form C-131-B - annual LPG storage report;
- (44) form C-133 - authorization to move produced water exhibit "A";
- (45) form C-134 - application for exception to division order R-8952, 19.15.18.18 NMAC or 19.15.36 NMAC;
- (46) form C-135 - gas well connection, reconnection or disconnection notice;
- (47) form C-136 - application for approval to use an alternate gas measurement method;
- (48) form C-137 - application for waste management facility;
- (49) form C-137-EZ - registration/final closure report for small landfarm;
- (50) form C-138 - request for approval to accept solid waste;
- (51) form C-139 - application for qualification of production restoration project and certification of approval;

- (52) form C-140 - application for qualification of well workover project and certification of approval;
- (53) form C-141 - release notification and corrective action;
- (54) form C-144 - pit, closed-loop system, below-grade tank or proposed alternative method permit or closure plan application;
- (55) form C-145 - change of operator;
- (56) form C-146 - change of operator name;
- (57) form C-147 - permit or registration for recycling and re-use of produced water, drilling fluids and liquid oil field waste; and
- (58) form C-148 - reporting for recycling and re-use of produced water, drilling fluids and liquid oil field waste.

[repeal 19.15.7.9 and 19.15.7.10]

~~**19.15.7.9 — FORMS UPON REQUEST:** The division's forms for written notices, requests and reports it requires are available on the division's website. The division shall furnish paper copies upon request.~~

~~**19.15.7.10 — WHERE TO FILE REPORTS AND FORMS:** A person required to file a report or form shall file the report or form with the division in the number and at the time specified on the form or report or by the applicable section in 19.15.7 NMAC. An operator shall file plugging bonds directly with the division's Santa Fe office.~~

[repeal 19.15.7.11 and 19.15.7.37 and replace with new 19.15.7.9]

19.15.7.9 FORMS REQUIRED ON FEDERAL LAND OR MINERALS:

A. For wells on federal lands, accessing federal minerals or lands or minerals owned by a native American nation, tribe, pueblo, or individual allottee in New Mexico, an operator shall file the applicable federal forms with the BLM (as may be updated from time to time by the BLM) in lieu of filing the following forms with the division:

- (1) applications for permit to drill, deepen or plug back (C-101),
- (2) sundry notices and reports on wells (C-103), and
- (3) well completion or recompletion reports and logs (C-105).

B. For geophysical logs, electrical logs or other testing results obtained from a well on federal lands or minerals and required for the Form C-105, the operator shall submit an electronic copy of the results to the division using the online submittal process.

C. All such forms filed with the BLM involving federal lands or minerals are subject to division approval in the same manner and to the same extent as the corresponding division forms. All forms approved or processed by the BLM for wells on federal lands or accessing federal minerals shall be filed with division for approval using the online application process on the division's website no later than the time period in the rules for the equivalent division form or five business days after the BLM approves or processes if no deadline is provided, except:

- (1) For subsequent reports of work performed that are first reported to the BLM on a C-103 or a C-105 equivalent, if within thirty days of submittal, the BLM has not approved or processed such submittal the operator shall within 10 days file the State equivalent form with the division; and
- (2) Once the BLM processes or approves the federal submittal, the operator shall file within ten business days the submittal approved or processed by the BLM.

D. All such forms filed exclusively for lands or minerals owned by a native American nation, tribe, pueblo or individual allottee shall be filed with the division using the online application process on the division’s website as soon as is practicable after federal approval or processing. Such forms involving exclusively lands or minerals that a native American nation, tribe, pueblo or individually allottee owns are not subject to division review or approval unless such review or approval is authorized by a written agreement between the native American nation, tribe, pueblo and the division.

E. For other reports on wells on federal land or minerals, the operators shall file the applicable state forms with the division, including forms C-104 and C-115.

~~19.15.7.11 UNITED STATES GOVERNMENT LEASES:~~ For wells located on land that the United States or a native American nation, tribe or pueblo owns, an operator shall file applications for permit to drill, deepen or plug back, BLM form no. 3160-3; sundry notices and reports on wells, BLM form no. 3160-5; and well completion or recompletion report and log, BLM form no. 3160-4 with the BLM in lieu of filing the corresponding division forms with the division. All such forms are, however, subject to division approval in the same manner and to the same extent as the corresponding division forms.

