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TITLE 19 NATURAL RESOURCES & WILDLIFE
CHAPTER 15 OIL AND GAS
PART 1 GENERAL PROVISIONS AND DEFINITIONS

19.15.1.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division, 2040 S. Pacheco, Santa Fe, New Mexico 87505
[2-1-96; 19.15.1.1 NMAC - Rn, 19 NMAC 15.A.1, 5-15-01]

19.15.1.2 SCOPE: All persons/entities engaged in oil and gas development and production within New Mexico.
[2-1-96; 19.15.1.2 NMAC - Rn, 19 NMAC 15.A.2, 5-15-01]

19.15.1.3 STATUTORY AUTHORITY: Sections 70-2-1 through 70-2-38 NMSA 1978 sets forth the Oil and Gas Act which grants the oil conservation division jurisdiction and authority over all matters relating to the conservation of oil and gas, the prevention of waste of oil and gas and of potash as a result of oil and gas operations, the protection of correlative rights, and the disposition of wastes resulting from oil and gas operations.
[2-1-96; 19.15.1.3 NMAC - Rn, 19 NMAC 15.A.3, 5-15-01]

19.15.1.4 DURATION: Permanent
[2-1-96; 19.15.1.4 NMAC - Rn, 19 NMAC 15.A.4, 5-15-01]

19.15.1.5 EFFECTIVE DATE: February 1, 1996.
[2-1-96; 19.15.1.5 NMAC - Rn, 19 NMAC 15.A.5, 5-15-01]

19.15.1.6 OBJECTIVE: To set forth general provisions and definitions pertaining to the authority of the oil Conservation division and the oil conservation commission pursuant to the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38.
[2-1-96; 19.15.1.6 NMAC - Rn, 19 NMAC 15.A.6, 5-15-01]

19.15.1.7 DEFINITIONS:

- A.** Definitions beginning with the letter "A".
- (1) Abate or abatement shall mean the investigation, containment, removal or other mitigation of water pollution.
 - (2) Abatement plan shall mean a description of any operational, monitoring, contingency and closure requirements and conditions for the prevention, investigation and abatement of water pollution.
 - (3) Adjoining spacing units are those existing or prospective spacing units in the same pool(s) that are touching at a point or line the spacing unit that is the subject of the application.
 - (4) Adjusted allowable shall mean the allowable production a well or proration unit receives after all adjustments are made.
 - (5) Allocated pool is one in which the total oil or natural gas production is restricted and allocated to various wells therein in accordance with proration schedules.
 - (6) Allowable production shall mean that number of barrels of oil or standard cubic feet of natural gas authorized by the division to be produced from an allocated pool.
 - (7) Aquifer shall mean a geological formation, group of formations, or a part of a formation that is capable of yielding a significant amount of water to a well or spring.
- B.** Definitions beginning with the letter "B".
- (1) Back allowable shall mean the authorization for production of any shortage or

underproduction resulting from pipeline proration.

(2) Background shall mean, for purposes of ground-water abatement plans only, the amount of ground-water contaminants naturally occurring from undisturbed geologic sources or water contaminants occurring from a source other than the responsible person's facility. This definition shall not prevent the director from requiring abatement of commingled plumes of pollution, shall not prevent responsible persons from seeking contribution or other legal or equitable relief from other persons, and shall not preclude the director from exercising enforcement authority under any applicable statute, regulation or common law.

(3) Barrel shall mean 42 United States gallons measured at 60 degrees fahrenheit and atmospheric pressure at the sea level.

(4) Barrel of oil shall mean 42 United States gallons of oil, after deductions for the full amount of basic sediment, water and other impurities present, ascertained by centrifugal or other recognized and customary test.

(5) Below-grade tank shall mean a vessel, excluding sumps and pressurized pipeline drip traps, where any portion of the sidewalls of the tank is below the surface of the ground and not visible.

(6) Berm shall mean an embankment or ridge constructed for the purpose of preventing the movement of liquids, sludge, solids, or other materials.

(7) Bottom hole or subsurface pressure shall mean the gauge pressure in pounds per square inch under conditions existing at or near the producing horizon.

(8) Bradenhead gas well shall mean any well producing gas through wellhead connections from a gas reservoir which has been successfully cased off from an underlying oil or gas reservoir.

C. Definitions beginning with the letter "C".

(1) Carbon dioxide gas shall mean noncombustible gas composed chiefly of carbon dioxide occurring naturally in underground rocks.

(2) Casinghead gas shall mean any gas or vapor or both gas and vapor indigenous to and produced from a pool classified as an oil pool by the division. This also includes gas-cap gas produced from such an oil pool.

(3) Commission shall mean the oil conservation commission.

(4) Common purchaser for natural gas shall mean any person now or hereafter engaged in purchasing from one or more producers gas produced from gas wells within each common source of supply from which it purchases.

(5) Common purchaser for oil shall mean every person now engaged or hereafter engaging in the business of purchasing oil to be transported through pipelines.

(6) Common source of supply. See pool.

(7) Condensate shall mean the liquid recovered at the surface that results from condensation due to reduced pressure or temperature of petroleum hydrocarbons existing in a gaseous phase in the reservoir.

(8) Contiguous shall mean acreage joined by more than one common point, that is, the common boundary must be at least one side of a governmental quarter-quarter section.

(9) Conventional completion shall mean a well completion in which the production string of casing has an outside diameter in excess of 2.875 inches.

(10) Correlative rights shall mean the opportunity afforded, as far as it is practicable to do so, to the owner of each property in a pool to produce without waste his just and equitable share of the oil or gas, or both, in the pool, being an amount, so far as can be practically determined, and so far as can be practically obtained without waste, substantially in the proportion that the quantity of recoverable oil or gas, or both, under such property bears to the total recoverable oil or gas, or both, in the pool, and for such purpose to use his just and equitable share of the reservoir energy.

(11) Cubic feet of gas or standard cubic foot of gas, for the purpose of these rules, shall mean that volume of gas contained in one cubic foot of space and computed at a base pressure of 10 ounces per square inch above the average barometric pressure of 14.4 pounds per square inch (15.025

psia), at a standard base temperature of 60 degrees fahrenheit.

D. Definitions beginning with the letter “D”.

(1) Deep pool shall mean a common source of supply which is situated 5000 feet or more below the surface.

(2) Depth bracket allowable shall mean the basic oil allowable assigned to a pool and based on its depth, unit size, or special pool rules, which, when multiplied by the market demand percentage factor in effect, will determine the top unit allowable for the pool.

(3) Director shall mean the director of the oil conservation division of the New Mexico energy, minerals and natural resources department.

(4) Division shall mean the oil conservation division of the New Mexico energy, minerals and natural resources department.

E. Definitions beginning with the letter “E”.

(1) Exempted aquifer shall mean an aquifer that does not currently serve as a source of drinking water, and which cannot now and will not in the foreseeable future serve as a source of drinking water because: is hydrocarbon producing;

(a) it is hydrocarbon producing;

(b) it is situated at a depth or location which makes the recovery of water for drinking water purposes economically or technologically impractical; or,

(c) it is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption.

(2) Existing spacing unit is a spacing unit containing a producing well.

F. Definitions beginning with the letter “F”.

(1) Facility shall mean any structure, installation, operation, storage tank, transmission line, access road, motor vehicle, rolling stock, or activity of any kind, whether stationary or mobile.

(2) Field means the general area which is underlaid or appears to be underlaid by at least one pool; and field also includes the underground reservoir or reservoirs containing such crude petroleum oil or natural gas, or both. The words field and pool mean the same thing when only one underground reservoir is involved; however, field unlike pool may relate to two or more pools.

(3) Fresh water (to be protected) includes the water in lakes and playas, the surface waters of all streams regardless of the quality of the water within any given reach, and all underground waters containing 10,000 milligrams per liter (mg/l) or less of total dissolved solids (TDS) except for which, after notice and hearing, it is found there is no present or reasonably foreseeable beneficial use which would be impaired by contamination of such waters. The water in lakes and playas shall be protected from contamination even though it may contain more than 10,000 mg/l of TDS unless it can be shown that hydrologically connected fresh ground water will not be adversely affected.

G. Definitions beginning with the letter “G”.

(1) Gas lift shall mean any method of lifting liquid to the surface by injecting gas into a well from which oil production is obtained.

(2) Gas-oil ratio shall mean the ratio of the casinghead gas produced in standard cubic feet to the number of barrels of oil concurrently produced during any stated period.

(3) Gas-oil ratio adjustment shall mean the reduction in allowable of a high gas oil ratio unit to conform with the production permitted by the limiting gas-oil ratio for the particular pool during a particular proration period.

(4) Gas transportation facility shall mean a pipeline in operation serving gas wells for the transportation of natural gas, or some other device or equipment in like operation whereby natural gas produced from gas wells connected therewith can be transported or used for consumption.

(5) Gas well shall mean a well producing gas or natural gas from a gas pool, or a well with a gas-oil ratio in excess of 100,000 cubic feet of gas per barrel of oil producing from an oil pool.

(6) Ground water shall mean interstitial water which occurs in saturated earth material and which is capable of entering a well in sufficient amounts to be utilized as a water supply.

H. Definitions beginning with the letter “H”.

(1) Hazard to public health exists when water which is used or is reasonably expected to be used in the future as a human drinking water supply exceeds at the time and place of such use, one or more of the numerical standards of Subsection A of 20.6.2.3103 NMAC, or the naturally occurring concentrations, whichever is higher, or if any toxic pollutant as defined at Subsection VV of 20.6.2.7 NMAC affecting human health is present in the water. In determining whether a release would cause a hazard to public health to exist, the director shall investigate and consider the purification and dilution reasonably expected to occur from the time and place of release to the time and place of withdrawal for use as human drinking water.

(2) High gas-oil ratio proration unit shall mean a unit with at least one producing oil well with a gas-oil ratio in excess of the limiting gas-oil ratio for the pool in which the unit is located.

I. Definitions beginning with the letter “I”.

(1) Illegal gas shall mean natural gas produced from a gas well in excess of the allowable determined by the division.

(2) Illegal oil shall mean crude petroleum oil produced in excess of the allowable as fixed by the division.

(3) Illegal product shall mean any product of illegal gas or illegal oil.

(4) Inactive well shall be a well which is not being utilized for beneficial purposes such as production, injection or monitoring and which is not being drilled, completed, repaired or worked over.

(5) Injection or input well shall mean any well used for the injection of air, gas, water, or other fluids into any underground stratum.

J. Reserved.

K. Reserved.

L. Definitions beginning with the letter “L”.

(1) Limiting gas-oil ratio shall mean the gas-oil ratio assigned by the division to a particular oil pool to limit the volumes of casinghead gas which may be produced from the various oil producing units within that particular pool.

(2) Load oil is any oil or liquid hydrocarbon which has been used in remedial operation in any oil or gas well.

(3) Log or well log shall mean a systematic detailed and correct record of formations encountered in the drilling of a well.

M. Definitions beginning with the letter “M”.

(1) Marginal unit shall mean a proration unit which is incapable of producing top unit allowable for the pool in which it is located.

(2) Market demand percentage factor shall mean that percentage factor of 100 percent or less as determined by the division at an oil allowable hearing, which, when multiplied by the depth bracket allowable applicable to each pool, will determine the top unit allowable for that pool.

(3) Mineral estate is the most complete ownership of oil and gas recognized in law and includes all the mineral interests and all the royalty interests.

(4) Mineral interest owners are owners of an interest in the executive rights, which are the rights to explore and develop, including oil and gas lessees (i.e., “working interest owners”) and mineral interest owners who have not signed an oil and gas lease.

(5) Minimum allowable shall mean the minimum amount of production from an oil or gas well which may be advisable from time to time to the end that production will repay reasonable lifting cost and thus prevent premature abandonment and resulting waste.

(6) Multiple completion (combination) shall mean a multiple completion in which two or more common sources of supply are produced through a combination of two or more conventional diameter casing strings cemented in a common well-bore, or a combination of small diameter and conventional diameter casing strings cemented in a common well-bore, the conventional diameter strings of which might or might not be a multiple completion (conventional).

(7) Multiple completion (conventional) shall mean a completion in which two or more common sources of supply are produced through one or more strings of tubing installed within a single casing string, with the production from each common source of supply completely segregated by means of packers.

(8) Multiple completion (tubingless) shall mean completion in which two or more common sources of supply are produced through an equal number of casing strings cemented in a common well-bore, each such string of casing having an outside diameter of 2.875 inches or less, with the production from each common source of supply completely segregated by use of cement.

N. Definitions beginning with the letter "N".

(1) Natural gas or gas shall mean any combustible vapor composed chiefly of hydrocarbons occurring naturally in a pool classified by the division as a gas pool.

(2) Non-aqueous phase liquid shall mean an interstitial body of liquid oil, petroleum product, petrochemical, or organic solvent, including an emulsion containing such material.

(3) Non-marginal unit shall mean a proration unit which is capable of producing top unit allowable for the pool in which it is located, and to which has been assigned a top unit allowable.

O. Definitions beginning with the letter "O".

(1) Official gas-oil ratio test shall mean the periodic gas-oil ratio test made by order of the division by such method and means and in such manner as prescribed by the division.

(2) Oil, crude oil, or crude petroleum oil shall mean any petroleum hydrocarbon produced from a well in the liquid phase and which existed in a liquid phase in the reservoir.

(3) Oil field wastes shall mean those wastes produced in conjunction with the exploration, production, refining, processing and transportation of crude oil and/or natural gas and commonly collected at field storage, processing, disposal, or service facilities, and waste collected at gas processing plants, refineries and other processing or transportation facilities.

(4) Oil well shall mean any well capable of producing oil and which is not a gas well as defined herein.

(5) Operator shall mean any person who, duly authorized, is in charge of the development of a lease or the operation of a producing property, or who is in charge of the operation or management of a facility.

(6) Overage or overproduction shall mean the amount of oil or the amount of natural gas produced during a proration period in excess of the amount authorized on the proration schedule.

(7) Owner means the person who has the right to drill into and to produce from any pool, and to appropriate the production either for himself or for himself and another.

P. Definitions beginning with the letter "P".

(1) Penalized unit shall mean a proration unit to which, because of an excessive gas-oil ratio, an allowable has been assigned which is less than top unit allowable for the pool in which it is located and also less than the ability of the well(s) on the unit to produce.

(2) Person shall mean an individual or any other entity including partnerships, corporation, associations, responsible business or association agents or officers, the state or a political subdivision of the state or any agency, department or instrumentality of the United States and any of its officers, agents or employees.

(3) Pit shall mean any surface or sub-surface impoundment, man-made or natural depression, or diked area on the surface. Excluded from this definition are berms constructed around tanks or other facilities solely for the purpose of safety and secondary containment.

(4) Playa lake shall mean a level or nearly level area that occupies the lowest part of a completely closed basin and that is covered with water at irregular intervals, forming a temporary lake.

(5) Pool means any underground reservoir containing a common accumulation of crude petroleum oil or natural gas or both. Each zone of a general structure, which zone is completely separated from any other zone in the structure, is covered by the word "pool" as used herein. "Pool" is synonymous with "common source of supply" and with "common reservoir."

(6) Potential shall mean the properly determined capacity of a well to produce oil, or gas, or both, under conditions prescribed by the division.

(7) Pressure maintenance shall mean the injection of gas or other fluid into a reservoir, either to maintain the existing pressure in such reservoir or to retard the natural decline in the reservoir pressure.

(8) Produced water shall mean those waters produced in conjunction with the production of crude oil and/or natural gas and commonly collected at field storage, processing, or disposal facilities including but not limited to: lease tanks, commingled tank batteries, burn pits, LACT units, and community or lease salt water disposal systems and which may be collected at gas processing plants, pipeline drips and other processing or transportation facilities.

(9) Producer shall mean the owner of a well or wells capable of producing oil or natural gas or both in paying quantities.

(10) Product means any commodity or thing made or manufactured from crude petroleum oil or natural gas, and all derivatives of crude petroleum oil or natural gas, including refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, treated crude oil, fuel oil, residuum, gas oil, naphtha, distillate, gasoline, kerosene, benzene, wash oil, lubricating oil, and blends or mixtures of crude petroleum oil or natural gas or any derivative thereof.

(11) Proration day shall consist of 24 consecutive hours which shall begin at 7 a.m. and end at 7 a.m. on the following day. The language in this paragraph is different than that which was filed 02-28-97 (effective

(12) Proration month shall mean the calendar month which shall begin at 7 a.m. on the first day of such month and end at 7 a.m. on the first day of the next succeeding month.

(13) Proration period shall mean for oil the proration month and for gas the twelve-month period which shall begin at 7 a.m. on January 1 of each year and end at 7 a.m. on January 1 of the succeeding year or other period designated by general or special order of the division.

(14) Proration schedule shall mean the order of the division authorizing the production, purchase, and transportation of oil, casinghead gas, and natural gas from the various units of oil or of natural gas in allocated pools.

(15) Proration unit is the area in a pool that can be effectively and efficiently drained by one well as determined by the division or commission (See NMSA 1978 Section 70-2-17.B) as well as the area assigned to an individual well for the purposes of allocating allowable production pursuant to a prorationing order for the pool. A proration unit will be the same size and shape as a spacing unit. All proration units are spacing units but not all spacing units are proration units.

(16) Prospective spacing unit is a hypothetical spacing unit that does not yet have a producing well.

Q. Reserved.

R. Definitions beginning with the letter "R".

(1) Recomplete shall mean the subsequent completion of a well in a different pool from the pool in which it was originally completed.

(2) Regulated naturally occurring radioactive material (regulated NORM) shall mean naturally occurring radioactive material (NORM) contained in any oil-field soils, equipment, sludges or any other materials related to oil-field operations or processes exceeding the radiation levels specified in 20.3.14.1403 NMAC.

(3) Release shall mean all breaks, leaks, spills, releases, fires or blowouts involving crude oil, produced water, condensate, drilling fluids, completion fluids or other chemical or contaminant or mixture thereof, including oil field wastes and natural gases to the environment.

(4) Remediation plan shall mean a written description of a program to address unauthorized releases. The plan may include appropriate information, including assessment data, health risk demonstrations, and corrective action(s). The plan may also include an alternative proposing no

action beyond the submittal of a spill report.

(5) Responsible person shall mean the owner or operator who must complete division approved corrective action for pollution from releases.

(6) Royalty interest owners are owners of an interest in the non-executive rights including lessors, royalty interest owners and overriding royalty interest owners. Royalty interests are non-cost bearing.

S. Definitions beginning with the letter "S".

(1) Secondary recovery shall mean a method of recovering quantities of oil or gas from a reservoir which quantities would not be recoverable by ordinary primary depletion methods.

(2) Shallow pool shall mean a pool which has a depth range from 0 to 5000 feet.

(3) Shortage or underproduction shall mean the amount of oil or the amount of natural gas during a proration period by which a given proration unit failed to produce an amount equal to that authorized in the proration schedule.

(4) Shut-in shall be the status of a production well or an injection well which is temporarily closed down, whether by closing a valve or disconnection or other physical means.

(5) Shut-in pressure shall mean the gauge pressure noted at the wellhead when the well is completely shut in, not to be confused with bottom hole pressure.

(6) Significant modification of an abatement plan shall mean a change in the abatement technology used excluding design and operational parameters, or relocation of 25% or more of the compliance sampling stations, for any single medium, as designated pursuant to Subsection E, Paragraph (4), Subparagraph (b), Subsubparagraph (iv) of Section 19.15.5.19 NMAC.

(7) Spacing unit is the area allocated to a well under a well spacing order or rule. Under the Oil & Gas Act, NMSA 1978, Section 70-2-12.B(10), the commission has the power to fix spacing units without first creating proration units. See *Rutter & Wilbanks Corp. v. Oil Conservation Comm'n*, 87 NM 286 (1975). This is the area designated on division form C-102.

(8) Subsurface water shall mean ground water and water in the vadose zone that may become ground water or surface water in the reasonably foreseeable future or may be utilized by vegetation.

T. Definitions beginning with the letter "T".

(1) Tank bottoms shall mean that accumulation of hydrocarbon material and other substances which settles naturally below crude oil in tanks and receptacles that are used in handling and storing of crude oil, and which accumulation contains in excess of two (2%) percent of basic sediment and water; provided, however, that with respect to lease production and for lease storage tanks, a tank bottom shall be limited to that volume of the tank in which it is contained that lies below the bottom of the pipeline outlet thereto.

(2) Temporary abandonment shall be the status of a well which is inactive and has been approved for temporary abandonment in accordance with the provisions of these rules.

(3) Top unit allowable for gas shall mean the maximum number of cubic feet of natural gas, for the proration period, allocated to a gas producing unit in an allocated gas pool.

(4) Top unit allowable for oil shall mean the maximum number of barrels for oil daily for each calendar month allocated on a proration unit basis in a pool to non-marginal units. The top unit allowable for a pool shall be determined by multiplying the applicable depth bracket allowable by the market demand percentage factor in effect.

(5) Treating plant shall mean any plant constructed for the purpose of wholly or partially or being used wholly or partially for reclaiming, treating, processing, or in any manner making tank bottoms or any other waste oil marketable.

(6) Tubingless completion shall mean a well completion in which the production string of casing has an outside diameter of 2.875 inches or less.

U. Definitions beginning with the letter "U".

(1) Underground source of drinking water shall mean an aquifer which supplies water for

human consumption or which contains ground water having a total dissolved solids concentration of 10,000 mg/1 or less and which is not an exempted aquifer.

(2) Unit of proration for gas shall consist of such multiples of 40 acres as may be prescribed by special pool rules issued by the division.

(3) Unit of proration for oil shall consist of one 40-acre tract or such multiples of 40-acre tracts as may be prescribed by special pool rules issued by the division.

(4) Unorthodox well location shall mean a location which does not conform to the spacing requirements established by the rules and regulations of the division.

V. Definitions beginning with the letter "V". Vadose zone shall mean unsaturated earth material below the land surface and above ground water, or in between bodies of ground water.

W. Definitions beginning with the letter "W".

(1) Waste, in addition to its ordinary meaning, shall include:

(a) underground waste as those words are generally understood in the oil and gas business, and in any event to embrace the inefficient, excessive, or improper use or dissipation of the reservoir energy, including gas energy and water drive, of any pool, and the locating, spacing, drilling, equipping, operating, or producing, of any well or wells in a manner to reduce or tend to reduce the total quantity of crude petroleum oil or natural gas ultimately recovered from any pool, and the use of inefficient underground storage of natural gas;

(b) surface waste as those words are generally understood in the oil and gas business, and in any event to embrace the unnecessary or excessive surface loss or destruction without beneficial use, however caused, of natural gas of any type or in any form, or crude petroleum oil, or any product thereof, but including the loss or destruction, without beneficial use, resulting from evaporation, seepage, leakage, or fire, especially such loss or destruction incident to or resulting from the manner of spacing, equipping, operating or producing a well or wells, or incident to or resulting from the use of inefficient storage or from the production of crude petroleum oil or natural gas, in excess of the reasonable market demand;

(c) the production of crude petroleum oil in this state in excess of the reasonable market demand for such crude petroleum oil; such excess production causes or results in waste which is prohibited by the Oil and Gas Act; the words "reasonable market demand" as used herein with respect to crude petroleum oil, shall be construed to mean the demand for such crude petroleum oil, for reasonable current requirements for current consumption and use within or outside of the state, together with the demand of such amounts as are reasonably necessary for building up or maintaining reasonable storage reserves of crude petroleum oil or the products thereof, or both such crude petroleum oil and products;

(d) the non-ratable purchase or taking of crude petroleum oil in this state; such non-ratable taking and purchasing causes or results in waste, as defined in Subparagraphs (a), (b), and (c) of this definition and causes waste by violating Section 70-2-16 of the Oil and Gas Act;

(e) the production in this state of natural gas from any gas well or wells, or from any gas pool, in excess of the reasonable market demand from such source for natural gas of the type produced or in excess of the capacity of gas transportation facilities for such type of natural gas; the words "reasonable market demand," as used herein with respect to natural gas, shall be construed to mean the demand for natural gas for reasonable current requirements, for current consumption and for use within or outside the state, together with the demand for such amounts as are necessary for building up or maintaining reasonable storage reserves of natural gas or products thereof, or both such natural gas and products.

(2) Water shall mean all water including water situated wholly or partly within or bordering upon the state, whether surface or subsurface, public or private, except private waters that do not combine with other surface or subsurface water.

(3) Water contaminant shall mean any substance that could alter if released or spilled the physical, chemical, biological or radiological qualities of water. "Water contaminant" does not mean source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954.

(4) Watercourse shall mean any lake bed, or gully, draw, stream bed, wash, arroyo, or natural or human-made channel through which water flows or has flowed.

(5) Water pollution shall mean introducing or permitting the introduction into water, either directly or indirectly, of one or more water contaminants in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or to unreasonably interfere with the public welfare or the use of property.

(6) Well blowout shall mean a loss of control over and subsequent eruption of any drilling or workover well or the rupture of the casing, casinghead, or wellhead or any oil or gas well or injection or disposal well, whether active or inactive, accompanied by the sudden emission of fluids, gaseous or liquids, from the well.

(7) Wellhead protection area shall mean the area within 200 horizontal feet of any private, domestic fresh water well or spring used by less than five households for domestic or stock watering purposes or within 1000 horizontal feet of any other fresh water well or spring. Wellhead protection areas shall not include areas around water wells drilled after an existing oil or natural gas waste storage, treatment, or disposal site was established.

(8) Wetlands shall mean those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions in New Mexico. Constructed wetlands used for wastewater treatment purposes are not included in this definition.

(9) Working interest owners are the owners of the operating interest under an oil and gas lease who have the exclusive right to exploit the oil & gas minerals. Working interests are cost bearing. [1-5-50...2-1-96; A, 7-15-96; Rn, 19 NMAC 15.A.7.1 through 7.84, 3-15-97; A, 7-15-99; 19.15.1.7 NMAC - Rn, 19 NMAC 15.A.7, 5-15-001; A, 3/31/04]

19.15.1.8-10 [RESERVED]

19.15.1.11 SCOPE OF RULES:

A. The following rules of statewide application have been adopted by the commission to conserve the natural resources of the state of New Mexico, to prevent waste, to protect correlative rights, to protect public health and the environment and to otherwise implement the Oil and Gas Act, NMSA 1978, Section 70-2-1 through 70-2-38.

B. Orders, including special pool orders (formerly referred to as “special pool rules and regulations”), of the division or the commission may be issued when required and shall prevail against rules if in conflict with them.

[1-1-50...2-1-96; A, 7-15-99; 19.15.1.11 NMAC - Rn, 19 NMAC 15.A.11, 5-15-01]

19.15.1.12 ENFORCEMENT OF STATUTES AND RULES:

The division is charged with the duty and obligation of enforcing all rules and statutes of the state of New Mexico relating to the conservation of oil and gas including the protection of public health and the environment. However, it shall be the responsibility of all the owners or operators to obtain information pertaining to the regulation of oil and gas before operations begin.

[1-1-50...2-1-96; A, 7-15-99; 19.15.1.12 NMAC - Rn, 19 NMAC 15.A.12, 5-15-01]

19.15.1.13 GENERAL OPERATIONS/WASTE PROHIBITED:

A. The production or handling of crude petroleum oil or natural gas of any type or in any form, or the handling of products thereof, in such a manner or under such conditions or in such amount as to constitute or result in waste is hereby prohibited.

B. All operators, contractors, drillers, carriers, gas distributors, service companies, pipe pulling and salvaging contractors, treating plant operators or other persons shall at all times conduct their operations in or related to the drilling, equipping, operating, producing, plugging and abandonment of oil,

gas, injection, disposal, and storage wells or other facilities in a manner that will prevent waste of oil and gas, the contamination of fresh waters and shall not wastefully utilize oil or gas, or allow either to leak or escape from a natural reservoir, or from wells, tanks, containers, pipe or other storage, conduit or operating equipment.

[1-1-50...2-1-96; 19.15.1.13 NMAC - Rn, 19 NMAC 15.A.13, 5-15-01]

19.15.1.14 UNITED STATES GOVERNMENT LEASES:

Operator shall file or cause to be filed with the division copies of "application for permit to drill, deepen or plug back," (BLM form no. 3160-3), "sundry notices and reports on wells," (BLM form no. 3160-5), and "well completion or recompletion report and log," (BLM form no. 3160-4), as approved by the bureau of land management for wells on U.S. government land.

[1-1-50...2-1-96; 19.15.1.14 NMAC - Rn, 19 NMAC 15.A.14, 5-15-01]

19.15.1.15 CLASSIFYING AND DEFINING POOLS:

The division will determine whether a particular well or pool is a gas or oil well, or a gas or oil pool, as the case may be, and from time to time classify and reclassify wells and name pools accordingly, and will determine the limits of any pool or pools producing crude petroleum oil or natural gas and from time to time redetermine such limits.

[1-1-50...2-1-96; 19.15.1.15 NMAC - Rn, 19 NMAC 15.A.15, 5-15-01]

19.15.1.16 FORMS UPON REQUEST:

Forms for written notices, requests and reports required by the division will be furnished upon request.

[1-1-50...2-1-96; 19.15.1.16 NMAC - Rn, 19 NMAC 15.A.16, 5-15-01]

19.15.1.17 AUTHORITY TO COOPERATE WITH OTHER AGENCIES:

The division may from time to time enter into arrangements with state and federal governmental agencies, industry committees and individuals, with respect to special projects, services and studies relating to conservation of oil and gas and the associated protection of fresh waters.

[1-1-50...2-1-96; 19.15.1.17 NMAC - Rn, 19 NMAC 15.A.17, 5-15-01]

19.15.1.18 [RESERVED.]

[9-23-85; 9-1-89...2-1-96; 19.15.1.18 NMAC - Rn, 19 NMAC 15.A.18, 5-15-01; Repealed, 5-28-04]

19.15.1.19 PREVENTION AND ABATEMENT OF WATER POLLUTION:

A. Purpose

(1) The purpose of this rule are to:

(a) Abate pollution of subsurface water so that all ground water of the state of New Mexico which has a background concentration of 10,000 mg/L or less TDS, is either remediated or protected for use as domestic, industrial and agricultural water supply, and to remediate or protect those segments of surface waters which are gaining because of subsurface-water inflow, for uses designated in the water quality standards for interstate and intrastate surface waters in New Mexico (20.6.4 NMAC); and

(b) Abate surface-water pollution so that all surface waters of the state of New Mexico are remediated or protected for designated or attainable uses as defined in the water quality standards for interstate and intrastate surface waters in New Mexico (20.6.4 NMAC).

(2) If the background concentration of any water contaminant exceeds the standard or requirement of Section 19.15.1.19 NMAC, Subsection B, Paragraphs (1), (2) or (3) pollution shall be abated by the responsible person to the background concentration.

(3) The standards and requirements set forth in of Section 19.15.1.19 NMAC, Subsection B, Paragraphs (1), (2) or (3) are not intended as maximum ranges and concentrations for use, and nothing

herein contained shall be construed as limiting the use of waters containing higher ranges and concentrations.

