

# NMOGA

NEW MEXICO OIL AND GAS ASSOCIATION

P.O. Box 1864, Santa Fe, New Mexico 87505

March 2, 2022

**VIA EMAIL**

Adrienne Sandoval, Division Director  
New Mexico Oil Conservation Division  
OCC.Hearings@state.nm.us

**Re:** February 9, 2022, Notice of Potential Changes for Parts 2 and 7 (19.15.2 and 19.15.7 NMAC)

Dear Ms. Sandoval:

Thank you for the opportunity to provide informal comment on the proposed rule changes reflected on the February 9, 2022, Notice from your office. After circulating these proposed changes to NMOGA members, we have received the following comments.

The first comment relates to the highlighted provision in the following proposed changes to 19.15.2.16:

**19.15.2.16 DUTIES AND AUTHORITY OF DIVISION FIELD PERSONNEL:** Division personnel Oil and gas inspectors, deputy oil and gas inspectors, scouts, engineers and geologists the division duly appoints have the authority and duty to enforce division rules. Upon a showing by an operator that changes are necessary to avoid waste or protect public health or the environment, division personnel may allow minor deviations from approved field operational plans such as drilling and plugging plans. The operator shall file a Form C-103 as a notice of intention showing the change of plans within one business day of the approval. Oil and gas inspectors and their deputies may allow minor deviations from 19.15.2 NMAC through 19.15.39 NMAC's requirements as to field practices where, by so doing, waste is prevented or burdensome delay or expense on the part of the operator is avoided.

Concern has been raised about the proposed “one business day” time frame in which to file the Form C-103. A single day to submit the form following approval of a minor deviation may be difficult under various circumstances. NMOGA proposes that the time frame be changed to “within five business days of the approval.”

The second comment relates to the division’s authority over federal lands as articulated in current rules 19.15.7.11 and 19.15.7.37, which the division proposes to replace with the new language set forth in proposed 19.15.7.9. Proposed 19.15.7.9.D properly states the division lacks authority to approve forms filed exclusively for lands or minerals owned by a native American nation, tribe, pueblo or individual allottee “unless such review or approval is authorized by a written agreement between the native American nation, tribe, pueblo and the division.” That same

restriction applies to federal lands and minerals. NMOGA is not aware of any agreement between the BLM and the division authorizing division authority over development on federal lands or of federal minerals. Accordingly, the first sentence in proposed 19.15.7.9.C should be removed, the phrase “for approval” in the second sentence should be removed, and the following sentence should be added: “Such forms involving exclusively federal lands or minerals are not subject to division review or approval unless such review or approval is authorized by a written agreement between the BLM and the division.”

I am happy to discuss these comments further as needed.

Sincerely,



John R. Smitherman  
Senior Advisor – Petroleum Engineer

cc: Michael H. Feldewert, Holland & Hart

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