MEMO

TO:      Chair Todd Hiett, Oklahoma Corporation Commission  
         Vice Chair Bob Anthony, Oklahoma Corporation Commission  
         Commissioner Dana Murphy, Oklahoma Corporation Commission

CC:      Robyn Strickland, Director of Oil & Gas Conservation Division; Susan Conrad,  
         Deputy General Counsel; Jeff Cline, Deputy General Counsel; Virginia Hullinger,  
         Technical Manager

FROM:    Howard L (Bud) Ground, The Petroleum Alliance Director of Regulatory Affairs,

DATE:    January 31, 2020

SUBJECT: Cause RM No. 202000003 and Cause RM No. 202000002  
         Comments on OCC Draft Amendments to OAC 165:5, Rules of Practice and OAC  
         165:10, Oil & Gas Conservation as Detailed in the January 22, 2020 Notice of  
         Proposed Rulemaking.

This memorandum is submitted by The Petroleum Alliance of Oklahoma ("The Alliance") in  
response to the proposed rules found in OCC Draft Amendments to OAC 165:5, Rules of Practice,  
and OAC 165:10, Oil & Gas Conservation detailed in the January 22, 2020 Notice of Proposed  
Rulemaking (NOPR).

The Petroleum Alliance of Oklahoma was recently created by the merger of the Oklahoma  
Independent Petroleum Association and Oklahoma Oil & Gas Association. The Alliance represents  
approximately 3,000 individuals from 1,300 companies, including oil and gas producers, operators,  
purchasers, pipelines, transporters, processors, refineries and service companies. The Alliance  
represents all sectors of Oklahoma's oil and gas industry and is dedicated to the advancement and  
 improvement of the industry within the State of Oklahoma and the United States. The Alliance  
advocates the development of an environment that enables the oil and natural gas industry and  
related businesses to grow and prosper through the responsible development of Oklahoma's natural  
resources.

OCC Draft Amendments for 165: 5 – Rules of Practice

165:5-1.9. Telephonic or videoconferencing participation:

The Alliance would like to reiterate our previous comments on this section. We question the use of  
telephonic or videoconferencing during contested cases. We believe that there are too many
technical issues as well as impairing the judge's ability and others “present” at the hearing to see the person and read body language and to adequately cross examine. Technical issues arise due to high bandwidth communication link required to transmit and receive high quality images is not available across Oklahoma. A lower bandwidth causes freezing of the video, time lag between speaking and response, long delays, and choppy audio. All of these issues lead to less than adequate representation on both sides of the contested case. The Alliance proposes that telephonic or videoconferencing only be used for uncontested cases.

165:5-7-6(l), 5-7-9(l); and 5-7-10(d). Drilling and spacing unit establishment or modification, Well location exception, Increased well density (pages 21, 23 & 25)

This new section requires “All exhibits be attached to the spacing application”. This is regardless of a protest being filed or not and seems to push all operators into the optional procedures. The Alliance member companies experience is that the exhibits for an unprotested application are very different than the exhibits for a protested application. Publicly available information is used for unprotested applications and more technical and potentially confidential information is used when protested. The inclusion of all of the exhibits will also greatly increase the cost to comply by requiring the inclusion of all of the exhibits to every respondent and adjoining wells. We believe that the current technical conference scheme is a better method than this proposal. The Alliance requests that this section be struck as well as the same requirement in 165:5-7-9 and 165:5-7-10.

165:5-19-1. Contempt procedure (page 40)

The Alliance would like to reiterate our previous comments. The Alliance member companies, especially the public traded companies, are very sensitive to receiving a contempt complaint from the Commission. This word has very negative connotations with shareholders, the financial market, etc. We believe that contempt cause should only be filed when it is shown that the act was willful and repeated and not on an issue that may be inadvertent or a first offense or just because a field inspector suggested it. We hope that OGCD management will be very deliberative on if and when a citation is issued. The Alliance requests the following change:

(a) Commencement. A cause filed for contempt for disobedience to or violation of law or a rule, regulation, order, or judgement of the Commission shall may be commenced by the filing of a verified complaint.

OCC Draft Amendments for 165: 10 – Oil and Gas Conservation

165:10-1-2. Definitions (page 8)

The Alliance requests the following changes to the definition of Recycling / reuse pit.

"Recycling/reuse pit" means a pit which is used for the storage and recycling or reuse of deleterious substances, is located off-site, and is operated by the end user or generator of the waste.

165:10-3-3. Well casing strings (page 35)
The Alliance would like to reiterate our previous comments on this section. Section (b) proposes to change the notification to the district office with detailed information from the operator from 10 business days to 48 hours. We believe that this time frame is too soon to have complete knowledge of the event as required in (6). The operator has already contacted the District office within 24 hours of the event and now just 24 hours later the operator is providing detailed on the information on the actions taken or proposed to be taken. Many times, it will take 24 hours to rig down and even start the investigation to determine what actions to be taken. The Alliance requests that the 10-day report be maintained.

165:10-3-10. Well completion operations (page 41)

The Alliance believes that the notice window in (1) is too tight. The time of “at least 5 but no more than 10 business days” will be very difficult to manage and stay in compliance. The Alliance member companies believe that an initial notification should be done early, 20 or even 30 days out so that offset operators can make plans. We also know that schedules change which may require to re-notice the HF operations. The Alliance proposes

(b)(1) Notice shall be given by facsimile, electronic mail or regular mail at least 5 business day but not more than 10 business days prior to the commencement of hydraulic fracturing operations on a horizontal well to operators of producing wells within 1 mile of the completion interval of the subject well. If the hydraulic fracturing operations schedule changes after the notice has been given, a re-notification shall be given.

