

NOTICE OF PUBLIC MEETING AND PUBLIC HEARING

The New Mexico Oil Conservation Commission (Commission) hereby gives notice that the Commission will hold the following public meeting and public hearing commencing at 9:00 am on June 9, 2021 (and subsequent days as may be necessary) online and via telephone. Oral comments may be made either online or by telephone. The Commission shall make available to the public a preliminary agenda for the meeting no later than two weeks prior to the meeting, and a final agenda for the meeting no later than 72 hours before the meeting. The agenda shall specify the order of the proceedings and, to the extent feasible, identify the specific time(s) that public comments are to be heard. The agenda shall be posted online on the Commission's Hearings page under "OCC Dockets," accessible from the following web page: <http://www.emnrd.state.nm.us/OCD/hearings.html>.

Case No. 21834: APPLICATION OF WILDEARTH GUARDIANS AND NEW MEXICO OIL CONSERVATION DIVISION TO AMEND THE COMMISSION'S RULES FOR RELEASES IN 19.15.29.6, 19.15.29.8, AND 19.15.29.15 NMAC; STATEWIDE.

WildEarth Guardians and the Oil Conservation Division propose that the Commission amend 19.15.29.6, 19.15.29.8, and 19.15.29.15 NMAC to prohibit the unauthorized release of oil, gas, produced water, and other contaminants, and to clarify the Division's authority to enforce this prohibition on major and minor releases.

Purpose of Proposed Rule Changes. The proposed rule changes are intended to prohibit major and minor releases of oil, gas, produced water, oil field waste, and other contaminants that occur during oil and gas development and production to protect public health and the environment, and to conform 19.15.29.15 NMAC with the general enforcement provisions of 19.15.5.10 NMAC, which were adopted by the Commission in 2020.

Legal Authority. The proposed rule changes are authorized by the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, and specifically, Section 70-2-6 (authorizing the Commission to exercise jurisdiction, authority, and control of and over all persons, matters, and things necessary or proper to enforce the statute), Sections 70-2-11 (authorizing the Commission to make rules to prevent waste, protect correlative rights, and to do whatever may be reasonably necessary to implement the statute), Section 70-2-12 (enumerating the powers of the Commission and OCD), and Section 70-2-31 (authorizing the Division to bring administrative and judicial actions for violations of the Oil and Gas Act and Commission rules). The public hearing is governed by the Commission's rule on rulemaking proceedings, 19.15.3 NMAC.

Availability of Proposed Rule. The full text of the proposed rule changes may be obtained from the Commission Clerk, Florene Davidson at florene.davidson@state.nm.us or (505) 470-5480, or can be viewed on the Rules page of the OCD's website at <http://www.emnrd.state.nm.us/OCD/rules.html>.

Public Hearing. The Commission will hold a public hearing on the proposed rule changes at the Commission meeting commencing at 9:00 am on June 9, 2021 (and subsequent days as needed) online and via telephone. For information on how to participate in the hearing, please contact the Commission Clerk, Florene Davidson at florene.davidson@state.nm.us or (505) 470-5480, or visit the Hearings page on the OCD's website at <http://www.emnrd.state.nm.us/OCD/hearings.html>. The hearing may be continued to the following day(s) if not completed.

Proposed Modifications, Technical Testimony, and Cross Examination. Any person intending to propose a modification to the proposed rule changes, to present technical testimony at the hearing, or to cross-examine

witnesses must file a Pre-Hearing Statement conforming to the requirements of Subsection B of 19.15.3.11 NMAC, no later than 5:00 pm on May 26, 2021. Filing may be accomplished by first class mail to the Commission Clerk, Florene Davidson, 3rd Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, or by electronic mail to OCC.Hearings@state.nm.us. Any person who presents technical testimony will be subject to cross-examination on the subject matter of the person's direct testimony by the members of the Commission, the Commission's counsel, or another person who has filed a Pre-Hearing Statement.

Oral Comments. Any person who has not submitted a Pre-Hearing Statement may present non-technical testimony or make an unsworn statement or comment at the hearing, and may offer exhibits at the hearing so long as the exhibits are relevant to the proposed rule changes and do not unduly repeat testimony. Any person who presents non-technical testimony will be subject to cross-examination on the subject matter of the person's direct testimony by the Commission, the Commission's counsel, or another person who has filed a Pre-Hearing Statement. Any person who presents an unsworn statement or comment shall not be subject to cross-examination. To facilitate this virtual hearing, persons wishing to present non-technical testimony or make an unsworn statement or comment at the hearing should contact the Commission Clerk, Florene Davidson, at florene.davidson@state.nm.us or (505) 470-5480, prior to the hearing so that a list of persons may be prepared in advance. Notwithstanding this procedure, after the Commission has heard each person on the list, the Commission will open the virtual floor to any person who wishes to offer non-technical testimony or an unsworn statement or comment relevant to the proposed rule changes.

Public Comments. Any person may submit comments on the proposed rule changes no later than 9:00 am on June 9, 2021, unless extended by the Commission or the Chair of the Commission, by first class or electronic mail to the Commission Clerk, Florene Davidson, 3rd Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, or florene.davidson@state.nm.us.

Persons with Disabilities. If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, including a summary or other accessible form of document, please contact the Commission Clerk, Florene Davidson, at florene.davidson@state.nm.us or (505) 470-5480, or through the New Mexico Relay Network at 1-800-659-1779, no later than five (5) days prior to the day(s) you wish to attend or participate.

Technical Information. The following technical information served as the basis for the proposed rule changes:

EPA, Hydraulic Fracturing for Oil and Gas: Impacts from the Hydraulic Fracturing Water Cycle on Drinking Water Resources in the United States, EPA-600-R-16-236Fa (Dec. 2016), available at: www.epa.gov/hfstudy.

Oil Conservation Division spill records may be accessed online at:
<https://wwwapps.emnrd.state.nm.us/ocd/ocdpermitting/Data/Spills/Spills.aspx>,
using the following search parameters under "Spill Details":

- Spill Material: All; Dates: 1/1/2010 – 12/31/2020
- Spill Material: All; Dates: 1/1/2020 – 12/31/2020
- Spill Material: Crude Oil: Dates: 1/1/2010 – 12/31/2020
- Spill Material: Crude Oil: Dates: 1/1/2020 – 12/31/2020
- Spill Material: Produced Water: Dates: 1/1/2010 – 12/31/2020
- Spill Material: Produced Water: Dates: 1/1/2020 – 12/31/2020

Pre-Hearing Statements, including technical testimony and exhibits, will be posted for public inspection on the Division's website at

<http://ocdimage.emnrd.state.nm.us/imaging/CaseFileCriteria.aspx> or by searching for Case File No. 21834.