~~19.15.7.37 FORMS REQUIRED ON FEDERAL LAND:~~

~~A.~~ An operator shall use federal forms in lieu of state forms when filing application for permit to drill, deepen or plug back and sundry notices and reports on wells and well completion or recompletion report and log for wells on federal lands in New Mexico. However, the operator shall submit two extra copies of each of the forms to the BLM, which, upon approval, will transmit the forms to the division. An operator of a well on federal land shall use the following BLM forms in lieu of division forms:

<u>BLM Form No.</u>	<u>Title of Form (Same for both agencies)</u>	<u>Form No.</u>
3160-3 (Nov. 1993)	Application for Permit to Drill, Deepen or Plug Back	C-101
3160-5 (Nov. 1983)	Sundry Notices and Reports on Wells	C-103
3160-4 (Nov. 1983)	Well Completion or Recompletion Report and Log	C-105

~~B.~~ The above forms as the BLM may revise are the only forms that an operator may file in place of division forms.

~~C.~~ After a well is completed and ready for pipeline connection, the operator shall file form C-104 along with a copy of form C-105 or BLM form No. 3160-4, whichever is applicable, with the division on wells drilled in the state, regardless of land status. Further, the operator shall file production reports using division forms; the division will not accept federal forms for reporting production.

~~D.~~ An operator’s failure to comply with 19.15.7.36 NMAC shall result in the division’s cancellation of form C-104 for the affected well or wells.

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 appropriate division district office accompanied by a summary of special tests conducted on the well, including drill stem tests. In addition, the operator shall file 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 logs and summaries within the specified 45-day period, the division shall withhold the allowable 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 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 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 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.

OVERVIEW & RULE MAKING PROCESS

William R. Brancard

NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

JANUARY 2021

EMNRD – OCD Team Introductions

William R. Brancard Hearings Bureau Chief Background, Process & Overview

Brandon Powell Engineering Bureau Chief Parts 2 and 7

Statutory Authority

The rules under consideration at this hearing involve the operation of the Oil Conservation Division and the filing of forms and reports that are necessary to implement the Oil and Gas Act and the substantive rules of the Oil Conservation Commission.

Under the Oil and Gas Act, the Commission is granted broad authority to enact rules that "may be reasonably necessary to carry out the purpose of this act". NMSA 1978, Section 70-2-11.

Also, the Act provides specific authority to "collect data;" "make investigations and inspections;" "examine properties, leases, papers, books and records;" and "provide for the keeping of records", and to enact rules requiring reports on the location of wells and the identification of ownership. Section 70-2-12.

Draft Rule Stakeholder Engagement

- Request for informal review from Native tribes and nations and from BLM.
- Informal public comment period February 9 to March 2.
- Incorporate changes based on comments received.
- Proposed Rules filed with OCC on March 30.

Public Notice Requirements

- Notice published in NM Register (May 3, 2022)
- Notice published in Albuquerque Journal (May 4, 2022)
- Notice sent to persons on OCC rulemaking list
- Notice posted on OCD website
- Notice posted at OCD district offices

EMNRD OCD Proposed Rule Summary

NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

19.15.2 and 19.15.7 NMAC Overview

- OCD has been transitioning to the electronic filing of documents. The primary goal of the proposed rule changes is to update the OCC Rules to establish electronic filing as the method of compliance with regulatory requirements. This will ensure the OCD receives submissions in an efficient manner expediting the process while delivering critical information. The most substantial changes are found in Parts 2 and 7, particularly 19.15.2.10, 19.15.2.12 and 19.15.7.8 NMAC. In addition, several other sections of Parts 2 and 7 are updated to match statutory requirements and current administrative practices.
- Many of the changes simply align the OCC Rules with the current practices of electronic filing.
- Other changes seek to replace outdated rule language with provisions that reflect the current reality of OCD organization and the relationship with federal and tribal governments.