B. Abatement standards and requirements

(1) The vadose zone shall be abated so that water contaminants in the vadose zone will not with reasonable probability contaminate ground water or surface water, in excess of the standards in Paragraphs (2) and (3) below, through leaching, percolation, or other transport mechanisms, or as the water table elevation fluctuates.

(2) Ground-water pollution at any place of withdrawal for present or reasonably foreseeable future use, where the TDS concentration is 10,000 mg/L or less, shall be abated to conform to the following standards:

(a) Toxic pollutant(s) as defined in 20.6.2.7 NMAC shall not be present; and

(b) The standards of 20.6.2.3103 NMAC shall be met.

(3) Surface-water pollution shall be abated to conform to the water quality standards for interstate and intrastate surface waters in New Mexico 20.6.4 NMAC.

(4) Subsurface-water and surface-water abatement shall not be considered complete until eight (8) consecutive quarterly samples, or an alternate lesser number of samples approved by the director, from all compliance sampling stations approved by the director meet the abatement standards of Paragraphs (1), (2) and (3) above. Abatement of water contaminants measured in solid-matrix samples of the vadose zone shall be considered complete after one-time sampling from compliance stations approved by the director.

(5) Technical infeasibility

(a) If any responsible person is unable to fully meet the abatement standards set forth in Paragraphs (1) and (2) above using commercially accepted abatement technology pursuant to an approved abatement plan, he may propose that abatement standards compliance is technically infeasible. Technical infeasibility proposals involving the use of experimental abatement technology shall be considered at the discretion of the director. Technical infeasibility may be demonstrated by a statistically valid extrapolation of the decrease in concentration(s) of any water contaminant(s) over the remainder of a twenty (20) year period, such that projected future reductions during that time would be less than 20% of the concentration(s) at the time technical infeasibility is proposed. A statistically valid decrease cannot be demonstrated by fewer than eight (8) consecutive quarters. The technical infeasibility proposal shall include a substitute abatement standard(s) for those contaminants that is/are technically feasible. Abatement standards for all other water contaminants not demonstrated to be technically infeasible shall be met.

(b) In no event shall a proposed technical infeasibility demonstration be approved by the director for any water contaminant if its concentration is greater than 200% of the abatement standard for the contaminant.

(c) If the director cannot approve any or all portions of a proposed technical infeasibility demonstration because the water contaminant concentration(s) is/are greater than 300% of the abatement standard(s) for each contaminant, the responsible person may further pursue the issue of technical infeasibility by filing a petition with the division seeking approval of alternate abatement standard(s) pursuant to Paragraph (6) below.

(6) Alternative abatement standards

(a) At any time during or after the submission of a stage 2 abatement plan, the responsible person may file a petition seeking approval of alternative abatement standard(s) for the standards set forth in Paragraphs (1) and (2) above. The division may approve alternative abatement standard(s) if the petitioner demonstrates that:

(i) either: compliance with the abatement standard(s) is/are not feasible, by the maximum use of technology within the economic capability of the responsible person; or there is no reasonable relationship between the economic and social costs and benefits (including attainment of the standard(s) set forth in Subsection B of Section 19.15.1.19 NMAC to be obtained, and

(ii) the proposed alternative abatement standard(s) is/are technically achievable and cost-benefit justifiable; and

(iii) compliance with the proposed alternative abatement standard(s) will not create a present or future hazard to public health or undue damage to property.

(b) The petition shall be in writing, filed with the division environmental bureau chief. The petition may include a transport, fate and risk assessment in accordance with accepted methods, and other information as the petitioner deems necessary to support the petition. The petition shall:

- (i) state the petitioner's name and address;
- (ii) state the date of the petition;
- (iii) describe the facility or activity for which the alternate abatement standard(s) is sought;
- (iv) state the address or description of the property upon which the facility is located;
- (v) describe the water body or watercourse affected by the release;
- (iv) identify the abatement standard from which petitioner wishes to vary;
- (vii) state why the petitioner believes that compliance with the regulation will impose an unreasonable burden upon his activity;
- (viii) identify the water contaminant(s) for which alternative standard(s) is/are proposed;
- (ix) state the alternative standard(s) proposed;
- (x) identify the three-dimensional body of water pollution for which approval is sought;
- (xi) state the extent to which the abatement standard(s) set forth in Subsection B of 19.15.1.19 NMAC is/are now, and will in the future be, violated.

(c) The division environmental bureau chief shall review the petition and, within sixty (60) days after receiving the petition, shall submit a written recommendation to the director to approve, approve subject to conditions, or disapprove any or all of the proposed alternative abatement standard(s). The recommendation shall include the reasons for the division environmental bureau chief's recommendation. The division environmental bureau chief shall submit a copy of the recommendation to the petitioner by certified mail.

(d) If the division environmental bureau chief recommends approval, or approval subject to conditions, of any or all of the proposed alternative abatement standard(s), the division shall hold a public hearing on those standards. If the division environmental bureau chief recommends disapproval of any or all of the proposed alternative abatement standard(s), the petitioner may submit a request to the director, within fifteen (15) days after receipt of the recommendation, for a public hearing on those standards. If a timely request for hearing is not submitted, the recommended disapproval shall become a final decision of the director and shall not be subject to review.

(e) If the director grants a public hearing, the hearing shall be conducted in accordance with division hearing procedures.

(f) Based on the record of the public hearing, the division shall approve, approve subject to condition, or disapprove any or all of the proposed alternative abatement standard(s). The division shall notify the petitioner by certified mail of its decision and the reasons therefore.

(7) Modification of abatement standards. If applicable abatement standards are modified after abatement measures are approved, the abatement standards are modified after abatement measures are approved, the abatement standards that are in effect at the time that abatement measures are approved shall be the abatement standards for the duration of the abatement action, unless the director determines that compliance with those standards may with reasonable probability create a present or future hazard to public health or the environment. In any appeal of the director's determination that additional actions are necessary, the director shall have the burden of proof.

C. Abatement plan required

(1) Unless otherwise provided by Section 19.15.1.19 NMAC all responsible persons who are abating, or who are required to abate, water pollution in excess of the standards and requirements set forth in Subsection B of Section 19.15.1.19 NMAC shall do so pursuant to an abatement plan approved by the director. When an abatement plan has been approved, all actions leading to and including abatement shall be consistent with the terms and conditions of the abatement plan.

(2) In the event of a transfer of the ownership, control or possession of a facility for which an abatement plan is required or approved, where the transferor is a responsible person, the transferee also shall be considered a responsible person for the duration of the abatement plan, and may jointly share the responsibility to conduct the actions required by Section 19.15.1.19 NMAC with other responsible persons. The transferor shall notify the transferee in writing, at least thirty (30) days prior to the transfer, that abatement plan has been required or approved for the facility, and shall deliver or send by certified mail to the director a copy of such notification together with a certificate or other proof that such notification has in fact been received by the transferee. The transferor and transferee may agree to a designated responsible person who shall assume the responsibility to conduct the actions required by Section 19.15.1.19 NMAC. The responsible persons shall notify the director in writing if a designated responsible person is agreed upon. If the director determines that the designated responsible person has failed to conduct the actions required by Section 19.15.1.19 NMAC, the director shall notify all responsible persons of this failure in writing and allow them thirty (30) days, or longer for good cause shown, to conduct the required actions before setting a show cause hearing requiring those responsible persons to appear and show cause why they should not be ordered to comply, a penalty should not be assessed, a civil action should not be commenced in district court or any other appropriate action should not be taken by the division.

(3) If the source of the water pollution to be abated is a facility that operated under a discharge plan, the director may require the responsible person(s) to submit a financial assurance plan which covers the estimated costs to conduct the actions required by the abatement plan. Such a financial assurance plan shall be consistent with any financial assurance requirements adopted by the division.

D. Exemptions from abatement plan requirement

(1) Except a provided in Paragraph (2) below, Subsections C and E do not apply to a person who is abating water pollution:

(a) from an underground storage tank, under the authority of the underground storage tank regulations (Title 20, Chapter 5) adopted by the New Mexico environmental improvement board, or in accordance with the New Mexico Ground Water Protection Act;

(b) under the authority of the U.S. environmental protection agency pursuant to either the Federal Comprehensive Environmental Response, Compensation and Liability Act, and amendments, or the Resource Conservation and Recovery Act;

(c) pursuant to the hazardous waste management regulations (20.4.1 NMAC) adopted by the New Mexico environmental improvement board;

(d) under the authority of the U.S. nuclear regulatory commission or the U.S. department of energy pursuant to the Atomic Energy Act;

(e) under the authority of a ground-water discharge plan approved by the director, provided that such abatement is consistent with the requirements and provisions of Section 19.15.1.19 NMAC, Subsections A, B and E, Paragraphs (3) and (4), and Subsections F and K.

(f) under the authority of a letter of understanding, settlement agreement or administrative order on consent or other agreement signed by the director or his designee prior to **(insert effective date of rule)**, 1997, provided that abatement is being performed in full compliance with the terms of the letter of understanding, settlement agreement or administrative order or other agreement on consent; and

(g) on an emergency basis, or while abatement plan approval is pending, or in a manner that will likely result in compliance with the standards and requirements set forth in Subsection B

within one year after notice is required to be given pursuant to Subsection B of 19.15.3.116 NMAC provided that the division does not object to the abatement action.

(2) If the director determines that abatement of water pollution subject to Section 19.15.1.19 NMAC, Subsection D, Paragraph (1) will not meet the standards of Section 19.15.1.19 NMAC, Subsection B, Paragraphs (2) and (3) or that additional action is necessary to protect health, welfare, environment or property, the director may notify a responsible person, by certified mail, to submit an abatement plan pursuant to Section 19.15.1.19 NMAC, Subsections C and E, Paragraph (1). The notification shall state the reasons for the director's determination. In any appeal of the director's determination under this Paragraph, the director shall have the burden of proof.

E. Abatement plan proposal

(1) Except as provided for in Subsection D of 19.15.1.19 NMAC a responsible person shall, within sixty (60) days of receipt of written notice from the director that an abatement plan is required, submit an abatement plan proposal to the director for approval. Stage 1 and stage 2 abatement plan proposals may be submitted together. For good cause shown, the director may allow for a total of one hundred and twenty (120) days to prepare and submit the abatement plan proposal.

(2) Voluntary abatement

(a) any person wishing to abate water pollution in excess of the standards and requirements set forth in Subsection B of Section 19.15.1.19 NMAC may submit a stage 1 abatement plan proposal to the director for approval. Following approval by the director of a final site investigation report prepared pursuant to stage 1 of an abatement plan, any person may submit a stage 2 abatement plan proposal to the director for approval.

(b) Following approval of a stage 1 or stage 2 abatement plan proposal under E(2)(a) above, the person submitting the approved plan shall be a responsible person under Section 19.15.1.19 NMAC for the purpose of performing the approved stage 1 or stage 2 abatement plan. Nothing in Section 19.15.1.19 NMAC shall preclude the director from applying Subsection D of 19.15.3.116 NMAC to a responsible person if applicable.

(3) Stage 1 abatement plan. The purpose of stage 1 of the abatement plan shall be to design and conduct a site investigation that will adequately define site conditions, and provide the data necessary to select and design an effective abatement option. Stage 1 of the abatement plan may include, but not necessarily be limited to, the following information depending on the media affected, and as needed to select and implement an expeditious abatement option:

(a) Descriptions of the site, including a site map, and of site history including the nature of the release that caused the water pollution, and a summary of previous investigations;

(b) Site investigation work plan to define:

(i) site geology and hydrogeology, the vertical and horizontal extent and magnitude of vadose-zone and ground-water contamination, subsurface hydraulic conductivity, transmissivity, storativity, and rate and direction of contaminant migration, inventory of water wells inside and within one (1) mile from the perimeter of the three-dimensional body where the standards set forth in Subsection B, Paragraph (2) are exceeded, and location and number of such wells actually or potentially affected by the pollution; and

(ii) surface-water hydrology, seasonal stream flow characteristics, groundwater/surface-water relationships, the vertical and horizontal extent and magnitude of contamination and impacts to surface water and stream sediments. The magnitude of contamination and impacts on surface water may be, in part, defined by conducting a biological assessment of fish, benthic macro invertebrates and other wildlife populations. Seasonal variations should be accounted for when conducting these assessments.

(c) Monitoring program, including sampling stations and frequencies, for the duration of the abatement plan that may be modified, after approval by the director, as additional sampling stations are created;

(d) Quality assurance plan, consistent with the sampling and analytical techniques

listed in Subsection B of 20.6.2.3107 NMAC and with 20.6.4.13 NMAC of the water quality standards for interstate and intrastate surface waters in New Mexico 20.6.4 NMAC, for all work to be conducted pursuant to the abatement plan;

(e) A schedule for all stage 1 abatement plan activities, including the submission of summary quarterly progress reports, and the submission, for approval by the director, of a detailed final site investigation report; and

(f) Any additional information that may be required to design and perform an adequate site investigation.

(4) Stage 2 abatement plan

(a) Any responsible person shall submit a stage 2 abatement plan proposal to the director for approval within sixty (60) days, or up to one hundred and twenty (120) days for good cause shown, after approval by the director of the final site investigation report prepared pursuant to stage 1 of the abatement plan. A stage 1 and 2 abatement plan proposal may be submitted together. The purpose of stage 2 of the abatement plan shall be to select and design, if necessary, an abatement option that, when implemented, will result in attainment of the abatement standards and requirements set forth in Section 19.15.1.19 NMAC, Subsection B including post-closure maintenance activities.

(b) Stage 2 of the abatement plan should include, at a minimum, the following information:

(i) brief description of the current situation at the site;

(ii) development and assessment of abatement options;

(iii) description, justification and design, if necessary, of preferred abatement option;

(iv) modification, if necessary, of the monitoring program approved pursuant to stage 1 of the abatement plan, including the designation of pre- and post-abatement-completion sampling stations and sampling frequencies to be used to demonstrate compliance with the standards and requirements set forth in Subsection B of Section 19.15.1.19 NMAC;

(v) site maintenance activities, if needed, proposed to be performed after termination of abatement activities;

(vi) a schedule for the duration of abatement activities, including the submission of summary quarterly progress reports;

(vii) a public notification proposal designed to satisfy the requirements of Section 19.15.1.19 NMAC, Subsection G, Paragraphs (2) and (3);

(viii) any additional information that may be reasonably required to select, describe, justify and design an effective abatement option.

F. Other requirements

(1) Any responsible person shall allow any authorized representative of the director, upon presentation of proper credentials and with reasonable prior notice, to:

(a) enter the facility at reasonable times;

(b) inspect and copy records required by an abatement plan;

(c) inspect any treatment works, monitoring and analytical equipment;

(d) sample any wastes, ground water, surface water, stream sediment, plants, animals, or vadose-zone material including vadose-zone vapor;

(e) use monitoring systems and wells under such responsible person's control in order to collect samples of any media listed in Subparagraph (d) above; and

(f) gain access to off-site property not owned or controlled by such responsible person, but accessible to such responsible person through a third-party access agreement, provided that it is allowed by the agreement.

(2) Any responsible person shall provide the director, or a representative of the director, with at least four (4) working days advance notice of any sampling to be performed pursuant to an abatement plan, or any well plugging, abandonment or destruction at any facility where an abatement plan

has been required.

(3) Any responsible person wishing to plug, abandon or destroy a monitoring or water supply well within the perimeter of the 3-dimensional body where the standards set forth in Section 19.15.1.19 NMAC, Subsection B, Paragraph (2) of are exceeded, at any facility where an abatement plan has been required, shall propose such action by certified mail to the director for approval, unless such approval is required from the state engineer. The proposed action shall be designed to prevent water pollution that could result from water contaminants migrating through the well or borehole. The proposed action shall not take place without written approval from the director, unless written approval or disapproval is not received by the responsible person within thirty (30) days of the date of receipt of the proposal.

G. Public notice and participation

(1) Prior to public notice, the applicant shall give written notice, as approved by the division, of stage 1 and stage 2 abatement plans to the following persons:

(a) surface owners of record within one (1) mile of the perimeter of the geographic area where the standards and requirements set forth in Subsection B of Section 19.15.1.19 NMAC are exceeded;

(b) the county commission where the geographic area where the standards and requirements set forth in Subsection B of Section 19.15.1.19 NMAC are exceeded is located;

(c) the appropriate city official(s) if the geographic area where the standards and requirements set forth in Subsection B of Section 19.15.1.19 NMAC are exceeded is located or is partially located within city limits or within one (1) mile of the city limits;

(d) those persons, as identified by the director, who have requested notification, who shall be notified by mail;

(e) the New Mexico trustee for natural resources, and any other local, state or federal governmental agency affected, as identified by the director, which shall be notified by certified mail;

(f) the appropriate governor or president of any indian tribe, pueblo or nation if the geographic area where the standards and requirements set forth in Subsection B of Section 19.15.1.19 NMAC are exceeded is located or is partially located within tribal boundaries or within one (1) mile of the tribal boundaries, who shall be notified by certified mail;

(g) the distance requirements for notice may be extended by the director if the director determines the proposed abatement plan has the potential to adversely impact public health or the environment at a distance greater than one (1) mile. The director may require additional notice as needed. A copy and proof of such notice will be furnished to the division.

(2) Within fifteen days after the division determines that a stage 1 abatement plan or a stage 2 abatement plan is administratively complete, the responsible person will issue public notice in a form approved by the division in a newspaper of general circulation in the county in which the release occurred, and in a newspaper of general circulation in the state. For the purposes of this paragraph, an administratively complete stage 1 abatement plan is a document that satisfies the requirements of Section 19.15.1.19 NMAC, Subsection E, Paragraph E (3) and an administratively complete stage 2 abatement plan is a document that satisfies the requirements of Section 19.15.1.19 NMAC, Subsection E, Paragraph (4), Subparagraph (b). The public notice shall include, as approved in advance by the director:

(a) name and address of the responsible person;

(b) location of the proposed abatement;

(c) brief description of the source extent, and estimated volume of release, whether the release occurred into the vadose zone, ground water or surface water; and a description of the proposed stage 1 or stage 2 abatement plan;

(d) brief description of the procedures followed by the director in making a final determination;

(e) statement that a copy of the abatement plan can be viewed by the public at the division's main office or at the division's district office for the area in which the release occurred, and a

statement describing how the abatement plan can be accessed by the public electronically from a division-maintained site if such access is available;

(f) statement that the following comments and requests will be accepted for consideration if received by the director within thirty (30) days after the date of publication of the public notice:

(i) written comments on the abatement plan; and

(ii) for a stage 2 abatement plan, written requests for a public hearing that include reasons why a hearing should be held.

(g) address and phone number at which interested persons may obtain further information.

(3) Any person seeking to comment on a stage 1 abatement plan, or to comment or request a public hearing on a stage 2 abatement plan, must file written comments or hearing requests with the division within thirty (30) days of the date of public notice, or within thirty (30) days of receipt by the director of a proposed significant modification of a stage 2 abatement plan. Requests for a public hearing must set forth the reasons why a hearing should be held. A public hearing shall be held if the director determines that there is significant public interest or that the request has technical merit.

(4) The division will distribute notice of the filing of an abatement plan with the next division and commission hearing docket following receipt of the plan.

H. Director approval or notice of deficiency of submittals

(1) The director shall, within sixty (60) days of receiving an administratively complete stage 1 abatement plan a site investigation report, a technical infeasibility demonstration, or an abatement completion report, approve the document, or notify the responsible person of the document's deficiency, based upon the information available.

(2) If no public hearing is held pursuant to Section 19.15.1.19 NMAC, Subsection G, Paragraph (3) then the director shall, within ninety (90) days of receiving a stage 2 abatement plan proposal, approve the plan, or notify the responsible person of the plan's deficiency, based upon the information available.

(3) If a public hearing is held pursuant to Section 19.15.1.19 NMAC, Subsection G, Paragraph (3) then the director shall, within sixty (60) days of receipt of all required information, approve stage 2 of the abatement plan proposal, or notify the responsible person of the plan's deficiency, based upon the information contained in the plan and information submitted at the hearing.

(4) If the director notifies a responsible person of any deficiencies in a site investigation report, or in a stage 1 or stage 2 abatement plan proposal, the responsible person shall submit a modified document to cure the deficiencies specified by the director within thirty (30) days of receipt of the notice of deficiency. The responsible person shall be in violation of Section 19.15.1.19 NMAC if he fails to submit a modified document within the required time, or if the modified document does not make a good faith effort to cure the deficiencies specified by the director.

(5) Provided that the other requirements of Section 19.15.1.19 NMAC are met and provided further that stage 2 of the abatement plan, if implemented, will result in the standards and requirements set forth in Subsection B of Section 19.15.1.19 NMAC being met within a schedule that is reasonable given the particular circumstances of the site, the director shall approve the plan.

I. Investigation and abatement - Any responsible person who receives approval for stage 1 and/or stage 2 of an abatement plan shall conduct all investigation, abatement, monitoring and reporting activity in full compliance with Section 19.15.1.19 NMAC and according to the terms and schedules contained in the approved abatement plans.

J. Abatement plan modification

(1) Any approved abatement plan may be modified, at the written request of the responsible person, in accordance with Section 19.15.1.19 NMAC, and with written approval of the director.

(2) If data submitted pursuant to any monitoring requirements specified in the approved

abatement plan or other information available to the director indicates that the abatement action is ineffective, or is creating unreasonable injury to or interference with health, welfare, environment or property, the director may require a responsible person to modify an abatement plan within the shortest reasonable time so as to effectively abate water pollution which exceeds the standards and requirements set forth in Subsection B of Section 19.15.1.19 NMAC, and to abate and prevent unreasonable injury to or interference with health, welfare, environment or property.

K. Completion and termination

(1) Abatement shall be considered complete when the standards and requirements set forth in Subsection B of Section 19.15.1.19 NMAC are met. At that time, the responsible person shall submit an abatement completion report, documenting compliance with the standards and requirements set forth in Subsection B of Section 19.15.1.19 NMAC, to the director for approval. The abatement completion report also shall propose any changes to long-term monitoring and site maintenance activities, if needed, to be performed after termination of the abatement plan.

(2) Provided that the other requirements of Section 19.15.1.19 NMAC are met and provided further that the standards and requirements set forth in Subsection B of Section 19.15.1.19 NMAC have been met, the director shall approve the abatement completion report. When the director approves the abatement completion report, he shall also notify the responsible person in writing that the abatement plan is terminated.

L. Dispute resolution - In the event of any technical dispute regarding the requirements of Section 19.15.3.116 NMAC, Subsections B, D, E, J, or K (above), including notices of deficiency, the responsible person may notify the director by certified mail that a dispute has arisen, and desires to invoke the dispute resolution provisions of this Paragraph, provided that such notification must be made within thirty (30) days after receipt by the responsible person of the decision of the director that causes the dispute. Upon such notification, all deadlines affected by the technical dispute shall be extended for a thirty (30) day negotiation period, or for a maximum of sixty (60) days if approved by the director for good cause shown. During this negotiation period, the director or his/her designee and the responsible person shall meet at least once. Such meeting(s) may be facilitated by a mutually agreed upon third party, but the third party shall assume no power or authority granted or delegated to the director by the Oil and Gas Act or by the division or commission. If the dispute remains unresolved after the negotiation period, the decision of director shall be final.

M. Appeals from director's and division's decisions

(1) If the director determines that (i) an abatement plan is required pursuant to Subsection D of 19.15.3.116 NMAC, (ii) approves or provides notice of deficiency of a proposed abatement plan, technical infeasibility demonstration or abatement completion report, or (iii) modifies or terminates an approved abatement plan, he shall provide written notice of such action by certified mail to the responsible person and any person who participated in the action.

(2) Any person who participated in the action before the director and who is adversely affected by the action listed in Paragraph (1) above may file a petition requesting a hearing before a division examiner.

(3) The petition shall be made in writing to the division and shall be filed with the division within thirty (30) days after receiving notice of the director's action. The petition shall specify the portions of the action to which the petitioner objects, certify that a copy of the petition has been mailed or hand-delivered to the director, and to the applicant or permittee if the petitioner is not the applicant or permittee, and attach a copy of the action for which review is sought. Unless a timely petition for hearing is made, the director's action is final.

(4) The hearing before the division shall be conducted in the same manner as other division hearings.

(5) The cost of the court reporter for the hearing shall be paid by the petitioner.

(6) Any party adversely affected by any order by the division pursuant to any hearing held by an Examiner, shall have a right to have such matter heard *de novo* before the commission.

(7) The appeal provisions do not relieve the owner, operator or responsible person of their obligations to comply with any federal or state laws or regulations.

[3-15-97; 6-30-97; 19.15.1.19 NMAC - Rn, 19 NMAC 15.A.19, 5-15-01; A, 3-15-02]

19.15.1.20 MEETINGS BY TELECONFERENCE:

Pursuant to Section 10-15-1 NMSA 1978, commission members may participate in commission meetings and hearings by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for members to attend the meeting or hearing in person. Each member participating by conference telephone or other similar communications equipment must be identified when speaking. All participants must be able to hear each other at the same time. Members of the public hearing attending the meetings or hearing must be able to hear commission members who speak during the meeting or hearing.

[12-31-96; 19.15.1.20 NMAC - Rn, 19 NMAC 15.A.20, 5-15-01]

19.15.1.21 SPECIAL PROVISIONS FOR SELECTED AREAS OF SIERRA AND OTERO COUNTIES:

A. The selected areas comprise:

(1) all of Sierra county except the area west of Range 8 West NMPM and north of Township 18 South, NMPM; and

(2) all of Otero county except the area included in the following townships and ranges:

(a) township 11 south, range 9 1/2 east and range 10 east NMPM;

(b) township 12 south, range 10 east and ranges 13 east through 16 east, NMPM;

(c) township 13 south, ranges 11 east through 16 east, NMPM;

(d) township 14 south, ranges 11 east through 16 east, NMPM;

(e) township 15 south, ranges 11 east through 16 east, NMPM;

(f) township 16 south, ranges 11 east through 15 east, NMPM;

(g) township 17 south, range 11 east (surveyed) and ranges 12 east through 15 east,

NMPM;

(h) township 18 south, ranges 11 east through 15 East, NMPM;

(i) township 20 1/2 south, range 20 east, NMPM;

(j) township 21 south, range 19 east and range 20 east, NMPM; and

(k) township 22 south, range 20 east, NMPM; and also excepting also the

unsurveyed area bounded as follows:

(i) beginning at the most northerly northeast corner of Otero county, said point lying in the west line of range 13 east (surveyed);

(ii) thence west along the north boundary line of Otero county to the point of intersection of such line with the east line of range 10 east NMPM (surveyed);

(iii) thence south along the east line of range 10 east NMPM (surveyed) to the southeast corner of township 11 south, range 10 east NMPM (surveyed);

(iv) thence west along the south line of township 11 south, range 10 east NMPM (surveyed) to the more southerly northeast corner of township 12 south, range 10 east NMPM (surveyed);

(v) thence south along the east line of range 10 east NMPM (surveyed) to the inward corner of township 13 south, range 10 east NMPM (surveyed) (said inward corner formed by the east line running south from the more northerly northeast corner and the north line running west from the more southerly northeast corner of said township and range);

(vi) thence east along the north line of township 13 south NMPM (surveyed) to the southwest corner of township 12 south, range 13 east, NMPM (surveyed);

(vii) thence north along the west line of range 13 east, NMPM (surveyed) to the point of beginning.

B. The division shall not issue permits under 19.15.2.50 NMAC or 19.15.9.711 NMAC for pits located in the selected areas.

C. Produced water injection wells located in the selected areas are subject to the following requirements in addition to those set out in 19.15.9.701 NMAC through 19.15.9.710 NMAC.

(1) Permits shall be issued under 19.15.9.701 NMAC only after notice and hearing.

(2) The radius of the area of review shall be the greater of:

(a) one-half mile; or

(b) one and one-third times the radius of the zone of endangering influence, as calculated under environmental protection agency regulation 40 CFR Part 146.6(a) or by any other method acceptable to the division; but in no case shall the radius of the area of review exceed one and one-third miles.

(3) Operators shall demonstrate the vertical extent of any fresh water aquifer(s) prior to using a new or existing well for injection.

(4) All fresh water aquifers shall be isolated throughout their vertical extent with at least two cemented casing strings. In addition,

(a) existing wells converted to injection shall have continuous, adequate cement from casing shoe to surface on the smallest diameter casing, and

(b) wells drilled for the purpose of injection shall have cement circulated continuously to surface on all casing strings, except the smallest diameter casing shall have cement to at least 100 feet above the casing shoe of the next larger diameter casing.

(5) Operators shall run cement bond logs acceptable to the division after each casing string is cemented, and file the logs with the appropriate district office of the division. For existing wells the casing and cementing program shall comply with 19.15.9.702 NMAC.

(6) Produced water transportation lines shall be constructed of corrosion-resistant materials acceptable to the division, and shall be pressure tested to one and one-half times the maximum operating pressure prior to operation, and annually thereafter.

(7) All tanks shall be placed on impermeable pads and surrounded by lined berms or other impermeable secondary containment device having a capacity at least equal to one and one-third times the capacity of the largest tank, or, if the tanks are interconnected, of all interconnected tanks.

(8) Operators shall record injection pressures and volumes daily or in a manner acceptable to the division, and make the record available to the division upon request.

(9) Operators shall perform a mechanical integrity tests as described in Paragraph 2, Subsection A of 19.15.9.704 NMAC annually, shall advise the appropriate district office of the division of the date and time each such test is to be commenced in order that the test may be witnessed, and shall file the pressure chart with the appropriate district office of the division.

[19.15.1.21 NMAC - N, 08-13-04]

19.15.1.22-29 [RESERVED].

19.15.1.30 ENHANCED OIL RECOVERY PROJECT TAX INCENTIVE:

A. General - Applications for qualification of enhanced oil recovery projects or expansions of existing enhanced oil recovery projects for the recovered oil tax rate pursuant to the New Mexico "Enhanced Oil Recovery Act" (Sections 7-29A-1 through 7-29A-5 NMSA 1978) will be accepted by the division after March 6, 1992.

B. Applicability - These rules apply to:

(1) enhanced oil recovery (EOR) projects;

(2) expansions of existing EOR projects;

(3) the expanded use of enhanced oil recovery technology in existing EOR projects; and

(4) the change from a secondary recovery project to a tertiary recovery project.

