

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

**IN THE MATTER OF:**

**APPLICATION OF OIL CONSERVATION DIVISION  
TO ADOPT 19.15.41, 19.15.42, AND 19.15.43 NMAC**

**CASE NO. 25875**

**NON-TECHNICAL STATEMENT OF THE NEW MEXICO OIL & GAS ASSOCIATION**

The New Mexico Oil & Gas Association (“NMOGA”) respectfully submits this non-technical statement in support of the Oil Conservation Division’s (“OCD”) Amended Application to adopt proposed rules 19.15.41, 19.15.42, and 19.15.43 NMAC (“Proposed Rules”). The Proposed Rules would establish the regulatory framework necessary for New Mexico to seek primacy for the Class VI Underground Injection Control (“UIC”) program from the United States Environmental Protection Agency (“EPA”).<sup>1</sup>

NMOGA is a statewide trade association representing more than 200 member companies involved in oil and natural gas development and related services in New Mexico. In fiscal year 2024, oil and gas activity contributed approximately \$7.4 billion to New Mexico’s General Fund. This economic contribution underscores the critical role the oil and natural gas industry plays in supporting New Mexico’s economy, funding essential public services, and creating jobs across the state.

NMOGA generally supports adoption of the OCD’s Proposed Rules. That support is grounded in the extensive technical and stakeholder process used to develop the proposal. Throughout the process, OCD and the Energy, Minerals, and Natural Resources Department (“EMNRD”) collaborated with the New Mexico Institute of Mining and Technology (“New Mexico Tech”), U.S. Environmental Protection Agency Region 6, and a broad range of stakeholders; conducted outreach and workshops; released draft materials for public review; solicited and considered comments; and ultimately developed the rulemaking package now before the New Mexico Oil Conservation Commission (“Commission”). Thus, NMOGA generally supports the Proposed Rules with a few refinements discussed herein, and looks forward to continuing to work with OCD and other stakeholders as the State moves toward implementation and considers future rulemakings.

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<sup>1</sup> Amended Application of Oil Conservation Division to Adopt 19.15.41 NMAC, 19.15.42 NMAC, and 19.15.43 NMAC, Case No. 25875, at 1 (N.M. Oil Conservation Comm’n filed May 17, 2026) [hereinafter “Amended Application”].

## I. Background

The Proposed Rules would establish the regulatory framework necessary for New Mexico to obtain primacy for the Class VI UIC program from EPA. Class VI wells are used for the geologic sequestration of carbon dioxide and are subject to rigorous requirements designed to ensure long-term containment and protection of underground sources of drinking water. Upon EPA approval of the State's primacy application, OCD and EMNRD would assume primary responsibility for the permitting, compliance, and enforcement of Class VI wells in New Mexico.<sup>2</sup>

New Mexico has a long and successful history of administering EPA-delegated underground injection programs. Through NMED and OCD, the State already exercises primacy over the Class I–V UIC programs and has substantial experience implementing complex federal injection well requirements, overseeing permitting and compliance activities, and protecting groundwater resources. This established regulatory expertise, institutional knowledge, and track record of effective program administration position New Mexico well to assume responsibility for the Class VI program and provide timely, locally informed oversight of carbon sequestration projects within the state.

The formal rulemaking now before the Commission is limited to proposed 19.15.41, 19.15.42, and 19.15.43 NMAC, as set out in the Amended Application and attached rule text.<sup>3</sup>

## II. OCD Developed the Proposed Rules through a Collaborative and Deliberate Process

The current proposal is the product of a comprehensive, multi-year process that included technical development, stakeholder engagement, public outreach, and preliminary review culminating in this formal rulemaking. To support New Mexico's pursuit of Class VI primacy, EMNRD partnered with New Mexico Tech and worked closely with OCD, EPA Region 6, and a broad range of stakeholders in developing the Proposed Rules. The resulting framework reflects substantial collaboration among state and federal agencies, technical experts, industry representatives, environmental organizations, and other interested parties.<sup>4</sup>

Before filing the rulemaking petition, OCD conducted a voluntary community engagement process consistent with EPA's Class VI primacy guidance. That effort included direct outreach to legislators, state regulatory agencies, tribal representatives, and non-governmental organizations, as well as informational meetings and workshops in areas with potential Class VI activity, including the Permian and San Juan Basins. Through these efforts, OCD solicited and incorporated stakeholder feedback, helping to ensure that the Proposed Rules are both technically sound and responsive to the interests of New Mexico communities.

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<sup>2</sup> See 40 C.F.R. §§ 147.1600–1601.

<sup>3</sup> See Notice of Public Hearing for Proposed Rulemaking, at 1–2 (stating legal authority for proposed 19.15.41, 19.15.42, and 19.15.43 NMAC); Geologic Carbon Dioxide Storage Stewardship Act, NMSA 1978, §§ 74-14-1 to -7; Oil and Gas Act, NMSA 1978, §§ 70-2-6, 70-2-11, 70-2-12.