19.15.2 General Provisions for Oil and Gas Operations

19.15.7 Forms and Reports

Brandon Powell

JANUARY 2021

Overview of Rules 19.15.2 NMAC

RULE	SCOPE	OBJECTIVES
19.15.2.7: Definitions	Addition of 3 definitions to ensure consistent understanding of their use	<p>Ensures proper understanding of the references to the Oil and Gas Act and applicable NMSA reference.</p> <p>Provides a detailed explanation of requirements for Certified mail.</p> <p>Details reference of the Rules contained in 19.15.2-39 of NMAC. These are rules in which 19.15.2 NMAC is applicable.</p>

Overview of Rules 19.15.2 NMAC

RULE	SCOPE	OBJECTIVES
19.15.2.10: Online Application and Submittals	This is a new section detailing the process for online applications and submittals.	<p>Establishes a rule for online applications.</p> <p>Recognizes the fee requirements for applicable forms.</p> <p>Details processes for extension allowances if there is a technical failure of the OCDs online application process.</p>

Overview of Rules 19.15.2 NMAC

RULE	SCOPE	OBJECTIVES
19.15.2.12: Filing and Notification	This is a repeal and replacement of an existing rule. The new rule provides processes on how operators should submit filings or notifications.	<p>Establishes submittals can be filed online through the OCD's website.</p> <p>Notifications can be made by email or pursuant to contact instructions provided by the OCD.</p> <p>Financial assurance is still required to be provided pursuant to 19.15.8 NMAC.</p>

Overview of Rules 19.15.2 NMAC

RULE	SCOPE	OBJECTIVES
19.15.2.13: Computation of Time	This provides how the computation of time is established.	This ensures consistency with the proper state statues in the computation of time.

Overview of Rules 19.15.2 NMAC

RULE	SCOPE	OBJECTIVES
<p>19.15.2.16: Duties and Authority of Division Personnel</p>	<p>This change updates the rule to be consistent with the current organizational structure of the OCD and ensures the OCD gets the proper documentation of any changes.</p>	<p>Allows proper OCD personnel to make minor deviations to approvals for field operations due to changing circumstances encountered in the field to avoid waste and protect public health or the environment.</p> <p>The rule then requires any changes to be submitted to the OCD on the proper form historizing the change.</p>

Overview of Rules 19.15.2 NMAC

RULE	SCOPE	OBJECTIVES
<p>19.15.2.17: Organizational Units</p>	<p>This change updates the rule to be consistent with the current organizational structure of the OCD.</p>	<p>The OCD no longer operates in individual District units. Due to the online process this is now a more cohesive organizational process.</p> <p>The rule does recognize the OCD may need to develop particular units as appropriate when the need arises and will provide a map of such units.</p>

Overview of Rules 19.15.7 NMAC

RULE	SCOPE	OBJECTIVES
19.15.7.8: General	Applies to how operators should submit forms. The changes also update processes to be consistent with the statues.	<p>Updates the rule to allow for the creation and implementation of online submittals.</p> <p>Provides the OCD will maintain the submittal processes for forms and applications on the OCD's website.</p> <p>Other updates for consistency with the current Oil and Gas Act.</p>

Overview of Rules 19.15.7 NMAC

RULE	SCOPE	OBJECTIVES
19.15.7.9 & 10: Repealed	Repeals the current Parts 9 and 10.	The current versions of these rules apply strictly to hard copy forms and submittals that are no longer used.

Overview of Rules 19.15.7 NMAC

RULE	SCOPE	OBJECTIVES
<p>19.15.7.9: Forms Required on Federal Land or Minerals. Combines and Repeals 19.15.7.11 & 37</p>	<p>This is a new section that will combine and modernize the current parts 11 and 37 regarding applications on federal lands or minerals.</p>	<p>The rule recognizes form types filed on Federal or tribal lands.</p> <p>It removes the sections where the BLM would forward forms to the OCD as they have changed their processes as well to an online submittal.</p> <p>It recognizes tribal rights and sovereignty.</p> <p>Provides a mechanism for the OCD to get critical information if there is a delay in the federal processing.</p>

