

2005 OCT 3 PM 2 39

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

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR THE ADOPTION OF NEW RULES, 19.15.1.37 NMAC, 19.15.1.38 NMAC, 19.15.3.100 NMAC, AND 19.15.14.1227 NMAC; AND THE AMENDMENT OF 19.15.1.7 NMAC, 19.15.3.101 NMAC, 19.15.3.102 NMAC, 19.15.4.201 NMAC, 19.15.4.203 NMAC, 19.15.4.1101 NMAC, 19.15.9.701 NMAC, 19.15.13.1103 NMAC, 19.15.13.1104 NMAC, AND 19.15.13.1115 NMAC

CASE NO. 13564

MOTION FOR WRITTEN ORDER SHORTENING THE TIME FOR NOTICE

Pursuant to 19.15.14.1202.B NMAC (Rule 1202.B), the Oil Conservation Division (Division) moves for a written order shortening the time for publication of the Oil Conservation Commission (Commission) docket for October 13, 2005.

1. Rule 19.15.14.1202.A(2) NMAC (Rule 1202.A(2)) requires the Division to publish notice of rulemaking on the applicable Commission docket, which the Commission Clerk shall send by regular or electronic mail not less than 20 days prior to the hearing to all who have requested such notice. Rule 1202.B became effective on September 30, 2005. However, the same time requirement appears in the prior version of the procedural rules, at 19.15.14.1201.B(4) NMAC.

2. Rule 19.15.14.1207(B) (Rule 1207(B)), also effective September 30, 2005, requires the Division to deliver notice of adjudicatory hearings by regular or electronic mail at least 20 days prior to the hearing to each person who has requested such notice. The prior version of this rule did not provide a deadline for such notice. See 19.15.14.1204.B NMAC.

3. The Commission Clerk keeps a list of all persons requesting notice of rulemaking or adjudicatory proceedings, and sends a copy of the Commission docket to those persons prior to the hearing date.

4. The Commission docket for October 13, 2005 was not sent to the persons on the list until Monday, September 26, 2005. The docket should have been sent by Friday, September 23, 2005 in order to meet the 20-day deadline.

5. The October 13, 2005 docket contains two rulemaking proceedings (final action on Case 13555 and the hearing in Case 13564) and two adjudicatory proceedings (Cases 13274 and 13480).

6. The application in Case 13564, the enforcement and compliance rules, was filed on September 2, 2005, in sufficient time to meet all notice deadlines under either the current or the prior version of the procedural rules.

7. The Division met all other notice deadlines for Case 13564.

8. In addition to the notice required by the procedural rules, the Division also conducted a stakeholders' meeting on September 21, 2005 regarding Case 13564. Notice of the meeting was posted on the Division's website, letters were sent to each person who attended meetings on House Memorial 39, and notice was e-mailed to every person or entity on a list kept by the Division's Environmental Bureau of entities interested in environmental regulations. A copy of the letter announcing the stakeholders' meeting,

with a copy of the list of attendees at the meetings on House Memorial 39, is attached as Exhibit A. A copy of the e-mail sent to persons and entities on the list kept by the Environmental Bureau is attached as Exhibit B.

9. Also in addition to the notice required by the procedural rules, the Division posted on the web its brief supporting the proposed rulemaking, and sent electronic notice on September 16, 2005 to the same list that is used for sending the docket. A copy of that e-mail is attached as Exhibit C.

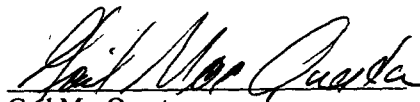
10. Rule 1202.B provides that in cases of emergency, the division director may shorten the time limits set out in Rule 1202 by written order.

11. The Division requests that the time limit under Rule 1202.A(2) be shortened, making timely the Division's mailing of the docket on September 26, 2005.

12. The individuals who are entitled to notice by the mailing of the docket will not be prejudiced by this change: they received notice of the upcoming rulemaking by receiving the Division's brief in support of the application on September 16, 2005.

13. Allowing the Division to proceed to hearing on October 13, 2005 will benefit the Division and all parties who have worked to meet the deadlines required for this hearing, and who are prepared to present their cases.

For the foregoing reasons, the Division respectfully requests that the Commission issue a written order pursuant to Rule 1202.B shortening the time limit set by Rule 1202.A(2) for the Commission hearing scheduled for October 13, 2005, and recognizing as timely the mailing of the October 13, 2005 docket on September 26, 2005.