C. Definitions

- (1) Crude oil means oil and other liquid hydrocarbons removed from natural gas at or near the wellhead.
- (2) Enhanced oil recovery (EOR) project means the use or the expanded use of any process for the displacement of crude oil from an oil well or division-designated pool other than a primary recovery process, including but not limited to the use of a pressure maintenance process, a waterflooding process, an immiscible, miscible, chemical, thermal or biological process or any other related process.
- (3) Expansion or expanded use means a significant change or modification as determined by the Division in (a) the technology or process used for the displacement of crude oil from an oil well or division-designated pool; or (b) the expansion, extension or increase in size of the geologic area or adjacent geologic area that could reasonably be determined to represent a new or unique area of activity.
- (4) Operator means the person responsible for the actual physical operation of an enhanced recovery project.
- (5) Positive production response means that the rate of oil production from the wells or pools affected by an enhanced recovery project is greater than the rate that would have occurred without the project.
- (6) Project area means a pool or a portion of a pool that is directly affected by EOR operations.
- (7) Primary recovery means the displacement of crude oil from an oil well or division-designated pool into the well bore by means of the natural pressure of the oil well or pool, including but not limited to artificial lift.
- (8) Recovered oil tax rate means the tax rate set forth in Section 7-29-4 NMSA 1978, on crude oil produced from an enhanced recovery project.
- (9) Secondary recovery project means an enhanced oil recovery project that: (a) occurs subsequent to the completion of primary recovery and is not a tertiary recovery project; (b) involves the application, in accordance with sound engineering principles of carbon dioxide miscible fluid displacement, pressure maintenance, waterflooding or any other secondary recovery method accepted and approved by the division that can reasonably be expected to result in an increase, determined in light of all facts and circumstances, in the amount of crude oil that may ultimately be recovered; and (c) encompasses a pool or portion of a pool the boundaries of which can be adequately defined and controlled.
- (10) Termination means the discontinuance of an enhanced recovery project by the operator.
- (11) Tertiary recovery project means an enhanced recovery project that: (a) occurs subsequent to the completion of a secondary recovery project; (b) involves the application, in accordance with sound engineering principles, of carbon dioxide miscible fluid displacement, pressure maintenance, water flooding or any other tertiary recovery method accepted and approved by the division that can reasonably be expected to result in an increase, determined in light of all facts and circumstances, in the amount of crude oil that may ultimately be recovered; and (c) encompasses a pool or portion of a pool the boundaries of which can be adequately defined and controlled.

D. Procedure

- (1) The division's general rules of procedure shall apply unless altered or amended by these rules.
- (2) To be eligible for the tax rate the operator must apply for and receive division approval. No project or expansion approved by the division prior to March 6, 1992 shall qualify.
- (3) All applications shall be filed in triplicate with the division's Santa Fe office. One copy of the application and all attachments shall also be filed with the appropriate division district office.
- (4) All applications shall be executed and certified by the operator or its authorized representative having knowledge of the facts therein and shall contain:
 - (a) operator's name and address;

- (b) description of the project area including:
 - (i) a plat outlining the project area;
 - (ii) description of the project area by section, township and range; total acres;
- and
 - (iii) name of the subject pool and formation;
- (c) status of operations in the project area:
 - (i) if unitized, the name of the unit and the date and number of the division order approving the unit plan of operation;
 - (ii) if an application for approval of a unit plan has been made, the date the application was filed with the Division; and
 - (iii) if not unitized, identify each lease in the project area by lessor, lessee and legal description;
- (d) method of recovery to be used:
 - (i) identify fluids to be injected;
 - (ii) if the division has approved the project, provide the date and number of the division order; and
 - (iii) if the project has not been approved by the division, provide the date the application for approval was filed with the division on form C-108;
- (e) description of the project:
 - (i) a list of producing wells;
 - (ii) a list of injection wells;
 - (iii) capital costs of additional facilities;
 - (iv) total project cost;
 - (v) estimated total value of the additional production that will be recovered as a result of the project;
 - (vi) anticipated date for commencement of injection;
 - (vii) the type of fluid to be injected and the anticipated volumes; and if application is made for an expansion of an existing project, explain what changes in technology will be used or what additional geographic area will be added to the project area; and
- (f) production data: provide graphs, charts and other supporting data to show the production history and production forecast of oil, gas, casinghead gas and water from the project area.

E. Approval and certification

- (1) Project approval: An EOR project will be approved and the project area designated for the recovered oil tax rate when the operator proves that:
 - (a) the application of the proposed enhanced recovery techniques to the reservoir should result in an increase in the amount of crude oil that may be ultimately recovered;
 - (b) the project area has been so depleted that it is prudent to apply enhanced recovery techniques to maximize the ultimate recovery of crude oil; and
 - (c) the application is economically and technically reasonable and has not been prematurely filed.
- (2) Positive production response certification:
 - (a) for the recovered oil tax rate to apply to oil produced from an approved qualified EOR project, the operator must demonstrate a positive production response to the division. Applications for certification of a positive production response shall be filed with the division's Santa Fe office and shall include:
 - (i) a copy of the division's approval of the enhanced recovery project or expansion;
 - (ii) a plat of the affected area showing all injection and producing wells with completion dates; and
 - (iii) production graphs and supporting data demonstrating a positive

production response and showing the volumes of water or other substances that have been injected on the lease or unit since initiation of the enhanced recovery project;

(b) the division director shall have authority to administratively approve an application and certify a positive production response or, at the director's discretion or at the request of the applicant, may set the application for hearing; and

(c) the division shall certify that a positive production response occurred and notify the secretary of taxation and revenue. This certification and notice shall set forth the date the certification was made and the date the positive production response occurred provided however:

(i) for a secondary recovery project, the application for certification of a positive production response must occur not later than five (5) years from the date the division issued the certification of approval for the enhanced oil recovery project or expansion; and

(ii) for a tertiary recovery project, the application for certification of a positive production response must occur not later than seven (7) years from the date the division issues the certification of approval for the enhanced recovery project or expansion.

F. Reporting requirements

(1) The operator of an approved EOR project shall report annually on the status of the project and confirm that the project is still a viable EOR project as approved. The report will be for the year ending May 31 and shall be filed with the division's Santa Fe office. The report shall contain:

(a) the date and number of the division's certification order for the project;

(b) production graphs showing oil, gas and water production;

(c) a graph showing the volumes of fluid injected and the average injection pressures; and

(d) any additional data the director deems necessary for continued approval;

(2) the director may set for hearing the continued approval of any EOR project.

G. Termination - When active operation of an approved enhanced recovery project or expansion is terminated, the operator shall notify the division and the secretary of taxation and revenue in writing not later than the thirtieth (30) day after the termination of the enhanced recovery project or expansion.

[6-15-9; 19.15.1.30 NMAC - Rn, 19 NMAC 15.A.30, 5-15-01]

19.15.1.31 PRODUCTION RESTORATION PROJECT TAX INCENTIVE:

A. General - Applications for qualification of production restoration projects for the production restoration incentive tax exemption pursuant to the "Natural Gas and Crude Oil Production Incentive Act" (Sections 7-29B-1 through 7-29B-6 NMSA 1978) shall be accepted by the division after November 9, 1995.

B. Applicability - These rules apply to any natural gas or oil well division records show had thirty (30) days or less production in any period of twenty-four consecutive months beginning on or after January 1, 1993 upon which the operator commenced operations to restore production after June 16, 1995.

C. Definitions

(1) Operator means the person responsible for the actual physical operation of a natural gas or oil well;

(2) Production restoration incentive tax exemption means the severance tax exemption for natural gas and/or oil produced from an approved production restoration project found in Section 7-29-4 NMSA 1978.

(3) Production restoration project means returning to production any natural gas or oil well, including but not limited to any injection well which has previously produced, which had no more than (30) days of production in any period of twenty-four consecutive months beginning on or after January 1, 1993 as approved and certified by the division;

(4) Well means a wellbore with single or multiple completions, including all horizons and

producing formations from the surface to total depth.

D. Procedure

(1) The division's general rules of procedure shall apply unless altered or amended by these rules.

(2) To be eligible for the exemption, the operator must apply for and receive division approval. No production restoration project commenced prior to June 16, 1995 shall qualify.

(3) An application must be filed with the division within twelve (12) months of the production restoration.

(4) Applications shall be filed by the operator on behalf of all interest owners in the project.

(5) Applications shall be filed in triplicate with the division at its appropriate district office on division form C-139 and shall contain:

(a) operator's name and address; and

(b) description of the production restoration project including:

(i) name and footage location of the well;

(ii) name of the pool from which the well previously produced;

(iii) a description of the process used, or to be used, by the operator for returning the well to production;

(iv) identification of the division records which show that the well had thirty (30) days or less production in any period of twenty-four consecutive months beginning on or after January 1, 1993;

(v) date the project was commenced and date the well was returned to production; and

(vi) a statement under oath by the operator or its authorized representative having knowledge of the facts contained in the application that: the application is complete and correct; production from the well has been reported to the division and division records establish the well had thirty (30) days or less production in any period of twenty-four consecutive months beginning on or after January 1, 1993.

E. Approval, certification, notification and hearing

(1) Project approval and certification

(a) A project shall be approved and a certification of approval issued to the operator designating the natural gas or oil well as a production restoration project when the operator proves that:

(i) after June 16, 1995, the operator has commenced any process to return the well to production; and

(ii) division records show the well had thirty (30) days or less of production in any period of twenty-four consecutive months beginning on or after January 1, 1993.

(b) The exemption will apply beginning the first day of the month following the date the well was returned to production as certified by the division.

(2) Notification to the secretary of taxation and revenue - The division shall notify the secretary of taxation and revenue of the approval. This notice shall identify the natural gas or oil well as a production restoration project and certify the date production was restored.

(3) Hearing - The division shall consider applications without a hearing. If the division district office denies an application, the division upon the applicant's request shall set the application for hearing. Any application not acted upon by the division district office within thirty (30) days from the date it is filed shall be deemed denied.

[Rn, 19 NMAC 15.I.712.A through E, 6-15-99; A, 6-15-99; 19.15.1.31 NMAC - Rn, 19 NMAC 15.A.31, 5-15-01]

19.15.1.32 WELL WORKOVER PROJECT TAX INCENTIVE:

A. General - Applications for qualification of well workover projects for the well workover

incentive tax rate pursuant to the "Natural Gas and Crude Oil Production Incentive Act" (Sections 7-29B-1 through 7-29B-6 NMSA 1978) shall be accepted by the division after November 9, 1995.

B. Applicability - These rules apply to any natural gas or oil well upon which the operator has commenced a workover after June 16, 1995 that is intended to increase production from the well.

C. Definitions

(1) Routine maintenance means repair or like-for-like replacement of downhole equipment or any other procedure performed by an operator to maintain the well's current production;

(2) Well means a wellbore with single or multiple completions, including all horizons and producing formations from the surface to total depth.

(3) Well workover incentive tax rate means the tax rate imposed by Section 7-29-4 NMSA 1978 on natural gas and/or oil produced from a well workover project;

(4) Well workover project means any procedure undertaken by the operator of a natural gas or oil well that is intended to increase production from the well and that has been approved and certified by the division;

(5) Workover means any procedure undertaken by the operator of the well intended to increase production but is not routine maintenance and includes, but is not limited to:

(a) re-entry into the well to drill deeper, to sidetrack to a different location, to recomplate for production or to restore production from a zone which has been temporarily abandoned;

(b) recompletion by re-perforation of a zone from which natural gas or oil has been produced or by perforation of a different zone;

(c) repair or replacement of faulty or damaged casing or related downhole equipment;

(d) fracturing, acidizing or installing compression equipment; and

(e) squeezing, cementing or installing equipment necessary for removal of excessive water, brine or condensate from the well bore in order to establish, continue or increase production from the well.

D. Procedure

(1) The division's general rules of procedure shall apply unless altered or amended by these rules.

(2) To be eligible for the incentive tax rate, the operator must apply for and receive division approval. No well workover project commenced by the operator prior to June 16, 1995 shall qualify.

(3) Applications must be filed with the division within twelve (12) months of completion of the workover.

(4) An application shall be filed by the operator on behalf of all interest owners in the project.

(5) The data utilized in the application shall be retained by the operator in its files during the period of time the well qualifies for and receives the well workover incentive tax rate and for such time thereafter as the department requires.

(6) Applications shall be filed in triplicate with the division at its appropriate district office on division form C-140 and shall contain:

(a) operator's name and address; and

(b) description of well workover project including:

(i) name and footage location of the well;

(ii) name of the pool from which the well previously produced;

(iii) the dates workover procedures commenced and were completed;

(iv) a description of the procedures undertaken by operator of the well intended to increase production;

(v) evidence of a positive production increase over the production rate of the well prior to the workover. The operator must submit a production curve or data tabulation made up of at

least twelve months' production prior to the workover and at least three months' production following the workover that reflects a positive production increase;

(vi) other documentation the applicant determines may be applicable to this filing, such as division forms or division orders; and

(vii) a statement under oath by the operator or its authorized representative having knowledge of the facts contained in the application that he/she has made or caused to be made a diligent search of all production records which are reasonably available and contain information relevant to the production history of the well.

E. Approval, certification, notification and hearing

(1) Project approval and certification

(a) A workover shall be approved and a certification of approval issued to the operator designating the natural gas or oil well as a well workover project when the operator proves that:

(i) approved workover procedures have been undertaken on the well which are intended to increase production; and

(ii) the production curve or data tabulation from production data reflects a positive production increase from the workover.

(b) The incentive tax rate will apply beginning the first day of the month following the date the workover was completed as certified by the division.

(2) Notification to the secretary of taxation and revenue - The division shall notify the secretary of taxation and revenue of the approval by identifying the natural gas or oil well as a well workover project and certifying the date the project was completed.

(3) Hearings and requests for additional information

(a) The division shall consider applications without a hearing. If the division district office denies an application, the division upon the applicant's request shall set the application for hearing. Any application not acted upon by the division district office within thirty (30) days from the date it is filed is deemed denied.

(b) The division may request additional information from the operator to support an application. When additional information is requested, the 30-day approval period shall begin to run on the date the requested data is provided.

F. Certifications prior to July 1, 1999 - Well workover projects certified prior to July 1, 1999 shall be deemed to be approved and certified in accordance with the provisions of the 1999 act and natural gas or oil produced from those projects shall be eligible for the well workover incentive tax rate effective beginning July 1, 1999.

[6-15-99, Rn, 19. NMAC 15.I.713.A through E, 7-1-99; A, 7-1-99; 19.15.1.32 NMAC - Rn, 19 NMAC 15.A.32, 5-15-01]

19.15.1.33 STRIPPER WELL TAX INCENTIVE:

A. General - Qualification of stripper well properties for the stripper well incentive tax rates in Sections 7-29-4 and 7-31-4 NMSA 1978, requires certification by the division. The division shall certify stripper well properties for calendar year 1998 no later than June 30, 1999 and no later than June 1 of each succeeding year for the preceding calendar year.

B. Applicability - These rules apply to any property that the division certifies as a stripper well property after June 30, 1999.

C. Definitions

(1) Average daily production means the number derived by dividing the total volume of crude oil or natural gas production from the stripper well property reported to the division during a calendar year by the sum of the number of days each eligible well within the property produced or injected during that calendar year;

(2) Eligible well means a crude oil or natural gas well that produces, or an injection well that injects and is integral to production, for any period of time during the preceding calendar year.

(3) Stripper well property means a crude oil or natural gas producing property that is assigned a single production unit number (PUN) by the taxation and revenue department and:

- (a) (if a crude oil producing property) produced a daily average of less than ten barrels of oil per eligible well per day for the preceding calendar year;
- (b) (if a natural gas producing property) produced a daily average of less than sixty thousand cubic feet of natural gas per eligible well per day during the preceding calendar year; or
- (c) (if a property with wells that produce both crude oil and natural gas) produced a daily average of less than ten barrels of oil per eligible well per day for the preceding calendar year, as determined by converting the volume of natural gas produced by the well to barrels of oil by using a ratio of six thousand cubic feet to one barrel of oil; and

(4) Stripper well incentive tax rates means the tax rates set for stripper well properties by Sections 7-29-4 and 7-31-4 NMSA 1978.

D. Certification, notification and hearing

(1) The division shall determine which wells qualify as stripper well properties.

(2) Upon certification of properties as stripper well properties, the division shall notify the operator and the secretary of taxation and revenue of that certification.

(3) The operator shall notify all the interest owners of the certification of the property as a stripper well property.

(4) An operator may make a written request that the division reevaluate a property for stripper well status.

(5) If the division denies stripper well certification to a property, the division upon the operator's request shall set the matter for hearing.

[6-15-99; 19.15.1.33 NMAC - Rn, 19 NMAC 15.A.33, 5-15-01]

19.15.1.34 NEW WELL TAX INCENTIVE:

A. Applicability - These rules apply to any new natural gas or oil well for which drilling commenced after January 1, 1999 and before July 1, 2000.

B. Definitions - New well means a crude oil or natural gas producing well for which drilling commenced after January 1, 1999 and before July 1, 2000, or a horizontal crude oil or natural gas well that was recompleted from a vertical well by drilling operations that commenced after January 1, 1999 and before July 1, 2000, that has been approved and certified as such by the division.

C. Procedure

(1) The division's general rules of procedure shall apply unless altered or amended by these rules.

(2) The operator must apply for and be granted division approval of the "new well". A new well shall qualify if the division certifies that:

(a) the operator applying for the tax credit commenced drilling the new well after January 1, 1999 and before July 1, 2000;

(b) the new well was completed as a producer; and

(c) the application is for one of the first six hundred new wells commenced after January 1, 1999 and before July 1, 2000.

(3) An application must be filed with the division: (a) within sixty (60) days of completion of the well as a producer, or (b) by Oct 1, 1999 for a well commenced after January 1, 1999 and before July 1, 1999.

(4) All applications shall be filed in triplicate with the division's Santa Fe office on form C-142 and shall contain:

(a) operator's name and address;

(b) description of the well:

(i) name and footage location;

(ii) date and time spudded; and

- (iii) completion date and production test results;
- (c) copies of division form C-103 or federal form 3160-5 showing spud date and time and form C-105 or federal form 3160-4 showing the well was completed as a producer;
- (d) a list of all working interest owners in the well along with their percentage interests; and
- (e) a statement under oath by the operator or its authorized representative having knowledge of the facts contained in the application that the application is complete and correct.

D. Certification, notification and hearing

(1) Upon approval of the application, the division shall certify that approval by sending a copy of the approved application to the operator and the secretary of taxation and revenue.

(2) The division shall consider applications without a hearing. The division may request additional information from an operator to support the application. If the division denies an application, the division upon the applicant's request shall set the application for hearing.

(3) The operator shall notify all working interest owners of the approval and certification of the well as a new well.

[6-15-99, A, 10-29-99; 19.15.1.34 NMAC - Rn, 19 NMAC 15.A.34, 5-15-01]

19.15.1.35 COMPULSORY POOLING. CHARGE FOR RISK:

A. General rule - Compulsory pooling orders entered by the division pursuant to NMSA 1978 Section 70-2-17, as amended, may provide for the recovery, out of the share of production allocable to the working interest of any party that elects not to pay its proportionate share of well costs in advance, in addition to reasonable well costs and costs of supervision and management, of a charge for risk associated with the drilling, completion, or working over and recompletion of each unit well for which provision is made in the order. Unless otherwise ordered pursuant to Subsection B of 19.15.1.35 NMAC, the charge for risk shall be 200% of well costs.

(1) "Well costs" shall mean all reasonable costs of drilling, reworking, diverting, deepening, plugging back and testing the well; completing the well in any formation pooled by the order; and equipping the well for production. If, however, any well was previously completed in another formation or bottom-hole location, or was previously abandoned without completion, well costs as to such well shall mean only the reasonable costs of re-entering, reworking, diverting, deepening, plugging back or testing the well; completion in the pooled formation or formations and; if necessary, reequipping the well for production, unless the division determines that allowance of all or some portion of historical costs of drilling is just and reasonable due to particular circumstances. If a well is completed in two or more formations having diverse ownership or a different risk charge percentage, the order shall provide for allocation of well costs between the formations. As to any interest owner who elects not to pay its share of well costs associated with a specific well in advance, as provided in the applicable order, "well costs" shall include costs of any subsequent operation undertaken to secure or enhance production from any formation pooled by the order prior to the time that the entire amount of such non-consenting owner's share of well costs and applicable risk charge have been recovered from such non-consenting owner's share of production from such well. Such costs shall include expenses for reworking, diverting, deepening, plugging back, testing, completion or recompletion and equipping for production, but not ordinary operating expenses.

(2) Well costs shall also include reasonable costs of drilling, testing, completing, and equipping a substitute well if, in the drilling of a well pursuant to a compulsory pooling order, the operator loses the hole or encounters mechanical difficulties rendering it impracticable to drill to the objective depth, and the substitute well is located within 330 feet of the original well and drilling thereof is commenced within ten (10) days of the abandonment of the original well.

(3) An applicant for compulsory pooling shall not be required to present technical evidence justifying the risk charge provided in Subsection A of 19.15.1.35 NMAC.

B. Exceptions - Any person responding to a compulsory pooling application who seeks a

different risk charge than that provided in Subsection A shall so state in a timely pre-hearing statement filed with the division and served on the applicant in accordance with Subsection B of 19.15.14.1208 NMAC, and shall have the burden to prove the justification for the risk charge sought by relevant geologic or technical evidence. The hearing officer shall have discretion to allow a responding party who has not filed a pre-hearing statement, but who appears in person or by attorney at the hearing, to offer evidence in support of a different risk charge than that provided in Subsection A of 19.15.1.35, but in such cases a continuance of the hearing shall be allowed, if requested, to enable the applicant to present rebuttal evidence.

[N, 8-15-03]

19.15.1.36 COMPULSORY POOLING. SUBSEQUENT OPERATIONS:

A. Definitions. For purposes of 19.15.1.36 NMAC only:

(1) Operator shall mean the division or commission appointed operator of a compulsory pooled proration or spacing unit, or its successor.

(2) Infill well shall mean a well in a compulsory pooled proration or spacing unit to be completed in a pool in which an existing well drilled pursuant to the compulsory pooling order has been completed and not plugged and abandoned.

(3) Pooled working interest shall mean a working interest or unleased mineral interest that is pooled by order of the division or commission and not by voluntary agreement of the owner thereof, except for an unleased mineral interest on federal, state or tribal lands.

B. Subsequent operations. Whenever 19.15.3.104 NMAC or any applicable pool rule authorizes one or more infill wells within a proration or spacing unit pooled by order of the division or the commission pursuant to Section 70-2-17 NMSA 1978, either the operator or any owner of a pooled working interest may, at any time after completion of the initial well provided in the pooling order, propose drilling of an infill well.

C. Proposal by the operator. If the operator proposes an infill well, it shall give notice of such proposal to each pooled working interest owner by certified mail, return receipt requested, specifying the location and depth of the proposed well and including therewith a schedule of estimated well costs and a statement of each pooled working interest owner's gross working interest percentage. Each pooled working interest owner may elect to participate in the proposed infill well by notice in writing to the operator within 30 days after such owner receives the proposal, provided that such election to participate shall not be effective unless the owner so electing pays to the operator the amount of such owner's share of estimated well costs within 30 days after the date of transmission of its notice of election to participate. Any pooled working interest owner not electing to participate in the proposed infill well as above provided shall be deemed to have elected to become a non-consenting owner with respect to the infill well. The operator shall withhold from the proceeds of production of such well accruing to the working interest of any non-consenting owner such non-consenting owner's share of well costs, as defined in 19.15.1.35 NMAC, of such infill well, together with a risk charge computed at the same rate as provided in the pooling order with respect to the initial well. The operator shall distribute the amounts withheld from the non-consenting owner's share of production for well costs and risk charges proportionately to the persons who have advanced the cost of the infill well. Unless it withdraws the proposal the operator shall commence drilling of the proposed infill well no later than 120 days after the expiration of the initial notice period of 30 days. The division director may extend the time for commencement of drilling once for not more than an additional 120 days, upon showing of good cause for such extension, without notice or hearing. If the operator has not commenced drilling within the time provided no election previously made shall be binding on any party. If the operator still desires to drill such infill well, it must resubmit written notice proposing the well as if no prior proposal had been made.

D. Proposal by pooled working interest owner. If a pooled working interest owner proposes an infill well, it shall give written notice of such proposal to the operator by certified mail, return receipt requested, specifying the location and depth of the proposed well and including therewith a schedule of

estimated well costs. The proposing owner shall mail a copy of such proposal to each of the other pooled working interest owners, or their successors in title as identified by documents of record in the office of the clerk of the county where the proposed well will be located, at the same time that it mails such proposal to the operator. The operator shall, within 60 days after receipt of such notice, either propose an infill well at the specified location and depth as an operator proposal pursuant to Subsection C of 19.15.1.36 NMAC, or notify the owner proposing the well that it declines to do so. If the operator proposes the well and less than all working interest owners elect to participate, the operator may withdraw the proposal unless the originally proposing owner, within thirty days of receipt of notice of such occurrence, advances the share of estimated well costs allocable to all non-consenting owners of pooled working interests. If the operator proposes the well and (1) all owners consent thereto or (2) the originally proposing owner advances the share of well costs allocable to any otherwise unsubscribed interest, the operator shall commence drilling the proposed infill well within 120 days after it receives notice that either such condition has occurred. The division director may extend the time for commencement of drilling once for not more than an additional 120 days, upon showing of good cause for such extension, without notice or hearing. Well costs applicable to any non-consenting owner of a pooled working interest, together with the risk charge provided in the original pooling order, shall be recoverable out of the non-consenting owner's share of production as in other cases. If the operator declines to propose a well proposed to it by a pooled working interest owner, or fails to commence such well within the time provided, the proposing owner may apply to the division for an order authorizing the drilling of the proposed infill well under the terms of the compulsory pooling order. The owner filing such application shall give notice thereof as provided in 19.15.14.1210 NMAC to all owners of working interests in the proration or spacing unit, including those whose interests in the proration or spacing unit are pooled by agreement, and, if the proration or spacing unit includes federal or state minerals, to the United States bureau of land management and the state land office, as applicable.

E. Refund of money advanced. If the operator does not commence an infill well proposed pursuant to 19.15.1.36 NMAC within the time provided, including any extension allowed by the division, it shall refund any amounts it has received from any pooled party as advance payment of well costs for such well within 10 days after the expiration of the time provided for commencement of drilling, together with interest thereon calculated at the rate of bank of America prime plus three percentage points.

F. Determination of reasonable costs. The provision of the applicable compulsory pooling order regarding reporting of actual well costs to the division and to pooled working interest owners, opportunity for objections thereto, determinations of reasonableness of well costs and adjustment of the amount paid to any participating pooled working interest owner to reflect reasonable well costs shall apply to any well drilled pursuant to 19.15.1.36 NMAC.

[19.15.1.36 NMAC - N, 10/31/05]

19.15.1.37-39 [RESERVED]

19.15.1.40 COMPLIANCE:

A. A well operator is in compliance with Subsection A of 19.15.1.40 NMAC if the operator:

- (1) currently meets the financial assurance requirements of 19.15.3.101 NMAC;
- (2) is not subject to a division or commission order, issued after notice and hearing, finding the operator to be in violation of an order requiring corrective action;
- (3) does not have a penalty assessment that is unpaid more than 70 days after issuance of the order assessing the penalty; and
- (4) has no more than the following number of wells out of compliance with 19.15.4.201 NMAC that are not subject to an agreed compliance order setting a schedule for bringing the wells into compliance with 19.15.4.201 NMAC and imposing sanctions if the schedule is not met:
 - (a) two wells or 50 percent of the wells the operator operates, whichever is less, if the operator operates 100 wells or less;

- (b) five wells if the operator operates between 101 and 500 wells;
- (c) seven wells if the operator operates between 501 and 1000 wells; and
- (d) 10 wells if the operator operates more than 1000 wells.

B. The division shall notify an operator on a monthly basis when, according to records on file with the division, a well on the inactive well list described in Subsection F of 19.15.1.40 NMAC shows no production or injection for the past 12 months by sending a letter by first class mail to the address the operator has provided the division pursuant to Subsection C of 19.15.3.100 NMAC.

C. Compliance with financial assurance requirements. The division shall make available on its website and update weekly the status of operators' financial assurance required by 19.15.3.101 NMAC, according to division records.

D. Orders requiring corrective action.

(1) The division shall make available on its website division or commission orders, issued after notice and hearing, finding an operator to be in violation of an order requiring corrective action.

(2) An operator who contests an order finding it to be in violation of an order requiring corrective action may appeal and may seek a stay of the order. An order that is stayed pending appeal does not affect an operator's compliance with Subsection A of 19.15.1.40 NMAC.

(3) An operator who completes the corrective action the order requires may file a motion with the order's issuer to declare the order satisfied. The division or commission, as applicable, may grant the motion without hearing, or may set the matter for hearing.

E. Penalty assessments.

(1) The division shall make available on its website penalty assessments and the date the operator paid them, according to division records.

(2) An operator who contests an order assessing penalties may appeal and may seek a stay of the order. An order that is stayed pending appeal does not affect an operator's compliance with Subsection A of 19.15.1.40 NMAC.

F. Inactive wells.

(1) The division shall make available on its website, and update daily, an "inactive well list" listing each well, by operator, that according to division records:

- (a) does not have its wellbore plugged in accordance with 19.15.4.202 NMAC;
- (b) is not in approved temporary abandonment in accordance with 19.15.4.203

NMAC; and

(c) is not subject to an agreed compliance order setting a schedule for bringing the well into compliance with 19.15.4.201 NMAC and imposing sanctions if the operator does not meet the schedule.

(2) For purposes of 19.15.1.40 NMAC, the listing of a well on the division's inactive well list as a well inactive for more than one year plus 90 days creates a rebuttable presumption that the well is out of compliance with 19.15.4.201 NMAC.

[19.15.1.40 NMAC - N, 02/13/06]

19.15.1.41 ENFORCEABILITY OF PERMITS AND ADMINISTRATIVE ORDERS:

Any person who conducts any activity pursuant to a permit, administrative order or other written authorization or approval from the division shall comply with every term, condition and provision of such permit, administrative order, authorization or approval.

[19.15.1.41 NMAC - N, 12/15/05]

HISTORY of 19.15.5 NMAC:

Pre-NMAC History: Material in this part was derived from that previously filed with the commission of public records – state records center and archives as: Rule 0.1, Definitions, filed 1-8-82; Rule 0.1, Definitions, filed 11-6-86; Rule 0.1, Definitions, filed 10-11-89; Rule 0.1, Definitions, filed 7-10-90; Rule 0.1, Definitions, filed 2-5-91; Rule 1, Scope of Rules and Regulations, filed 1-8-82; Rule 1, Scope of

Rules and Regulations, filed 9-16-85; Rule 1, Scope of Rules and Regulations, filed 2-5-91; Rule 2, Enforcement of Laws, Rules and Regulations Dealing with Conservation of Oil and Gas, filed 1-8-82; Rule 2, Enforcement of Laws, Rules and Regulations Dealing with Conservation of Oil and Gas; 9-16-85; Rule 2, Enforcement of Laws, Rules and Regulations Dealing with Conservation of Oil and Gas; 2-5-91; Rule 3, Waste Prohibited, filed 1-8-82; Rule 3, General Operations/Waste Prohibited, filed 9-16-85; Rule 3, General Operations/Waste Prohibited, filed 2-5-91; Rule 4, United States Government Leases, filed 1-8-82; Rule 4, United States Government Leases, filed 2-5-91; Rule 5, Classifying and Defining Pools, filed 1-8-82; Rule 5, Classifying and Defining Pools, filed 2-5-91; Rule 6, Forms Upon Request, filed 1-8-82; Rule 6, Forms upon Request, filed 2-5-91; Rule 7, Authority to Cooperate with Other Agencies, filed 9-16-85; Rule 7, Authority to Cooperate with Other Agencies, filed 9-16-85; Rule 7, Authority to Cooperate with Other Agencies, filed 2-5-91; Rule 8, Lined Pits/Below Grade Tanks, filed 9-12-85; Rule 8, Exposed Pits/Lined Pits/Below Grade Tanks, filed 8-17-89; Rule 8, Lined Pits/Below Grade Tanks, filed 2-5-91.

