

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

**IN THE MATTER OF THE APPLICATION OF OIL CONSERVATION DIVISION
TO AMEND RULES 19.15.2 AND 19.15.7 NMAC**

CASE NO. 22719

NMOGA's PRE-HEARING STATEMENT

This Pre-Hearing Statement is submitted on behalf of the New Mexico Oil and Gas Association ("NMOGA") as required by NMAC 19.15.3.11.B.

NMOGA's PROPOSED MODIFICATIONS

NMOGA's members have reviewed the changes proposed by the Division under its Application filed in this matter. NMOGA requests that the Oil Conservation Commission modify the proposed changes to NMAC 19.15.7.9.C as reflected in the redline/strikeout format highlighted in yellow on attached NMOGA Exhibit 1, which is entitled "NMOGA'S Proposed Modifications to Division's Proposed Rule Changes (March 30, 2022, Draft)." These modifications are based on the Commission's lack of authority over federal lands. The Commission properly recognizes in 19.15.7.9.D that it lacks authority to approve forms filed exclusively for lands or minerals owned by a native American nation, tribe, pueblo or individual allottee "unless such review or approval is authorized by a written agreement between the native American nation, tribe, pueblo and the division." That same restriction applies to federal lands and minerals. NMOGA is not aware of any agreement between the Bureau of Land Management and the Commission authorizing the Division to exercise approval authority over development on federal lands or of federal minerals. Accordingly, NMOGA proposes that the Commission:

- Remove the first sentence of proposed 19.15.7.9.C;
- Remove the phrase "for approval" in the second sentence of proposed 19.15.7.9.C; and

- Add the following sentence to proposed 19.15.7.9.C: “Such forms involving exclusively federal lands or minerals are not subject to division review or approval unless such review or approval is authorized by a written agreement between the BLM and the division.”

NMOGA’S PROPOSED EVIDENCE

Since NMOGA’s modifications are not technical in nature, NMOGA does not anticipate the need to present witnesses or evidence in support of its proposed modifications but reserves the right to call rebuttal witnesses as necessary.

PROCEDURAL MATTERS

None at this time.

Respectfully submitted:

HOLLAND & HART, LLP



Michael H. Feldewert
Adam G. Rankin
Post Office Box 2208
Santa Fe, New Mexico 87504
(505) 988-4421
mfeldewert@hollandhart.com
agrarkin@hollandhart.com

**ATTORNEYS FOR THE NEW MEXICO OIL AND GAS
ASSOCIATION**

CERTIFICATE OF SERVICE

I hereby certify that on May 18, 2022, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

Jesse Tremaine
New Mexico Energy, Minerals, and
Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505
jessek.tremaine@state.nm.us

Attorney for New Mexico Oil Conservation Division



Michael H. Feldewert

18880517_v1

NMOGA EXHIBIT 1

**NMOGA'S Proposed Modifications to Division's 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~~ 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.

Such forms involving exclusively federal lands or minerals are not subject to division review or approval unless such review or approval is authorized by a written agreement between the BLM and the division.

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.