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Conservation Division

September 9, 2005

To: All Interested Parties

Dear Sir or Madam:

The Oil Conservation Division (OCD) of the Energy, Minerals and Natural Resources Department will be holding a meeting to solicit stakeholders' input with respect to draft proposed rules concerning the Division's Enforcement and Compliance procedures.

This informal meeting is intended to allow stakeholders the opportunity to review and comment on the proposed rule additions and changes prior to a formal hearing on those rules. The meeting will be held beginning at 9:00 AM, September 21 in the State Personnel Auditorium, 2600 Cerrillos Road, Santa Fe, New Mexico. This meeting will be followed by a formal hearing before the Oil Conservation Commission beginning at 9:00 AM on October 13 in the OCC hearing room, 1220 S. St. Francis Dr., Santa Fe, New Mexico.

The full text of the Application for Rule Adoption and Amendment and the proposed rules may be reviewed on the OCD website at <http://www.emnrd.state.nm.us/oed> or by contacting Ms. Florene Davidson, Commission Secretary, at 505-476-3460.

Sincerely,

Mark E. Fesmire, P.E.
Director

MASTER LIST FOR HM 39 MEETINGS

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Macquesten, Gail, EMNRD

From: Martin, Ed, EMNRD
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Cc: Macquesten, Gail, EMNRD
Subject: New Rules

The Oil Conservation Division (OCD) has proposed new rules and amendments to existing rules relating to enforcement. A copy of the notice of hearing, the application, and the proposed rules may be found on the OCD's website, www.emnrd.state.nm.us/oed/ under "What's New". A stakeholder meeting on the proposed rules will be held at 9 a.m. on September 21 at the State Personnel Auditorium in the Willie Ortiz Building, 2600 Cerrillos Road, Santa Fe. The Oil Conservation Commission will conduct a hearing on the proposed rules on October 13 and 14, beginning at 9 a.m. each day, at Porter Hall in the Wendell Chino Building, 1220 S. St. Francis Drive, Santa Fe.

Martinez, Sally, EMNRD

From: Martinez, Sally, EMNRD

Sent: Friday, September 16, 2005 8:03 AM

To: anthonyv6@leaco.net; ballen@sesi-nm.com; Barton, Van, EMNRD; BRANA1223@aol.com; bwatson@trailnet.com; Catanach, David, EMNRD; ccarter@pvtnetworks.net; ccw@spinn.net; cheryls@ypcnm.com; dboneau@pvtnetworks.net; ddrdmidland@aol.com; dexterh@forl.com; dhartman@bigfoot.com; dneeper@earthlink.net; DonAdams@hess.com; droush8235@aol.com; ekendrick@montand.com; Ezeanyim, Richard, EMNRD; fieseler@pogoproducing.com; ftchavez@mac.com; gary.carlson@usa.apachecorp.com; glf460@spinn.net; gonzal8j@kochind.com; Gum, Tim, EMNRD; HammonJW@ldng.com; harmonl@kochind.com; hawkinj2@bp.com; Hayden, Steven, EMNRD; jan.wooldridge@dv.com; jbailey@slo.state.nm.us; jdewbre@swm.com; jd@stateside.com; jlevine@pnm.com; john@arringtonoil.com; jtportwood@mindspring.com; kahlinaa@ypcnm.com; landdept@ypcnm.com; leonhart@arn.net; llrwb@austin.rr.com; log@cyberport.com; markm@forl.com; mhayes@rubiconoilandgas.com; mswisher@aviaraenergy.com; namebored@aol.com; nspear@qwest.com; Perrin, Charlie, EMNRD; pldavis@mallonresources.com; poolrs@texaco.com; pronm@spinn.net; rchase@pvtnetworks.net; rhfner@chkenergy.com; rhodge@northstarop.com; Rick_Foppiano@oxy.com; rtupman@hess.com; sallyk@forl.com; Shall@mstLAW.com; shane@spearbrothersgroup.com; stan.phillips@apachecorp.com; syahney@heyco.org; tamiller@marathonoil.com; tmlarim@ppco.com; troberts@btro.com; tyrafeil@duganproduction.com; walker@kfoc.net; wcarr@westofpecos.com; WDeedler@aol.com; Williams, Chris, EMNRD

Subject: OCD Brief in Support of Enforcement Rules