

November 15, 2024

Ms. Shelia Apodaca, Commission Clerk  
New Mexico Oil Conservation Commission  
3<sup>rd</sup> Floor Wendell Chino Building  
1220 south St. Francis Drive  
Santa Fe, NM 87505

RE: Proposed Amendment to the Commission's Rules to Address the Use of Perfluoroalkyl and Polyfluoroalkyl Substances in Oil and Gas Extraction, 19.15.2, 19.15.7, 19.15.14, 19.15.16 and 19.15.25 NMAC

Dear Ms. Apodaca:

The American Chemistry Council (ACC) appreciates the opportunity to submit the following comments in response to proposed amendments that seek to regulate the use of perfluoroalkyl and polyfluoroalkyl substances (PFAS) in oil and gas extraction.

ACC represents the leading companies engaged in the business of chemistry, an industry that is essential to the U.S. economy and one that plays a vital role in driving innovations that make our world safer, more sustainable and more productive. Chemistry supports over 25% of the U.S. GDP and 9% of U.S. goods exports. It also provides 529,000 skilled American jobs and the U.S. is the second largest global producer, providing 13% of the world's chemicals.

The chemistry industry is the foundation of U.S. manufacturing and the engine of our national economy. Chemistry creates the basic building blocks for countless products that Americans rely on every day, from the packaging that keeps our food fresher longer to building products that make our homes more energy efficient to materials such as high-tech composites that make our cars, planes, and electronics lighter, stronger, and more fuel efficient. In fact, 96% of all manufactured goods made in the U.S.A. rely on chemistry.

Safety is our industry's top priority, and we support the responsible production, use and management of fluorinated substances. As a matter of principle, ACC believes that any regulatory requirements should be grounded in strong scientific principles, protective of human health and the environment, leverage existing state and federal regulatory requirements, encourage innovation and economic development, and provide certainty to regulated entities.

The oil and gas industry is a critical partner for the business of chemistry, and any new regulations impacting this sector must be science-based, practical, predictable and implementable. For these and other reasons, ACC supports the comments submitted by the New Mexico Oil & Gas Association (NMOGA).

Specifically, and as outlined in the NMOGA submission, changes are needed to ensure the final regulation is technically accurate and implementable. The proposed definition of PFAS is extremely broad and, as a result, essentially treats all "PFAS chemistries" as the same. This is not scientifically accurate and establishes a standard that could create regulatory confusion and ambiguity. PFAS are a diverse universe of chemistries critical to a variety of industries, including medical devices, the production of life-saving drugs, as well as smart phones,

tablets and semiconductors, among many others. All PFAS are not the same and they should not all be regulated the same way. ACC urges that any adopted rule include an appropriate definition of PFAS.

ACC also supports the suggestion by NMOGA of adding a definition of “intentionally added PFAS” to ensure the intended scope of this rulemaking – the prohibition on the knowing or intentional use of PFAS-containing hydraulic fracturing fluids – is appropriately captured.

As it relates to the issue of disclosure, ACC has a long history of supporting state-level oversight of hydraulic fracturing, and we are committed to transparency regarding the disclosure of the chemical ingredients of hydraulic fracturing solutions, subject to the protection of proprietary information. The FracFocus platform serves as the appropriate mechanism for the disclosure of hydraulic fracturing fluids, while also including the appropriate level of protections for trade secrets and propriety or confidential business information. To that end, ACC supports NMOGA’s position on the continued use of FracFocus.

Thank you for the opportunity to provide these comments. If you have any questions or comments, please do not hesitate to contact me at 916-448-2581 or via email at [tim\\_shestek@americanchemistry.com](mailto:tim_shestek@americanchemistry.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Ti Sh", with a long horizontal flourish extending to the right.

Tim Shestek  
American Chemistry Council  
Senior Director, State Affairs  
Western Region

My name is s Carl Peterson and I am a resident of Bernalillo County. I am writing to OCC to affirm my support for the WildEarth Guardian's proposed rule change, which would eliminate the use of PFAS chemicals in New Mexican fracking fluids.

Produce water, or toxic fracking oil wastes, are dangerous fluids that contain many components that threaten human life. Traditionally, these fluids have been stored in deep disposal wells to sequester them from human contact. However, these wells appear to be approaching their maximum capacity. This has resulted in Texas halting shipments of produced water from New Mexico for deep well disposal. In search of a disposal solution, NM Governor Grisham has suggested that our produced water could be treated allowing the surface utilization of a portion of "purified" water and a smaller volume of waste water. This waste water is a more concentrated toxic waste stream which would be placed in deep disposal wells. XRI a water treatment company operating in the Permian, is currently treating about 1 million barrels of produced water at day with about 800,000 barrels of "purified" water being recycled for continuing fracking oil extraction and 200,000 barrels a day forming the concentrated toxic waste stream.

Using these estimates the waste stream would be reduced from the current 3.93 Billion barrels a year in the Permian down to about 20% of this flow or about .786 Billion barrels a year in the Permian (discounting any existing recycling programs). This would improve the current situation in that we would reduce the water extraction from the Ogallala area aquifers from around 3.93 Billion barrels a year down to .186 Billion barrels a year in the Permian (using Robert Mace's estimate of 6.5:1 of an extraction rate: natural replacement rate), if all wells were assumed to be on a recycling program but this would still not solve the problem of deep well storage space.

Texas has recognized this problem and has implemented an onsite evaporative distillation project which is commonly known as the NOMAD technologies. Where produced water is recycled on-site reducing the pressure on the deep disposal wells by only sending the concentrated waste stream distillation products to the disposal wells. (Several farmers have elected to allow "purified" water to be used on their lands with the understanding that no crops for human consumption would be grown using this water. Further study of the practice is warranted )

However, this has not solved the pressure on the deep disposal wells. We see that in the Permian a series of earthquakes, periodic geysers and produced water upwellings are ongoing. These releases of produced water are thought to be failures of the geological strata through which the produced water migrates to the surface defeating the sequestration process for these highly toxic wastes and further likely contaminating potable water supplies which they may pass through..

