

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

**APPLICATION OF THE NEW MEXICO
OIL CONSERVATION DIVISION FOR
AMENDMENT OF RULE 19.15.14.8 NMAC**

**CASE NO. 14805
ORDER NO. R-13499-C**

ORDER OF THE COMMISSION

This matter came before the Oil Conservation Commission ("Commission") on an application for a rulemaking submitted by the Oil Conservation Division ("Division"), and the Commission having held a public hearing on March 27, 2012, and having considered the evidence, enters this Order.

1. Under the Oil and Gas Act ("Act"), NMSA Sections 70-2-6, 70-2-11 and 70-2-12, the Commission and the Division are granted the authority to adopt rules to carry out the purposes of the Act. Specifically, the Act grants the authority to adopt rules "to require wells to be drilled, operated and produced in such manner as to prevent injury to neighboring leases or properties", NMSA 1978, Section 70-2-12(B)(7) (1989).

2. The Division submitted an application for rehearing to the Commission to reconsider the rulemaking conducted by the Commission in Case No. 14744. The Commission, at its February 23, 2012 meeting, determined the rule change in Case No. 14744 had already been published in the New Mexico Register and the Commission lacked jurisdiction to reopen the rulemaking in Case No. 14744. The Commission then determined that the application for rehearing was sufficient to serve as an application for rulemaking under 19.15.3.8 NMAC and ordered a new rulemaking be commenced and allowed the Chairman to schedule a hearing.

3. The Chairman scheduled a hearing for March 27, 2012 and notice for the hearing was published in a newspaper of general circulation in the state, was published in the New Mexico Register, was posted on the Division's website and was placed on the Commission's docket which was then sent to persons who have requested such notice. All notices were conducted within the deadlines under the rules. 19.15.3.9 NMAC. (Exhibit 1)

4. The rulemaking proposal is limited to amendments to Subsection A of 19.15.14.8 NMAC.

5. At the hearing, David Brooks testified on behalf of the Division. Mr. Brooks testified that the rule change was necessary to avoid a possible conflict with the requirements of the U.S. Bureau of Land Management and to make this rule consistent

with other Commission rules. The current language in 19.15.14.8(A) NMAC that an operator must obtain "an approved application to drill" would require operators on federal land to obtain an APD from the BLM in situations where the BLM does not currently require an APD. This requirement for an approved APD was added in the rule change effective February 15, 2012 and applies to the commencement of drilling, deepening or re-entry operations, commencing an additional lateral, plugging a well back to a different pool or completing or re-completing a well in an additional pool. On federal land, the BLM requires an APD for some of these operations, such as drilling a new well, but for several of these operations, the BLM only requires a notice of intent.

6. At the hearing, the Division clarified the language for the proposed rule change. (See Attachment 1).

7. The only testimony or comment on the proposed rule change was made by the Division. The Commission voted to close the record and began deliberations immediately after the close of the record.

8. The Commission concludes that it has the authority to enact the proposed rule change, that proper notice and procedures were followed in this rulemaking and that the amendment to Subsection A of 19.15.14.8, as provided in Attachment 1, is supported by substantial evidence in the record and is necessary for consistency and to avoid conflicts with federal regulation of drilling.

NOW THEREFORE the Commission orders that Rule 19.15.14.8 NMAC be amended as provided in Attachment 1 and that all actions necessary to make the rule change effective be taken, including filing with the State Records and Archives Center and publication in the New Mexico Register.

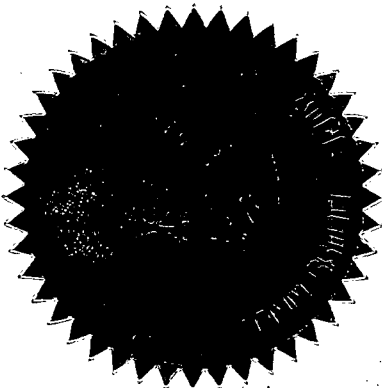
Done in Santa Fe, New Mexico, this 19th day of April, 2012.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION


ROBERT BALCH, Member


SCOTT DAWSON, Member


JAMI BAILEY, Chair



SEAL

ATTACHMENT 1

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 14 DRILLING PERMITS

19.15.14.8 PERMIT TO DRILL, DEEPEN OR PLUG BACK:

A. Permit required. An operator shall ~~obtain an approved application for permit to drill from~~ is required to obtain a permit approved by the division prior to commencing drilling, deepening or re-entry operations, commencing an additional lateral, plugging a well back to a different pool, or completing or re-completing a well in an additional pool.

B. Mineral owner or lessee consent required. An operator shall not file an application for permit to drill nor commence drilling operations until the operator has either:

(1) received the consent of at least one lessee or owner of an unleased mineral interest at the proposed bottom hole location; or

(2) obtained a compulsory pooling order from the division. In addition, an operator filing an application for permit to drill for a horizontal or directional well shall comply with Subsection A of 19.15.16.15 NMAC.

[19.15.14.8 NMAC - Rp, 19.15.3.102 NMAC, 12/1/08; A, 2/15/12]