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Volume: Issue: Publication date: Number of pages: (ALD Use Only) Sequence No. C

Issuing agency name and address:

Agency DFA code:

Contact person's name:

Phone number:

E-mail address:

Type of rule action:

(ALD Use) Recent filing date:

New ☐ Amendment ☒ Repeal ☐ Emergency ☐ Renumber ☐

Title number:

Title name:

Chapter number:

Chapter name:

Part number:

Part name:

Amendment description (If filing an amendment):

Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference?

Please list attachments or Internet sites if applicable.

Yes ☐ No ☒

If materials are attached, has copyright permission been received?

Yes

No

Public domain

Specific statutory or other authority authorizing rulemaking:

Notice date(s):

Hearing date(s):

Rule adoption date:

Rule effective date:

Concise Explanatory Statement For Rulemaking Adoption:

Findings required for rulemaking adoption:

Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

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Please see attached document entitled PFAS Rule Making Order and Reasons for the Action Taken (18 pages total).

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

Albert Chang

Check if authority has been delegated

☐

Title:

Oil Conservation Commission Chair

Signature: (BLACK ink only OR Digital Signature)

Digitally signed by

Albert Chang

Date: 2025.07.15

13:07:59 -06'00'

Date signed:

07/15/2025

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STATE OF NEW MEXICO 2025 JUL 16 AM 9:29
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION COMMISSION

IN THE MATTER OF PROPOSED AMENDMENTS
TO THE COMMISSION'S RULES TO ADDRESS
CHEMICAL DISCLOSURE AND THE USE OF
PERFLUOROALKYL AND POLYFLUOROALKYL
SUBSTANCES AND IN OIL AND GAS EXTRACTION,
19.15.2, 19.15.7, 19.15.14, 19.15.16 AND 19.15.25 NMAC

Case No. 23580
Order No. R-23824

WILDEARTH GUARDIANS,

PETITIONER

**PFAS RULE MAKING ORDER
and REASONS FOR THE ACTION TAKEN**

This matter comes before the New Mexico Oil Conservation Commission ("Commission" or "OCC") upon a Petition filed on May 25, 2023, and an Amended Petition filed on August 23, 2024, by WildEarth Guardians ("Petitioner") for changes to 19.15.2, 19.15.7, 19.15.14, 19.15.16 and 19.15.25 NMAC. Public hearings were held November 12 through November 15, 2024. Petitioner provided a final set of proposed rules in its Proposed Statement of Reasons on February 19, 2025. Public deliberations were held on March 11, 2025. The Commission, having reviewed the submittals, testimony, evidence, the Hearing Officer's Report and the Proposed Findings of Fact and Conclusions of Law hereby issues, as provided for in 19.15.3.12 NMAC and 19.15.3.13.C NMAC, the following ORDER and REASONS FOR THE ACTION TAKEN. The Commission has the authority to adopt, refuse to adopt or adopt the proposed rule change in part pursuant to 19.15.3.13C NMAC. The Commission's actions are the following:

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This is an amendment to 19.15.16 NMAC, Sections 17 and 19, effective 07/29/2025.

19.15.16.17 COMPLETION OPERATIONS, SHOOTING AND CHEMICAL TREATMENT OF WELLS:

A. If completing, shooting, fracturing or treating a well [injures] has the potential to negatively impact the producing formation, injection interval, communicates with other strata, casing and casing seat or may create underground waste or contaminate fresh water, the operator shall within five working days notify the division in writing [the division] and proceed with diligence to use the appropriate method and means for rectifying the loss of containment or any damage.

(1) Diligence shall include but is not limited to verifying casing integrity and isolation of strata. This can include pressure testing in accordance with 19.15.25 NMAC, performing casing integrity logs, cement bond logs and any other means determined necessary by the operator or required by the division.