History of Repealed Material: [Reserved]

Other History: Rule 0.1, Definitions, filed 2-5-91; Rule 1, Scope of Rules and Regulations, filed 2-5-91; Rule 2, Enforcement of Laws, Rules and Regulations Dealing with Conservation of Oil and Gas; 2-5-91; Rule 3, General Operations/Waste Prohibited, filed 2-5-91; Rule 4, United States Government Leases, filed 2-5-91; Rule 5, Classifying and Defining Pools, filed 2-5-91; Rule 6, Forms upon Request, filed 2-5-91; Rule 7, Authority to Cooperate with Other Agencies, filed 2-5-91; and Rule 8, Lined Pits/Below Grade Tanks, filed 2-5-91 **renumbered, reformatted and amended to** 19 NMAC 15.A, General Provisions and Definitions, filed 01-18-96.
19 NMAC 15.A, General Provisions and Definitions, filed 01-18-96 renumbered and reformatted to 19.15.1 NMAC, General Provisions, effective 5-15-01.

TITLE 19 NATURAL RESOURCES and WILDLIFE
CHAPTER 15 OIL AND GAS
PART 2 GENERAL OPERATING PRACTICES, WASTES ARISING FROM
EXPLORATION
AND PRODUCTION

19.15.2.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division, 1220 S. St. Francis Drive, Santa Fe, New Mexico 87505, (505) 476-3440.
[19.15.2.1 NMAC - N, 2/13/04]

19.15.3.2 SCOPE: All persons/entities engaged in oil and gas development and production within New Mexico.
[19.15.2.2 NMAC - N, 02/13/04]

19.15.3.3 STATUTORY AUTHORITY: Sections 70-2-1 through 70-2-38 NMSA 1978 sets forth the Oil and Gas Act which grants the oil conservation division jurisdiction and authority over all matters relating to the conservation of oil and gas, the prevention of waste of oil and gas and of potash as a result of oil and gas operations, the protection of correlative rights, and the disposition of wastes resulting from oil and gas operations.
[19.15.2.3 NMAC - N, 02/13/04]

19.15.2.4 DURATION: Permanent.
[19.15.2.4 NMAC - N, 02/13/04]

19.15.2.5 EFFECTIVE DATE: February 13, 2004, unless a later date is cited at the end of a section.
[19.15.2.5 NMAC - N, 02/13/04]

19.15.2.6 OBJECTIVE: To regulate the drilling of oil and gas wells within the state of New Mexico to enable the oil conservation division to fulfill its statutory mandates under the Oil and Gas Act.
[19.15.2.6 NMAC - N, 02/13/04]

19.15.2.7 DEFINITIONS:

A. Alluvium shall mean detrital material that has been transported by water or other erosional forces and deposited at points along the flood plain of a watercourse. It typically is composed of sands, silts, and gravels, exhibits high porosity and permeability and generally carries fresh water.

B. Sump shall mean any impermeable single wall vessel with a capacity less than 500 gallons, where any portion of the sidewalls of the reservoir is below the surface of the ground and not visible which vessel remains predominantly empty, serves as a drain or receptacle for spilled or leaked liquids on an intermittent basis, and is not used to store, treat, dispose of, or evaporate products or wastes.
[19.15.2.7 NMAC - N, 02/13/04]

19.15.2.8 through 19.15.2.49 [RESERVED]

19.15.2.50 PITS AND BELOW-GRADE TANKS:

A. Permit required. Discharge into, or construction of, any pit or below-grade tank is prohibited absent possession of a permit issued by the division, unless otherwise herein provided or unless the division grants an exemption pursuant to Subsection G of 19.15.2.50 NMAC. Facilities permitted by the division pursuant to Section 711 of 19.15.9 NMAC or water quality control commission regulations are exempt from Section 50 of 19.15.2 NMAC.

B. Application.

(1) Where filed; application form.

(a) Downstream facilities. An operator shall apply to the division's environmental bureau for a permit to construct or use a pit or below-grade tank at a downstream facility such as a refinery, gas plant, compressor station, brine facility, service company, or surface waste management facility that is not permitted pursuant to Section 711 of 19.15.9 NMAC or water quality control commission regulations. The operator shall use a form C-144, application to discharge into a pit or below-grade tank. The operator may submit the form separately or as an attachment to an application for a discharge permit, best management practices permit, surface waste management facility permit, or other permit.

(b) Drilling or production. An operator shall apply to the appropriate district office for a permit for use of a pit or below-grade tank in drilling, production, or operations not otherwise identified in Subparagraph (a), Paragraph (1), Subsection B of 19.15.2.50 NMAC. The operator shall apply for the permit on the application for permit to drill or on the sundry notices and reports on wells, or electronically as otherwise provided in this chapter. Approval of such form constitutes a permit for all pits and below-grade tanks annotated on the form. A separate Form C-144 is not required.

(2) General permit; individual permit. An operator may apply for a permit to use an individual pit or below-grade tank, or may apply for a general permit applicable to a class of like facilities.

(3) When filed.

(a) New pits or new below-grade tanks. After April 15, 2004, operators shall obtain

a permit before constructing a pit or below-grade tank.

(b) Existing pits or new below-grade tanks. For each pit or below-grade tank in existence on April 15, 2004 that has not received an exemption after hearing as allowed by OCC Order R-3221 through R-3221D inclusive, the operator shall submit a notice not later than April 15, 2004 indicating either that use of the pit or below-grade tank will continue or that such pit or below grade tank will be closed. If use of a pit or below-grade tank is to be discontinued, discharge into the pit or use of the below-grade tank shall cease not later than June 30, 2005. If use of a pit or below-grade tank will continue, the operator shall file a permit application not later than September 30, 2004. If an operator files a timely, administratively complete application for continued use, use of the pit or below-grade tank may continue until the division acts upon the permit application.

C. Design, construction, and operational standards.

(1) In general. Pits, sumps and below-grade tanks shall be designed, constructed and operated so as to contain liquids and solids to prevent contamination of fresh water and protect public health and the environment.

(2) Special requirements for pits.

(a) Location. No pit shall be located in any watercourse, lakebed, sinkhole, or playa lake. Pits adjacent to any such watercourse or depression shall be located safely above the ordinary high-water mark of such watercourse or depression. No pit shall be located in any wetland. The division may require additional protective measures for pits located in groundwater sensitive areas or wellhead protection areas.

(b) Liners.

(i) Drilling pits, workover pits. Each drilling pit or workover pit shall contain, at a minimum, a single liner appropriate for conditions at the site. The liner shall be designed, constructed, and maintained so as to prevent the contamination of fresh water, and protect public health and the environment. Pits used to vent or flare gas during drilling or workover operations that are designed to allow liquids to drain to a separate pit do not require a liner.

(ii) Disposal or storage pits. Each disposal pit (including, but not limited to, any separator pit, tank drain pit, evaporation pit, blowdown pit used in production activities, pipeline drip pit, or production pit) and each storage pit (including any brine pit, salt water pit, fluid storage pit for an LPG system, or production pit) shall contain, at a minimum, a primary and a secondary liner appropriate to the conditions at the site. Liners shall be designed, constructed, and maintained so as to prevent the contamination of fresh water, and protect public health and the environment.

(iii) Alternative liner media. The division may approve liners that are not constructed in accordance with division guidelines only if the operator demonstrates to the division's satisfaction that the alternative liner protects fresh water, public health, and the environment as effectively as those prescribed in division guidelines.

(c) Leak detection. A leak detection system shall be installed between the primary and secondary liner in each disposal or storage pit. The leak detection system shall be designed, installed, and operated so as to prevent the contamination of fresh water, and protect public health and the environment. The operator shall notify the division at least twenty-four hours prior to installation of the primary liner so a division representative may inspect the leak detection system before it is covered.

(d) Drilling and workover pits. Each drilling or workover pit shall be of an adequate size to assure that a supply of fluid is available and sufficient to confine oil, natural gas, or water within its native strata. Hydrocarbon-based drilling fluids shall be contained in tanks made of steel or other division-approved material.

(e) Disposal or storage pits. No measurable or visible layer of oil may be allowed to accumulate or remain anywhere on the surface of any pit. Spray evaporation systems shall be operated such that all spray-borne suspended or dissolved solids remain within the perimeter of the pond's lined portion.

(f) Fencing and netting. All pits shall be fenced or enclosed to prevent access by

livestock, and fences shall be maintained in good repair. Active drilling or workover pits may have a portion of the pit unfenced to facilitate operations. In issuing a permit, the division may impose additional fencing requirements for protection of wildlife in particular areas. All tanks exceeding 16 feet in diameter, exposed pits, and ponds shall be screened, netted, covered, or otherwise rendered non-hazardous to migratory birds. Drilling and workover pits are exempt from the netting requirement. Immediately after cessation of these operations such pits shall have any visible or measurable layer of oil removed from the surface. Upon written application, the division may grant an exception to screening, netting, or covering requirements upon a showing that an alternative method will adequately protect migratory birds or that the tank or pit is not hazardous to migratory birds.

(g) Unlined pits.

(i) General prohibition. After June 30, 2005 use of, or discharge into, any unlined pit that has not been previously permitted pursuant to Section 711 of 19.15.9 NMAC or water quality control commission regulations is prohibited, except as otherwise provided in Section 50 of 19.15.2 NMAC. After April 15, 2004, construction of unlined pits is prohibited unless otherwise provided in Section 50 of 19.15.2 NMAC.

(ii) Unlined pits exempted by previous order. An operator of an unlined pit existing on April 15, 2004 for which a previous exemption was received after hearing as allowed pursuant to commission Orders No. R-3221 through R-3221D inclusive, shall not be required to reapply for an exemption pursuant to Subparagraph (g), Paragraph (2), Subsection C of 19.15.2.50 NMAC provided the operator notifies the division, no later than April 15, 2004, of the existence of each unlined pit it believes is exempted by order, the location of the pit, and the nature and amount of any discharge into the pit. Such order shall constitute a permit for the purpose of Subparagraph (g), Paragraph (2), Subsection C of 19.15.2.50 NMAC. The division may terminate any such permit in accordance with Paragraph (2), Subsection C of 19.15.2.50 NMAC. Any pit constructed after April 15, 2004 shall comply with the permitting, lining and other requirements of Section 50 of 19.15.2 NMAC, notwithstanding any previous order to the contrary.

(iii) Unlined pits shall be allowed in the following areas provided that the operator has submitted, and the division has approved, an application for permit as provided in Section 50 of 19.15.2 NMAC, and provided that the pit site is not located in fresh water-bearing alluvium or in a wellhead protection area:

TOWNSHIP 19 SOUTH, RANGE 30 EAST, NMPM Sections 8 through 36;

TOWNSHIP 20 SOUTH, RANGE 30 EAST, NMPM Sections 1 through 36;

TOWNSHIP 20 SOUTH, RANGE 31 EAST, NMPM Sections 1 through 36;

TOWNSHIP 20 SOUTH, RANGE 32 EAST, NMPM Sections 4 through 9, Sections 16 through 21; and Sections 28 through 33;

TOWNSHIP 21 SOUTH, RANGE 29 EAST, NMPM Sections 1 through 36;

TOWNSHIP 21 SOUTH, RANGE 30 EAST, NMPM Sections 1 through 36;

TOWNSHIP 21 SOUTH, RANGE 31 EAST, NMPM Sections 1 through 36;

TOWNSHIP 22 SOUTH, RANGE 29 EAST, NMPM Sections 1 through 36;

TOWNSHIP 22 SOUTH, RANGE 30 EAST, NMPM Sections 1 through 36;

TOWNSHIP 23 SOUTH, RANGE 29 EAST, NMPM Sections 1 through 3, Sections 10 through 15, Sections 22 through 27, and Sections 34 through 36;

TOWNSHIP 23 SOUTH, RANGE 30 EAST, NMPM Sections 1 through 19; and that area within San Juan, Rio Arriba, Sandoval, and McKinley Counties that is outside the valleys of the San Juan, Animas, Rio Grande, and La Plata Rivers, which are bounded by the topographic lines on either side of the rivers that are 100 vertical feet above the river channels, measured perpendicularly to the river channels, and is outside those areas that lie within 50 vertical feet, measured perpendicularly to the drainage channel, of all perennial and ephemeral creeks, canyons, washes, arroyos, and draws, and is outside the areas between the above-named rivers and the Highland Park Ditch, Hillside Thomas Ditch, Cunningham Ditch, Farmers Ditch, Halford Independent Ditch, Citizens Ditch, or Hammond Ditch, provided that no

protectable ground water is present or if present, will not be adversely affected; or any area where the discharge into the pit meets New Mexico Water Quality Control Commission ground water standards.

(3) Special requirements for below-grade tanks. All below-grade tanks constructed after April 15, 2004 shall be constructed with secondary containment and leak detection. The operator of any below-grade tank constructed prior to April 15, 2004 shall test its integrity annually and shall promptly repair or replace any below-grade tank that does not demonstrate integrity. Any such below-grade tank shall be equipped with leak detection at the time of any major repair.

(4) Sumps. Operators shall test the integrity of all sumps annually, and shall promptly repair or replace any sump that does not demonstrate integrity. Sumps that can be removed from their emplacements may be tested by visual inspection. Other sumps shall be tested by appropriate mechanical means.

D. Emergency actions.

(1) Permit not required. In an emergency an operator may construct a pit without a permit to contain fluids, solids, or wastes if an immediate danger to fresh water, public health, or the environment exists.

(2) Construction standards. A pit constructed in an emergency shall be constructed, to the extent possible given the emergency, in a manner that is consistent with the requirements of Section 50 of 19.15.2 NMAC and that prevents the contamination of fresh water, and protects public health and the environment.

(3) Notice. The operator shall notify the appropriate district office as soon as possible (if possible before construction begins) of the need for construction of such a pit.

(4) Use and duration. The pit may be used only for the duration of the emergency. If the emergency lasts more than forty-eight (48) hours, the operator must seek approval from the division for continued use of the pit. All fluids, solids or wastes must be removed within 24 hours after cessation of use unless the division extends that time period.

(5) "Emergency pits." Subsection D, of 19.15.2.50 NMAC shall not be construed to allow construction or use of so-called "emergency pits," which are pits constructed as a precautionary matter to contain a spill in the event of a release. Construction or use of any such pit shall require a permit issued pursuant to Section 50 of 19.15.2 NMAC unless the pit is described in a spill prevention, control and countermeasure (SPCC) plan required by the United States environmental protection agency, all fluids are removed from the pit within 24 hours, and the operator has filed a notice of the location of the pit with the division.

E. Drilling fluids and drill cuttings. Drilling fluids and drill cuttings shall either be recycled or be disposed of as approved by the division and in a manner to prevent the contamination of fresh water and protect public health and the environment. The operator shall describe the proposed disposal method in the application for permit to drill or the sundry notices and reports on wells.

F. Closure and restoration.

(1) Closure. Except as otherwise specified in Section 50 of 19.15.2 NMAC, a pit or below-grade tank shall be properly closed within six months after cessation of use. As a condition of a permit, the division may require the operator to file a detailed closure plan before closure may commence. The division for good cause shown may grant a six-month extension of time to accomplish closure. Upon completion of closure a closure report (form C- 144), or sundry notices and reports on wells shall be submitted to the division. Where the pit's contents will likely migrate and cause ground water or surface water to exceed water quality control commission standards, the pit's contents and the liner shall be removed and disposed of in a manner approved by the division.

(2) Surface restoration. Within one year of the completion of closure of a pit, the operator shall contour the surface where the pit was located to prevent erosion and ponding of rainwater.

G. Exemptions; additional conditions.

(1) The division may attach additional conditions to any permit upon a finding that such conditions are necessary to prevent the contamination of fresh water, or to protect public health or the

environment.

(2) The division may grant an exemption from any requirement if the operator demonstrates that the granting of such exemption will not endanger fresh water, public health or the environment. The division may revoke any such exemption after notice to the operator of the pit and opportunity for a hearing if the division determines that such action is necessary to prevent the contamination of fresh water, or to protect public health or the environment.

(3) Exemptions may be granted administratively without hearing provided that the operator gives notice to the surface owner of record where the pit is to be located and to such other persons as the division may direct and (a) written waivers are obtained from all persons to whom notice is required, or (b) no objection is received by the division within 30 days of the time notice is given. If any objection is received and the director determines that the objection has technical merit or that there is significant public interest the director shall set the application for hearing. The director, however, may set any application for hearing.

[19.15.2.50 NMAC - N, 02/13/04]

HISTORY OF 19.15.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the state records center and archives:

OCC 67-10, Commission Order No. R-3221, Case No. 3551, filed 5/2/67.

OCC 67-10, Amendment No. 1, Commission Order No. R-3221-A, Case No. 3644, filed 8/31/67.

OCC 67-10, Amendment No. 2, Commission Order No. R-3221-B, Case No. 3806, filed 7/31/68.

OCC 67-10, Amendment No. 2, Commission Order No. R-3221-B-1, Case No. 3806, filed 8/20/68.

Order No. R-7940-C, Special Rules and Regulations for the Disposal of Oil and Natural Gas Wastes in the Vulnerable Area in San Juan, McKinley, Rio Arriba and Sandoval Counties, New Mexico, filed 2/10/93.

History of Repealed Material:

OCC 67-10, Commission Order No. R-3221, Case No. 3551 (filed 5/2/67), repealed 02/13/04.

Order No. R-7940-C, Special Rules and Regulations for the Disposal of Oil and Natural Gas Wastes in the Vulnerable Area in San Juan, McKinley, Rio Arriba and Sandoval Counties, New Mexico (filed 2/10/93), repealed 02/13/04.

Other History:

OCC 67-10, Commission Order No. R-3221, Case No. 3551 (filed 5/2/67) and Order No. R-7940-C, Special Rules and Regulations for the Disposal of Oil and Natural Gas Wastes in the Vulnerable Area in San Juan, McKinley, Rio Arriba and Sandoval Counties, New Mexico, (filed 2/10/93) replaced by 19.15.2 NMAC, General Operating Practices, Wastes Arising from Exploration and Production, effective 02/13/04.

TITLE 19 NATURAL RESOURCES & WILDLIFE CHAPTER 15 OIL AND GAS PART 3 DRILLING

19.15.3.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division, 2040 S. Pacheco, Santa Fe, New Mexico 87505, (505) 827-7131.
[2-1-96; 19.15.3.1 NMAC - Rn, 19 NMAC 15.C.1, 11-15-01]

19.15.3.2 SCOPE: All persons/entities engaged in oil and gas development and production within New Mexico.
[2-1-96; 19.15.3.2 NMAC - Rn, 19 NMAC 15.C.2, 11-15-01]

19.15.3.3 STATUTORY AUTHORITY: Sections 70-2-1 through 70-2-38 NMSA 1978 sets forth the Oil and Gas Act which grants the Oil Conservation Division jurisdiction and authority over all matters relating to the conservation of oil and gas, the prevention of waste of oil and gas and of potash as a result of oil and gas operations, the protection of correlative rights, and the disposition of wastes resulting from oil and gas operations.

[2-1-96; 19.15.3.3 NMAC - Rn, 19 NMAC 15.C.3, 11-15-01]

19.15.3.4 DURATION: Permanent.

[2-1-96; 19.15.3.4 NMAC - Rn, 19 NMAC 15.C.4, 11-15-01]

19.15.3.5 EFFECTIVE DATE: February 1, 1996.

[2-1-96; 19.15.3.5 NMAC - Rn, 19 NMAC 15.C.5, 11-15-01]

19.15.3.6 OBJECTIVE: To regulate the drilling of oil and gas wells within the State of New Mexico to enable the Oil Conservation Division to fulfill its statutory mandates under the Oil & Gas Act.

[2-1-96; 19.15.3.6 NMAC - Rn, 19 NMAC 15.C.6, 11-15-01]

19.15.3.7 DEFINITIONS: [Reserved]

19.15.3.8-99 [Reserved]

19.15.3.100 OPERATOR REGISTRATION; CHANGE OF OPERATOR; CHANGE OF NAME:

A. Prior to commencing operations, every operator of a well or wells in New Mexico shall register with the division as an operator. Applicants shall provide the following to the financial assurance administrator in the division's Santa Fe office:

(1) an oil and gas registration identification (OGRID) number obtained from the division, the state land office or the taxation and revenue department;

(2) a current address of record to be used for notice, and a current emergency contact name and telephone number for each district in which the operator operates wells; and

(3) the financial assurance required by 19.15.3.101 NMAC.

B. The division may deny registration as a well operator if:

(1) the applicant is not in compliance with Subsection A of 19.15.1.40 NMAC;

(2) an officer, director, partner in the applicant or person with an interest in the applicant exceeding 25 percent, is or was within the past five years an officer, director, partner or person with an interest exceeding 25 percent in another entity that is not currently in compliance with Subsection A of 19.15.1.40 NMAC;

(3) the applicant is or was within the past five years an officer, director, partner or person with an interest exceeding 25 percent in another entity that is not currently in compliance with Subsection A of 19.15.1.40 NMAC;

(4) the applicant is a corporation or limited liability company, and is not registered with the public regulation commission to do business in New Mexico; or

(5) the applicant is a limited partnership, and is not registered with the New Mexico secretary of state to do business in New Mexico.

C. Operators shall keep the division informed of their current address of record and emergency contact names and telephone numbers by submitting changes in writing to the division's financial assurance administrator in the division's Santa Fe office within 30 days of the change.

D. The division may require an operator or applicant to identify its current and past officers, directors and partners, and its current and past ownership interest in other operators.

E. Change of operator.

(1) A change of operator occurs when the entity responsible for a well or a group of wells changes. A change of operator may result from a sale, assignment by a court, a change in operating agreement or other transaction. Under a change of operator, wells are moved from the OGRID number of the operator of record with the division to the new operator's OGRID number.

(2) The operator of record with the division and the new operator shall apply for a change of operator by jointly filing a form C-145 using the division's web-based online application. If the operator of record with the division is unavailable, the new operator shall apply to the division for approval of change of operator without a joint application. The operator shall make such application in writing, and provide documentary evidence of the applicant's right to assume operations. The new operator may not commence operations until the division approves the application for change of operator.

(3) The division director or his designee may deny a change of operator if:

(a) the new operator is not in compliance with Subsection A of 19.15.1.40 NMAC;

or

(b) the new operator is acquiring wells, facilities or sites subject to a compliance order requiring remediation or abatement of contamination, or compliance with 19.15.3.201 NMAC, and the new operator has not entered into an agreed compliance order setting a schedule for compliance with the existing order.

(4) In determining whether to grant or deny a change of operator when the new operator is not in compliance with Subsection A of 19.15.1.40 NMAC, the division director or his designee shall consider such factors as whether the non-compliance with Subsection A of 19.15.1.40 NMAC is caused by the operator not meeting the financial assurance requirements of 19.15.3.101 NMAC, being subject to a division or commission order finding the operator to be in violation of an order requiring corrective action, having a penalty assessment that has been unpaid for more than 70 days since the issuance of the order assessing the penalty or having more than the allowed number of wells out of compliance with 19.15.4.201 NMAC. If the non-compliance is caused by the operator having more than the allowed number of wells not in compliance with 19.15.4.201 NMAC, the division director or his designee shall consider the number of wells not in compliance, the length of time the wells have been out of compliance and the operator's efforts to bring the wells into compliance.

F. Change of name.

(1) A change of operator name occurs when the name of the entity responsible for a well or wells changes but the entity does not change. For a change of name, the OGRID number remains the same but division records are changed to reflect the new operator name.

(2) An operator shall apply for a change of name by filing a form C-146 using the division's web-based online application and supplying documentary proof that the change is a name change and not a change of operator. If the operator is a corporation, limited liability company or limited partnership, the name must be registered with the public regulation commission or the New Mexico secretary of state, as applicable. The division shall not approve a change of name until the state land office and the taxation and revenue department have cleared the change of name on the OGRID.

G. Examples of change of operator and change of name.

(1) Mr. Smith, a sole proprietor, operates five wells under the name "Smith oil company". Mr. Smith changes the name of his company to "Smith production company". The name of the entity operating the wells has changed, but the entity has not changed. Mr. Smith should apply for a change of name.

(2) Mr. Smith incorporates his business, changing from the sole proprietorship, "Smith production company", to a corporation: "Smith production company, inc.". The entity responsible for the wells has changed, and Mr. Smith and "Smith production company, inc." should apply for a change of operator.

(3) Smith production company, inc., a New Mexico operator, merges with XYZ, inc., which does not operate in New Mexico. At the surviving entity's election, this transaction may be treated

as a change of name from Smith production company, to XYZ, inc., maintaining the existing OGRID, or as a change of operator, with a new OGRID.

(4) Two New Mexico operators, Smith production company, inc. and Jones production company, inc., merge. The surviving corporation is Jones production company, inc. A different entity now operates the wells Smith production company, formerly operated, and the wells must be placed under that entity's OGRID. Jones production company, inc. and Smith production company, inc. should apply for a change of operator as to the wells Smith production company, inc. operated.

[19.15.3.100 NMAC - N, 12/15/05]

19.1

19.15.3.101 FINANCIAL ASSURANCE FOR WELL PLUGGING:

A. Any person, firm, corporation or association who has drilled or acquired, is drilling or proposes to drill or acquire any oil, gas or injection or other service well on privately owned or state owned lands within this state shall furnish a financial assurance acceptable to the division in the form of an irrevocable letter of credit or cash or surety bond running to the state of New Mexico conditioned that the well be plugged and abandoned and the location restored and remediated in compliance with division rules.

B. The division accepts two forms of financial assurance: a one-well financial assurance that covers a single well and a blanket financial assurance that covers multiple wells. Any well that has been in temporary abandonment for more than two years must be covered by a one-well financial assurance, except that the division may waive the requirement of a one-well financial assurance for a well that is shut-in because of the lack of a pipeline connection. The division may release the one-well financial assurance upon the operator's or surety's written request after the well is returned to production if a blanket financial assurance covers the well.

C. Amounts.

(1) A blanket financial assurance shall be in the amount of \$50,000 covering all oil, gas or service wells drilled, acquired or operated in this state by the principal on the bond.

(2) A one-well financial assurance shall be in the amounts stated below in accordance with the well's depth and location.

(a) Chaves, Eddy, Lea, McKinley, Rio Arriba, Roosevelt, Sandoval and San Juan counties, New Mexico: \$5000 plus \$1 per foot of projected depth of proposed well or measured depth of existing well.

(b) All other counties in the state: \$10,000 plus \$1 per foot of projected depth of proposed well or measured depth of existing well.

(3) The appropriate division district office may approve revised plans for an actively drilling well for drilling as much as 500 feet deeper than the depth stated on the well's financial assurance. Any well to be drilled more than 500 feet deeper than the depth stated on the well's financial assurance shall be covered by a new financial assurance in the amount prescribed for the new projected depth.

(4) The amount of the one-well financial assurance required for any intentionally deviated well shall be determined by the well's measured depth, and not its true vertical depth.

D. General requirements for financial assurance.

(1) The operator shall file financial assurance documents with the division's Santa Fe office, and obtain approvals and releases of financial assurance from that office.

(2) All financial assurance documents shall be on forms prescribed by or otherwise acceptable to the division.

(3) A financial assurance shall be conditioned for well plugging and abandonment and location restoration and remediation only, and not to secure payment for damages to livestock, range, crops or tangible improvements or any other purpose.

(4) The division may require proof that the individual signing for an entity on a financial assurance document or an amendment to a financial assurance document has the authority to obligate that

entity.

E. Additional requirements for cash and surety bonds.

(1) Surety bonds shall be issued by a reputable corporate surety authorized to do business in the state of New Mexico.

(2) The operator shall deposit cash representing the full amount of the bond in an account in a federally-insured financial institution located within the state of New Mexico, such account to be held in trust for the division. Authorized representatives of the operator and the depository institution shall execute a document evidencing the cash bond's terms and conditions. The operator shall file the document with the division prior to the bond's effective date. If the operator's financial status or reliability is unknown to the division director he or she may require the filing of a financial statement or such other information as may be necessary to evaluate the operator's ability to fulfill the bond's conditions. From time to time any accrued interest over and above the bond's face amount may be paid to the operator.

F. Additional requirements for letters of credit.

(1) The division may accept irrevocable letters of credit issued by national or state-chartered banking associations.

(2) Letters of credit shall be irrevocable for a term of not less than five years, unless the applicant shows good cause for a shorter time period.

(3) Letters of credit shall provide for automatic renewal for successive, like terms upon expiration, unless the issuer has notified the division in writing of non-renewal at least 30 days prior to expiration.

(4) The division may forfeit and collect a letter of credit if not replaced by an approved financial assurance at least 30 days before the expiration date.

G. Release of financial assurance.

(1) The division shall release a financial assurance document upon the operator's or surety's written request if all wells drilled or acquired under that financial assurance have been plugged and abandoned and the location restored and remediated and released pursuant to 19.15.4.202 NMAC, or have been covered by another financial assurance the division has approved.

(2) Transfer of a property or a change of operator does not of itself release a financial assurance. The division shall not approve a request for change of operator for a well until the new operator has the required financial assurance in place.

H. Forfeiture of financial assurance.

(1) Upon the operator's failure to properly plug and abandon and restore and remediate the location of any well or wells a financial assurance covers, the division shall give notice to the operator and surety, if applicable, and hold a hearing as to whether the well or wells should be plugged and abandoned and the location restored and remediated in accordance with a division-approved plugging program. If it is determined at the hearing that the operator has failed to plug and abandon the well and restore and remediate the location as provided for in the financial assurance or division rules, the division director shall issue an order directing the well to be plugged or abandoned and the location restored and remediated in a time certain. Such an order may also direct the forfeiture of the financial assurance upon the failure or refusal of the operator, surety or other responsible party to properly plug and abandon the well and restore and remediate the location.

(2) If the financial assurance's proceeds exceed the costs the division incurred plugging and abandoning the well and restoring and remediating the location the financial assurance covers, the division shall return the excess to the surety or the operator, as appropriate.

(3) If the financial assurance's proceeds are not sufficient to cover all the costs the division incurred in plugging and abandoning the well and restoring and remediating the location, the division may seek indemnification from the operator as provided in NMSA 1978, Section 70-2-14(E).

(4) The division shall deposit all forfeitures and all funds collected pursuant to a judgment in a suit for indemnification in the oil and gas reclamation fund.

I. Effective dates.

(1) 19.15.3.101 NMAC is effective immediately as to all wells drilled or acquired after its effective date.

(2) As to all other wells, 19.15.3.101 NMAC is effective January 1, 2008.

[1-1-50, 6-17-77, 6-5-86, 2-1-96; 19.15.3.101 NMAC - Rn, 19 NMAC 15.C.101, 11-15-01; A, 12/15/05]

19.15.3.102 PERMIT TO DRILL, DEEPEN OR PLUG BACK:

A. The operator shall obtain a permit prior to commencing drilling, deepening or re-entry operations, or before plugging a well back to a different pool or completing or re-completing a well in an additional pool.