This migrating produced water contains many types of contamination; radiological, petroleum by-products and synthetic molecules such as PFAS. PFAS is a "forever molecule" it does not break down in nature to safe subspecies. PFAS can damages the health of persons that come in contact with this substance. As long as fracking is continuing in New Mexico and with the limited ability to sequester fracking fluid from the surface or surface waters it is only prudent to assume a preventive posture and remove this material from the waste stream by preventing this material from being injected down hole in the first place.

Carl Peterson  
submitted 11-15-24

**From:** [Carlos Matutes](#)  
**To:** [Apodaca, Sheila, EMNRD](#)  
**Subject:** [EXTERNAL] Speaking to the NM Oil Conservation Committee  
**Date:** Friday, November 15, 2024 6:48:42 AM

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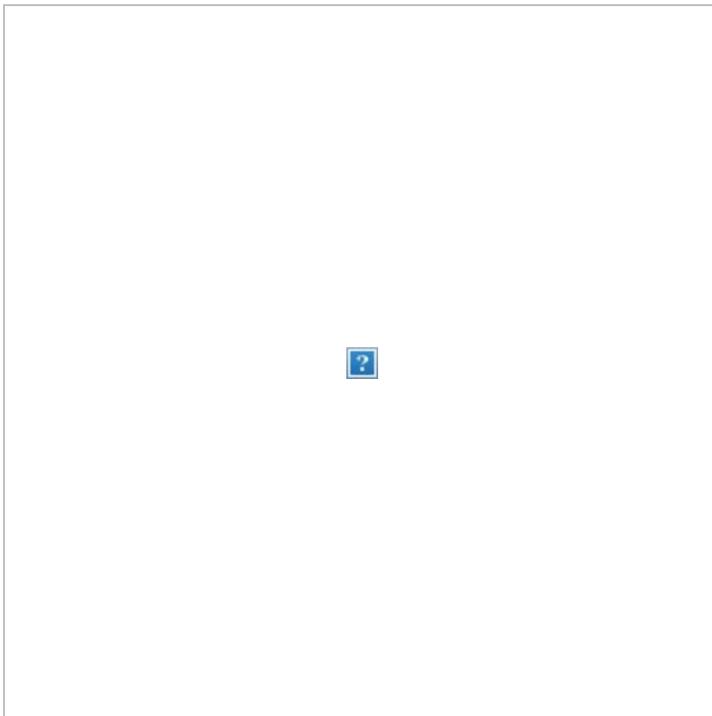
Good morning,

On behalf of GreenLatinos and the Latine communities of New Mexico, I would like to speak to the Oil Conservation Commission to encourage banning PFAS/PFOA from use in oil and gas production in our state.

I would like to address the Commission remotely during the morning session today, November 15th, between 8:30 and 9:00 am.

Thank you for your assistance in this matter.

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**Es preferible el bien de muchos a la opulencia de pocos.**

**-Jose Marti**

**From:** [Charles Goodmacher, Do Good LLC](#)  
**To:** [Apodaca, Sheila, EMNRD](#)  
**Subject:** [EXTERNAL] NMOGA is wrong - Public Comment - Case No. 23580 - PFAS Rulemaking  
**Date:** Thursday, November 14, 2024 10:04:29 AM

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Dear Oil Conservation Commissioners,

I am writing today to submit my public comment regarding Case No. 23580 regarding the rulemaking on PFAS in oil and natural gas operations.

The NMOGA erroneously says fear, not facts and science are driving the rulemaking requests from the public. They are wrong as so many experts have testified before you about the facts and science. They want you to believe them. Instead of offering evidence for their assertions, they keep repeating these attacks on the messengers of facts and science.

While it is true PFAS are everywhere in our daily lives, including household items like nonstick cookware, water-repellent clothing, and some cosmetics, this does not mean that is a good thing for our health. Air pollution is everywhere in our daily lives too - but nobody would say we should have more of it, and everyone who understands the consequences would want less, and would not cheer for more of the same as NMOGA is doing here.

NMOGA wants us to take their word for granted, when they say PFAS are not common in oil and natural gas operations. Without more disclosure requirements, how is the public to know the truth?

"The oil and natural gas industry already provides details about chemicals used in the fracking process and is happy to certify that PFAS is not used in fracking operations," says NMOGA who wants to self-regulate themselves. This is the same industry which has for years lied to the public and regulators about their own knowledge that their own industry is largely responsible for life-threatening and highly destructive climate change.

Oil and natural gas operators care first about their profit, and they care about safety and protecting the environment only when not doing so hurts their bottom line.

Sincerely,

Charles Goodmacher

**From:** [Chris Catechis](#)  
**To:** [Apodaca, Sheila, EMNRD](#)  
**Subject:** [EXTERNAL] Public Comment for Case No. 23580  
**Date:** Thursday, November 14, 2024 7:39:03 PM

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Dear Oil Conservation Commissioners,

I am writing today to submit my public comment regarding Case No. 23580 regarding the rulemaking on PFAS in oil and natural gas operations.

My Name is Chris Catechis and I have over 27 years of experience with environmental investigations, environmental restoration, remediation, field, and planning studies, and associated regulatory compliance. I have provided planning and analysis, technical review, and impact assessment for studies as part of the National Environmental Policy Act process, including both environmental assessments, and environmental impact statements. I have authored or co-authored a variety of other Environmental Safety and Health, and other environmental compliance documents and reports, including soil and stormwater sampling and analysis reports, environmental baseline surveys, integrated natural resource management plans, remediation and geotechnical task plans and reports. Within my career I have provided planning and technical support or review for projects performed for the Department of Energy (e.g., Albuquerque Operations Office, Los Alamos Area Field Office, Sandia National Laboratories), the Department of Defense, and private sector clients. Additionally, I served as the Resource Protection Division Director for the New Mexico Environment Department. In this capacity as a Regulator, I dealt directly with addressing the impacts of decades of Per- and polyfluoroalkyl substances (PFAS) groundwater contamination from Cannon Air Force Base and the impact to the Dairy community, resulting in the euthanization of 3,665 head of cattle.

