

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

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION  
TO AMEND RULES OF THE COMMISSION CONCERNING THE DRILLING,  
SPACING, AND OPERATION OF HORIZONTAL WELLS AND RELATED  
MATTERS BY AMENDING SECTION 15 OF RULE 19.15.16 NMAC;  
STATEWIDE**

**CASE NO. 16376  
ORDER NO. R-20194**

**ORDER OF THE COMMISSION**

THIS MATTER came before the New Mexico Oil Conservation Commission (“Commission”) on the application of the Oil Conservation Division of the Energy, Minerals and Natural Resources Department (“OCD”) to amend Rule 19.15.16 NMAC. The Commission, having conducted a hearing on October 11, 2018 and deliberated in open session following the hearing, and having considered the testimony, the record, and the arguments of the parties, and being otherwise fully advised, enters the following findings, conclusions, and order.

**THE COMMISSION FINDS THAT:**

1. Statutory Authority. The Commission is authorized to adopt rules, after a hearing, under the Oil and Gas Act, NMSA 1978, §§ 70-2-1 to -38 (1935, as amended through 2018). NMSA 1978, § 70-2-12.2 (2015). The Commission and OCD are given “authority over all matters relating to the conservation of oil and gas,” and are given the duty to prevent waste and protect correlative rights. NMSA 1978, §§ 70-2-6 and 70-2-11. In addition, the Commission and OCD are authorized to adopt rules of procedures for proceedings under the Oil and Gas Act, NMSA 1978, § 70-2-7, and to adopt rules for a number of specific purposes, including as relevant to this proceeding:

(a) to prevent crude petroleum oil, natural gas or water from escaping from strata in which it is found into other strata;

(b) to require reports showing locations of all oil or gas wells and for the filing of logs and drilling records or reports;

(c) to require wells to be drilled, operated and produced in such manner as to prevent injury to neighboring leases or properties;

(d) to identify the ownership of oil or gas producing leases, properties, wells, tanks, refineries, pipelines, plants, structures and all transportation equipment and facilities;

(e) to require the operation of wells with efficient gas-oil ratios and to fix such ratios; and

(f) to fix the spacing of wells.

NMSA 1978, § 70-2-12(B).

2. Application and Notice. OCD filed an Application on August 3, 2018, to amend specific portions of 19.15.16.15 NMAC to correct clerical errors in that rule (“proposed rule change”). The Application included a draft of the proposed rule change and a proposed legal notice. 19.15.3.8(A) NMAC.

3. At a public meeting on August 20, 2018, the Commission determined to hold a hearing on the proposed rule change and scheduled the hearing for October 11, 2018. 19.15.3.8(C) NMAC.

4. Notice of the rulemaking and of the date, time, and place of the hearing was provided as required by NMSA 1978, § 14-4-5.2 (2017) and 19.15.3.9 NMAC, including publication in the New Mexico Register on September 11, 2018. (OCD Exhibit 1). A copy of the notice is attached to OCD Exhibit 1.

5. Pre-hearing statements were submitted by OCD and the New Mexico Oil and Gas Association (“NMOGA”), NMOGA proposed a modification to the proposed rule change but did not offer technical witnesses.

6. Proposed Rule Change. The proposed rule change corrects two inaccurate cross-references in Section 15 of 19.15.16 NMAC. The first change is in paragraph (8) of subsection B of 19.15.16.15 NMAC. The second is in subparagraph (b) of paragraph (2) of subsection E of 19.15.16.15 NMAC. (OCD Exhibit 2).

7. Public hearing. The Commission conducted a public hearing on the proposed rule changes on October 11, 2018. OCD presented David Brooks as a witness. NMOGA appeared at the hearing through its attorney, Michael Feldewert, but did not present any witnesses. No other witnesses testified at the hearing. The Commission deliberated after the close of the hearing.

8. Mr. Brooks testified in support of the proposed rule changes and on the modifications offered by NMOGA. Mr. Brooks described the inaccuracies of the specific cross-references in the current rule; most were the result of re-numbering during the rulemaking recently completed by the Commission and effective June 26, 2018. He described how the proposed rule change corrected those cross-references. None of the changes are intended to change the purpose or intent of the rule.

9. NMOGA amendment. NMOGA proposed, in its pre-hearing statement, to amend subparagraph (c) of paragraph (9) of subsection B of 19.15.16.15 NMAC to replace “includes specific provision” with “provides”. (NMOGA pre-hearing statement). At the hearing, Mr. Feldewert stated that the current wording of this sentence was awkward and could be improved. He also offered other simpler alternatives to correct the language, including replacing “provision” with “provisions”.

10. Deliberation and Action. The Commission deliberated on the proposed rule changes at the close of the hearing on October 11, 2018. The Commission found that the OCD proposed rule changes are necessary to correct inaccurate cross references in the current rule and adopted the proposed rule changes. The Commission found that the sentence in the NMOGA amendment needed to be clarified and the change of “provision” to “provisions” was the simplest change that would improve the subparagraph without changing its meaning. The Commission delegated the signing of this Order to the Chair.

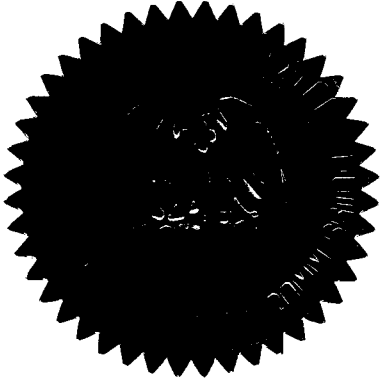
**THE COMMISSION CONCLUDES THAT:**

1. The Commission has jurisdiction, under the Oil and Gas Act, NMSA 1978, §§ 70-2-1 to -38, over the parties and subject matter of this case.
2. The Commission has legal authority, under the Oil and Gas Act, to enact the proposed rule changes.
3. The Commission provided due public notice and an opportunity for the public to provide comments regarding the proposed rule change. A public hearing was held and reasonable opportunity was provided for all persons present to provide testimony, evidence and exhibits.
4. All Commissioners were present at the public hearing and considered all the evidence presented during the hearing including the proposed amendments submitted by the parties. The Commission deliberated after the hearing and adopted the rule changes.
5. The Commission concludes that there is substantial evidence in the record to support the proposed rule changes, that these rule changes are within the authority of the Commission under the Oil and Gas Act and that these rule changes are reasonable and further the goals of the Oil and Gas Act.

**IT IS THEREFORE ORDERED THAT:**


The proposed changes to 19.15.16 NMAC, as submitted to the Commission by the OCD, are hereby approved by the Commission. The adoption of the rule changes will be final upon the later of (a) the action, or deemed action, of the Commission on a rehearing application filed pursuant to NMSA 1978, § 70-2-25, or (b) 20 days from the date of this order if no rehearing application is filed. The rule change shall not be filed with the state records administrator until the rule change is adopted and then must be filed within 15 days after the adoption. If no rehearing is required by the Commission, this Order shall serve as the “concise explanatory statement” required by NMSA 1978, § 14-4-5.5 (2017).

DONE at Santa Fe, New Mexico, on October 15, 2018.



SEAL

**STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION**

  
**HEATHER RILEY, Chair**