B. Applicants shall file a complete form C-101, application for permit to drill, deepen or plug back, and complete form C-102, well location and acreage dedication plat, and meet the following requirements, if applicable:

(1) an applicant for a permit to drill any well within the corporate limits of any city, town or village of this state shall give notice to the duly constituted governing body of such city, town or village or its duly authorized agent and certify on form C-101 that it gave such notice;

(2) an applicant for a permit to drill in any quarter-quarter section containing an existing well or wells operated by another operator shall concurrently file a plat or other acceptable document locating and identifying such well or wells, furnish a copy of the application to the other operator or operators in the quarter-quarter section and certify on form C-101 that it furnished such copies;

(3) an applicant for a permit to operate a well in a spacing or proration unit containing an existing well or wells operated by another operator shall also comply with Paragraph (2) of Subsection E of 19.15.3.104 NMAC.

C. The division director or his designee may deny a permit to drill, deepen or plug back if the applicant is not in compliance with Subsection A of 19.15.1.40 NMAC. In determining whether to grant or deny the permit, the division director or his designee shall consider such factors as whether the non-compliance with Subsection A of 19.15.1.40 NMAC is caused by the operator not meeting the financial assurance requirements of 19.15.3.101 NMAC, being subject to a division or commission order finding the operator to be in violation of an order requiring corrective action, having a penalty assessment that has been unpaid for more than 70 days since the issuance of the order assessing the penalty or having more than the allowed number of wells out of compliance with 19.15.4.201 NMAC. If the non-compliance is caused by the operator having more than the allowed number of wells not in compliance with 19.15.4.201 NMAC, the division director or his designee shall consider the number of wells not in compliance, the length of time the wells have been out of compliance and the operator's efforts to bring the wells into compliance.

D. The division may impose conditions on an approved permit to drill, deepen or plug back.

E. The operator shall keep a copy of the approved form C-101 at the well site during drilling operations.

[1-1-50, 5-22-73...2-1-96; 19.15.3.102 NMAC - Rn, 19 NMAC 15.C.102, 11-15-01; A, 12/15/05]

19.15.3.103 SIGN ON WELLS:

A. All wells and related facilities regulated by the division shall be identified by a sign, which sign shall remain in place until the well is plugged and abandoned and the related facilities are closed.

B. For drilling wells, the sign shall be posted on the derrick or not more than 20 feet from the well.

C. The sign shall be of durable construction and the lettering shall be legible and large enough to be read under normal conditions at a distance of 50 feet.

D. The wells on each lease or property shall be numbered in non-repetitive, logical and distinctive sequence.

E. An operator will have 90 days from the effective date of an operator name change to change the operator name on the well sign unless an extension of time, for good cause shown along with a schedule for making the changes, is granted.

F. Each sign shall show the:

- (1) number of well;
- (2) name of property;
- (3) name of operator;
- (4) location by footage, quarter-quarter section, township and range (or Unit Letter can be substituted for the quarter-quarter section); and
- (5) API number.

[1-1-50, 2-1-96, 6-30-97, 3-31-00; 19.15.3.103 NMAC - Rn, 19 NMAC 15.C.103, 11-15-01; A, 01-31-03]

19.15.3.104 WELL SPACING AND LOCATION:

A. Classification Of Wells: Wildcat And Development Wells

(1) Wildcat Well

(a) In San Juan, Rio Arriba, Sandoval, and McKinley counties a wildcat well is any well to be drilled the spacing unit of which is a distance of two miles or more from:

(i) the outer boundary of any defined pool that has produced oil or gas from the formation to which the well is projected to be drilled; and

(ii) any well that has produced oil or gas from the formation to which the proposed well is projected to be drilled.

(b) In all counties except San Juan, Rio Arriba, Sandoval, and McKinley, a wildcat well is any well to be drilled the spacing unit of which is a distance of one mile or more from:

(i) the outer boundary of any defined pool that has produced oil or gas from the formation to which the well is projected to be drilled; and

(ii) any well that has produced oil or gas from the formation to which the proposed well is projected.

(2) Development Well

(a) Any well that is not a wildcat well shall be classified as a development well for the nearest pool that has produced oil or gas from the formation to which the well is projected to be drilled. Such development well shall be spaced, drilled, operated, and produced in accordance with the rules in effect for that pool, provided the well is completed in that pool.

(b) Any well classified as a development well for a pool but completed in a producing formation not included in the vertical limits of that pool shall be operated and produced in accordance with the rules in effect for the nearest pool that is producing from that formation within the two miles in San Juan, Rio Arriba, Sandoval, and McKinley counties or within one mile everywhere else.

If there is no designated pool for that producing formation within the two miles in San Juan, Rio Arriba, Sandoval, and McKinley counties or within one mile everywhere else, the well shall be re-classified as a wildcat well.

B. Oil Well Acreage And Well Location Requirements

(1) Any wildcat well that is projected to be drilled as an oil well to a formation and in an area that in the opinion of the division may reasonably be presumed to be productive of oil rather than gas and each development well for a defined oil pool, unless otherwise provided in special pool orders, shall be located on a spacing unit consisting of approximately 40 contiguous surface acres substantially in the form of a square which is a legal subdivision of the U.S. public land surveys, which is a governmental quarter-quarter section or lot, and shall be located no closer than 330 feet to any boundary of such unit. Only those 40-acre spacing units committed to active secondary recovery projects shall be permitted more than four wells.

(2) If a well drilled as an oil well is completed as a gas well but does not conform to the

applicable gas well location rules, the operator must apply for administrative approval for a non-standard location before the well can produce. The director may set any such application for hearing.

C. Gas Wells Acreage And Well Location Requirements. Any wildcat well that is projected to be drilled as a gas well to a formation and in an area that in the opinion of the division may reasonably be presumed to be productive of gas rather than oil and each development well for a defined gas pool, unless otherwise provided in special pool orders, shall be spaced and located as follows:

(1) 640-acre spacing applies to any deep gas well in Rio Arriba, San Juan, Sandoval or McKinley county that is projected to be drilled to a gas producing formation older than the Dakota formation or is a development well within a gas pool created and defined by the division after June 1, 1997 in a formation older than the Dakota formation, which formation or pool is located within the surface outcrop of the Pictured Cliffs formation (i.e., the San Juan Basin). Such well shall be located on a spacing unit consisting of 640 contiguous surface acres, more or less, substantially in the form of a square which is a section and legal subdivision of the U.S. public land surveys and shall be located no closer than: 1200 feet to any outer boundary of the spacing unit, 130 feet to any quarter section line, and 10 feet to any quarter-quarter section line or subdivision inner boundary.

(2) 320-acre spacing applies to any deep gas well in Lea, Chaves, Eddy or Roosevelt county, defined as a well that is projected to be drilled to a gas producing formation or is within a defined gas pool in the Wolfcamp or an older formation. Such well shall be located on a spacing unit consisting of 320 surface contiguous acres, more or less, comprising any two contiguous quarter sections of a single section that is a legal subdivision of the U.S. public land surveys provided that:

(a) the initial well on a 320-acre unit is located no closer than 660 feet to the outer boundary of the quarter section on which the well is located and no closer than 10 feet to any quarter-quarter section line or subdivision inner boundary; and

(b) only one infill well on a 320-acre unit shall be allowed provided that the well is located in the quarter section of the 320-acre unit not containing the initial well and is no closer than 660 feet to the outer boundary of the quarter section and no closer than 10 feet to any quarter-quarter section line or subdivision inner boundary.

(3) 160-acre spacing applies to any other gas well not covered above. Such well shall be located in a spacing unit consisting of 160 surface contiguous acres, more or less, substantially in the form of a square which is a quarter section and a legal subdivision of the U.S. public land surveys and shall be located no closer than 660 feet to any outer boundary of such unit and no closer than 10 feet to any quarter-quarter section or subdivision inner boundary.

D. Acreage Assignment

(1) **Well Tests and Classification.** It is the responsibility of the operator of any wildcat or development gas well to which more than 40 acres has been dedicated to conduct a potential test within 30 days following completion of the well and to file the test with the division within 10 days following completion of the test. (See Rule 401)

(a) The date of completion for a gas well is the date of the conclusion of active completion work on the well.

(b) If the division determines that a well should not be classified as a gas well, the division will reduce the acreage dedicated to the well to the standard acreage for an oil well.

(c) Failure of the operator to file the test within the specified time will also subject the well to such acreage reduction.

(2) **Non-Standard Spacing Units.** Any well that does not have the required amount of acreage dedicated to it for the pool or formation in which it is completed may not be produced until a standard spacing unit for the well has been formed and dedicated or until a non-standard spacing unit has been approved.

(a) Division district offices have the authority to approve non-standard spacing units without notice when the unorthodox size or shape is necessitated by a variation in the legal subdivision of the U. S. public land surveys and/or consists of an entire governmental section and the non-standard

spacing unit is not less than 70% or more than 130% of a standard spacing unit. The operator must obtain division approval of division Form C-102 showing the proposed non-standard spacing unit and the acreage contained therein.

(b) The director may grant administrative approval to non-standard spacing units after notice and opportunity for hearing when an application has been filed and the unorthodox size or shape is necessitated by a variation in the legal subdivision of the U.S. public land surveys or the following facts exist:

(i) the non-standard spacing unit consists of: (A) a single quarter-quarter section or lot or (B) quarter-quarter sections or lots joined by a common side; and

(ii) the non-standard spacing unit lies wholly within: a single quarter section if the well is completed in a pool or formation for which 40, 80, or 160 acres is the standard spacing unit size; a single half section if the well is completed in a pool or formation for which 320 acres is the standard spacing unit size; or a single section if the well is completed in a pool or formation for which 640 acres is the standard spacing unit size.

(c) Applications for administrative approval of non-standard spacing units pursuant to Subsection D, Paragraph (2), Subparagraph (b) of 19.15.3.104 NMAC shall be submitted to the division's Santa Fe office and accompanied by: (i) a plat showing the spacing unit and an applicable standard spacing unit for that pool or formation, the proposed well dedications and all adjoining spacing units; (ii) a list of affected persons as defined in Rule 1207.A(2); and (iii) a statement discussing the reasons for the formation of the non-standard spacing unit.

(d) The applicant shall submit a statement attesting that the applicant, on or before the date the application was submitted to the division, sent notification to the affected persons by submitting a copy of the application, including a copy of the plat described in Subparagraph (c) above, by certified mail, return receipt requested, advising them that if they have an objection it must be filed in writing within 20 days from the date the division receives the application. The director may approve the application upon receipt of waivers from all the notified persons or if no person has filed an objection within the 20-day period.

(e) The director may set for hearing any application for administrative approval.

(3) Number of wells per spacing unit. Exceptions to the provisions of statewide rules or special pool orders concerning the number of wells allowed per spacing unit may be permitted by the director only after notice and opportunity for hearing. Notice shall be given to those affected persons defined in Rule 1207.A.(2).

E. Special rules for multiple operators within a spacing unit

(1) Allowable production. If an operator completes a well in an oil pool or prorated gas pool, located within a proration unit containing an existing well or wells producing from that pool and operated by a different operator, unless otherwise agreed by all operators of wells producing from that proration unit, the allowable production from such newly completed well shall not exceed the difference between the allowable production for such proration unit and the actual production from such pool of the existing well or wells within such proration unit. The division may authorize exceptions to this provision after hearing following appropriate notice.

(2) Notice requirements. Any operator who intends to operate a well in a spacing or proration unit containing an existing well or wells operated by another operator shall, prior to filing the application for permit to drill, deepen or plug back for such well, furnish written notification of its intent to the operator of each such existing well, and, if the unit includes state or federal minerals, to the state land office or United States bureau of land management, as applicable; provided that separate notification to the bureau of land management shall not be required if the application will be filed with that agency pursuant to 19.15.1.14 NMAC. Such notices shall be sent by certified mail, return receipt requested, and shall specify the location and depth of the proposed well. The applicant shall submit with its application for permit to drill, deepen or plug back either (a) a statement attesting that, at least twenty days before the date that the application was submitted to the division, it sent notices to the designated parties, by

certified mail, return receipt requested, advising them that if they have an objection a written statement thereof must be delivered to the proposing operator within twenty days of the date such notice was mailed, and that it has received no such objection, or (b) written waivers from all persons required to be notified (approval of the application by the United States bureau of land management being deemed equivalent to waiver by that agency). In event of objection, the application may be approved only after hearing.

(3) Transfer of wells. If an operator transfers operation of less than all of its well located within a spacing or proration unit to another operator, and such spacing unit includes any state or federal minerals, the operator shall, prior to filing form C-104A to effectuate such transfer, provide written notification to the state land office or United States bureau of land management, as applicable, of such transfer.

(4) Compulsory pooled units. No provision of 19.15.3.104 NMAC shall authorize the operation of any producing well within a unit described in an existing compulsory pooling order by any operator other than the operator designated in such order.

(5) Federal or state exploratory units. No provision of 19.15.3.104 NMAC shall authorize the operation of any producing well within any federal exploratory unit or state exploratory unit by an operator other than the designated operator of such unit except as provided in the rules of the United States bureau of land management or state land office applicable to such unit.

F. Unorthodox Locations

(1) Well locations for producing wells and/or injection wells that are unorthodox based on the requirements of Subsection B above and are necessary for an efficient production and injection pattern within a secondary recovery, tertiary recovery, or pressure maintenance project are hereby authorized, provided that the unorthodox location within the project is no closer than the required minimum distance to the outer boundary of the lease or unitized area, and no closer than 10 feet to any quarter-quarter section line or subdivision inner boundary. These locations shall only require such prior approvals as are necessary for an unorthodox location.

(2) The director may grant an exception to the well location requirements of Subsections B and C above or special pool orders after notice and opportunity for hearing when the exception is necessary to prevent waste or protect correlative rights.

(3) Applications for administrative approval pursuant to Subsection F, Paragraph (2) above shall be submitted to the division's Santa Fe office accompanied by (a) a plat showing the spacing unit, the proposed unorthodox well location and the adjoining spacing units and wells; (b) a list of affected persons as defined in Rule 1207.A(2); and (c) information evidencing the need for the exception. Notice shall be given as required in Rule 1207.A(2).

(4) The applicant shall submit a statement attesting that applicant, on or before the date that the application was submitted to the division, sent notification to the affected persons by submitting a copy of the application, including a copy of the plat described in Subsection F, Paragraph (3) above, by certified mail, return receipt requested, advising them that if they have an objection it must be filed in writing within 20 days from the date the division receives the application. The director may approve the unorthodox location upon receipt of waivers from all the affected persons or if no affected person has filed an objection within the 20-day period.

(5) The director may set for hearing any application for administrative approval of an unorthodox location.

(6) Whenever an unorthodox location is approved, the division may order any action necessary to offset any advantage of the unorthodox location.

G. Effect On Allowables

(1) If the drilling tract is within a prorated/allocated oil pool or is subsequently placed within such pool and the drilling tract consists of less than 39½ acres or more than 40½ acres, the top unit allowable for the well shall be increased or decreased in the proportion that the number of acres in the drilling tract bears to 40.

(2) If the drilling tract is within a prorated/allocated gas pool or is subsequently placed within such pool and the drilling tract consists of less than 158 acres or more than 162 acres in 160-acre pools, or less than 316 acres or more than 324 acres in 320-acre pools, or less than 632 acres or more than 648 acres in 640-acre pools, the top allowable for the well shall be decreased or increased in the proportion that the number of acres in the drilling tract bears to a standard spacing unit for the pool.

(3) In computing acreage under Paragraphs (1) and (2) above, less than ½ acre shall not be counted but ½ acre or more shall count as one acre.

(4) The provisions of Paragraphs (1) and (2) above shall apply only to wells completed after January 1, 1950.

H. Division-Initiated Exceptions - In order to prevent waste, the division may, after hearing, set different spacing requirements and require different acreage for drilling tracts in any defined oil or gas pool.

I. Pooling Or Communitization Of Small Oil Lots

(1) The division may approve the pooling or communitization of fractional oil lots of 20.49 acres or less with a contiguous oil spacing unit when the ownership is common and the tracts are part of the same lease with the same royalty interests if the following requirements are satisfied:

(a) applications for administrative approval shall be submitted to the division's Santa Fe office and accompanied by: (i) a plat showing the dimensions and acreage involved, the ownership of such acreage, the location of all existing and proposed wells and all adjoining spacing units; (ii) a list of affected persons as defined in Rule 1207.A(2); and (iii) a statement discussing the reasons for the pooling or communitization;

(b) the applicant shall submit a statement attesting that the applicant, on or before the date the application was submitted to the division, sent notification to the affected persons by submitting a copy of the application, including a copy of the plat described in (a) above, by certified mail, return receipt requested, advising them that if they have an objection it must be filed in writing within 20 days from the date the division receives the application; the director may approve the application upon receipt of waivers from all the notified persons or if no person has filed an objection within the 20-day period;

(c) the director may set for hearing any application for administrative approval.

(2) The division may consider the common ownership and common lease requirements met if the applicant furnishes with the application a copy of an executed pooling agreement communitizing the tracts involved.

[1-1-50...2-1-96; A, 6-30-97; A, 8-31-99; 19.15.3.104 NMAC - Rn, 19 NMAC 15.C.104, 11-15-01; A, 05/31/05]

19.15.3.105 [RESERVED].

[1-1-50, 9-1-89...2-1-96; 19.15.3.105 NMAC - Rn, 19 NMAC 15.C.105, 11-15-01; Repealed, 5-28-04]

19.15.3.106 SEALING OFF STRATA:

A. During the drilling of any oil well, injection well or any other service well, all oil, gas, and water strata above the producing and/or injection horizon shall be sealed or separated in order to prevent their contents from passing into other strata.

B. All fresh waters and waters of present or probable value for domestic, commercial, or stock purposes shall be confined to their respective strata and shall be adequately protected by methods approved by the division. Special precautions by methods satisfactory to the division shall be taken in drilling and abandoning wells to guard against any loss of artesian water from the strata in which it occurs, and the contamination of artesian water by objectionable water, oil, or gas.

C. All water shall be shut off and excluded from the various oil- and gas-bearing strata which are penetrated. Water shut-offs shall ordinarily be made by cementing casing.

[1-1-50, 3-1-91...2-1-96; 19.15.3.106 NMAC - Rn, 19 NMAC 15.C.106, 11-15-01]

19.15.3.107 CASING AND TUBING REQUIREMENTS:

A. Any well drilled for oil or natural gas shall be equipped with such surface and intermediate casing strings and cement as may be necessary to effectively seal off and isolate all water-, oil-, and gas-bearing strata and other strata encountered in the well down to the casing point. In addition thereto, any well completed for the production of oil or natural gas shall be equipped with a string of properly cemented production casing at sufficient depth to ensure protection of oil- and gas-bearing strata encountered in the well, including the one(s) to be produced.

B. Sufficient cement shall be used on surface casing to fill the annular space behind the casing to the top of the hole, provided however, that authorized field personnel of the division may, at their discretion, allow exceptions to the foregoing requirement when known conditions in a given area render compliance impracticable.

C. All cementing shall be by pump and plug method unless some other method is expressly authorized by the division.

D. All cementing shall be with conventional-type hard-setting cements to which such additives (lighteners, densifiers, extenders, accelerators, retarders, etc.) have been added to suit conditions in the well.

E. Authorized field personnel of the division may, when conditions warrant, allow exceptions to the above paragraph and permit the use of oil-base casing packing material in lieu of hard-setting cements on intermediate and production casing strings; provided however, that when such materials are used on the intermediate casing string, conventional-type hard-setting cements shall be placed throughout all oil- and gas-bearing zones and throughout at least the lowermost 300 feet of the intermediate casing string. When such materials are used on the production casing string, conventional-type hard-setting cements shall be placed throughout all oil- and gas-bearing zones and shall extend upward a minimum of 500 feet above the uppermost perforation or, in the case of an open-hole completion, 500 feet above the production casing shoe.

F. All casing strings shall be tested and proved satisfactory as provided in Subsection I. below.

G. After cementing, but before commencing tests required in Subsection I. below, all casing strings shall stand cemented in accordance with Option 1 or 2 below. Regardless of which option is taken, the casing shall remain stationary and under pressure for at least eight hours after the cement has been placed. Casing shall be "under pressure" if some acceptable means of holding pressure is used or if one or more float valves are employed to hold the cement in place.

(1) Option 1 Allow all casing strings to stand cemented a minimum of eighteen (18) hours prior to commencing tests. Operators using this option shall report on Form C-103 the actual time the cement was in place before initiating tests.

(2) Option 2 (May be used in the counties of San Juan, Rio Arriba, McKinley, Sandoval, Lea, Eddy, Chaves, and Roosevelt only.) Allow all casing strings to stand cemented until the cement has reached a compressive strength of at least 500 pounds per square inch in the "zone of interest" before commencing tests, provided however, that no tests shall be commenced until the cement has been in place for at least eight (8) hours.

(a) The "zone of interest" for surface and intermediate casing strings shall be the bottom 20 percent of the casing string, but shall be no more than 1000 feet nor less than 300 feet of the bottom-part of the casing unless the casing is set at less than 300 feet. The "zone of interest" for production casing strings shall include the interval or intervals where immediate completion is contemplated.

(b) To determine that a minimum compressive strength of 500 pounds per square inch has been attained, operators shall use the typical performance data for the particular cement mix used in the well, at the minimum temperature indicated for the zone of interest by Figure 107-A, Temperature Gradient Curves. Typical performance data used shall be that data furnished by the cement manufacturer

or by a competent materials testing agency, as determined in accordance with the latest edition of API Code RP 10 B "Recommended Practice for Testing Oil-Well Cements."

(See Temperature Gradient - Page 17A)

H. Operators using the compressive strength criterion (Option 2) shall report the following information on Form C-103:

- (1) Volume of cement slurry (cubic feet) and brand name of cement and additives, percent additives used, and sequence of placement if more than one type cement slurry is used.
- (2) Approximate temperature of cement slurry when mixed.
- (3) Estimated minimum formation temperature in zone of interest.
- (4) Estimate of cement strength at time of casing test.
- (5) Actual time cement in place prior to starting test.

I. All casing strings except conductor pipe shall be tested after cementing and before commencing any other operations on the well. Form C-103 shall be filed for each casing string reporting the grade and weight of pipe used. In the case of combination strings utilizing pipe of varied grades or weights, the footage of each grade and weight used shall be reported. The results of the casing test, including actual pressure held on pipe and the pressure drop observed shall also be reported on the same Form C-103.

(1) Casing strings in wells drilled with rotary tools shall be pressure tested. Minimum casing test pressure shall be approximately one-third of the manufacturer's rated internal yield pressure except that the test pressure shall not be less than 600 pounds per square inch and need not be greater than 1500 pounds per square inch. In cases where combination strings are involved, the above test pressure shall apply to the lowest pressure rated casing used. Test pressures shall be applied for a period of 30 minutes. If a drop of more than 10 percent of the test pressure should occur, the casing shall be considered defective and corrective measures shall be applied.

(2) Casing strings in wells drilled with cable tools may be tested as outlined in Subsection I, Paragraph (1) above, or by bailing the well dry in which case the hole must remain satisfactorily dry for a period of at least one (1) hour before commencing any further operations on the well.

J. Well Tubing Requirements

(1) All flowing oil wells equipped with casing larger in size than 2 7/8-inch OD shall be tubed.

(2) All gas wells equipped with casing larger in size than 3 1/2-inch OD shall be tubed.

(3) Tubing shall be set as near the bottom as practical and tubing perforations shall not be more than 250 feet above top of pay zone.

(4) The supervisor of the appropriate division district office, upon application, may grant exceptions to these requirements, provided waste will not be caused.

(5) The supervisor may request that an application be reviewed by the Director. The operator shall submit information and give notice as requested by the Director. Unprotested applications may be approved after 20 days of receipt of the application and supporting information. If the application is protested, or the Director so decides, the application shall be set for hearing.

K. Repealed.

[1-1-50, 5-5-58, 6-26-59, 2-29-64, 2-1-96, 2-26-99; 19.15.3.107 NMAC - Rn, 19 NMAC 15.C.107, 11-15-01]

19.15.3.108 DEFECTIVE CASING OR CEMENTING:

If any well appears to have a defective casing program or faultily cemented or corroded casing which will permit or may create underground waste or contamination of fresh waters, the operator shall give written notice to the division within five (5) working days and proceed with diligence to use the appropriate method and means to eliminate such hazard. If such hazard of waste or contamination of fresh water cannot be eliminated, the well shall be properly plugged and abandoned.

[1-1-50...2-1-96; 19.15.3.108 NMAC - Rn, 19 NMAC 15.C.108, 11-15-01]

19.15.3.109 BLOWOUT PREVENTION: (See Section 114, Subsection B of 19.15.3 NMAC also)

A. Blowout preventers shall be installed and maintained in good working order on all drilling rigs operating in areas of known high pressures at or above the projected depth of the well and in all areas where pressures which will be encountered are unknown, and on all workover rigs working on wells in which high pressures are known to exist.

B. Blowout preventers shall be installed and maintained in good working order on all drilling rigs and workover rigs operating within the corporate limits of any city, town, or village, or within 1320 feet of habitation, school, or church, wherever located.

C. All operators, when filing Form C-101, Application for Permit to Drill, Deepen, or Plug Back, or Form C-103, Sundry Notices, for any operation requiring blowout prevention equipment in accordance with Subsections A and B above, shall submit a proposed blowout prevention program for the well. The program as submitted may be modified by the district supervisor if, in his judgement, such modification is necessary.

[10-22-74...2-1-96; 19.15.3.109 NMAC - Rn, 19 NMAC 15.C.109, 11-15-01]

19.15.3.110 PULLING OUTSIDE STRINGS OF CASING:

In pulling outside strings of casing from any oil or gas well, the space outside the casing left in the hole shall be kept and left full of mud-laden fluid or cement of adequate specific gravity to seal off all fresh and salt water strata and any strata bearing oil or gas not producing.

[1-1-50...2-1-96; 19.15.3.110 NMAC - Rn, 19 NMAC 15.C.110, 11-15-01]

19.15.3.111 DEVIATION TESTS AND DIRECTIONAL WELLS:

A. Definitions - the following definitions shall apply to Section 111 of 19.15.3 NMAC only:

(1) Azimuth - the deviation in the horizontal plane of a wellbore expressed in terms of compass degrees.

(2) Deviated Well - any wellbore which is intentionally deviated from vertical but not with an intentional azimuth. Any deviated well is subject to Section 111, Subsection B of 19.15.3 NMAC.

(3) Directional Well - a wellbore which is intentionally deviated from vertical with an intentional azimuth. Any directional well is subject to Section 111, Subsection C of 19.15.3 NMAC.

(4) Kick-off Point - the point at which the wellbore is intentionally deviated from vertical.

(5) Lateral - any portion of a wellbore past the point where the wellbore has been intentionally departed from the vertical.

(6) Penetration Point - the point where the wellbore penetrates the top of the pool from which it is intended to produce.

(7) Producing Area - the area that lies within a window formed by plotting the measured distance from the North, South, East and West boundaries of a project area, inside of which a vertical wellbore can be drilled and produced in conformity with the setback requirements from the outer boundary of a standard spacing unit for the applicable pool(s).

(8) Producing Interval - that portion of the wellbore drilled inside the vertical limits of a pool, between its penetration point and its terminus.

(9) Project Area - an area designated on Form C-102 that is enclosed by the outer boundaries of a spacing unit, a combination of complete spacing units, or an approved secondary, secondary, tertiary or pressure maintenance project.

(10) Project Well - any well drilled, completed, produced or injected into as either a vertical well, deviated well or directional well.

(11) Spacing Unit - the acreage that is dedicated or a well in accordance with Rule 104. Included in this definition is a "unit of proration for oil or gas" as defined by the division and all non-standard such units previously approved by the division.

(12) Terminus - the farthest point attained along the wellbore.

(13) Unorthodox - any part of the producing interval which is located outside of the producing area.

(14) Vertical Well - a well that does not have an intentional departure or course deviation from the vertical.

(15) Wellbore - the interior surface of a cased or open hole through which drilling, production, or injection operations are conducted.

B. Deviated Wellbores

(1) Deviation Tests Required. Any vertical or deviated well which is drilled or deepened shall be tested at reasonably frequent intervals to determine the deviation from the vertical. Such tests shall be made at least once each 500 feet or at the first bit change succeeding 500 feet. A tabulation of all deviation tests run, sworn to and notarized, shall be filed with Form C-104, Request for Allowable and Authorization to Transport Oil and Natural Gas.

(2) Excessive Deviation. When the deviation averages more than five degrees in any 500-foot interval, the operator shall include the calculations of the maximum possible horizontal displacement of the hole. When the maximum possible horizontal displacement exceeds the distance to the nearest outer boundary line of the appropriate unit, the operator shall run a directional survey to establish the location of the producing interval(s).

(3) Unorthodox Locations. If the results of the directional survey indicate that the producing interval is more than 50 feet from the approved surface location and closer than the minimum setback requirements to the outer boundaries of the applicable unit, then the well shall be considered unorthodox. To obtain authority to produce such well, the operator shall file an application with the Division director, copy to the appropriate division district office, and shall otherwise follow the normal process outlined in Section 104, Subsection F, Paragraph (3) of 19.15.3 NMAC to obtain approval of the unorthodox location.

(4) Directional Survey Requirements. Upon request from the Division director, any vertical or deviated well shall be directionally surveyed. The appropriate division district office shall be notified of the approximate time any directional surveys are to be conducted. All directional surveys run on any well in any manner for any reason must be filed with the division upon completion of the well. The division shall not assign an allowable to the well until all such directional surveys have been filed.

C. Directional Wellbores

(1) Directional Drilling Within a Project Area. A permit to directionally drill a wellbore may be granted by the appropriate division district office if the producing interval is entirely within the producing area or at an unorthodox location previously approved by the division. Additionally, if the project area consists of a combination of drilling units and includes any State or Federal acreage, a copy of the OCD Form C-102 shall be sent to the State Land Office or the Bureau of Land Management.

(2) Unorthodox Wellbores. If all or part of the producing interval of any directional wellbore is projected to be outside of the producing area, the wellbore shall be considered unorthodox. To obtain approval for such wellbore, the applicant shall file a written application in duplicate with the Division director, copy to the appropriate division district office, and shall otherwise follow the normal process outlined in Section 104, Subsection F, Paragraph (3) of 19.15.3 NMAC.

(3) Allowables for Project Areas With Multiple Proration Units. The maximum allowable assigned to the project area within a prorated pool shall be based upon the number of standard spacing units (or approved non-standard spacing units) that are developed or traversed by the producing interval of the directional wellbore or wellbores. Such maximum allowable shall be applicable to all production from the project area, including any vertical wellbores on standard spacing units inside the project area.

(4) Directional Surveys Required. A directional survey shall be required on each well drilled under the provisions of this section. The appropriate division district office shall be notified of the approximate time all directional surveys are to be conducted. All directional surveys run on any well in any manner for any reason must be filed with the division upon completion of the well. The division shall not assign an allowable to the well until all such directional surveys have been filed. If the

directional survey indicates that any part of the producing interval is outside of the producing area, or, in the case of an approved unorthodox location, less than the approved setback requirements from the outer boundary of the applicable unit, then the operator shall file an application with the Division director, copy to the appropriate division district office, and shall otherwise follow the normal process outlined in Section 104, Subsection F, Paragraph (3) of 19.15.3 NMAC to obtain approval of the unorthodox location.

