

**CASE NO. 14292**  
**OCD EXHIBIT No. 3**



**Brooks, David K., EMNRD**

---

**From:** Duran-Saenz, Theresa, EMNRD  
**Sent:** Monday, March 02, 2009 9:20 AM  
**To:** Ortiz, Vickie J., SRCA  
**Cc:** Brooks, David K., EMNRD; Davidson, Florene, EMNRD  
**Subject:** Emailing: Notice of Hearing - NM Reg 0309, popo005\_5205063  
**Attachments:** Billing Information Sheet Amendment 19.15.17 NMAC (the Pit Rule).doc; Notice of Hearing - NM Reg 0309.doc; popo005\_5205063.pdf

Good morning Vickie,

Attached for publication on March 16, 2009 in the New Mexico Register Volume XX Issue No. 5 is a Notice of Hearing. Also attached is a copy of the purchase order and the billing information sheet. Please let me know if you require additional information.

The above referenced information was also sent to you via facsimile.

Thank you and have a great day.

The message is ready to be sent with the following file or link attachments:

Notice of Hearing - NM Reg 0309  
popo005\_5205063

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.



# Billing Information Sheet

Complete this sheet and submit it as an electronic document, do not print. If you are submitting multiple documents for publication in the same issue of the *New Mexico Register* and those documents are covered by the same purchase order, use only one Billing Information Sheet.

DFA Code	52100
Contact Name (First Last)	Theresa Duran-Saenz
Agency Name	Energy, Minerals & Natural Resources Department
Division Name (if applicable)	Oil Conservation Division
Address (interagency address is preferable)	1220 St. Francis Drive
City, State, Zip Code	Santa Fe, New Mexico 87505
Telephone Number	(505) 476-3483
e-mail address (optional)	Theresa.duran-saenz@state.nm.us
Purchase Order Number	52100-0000014940
Rule Number(s) and Name(s) or Notice Name(s)	Amendment to Sections 19.15.17 NMAC (the "Pit Rule")
Electronic File Name(s) (with extension)	Notice of Hearing - NM Reg 0309
Publish in Volume Number / Issue Number	XX / 5
Publication Date	March 16, 2009
ALD Analyst	Vickie Ortiz

**NOTICE OF RULE MAKING**

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

The State of New Mexico, through its Oil Conservation Commission, hereby gives notice that the Commission will conduct a public hearing at 9:00 A.M. on **Thursday, April 2, 2009**, in Porter Hall at 1220 South St. Francis Drive, Santa Fe, New Mexico, concerning a proposal to adopt amendments to 19.15.17 NMAC (the "Pit Rule"). The proposed amendments will (a) allow an operator of a below-grade tank existing on June 16, 2008, that has side walls entirely open for visual inspection, but which does not conform to the design and construction requirements of the pit rule as adopted on that date, to continue operating that tank until a sale or transfer of the tank or facility, so long as the tank maintains demonstrated integrity; (b) require that any below-grade tank that does not conform to the design and construction requirements adopted on June 16, 2008, (non-conforming tank) be either closed or retrofitted to conform to those standards prior to sale or transfer of the tank or facility; (c) extend the retention requirement for below-grade tank inspection records from five years to the life of the tank; (d) require an operator of a non-conforming tank, if the tank's integrity fails, to comply with applicable tank closure requirements prior to replacing the tank; (e) require an operator who retrofits or replaces a non-conforming tank to inspect the area underneath the tank, report any evidence of contamination to the Division, and, if the Division determines that the contamination poses an imminent danger to the environment, to comply with applicable tank-closure requirements prior to retrofitting or replacing the tank; (f) extend the time for an operator to request a permit or permit modification for an existing, lined permanent pit, or for an existing below-grade tank, to two years from June 16, 2008, provided that the operator complies with registration requirements set forth in these amendments; and (g) increase the chloride waste standard for closure of temporary pits or drying pads by on-site trench burial from 250 mg/l to the greater of 3000 mg/l or background. Copies of the text of the proposed amendments are available from Commission Clerk Florene Davidson at (505)-476-3458 or from the Division's web site at <http://www.emnrd.state.us/ocd/rules/>. Proposals for alternatives to the proposed amendments must be received by the division no later than 5:00 P.M. on Thursday, March 19, 2009. Written comments on the proposed new rule must be received no later than 5:00 P.M. on Thursday, March 26, 2009. Persons intending to offer technical testimony at the hearing must file a Pre-hearing Statement (six copies) conforming to the requirements of 19.15.3.11 NMAC, including six copies of all exhibits the person will offer in evidence at the hearing, no later than Thursday, March 26, 2009. Proposed alternatives and written comments may be hand-delivered or mailed to Ms. Davidson at 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, or may be faxed to Ms. Davidson at (505)-476-3462. Pre-hearing statements must be hand-delivered or mailed to Ms. Davidson at the above address. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Ms. Davidson at (505)-476-3458 or through the New Mexico Relay Network (1-800-659-1779) as soon as possible.

