

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

**PROPOSED AMENDMENTS TO SECTION 19 OF 19.15.16 NMAC AND
SECTION 16 OF 19.15.7 NMAC, EXTENDING THE TIME FOR REPORTING
COMPLETION OF WELLS FROM 20 TO 45 DAYS, AND PROPOSED
FURTHER AMENDMENT OF SECTION 19 OF 19.15.16 NMAC TO
REQUIRE OPERATORS TO REPORT CERTAIN INFORMATION
REGARDING HYDRAULICALLY FRACTURED WELLS IN THE
FRAC FOCUS CHEMICAL DISCLOSURE REGISTRY**

**CASE NO. 15726
ORDER No. R-14353-B**

ORDER OF THE COMMISSION

THIS MATTER came before the New Mexico Oil Conservation Commission ("Commission") on the application of Oil Conservation Division of the Energy, Minerals and Natural Resources Department ("OCD") to amend Rules 19.15.7 and 19.15.16 NMAC. The Commission, having conducted a hearing and deliberated on July 13, 2017, 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. OCD submitted a proposal to amend portions of 19.15.7 and 19.15.16 NMAC to the Commission at a Commission meeting on May 18, 2017. The Commission voted to commence a rulemaking to amend these Parts and issued an Order. Order R-14353; See 19.15.3.8 NMAC ("The commission may commence a rulemaking proceeding by issuing an order initiating rulemaking.").
2. The sections proposed for amendment, 19.15.7.16 and 19.15.16.19 NMAC, provide for the content and deadlines for reports that must be provided to the OCD after a well is completed or recompleted.
3. The Commission has the authority to enact rules to provide for the keeping of records and the making of reports and for the checking of the accuracy of the records and reports; to require reports showing locations of all oil or gas wells and for the filing of logs and drilling records or reports; and to require wells to be drilled, operated and produced in such manner as to prevent injury to neighboring leases or properties. NMSA 1978, Section 70-2-12(A), (B)(3) and (7).
4. The Commission initially scheduled a hearing on the proposed rule changes for June 13, 2017 and then continued the hearing to July 13, 2017. Orders R-14353 and R-14353-A.
5. Notice of the rulemaking was provided as required by 19.15.3.9 NMAC, including publication in the New Mexico Register on May 30, 2017 and on June 27, 2017.
6. The Commission conducted a public hearing on the proposed rule changes on July 13, 2017, and allowed an opportunity for all persons to be heard.
7. Pre-hearing statements were filed by OCD and by the New Mexico Oil and Gas Association ("NMOGA"). Both OCD and NMOGA appeared at the public

hearing and presented witnesses, and both parties supported the proposed rule changes. No other persons appeared at the hearing or offered written comments on the proposed rules.

8. OCD presented Phillip Goetze as a witness and NMOGA presented Patrick Padilla as a witness.

9. The proposed changes to 19.15.7.16 and 19.15.16.19.A NMAC revise the deadline for the filing of a form C-105 completion report from 20 days to 45 days after the completion or recompletion of a well. This change will provide consistency with 19.15.16.19.B which requires the filing of hydraulic fracturing disclosure form within 45 days after completion of a well. According to OCD, 45 days will allow for a more accurate assessment of the well, particularly a horizontal well. (Goetze testimony 7/13/17, Tr.11). NMOGA supports the change to insure more accurate submissions to the agency (Padilla testimony 7/13/17 Tr. 47, 51).

10. The changes to 19.15.16.19.B and the new 19.15.16.19.C NMAC provide for the shift from filing New Mexico specific hydraulic fracturing disclosure forms with OCD to filing a hydraulic fracture disclosure with the FracFocus chemical disclosure registry.

11. FracFocus is a database maintained by the Ground Water Protection Council ("GWPC"), an organization of member states. (Goetze Tr.12). New Mexico is a member of GWPC. (Goetze Tr. 29, 35).

12. The FracFocus disclosure form is easier for operators to use than the New Mexico system. Data can be more easily downloaded from existing files; such downloads also avoid potential data entry errors. (Exh. 1,2; Goetze Tr. 13-17; Padilla Tr. 43-44). Most large New Mexico operators are familiar with the FracFocus system, and use the FracFocus form for New Mexico wells. (Padilla Tr. 43).

13. FracFocus captures the information on hydraulic fracturing chemicals that is currently captured by the New Mexico system. OCD can easily use FracFocus to find information on a particular well or operator. (Goetze Tr. 19, 25-26, 36).

14. Information on the FracFocus database can be more easily viewed and downloaded than the information that is currently captured in the New Mexico system. (Goetze Tr. 19; Padilla Tr. 45). FracFocus is open to the public and does not require membership or fees to access the information. (Goetze Tr. 35).

15. The proposed amendments add a requirement for disclosure when a well is recompleted or when a hydraulic fracture treatment is otherwise used. This will insure that all uses of hydraulic fracturing treatments are captured in disclosure forms. Currently, operators usually report these other uses on FracFocus. (Padilla Tr. 46).

16. The rule change proposal adds a new subsection C to 19.15.16.19 which provides alternatives to filing fracture stimulation disclosures with the FracFocus Chemical Disclosure Registry if that registry becomes temporarily or permanently unavailable.

17. In 2012, the Commission chose to implement a New Mexico specific hydraulic fracture disclosure form rather than require the use of an earlier version of FracFocus. (Goetze Tr. 20-24). Since the adoption of the current requirement, FracFocus has been revised and improved. The FracFocus system has also improved security. (Goetze Tr. 12, 15-17, 24; Padilla Tr. 48). Most oil and gas producing states now require the use of the FracFocus database for hydraulic fracturing disclosure. (Goetze Tr. 19-20; Padilla Tr. 46).

18. The Commission finds that the proposed changes to the report filing deadlines and to the disclosure of hydraulic fracturing information on the FracFocus system will improve the accuracy of the submitted information, will allow for easier public access to the information, will remove redundancies and extra steps for the operators and will provide the agency with same level of information as the current rule.

19. The Commission proposes to amend the rule change by adding a subsection B(3) to 19.15.16.19 NMAC which reads "The division shall download and archive New Mexico FracFocus submissions on a quarterly basis." This addition insures that the agency will maintain an archive of FracFocus data in case of any disruption or destruction of the FracFocus system. (Tr. 59-63).

THE COMMISSION CONCLUDES THAT:

1. The Commission has jurisdiction, under the Oil and Gas Act, over the parties and the subject matter of this case.
2. Proper public notice has been given.
3. The Commission has the legal authority to enact the proposed rule changes.
4. The Commission concludes that there is substantial evidence in the record to support the proposed rule changes, as amended by the Commission, that these rule changes are reasonable and further the goals of the prevention of waste, the protection of correlative rights and the protection of public health and the environment.

IT IS THEREFORE ORDERED THAT: The proposed changes to rules 19.15.16.19 and 19.15.7.16 NMAC, as submitted to the Commission by the OCD at the hearing and as amended by the Commission at the hearing, are hereby approved by the Commission. The adoption of the rule changes will be final upon the later of the action of the Commission on a rehearing application filed pursuant to NMSA 1978, Section 70-2-25, or 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 Center until the rule changes are 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 Laws 2017, chapter 137, section 7.

DONE at Santa Fe, New Mexico, on this 10th day of August, 2017.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION



DAVID R. CATANACH, CHAIR



ROBERT BALCH, MEMBER



ED MARTIN, MEMBER