I agree one hundred percent that PFAS is an emerging contaminant of concern that has impacted the entire United States and immediate action should be taken to not only stop the use and proliferation of PFAS, but to also remediate existing receptors of PFAS such as groundwater resources. However, I strongly believe that the proposed rulemaking on PFAS in oil and natural gas operations is a solution in search of a problem and that the resources being spent here could be better put to use in tackling industries and other sources of actual and profound PFAS contamination that impact us all. To single out the oil and gas industry which is already highly regulated and does not pose a significant source of PFAS use or contamination is an insult to the thousands of New Mexicans that have suffered and continue to suffer from actual PFAS contamination. Every minute that is spent crafting rules and regulations for an industry that is an insignificant contributor to PFAS contamination, is another minute wasted

in addressing the true magnitude and sources of PFAS contamination and is a disservice to the citizens of New Mexico who have to live every day with the impacts of PFAS.

Thank you,

Chris Catechis

**PFAS, which resembles a hydrocarbon, except that fluorine atoms, instead of hydrogen atoms are attached to the carbon atoms, does not occur in nature. Therefore, no known biological organisms have yet developed the ability to break it down into its individual elements.**

**As citizens of the United States, we are now in a tough situation. We have been using PFAS for several decades, unaware of the potential dangers to the human body. Now, we learn that the US EPA has classified it as a carcinogen.**

**We have recently learned that the Oil and Gas (O&G) Industry has also been using these chemicals, in addition to our precious water, for the production of oil and gas. This same industry is now suggesting that we clean up the produced water (including waste fracking water, drilling muds and whatever they pull up from the ground in the process of accessing these fuels, and use it for growing food. This is yet another cost that the public is being asked to bear to maintain a lower price of fuel at the gas pump. We are already forced to breathe the air laden with exhaust emissions from the production and burning of these fossil fuels.**

**As I understand it, removing PFAS from the waste water stream will likely involve filtering (with activated carbon or soils). However, these PFAS-laden “filters” must then be disposed of. Here in the US, it is apparently legal to dispose of these filters and other O&G wastes in public landfills. However, in doing so, we have only then managed to relocate the toxins, distributing them throughout the state, making the problem more widespread and available to inoculate other valuable aquifers.**

**Another proposed technique is to incinerate the PFAS material. However, the process of heating merely breaks down these long-chained molecules into shorter chains that maintain their dangerous nature. This is due to the fact that the carbon - fluorine bond is the strongest known in all of organic chemistry. If we try to dispose of it in this way, it ends up in the air as well! The truth is, we do not currently have ways to destroy these chemicals, thus the adjective “forever”.**

**In 1998, I lost my nine-year old daughter to a rare bone tumor to the cervical spine (Atypical Chordoma). We tried every potential remedy (resection, chemo, radiation), but 9 months after discovering the disease in her, we said good-bye for the last time. This cancer, I had read in the medical journals at the time, was supposedly very rare (1 in 80 million odds by some estimates). But later I became aware of several cases in the Denver area alone (a metro area population of ~1 million at that time). We may never be certain of what causes the cancers and respiratory illnesses that are killing us and our children. But that is the sinister nature of this business.**

**The O&G industry is responsible for the disposition of this waste stream. The waste should not leave the areas of its production. It comes with an additional cost that should show up at the pump, instead of being inequitably subsidized by the lives of our children.**

**David R. Muñoz, Ph.D.**

**Taos, NM**

**November 14, 2024**

**From:** [Ethan Pauling](#)  
**To:** [Apodaca, Sheila, EMNRD](#)  
**Subject:** [EXTERNAL] FW: NM Oil Conservation Commission Case No. 23580; HESI Comment  
**Date:** Tuesday, November 12, 2024 5:00:35 PM  
**Attachments:** [NMOCC Case No 23580 HESI Comment.pdf](#)

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Please see attached and below.

**Ethan Pauling**

Attorney

Health, Safety, and Environmental Law

Halliburton Energy Services, Inc.

3000 N. Sam Houston Pkwy E

Houston, Texas 77032

Email: [ethan.pauling@halliburton.com](mailto:ethan.pauling@halliburton.com)

Office: 281-871-3487

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**From:** Ethan Pauling

**Sent:** Tuesday, November 12, 2024 5:58 PM

**To:** occ.hearing@emnrd.nm.gov

**Cc:** Tramaine Singleton <Tramaine.Singleton@halliburton.com>; David Martin - Law Department <David.Martin2@halliburton.com>; Todd Ennenga <Todd.Ennenga@halliburton.com>

**Subject:** NM Oil Conservation Commission Case No. 23580; HESI Comment

Hello,

Please find attached Halliburton Energy Services, Inc.'s comment in response to the New Mexico Oil Conservation Commission Case No. 23580: APPLICATION OF WILDEARTH GUARDIANS TO AMEND THE COMMISSION'S RULES TO ADDRESS PFAS, AMENDMENTS TO 19.15.2, 19.15.7, 19.15.14, 19.15.16, AND 19.15.25 NMAC.

We appreciate the opportunity to submit this comment.

Thank you,

Ethan

**Ethan Pauling**

Attorney

Health, Safety, and Environmental Law

Halliburton Energy Services, Inc.

3000 N. Sam Houston Pkwy E

Houston, Texas 77032

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New Mexico Oil Conservation Commission  
Wendell Chino Building  
3rd Floor  
1220 South St. Francis Drive  
Santa Fe, NM 87505

Attention: Ms. Sheila Apodaca, Commission Clerk

RE: Comments of Halliburton Energy Services, Inc. in Response to the Matter of the Application of WildEarth Guardians to Consider the Proposed Amendments to Address Per- and Poly Fluoroalkyl Substances (PFAS) and Their Use in Oil and Gas Extraction, 19.15.2, 19.15.16, 19.15.31, and 19.15.32 NMAC

Dear Commissioners:

Halliburton Energy Services, Inc. (HESI) submits these comments in response to the May 25, 2023, petition submitted by WildEarth Guardians (Petitioner) to the Oil Conservation Commission (OCC or Commission) to amend its rules to address perfluoroalkyl and polyfluoroalkyl substance (PFAS) waste resulting from the drilling, development, and production of oil and gas in New Mexico. We appreciate the Commission's consideration of the comments set forth below

HESI is particularly concerned about the proposed amendment to 19.15.7.16 NMAC that would prohibit operators from using well completion fluid additives that include constituents whose identities have been withheld as trade secrets by the manufacturer of the additive. As set forth more fully below, this prohibition would prohibit the use of additives that are the result of the latest innovations in fracturing fluid technology and which in many cases provide environmental benefits. There is no need to prohibit the use of these products given the extensive information concerning the makeup of fracturing fluids chemicals that is available to regulators and members of the public. The Commission should decline to adopt the requested amendment.