<sup>4</sup> Amended Application, *supra* note 1, at 2 (describing EMNRD's partnership with New Mexico Tech and pre-rulemaking stakeholder outreach).

OCD released draft Class VI primacy materials for public review in 2025, including draft regulations and a crosswalk comparing the proposed New Mexico provisions to the federal Class VI requirements.<sup>5</sup> As described in OCD's August 22, 2025 public notice, this preliminary review process was intended to inform both the formal rulemaking and the State's primacy application to EPA.<sup>6</sup> Following that process, OCD filed the Application in Case No. 25875, which included proposed 19.15.41, 19.15.42, and 19.15.43 NMAC. OCD filed an Amended Application on May 17, 2026. OCD's proposed rules reflect revisions made in response to stakeholder and public feedback received throughout the broader rule development process.

### **III. NMOGA Participated in the Process and Supports the Current Proposal**

NMOGA actively participated in the development of the Proposed Rules through a dedicated member working group that reviewed draft regulations and supporting materials and provided feedback throughout both the preliminary review process and this rulemaking proceeding. On November 7, 2025, NMOGA submitted comments to OCD addressing a range of technical and procedural issues, including support for the New Mexico-specific provisions in Reserve 4 designed to protect existing mineral, surface, and disposal rights, which were subsequently removed from the Proposed Rules.<sup>7</sup> During the 2025 public review process, OCD circulated draft language clarifying that Class VI permits would not supersede those existing property interests, and NMOGA supported the inclusion of those protections. NMOGA supports OCD's stated intent to revisit New Mexico-specific provisions addressing unitization and other essential issues in a later rulemaking and looks forward to engaging with OCD on these topics in the future.

NMOGA appreciates OCD's consideration of stakeholder input throughout the rule development process. NMOGA also looks forward to continuing to work with OCD and other stakeholders as the State implements the Class VI program and further evaluates measures to support the efficient and predictable development of carbon sequestration projects. As that moves forward, NMOGA encourages administrative and public participation procedures that remain appropriately focused on directly affected parties while recognizing and protecting New Mexico's long-established mineral development and disposal operations.

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<sup>5</sup> OCD Notice, Request for Public Comment on Draft Rules to EPA for Class VI Primacy (Aug. 22, 2025); N.M. Energy, Minerals & Nat. Res. Dep't, Oil Conservation Div., Crosswalk for New Mexico UIC Regulations Submitted with Primacy Applications Under Section 1422 of the SDWA (posted Aug. 22, 2025).

<sup>6</sup> OCD Notice, Request for Public Comment on Draft Rules to EPA for Class VI Primacy (Aug. 22, 2025).

<sup>7</sup> See N.M. Energy, Minerals & Nat. Res. Dep't, Oil Conservation Div., Notice Request for Public Comment on the Oil Conservation Division's Draft Rules to EPA for Class VI Primacy (Aug. 22, 2025); N.M. Energy, Minerals & Nat. Res. Dep't, Oil Conservation Div., Proposed New Mexico State Amendments, Reserve 4 (posted Aug. 22, 2025).

#### **IV. Why NMOGA Supports the Current Proposed Rules**

##### **A. Protection of the Mineral Estate Remains Important to NMOGA**

Protection of the mineral estate remains important to NMOGA and its members. The Geologic Carbon Dioxide Storage Stewardship Act addresses pore-space ownership and provides that, “[t]o the extent the dominant mineral estate is reasonably utilizing the surface estate for the production of minerals located thereon and therein, the formations so used shall not be interfered with.”<sup>8</sup> This statutory framework appropriately balances development of carbon sequestration with the continued viable use of the subsurface for oil and gas operations.

NMOGA appreciates OCD’s continued engagement on these issues in the context of developing a Class VI program. At the same time, NMOGA’s support for the Proposed Rules is not contingent upon resolving every mineral-estate issue in this proceeding. NMOGA supports the proposal before the Commission and looks forward to continuing to work with OCD during program implementation and future rulemakings to ensure that carbon sequestration activities are implemented in a manner that remains compatible with, and protective of, the rights and operations of New Mexico’s mineral owners and operators.<sup>9</sup>

##### **B. State Primacy Would Improve Permitting Efficiency, Support Development, and Provide Stability**

State primacy would allow New Mexico to administer the Class VI program directly, subject to continued EPA oversight and federal requirements. As described in the Amended Application, EMNRD anticipates that a state-administered program could provide a more efficient permitting process while maintaining consistency with federal Class VI standards.<sup>10</sup> Incorporating Class VI wells into New Mexico’s existing UIC framework would also align regulatory oversight across all UIC well classes and promote a coordinated, predictable permitting and compliance program. New Mexico primacy would support the responsible deployment of carbon management projects, foster economic development opportunities within the state, and ensure continued protection of underground sources of drinking water in accordance with federal requirements.