(5) Re-entry of Vertical or Deviated Wellbores for Directional Drilling Projects. These wellbores shall be considered orthodox provided the surface location is orthodox and the location of producing interval is within the tolerance allowed for deviated wellbores under Section 111, Subsection B, Paragraph (3) of 19.15.3 NMAC.

D. Additional Matters

(1) Directional surveys required under the provisions of Section 111 of 19.15.3 NMAC shall have shot points no more than 200 feet apart and shall be run by competent surveying companies that are approved by the Division director. Exceptions to the minimum shot point spacing will be allowed provided the accuracy of the survey is still within acceptable limits.

(2) The Division director, may, at his discretion, set any application for administrative approval whereby the operator shall submit appropriate information and give notice as requested by the Division director. Unprotested applications may be approved administratively within 20 days of receipt of the application and supporting information. If the application is protested, or the Division director decides that a public hearing is appropriate, the application may be set for public hearing.

(3) Permission to deviate or directionally drill any wellbore for any reason or in any manner not provided for in Section 111 of 19.15.3 NMAC shall be granted only after notice and opportunity for hearing.

E. Reserved.

(1) Reserved.

(2) Reserved.

F. Reserved.

(1) Reserved.

(2) Reserved.

(3) Reserved.

[1-1-50; 8-28-62; 3-2-84; 7-26-95; 2-1-96; A, 7-31-97; 19.15.3.111 NMAC - Rn, 19 NMAC 15.C.111, 11-15-01]

19.15.3.112 MULTIPLE COMPLETIONS; BRADENHEAD GAS WELLS:

A. Multiple Completions

(1) Filing. Operators intending to multiple complete must file Form C-101 and/or C-103 for approval before completing and C-104 after completing along with any information required by the form instructions.

(2) Operation and Testing

(a) Wells shall be completed and produced so that no commingling of hydrocarbons from separate pools occurs.

(b) The operator shall commence a segregation and/or packer leakage test within 20 days after the multiple completion. Segregation tests and/or packer leakage tests shall also be made any time the packer is disturbed. The operator shall also conduct any other tests and determinations required by the division. The appropriate district office shall be notified 48 hours in advance of tests so the district office may schedule personnel to witness the tests. Offset operators may witness such tests and shall advise the operator in writing if they desire to be notified of the tests. Test results shall be filed with the division within 20 days of test completion. In the event a segregation and/or packer leakage test indicates communication between separate pools, the operator shall immediately notify the division and commence corrective action on the well.

(c) Wells shall be equipped so that (i) reservoir pressure may be determined for each of the separate pools, and (ii) meters may be installed so that the gas and/or oil produced from each of the separate pools may be accurately measured.

(d) No multiple completion shall produce in a manner unnecessarily wasting reservoir energy.

(e) The division may require the proper plugging of any zone of a multiple-completed well if the plugging appears necessary to prevent waste, protect correlative rights or protect groundwater, public health or the environment.

B. Bradenhead Gas Wells

(1) The production of gas from a bradenhead gas well may be permitted only by order of the division upon hearing, except as noted by the provisions of Subsection C of 19.15.3.112 NMAC.

(2) The application for such hearings shall be submitted in triplicate and shall include an exhibit showing the location of all wells on applicant's lease and all offset wells on offset leases, together with a diagrammatic sketch showing the casing program, formation tops, estimated top of cement on each casing string run and any other pertinent data, including drill stem tests.

(3) The Division director shall have authority to grant an exception to the requirements of paragraph A. above without notice and hearing where application has been filed in due form, and when the lowermost producing zone involved in the completion is an oil or gas producing zone within the defined limits of an oil or gas pool and the producing zone to be produced through the bradenhead connection is a gas producing zone within the defined limits of a gas pool.

(4) Applicants shall furnish all operators who offset the lease upon which the subject well is located a copy of the application to the division, and applicant shall include with his application a written stipulation that all offset operators have been properly notified. The Division director shall wait at least 10 days before approving the production of gas from the bradenhead gas well, and shall approve such production only in the absence of objection from any offset operator. In the event an operator objects to the completion the Division director shall consider the matter only after proper notice and hearing.

(5) The division may waive the 10-day waiting period requirement if the applicant furnishes the division with the written consent to the production of gas from the bradenhead connection by all offset operators involved.

(6) Section 112-2 of 19.15.3 NMAC shall apply only to wells hereinafter completed as bradenhead gas wells.

(7) (1), (2), (3), (4) Repealed.

(8) (1); (1).(a); (1).(b); (2) Repealed.

(9) (1), (2) Repealed.

(10) (1).(a), (b), (c), (d), (e), (f), (g) Reserved.

[4-3-53; 7-3-58...2-1-82; 2-1-96; 19.15.3.112 NMAC - Rn, 19 NMAC 15.C.112-A and 112-B, 11-15-01]

19.15.3.113 SHOOTING AND CHEMICAL TREATMENT OF WELLS:

If injury results to the producing formation, injection interval, casing or casing seat from shooting, fracturing, or treating a well and which injury may create underground waste or contamination of fresh water, the operator shall give written notice to the division within five (5) working days and proceed with diligence to use the appropriate method and means for rectifying such damage. If shooting, fracturing, or chemical treating results in irreparable injury to the well the division may require the operator to properly plug and abandon the well.

[1-1-50...2-1-96; 19.15.3.113 NMAC - Rn, 19 NMAC 15.C.113, 11-15-01]

19.15.3.114 SAFETY REGULATIONS:

A. All oil wells shall be cleaned into a pit or tank, not less than 40 feet from the derrick floor and 150 feet from any fire hazard. All flowing oil wells must be produced through an oil and gas

separator of ample capacity and in good working order. No boiler or portable electric lighting generator shall be placed or remain nearer than 150 feet to any producing well or oil tank. Any rubbish or debris that might constitute a fire hazard shall be removed to a distance of at least 150 feet from the vicinity of wells and tanks. All waste shall be burned or disposed of in such manner as to avoid creating a fire hazard.

B. When coming out of the hole with drill pipe, drilling fluid shall be circulated until equalized and subsequently drilling fluid level shall be maintained at a height sufficient to control subsurface pressures. During course of drilling blowout preventers shall be tested at least once each 24-hour period.

[1-1-50...2-1-96; 19.15.3.114 NMAC - Rn, 19 NMAC 15.C.114, 11-15-01]

19.15.3.115 WELL AND LEASE EQUIPMENT:

A. Christmas tree fittings or wellhead connections shall be installed and maintained in first class condition so that all necessary pressure tests may easily be made on flowing wells. On oil wells the Christmas tree fittings shall have a test pressure rating at least equivalent to the calculated or known pressure in the reservoir from which production is expected. On gas wells the Christmas tree fittings shall have a test pressure equivalent to at least 150 percent of the calculated or known pressure in the reservoir from which production is expected.

B. Valves shall be installed and maintained in good working order to permit pressures to be obtained on both casing and tubing. Each flowing well shall be equipped to control properly the flowing of each well, and in case of an oil well, shall be produced into an oil and gas separator of a type generally used in the industry.

[1-1-50...2-1-96; 19.15.3.115 NMAC - Rn, 19 NMAC 15.C.115, 11-15-01]

19.15.3.116 RELEASE NOTIFICATION AND CORRECTIVE ACTION:

A. Notification

(1) The division shall be notified of any unauthorized release occurring during the drilling, producing, storing, disposing, injecting, transporting, servicing or processing of crude oil, natural gases, produced water, condensate or oil field waste including Regulated NORM, or other oil field related chemicals, contaminants or mixture thereof, in the State of New Mexico in accordance with the requirements of Section 116 of 19.15.3 NMAC.

(2) The division shall be notified in accordance with Section 116 of 19.15.3 NMAC with respect to any release from any facility of oil or other water contaminant, in such quantity as may with reasonable probability be detrimental to water or cause an exceedance of the standards in Section 19, Subsection B, Paragraphs (1) and (2) or (3) of 19.15.1 NMAC.

B. Reporting Requirements. Notification of the above releases shall be made by the person operating or controlling either the release or the location of the release in accordance with the following requirements:

(1) A Major Release shall be reported by giving both immediate verbal notice and timely written notice pursuant to Subsection C, Paragraphs (1) and (2) of 19.15.3.116 NMAC. A Major Release is:

(a) an unauthorized release of a volume, excluding natural gases, in excess of 25 barrels;

(b) an unauthorized release of any volume which:

(i) results in a fire;

(ii) will reach a water course;

(iii) may with reasonable probability endanger public health; or

(iv) results in substantial damage to property or the environment;

(c) an unauthorized release of natural gases in excess of 500 mcf; or

(d) a release of any volume which may with reasonable probability be detrimental to water or cause an exceedance of the standards in Section 19, Subsection B, Paragraphs (1) and (2) or (3)

of 19.15.1 NMAC.

(2) A Minor Release shall be reported by giving timely written notice pursuant to Subsection C, Paragraph (2) of 19.15.3.116 NMAC. A Minor Release is an unauthorized release of a volume, greater than 5 barrels but not more than 25 barrels; or greater than 50 mcf but less than 500 mcf of natural gases.

C. Contents Of Notification

(1) Immediate verbal notification required pursuant to Subsection B of 19.15.3.116 NMAC shall be reported within twenty-four (24) hours of discovery to the division district office for the area within which the release takes place. In addition, immediate verbal notification pursuant to Subsection B, Paragraph (1), Subparagraph (d) of 19.15.3.116 NMAC shall be reported to the division's Environmental Bureau Chief. This notification shall provide the information required on division Form C-141.

(2) Timely written notification is required to be reported pursuant to Subsection B of 19.15.3.116 NMAC within fifteen (15) days to the division district office for the area within which the release takes place by completing and filing division Form C-141. In addition, timely written notification required pursuant to Subsection B, Paragraph (1), Subparagraph (d) of 19.15.3.116 NMAC shall also be reported to the division's Environmental Bureau Chief within fifteen (15) days after the release is discovered. The written notification shall verify the prior verbal notification and provide any appropriate additions or corrections to the information contained in the prior verbal notification.

D. Corrective Action. The responsible person must complete division approved corrective action for releases which endanger public health or the environment. Releases will be addressed in accordance with a remediation plan submitted to and approved by the division or with an abatement plan submitted in accordance with Section 19 of 19.15.1 NMAC.

[1-1-50...5-22-73...2-1-96; A, 3-15-97; 19.15.3.116 NMAC - Rn, 19 NMAC 15.C.116, 11-15-01]

19.15.3.117 WELL LOG, COMPLETION AND WORKOVER REPORTS:

Within 20 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, a completion report shall be filed with the division on Form C-105. For the purpose of Section 117 of 19.15.3 NMAC, any hole drilled or cored below fresh water or which penetrates oil- or gas-bearing formations or which is drilled by an "owner" as defined herein shall be presumed to be a well drilled for oil or gas.

[1-1-50...2-1-96; 19.15.3.117 NMAC - Rn, 19 NMAC 15.C.117, 11-15-01]

19.15.3.118 HYDROGEN SULFIDE GAS (HYDROGEN SULFIDE):

A. Applicability. This section applies to any person, operator or facility subject to the jurisdiction of the division, including, but not limited to, any person, operator or facility engaged in drilling, stimulating, injecting into, completing, working over or producing any oil, natural gas or carbon dioxide well or any person, operator or facility engaged in gathering, transporting, storing, processing or refining of crude oil, natural gas or carbon dioxide (referred to herein as "person, operator or facility" or "well, facility or operation"). This section shall not act to exempt or otherwise excuse surface waste management facilities permitted by the division pursuant to 19.15.9.711 NMAC from more stringent conditions on the handling of hydrogen sulfide required of such facilities by 19.15.9.711 NMAC or more stringent conditions in permits issued thereunder, nor shall such facilities be exempt or otherwise excused from the requirements set forth in this section by virtue of permitting under 19.15.9.711 NMAC.

B. Definitions (specific to this section).

- (1) ANSI. The acronym "ANSI" means the American national standards institute.
- (2) API. The acronym "API" means the American petroleum institute.
- (3) Area of Exposure. The phrase "area of exposure" means the area within a circle constructed with a point of escape at its center and the radius of exposure as its radius.
- (4) ASTM. The acronym "ASTM" means the American society for testing and materials.
- (5) Dispersion Technique. A "dispersion technique" is a mathematical representation of

the physical and chemical transportation characteristics, dilution characteristics and transformation characteristics of hydrogen sulfide gas in the atmosphere.

(6) **Escape Rate.** The "escape rate" is the maximum volume (Q) that is used to designate the possible rate of escape of a gaseous mixture containing hydrogen sulfide, as set forth herein.

(a) For existing gas facilities or operations, the escape rate shall be calculated using the maximum daily rate of the gaseous mixture produced or handled or the best estimate thereof. For an existing gas well, the escape rate shall be calculated using the current daily absolute open flow rate against atmospheric pressure or the best estimate of that rate.

(b) For new gas operations or facilities, the escape rate shall be calculated as the maximum anticipated flow rate through the system. For a new gas well, the escape rate shall be calculated using the maximum open-flow rate of offset wells in the pool or reservoir, or the pool or reservoir average of maximum open-flow rates.

(c) For existing oil wells, the escape rate shall be calculated by multiplying the producing gas/oil ratio by the maximum daily production rate or the best estimate thereof.

(d) For new oil wells, the escape rate shall be calculated by multiplying the producing gas/oil ratio by the maximum daily production rate of offset wells in the pool or reservoir, or the pool or reservoir average of the producing gas/oil ratio multiplied by the maximum daily production rate.

(e) For facilities or operations not mentioned, the escape rate shall be calculated using the actual flow of the gaseous mixture through the system or the best estimate thereof.

(7) **GPA.** The acronym "GPA" means the gas processors association.

(8) **LEPC.** The acronym "LEPC" means the local emergency planning committee established pursuant to the emergency planning and community right-to-know act, 42 U.S.C. Section 11001.

(9) **NACE.** The acronym "NACE" refers to the national association of corrosion engineers.

(10) **PPM.** The acronym "ppm" means "parts per million" by volume.

(11) **Potentially Hazardous Volume** means the volume of hydrogen sulfide gas of such concentration that:

(a) the 100-ppm radius of exposure includes any public area;

(b) the 500-ppm radius of exposure includes any public road; or

(c) the 100-ppm radius of exposure exceeds 3,000 feet.

(12) **Public Area.** A "public area" is any building or structure that is not associated with the well, facility or operation for which the radius of exposure is being calculated and that is used as a dwelling, office, place of business, church, school, hospital, or government building, or any portion of a park, city, town, village or designated school bus stop or other similar area where members of the public may reasonably be expected to be present.

(13) **Public Road.** A "public road" is any federal, state, municipal or county road or highway.

(14) **Radius of Exposure.** The radius of exposure is that radius constructed with the point of escape as its starting point and its length calculated using the following Pasquill-Gifford derived equation, or by such other method as may be approved by the division:

(a) For determining the 100-ppm radius of exposure: $X = [(1.589)(\text{hydrogen sulfide concentration})(Q)]^{(0.6258)}$, where "X" is the radius of exposure in feet, the "hydrogen sulfide concentration" is the decimal equivalent of the mole or volume fraction of hydrogen sulfide in the gaseous mixture, and "Q" is the escape rate expressed in cubic feet per day (corrected for standard conditions of 14.73 psia and 60 degrees F).

(b) For determining the 500-ppm radius of exposure: $X = [(0.4546)(\text{hydrogen sulfide concentration})(Q)]^{(0.6258)}$, where "X" is the radius of exposure in feet, the "hydrogen sulfide concentration" is the decimal equivalent of the mole or volume fraction of hydrogen sulfide in the

gaseous mixture, and "Q" is the escape rate expressed in cubic feet per day (corrected for standard conditions of 14.73 psia and 60 degrees F).

(c) For a well being drilled, completed, recompleted, worked over or serviced in an area where insufficient data exists to calculate a radius of exposure but where hydrogen sulfide could reasonably be expected to be present in concentrations in excess of 100 ppm in the gaseous mixture, a 100-ppm radius of exposure equal to 3,000 feet shall be assumed.

C. Regulatory Threshold.

(1) Determination of Hydrogen Sulfide Concentration.

(a) Each person, operator or facility shall determine the hydrogen sulfide concentration in the gaseous mixture within each of its wells, facilities or operations either by testing (using a sample from each well, facility or operation), testing a representative sample, or using process knowledge in lieu of testing. If a representative sample or process knowledge is used, the concentration derived from the representative sample or process knowledge must be reasonably representative of the hydrogen sulfide concentration within the well, facility or operation.

(b) The tests used to make the determination referred to in the previous subparagraph shall be conducted in accordance with applicable ASTM or GPA standards or by another method approved by the division.

(c) If a test was conducted prior to the effective date of this section that otherwise meets the requirements of the previous subparagraphs, new testing shall not be required.

(d) If any change or alteration may materially increase the concentration of hydrogen sulfide in a well, facility or operation, a new determination shall be required in accordance with this section.

(2) Concentrations Determined to be Below 100 ppm. If the concentration of hydrogen sulfide in a given well, facility or operation is less than 100 ppm, no further actions shall be required pursuant to this section.

(3) Concentrations Determined to be Above 100 ppm.

(a) If the concentration of hydrogen sulfide in a given well, facility or operation is determined to be 100 ppm or greater, then the person, operator or facility must calculate the radius of exposure and comply with applicable requirements of this section.

(b) If calculation of the radius of exposure reveals that a potentially hazardous volume is present, the results of the determination of the hydrogen sulfide concentration and the calculation of the radius of exposure shall be provided to the division. For a well, facility or operation existing on the effective date of this section, the determination, calculation and submission required herein shall be accomplished within 180 days of the effective date of this section; for any well, facility or operation that commences operations after the effective date of this section, the determination, calculation and submission required herein shall be accomplished before operations begin.

(4) Recalculation. The person, operator or facility shall calculate the radius of exposure if the hydrogen sulfide concentration in a well, facility or operation increases to 100 ppm or greater. The person, operator or facility shall also recalculate the radius of exposure if the actual volume fraction of hydrogen sulfide increases by a factor of twenty-five percent in a well, facility or operation that previously had a hydrogen sulfide concentration of 100 ppm or greater. If calculation or recalculation of the radius of exposure reveals that a potentially hazardous volume is present, the results shall be provided to the division within sixty (60) days.

D. Hydrogen Sulfide Contingency Plan.

(1) When Required. If a well, facility or operation involves a potentially hazardous volume of hydrogen sulfide, a hydrogen sulfide contingency plan that will be used to alert and protect the public must be developed in accordance with the following paragraphs.

(2) Plan Contents.

(a) **API Guidelines.** The hydrogen sulfide contingency plan shall be developed with due consideration of paragraph 7.6 of the guidelines published by the API in its publication entitled

“Recommended Practices for Oil and Gas Producing and Gas Processing Plant Operations Involving Hydrogen Sulfide,” RP-55, most recent edition, or with due consideration to another standard approved by the division.

(b) Required Contents. The hydrogen sulfide contingency plan shall contain, but shall not be limited to, information on the following subjects, as appropriate to the well, facility or operation to which it applies:

(i) Emergency procedures. The hydrogen sulfide contingency plan shall contain information on emergency procedures to be followed in the event of a release and shall include, at a minimum, information concerning the responsibilities and duties of personnel during the emergency, an immediate action plan as described in the API document referenced in the previous subparagraph, and telephone numbers of emergency responders, public agencies, local government and other appropriate public authorities. The plan shall also include the locations of potentially affected public areas and public roads and shall describe proposed evacuation routes, locations of any road blocks and procedures for notifying the public, either through direct telephone notification using telephone number lists or by means of mass notification and reaction plans. The plan shall include information on the availability and location of necessary safety equipment and supplies.

(ii) Characteristics of hydrogen sulfide and sulfur dioxide. The hydrogen sulfide contingency plan shall include a discussion of the characteristics of hydrogen sulfide and sulfur dioxide.

(iii) Maps and drawings. The hydrogen sulfide contingency plan shall include maps and drawings that depict the area of exposure and public areas and public roads within the area of exposure.

(iv) Training and Drills. The hydrogen sulfide contingency plan shall provide for training and drills, including training in the responsibilities and duties of essential personnel and periodic on-site or classroom drills or exercises that simulate a release, and shall describe how the training, drills and attendance will be documented. The hydrogen sulfide contingency plan shall also provide for training of residents as appropriate on the proper protective measures to be taken in the event of a release, and shall provide for briefing of public officials on issues such as evacuation or shelter-in-place plans.

(v) Coordination with State Emergency Plans. The hydrogen sulfide contingency plan shall describe how emergency response actions under the plan will be coordinated with the division and with the New Mexico state police consistent with the New Mexico hazardous materials emergency response plan (HMER).

(vi) Activation Levels. The hydrogen sulfide contingency plan shall include the activation level and a description of events that could lead to a release of hydrogen sulfide sufficient to create a concentration in excess of the activation level.

(3) Plan Activation. The hydrogen sulfide contingency plan shall be activated when a release creates a concentration of hydrogen sulfide greater than the activation level set forth in the hydrogen sulfide contingency plan. At a minimum, the plan must be activated whenever a release may create a concentration of hydrogen sulfide of more than 100 ppm in any public area, 500 ppm at any public road or 100 ppm 3,000 feet from the site of release.

(4) Submission.

(a) Where Submitted. The hydrogen sulfide contingency plan shall be submitted to the division.

(b) When Submitted. A hydrogen sulfide contingency plan for a well, facility or operation existing on the effective date of this section shall be submitted within one year of the effective date of this section. A hydrogen sulfide contingency plan for a new well, facility or operation shall be submitted before operations commence. The hydrogen sulfide contingency plan for a drilling, completion, workover or well servicing operation must be on file with the division before operations commence and may be submitted separately or along with the application for permit to drill (APD) or

may be on file from a previous submission. A hydrogen sulfide contingency plan shall also be submitted within 180 days after the person, operator or facility becomes aware or should have become aware that a public area or public road is established that creates a potentially hazardous volume where none previously existed.

(c) **Electronic Submission.** Any filer who operates more than one hundred wells or who operates a crude oil pump station, compressor station, refinery or gas plant must submit each hydrogen sulfide contingency plan in electronic format. The hydrogen sulfide contingency plan may be submitted through electronic mail, through an Internet filing or by delivering electronic media to the division, so long as the electronic submission is compatible with the division's systems.

(5) **Failure to Submit Plan.** Failure to submit a hydrogen sulfide contingency plan when required may result in denial of an application for permit to drill, cancellation of an allowable for the subject well or other enforcement action appropriate to the well, facility or operation.

(6) **Review, Amendment.** The person, operator or facility shall review the hydrogen sulfide contingency plan any time a subject addressed in the plan materially changes and make appropriate amendments. If the division determines that a hydrogen sulfide contingency plan is inadequate to protect public safety, the division may require the person, operator or facility to add provisions to the plan or amend the plan as necessary to protect public safety.

(7) **Retention and Inspection.** The hydrogen sulfide contingency plan shall be reasonably accessible in the event of a release, maintained on file at all times, and available for inspection by the division.

(8) **Annual Inventory of Contingency Plans.** On an annual basis, each person, operator or facility required to prepare one or more hydrogen sulfide contingency plans pursuant to this section shall file with the appropriate local emergency planning committee and the state emergency response commission an inventory of the wells, facilities and operations for which plans are on file with the division and the name, address and telephone number of a point of contact.

(9) **Plans Required by Other Jurisdictions.** A hydrogen sulfide contingency plan required by the Bureau of Land Management or other jurisdiction that meets the requirements of this subsection may be submitted to the division in satisfaction of this subsection.

E. Signage, Markers. For each well, facility or operation involving a concentration of hydrogen sulfide of 100 ppm or greater, signs and/or markers shall be installed and maintained. Each sign or marker shall conform with the current ANSI standard Z535.1-2002 ("Safety Color Code"), or some other standard approved by the division, shall be readily readable, and shall contain the words "poison gas" and other information sufficient to warn the public that a potential danger exists. Signs or markers shall be prominently posted at locations, including but not limited to entrance points and road crossings, sufficient to alert the public that a potential danger exists. Signs and/or markers that conform with this subsection shall be installed no later than one year from the effective date of this section.

F. Protection from Hydrogen Sulfide During Drilling, Completion, Workover, and Well Servicing Operations.

(1) **API Standards.** All drilling, completion, workover and well servicing operations involving a hydrogen sulfide concentration of 100 ppm or greater shall be conducted with due consideration to the guidelines published by the API entitled "Recommended Practice for Oil and Gas Well Servicing and Workover Operations Involving Hydrogen Sulfide," RP-68, and "Recommended Practices for Drilling and Well Servicing Operations Involving Wells Containing Hydrogen Sulfide," RP-49, most recent editions, or some other standard approved by the division.

(2) **Detection and Monitoring Equipment.** Drilling, completion, workover and well servicing operations involving a hydrogen sulfide concentration of 100 ppm or greater shall include hydrogen sulfide detection and monitoring equipment as follows:

(a) Each drilling and completion site shall have an accurate and precise hydrogen sulfide detection and monitoring system that will automatically activate visible and audible alarms when the ambient air concentration of hydrogen sulfide reaches a predetermined value set by the operator, not

to exceed 20 ppm. There shall be a sensing point located at the shale shaker, rig floor and bell nipple for a drilling site and the cellar, rig floor and circulating tanks or shale shaker for a completion site.

(b) For workover and well servicing operations, one operational sensing point shall be located as close to the well bore as practical. Additional sensing points may be necessary for large or long-term operations.

(c) Hydrogen sulfide detection and monitoring equipment must be provided and must be made operational during drilling when drilling is within 500 feet of a zone anticipated to contain hydrogen sulfide and continuously thereafter through all subsequent drilling.

(3) Wind Indicators. All drilling, completion, workover and well servicing operations involving a hydrogen sulfide concentration of 100 ppm or greater shall include wind indicators. Equipment to indicate wind direction shall be present and visible at all times. At least two devices to indicate wind direction shall be installed at separate elevations and visible from all principal working areas at all times. When a sustained concentration of hydrogen sulfide is detected in excess of 20 ppm at any detection point, red flags shall be displayed.

(4) Flare System. For drilling and completion operations in an area where it is reasonably expected that a potentially hazardous volume of hydrogen sulfide will be encountered, the person, operator or facility shall install a flare system to safely gather and burn hydrogen-sulfide-bearing gas. Flare outlets shall be located at least 150 feet from the well bore. Flare lines shall be as straight as practical. The flare system shall be equipped with a suitable and safe means of ignition. Where noncombustible gas is to be flared, the system shall provide supplemental fuel to maintain ignition.

(5) Well Control Equipment. When the 100 ppm radius of exposure includes a public area, the following well control equipment shall be required:

(a) Drilling. A remote-controlled well control system shall be installed and operational at all times beginning when drilling is within 500 feet of the formation believed to contain hydrogen sulfide and continuously thereafter during drilling. The well control system must include, at a minimum, a pressure and hydrogen-sulfide-rated well control choke and kill system including manifold and blowout preventer that meets or exceeds the specifications API-16C and API-RP 53 or other specifications approved by the division. Mud-gas separators shall be used. These systems shall be tested and maintained pursuant to the specifications referenced, according to the requirements of this part, or otherwise as approved by the division.

(b) Completion, Workover and Well Servicing. A remote controlled pressure and hydrogen-sulfide-rated well control system that meets or exceeds API specifications or other specifications approved by the division shall be installed and shall be operational at all times during completion, workover and servicing of a well.

(6) Mud Program. All drilling, completion, workover and well servicing operations involving a hydrogen sulfide concentration of 100 ppm or greater shall use a hydrogen sulfide mud program capable of handling hydrogen sulfide conditions and well control, including de-gassing.

(7) Well Testing. Except with prior approval of the division, drill-stem testing of a zone that contains hydrogen sulfide in a concentration of 100 ppm or greater shall be conducted only during daylight hours and formation fluids shall not be permitted to flow to the surface.

(8) If Hydrogen Sulfide Encountered During Operations. If hydrogen sulfide was not anticipated at the time the division issued a permit to drill but is encountered during drilling in a concentration of 100 ppm or greater, the operator must satisfy the requirements of this section before continuing drilling operations. The operator shall notify the division of the event and the mitigating steps that have been or are being taken as soon as possible, but no later than 24 hours following discovery. The division may grant verbal approval to continue drilling operations pending preparation of any required hydrogen sulfide contingency plan.

G. Protection from Hydrogen Sulfide at Crude Oil Pump Stations, Producing Wells, Tank Batteries and Associated Production Facilities, Pipelines, Refineries, Gas Plants and Compressor Stations.

(1) API Standards. Operations at crude oil pump stations and producing wells, tank

batteries and associated production facilities, refineries, gas plants and compressor stations involving a concentration of hydrogen sulfide of 100 ppm or greater shall be conducted with due consideration to the guidelines published by the API in its publication entitled "Recommended Practices for Oil and Gas Producing and Gas Processing Plant Operations Involving Hydrogen Sulfide," RP-55, latest edition or some other standard approved by the division.

(2) Security. Well sites and other unattended, fixed surface facilities involving a concentration of hydrogen sulfide of 100 ppm or greater shall be protected from public access by fencing with locking gates when the location is within 1/4 mile of a public area. A surface pipeline shall not be considered a fixed surface facility for purposes of this paragraph.

(3) Wind Direction Indicators. All crude oil pump stations, producing wells, tank batteries and associated production facilities, pipelines, refineries, gas plants and compressor stations involving a concentration of hydrogen sulfide of 100 ppm or greater shall have equipment to indicate wind direction. The wind direction equipment shall be installed and visible from all principal working areas at all times.

(4) Control Equipment. When the 100 ppm radius of exposure includes a public area, the following additional measures are required:

(a) Safety devices, such as automatic shut-down devices, shall be installed and maintained in good operating condition to prevent the escape of hydrogen sulfide. Alternatively, safety procedures shall be established to achieve the same purpose.

(b) Any well shall possess a secondary means of immediate well control through the use of an appropriate christmas tree or downhole completion equipment. Such equipment shall allow downhole accessibility (reentry) under pressure for permanent well control.

(5) Tanks or vessels. Each stair or ladder leading to the top of any tank or vessel containing 300 ppm or more of hydrogen sulfide in the gaseous mixture shall be chained or marked to restrict entry.

(6) Compliance Schedule. Each existing crude oil pump station, producing well, tank battery and associated production facility, pipeline, refinery, gas plant and compressor station not currently meeting the requirements of this subsection shall be brought into compliance within one year of the effective date of this section.

H. Personnel Protection and Training. All persons responsible for the implementation of any hydrogen sulfide contingency plan shall be provided training in hydrogen sulfide hazards, detection, personal protection and contingency procedures.