165:10-3-28. Horizontal drilling (page 54)

There was discussion in the informal public meetings concerning how an operator is going to prove that the notification has been given to working interest owners on Form 1000 as required in (c)(2)(C). The Alliance requests that a check box be added to the form indicating that notification has been given to working interest owners.

165:10-5-5. Application for approval of enhanced recovery injection and disposal operations. (page 59)

This newly proposed provision in (D) requires additional information that is necessary for the application for enhanced recovery injection and disposal operations. We recommend that two additional items be added as follows that would be beneficial to the application evaluation process. This information should be easily obtainable.

(iix) The depth of the base of treatable water-bearing formation for all wells shown on the plat that can be obtained from the filed Form 1000; and

(s) The horizontal surface distance, in feet, from all surface hole well locations shown on the plat to the proposed location of the application well.

165:10-5-5(b)(4) Proposed zone information. (page 59)
The existing rules allow a well to be permitted to inject 1,000-9,999 barrels of water per day with an overlying strata of only 500’ of thickness between the base of fresh water and the top of the injection. We recommend that either the overlying feet in thickness be greater than 500’ in (B) or merge (B) and (C) together. Below are our suggested language changes that merges (B) and (C), eliminating the need for (C).

(B) When the fluid injection rate is greater than 1,000 barrels per day or equivalent rate for any fraction of twenty-four (24) hours, an overlying strata of at least 3,000 500 feet in thickness between the lowest base of fresh water and the top of the proposed interval of injection is considered sufficient evidence of fresh water protection.

(C) When the fluid injection rate is greater than 10,000 barrels per day or equivalent rate for any fraction of twenty-four (24) hours, an overlying strata of at least 3,000 feet in thickness between the lowest base of fresh water and the top of the proposed interval of injection is considered sufficient evidence of fresh water protection.

165:10-5-5(b)(4)-(D) (C) If the overlying strata requires additional information that is necessary for the application if the overlying strata is less than required in (A) and (B) and (C) of this paragraph.....

We also recommend the following information be added that would be beneficial to the Commission’s evaluation process.

(v) Identify all existing or plugged and abandoned injection wells with open perforations within same proposed injection zone within two miles:

1. Provide the permitted injection rates and pressures of all active injection wells; and

2. Provide the most recent annual injection volumes filed on Form 1012 and 1012C for all active injection wells.

165:10-5-5(c) Application for approval. (page 60)

The Alliance requests that the five (5) day requirement for the applicant to serve be changed to five (5) business days.

(3) “along with required Form 1015 attachments” has been added to this section. The required Form 1015 attachments may not be complete at the time of submission. Water sample analysis and reports routinely take greater than 5 business days to receive. The Alliance requests that the new language be struck.

OAC 165:10-9-4 (c)(2)(M) and (N), (page 147)

The Alliance has previously commented on OCC’s proposed (M), and we are concerned it would disclose a significant amount of information to potential competitors about the operation of the facility and the associated recycling process. We would request that general information be supplied in the application and allow the applicant to provide detailed information to OCC at a technical conference. Below are our suggested changes.
(M) A brief description of the recycling process, which shall include, but not be included, limited to, the following:

(i) Description of the types of deleterious substances that will be recycled.

(ii) Description of the types of equipment, chemicals, compounds or additives used in the recycling process.

(iii) Safety Data Sheets for any chemical, compound or additive used in the proposed recycling process.

(iv) Description and the source(s) of all inert material(s) to be used as aggregate(s) in the recycling process.

We have the same concerns with the proposed (N). We suggest this requirement be deleted and this information be supplied to OCC at a technical conference.

(N) A plan for any and all chemical and engineering testing protocols for each planned end use of a recyclable product. The plan will need to demonstrate that the proposed process will result in a recyclable product that meets the engineering and/or environmental standards for each proposed end use delineated in the permit application.

OAC 165:10-9-4. Sampling (page 152)

The proposed sampling language in (c)(10)(F)(v) requires that all composite samples must be analyzed for constituents detailed and approved in the permit by a laboratory certified by the Oklahoma Department of Environmental Quality or operated by the State of Oklahoma. Analysis of additional parameters may be required, as determined by the Pollution Abatement Department.

A commercial facility is characterized by taking water from non-operated wells for compensation. This means that operators of these facilities need the flexibility to take water of varying quality and composition. In addition, all such water quality information may not be available at the time of permitting the facility. The section appears to limit the ability of an operator to take a variety of water compositions if it is not accounted for on the original permit. We request this requirement be revised as follows to allow flexibility to recycle a variety of water compositions.

(v) All composite samples must be analyzed for constituents detailed and approved in the permit by a laboratory certified by the Oklahoma Department of Environmental Quality or operated by the State of Oklahoma. Analysis of additional parameters may be required, as determined by the Pollution Abatement Department.

OAC 165:10-9-4. Temporary commercial recycling operations (pages 155)

The provisions of sections (d)(2)(F) and (G) are similar to OAC 165:10-9-4 (c)(2)(M) and (N), (page 147) discussed above. We provide the same comments on these provisions as provided above in item 7 and provide the following revisions.

(F) A brief description of the recycling process, which shall include, but not be included, limited to, the following:
(i) Description of the type of deleterious substances that will be recycled.

(ii) Description of the types of equipment, chemicals, compounds or additives used in the recycling process.

(iii) Safety Data Sheets for any chemical, compound or additive used in the proposed recycling process.

(iv) Description and the source(s) of all inert material(s) to be used as aggregate(s) in the recycling process.

(G) A plan for any and all chemical and engineering testing protocols for each planned end-use of a recyclable product. The plan will need to demonstrate that the proposed process will result in a recycled product that meets the engineering and/or environmental standards for each proposed end use delineated in the permit application.