

## 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 a.m. on July 30, 2020 online and via telephone. The hearing may be continued to the following day if not completed. Oral comments may be made either 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.

### **Case No. 21281: APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION TO AMEND THE COMMISSION'S RULES FOR PRODUCED WATER IN 19.15.2, 19.15.16, AND 19.15.34 NMAC; STATEWIDE.**

The New Mexico Oil Conservation Division (OCD) proposes to (1) amend 19.15.2.7 NMAC to conform the definition of "produced water" with the definition found in the Oil and Gas Act, NMSA 1978, §70-2-33(K) (2019); (2) amend 19.15.16 NMAC to add a section requiring the filing of a water use report for a hydraulically fractured well that provides the portion of the water used in fracturing which is potable, nonpotable, or recycled produced water; and (3) amend 19.15.34 NMAC to conform the language in 19.15.34 NMAC to the legislative changes in Laws 2019, chapter 197 (HB 546) concerning produced water.

**Purpose of Proposed Rule.** The proposed rule implements the changes in produced water management and authority enacted by House Bill 546 (Laws 2019, chapter 197) in the 2019 Legislature.

**Legal Authority.** The proposed rule is authorized by the Oil and Gas Act, Sections 70-2-1 through 70-2-38 NMSA 1978, 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), Section 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, Florene Davidson at [florene.davidson@state.nm.us](mailto:florene.davidson@state.nm.us) or (505) 476-3458, or can be viewed on the Rules page of the OCD's website at <http://www.emnrd.state.nm.us/ocd>.

**Public Hearing.** The Commission will hold a public hearing on the proposed rule at the Commission meeting commencing at 9:00 a.m. on July 30, 2020 online and via telephone. The hearing may be continued to the following day(s) if not completed. The hearing will be held via Webex Meeting platform. The public meeting can be accessed by using the following link and/or meeting information:

#### **July 30**

OCC - (Day 1) Produced Water Rule Making

Hearing

Meeting number: 967 682 712

Password: R4SpDXpeu49

<https://nmemnrd.webex.com/nmemnrd/j.php?MTID=m6572062a0ff431b8f7a815b6edf74af0>

Join by phone

+1-408-418-9388 United States Toll

Access code: 967 682 712

#### **July 31 (IF NECESSARY):**

OCC - (Day 2) Produced Water Rule Making

Hearing

Meeting number: 963 288 479

Password: ZjiqP9PET32

<https://nmemnrd.webex.com/nmemnrd/j.php?MTID=m2854bda11fb429c3fd553e90c6707a8f>

Join by phone

+1-408-418-9388 United States Toll

Access code: 963 288 479

For information on how to participate in the hearing please contact the Commission Clerk, Florene Davidson at [florene.davidson@state.nm.us](mailto:florene.davidson@state.nm.us) or (505) 476-3458 or visit the OCD's website at <http://www.emnrd.state.nm.us/ocd>. Pursuant to NMAC 19.15.3.8(C), the Commission will issue a Procedural Order specifying additional rules for the hearing as outlined below. The Procedural Order may be obtained from the Commission Clerk, Florene Davidson at

[florene.davidson@state.nm.us](mailto:florene.davidson@state.nm.us) or (505) 476-3458, or can be viewed on the Rules page of the OCD's website at <http://www.emnrd.state.nm.us/oed>.

**Proposed Modifications, Technical Testimony, and Cross Examination.** Any person intending to propose a modification to the proposed rule, to present technical testimony at the hearing, or to cross-examine witnesses must file a Pre-Hearing Statement conforming to the requirements of Subsection B of 19.15.3.11 NMAC, no later than 5:00 p.m. on July 17, 2020. Additionally, all technical testimony shall be presented to the Commission in writing and shall be filed with the Commission no later than 5:00 p.m. on July 17, 2020. Filing may be accomplished by first class mail to the Commission Clerk, Florene Davidson, 3<sup>rd</sup> Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico, 87505, or electronic mail to [OCD.Hearings@state.nm.us](mailto:OCD.Hearings@state.nm.us). Any person who presents technical testimony in writing shall attend the hearing online or via telephone and will be subject to cross-examination by the members of the Commission, the Commission's counsel, or another person who has filed a Pre-Hearing Statement on the subject matter of the person's direct testimony.

**Oral Comments.** Any person who has not submitted a Pre-Hearing Statement may present non-technical testimony or make an unsworn statement at the hearing, and may offer exhibits at the hearing so long as the exhibits are relevant to the proposed rule and do not unduly repeat the testimony. Any person that wishes to present oral non-technical testimony to the Commission shall notify the Commission Clerk, Florene Davidson by first class or electronic mail at 3<sup>rd</sup> Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico, 87505, or [florene.davidson@state.nm.us](mailto:florene.davidson@state.nm.us) no later than 5:00 p.m. on July 29, 2020. In order to ensure that all participants are able to participate in the hearing, notifications to the Commission Clerk shall include at least a name and telephone number of the person intending to present non-technical testimony. Any exhibits that will be offered in conjunction with non-technical testimony must be sent via electronic mail to the Commission Clerk, Florene Davidson, at the above email address no later than 5:00 p.m. on July 29, 2020. Any person who presents non-technical testimony will be subject to cross-examination by the Commission, the Commission's counsel, or another person who has filed a Pre-Hearing Statement on the subject matter of the person's direct testimony.

**Written or Electronic Comments.** Any person may submit written or electronic comments on the proposed rule no later than 9:00 a.m. on July 30, 2020, unless extended by the Commission or the Chair of the Commission, by first class or electronic mail to the Commission Clerk, Florene Davidson, 3<sup>rd</sup> Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico, 87505, or [florene.davidson@state.nm.us](mailto:florene.davidson@state.nm.us).

**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, Florene Davidson, [florene.davidson@state.nm.us](mailto:florene.davidson@state.nm.us) or (505) 476-3458, or through the New Mexico Relay Network at 1-800-659-1779, no later than July 17, 2020.

**Technical Information.** There is no technical information for the proposed rule.