NMOGA supports focused revisions to the proposed rule that more closely align the New Mexico Class VI program with federal EPA requirements and avoid imposing obligations that exceed those standards. Doing so will promote regulatory consistency and help maintain a level playing field with other primacy states. Furthermore, as the program moves into implementation, NMOGA encourages OCD to administer these rules in a manner that is efficient, predictable, and cost-effective, with requirements calibrated to site-specific conditions and informed by federal

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<sup>8</sup> HB 458, § 7.

<sup>9</sup> HB 458, § 7(B).

<sup>10</sup> Amended Application, *supra* note 1, at 2.

standards and the approaches adopted by other primacy states. Doing so will help ensure that capital-intensive carbon management projects can advance on workable timelines.

## V. Conclusion

NMOGA supports adoption of OCD's proposed 19.15.41, 19.15.42, and 19.15.43 NMAC. The Proposed Rules are the product of an extensive technical and stakeholder-driven development process, and NMOGA supports the rule package now before the Commission. NMOGA supports refinements to the proposed rules that promote administrative efficiency and create better alignment with the federal Class VI program (and peer states implementing the Class VI program). NMOGA also appreciates OCD's engagement with stakeholders throughout the rulemaking process and looks forward to continued collaboration with OCD, EMNRD, New Mexico Tech, and other interested parties as the State implements the Class VI program and considers future program developments.

*/s/ Ana Maria Gutiérrez*

Ana Maria Gutiérrez (admitted pro hac)

Jess Portmess (admitted pro hac)

Womble Bond Dickinson (US) LLP

1601 19th Street, Suite 10000

Denver, CO 80202

Amanda Thatcher

Womble Bond Dickinson (US) LLP

201 East Washington Street, Suite 1200

Phoenix, AZ 85004

*Counsel for the New Mexico Oil and Gas  
Association*

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 29, 2026, a true and correct copy of the foregoing was served on the persons listed below via the EMNRD CentreStack system.

Sheila Apodaca  
Oil Conservation Commission Clerk  
[Sheila.apodaca@emnrd.nm.gov](mailto:Sheila.apodaca@emnrd.nm.gov)  
[occ.hearings@emnrd.nm.gov](mailto:occ.hearings@emnrd.nm.gov)

*Oil Conservation Commission Clerk*

Zachary A. Shandler Assistant  
Attorney General  
New Mexico Department of Justice  
P.O. Box 1508  
Santa Fe, New Mexico 87504  
[zshandler@nmdoj.gov](mailto:zshandler@nmdoj.gov)

*Oil Conservation Commission Counsel*

Jesse Tremaine  
Legal Director New Mexico Energy  
Minerals and Natural Resources Department  
Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505  
[jessek.tremaine@emnrd.nm.gov](mailto:jessek.tremaine@emnrd.nm.gov)

*Attorney for the New Mexico Oil  
Conservation Division*

Morgan O'Grady, Staff Attorney  
Rose Rushing, Staff Attorney  
Daniel Timmons, Senior Attorney  
Western Environmental Law Center  
409 East Palace Avenue, Suite 2  
Santa Fe, New Mexico 87501  
505-570-5566  
[ogrady@westernlaw.org](mailto:ogrady@westernlaw.org)  
[rushing@westernlaw.org](mailto:rushing@westernlaw.org)  
[timmons@westernlaw.org](mailto:timmons@westernlaw.org)

*Attorneys for Western Environmental Law  
Center*

Zachary Pavlik, Staff Attorney  
Colin Cox, Senior Attorney Center  
for Biological Diversity Climate  
Law Institute  
1025 ½ Lomas NW  
Albuquerque, NM 87102  
(505) 320-6435  
[zpavlik@biologicaldiversity.org](mailto:zpavlik@biologicaldiversity.org)  
[ccox@biologicaldiversity.org](mailto:ccox@biologicaldiversity.org)

*Attorneys for the Center for Biological  
Diversity*

Adam G. Rankin  
Paula M. Vance  
A. Raylee Starnes  
Holland & Hart  
P.O. Box 2208  
Santa Fe, New Mexico 87504  
(505) 988-4421  
[agrarkin@hollandhart.com](mailto:agrarkin@hollandhart.com)  
[pmvance@hollandhart.com](mailto:pmvance@hollandhart.com)  
[astarnes@hollandhart.com](mailto:astarnes@hollandhart.com)

Aaron B. Tucker  
Holland & Hart  
555 17th Street, Suite 3200  
Denver, Colorado 80202  
(303) 295-8369  
[abtucker@hollandhart.com](mailto:abtucker@hollandhart.com)

*Attorneys for Oxy USA Inc.*

Samantha Ruscavage-Barz  
Senior Attorney, Climate & Health  
WildEarth Guardians  
301 Guadalupe St., Ste. 201  
Santa Fe, NM 87501  
(505) 401-4180  
[ruscavagebarz@wildearthguardians.org](mailto:ruscavagebarz@wildearthguardians.org)

*Attorney for WildEarth Guardians*

Felicia Orth  
[Felicia.l.orth@gmail.com](mailto:Felicia.l.orth@gmail.com)  
*Hearing Officer*

/s/ Ana Maria Gutiérrez  
Ana Maria Gutiérrez (admitted pro hac)