### **Economic and Environmental Benefits of Proprietary Products**

HESI's well stimulation products offer significant advantages over those of its competitors. In fact, HESI's specialized products have been demonstrated to increase production from individual wells significantly. For example, HESI undertook a study in 2020 in conjunction with a Permian Basin operator to test the effectiveness of its dry friction reducer product line, FightR-LXD. Traditional liquid friction reducers use a hydrocarbon carrier fluid, which adds logistical challenges at the well site. Previous attempts by service companies to pump dry material at well sites had encountered caking and pump cavitation issues. Using HESI's dry friction reducers with a patent-pending delivery method, HESI was able to provide effective friction reduction with decreased pump times and no operational issues. HESI was able to achieve an average 13% reduction in completion costs per lateral foot. Thus, HESI's

innovative products are very valuable because they command a premium in the market due to their demonstrated ability to increase production and/or reduce costs.

HESI's products also provide other advantages to well operators, including significant environmental benefits. For example, the use of FightR-LXD dry friction reducers enables operators to eliminate the use of hydrocarbon carrier fluids, resulting in more environmentally friendly friction reduction systems. At the same time, operators can eliminate the truck traffic required to bring the hydrocarbon carrier fluids to the well site. Thus, these types of innovations can result in a variety of environmental benefits,

### **HESI's Investment in Research and the Importance of Trade Secret Protection**

HESI is able to provide innovative products to its customers because of its investment in research and development. The science of hydraulic fracturing includes an understanding of the geology of the formation, the physics of temperatures and pressures, and the chemistry of the stimulation fluids themselves. HESI spends significant research and development dollars understanding these factors and their role in developing new and innovative fluids to more effectively stimulate reservoirs to increase production of oil and gas and employs a number of scientists and engineers to assist in these efforts. The company has spent billions of dollars on technology development over the past decade, including tens of millions of dollars devoted to research on new stimulation fluids, in order to maintain its competitive edge. HESI's substantial investment in research and the success of its product development efforts have been recognized by the Patent Board, which has previously named HESI as a leader among service companies in innovation in the oil and gas industry.

There are a number of basic steps in HESI's process for developing and commercializing a product. The first step is identifying a market need, *i.e.*, an opportunity to increase production from a well or perform stimulations more cost-effectively that could be taken advantage of through the development of new technology. Second, HESI determines what type of stimulation fluid is most likely to be successful in addressing the issue identified. This determination is made only after HESI has conducted significant geological study of the rock formations to be stimulated. The company then conducts extensive research and development in order to create a new or improved fluid that can be applied successfully to address the issue identified. Once a prospective fluid is developed, the company commits further financial resources and the proposed new, advanced product undergoes extensive modeling and testing in our laboratories. If the new fluid performs well in laboratory tests and computer modeling, HESI then conducts field tests of the new fluid. Finally, following successful field testing the new stimulation fluid is made commercially available to our customers. Thus, commercialization of new products occurs only after considerable expenditure of resources and funds.

Given this substantial investment, HESI takes a number of steps to protect the confidentiality of the formulations of its proprietary products, including the implementation of strict internal company controls to ensure the limited use of confidential chemical information. Within HESI, proprietary chemical identities are not generally available to all HESI employees, but are known only to those in the company who have need of the information in connection with their work for HESI, such as those employees engaged in product development activity and employees involved in the protection of intellectual property and protection of human health and the environment. The formulas of proprietary products (including chemical identity information) are maintained in a company password-protected system to which only a very limited number of employees have access. HESI does not make proprietary chemical identity

information available outside the company, except under strict confidentiality agreements or other protective arrangements.

Keeping this information confidential is of significant commercial value to HESI. The company is the global leader in well stimulation and the development of specialized non-commoditized fracturing fluids. HESI is able to remain the leader in well stimulation services because, among other things, HESI offers its customers specialized products and services that they cannot obtain from any other company. These products have gained a solid reputation in the industry for being the best and most effective products available, and they provide our customers with better results than any other product on the market.

The protection of trade secrets is a long-standing and fundamental aspect of the American legal system. Its purpose is to encourage the kind of innovation in which HESI engages by ensuring that those who invest time and resources in developing new products will be able to enjoy the fruits of the efforts to a reasonable extent. New Mexico has incorporated this national policy into its state law through the adoption of the New Mexico Uniform Trade Secrets Act, NMSA §§ 57-3A-1 to 57-3A-7. *See also Pincheira v. Allstate Ins. Co.*, 164 P.3d 982, 291 (N.M. 2007) (there is a “strong public policy in New Mexico supporting the confidentiality of trade secrets”). The Commission has previously recognized the importance of trade secret protections by including protections for proprietary chemicals in its chemical disclosure regulations.

The disclosure of the chemical identities of the constituents in HESI’s proprietary products would result in the type of substantial competitive harm to HESI that the Trade Secrets Act is designed to avoid. The market for oil and gas field services is highly competitive, both in New Mexico and elsewhere around the world. There are a number of other service companies that are active in the New Mexico market as well as other domestic and overseas markets. These companies all compete vigorously with HESI to provide hydraulic fracturing services to the limited number of oil and gas well operators in the State.

If HESI’s product formulas were to become available to other companies, HESI’s competitors would subsequently be able to make full commercial use of these product formulas for their own purposes because many of these formulas may not be patentable. As a result, HESI’s competitors would be able to reproduce HESI’s products and offer them to HESI’s customers at a lower price. The company would lose the competitive advantages it has gained through its substantial investment in innovative products. This loss of competitive advantage could occur worldwide, not just in New Mexico.