**Given under the Seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 2nd day of March, 2009.**

**STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION  
Mark E. Fesmire, P.E.  
Chair, Oil Conservation Commission**

New Mexico Register / Volume XX, Number 5 / March 16, 2009

**NOTICE OF RULE MAKING****STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL  
RESOURCES DEPARTMENT  
OIL CONSERVATION COMMISSION  
SANTA FE, NEW MEXICO**

The State of New Mexico, through its Oil Conservation Commission, hereby gives notice that the Commission will conduct a public hearing at 9:00 A.M. on **Thursday, April 2, 2009**, in Porter Hall at 1220 South St. Francis Drive, Santa Fe, New Mexico, concerning a proposal to adopt amendments to 19.15.17 NMAC (the "Pit Rule"). The proposed amendments will (a) allow an operator of a below-grade tank existing on June 16, 2008, that has side walls entirely open for visual inspection, but which does not conform to the design and construction requirements of the pit rule as adopted on that date, to continue operating that tank until a sale or transfer of the tank or facility, so long as the tank maintains demonstrated integrity; (b) require that any below-grade tank that does not conform to the design and construction requirements adopted on June 16, 2008, (non-conforming tank) be either closed or retrofitted to conform to those standards prior to sale or transfer of the tank or facility; (c) extend the retention requirement for below-grade tank inspection records from five years to the life of the tank; (d) require an operator of a non-conforming tank, if the tank's integrity fails, to comply with applicable tank closure requirements prior to replacing the tank; (e) require an operator who retrofits or replaces a non-conforming tank to inspect the area underneath the tank, report any evidence of contamination to the Division, and, if the Division determines that the contamination poses an imminent danger to the environment, to comply with applicable tank-closure requirements prior to retrofitting or replacing the tank; (f) extend the time for an operator to request a permit or permit modification for an existing, lined permanent pit, or for an existing below-grade tank, to two years from June 16, 2008, provided that the operator complies with registration requirements set forth in these amendments; and (g) increase the chloride waste standard for closure of temporary pits or drying pads by on-site trench burial from 250 mg/l to the greater of 3000 mg/l or background. Copies of the text of the proposed amendments are available from Commission Clerk Florene Davidson at (505)-476-3458 or from the Division's web site at <http://www.emnrd.state.us/ocd/rules/>. Proposals for alternatives to the proposed amendments must be received by the division no later than 5:00 P.M. on Thursday, March 19, 2009. Written comments on the proposed new rule must be received no later than 5:00 P.M. on Thursday, March 26, 2009. Persons intending to offer technical testimony at the hearing must file a Pre-hearing Statement (six copies) conforming to the requirements of 19.15.3.11 NMAC, including six copies of all exhibits the person will offer in evidence at the hearing, no later than Thursday, March 26, 2009. Proposed alternatives and written comments may be hand-delivered or mailed to Ms. Davidson at 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, or may be faxed to Ms. Davidson at (505)-476-3462. Pre-hearing statements must be hand-delivered or mailed to Ms. Davidson at the above address. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Ms. Davidson at (505)-476-3458 or through the New Mexico Relay Network (1-800-659-1779) as soon as possible.

Given under the Seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 2nd day of March, 2009.

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION  
Mark E. Fesmire, P.E.  
Chair, Oil Conservation Commission

Page 4

**Brooks, David K., EMNRD**

---

**From:** Duran-Saenz, Theresa, EMNRD  
**Sent:** Monday, March 02, 2009 9:23 AM  
**To:** Legals@abqpubco.com  
**Cc:** Brooks, David K., EMNRD; Davidson, Florene, EMNRD  
**Subject:** Notice of Publication Case No. 14292  
**Attachments:** Notice of Hearing - Alb Journ 0309.doc

The message is ready to be sent with the following file or link attachments:

Notice of Hearing - Alb Journ 0309

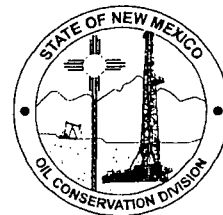
Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

# New Mexico Energy, Minerals and Natural Resources Department

**Bill Richardson**  
Governor

**Joanna Prukop**  
Cabinet Secretary  
**Reese Fullerton**  
Deputy Cabinet Secretary

**Mark Fesmire**  
Division Director  
Oil Conservation Division



March 2, 2008

**via email: Legals@abqpubco.com**

Albuquerque Publishing Company  
7777 Jefferson NE  
Albuquerque, NM 87109

**Attention: Legal Department**

**Re: Notice of Publication – Case No. 14292**

Dear Legal Department:

Please publish the attached notice one time immediately on receipt of this request. Please proofread carefully, as any error in a land description or in a key word or phrase can invalidate the entire notice.