Overview of Rules 19.15.7 NMAC

RULE	SCOPE	OBJECTIVES
<p>19.15.7.16 Well Completion or Recompletion Report and Log (Form C-105).</p>	<p>Updates to the rule to recognize current processes.</p>	<p>Updates the rule to be consistent with the current organizational structure of the OCD.</p> <p>Updates the application of the on injection well types that don't require a C-104.</p>

NOTICE OF PUBLIC HEARING FOR PROPOSED RULEMAKING

The New Mexico Oil Conservation Commission (Commission) gives notice of the following public hearing to be held commencing at 9:00 a.m. on June 3, 2022:

Case No. 22719: APPLICATION OF OIL CONSERVATION DIVISION TO AMEND RULES 19.15.2 AND 19.15.7 NMAC

Summary of Proposed Rule. The New Mexico Oil Conservation Division (OCD) proposes to amend 19.15.2 and 19.15.7 NMAC to make changes concerning procedural matters including the electronic submission of documents. The proposed rule changes include:

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Technical Information. There is no technical information for the proposed rule changes.

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**STATE OF NEW MEXICO
OIL CONSERVATION
COMMISSION**

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Journal: May 4, 2022

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Published: Wednesday, May 4th, 2022 at 6:55AM

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OCD Exhibit 8-001

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New Mexico Register

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Written comments. Any person may submit written comments on the proposed rule changes by mail or delivery to the Commission Clerk, Florene Davidson, 3rd Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, or e-mailed to florene.davidson@state.nm.us. All written comments must be received by the Commission Clerk no later than 9:00 A.M. on June 3, 2022, unless the Commission or the Commission Chair extends this deadline.

Proposed Modifications, Technical Testimony, and Cross Examination.

A person who intends to propose a modification to the proposed rules, to present technical testimony at the public hearing, or to cross-examine witnesses at the public hearing must file a Pre-Hearing Statement conforming to the requirements of 19.15.3.11(B) NMAC, no later than May 20, 2022, at 5:00 p.m. The Pre-Hearing Statement must be filed by mail, e-mail, or delivery to the Commission Clerk, Florene Davidson, 3rd Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, florene.davidson@state.nm.us. A person who presents technical testimony at the public hearing will be subject to cross-examination by the members of the OCC, the OCC's counsel, and other persons who filed Pre-Hearing Statements.

Oral Comments. A person who did not file a Pre-Hearing Statement may present non-technical testimony or make an unsworn statement at the public hearing. A person who wants to present non-technical testimony or make an unsworn statement at the public hearing must inform the commission. A person who presents non-technical testimony will be subject to cross-examination by the members of the Commission, the Commission's counsel, and other persons who filed Pre-Hearing Statements. A person may offer

exhibits at the public hearing if the exhibits are relevant to the proposed rules and the person files the original exhibit and five copies conforming to the requirements of 19.15.3.12(C) NMAC prior the end of the public hearing. A person may file exhibits by mail, email, or delivery to the Commission Clerk, Florene Davidson, 3rd Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, florene.davidson@state.nm.us. Exhibits must be submitted by June 1, 2022, at 5:00 p.m.

Persons with Disabilities. A person with a disability who needs a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service, such as a summary or other accessible form of document, in order to attend or participate in the public hearing, must contact the Commission Clerk, Florene Davidson, at (505) 476- 3458 or florene.davidson@state.nm.us, or through the New Mexico Relay Network at 1-800-659-1779, no later than May 18, 2022.

Technical Information. There is no technical information for the proposed rule changes.

GAME AND FISH DEPARTMENT

STATE GAME COMMISSION MEETING AND RULE MAKING NOTICE

The New Mexico State Game Commission ("Commission") will be hosting a meeting and rule hearings on Friday June 3, 2022 beginning at 9:00 a.m. at the Eagle Nest Lake State Park Visitor Center, 42 Marina Way, Eagle Nest, NM 87718. The purpose of this meeting is to hear and consider action as appropriate on the following: presentation of proposed changes to the Bighorn Sheep, Pronghorn, and Javelina rules.