Because of the potential competitive harm to HESI, the company could choose not to use proprietary products in New Mexico if its proprietary chemical identities would otherwise be disclosed publicly. The loss of these products could significantly impact oil and gas production in the state. In fact, some wells could cease to be profitable and others might never be able to achieve profitability. The impacts of disincentives to the use of new technologies would not only be economic, but also could have significant adverse environmental impacts due to the withdrawal from the market of innovative products offering the type of environmental benefits discussed above.

HESI’s current practice of non-disclosure of trade secret chemical formulations attempts to ensure that competitors cannot acquire or duplicate the company’s chemical formulations on their own. It would be very difficult if not impossible for HESI’s competitors to obtain the formulas for HESI’s proprietary products through any other possible legal means

at the present time. However, once the identities of the constituents of HESI's proprietary products are disclosed, it would not be difficult for competitors to determine the complete formula (including the concentrations of the various constituents) or the process for developing HESI's proprietary products through standard "reverse engineering" practices, effectively eliminating the trade secret status of the product formula. Therefore, HESI's confidential information must remain confidential in order to protect HESI's proprietary formulas and provide necessary incentives for innovation.

**Petitioner Has Not Demonstrated a Need for the Proposed Prohibition on the Use of Proprietary Chemicals**

Petitioner has not demonstrated a need to require public disclosure of trade secret chemicals, particularly in light of the extensive information available to the public through FracFocus regarding the chemical make-up of the fluids used in completing oil and gas wells in New Mexico and elsewhere across the country. As discussed in the comments submitted by the American Petroleum Institute, operators in New Mexico are required to submit chemical disclosure information relating to hydraulic fracturing activities to the FracFocus registry. As a result, the registry contains detailed information regarding the chemicals used in hydraulic fracturing operations in New Mexico, with most chemicals being specifically identified. The proprietary chemicals – which are identified by chemical type – are a small subset of the overall universe of chemicals used and constitute only a very small portion of the total fluid volume.

In addition, Safety Data Sheets for the additives provide information regarding precautionary measures for product handling as well as response measures in the event of chemical releases, both of which reflect the chemical properties of the additive as a whole (including any proprietary ingredients). In practice, the likelihood that any member of the public would be exposed to proprietary chemicals used in hydraulic fracturing operations at a well site is very low. As a result, the public disclosure of these chemicals would be of minimal benefit to members of the public but would significantly benefit HESI's competitors.

**Conclusion**

In light of the above, Petitioner has not demonstrated a need for the Commission to eliminate the protections for trade secrets that have been a part of state law for many years. Adoption of the proposed rule would lead HESI – and potentially other chemical suppliers – to withhold products from the New Mexico market, including products that enhance oil and gas production while offering environmental benefits. The Commission should decline to adopt the proposed rule.

HESI appreciates the opportunity to submit these comments. Please contact us if you would like further information.

**From:** [Giuliana Funkhouser](#)  
**To:** [Apodaca, Sheila, EMNRD](#)  
**Subject:** [EXTERNAL] I support the application to prohibit PFAS and require disclosure of chemicals used in oil and gas operations  
**Date:** Thursday, November 14, 2024 12:19:44 AM

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Dear Ms. Sheila Apodaca,

Hi, my name is Giuliana Funkhouser, and I'm a resident of Utuado (PR). In 2018 I participated in several investigations through the Resolana Art Collective to better understand how toxic waste from industrial and military activities were being utilized, stored and dumped around the USA. While our project focused on commonalities between management and subsequent leaks associated with such activities around Hunter's Point in San Francisco (CA) and Carlsbad (NM), I privately noted the similarities to chemical weapons and herbicide development around the rainforests in Puerto Rico as well.

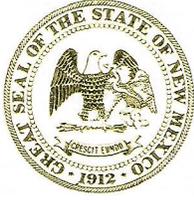
A through-line connecting each of these cases is an effort to reuse or simply dump industrial refuse without properly comprehending or sharing information about its chemicals makeup to locals. Even lists in a format similar to ingredient labels affixed to food products around the USA could help protect folks from a variety of health and environmental hazards. Not disclosing details about the contents of polluted fracking water may result in offloading the inconvenience of costly cleanup by the companies involved with the burden of toxic carcinogens placed on the lands and peoples of the areas affected. Between 2013 and 2022 oil and gas companies injected more than 3,600 NM wells with surfactants, a class of chemical that includes multiple PFAS. Without disclosure requirements - such as the ones put in place in Colorado and California already - there is no way for regulators to verify or enforce a prohibition on PFAS in oil and gas operations.

I'm here in solidarity with my fellow New Mexicans who kindly invited us to share and celebrate life through art and music. My perspective has deeply moved and shifted while pondering the effects of a decade of fracking activities on ancient lakes and rivers flowing through the Carlsbad Caverns. While closing off parts of the Caverns to protect visitors from polluted water exposure is unfortunate, what's devastating is the already documented health issues being detected especially in younger generations of New Mexicans living within areas of high exposure due to local groundwater contamination with PFAS and other chemicals. Carcinogenicity, neurotoxicity, immune system effects, changes in body weight, changes in blood chemistry, liver and kidney toxicity, and reproductive and developmental toxicity are all health effects associated with chronic oral exposure to such chemicals.

Currently oil and gas industry refuse is exempt from hazardous waste regulations under state and federal law, so the amount of toxic chemicals disposed of in "special waste landfills" accepting these materials across New Mexico is unknown. It is imperative the Commission prohibit the use of PFAS in oil and gas industry operations. Doing so will regulate the disposal of these waste products, which will be a huge leap towards ensuring considerate water management for a healthy, carcinogen-free environment for New Mexicans and their neighbors to thrive in!

Sincerely,  
Giuliana Funkhouser  
Utuado, PR 00641





State of New Mexico  
House of Representatives

STATE CAPITOL  
Santa Fe

November 14, 2024

Energy, Minerals and Natural Resources Department  
Oil Conservation Commission  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505

Re: Proposed PFAS Rule

Dear Oil Conservation Commissioners,

We are writing to express our strong opposition to the Commission's proposed rules related to the use of PFAS and disclosure of certain chemicals in oil and gas extraction operations. This proposal not only overreaches the legitimate scope of regulatory authority but also jeopardizes a cornerstone of New Mexico's economy. The oil and gas industry is a critical driver of employment, tax revenue, and economic stability across our state, and any undue regulatory burden could have severe repercussions for New Mexico's working families, schools, and essential services.