(2) If damage from the shooting, fracturing or treating of a well has the potential to impact surface or groundwater, then the operator will disclose to the division all additives used in the applicable fluid stream including trade secret additives as necessary to identify all potential contaminants. If trade secret chemical information is received by the division, the division will hold that information confidential as required by Section 14-2-1 NMSA 1978. Based on the chemicals identified by the operator and the division the operator will test for all identified potentially harmful chemicals and will use a third party, verified laboratory to conduct any appropriate testing necessary to verify any potential impact. The testing may also include but is not limited to PFAS, chemicals listed in 20.6.2 NMAC and chemicals listed in Subparagraph (e) of Paragraph (5) of Subsection A of 19.15.29.11 NMAC. The division may require more robust sampling than what is proposed by the operator if deemed necessary due to the nature of the potential chemicals.

(3) If it is deemed there is an impact to surface or groundwater the operator shall report the impact as a major release in accordance with 19.15.29 NMAC and respond accordingly.

B. If completing, shooting, fracturing or chemical treating results in the well's irreparable injury the division may require the operator to properly plug and abandon the well and take any necessary actions to mitigate any results impacts.

[19.15.16.17 NMAC - Rp, 19.15.3.115 NMAC, 12/1/2008; 19.15.16.17 NMAC - Rn, 19.15.16.16 NMAC, 2/15/2012; A, 7/29/2025]

19.15.16.19 LOG, COMPLETION AND WORKOVER REPORTS:

A. Completion report. Within 45 days after the completion of a well drilled for oil or gas, or the recompletion of a well into a different common source of supply, the operator shall file a completion report with the division on form C-105. For the purpose of 19.15.16.19 NMAC, a hole drilled or cored below fresh water or that penetrates oil- or gas-bearing formations or that an owner drills is presumed to be a well drilled for oil or gas. The operator shall signify on form C-105, or alternatively on form C-103, whether the well has been hydraulically fractured.

B. Hydraulic fracture disclosure. For a hydraulically fractured well, the operator shall also complete and file with the FracFocus chemical disclosure registry a completed hydraulic fracturing disclosure within 45 days after completion, recompletion or other hydraulic fracturing treatment of the well. The hydraulic fracturing disclosure shall be completed on a then current edition of the hydraulic fluid product component information form published by FracFocus and shall include complete and correct responses disclosing all information called for by the FracFocus form, provided that:

(1) the division does not require the reporting of information beyond the material safety data sheet data as described in 29 C.F.R. 1910.1200;

(2) the division does not require the reporting or disclosure of proprietary, trade secret or confidential business information; and

(3) the division shall download and archive New Mexico FracFocus submissions on a quarterly basis.

C. If the FracFocus chemical disclosure registry is temporarily inoperable, the operator of a well on which hydraulic fracturing treatment(s) were performed shall file the information required by the then most recent FracFocus form with the division along with Well Completion Report (form C-105) or Sundry Notice (form C-103) reporting the hydraulic fracture treatment and file the information on the FracFocus internet website when the website is again operable. If the FracFocus chemical disclosure registry is discontinued or becomes permanently inoperable, the operator shall continue filing the information with the division until otherwise provided by rule or order.

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D. On or before [DATE], an operator shall provide the FracFocus disclosure to the following persons and entities unless the person or entity opts out of the notification:

- (1) all owners of a private water well that are within 5280 feet of the well site;
- (2) the state land office if the state owns minerals that are being developed at the well site;
- (3) the federal bureau of land management if the United States owns the minerals that are being developed at the well site;
- (4) to any tribe if the minerals being developed at the well site are within the boundary of that tribe's reservation and are subject to the jurisdiction of the division;
- (5) police departments, fire departments, emergency service agencies, and first responders that have a jurisdiction that includes the well site;
- (6) local governments that have a jurisdiction within 5280 feet of the well site;
- (7) the administrator of any public water system that operates:
 - (a) A surface water public water system intake that is located 15 stream miles or less from the well site;
 - (b) a groundwater source under the direct influence of a surface water public water system supply well within 5280 feet of the well site; and
 - (c) a public water system supply well completed within 5280 feet of the well site.

E. The FracFocus disclosure must be disclosed to the above parties via certified mail within 30 days of being filed with FracFocus.

[19.15.16.19 NMAC - Rp, 19.15.13.1104 NMAC, 12/1/2008; 19.15.16.19 NMAC - Rn & A, 19.15.16.18 NMAC, 2/15/2012; A, 9/26/2017; A, 7/29/2025]