I. Standards for Equipment That May Be Exposed to Hydrogen Sulfide. Whenever a well, facility or operation involves a potentially hazardous volume of hydrogen sulfide, equipment shall be selected with consideration for both the hydrogen sulfide working environment and anticipated stresses and NACE Standard MR0175 (latest edition) or some other standard approved by the division shall be used for selection of metallic equipment or, if applicable, adequate protection by chemical inhibition or other methods that control or limit the corrosive effects of hydrogen sulfide shall be used.

J. Exemptions. Any person, operator or facility may petition the director or the director's designee for an exemption to any requirement of this section. Any such petition shall provide specific information as to the circumstances that warrant approval of the exemption requested and how the public safety will be protected. The director or the director's designee, after considering all relevant factors, may approve an exemption if the circumstances warrant and so long as the public safety will be protected.

K. Notification of the Division. The person, operator or facility shall notify the division upon a release of hydrogen sulfide requiring activation of the hydrogen sulfide contingency plan as soon as possible, but no more than four hours after plan activation, recognizing that a prompt response should supercede notification. The person, operator or facility shall submit a full report of the incident to the division on Form C-141 no later than fifteen (15) days following the release.

[5-22-73...1-1-87...2-1-96; A 3-15-97; 19.15.3.118 NMAC - Rn, 19 NMAC 15.C.118, 11-15-2001; A, 01-31-03]

History of 19.15.3 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

- Rule 101, Plugging Bond, filed 06-04-86;
- Rule 101, Plugging Bond, filed 01-06-88;
- Rule 101, Plugging Bond, filed 02-05-91;
- Rule 102, Notice of Intention to Drill, filed 01-08-82;
- Rule 102, Notice of Intention to Drill, filed 11-25-85;
- Rule 102, Notice of Intention to Drill, filed 02-05-91;
- Rule 103, Sign on Wells, filed 01-08-82;
- Rule 103, Sign on Wells, filed 02-05-91;
- Rule 104, Well Spacing: Acreage Requirements for Drilling Tracts, filed 01-08-82;
- Rule 104, Well Spacing: Acreage Requirements for Drilling Tracts, filed 02-05-91;
- Rule 105, Pit for Clay, Shale, and Drill Cutting, filed 01-08-82;
- Rule 105, Pit for Clay, Shale, and Drill Cutting, filed 08-17-89;
- Rule 105, Pit for Clay, Shale, and Drill Cutting, filed 02-05-91;
- Rule 106, Sealing Off Strata, filed 01-08-82;
- Rule 106, Sealing Off Strata, filed 10-11-89;
- Rule 106, Sealing Off Strata, filed 02-05-91;
- Rule 107, Casing and Tubing Requirements, filed 01-08-82;
- Rule 107, Casing and Tubing Requirements, filed 02-05-91;
- Rule 108, Defective Casing or Cementing, filed 01-08-82;
- Rule 108, Defective Casing or Cementing, filed 09-16-85;
- Rule 108, Defective Casing or Cementing, filed 02-05-91;
- Rule 109, Blowout Prevention, filed 01-27-82;
- Rule 109, Blowout Prevention, filed 02-05-91;
- Rule 110, Pulling Outside Strings of Casing, filed 01-27-82;
- Rule 110, Pulling Outside Strings of Casing, filed 02-05-91;
- Rule 111, Deviation Tests and Directional Drilling, filed 01-08-82;
- Rule 111, Deviation Tests and Directional Drilling, filed 09-16-85;
- Rule 111, Deviation Tests and Directional Drilling, filed 10-11-89;
- Rule 111, Deviation Tests and Directional Drilling, filed 02-05-91;
- Rule 111, Deviation Tests/Deviated Wells and Directional Drilling, filed 07-27-95;
- Rule 112-A, Multiple Completions, filed 01-08-82;
- Rule 112-A, Multiple Completions, filed 02-05-91;
- Rule 112-B, Brandenhead Gas Wells, filed 01-08-82;
- Rule 112-B, Brandenhead Gas Wells, filed 02-05-91;
- Rule 113, Shooting and Chemical Treatment of Wells, filed 01-08-82;
- Rule 113, Shooting and Chemical Treatment of Wells, filed 09-16-85.
- Rule 113, Shooting and Chemical Treatment of Wells, filed 02-05-91.
- Rule 114, Safety Regulations, filed 01-08-82;
- Rule 114, Safety Regulations, filed 02-05-91.
- Rule 115, Well and Lease Equipment, filed 01-08-82;
- Rule 115, Well and Lease Equipment, filed 02-05-91.
- Rule 116, Notification of Fire, Breaks, Leaks, Spills, and Blowouts, filed 01-08-82;
- Rule 116, Notification of Fire, Breaks, Leaks, Spills, and Blowouts, filed 02-05-91;
- Rule 117, Well Log, Completion and Workover Reports, filed 01-08-82;
- Rule 117, Well Log, Completion and Workover Reports, filed 10-11-89;

Rule 117, Well Log, Completion and Workover Reports, filed 02-05-91;
Rule 118, Hydrogen Sulfide Gas - Public Safety, filed 12-30-86;
Rule 118, Hydrogen Sulfide Gas - Public Safety, filed 10-11-89;
Rule 118, Hydrogen Sulfide Gas - Public Safety, filed 02-05-91.

History of Repealed Material: [Reserved]

Other History:

Rule 101, filed 02-05-91; Rule 102, filed 02-05-91; Rule 103, filed 02-05-91; Rule 104, filed 02-05-91;
Rule 105, filed 02-05-91; Rule 106, filed 02-05-91; Rule 107, filed 02-05-91; Rule 108, filed 02-05-91;
Rule 109, filed 02-05-91; Rule 110, filed 02-05-91; Rule 111, filed 07-27-95; Rule 112-A, filed 02-05-91;
Rule 112-B, filed 02-05-91; Rule 113, filed 02-05-91; Rule 114, filed 02-05-91; Rule 115, filed 02-05-91;
Rule 116, filed 02-05-91; Rule 117, filed 02-05-91; Rule 118, filed 02-05-91; all renumbered, reformatted
to and replaced by 19 NMAC 15.C, Drilling, filed 01-18-96.
19 NMAC 15.C, Drilling, filed 01-18-96; renumbered, reformatted and replaced by 19.15.3 NMAC,
effective 11-15-01.

TITLE 19 NATURAL RESOURCES & WILDLIFE
CHAPTER 15 OIL AND GAS
PART 4 PLUGGING AND ABANDONMENT OF WELLS

19.15.4.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil
Conservation Division, 2040 S. Pacheco, Santa Fe, New Mexico 87505 (505) 827-7131.
[2-1-96; 19.15.4.1 NMAC - Rn, 19 NMAC 15.D.1, 12-14-01]

19.15.4.2 SCOPE: All persons/entities engaged in oil and gas development and production within
New Mexico.
[2-1-96; 19.15.4.2 NMAC - Rn, 19 NMAC 15.D.2, 12-14-01]

19.15.4.3 STATUTORY AUTHORITY: Sections 70-2-1 through 70-2-38 NMSA 1978 sets forth
the Oil and Gas Act which grants the Oil Conservation Division jurisdiction and authority over all matters
relating to the conservation of oil and gas, the prevention of waste of oil and gas and of potash as a result
of oil and gas operations, the protection of correlative rights, and the disposition of wastes resulting from
oil and gas operations.
[2-1-96; 19.15.4.3 NMAC - Rn, 19 NMAC 15.D.3, 12-14-01]

19.15.4.4 DURATION: Permanent.
[2-1-96; 19.15.4.4 NMAC - Rn, 19 NMAC 15.D.4, 12-14-01]

19.15.4.5 EFFECTIVE DATE: February 1, 1996.
[2-1-96; 19.15.4.5 NMAC - Rn, 19 NMAC 15.D.5, 12-14-01]

19.15.4.6 OBJECTIVE: To provide for the proper plugging and abandonment of wells to protect
fresh water and public health and environment pursuant to the Oil and Gas Act.
[2-1-96; 19.15.4.6 NMAC - Rn, 19 NMAC 15.D.6, 12-14-01]

19.15.4.7 DEFINITIONS: [RESERVED].

19.15.4.8-200 [RESERVED].

19.15.4.201 WELLS TO BE PROPERLY ABANDONED:

A. The operator of any well drilled for oil, gas or injection; for seismic, core or other exploration, or for a service well, whether cased or uncased, shall be responsible for the plugging thereof.

B. A well shall be either properly plugged and abandoned or temporarily abandoned in accordance with these rules within ninety (90) days after:

- (1) a sixty (60) day period following suspension of drilling operations, or
- (2) a determination that a well is no longer usable for beneficial purposes, or
- (3) a period of one (1) year in which a well has been continuously inactive.

[7-12-90...2-1-96; 19.15.4.201 NMAC - Rn, 19 NMAC 15.D.201, 12-14-01]

19.15.4.202 PLUGGING AND PERMANENT ABANDONMENT:

A. Notice of Plugging

(1) Notice of intention to plug must be filed with the Division on Form C-103, Sundry Notices and Reports on Wells, by the operator prior to the commencement of plugging operations, which notice must provide all of the information required by Rule 1103 including operator and well identification and proposed procedures for plugging said well, and in addition the operator shall provide a well-bore diagram showing the proposed plugging procedure. Twenty-four hours notice shall be given prior to commencing any plugging operations. In the case of a newly drilled dry hole, the operator may obtain verbal approval from the appropriate District Supervisor or his representative of the method of plugging and time operations are to begin. Written notice in accordance with this rule shall be filed with the Division ten (10) days after such verbal approval has been given.

B. Plugging

(1) Before any well is abandoned, it shall be plugged in a manner which will permanently confine all oil, gas and water in the separate strata in which they are originally found. This may be accomplished by using mud-laden fluid, cement and plugs singly or in combination as approved by the Division on the notice of intention to plug.

(2) The operator shall mark the exact location of plugged and abandoned wells with a steel marker not less than four inches (4") in diameter set in cement and extending at least four feet (4') above mean ground level. The operator name, lease name and well number and location, including unit letter, section, township and range, shall be welded, stamped or otherwise permanently engraved into the metal of the marker. No permanent structures preventing access to the wellhead shall be built over a plugged and abandoned well without written approval of the OCD. No plugged and abandonment marker shall be removed without the written permission of the OCD.

(3) As soon as practical but no later than one year after the completion of plugging operations, the operator shall:

- (a) fill all pits;
- (b) level the location;
- (c) remove deadmen and all other junk; and
- (d) take such other measures as are necessary or required by the Division to restore the location to a safe and clean condition.

(4) Upon completion of plugging and clean up restoration operations as required, the operator shall contact the appropriate district office to arrange for an inspection of the well and location.

(5) Below-ground plugged and abandonment markers can be used only with written permission of the OCD when an above-ground marker would interfere with agricultural endeavors. The below-ground marker shall have a steel plate welded onto the surface or conductor pipe of the abandoned well and shall be at least 3 feet below the ground surface and of sufficient size so that all the information required by Section 103 of 19.15.3 NMAC can be stenciled into the steel or welded onto the surface of the steel plate. The OCD may require a re-survey of the well location.

C. Reports

- (1) The operator shall file Form C-105, Well Completion or Recompletion Report and Log

as provided in Rule 1105.

(2) Within thirty (30) days after completing all required restoration work, the operator shall file with the Division, in triplicate, a record of the work done on Form C-103 as provided in Rule 1103.

(3) The Division shall not approve the record of plugging or release any bonds until all necessary reports have been file and the location has been inspected and approved by the Division. [1-1-50, 7-12-90...2-1-96; A, 3-31-00; 19.15.4.202 NMAC - Rn, 19 NMAC 15.D.202, 12-14-01]

19.15.4.203 TEMPORARY ABANDONMENT:

A. Wells Which May Be Temporarily Abandoned

(1) The Division may permit any well which is required to be properly abandoned under these rules but which has potential for future beneficial use for enhanced recovery or injection, and any other well for which an operator requests temporary abandonment, to be temporarily abandoned for a period of up to five (5) years. Prior to the expiration of any approved temporary abandonment the operator shall return the well to beneficial use under a plan approved by the Division, permanently plug and abandon said well or apply for a new approval to temporarily abandon the well.

B. Request For Approval And Permit

(1) Any operator seeking approval for temporary abandonment shall submit on Form C-103, Sundry Notices and Reports on Wells, a notice of intent to temporarily abandon the well describing the proposed temporary abandonment procedure to be used. No work shall be commenced until approved by the Division and the operator shall give 24 hours notice to the appropriate District office of the Division before work actually begins.

(2) No temporary abandonment shall be approved unless evidence is furnished to show that the casing of such well is mechanically sound and in such condition as to prevent:

- (a) damage to the producing zone;
- (b) migration of hydrocarbons or water;
- (c) the contamination of fresh water or other natural resources; and
- (d) the leakage of any substance at the surface.

(3) If the well fails the mechanical integrity test required herein, the well shall be plugged and abandoned in accordance with these rules or the casing problem corrected and the casing retested within ninety (90) days.

(4) Upon successful completion of the work on the temporarily abandoned well, the operator will submit a request for Temporary Abandonment to the appropriate district office on Form C-103 together with such other information as is required by Rule 1103 E.(1).

(5) The Division may require the operator to post with the Division a one-well plugging bond for the well in an amount to be determined by the Division to be satisfactory to meet the particular requirements of the well.

(6) The Division shall specify the expiration date of the permit, which shall be not more than five (5) years from the date of approval.

C. Tests Required

(1) The following methods of demonstrating casing integrity may be approved for temporarily abandoning a well:

- (a) a cast iron bridge plug will be set within one hundred (100) feet of uppermost perforations or production casing shoe and the casing loaded with inert fluid and pressure tested to 500 pounds per square inch with a pressure drop of not more than 10% for thirty (30) minutes; or
- (b) a retrievable bridge plug or packer will be run to within one hundred (100) feet of uppermost perforations or production casing shoe and the well tested to 500 pounds per square inch for thirty minutes with a pressure drop of not greater than 10% for thirty (30) minutes; or

(c) for a gas well in southeast New Mexico completed above the San Andres formation, if the operator can demonstrate that the fluid level is below the base of the salt and that a

Bradenhead test shows no casing leaks, the Division may exempt the well from the requirement for a bridge plug or packer; or

(d) a casing inspection log confirming the mechanical integrity of the production casing may be submitted.

(2) Any such test which is submitted must have been conducted within the previous twelve (12) months.

(3) The Division may approve other casing tests submitted on Form C-103 on an individual basis.

[7-12-90...7-12-90, 2-1-96; 19.15.4.203 NMAC - Rn, 19 NMAC 15.D.203, 12-14-01]

19.15.4.204 WELLS TO BE USED FOR FRESH WATER:

A. When a well to be plugged may safely be used as a fresh water well and the landowner agrees to take over said well for such purpose, the well need not be plugged above the sealing plug set below the fresh water formation.

B. The operator must comply with all other requirements contained in Section 202 of 19.15.3 NMAC regarding plugging, including surface restoration and reporting requirements.

C. Upon completion of plugging operations, the operator must file with the Division a written agreement signed by the landowner whereby the landowner agrees to assume responsibility for such well. Upon the filing of this agreement and approval by the Division of well abandonment operations, the operator shall no longer be responsible for such well, and any bonds thereon may be released.

[1-1-50...7-12-1-96; 19.15.4.204 NMAC - Rn, 19 NMAC 15.D.204, 12-14-01]

HISTORY of 19.15.4 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

Rule 201, Notice, file 1-8-82;

Rule 201, Wells to be Properly Abandoned, filed 7-10-90;

Rule 201, Wells to be Properly Abandoned, filed 2-5-91;

Rule 202, Plugging and Abandonment, 1-8-82;

Rule 202, Plugging and Permanent Abandonment, filed 7-10-90;

Rule 202, Plugging and Permanent Abandonment, filed 2-5-91;

Rule 203, Wells to be used for Fresh Water, filed 1-8-82;

Rule 203, Temporary Abandonment, filed 7-10-90;

Rule 203, Temporary Abandonment, filed 2-5-91;

Rule 204, Liability, filed 1-8-82;

Rule 204, Wells to be Used for Fresh Water, filed 7-10-90;

Rule 204, Wells to be Used for Fresh Water, filed 2-5-91.

History of the Repealed Material: [RESERVED].

Other History:

Rule 201, Wells to be Properly Abandoned, filed 2-5-91; Rule 202, Plugging and Permanent Abandonment, filed 2-5-91; Rule 203, Temporary Abandonment, filed 2-5-91; Rule 204, Wells to be Used For Fresh Water, filed 2-5-91; all renumbered, reformatted **to and replaced by** 19 NMAC 15.D, Plugging and Abandonment of Wells, filed 01-18-96.

19 NMAC 15.D, Plugging and Abandonment of Wells, filed 01-18-96; **renumbered, reformatted and replaced by** 19.15.4 NMAC, effective 12-14-01.

TITLE 19 NATURAL RESOURCES & WILDLIFE
CHAPTER 15 OIL AND GAS
PART 5 OIL PRODUCTION OPERATING PRACTICES

19.15.5.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department.
[2-1-96; 19.15.5.1 NMAC - Rn, 19 NMAC 15.E.1, 5-15-00]

19.15.5.2 SCOPE: All persons/entities engaged in oil and gas development and production within New Mexico.
[2-1-96; 19.15.5.2 NMAC - Rn, 19 NMAC 15.E.2, 5-15-00]

19.15.5.3 STATUTORY AUTHORITY: Sections 70-2-1 through 70-2-38 NMSA 1978 sets forth the Oil and Gas Act which grants the Oil Conservation Division jurisdiction and authority over all matters relating to the conservation of oil and gas, the prevention of waste of oil and gas and of potash as a result of oil and gas operations, the protection of correlative rights, and the disposition of wastes resulting from oil and gas operations.
[2-1-96; 19.15.5.3 NMAC - Rn, 19 NMAC 15.E.3, 5-15-00]

19.15.5.4 DURATION: Permanent
[2-1-96; 19.15.5.4 NMAC - Rn, 19 NMAC 15.E.4, 5-15-00]

19.15.5.5 EFFECTIVE DATE: February 1, 1996, unless a later date is cited at the end of a section.
[2-1-96; 19.15.5.5 NMAC - Rn, 19 NMAC 15.E.5, 5-15-00]

19.15.5.6 OBJECTIVE: To regulate the production of oil to enable the oil conservation division to fulfill its statutory mandates under the Oil and Gas Act.
[2-1-96; 19.15.5.6 NMAC - Rn, 19 NMAC 15.E.6, 5-15-00]

19.15.5.7 DEFINITIONS: [RESERVED]. See 19.15.1.7 NMAC.

19.15.5.8-300 [RESERVED]

19.15.5.301 GAS-OIL RATIO AND PRODUCTION TESTS:

A. Each operator shall take a gas-oil ratio test no sooner than 20 days nor later than 30 days following the completion or recompletion of each oil well, if:

- (1) the well is a wildcat, or
- (2) the well is located in a pool which is not exempt from the requirements of this rule.

Wells completed within one mile of the outer boundary of a defined oil pool producing from the same formation shall be governed by the provisions of this rule which are applicable to the pool. The results of the test shall be reported to the division on form C-116 within 10 days following completion of the test. The gas-oil ratio thus reported shall become effective for proration purposes on the first day of the calendar month following the date they are reported.

(3) Each operator shall also take an annual gas-oil ratio test of each producing oil well, located within a pool not exempted from the requirements of this rule, during a period prescribed by the division. A gas-oil ratio survey schedule shall be established by the division setting forth the period in which gas-oil ratio tests are to be taken for each pool wherein a test is required. The gas-oil ratio test shall be such test designated by the division, made by such method and means, and in such manner as the division in its discretion may prescribe from time to time.

B. The results of gas-oil ratio tests taken during survey periods shall be filed with the

division on form C-116 not later than the 10th of the month following the close of the survey period for the pool in which the well is located. The gas-oil ratios thus reported shall become effective for proration purposes on the first day of the second month following the close of the survey period. Unless form C-116 is filed within the required time limit, no further allowable will be assigned the affected well until form C-116 is filed.

C. In the case of special tests taken between regular gas-oil ratio surveys, the gas-oil ratio shall become effective for proration purposes upon the date form C-116, reporting the results of such test, is received by the division. A special test does not exempt any well from the regular survey.

D. During gas-oil ratio test, no well shall be produced at a rate exceeding top unit allowable for the pool in which it is located by more than 25 percent.

E. The director shall have the authority to exempt such pools as he may deem proper from the gas-oil ratio test requirements of this rule. Such exemption shall be by executive order directed to all operators in the pool being exempted.

F. The director shall have the authority to require annual productivity tests of all oil wells in pools exempt from gas-oil ratio tests, during a period prescribed by the division. An oil well productivity survey schedule shall be established by the division setting forth the period in which productivity tests are to be taken for each pool wherein such tests are required.

G. The results of productivity tests taken during survey periods shall be filed with the division on form C-116 (with the word "Exempt" inserted in the column normally used for reporting gas production) not later than the 10th of the month following the close of the survey period for the pool in which the well is located. Unless form C-116 is filed within the required time limit, no further allowable will be assigned the affected well until form C-116 is filed.

H. In the case of special productivity tests taken between regular test survey periods, which result in a change of allowable assigned to the well, the allowable change shall become effective upon the date the form C-116 is received by the proration department. A special test does not exempt any well from the regular survey.

I. During the productivity test, no well shall be produced at a rate exceeding top unit allowable for the pool in which it is located by more than 25 percent.

[1-1-50...2-1-96; 19.15.5.301 NMAC - Rn, 19 NMAC 15.E.301, 5-15-00]

19.15.5.302 SUBSURFACE PRESSURE TESTS:

The operator shall make a subsurface pressure test on the discovery well of any new pool hereafter discovered, and shall report the results thereof to the division within 30 days after the completion of such discovery well. On or before December 1 of each calendar year the division shall designate the months in which subsurface pressure tests shall be taken in designated pools. Included in the designated list shall be listed the required shut-in pressure time and datum of tests to be taken in each pool. In the event a newly discovered pool is not included in the division's list, the division shall issue a supplementary bottom hole pressure schedule. Tests as designated by the division shall only apply to flowing wells in each pool. This test shall be made by a person qualified by both training and experience to make such test, and with an approved subsurface pressure instrument which shall be calibrated against an approved dead-weight tester at intervals frequent enough to ensure its accuracy within one percent. Unless otherwise designated by the division all wells shall remain completely shut in for at least 24 hours prior to the test. In the event a definite datum is not established by the division the subsurface determination shall be obtained as close as possible to the mid-point of the productive sand of the reservoir. The report shall be on form C-124 and shall state the name of the pool, the pool datum (if established), the name of the operator and lease, the well number, the wellhead elevation above sea level, the date of the test, the total time the well was shut in prior to the test, the subsurface temperature in degrees fahrenheit at the test depth, the depth in feet at which the subsurface pressure test was made, the observed pressure in pounds per square inch gauge (corrected for calibration and temperature), the corrected pressure computed from applying to the observed pressure the appropriate correction for difference in test depth and reservoir datum plane and

any other information as required by form C-124.

[1-1-50...2-1-96; 19.15.5.302 NMAC - Rn, 19 NMAC 15.E.302, 5-15-00]

19.15.5.303 SEGREGATION OF PRODUCTION FROM DIFFERENT POOLS OR LEASES:

A. In general

(1) Pool segregation required - Each pool shall be produced as a single common source of supply and wells therein shall be completed, cased, maintained, and operated so as to prevent communication within the wellbore with any other pool. Oil, gas, or oil or gas produced from each pool shall at all times be segregated, and the combination commingling of production, before marketing, with production from any other pool without division approval is prohibited.

(2) Lease segregation required - Oil, gas, or oil and gas shall not be transported from a lease until it has been accurately measured or determined by other methods acceptable to the division. The production from each lease shall at all times be segregated, and the combination or commingling of production, before marketing, with production from any other lease without division approval is prohibited.

(3) Exceptions. Exceptions to Paragraphs (1) and (2) of Subsection A of 19.15.5.303 NMAC may be permitted for surface commingling, downhole commingling and off-lease storage and/or measurement pursuant to Subsections B, C and D of 19.15.5.303 NMAC, respectively. Exceptions granted by previous orders of the division remain in effect in accordance with their terms and conditions.

B. Surface commingling - oil gas or oil and gas

(1) Introduction - To prevent waste, to promote conservation and to protect correlative rights, the division shall have the authority to grant exceptions to permit the surface commingling of oil, gas or oil and gas in common facilities from two or more pools, two or more leases or combinations of pools and leases provided that:

(a) the method used to allocate the production to the various leases or pools to be commingled is approved by the division;

(b) if federal, Indian or state lands are involved, the United States bureau of land management or the commissioner of public lands for the state of New Mexico (as applicable) has been notified of the proposed commingling; and

(c) all other applicable requirements set out in Subsection B of 19.15.5.303 NMAC are met.

(2) Definitions - For purposes of Section 303 of 19.15.5 NMAC only, the following definitions shall apply:

(a) Lease. "Lease" means a contiguous geographical area of identical ownership overlying a pool or portion of a pool. An area pooled, unitized or communitized, either by agreement or by division order, or a participating area shall constitute a lease. If there is any diversity of ownership between different pools, or between different zones or strata, then each such pool, zone or stratum having such diverse ownership shall be considered a separate lease.

(b) Diverse ownership. "Diverse Ownership" exists if leases or pools have any different working, royalty or overriding royalty interest owners or any different ownership percentages of the same working, royalty or overriding royalty interest owners.

(c) Identical ownership. "Identical Ownership" exists if leases or pools have all the same working, royalty and overriding royalty owners in exactly the same percentages.

(3) Specific requirements and provisions for commingling of leases, pools or leases and pools with identical ownership.

(a) Measurement and allocation methods.

(i) Well test method - If all wells or units to be commingled are marginal and are physically incapable of producing the top unit allowable for their respective pools, or if all affected pools are unprorated, commingling shall be permitted without separately measuring the production from each pool or lease. Instead, the production from each well and from each pool or lease may be

determined from well tests conducted periodically, but no less than annually. The well test method shall not apply to wells or units that can produce an amount of oil equal to the top unit allowable for the pool but are restricted because of high gas-oil ratios. The operator of any such marginal commingling installation shall notify the division at any time any well or unit so commingled under this subsection becomes capable of producing the top unit allowable for its pool, at which time the division shall require separate measurement.

(ii) Metering method - Production from each pool or lease may be determined by separately metering before commingling.

(iii) Subtraction method - If production from all except one of the pools or leases to be commingled is separately measured, the production from the remaining pool or lease may be determined by the subtraction method as follows: For oil, the net production from the unmetered pool or lease shall be the difference between the net pipeline runs with the beginning and ending stock adjustments and the sum of the net production of all metered pools or leases. For gas, the net production from the unmetered pool or lease shall be the difference between the volume recorded at the sales meter and the sum of the volumes recorded at the individual pool or lease meters.

(iv) Top allowable producers - If any well or unit in a prorated pool to be commingled can physically be produced at top unit allowable rates (even if restricted because of high gas-oil ratios), commingling may be permitted only if the production from such unit is metered prior to commingling, or determined by the subtraction method.

(v) Alternative methods - Production from each pool or lease to be commingled may also be determined by any other method specifically approved by the division prior to commingling. The division shall determine what evidence is necessary to support any request to use an alternative method.

(b) Approval process. Prior to commingling, the applicant shall notify the division by filing form C-103 (sundry notices and reports on wells) in the Santa Fe office with the following information set forth therein or attached thereto:

(i) Identification of each of the leases, pools or leases and pools to be commingled;

(ii) The method of allocation to be used. If the well test method is proposed for production from a prorated pool, the notification to the division shall be accompanied by a tabulation of production showing that the average daily production of any affected proration unit over a 60-day period has been below the top unit allowable for the subject pool (or for any newly drilled well without a 60-day production history, a tabulation of the available production) or other evidence acceptable to the division to establish that the well or wells on such unit are not capable of producing the top unit allowable. If the proposed method of allocation is other than an approved method provided in this section, the operator shall submit evidence of the reliability of such method;

(iii) A certification by a licensed attorney or qualified petroleum landman that the ownership in all pools and leases to be commingled is identical as defined in this section; and

(iv) Evidence of notice to the state land office and/or the United States bureau of land management, if required. Commingling may be authorized without any notice or hearing and may be commenced upon approval of form C-103 by the division, subject to compliance with any conditions of such approval noted by the division; provided however that commingling involving any state, federal or tribal leases shall not be commenced unless or until approved by the state land office or the United States bureau of land management, as applicable.

(4) Specific requirements and provisions for commingling of leases, pools or leases and pools with diverse ownership.

(a) Measurement and allocation methods. Where there is diversity of ownership between two or more leases, two or more pools, or between different pools and leases, the surface commingling of production therefrom shall be permitted only if production from each of such pools or leases is accurately metered, or determined by other methods specifically approved by the division, prior

to such commingling.

(b) Meter proving and calibration frequencies.

(i) Oil. Each meter used in oil production accounting shall be tested for accuracy as follows: monthly, if more than 100,000 barrels of oil per month are measured through the meter; quarterly, if between 10,000 and 100,000 barrels of oil per month are measured through the meter; and semi-annually, if less than 10,000 barrels of oil per month are measured through the meter.

(ii) Gas. For each gas sales and allocation meter, the accuracy of the metering equipment at the point of delivery or allocation shall be tested following the initial installation and following repair and retested: quarterly, if 100 thousand cubic feet of gas per day ("Mcfgpd") or more are measured through the meter; and semi-annually, if less than 100 Mcfgpd are measured through the meter.

(iii) Correction and adjustment. If a meter proving and calibration test reveals inaccuracy in the metering equipment of more than two percent (2%), the volume measured shall be corrected and the meter adjusted to zero error. The operator shall submit a corrected report adjusting the volume of oil or gas measured and showing all calculations made in correcting the volumes. The volumes shall be corrected back to the time the inaccuracy occurred, if known. If the time is unknown, the volumes shall be corrected for the last half of the period elapsed since the date of the last calibration. If a test reveals an inaccuracy of less than 2%, the meter shall be adjusted, but correction of prior production shall not be required.

(c) Low production gas wells. For gas wells producing less than 15 Mcfgpd, estimation of production is an acceptable alternative to individual well measurement provided that commingling of production from different pools or leases does not take place unless otherwise authorized pursuant to Section 303 of 19.15.5 NMAC.

(d) Approval process.

(i) In general. Where there is diversity of ownership, the division may grant an exception to the requirements of Subsection A of 19.15.5.303 NMAC to permit surface commingling of production from different leases, pools or leases and pools only after notice and an opportunity for hearing as provided in Subparagraph (d) of Paragraph (4) of Subsection B of 19.15.5.303 NMAC.

(ii) Application. An application for administrative approval shall be submitted to the division's Santa Fe office on form C-107-B and shall contain a list of all parties (hereinafter called "interest owners") owning any interest in any of the production to be commingled (including owners of royalty and overriding royalty interests whether or not they have a right or option to take their interests in kind) and a method of allocating production to ensure the protection of correlative rights.