While environmental protection is crucial, this proposal, pushed by WildEarth Guardians—a group with a documented bias against the oil and gas sector—represents an activist agenda rather than a practical, balanced approach. There is no evidence that PFAS chemicals are currently used in extraction operations in our state. Furthermore, demanding full disclosure of proprietary chemical formulas undermines trade secret protections, disregards state law, and would hinder innovation within the industry. The Uniform Trade Secrets Act was designed to protect these proprietary interests, and requiring companies to choose between relinquishing trade secrets or ceasing operations in New Mexico sets an unacceptable precedent.

Moreover, oil and gas operators already comply with extensive disclosure regulations, including FracFocus, which has been an effective and transparent platform. Expanding disclosure requirements beyond FracFocus, as proposed, to include a broad array of third parties adds unnecessary complexity and could compromise public safety by potentially exposing sensitive information to misuse.

This rule is also unworkable from an enforcement perspective. Given the challenges of testing for the thousands of PFAS compounds, as acknowledged by the Oil Conservation Division itself, regulating this broad class of chemicals is premature and impractical. It is clear that WildEarth Guardians' proposal to mandate disclosure of "any and all" chemicals is an attempt to create

roadblocks to the industry, rather than a feasible or science-based policy to protect public health. This will damage New Mexico's economic interests by driving away operators and discouraging new investment in the sector.

We urge the Commission to reject this activist-driven, impractical proposal. New Mexico needs regulatory frameworks that foster economic growth and resource stewardship—not burdensome mandates that stifle a vital industry and threaten the livelihoods of thousands of our citizens.

Thank you for your attention to this matter. We hope that the Commission will prioritize balanced regulation over ideologically driven policies that harm our state's economy and energy independence.

Sincerely,



Rod Montoya  
House Minority Leader  
District 1



Alan Martinez  
House Minority Whip  
District 23



Gail Armstrong  
House Minority Caucus Chair  
District 49

**From:** [Jackie Onsurez](#)  
**To:** [Apodaca, Sheila, EMNRD](#)  
**Cc:** [info@nmoqa.org](mailto:info@nmoqa.org)  
**Subject:** [EXTERNAL] Public Comment - Case No. 23580 - PFAS Rulemaking  
**Date:** Friday, November 15, 2024 2:28:04 PM

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Dear Sheila Apodaca, State of New Mexico,

**Subject: Public Comment - Case No. 23580 - PFAS Rulemaking**

I am writing to you as Jackie Onsurez, Village of Loving Councilman, Loving, NM 88256, regarding the PFAS rulemaking case currently under consideration.

As a public servant and a resident of an area deeply connected to the oil and gas industry, I believe it is important to acknowledge the critical role this sector plays in our region and the nation. However, I also recognize the environmental and health concerns associated with the use of PFAS in fracking operations.

That said, I firmly believe that as the most highly regulated industry at both the federal and state levels, there is simply no need for additional rulemaking on this matter. The existing regulations already impose stringent requirements that ensure safety and environmental protection.

Having done my due diligence on this issue, I advocate for a balanced approach that allows for the continued use of current technology and fracking processes, including PFAS, while also implementing safeguards and exploring alternatives. The oil and gas industry can be a responsible stakeholder by committing to continuous process improvement and acknowledging the potential hazards associated with their operations.

As someone who works in the nuclear industry, I understand the sensitivity surrounding these issues. Just as the nuclear sector has adapted its practices over time to enhance safety and public trust, I believe the oil and gas industry can do the same without the need for additional regulations.

Looking ahead, it is essential for all energy sectors—including oil and gas, nuclear, and renewables—to collaborate with the public and regulatory bodies. We must recognize potential hazards while supporting our region's economic needs.

In conclusion, I urge the commission to consider my perspective that further rulemaking is unnecessary given the robust regulatory framework already in place. Let us work together to ensure a sustainable future that prioritizes both economic vitality and environmental responsibility.

Sincerely,

Jackie Onsurez  
Village of Loving Councilman

Loving, NM 88256

--

Jackie L Onsurez

505-209-5115

**From:** [Jason Shirley](#)  
**To:** [Apodaca, Sheila, EMNRD](#)  
**Subject:** [EXTERNAL] Public Comment - Case No. 23580 - PFAS Rulemaking  
**Date:** Friday, November 15, 2024 1:03:44 PM

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Dear Oil Conservation Commissioners,

My name is Jason Shirley, I am a former City Councilor in Carlsbad, a business owner, a Pastor, a husband, and a father. I am proud to live in one of the highest oil producing counties in the United States. I am also proud of the way the Oil and Gas industry take extreme measures to self regulate and care for our precious environment.

I am writing today to submit my public comment regarding Case No. 23580 regarding the rulemaking on PFAS in oil and natural gas operations.

I encourage the OCC to not let fear influence your decisions but rely on facts and science to direct your rulemaking.

PFAS are everywhere in our daily lives. However, because of the research and care of our industry leaders in O&G, the industry has moved away from using PFAS and is supportive of legislation regulating its use in fracking.

Even the EPA doesn't include the oil and natural gas industry on their lists industries targeted for rulemaking, data review, and monitoring PFAS. Why? Because PFAS are not common in oil and natural gas operations.

Oil and natural gas operators care about safety and protecting the environment. That's why PFAS are not intentionally used in fracking operations in our state.

A simple look into the required chemical data reporting done by the oil and natural gas industry bears out the facts stated above and eliminates the need for this over-regulation.

I ask that you let data and science be your guide and see through the attempts to tie PFAS with the oil and natural gas industry as you proceed in the rulemaking process.