Immediately upon completion of publication, please send the following to this office:

- 1. Publisher's affidavit in duplicate.**
- 2. Statement of cost (also in duplicate).**
- 3. Certified invoices for prompt payment.**

We should have these immediately after publication in order that the legal notice will be available for the hearing which it advertises, and also so that there will be no delay in your receiving payment.

**Please publish the notice as soon as possible.**

Sincerely,

Theresa Duran-Saenz

Attachment



**STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION  
SANTA FE, NEW MEXICO**

The State of New Mexico, through its Oil Conservation Commission hereby gives notice pursuant to law and Commission rules of the following special meeting and public hearing to be held at 9:00 A.M. on **April 2, 2009**, in Porter Hall at 1220 South St. Francis Drive, Santa Fe, New Mexico, before the Oil Conservation Commission. This public hearing concerns the amendment of 19.15.17 NMAC (the "Pit Rule"). If additional time is needed, the hearing may continue at a later date announced by the Commission. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter or any other form of auxiliary aid or service to attend or participate in the hearing please contact Commission Clerk Florene Davidson at (505) 476-3458 or through the New Mexico Relay Network (1-800-659-1779) by **March 22, 2009**. Public documents can be provided in various accessible forms. Please contact Ms. Davidson if a summary or other type of accessible form is needed. A preliminary agenda will be available to the public no later than two weeks prior to the meeting. A final agenda will be available no later than 24 hours preceding the meeting. Members of the public may obtain copies of the agenda by contacting Ms. Davidson at the phone number indicated above. Also, the agenda will be posted on the Oil Conservation Division website at [www.emnrd.state.nm.us](http://www.emnrd.state.nm.us).

**STATE OF NEW MEXICO TO:  
All named parties and persons  
having any right, title, interest  
or claim in the following cases  
and notice to the public.**

CASE 14292: Application of the New Mexico Oil Conservation Division for Adoption of Amendments to Rule 19.15.17 (the "Pit Rule"); Statewide. The State of New Mexico, through its Oil Conservation Commission, hereby gives notice that the Commission will conduct a public hearing at 9:00 A.M. on Thursday, April 2, 2009, in Porter Hall at 1220 South St. Francis Drive, Santa Fe, New Mexico, concerning the Oil Conservation Division's proposal to adopt amendments to 19.15.17 NMAC (the "Pit Rule"). The proposed amendments will (a) allow an operator of a below-grade tank existing on June 16, 2008, that has side walls entirely open for visual inspection, but which does not conform to the design and construction requirements of the Pit Rule as adopted on that date, to continue operating that tank until a sale or transfer of the tank or facility, so long as the tank maintains demonstrated integrity; (b) require that any below-grade tank that does not conform to the design and construction requirements adopted on June 16, 2008, (non-conforming tank) be either closed or retrofitted to conform to those standards prior to sale or transfer of the tank or facility; (c) extend the retention requirement for below-grade tank inspection records from five years to the life of the tank; (d) require an operator of a non-conforming tank, if the tank's integrity fails, to comply with applicable tank closure requirements prior to replacing the tank; (e) require an operator who retrofits or replaces a non-conforming below-grade tank to inspect the area underneath the tank, report any evidence of contamination to the Division, and, if the Division determines that the contamination poses an imminent danger to the environment, to comply with applicable tank-closure requirements prior to retrofitting or replacing the tank; (f) extend the time for an operator to



March 25, 2009

Page 3

request a permit or permit modification for an existing, lined permanent pit, or for an existing below-grade tank, to two years from June 16, 2008, provided that the operator complies with registration requirements set forth in these amendments; and (g) increase the chloride waste standard for closure of temporary pits or drying pads by on-site trench burial from 250 mg/l to the greater of 3000 mg/l or background. Copies of the text of the proposed amendments are available from Commission Clerk Florene Davidson at (505)-476-3458 or from the Division's web site at <http://www.emnrd.state.us/ocd/rules/>. Proposals for alternatives to the proposed amendments must be received by the division no later than 5:00 P.M. on Thursday, March 19, 2009. Written comments on the proposed new rule must be received no later than 5:00 P.M. on Thursday, March 26, 2009. Persons intending to offer technical testimony at the hearing must file a Pre-hearing Statement (six copies) conforming to the requirements of 19.15.3.11 NMAC, including six copies of all exhibits the person will offer in evidence at the hearing, no later than Thursday, March 26, 2009. Proposed alternatives and written comments may be hand-delivered or mailed to Ms. Davidson at 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, or may be faxed to Ms. Davidson at (505)-476-3462. Pre-hearing statements must be hand-delivered or mailed to Ms. Davidson at the above address. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Ms. Davidson at (505)-476-3458 or through the New Mexico Relay Network (1-800-659-1779) as soon as possible.

Given under the Seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 2nd day of March, 2009.

**STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION  
Mark E. Fesmire, P.E.  
Director, Oil Conservation Division**

**S E A L**