Synopsis:

The proposal is to amend the Bighorn Sheep Rule 19.31.17 NMAC,

Pronghorn Rule 19.31.15 NMAC, and Javelina Rule 19.31.21 NMAC, all of which will become effective April 1, 2023. The most recent version of each rule will expire on March 31, 2023.

PROPOSED CHANGES TO THE BIGHORN SHEEP RULE: 1) opening the Jemez population for hunting Aug. 10-24 and Sept. 1-15, likely beginning in the 2024 season; 2) splitting the Hatchet Mountains hunt area into the Little Hatchets and Big Hatchets hunt areas and shifting hunt dates to September 15-30 and October 1-15; 3) creating 2 hunt windows in the Peloncillos (Nov. 1-15 & Nov. 16-30) and Ladrones (Dec. 1-15 & Dec. 16-31); 4) creating a 3rd hunt window in the Rio Grande Gorge population, Nov. 1-15; 5) including the Double E Wildlife Management Area as open to hunters that hold a valid license for that GMU; 6) making small adjustments to season dates in some areas.

PROPOSED CHANGES TO THE PRONGHORN RULE: 1) modifying the definition of a muzzle-loader to include only those muzzle-loading firearms that do not have a scope (for all big game species); 2) shifting hunt structure slightly to begin later in August and have some hunts begin in September and October; 3) creating a pronghorn hunt on Melrose Air Force Range in GMU 32; 4) decreasing license numbers in the combined hunts in GMUs 2, 7, 9, 10 from 15 bow licenses to 10 and from 15 any sporting arm licenses to 5; 5) GMU 15: eliminate the 2nd any legal sporting arm hunt but reallocate the 5 licenses to the first any legal sporting arm hunt; 6) GMU 16: eliminate the 2nd any legal sporting arm hunt but reallocate the 10 licenses to the remaining hunts; 6) decreasing each hunt in GMU 57 by 5 licenses each and moving these licenses to adjacent GMU 58 that has more public access; 7) allowing pronghorn hunting on Prairie Chicken Areas in the SE part of the state; 9) adjusting licenses on McGregor Range from 5 MB non-military and 10 MB military to 7 MB of each.

PROPOSED CHANGES TO THE JAVELINA RULE: 1) including a population management hunt option; 2) expanding the Wildlife Management Areas where javelina will be hunted, including the Double E, River Ranch, and Red Rock properties; 3) increasing the bootheel licenses by 10% and increasing the statewide licenses by 20%; 4) modifying season dates for both the bootheel and the statewide hunts: archery - January 1-31 annually; any legal sporting arm - February 1-March 31 annually; 5) removing the ability to hunt javelina during a deer or elk hunt.

A full text of changes for all rules will be available on the Department's website at: www.wildlife.state.nm.us.

Interested persons may submit comments on the proposed changes as follows: Bighorn Sheep Rule: DGF-Bighorn-Rule@state.nm.us; Pronghorn Rule: DGF-Pronghorn-Rule@state.nm.us; Javelina Rule: DGF-Javelina-Rule@state.nm.us. Individuals may also submit written comments to the physical address below. Comments are due by 8:00 a.m. on June 3, 2022. The final proposed rules will be voted on by the Commission during a public meeting on June 3, 2022. Interested persons may also provide data, views or arguments, orally or in writing, at the public rule hearings to be held on June 3, 2022.

Full copies of text of the proposed new rules, technical information related to proposed rule changes, and the agenda can be obtained from the Office of the Director, New Mexico Department of Game and Fish, 1 Wildlife Way, Santa Fe, New Mexico 87507, or from the Department's website at www.wildlife.state.nm.us/commission/proposals-under-consideration/. This agenda is subject to change up to 72 hours prior to the meeting. Please contact the Director's Office at (505) 476-8000, or the Department's website at www.wildlife.state.nm.us for updated information.

From: Davidson, Florene, EMNRD

Sent: Thursday, May 12, 2022 1:33 PM

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Subject: June 3, 2022 OCC Notice of Hearing