Sincerely,  
Jason Shirley

Sent from my iPad

**From:** [Brian, Jerry R.](#)  
**To:** [Apodaca, Sheila, EMNRD](#)  
**Cc:** [Beardmore, Kevin W.](#); [Harris, Monty](#); [Missi Currier](#)  
**Subject:** [EXTERNAL] Case No. 23580-PFAS rule making in the O & G Industry  
**Date:** Wednesday, November 13, 2024 4:02:11 PM

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Dear Oil Conservation Commissioners,

I am writing to submit my public comment regarding Case No. 23580 concerning rule making on PFAS in oil and natural gas operations.

Per- and Polyfluoroalkyl Substances (PFAS) are synthetic substances invented in the 1930s & 1940s (Interstate Technology Regulatory Council). They are not naturally occurring substances in hydrocarbon.

In the 1960s, the Naval Research Laboratory (NRL) collaborated with the 3 M Company to explore and develop synthetic chemicals for fire suppression of hydrocarbon fuel-based fires. This was due in part to a fire and explosion disaster onboard the Aircraft Carrier USS Forrestal resulting in the loss of 134 sailors during the Vietnam war era (Uptown Injury Law).

This collaboration resulted in the development of the PFAS known as Aqueous Film-Forming Foam (AFFF)(Uptown Injury Law). Not only did the U.S. Navy mandate that all its vessels carry AFFF, but AFFF was also heavily used at U. S. military installations. By the late 1970s, it is believed that AFFF was also utilized by over 90 U.S. airports and numerous civilian fire departments (Uptown Injury Law).

As you can see, this pervasive PFAS problem that we are experiencing today does not have its' origin in the oil and gas industry. EPA doesn't include the oil and gas industry on their list of industries targeted for rulemaking, data review, and monitoring PFAS. Why? Because PFAS is not common in the oil and natural gas operations.

As you proceed in the rulemaking process, I ask that you let data, science, and transparency be your guide, please. If you do, perhaps you will be able to recognize that this is an unjustifiable attempt to associate PFAS with the oil and natural gas industry.

Sincerely,  
Jerry R Brian - Geologist

Inaugural Faculty Member O & G Technology

SENMC

Carlsbad, NM 88220

575-234-1272

My name is Kathleen Burke, resident of Sandia Park, speaking on behalf of my household.

I begin, by sharing with you the definition of Ecocide as defined by the Independent Expert Panel for the Legal Definition of Ecocide, June 2021. Ecocide has to do with people who are complicit in the destruction of nature.

**Ecocide** is **unlawful or wanton** acts **committed with knowledge** that there is a **substantial likelihood of severe and either widespread or long-term damage to the environment** being caused by those acts.

Just like with homicide, genocide, and femicide, **as with ecocide, destruction** is the key element. There are legal consequences for those who commit these acts. In the beliefs of many, there are karmic consequences.

The class of PFAS chemicals are a weapon, which already, we know, is leading us and the environment around us toward destruction.

*The Stop Ecocide International Foundation provides further legal definition for each of the terms used in the definition of ecocide:*

a. **“Wanton” means with reckless disregard for damage which would be clearly excessive in relation to the social and economic benefits anticipated;**

b. **“Severe” means damage which involves very serious adverse changes, disruption or harm to any element of the environment, including grave impacts on human life or natural, cultural or economic resources;**

c. **“Widespread” means damage which extends beyond a limited geographic area, crosses state boundaries, or is suffered by an entire ecosystem or species or a large number of human beings;**

d. **“Long-term” means damage which is irreversible or which cannot be redressed through natural recovery within a reasonable period of time;**

Ecocide refers only to the **very worst harms**, usually on a **major industrial scale, such as fracking**. Distribution of PFAS chemicals in oil industry operations is a clear example of an industrial sector where **unlawful or reckless conduct** will

cause this level of harm, which if left unchecked, can and will rise to the level of ecocide.

Ecocide further describes what is happening to our planet; the mass damage and destruction of the natural living world. It literally means “killing one’s home”. The European Union recently voted to include ecocide-level crimes in the European Union’s revised crime directive.

The historic decision will strongly reinforce existing environmental laws establishing a clear moral as well as legal “red line” aimed at preventing and punishing the gravest environmental harms. These are laws which our New Mexico lawmakers will also soon be considering. In light of the fact that we are now in the seventh mass extinction of our planet, the Holocene–Anthropocene extinction event. You might agree that laws preventing ecocide cannot be adopted soon enough in the United States and we must pay heed to crimes of ecocide happening in New Mexico, pre-emptively.

To commit homicide is to destroy another. Suicide is to destroy oneself. These are grave terms for the description of grave moral and legal choices, such as the grave choice you ladies and gentleman of the Commission, are facing regarding the potential for the ecocide currently under consideration at this commission and which I, among many, hope you will wisely avert. Thank you.



**From:** [Lara Adler](#)  
**To:** [Apodaca, Sheila, EMNRD](#)  
**Subject:** [EXTERNAL] I support the application to prohibit PFAS and require disclosure of chemicals used in oil and gas operations  
**Date:** Wednesday, November 13, 2024 2:14:22 PM

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Dear Ms. Sheila Apodaca,

Please share my below public comment regarding Case No. 23580 with the Oil Conservation Commissioners:

I support a prohibition on PFAS and PFOA in oil and gas operations and a requirement to disclose chemicals used in downhole operations because:

1. Scientists have documented probable links between PFAS and kidney cancer, testicular cancer, thyroid disease, high cholesterol, pre-eclampsia and ulcerative colitis. PFAS and PFOA do not break down and are known to accumulate in land, water and in our bodies, leading to their nickname "forever chemicals." There is no level of exposure to these contaminants that is safe.
2. In a study published in August 2024 in the Lancet, researchers from the American Cancer Society reported that cancer rates for 17 of the 34 most common cancers are increasing in progressively younger generations. The study notes that these increasing rates "largely reflect increased exposure to carcinogenic factors during early life or young adulthood compared with previous generations." Exposure to toxic chemicals like PFAS is a serious public health risk and oil and gas regulations must prevent drilling operations from contaminating our land and water.
3. In a 2016 report on fracking and drinking water, the Environmental Protection Agency (EPA) found that fracking related pollution from chemicals used in oil and gas operations could follow a number of pathways to impact surface and groundwater, including injection or spilling of fluids into groundwater or cracked casements that could allow fluids to migrate to aquifers. Since OCC cannot provide 100% certainty that contamination of drinking water will not occur, it must prohibit PFAS in Oil and Gas operations.
4. Between 2013 and 2022 oil and gas companies injected more than 3,600 NM wells with surfactants, a class of chemical that include multiple PFAS. But the details remain a trade secret. Without disclosure requirements there is no way for regulators to verify or enforce a prohibition on PFAS in oil and gas operations. Industry complaints that such disclosure requirements will expose trade secrets are unfounded. Like rules requiring chemical disclosure in California and Colorado, the individual constituents of fracking fluids can be disclosed without listing trade names.

