

## NOTICE OF PUBLIC MEETING AND PUBLIC HEARING

The New Mexico Oil Conservation Commission (Commission) hereby gives notice that the Commission will hold the following public meeting and public hearing commencing at 9:00 am on November 12-15, 2024, in person, online, and via telephone. Public and other oral comments may be made in person, on-line or by telephone. The Commission shall make available to the public a preliminary agenda for the meeting no later than two weeks prior to the meeting, and a final agenda for the meeting no later than 72 hours before the meeting. The agenda shall specify the order of the proceedings and, to the extent feasible, identify the specific time(s) that public comments are to be heard. The agenda shall be posted online on the Commission's Hearings page under "OCC Meetings and Hearings/2024 OCC Agendas," accessible from the following web page:

<https://www.emnrd.nm.gov/ocd/occ-info/>

### **Case No. 23580: APPLICATION OF WILDEARTH GUARDIANS TO AMEND THE COMMISSION'S RULES TO ADDRESS PFAS, AMENDMENTS TO 19.15.2, 19.15.7, 19.15.14, 19.15.16, AND 19.15.25 NMAC; STATEWIDE.**

WildEarth Guardians proposes that the Commission amend its rules to prohibit the use of toxic perfluoroalkyl and polyfluoroalkyl substances ("PFAS") and undisclosed chemicals in downhole operations.

**Purpose of Proposed Rule.** The proposed rule is intended to prohibit the use of PFAS in order to prevent the generation of PFAS-contaminated produced water and nondomestic waste. The proposed rule is also intended to update disclosure and reporting rules to ensure compliance with this prohibition so that the division can protect public health and the environment from produced water and nondomestic waste generated by the oil and gas industry.

**Legal Authority.** The proposed rule is authorized by the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, and specifically, Section 70-2-6 (authorizing the Commission to exercise jurisdiction, authority, and control of and over all persons, matters, and things necessary or proper to enforce the statute), Sections 70-2-11 (authorizing the Commission to make rules to prevent waste, protect correlative rights, and to do whatever may be reasonably necessary to implement the statute), and Section 70-2-12 (enumerating the powers of the Commission and OCD). The public hearing is governed by the Commission's rule on rulemaking proceedings, 19.15.3 NMAC.

**Availability of Proposed Rule.** The full text of the proposed rule may be obtained from the Commission Clerk Sheila Apodaca at [sheila.apodaca@emnrd.nm.gov](mailto:sheila.apodaca@emnrd.nm.gov) or (505) 699-8358, or can be viewed on the Rules page of the OCD's website at <http://www.emnrd.state.nm.us/OCD/rules.html>.

**Public Hearing.** The Commission will hold a public hearing on the proposed rule at the Commission meeting commencing at 9:00 am on November 12-15, 2024 in person, online, and via telephone. **The meeting will be held at the Wendell Chino Building, 1220 S. Saint Francis Drive, Pecos Hall, First Floor, Santa Fe, New Mexico.** The Commission's public meeting and public hearing may also be accessed by using the following link and/or meeting information:

[Join a Microsoft Teams Meeting by ID | Microsoft Teams](#); or  
<https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>  
Meeting ID: 266 932 579 58  
Passcode: cGzkrG

### **Dial in by phone**

[+1 505-312-4308,,812829678#](tel:+15053124308812829678) United States, Albuquerque

Phone conference ID: 812 829 678#

For information on how to participate in the hearing, please contact the Commission Clerk at [occ.hearings@emnrd.nm.gov](mailto:occ.hearings@emnrd.nm.gov) or (505) 699-8358, or visit the Hearings page on the OCD's website at <http://www.emnrd.state.nm.us/OCD/hearings.html>. The hearing may be continued to the following day(s) if not completed.

**Technical Testimony.** Any person intending to present technical testimony at the hearing must file a Pre-Hearing Statement conforming to the requirements of Subsection B of 19.15.3.11 NMAC, no later than 5:00 pm on October 21, 2024. Filing may be accomplished by first class mail to the Commission Clerk, 3<sup>rd</sup> Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, or by electronic mail to [occ.hearings@emnrd.nm.gov](mailto:occ.hearings@emnrd.nm.gov). Any person who intends to present direct technical testimony must file their prehearing statement, with direct written testimony, no later than 5:00 pm on October 21, 2024. Persons presenting technical testimony will be subject to cross-examination on the subject matter of the person's direct testimony by the members of the Commission, the Commission's counsel, or another person who has filed a Pre-Hearing Statement.

**Public Comments.** Any person may present non-technical testimony or make an unsworn statement at the hearing (i.e., public comment), and may offer non-technical exhibits or other written information at the hearing so long as the exhibits are relevant to the proposed rule and do not unduly repeat testimony. Any person who presents sworn, non-technical testimony will be subject to cross-examination by the Commission, the Commission's counsel, another person who has filed a Pre-Hearing Statement on the subject matter of the person's direct testimony, or at the discretion of the hearing officer or Commission, other persons at the hearing. To help facilitate this hearing, persons wishing to present non-technical testimony or make an unsworn statement or public comment at the hearing are strongly encouraged to contact the Commission Clerk Sheila Apodaca at [sheila.apodaca@emnrd.nm.gov](mailto:sheila.apodaca@emnrd.nm.gov) or (505) 699-8358, prior to the hearing so that a list of public commenters may be prepared in advance; however, at the close of oral public comment, the Commission shall open the virtual floor to any person who wishes to offer non-technical testimony or other public comment or submit non-technical information relevant to the proceedings.

**Pre-Hearing Submission of Non-technical Comments.** Any person may submit non-technical written or electronic comments on the proposed rule prior to the hearing no later than 5:00 pm on November 12, 2024, unless extended by the Commission or the Chair of the Commission, by first class or electronic mail to the Commission Clerk, 3<sup>rd</sup> Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, or [occ.hearing@emnrd.nm.gov](mailto:occ.hearing@emnrd.nm.gov).

**Persons with Disabilities.** If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, including a summary or other accessible form of document, please contact the Commission Clerk Sheila Apodaca at [sheila.apodaca@emnrd.nm.gov](mailto:sheila.apodaca@emnrd.nm.gov) or (505) 699-8358, or through the New Mexico Relay Network at 1-800-659-1779, no later than November 1, 2024.

**Technical Information.** Technical information that may be provided through Pre-Hearing Statements and written technical testimony will be made publicly available on the OCD Imaging, Case File Search portal on the division's website at <http://ocdimage.emnrd.state.nm.us/imaging/CaseFileCriteria.aspx>, and may be accessed by searching for Case File No. 23580.