Most importantly, the Oil Conservation Commission should ensure that the rules governing oil and gas drilling prevent contamination of New Mexico water with PFAS and any other harmful chemicals that can accumulate in soil and water and harm public health.

Sincerely,  
Lara Adler  
Albuquerque, NM 87114

My name is Lauri Costello. I am a family physician living in Las Cruces. I listened online to many of Monday's comments in addition to making my own. I also listened to some of the later testimony and was disgusted, but not surprised, at industry's continued dismissal of the facts.

Physicians for Social Responsibility was founded in 1961 after pediatricians and dentists spearheaded a study that found Strontium-90 in the baby teeth of children in St. Louis. Strontium-90 is a highly radioactive waste product of above-ground nuclear testing; its confirmed presence in the human body led to the first Nuclear Test Ban Treaty.

In 1985 PSR was awarded the Nobel Peace Prize for raising public awareness on the catastrophic medical consequences of using nuclear weapons.

PSR's motto is to "prevent what we cannot cure". In 1992 its mission was expanded to apply medical expertise to environmental health issues such as climate change, proliferation of toxins, and pollution. 1992...after nearly a half century of the clandestine use of PFAS.

The double-whammy of PFAS in fracking fluid is that fracked gas, like other fossil fuels, has both health and environmental effects that are irreversible and often fatal.

On Tuesday, ExxonMobil's CEO Darren Woods said "I don't think the *challenge*, or the *need to address* global emissions is going to go away. Anything that happens in the short term would just make the longer term that much more challenging."

Last year Woods predicted that ExxonMobil's low-carbon business could generate more money than its traditional oil and gas products in as little as a decade.

So an economically unsustainable industry that has already caused immense suffering and irreparable harm is attempting to discredit Dusty Horwitt and to deny PFAS health harms. I urge the commissioners to recognize the politicization of our health by the Oil and Gas industry. Please prohibit the use of PFAS along the oil and gas lifecycle, and further prohibit the use of any undisclosed chemicals in fracking operations.

<https://www.politico.com/news/2024/11/12/exxon-ceo-us-climate-policy-00188927>

# PERMIAN

RESOURCES

November 14, 2024

**VIA EMAIL**

New Mexico Oil Conservation Commission

[Sheila.apodaca@emnrd.nm.gov](mailto:Sheila.apodaca@emnrd.nm.gov)

Dear Oil Conservation Commissioners:

I am writing today to submit my public comment regarding Case No. 23580 relating to the rulemaking on Per- and polyfluoroalkyl substances (“PFAS”) in oil and natural gas operations. Permian Resources Corporation is a publicly traded oil and gas exploration and production company and the seventh largest oil and gas producer in the State of New Mexico.

On behalf Permian Resources, I encourage the Oil Conservation Commission (the “OCC”) to rely on facts and science during this rulemaking process. PFAS are everywhere in our daily lives, including household items like nonstick cookware, water-repellent clothing, and some cosmetics. There are many industries that need to take a serious look at limiting and ultimately removing PFAS from their products, however, the oil and natural gas industry is not one of them, having already eliminated PFAS from oilfield operations. It is noteworthy that the United States Environmental Protection Agency does not include the oil and natural gas industry on their lists of industries targeted for rulemaking, data review, and monitoring for PFAS. Why? Because PFAS are not common in oil and natural gas operations.

New Mexico oil and gas operators, including Permian Resources, care about safety and protecting the environment. That’s why PFAS are not intentionally used in fracking operations in New Mexico. The oil and natural gas industry already provides details about chemicals used in the fracking process and is happy to certify that PFAS is not intentionally used in fracking operations. As the most highly regulated industry at the federal and state level, there is simply no need for additional rulemaking on this matter. We ask that you see this rulemaking request for what it is—another disguised attempt by activists to destroy oil and gas production in the state.

Sincerely,



Jonny Heins,  
Senior Director of Corporate Affairs

**From:** [Sylvia H](#)  
**To:** [Apodaca, Sheila, EMNRD](#)  
**Subject:** [EXTERNAL] Public Comment - Case No. 23580 - PFAS Rulemaking  
**Date:** Friday, November 15, 2024 1:27:15 PM

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Dear Oil Conservation Commissioners,

I am writing today to submit my public comment regarding Case No. 23580 regarding the rule making on PFAS in oil and natural gas operations.

As a concerned citizen and a biochemistry scientist, I believe it is crucial to address the implications of per- and polyfluoroalkyl substances (PFAS) in the oil industry and their profound effect on both public health and the environment.

This case holds significant importance, particularly given the increasing evidence linking PFAS to serious health risks, including cancers, hormonal disruptions, and immune system impairments. PFAS are often used in various industrial applications, including oil extraction and production, primarily due to their water and grease-resistant properties. Unfortunately, these substances do not break down easily in the environment, leading to long-term contamination of soil and water sources. The presence of PFAS in our ecosystems raises serious concerns about the safety of our drinking water, agricultural products, and overall public health.

With growing awareness of PFAS-related health effects and their widespread occurrence in the oil industry, I urge the commission to prioritize stricter regulations and oversight to mitigate these risks. It is vital to take proactive measures to protect our communities and the environment from further harm.

Thank you for your attention to this matter. I hope you will consider these concerns seriously as you deliberate on Case No. 23580, and I look forward to seeing positive steps taken to safeguard our health and environment.

Sincerely,

Sylvia Holesinger  
Biochemistry and Molecular Biology