(iii) Notice. Notice shall be given to all interest owners in accordance with Subsection A of 19.15.14.1207 NMAC. The applicant shall submit a statement attesting that applicant, on or before the date the application was submitted to the division, sent notification to each of the interest owners by submitting a copy of the application and all attachments thereto, by certified mail, return receipt requested, and advising them that any objection must be filed in writing with the Santa Fe office of the division within 20 days from the date the division received the application. The division may approve the application administratively, without hearing, upon receipt of written waivers from all interest owners, or if no such owner has filed an objection within the 20-day period. If any objection is received, the application shall be set for hearing. Notice of the hearing shall be given to the applicant, to any party who has filed an objection, and to such other parties as the division shall direct.

(iv) Hearing ordered by the division. The division may set for hearing any application for administrative approval of surface commingling, and, in such case, notice of such hearing shall be given in such manner as the division shall direct.

(v) Notice by publication. When an applicant has been unable to locate all interest owners after exercising reasonable diligence, notice shall be provided by publication, and proof of publication shall be submitted with the application. Such proof shall consist of a copy of the legal

advertisement that was published in a newspaper of general circulation in the county or counties in which the commingled production is located. The contents of such advertisement shall include (a) the name, address, telephone number, and contact party for the applicant, (b) the location by section, township and range of the leases from which production will be commingled and the location of the commingling facility; (c) the source of all commingled production by pool name, and (d) a notation that interested parties must file objections or requests for hearing in writing with the oil conservation division's Santa Fe office, within 20 days after publication, or the division may approve the application.

(vi) Effect of protest. All protests and requests for hearing received by the division shall be included in the case file; provided however, the protest will not be considered by the division as evidence. If the protesting party does not appear at the hearing, the application may be granted without the division receiving additional evidence in support thereof.

(vii) Additions. A surface commingling order may authorize, prospectively, the inclusion therein of additional pools and/or leases within defined parameters set forth in the order, provided that (a) the notice to the interest owners has included a statement that authorization for subsequent additions is being sought and of the parameters for such additions proposed by the applicant, and (b) the division finds that subsequent additions within defined parameters will not, in reasonable probability, reduce the value of the commingled production or otherwise adversely affect the interest owners. A subsequent application to amend an order to add to the commingled production other leases, pools or leases and pools that are within the defined parameters shall require notice only to the owners of interests in the production to be added, unless the division otherwise directs.

(viii) State, federal or tribal lands. Notwithstanding the issuance of an exception under Subsection B of 19.15.5.303 NMAC, no commingling involving any state, federal or tribal leases shall be commenced unless or until approved by the state land office or the United States bureau of land management, as applicable.

C. Downhole commingling

(1) The director may grant an exception to Subsection A of 19.15.303 NMAC to permit the commingling of multiple producing pools in existing or proposed wellbores when the following conditions are met:

(a) the fluids from each pool are compatible and combining the fluids will not result in damage to any of the pools;

(b) the commingling will not jeopardize the efficiency of present or future secondary recovery operations in any of the pools to be commingled;

(c) the bottom perforation of the lower zone is within 150% of the depth of the top perforation in the upper zone and the lower zone is at or below normal pressure with normal pressure assumed to be 0.433 psi per foot of depth. If the pools to be commingled are not within this vertical interval, then evidence will be required to demonstrate that commingling will not result in shut-in or flowing wellbore pressures in excess of the fracture parting pressure of any commingled pool. The fracture parting pressure shall be assumed to be 0.65 psi per foot of depth unless the applicant submits other measured or calculated pressure data acceptable to the division;

(d) the commingling will not result in the permanent loss of reserves due to cross-flow in the wellbore;

(e) fluid-sensitive formations that may be subject to damage from water or other produced liquids shall be protected from contact with such liquids produced from other pools in the well;

(f) if any of the pools being commingled is prorated, or the well's production has been restricted by division order in any manner, the allocated production from each producing pool in the commingled wellbore shall not exceed the top oil or gas allowable rate for a well in that pool or rate restriction applicable to such well;

(g) the commingling will not reduce the value of the total remaining production; and

(h) correlative rights will not be violated.

(2) The director may rescind authority to commingle production in a wellbore and require

the pools to be produced separately if, in the director's opinion, waste or reservoir damage is resulting, correlative rights are being impaired or the efficiency of any secondary recovery project is being impaired, or any changes or conditions render the installation no longer eligible for downhole commingling.

(3) When the conditions set forth in Paragraph (1) of Subsection C of 19.15.5.303 NMAC are satisfied, the director may approve a request to downhole commingle production in one of the following ways:

(a) **Individual exceptions:** Applications to downhole commingle in wellbores located outside of an area subject to a downhole commingling order issued in a "reference case" and not within a pre-approved pool or area shall be filed on division form C-107-A with the division.

(i) The director may administratively approve a form C-107-A application in the absence of a valid objection filed within 20-days after receipt of the application by the division if, in the director's opinion, waste will not occur and correlative rights will not be impaired.

(ii) In those instances where the ownership or percentages between the pools to be commingled is not identical, applicant shall send a copy of form C-107-A to all interest owners in the spacing unit by certified mail (return receipt).

(iii) Applicant shall send copies of form C-107-A to the commissioner of public lands for the state of New Mexico for wells in spacing units containing state lands or the bureau of land management for wells in spacing units containing federal lands.

(iv) The director may set any administratively filed form C-107-A application for hearing.

(b) **Exceptions for wells located in pre-approved pools or areas:** Applications to downhole commingle in wellbores within pools or areas that have been established by the division as "pre-approved pools or areas" pursuant to Subparagraph (b) of Paragraph (4) of Subsection C of 19.15.5.303 NMAC shall be filed on form C-103 (sundry notice of intent) at the appropriate division district office. The supervisor of the appropriate division district office may approve the proposed downhole commingling following receipt of form C-103. In addition to the information required by form C-103, the applicant shall include:

(i) number of division order that established pre-approved pool or area;

(ii) names of pools to be commingled;

(iii) perforated intervals;

(iv) allocation method and supporting data;

(v) a statement that the commingling will not reduce the value of the total remaining production;

(vi) in those instances where the ownership or percentages between the pools to be commingled is not identical, a statement attesting that applicant sent notice to all interest owners in the spacing unit by certified mail (return receipt) of its intent to apply for downhole commingling and no objection was received within 20 days of sending this notice; and

(vii) a statement attesting that applicant sent a copy of the division form C-103 to the commissioner of public lands for the state of New Mexico for wells in spacing units containing state lands or the bureau of land management for wells in spacing units containing federal lands using sundry notice form 3160-5.

(c) **Exceptions for wells located in areas subject to a downhole commingling order issued in a "reference case":** Applications to downhole commingle in wellbores within an area subject to a division order that excepted any of the criteria required by Subsection C of 19.15.5.303 NMAC or division form C-107-A shall be filed with the supervisor of the appropriate division district office and, except for the place of filing, shall meet the requirements of the applicable order issued in that "reference case".

(4) Applications for establishing a "reference case" or for pre-approval of downhole commingling on an area-wide or pool-wide basis:

(a) **Reference cases:** If sufficient data exists for a lease, pool, formation, or geographical area to render it unnecessary to repeatedly provide such data on form C-107-A, an operator may except any of the various criteria required under Subsection C of 19.15.5.303 NMAC or set forth in form C-107-A by establishing a "reference case." The division, upon its own motion or application from an operator, may establish "reference cases" either administratively or by hearing. Upon division approval of such "reference cases" for specific criteria, subsequent form C-107-A applications to downhole commingle will be required only to cite the division order number that established such exceptions and shall not be required to submit data for those criteria. Cases involving exceptions to the specific criteria required by Subsection C of 19.15.5.303 NMAC or by division form C-107-A may be approved by the division after notice sent to all interest owners in the affected spacing units by certified mail (return receipt) and based on evidence that such approval would adequately satisfy the conditions of Paragraph (1) of Subsection C of 19.15.5.303 NMAC.

(b) **Pre-approval of downhole commingling on a pool-wide or area-wide basis:** If sufficient data exists for multiple formations or pools that have previously been commingled or are proposed to be commingled, the division, upon its own motion or application from an operator, may establish downhole commingling on a pool-wide or area-wide basis either administratively or by hearing:

(i) Applications for pre-approval shall include all of the data required by division form C-107-A, a list of the names and address of all operators in the pools, all previous orders authorizing downhole commingling for the pools or area, and a map showing the location of all wells in the pools or area and indicating those wells approved for downhole commingling.

(ii) Applications for pre-approval of downhole commingling on a pool-wide or area-wide basis may be approved by the director after notice sent to operators in the affected pools or area by certified mail (return receipt) and based on evidence that such approval would adequately satisfy the conditions of Subsection C of 19.15.5.303 NMAC.

(iii) Upon approval of certain pools or areas for downhole commingling, subsequent applications for approval to downhole commingle wells within those pools or areas may be obtained by filing a division sundry notice (form C-103) in accordance with the procedure set forth in Subparagraph (b) of Paragraph (3) of Subsection C of 19.15.5.303 NMAC.

(c) The division will maintain and continually update a list of pre-approved pools or areas as set forth in Paragraph (5) of Subsection C of 19.15.5.303 NMAC.

(5) **Pre-approved pools and areas:** Downhole commingling is hereby approved within the described pool combinations or geographical areas set forth in Exhibit "A," provided, however, that the operator shall file form C-103 (sundry notice of intent) with the appropriate division district office in accordance with the procedure set forth in Subparagraph (b) of Paragraph (3) of Subsection C of 19.15.5.303 NMAC.

Pre-approved pools or geographic areas for downhole commingling, permian basin

All Blinebry, Tubb, Drinkard, Blinebry-Tubb, Blinebry-Drinkard & Tubb-Drinkard pool combinations within the following described geographic area in Lea County:

Township 18 South, Ranges 37, 38 and 39 East;	Township 23 South, Ranges 36, 37 and 38 East;
Township 19 South, Ranges 36, 37, 38 and 39 East;	Township 24 South, Ranges 36, 37 and 38 East;
Township 20 South, Ranges 36, 37, 38 and 39 East;	Township 25 South, Ranges 36, 37 and 38 East;
Township 21 South, Ranges 36, 37 and 38 East;	Township 26 South, Ranges 36, 37 and 38 East;
Township 22 South, Ranges 36, 37 and 38 East;	

Blinebry Pools

6660 Blinebry Oil & Gas Pool (Oil)	34200 Justis-Blinebry Pool
72480 Blinebry Oil & Gas Pool (Pro Gas)	46990 Monument-Blinebry Pool

6670	West Blinebry Pool	47395	Nadine-Blinebry Pool
12411	Cline Lower Paddock-Blinebry Pool	47400	West Nadine Paddock-Blinebry Pool
29710	Hardy-Blinebry Pool	47960	Oil Center-Blinebry Pool
31700	East Hobbs-Blinebry Pool	96314	North Teague Lower Paddock-Blinebry
Assoc.			
31680	Hobbs Upper-Blinebry Pool	58300	Teague Paddock-Blinebry Pool
31650	Hobbs Lower-Blinebry Pool	59310	East Terry-Blinebry Pool
33230	House-Blinebry Pool	63780	Weir-Blinebry Pool
33225	South House-Blinebry Pool	63800	East Weir-Blinebry Pool

Tubb Pools

12440	Cline-Tubb Pool	47530	West Nadine-Tubb Pool
77120	Fowler-Tubb Pool	58910	Teague-Tubb Pool
26635	South Fowler-Tubb Pool	96315	North Teague-Tubb Associated Pool
78760	House-Tubb Pool	60240	Tubb Oil & Gas Pool (Oil)
33460	East House-Tubb Pool	86440	Tubb Oil & Gas Pool (Pro Gas)
33470	North House-Tubb Pool	87080	Warren-Tubb Pool
47090	Monument-Tubb Pool	87085	East Warren-Tubb Pool
47525	Nadine-Tubb Pool		

Drinkard Pools

7900	South Brunson Drinkard-Abo Pool	47505	West Nadine-Drinkard Pool
12430	Cline Drinkard-Abo Pool	47510	Nadine Drinkard-Abo Pool
15390	D-K Drinkard Pool	57000	Skaggs-Drinkard Pool
19190	Drinkard Pool	96768	Northwest Skaggs-Drinkard Pool
19380	South Drinkard Pool	58380	Teague-Drinkard Pool
26220	Fowler-Drinkard Pool	96313	North Teague Drinkard-Abo Pool
28390	Goodwin-Drinkard Pool	63080	Warren-Drinkard Pool
31730	Hobbs-Drinkard Pool	63120	East Warren-Drinkard Pool
33250	House-Drinkard Pool	63840	Weir-Drinkard Pool
47503	East Nadine-Drinkard Pool		

Blinebry-Tubb Pools

62965 Warren Blinebry-Tubb Oil & Gas Pool

Tubb-Drinkard Pools

18830	Dollarhide Tubb-Drinkard Pool	33600	Imperial Tubb-Drinkard Pool
29760	Hardy Tubb-Drinkard Pool	35280	Justis Tubb-Drinkard Pool
96356	North Hardy Tubb-Drinkard Pool		

Pool-Combinations, Lea County

Airstrip-Bone Spring (960) & Airstrip-Wolfcamp (970) Pools
 Baish-Wolfcamp (4480) & Maljamar-Abo (43250) Pools
 Blinebry Oil & Gas & Wantz-Abo (62700) Pools
 Blinebry Oil & Gas & South Brunson-Ellenburger (8000) Pools
 Blinebry Oil & Gas & Paddock (49210) Pools
 Cerca Lower-Wolfcamp (11800) & Cerca Upper-Pennsylvanian (11810) Pools
 Drinkard (19190) & Paddock (49210) Pools
 Drinkard (19190) & Wantz-Abo (62700) Pools
 Drinkard (19190) & Wantz-Granite Wash (62730) Pools
 Lazy J Penn (37430) & South Baum-Wolfcamp (4967) Pools
 Mesa Verde-Delaware (96191) & Mesa Verde-Bone Spring (96229) Pools
 West Red Tank-Delaware (51689) & Red Tank-Bone Spring (51683) Pools
 South Shoe Bar-Wolfcamp (56300) & South Shoe Bar Upper-Penn (56285) Pools
 Skaggs-Glorieta (57190) & Skaggs-Drinkard (57000) Pools

West Triste Draw-Delaware (59945) & South Sand Dunes Bone Spring (53805) Pools
Triste Draw-Delaware (59930) & Triste Draw-Bone Spring (96603) Pools
Tubb Oil & Gas & Paddock (49210) Pools
North Vacuum-Abo (61760) & Vacuum-Wolfcamp (62340) Pools
Vacuum-Blinebry (61850) & Vacuum-Glorieta (62160) Pools
Vacuum-Blinebry (61850) & Vacuum-Drinkard (62110) Pools
Vacuum Upper-Penn (62320) & Vacuum-Wolfcamp (62340) Pools
Wantz-Abo (62700) & Wantz-Granite Wash (62730) Pools

Pool Combinations, Eddy County

Red Lake Queen-Grayburg-San Andres (51300) & Northeast Red Lake-Glorieta Yeso (96836) Pools

Pool Combination, San Juan Basin

Basin-Dakota (71599) & Angels Peak-Gallup Associated (2170) Pools
Basin-Dakota (71599) & Armenta-Gallup (2290) Pools
Basin-Dakota (71599) & Baca-Gallup (3745) Pools
Basin-Dakota (71599) & Bisti Lower-Gallup (5890) Pools
Basin-Dakota (71599) & BS Mesa-Gallup (72920) Pools
Basin-Dakota (71599) & Calloway-Gallup (73700) Pools
Basin-Dakota (71599) & Devils Fork-Gallup Associated (17610) Pools
Basin-Dakota (71599) & Ensenada-Gallup (96321) Pools
Basin-Dakota (71599) & Flora Vista-Gallup (76640) Pools
Basin-Dakota (71599) & Gallegos-Gallup Associated (26980) Pools
Basin-Dakota (71599) & Ice Canyon-Gallup (93235) Pools
Basin-Dakota (71599) & Kutz-Gallup (36550) Pools
Basin-Dakota (71599) & Largo-Gallup (80000) Pools
Basin-Dakota (71599) & Otero-Gallup (48450) Pools
Basin-Dakota (71599) & Tapacito-Gallup Associated (58090) Pools
Basin-Dakota (71599) & Wild Horse-Gallup (87360) Pools
Basin-Dakota (71599) & Aztec-Pictured Cliffs (71280) Pools
Basin-Dakota (71599) & Ballard-Pictured Cliffs (71439) Pools
Basin-Dakota (71599) & Blanco-Pictured Cliffs (72359) Pools
Basin-Dakota (71599) & South Blanco-Pictured Cliffs (72439) Pools
Basin-Dakota (71599) & Fulcher Kutz-Pictured Cliffs (77200) Pools
Basin-Dakota (71599) & West Kutz-Pictured Cliffs (79680) Pools
Basin-Dakota (71599) & Tapacito-Pictured Cliffs (85920) Pools
Basin-Fruitland Coal (71629) & Aztec-Pictured Cliffs (71280) Pools
Basin-Fruitland Coal (71629) & Ballard-Pictured Cliffs (71439) Pools
Basin-Fruitland Coal (71629) & Blanco-Pictured Cliffs (72359) Pools
Basin-Fruitland Coal (71629) & East Blanco-Pictured Cliffs (72400) Pools
Basin-Fruitland Coal (71629) & South Blanco-Pictured Cliffs (72439) Pools
Basin-Fruitland Coal (71629) & Carracas-Pictured Cliffs (96154) Pools
Basin-Fruitland Coal (71629) & Choza Mesa-Pictured Cliffs (74960) Pools
Basin-Fruitland Coal (71629) & Fulcher Kutz-Pictured Cliffs (77200) Pools
Basin-Fruitland Coal (71629) & West Kutz-Pictured Cliffs (79680) Pools
Basin-Fruitland Coal (71629) & Gavilan-Pictured Cliffs (77360) Pools
Basin-Fruitland Coal (71629) & Gobernador-Pictured Cliffs (77440) Pools
Basin-Fruitland Coal (71629) & Huerfano-Pictured Cliffs (78840) Pools
Basin-Fruitland Coal (71629) & Potwin-Pictured Cliffs (83000) Pools
Basin-Fruitland Coal (71629) & Tapacito-Pictured Cliffs (85920) Pools
Basin-Fruitland Coal (71629) & Twin Mounds Fruitland Sand-Pictured Cliffs (86620) Pools
Basin-Fruitland Coal (71629) & W. A. W. Fruitland Sand-Pictured Cliffs (87190)

Blanco-Mesaverde (72319) & Basin-Dakota (71599) Pools
Blanco-Mesaverde (72319) & Blanco-Pictured Cliffs (72359) Pools
Blanco-Mesaverde (72319) & South Blanco-Pictured Cliffs (72439) Pools
Blanco-Mesaverde (72319) & Gobernador-Pictured Cliffs (77440) Pools
Blanco-Mesaverde (72319) & West Lindrith Gallup-Dakota (39189) Pools
Blanco-Mesaverde (72319) & Tapacito-Pictured Cliffs (85920) Pools
Blanco-Mesaverde (72319) & Armenta-Gallup (2290) Pools
Blanco-Mesaverde (72319) & BS Mesa-Gallup (72920) Pools
Blanco-Mesaverde (72319) & Calloway-Gallup (73700) Pools
Blanco-Mesaverde (72319) & Ensenada-Gallup (96321) Pools
Blanco-Mesaverde (72319) & Flora Vista-Gallup (76640) Pools
Blanco-Mesaverde (72319) & Largo-Gallup (80000) Pools
Blanco-Mesaverde (72319) & West Lindrith Gallup-Dakota (39189) Pools
Blanco-Mesaverde (72319) & McDermott Gallup (81050) Pools
Blanco-Mesaverde (72319) & Potter-Gallup (50387) Pools
Blanco-Mesaverde (72319) & Tapacito-Gallup Associated (58090) Pools
Blanco-Mesaverde (72319) & Wild Horse-Gallup (87360) Pools
Otero-Chacra (82329) & Aztec-Pictured Cliffs (71280) Pools
Otero-Chacra (82329) & Basin-Dakota (71599) Pools
Otero-Chacra (82329) & Blanco-Mesaverde (72319) Pools
Otero-Chacra (82329) & South Blanco-Pictured Cliffs (72439) Pools
Otero-Chacra (82329) & Fulcher Kutz-Pictured Cliffs (77200) Pools

D. Off-lease transportation or storage prior to measurement. The division may grant exceptions to the requirements of Subsection A of 19.15.5.303 NMAC, administratively, without hearing, to permit production from one lease to be transported prior to measurement to another lease for storage thereon when:

- (1) an application for off-lease transportation or storage prior to measurement has been filed on division form C-107-B with the Santa Fe office of the division with one copy to the appropriate district office of the division;
- (2) all such production is from the same common source of supply;
- (3) commingling of production from different leases will not result;
- (4) there will be no intercommunication of the handling, separating, treating or storage facilities designated to each lease;
- (5) all parties owning working interests in any of the production to be transported off lease prior to measurement have been notified of the application in accordance with the provisions of 19.15.N.1207.A NMAC and have consented in writing ;
- (6) in lieu of Paragraph (5), Subsection D of 19.15.5.303 NMAC, the applicant furnishes proof that said parties were notified by registered or certified mail of its intent to transport the production from one lease to another lease for storage prior to measurement, and after a period of twenty (20) days following receipt of the application, no party has filed objection to the application; and
- (7) if state, federal or Indian lands are involved, the commissioner of public lands for the state of New Mexico or the United States bureau of land management (as applicable) has been notified. The division may set for hearing any application for approval of off-lease transportation or storage prior to measurement, in which event notice of hearing shall be given, pursuant to 19.15.N.1207.A NMAC, to all owners of working interests in any of the production to be transported off lease prior to measurement, and to such other owners as the division may direct.

[1-1-50...2-1-96; 19.15.5.303 NMAC - Rn, 19 NMAC 15.E.303 & A, 5-15-00; A, 3-31-03]

19.15.5.304 CONTROL OF MULTIPLE COMPLETED WELLS:

Multiple completed wells which have been authorized by the division shall at all times be operated,

produced, and maintained in a manner to ensure the complete segregation of the various common sources of supply. The division may require such tests as it deems necessary to determine the effectiveness of segregation of the different common sources of supply.

[1-1-50...2-1-96; 19.15.5.304 NMAC - Rn, 19 NMAC 15.E.304, 5-15-00]

19.15.5.305 METERED CASINGHEAD GAS:

The owner of a lease shall not be required to measure the exact amount of casinghead gas produced and used by him for fuel purposes in the development and normal operation of the lease. All casinghead gas produced and sold or transported away from a lease, except small amounts of flare gas, shall be metered and reported in standard cubic feet monthly to the division. The amount of casinghead gas sold in small quantities for use in the field may be calculated upon a basis generally acceptable in the industry, or upon a basis approved by the division in lieu of meter measurements.

[1-1-50...2-1-96; 19.15.5.305 NMAC - Rn, 19 NMAC 15.E.305, 5-15-00]

19.15.5.306 CASINGHEAD GAS:

A. No casinghead gas produced from any well in this state shall be flared or vented after 60 days following completion of the well.

B. Any operator seeking an exception to the foregoing shall file an application therefor on division form C-129, application for exception to no-flare rule 306. Form C-129 shall be filed in triplicate with the appropriate district office of the division. The district supervisor may grant an exception when the same appears reasonably necessary to protect correlative rights, prevent waste, or prevent undue hardships on the applicant. The district supervisor shall either grant the exception within ten days after receipt of the application or refer it to the division director who will advertise the matter for public hearing if a hearing is desired by the applicant.

C. The flaring or venting by an operator of gas from any well in violation of this rule will result in suspension of the allowable assigned to the well.

D. No extraction plant processing gas in the state of New Mexico shall flare or vent such gas unless such flaring or venting is made necessary by mechanical difficulty of a very limited temporary nature or unless the gas flared or vented is of no commercial value.

E. In the event of a more prolonged mechanical difficulty or in the event of plant shut-downs or curtailment because of scheduled or non-scheduled maintenance or testing operations or other reasons, or in the event a plant is unable to accept, process, and market all of the casinghead gas produced by wells connected to its system, the plant operator shall notify the division as soon as possible of the full details of such shut-down or curtailment, following which the division shall take such action as is necessary to reduce the total flow of gas to such plant.

F. Pending connection of a well to a gas-gathering facility, or when a well has been excepted from the provisions of Paragraph A. of this rule, all gas produced and not utilized shall be burned, and the estimated volume reported on the monthly production report, form C-115.

G. The provisions of Paragraph A. of this rule shall not be applicable to wells completed prior to January 1, 1971, in pools which had no gas-gathering facilities on that date, provided however, said provisions shall be applicable to all wells in such a pool 60 days after the date of first casinghead gas connection in the pool.

[9-1-72...2-1-96; 19.15.5.306 NMAC - Rn, 19 NMAC 15.E.306, 5-15-00]

19.15.5.307 OPERATION AT BELOW ATMOSPHERIC PRESSURE:

A. A well operator may use vacuum pumps, gathering system compressors or other devices to operate a well or gathering system at below atmospheric pressure only if that operator has:

(1) executed a written agreement with the operator of the downstream gathering system or pipeline to which the well or gathering system so operated is immediately connected allowing operation of the well or gathering system at below atmospheric pressure; and

(2) filed a sundry notice in the appropriate district office of the division for each well operated at below atmospheric pressure or served by a gathering system operated at below atmospheric pressure, within ninety (90) days before beginning operation at below atmospheric pressure, notifying the division that the well or gathering system serving the well is being operated at below atmospheric pressure.

B. A gathering system operator may use vacuum pumps, gathering system compressors or other devices to operate a gathering system at below atmospheric pressure, or may accept gas originating from a well operated at below atmospheric pressure or that has been carried by any upstream gathering system operated at below atmospheric pressure, only if that operator has executed a written agreement with the operator of the downstream gathering system or pipeline to which the gathering system is immediately connected allowing delivery of gas from a well or gathering system that has been operated at below atmospheric pressure into the downstream gathering system or pipeline.

[1-1-50...2-1-96; 19.15.5.307 NMAC - Rn, 19 NMAC 15.E.307, 5-15-00; Repealed, 08/31/04; N, 08/31/04]

19.15.5.308 SALT OR SULPHUR WATER:

Operators shall report monthly on form C-115 the amount of water produced with the oil and gas from each well.

[1-1-50...2-1-96; 19.15.5.308 NMAC - Rn, 19 NMAC 15.E.308, 5-15-00]

19.15.5.309 AUTOMATIC CUSTODY TRANSFER EQUIPMENT:

A. Oil shall be received and measured in a facility of an approved design. Such facilities shall permit the testing of each well at reasonable intervals and may be comprised of manually gauged, closed stock tanks for which proper strapping tables have been prepared, or of automatic custody transfer (ACT) equipment. The use of such automatic custody transfer equipment shall be permitted only after compliance with the following: The operator shall file with the division form C-106, notice of intention to utilize automatic custody transfer equipment, and shall receive approval thereof prior to transferring oil through the ACT system. The carrier shall not accept delivery of oil through the ACT system until form C-106 has been approved.

B. Form C-106 shall be submitted in quadruplicate to the appropriate district office of the division and shall be accompanied (in quadruplicate) by the following:

(1) Plat of the lease showing thereon all wells which will be produced into the ACT system.

(2) Schematic diagram of the ACT equipment, showing thereon all major components such as surge tanks and their capacity, extra storage tanks and their capacity, transfer pumps, monitors, reroute valves, treaters, samplers, strainers, air and gas eliminators, back pressure valves, metering devices, (indicating type and capacity, i.e. whether automatic measuring tank, positive volume metering chamber, weir-type measuring vessel, or positive displacement meter). Schematic diagram shall also show means employed to prove accuracy of measuring device.

(3) Letter from transporter agreeing to utilization of ACT system as shown on schematic diagram.

C. Form C-106 will not be approved by the division unless the ACT system is to be installed and operated in compliance with the following:

(1) Provision must be made for accurate determination and recording of uncorrected volume and applicable temperature, or of temperature corrected volume. The overall accuracy of the system shall equal or surpass manual methods.

(2) Provision must be made for representative sampling of the oil transferred for determination of API gravity and BS&W content.

(3) Provision must be made if required by either the producer or the transporter of the oil to give adequate assurance that only merchantable oil is run by the ACT system.

(4) Provision must be made for set-stop counters to stop the flow of oil through the ACT system at or prior to the time the allowable has been run. All counters shall provide non-reset totalizers which shall be visible for inspection at all times.

(5) All necessary controls and equipment must be enclosed and sealed, or otherwise be so arranged as to provide assurance against, or evidence of, accidental or purposeful mismeasurement resulting from tampering.

(6) All components of the ACT system shall be properly sized to ensure operation within the range of their established ratings. All components of the system which require periodic calibration and/or inspection for proof of continued accuracy must be readily accessible. The frequency and methods of such calibration and/or inspection shall be set forth in Paragraph (12) of Subsection C of 19.15.5 NMAC.

(7) The control and recording system must include adequate fail-safe features which will provide assurance against mismeasurement in the event of power failure, or the failure of the ACT system's component parts.

(8) The ACT system and allied facilities shall include such fail-safe equipment as may be necessary, including high level switches in the surge tank or overflow storage tank which, in the event of power failure or malfunction of the ACT or other equipment, will shut down all artificially lifted wells connected to the ACT system and will shut in all flowing wells at the well-head or at the header manifold, in which latter case all flowlines shall be pressure-tested to at least 1 ½ times the maximum well-head shut-in pressure prior to initial use of the ACT system and each two years thereafter.

(9) As an alternative to the requirements of, Paragraph (8) of Subsection C of 19.15.5 NMAC the producer shall provide and shall at all times maintain a minimum of available storage capacity above the normal high working level of the surge tank to receive and hold the amount of oil which may be produced during maximum unattended time of lease operation.

(10) In all ACT systems employing automatic measuring tanks, weir-type measuring vessels, positive volume metering chambers, or any other volume measuring container, the container and allied components shall be properly calibrated prior to initial use and shall be operated, maintained, and inspected as necessary to ensure against incrustation, changes in clingage factors, valve leakage or other leakage, and improper action of floats, level detectors, etc.

(11) In all ACT systems employing positive displacement meters, the meter(s) and allied components shall be properly calibrated prior to initial use and shall be operated, maintained, and inspected as necessary to ensure against mismeasurement of oil.

(12) The measuring and recording devices of all ACT systems shall be checked for accuracy at least once each month unless exception to such determination has been obtained from the division director. API standard 1101, "measurement of petroleum liquid hydrocarbons by positive displacement meter," shall be used where applicable. Meters may be proved against master meters, portable prover tanks, or prover tanks permanently installed on the lease. If permanently installed prover tanks are used, the distance between the opening and closing levels and the provision for determining the opening and closing readings shall be sufficient to detect variations of 5/100 of one percent. Reports of determination shall be filed on the division form entitled "meter test report," or on another acceptable form and shall be submitted in duplicate to the appropriate district office of the division.

(13) To obtain exception to the requirement of Paragraph (12) of Subsection C of 19.15.5 NMAC that all measuring and recording devices be checked for accuracy once each month, either the producer or transporter may file such a request with the division director setting forth all facts pertinent to such exception. The application shall include a history of the average factors previously obtained, both tabulated and plotted on a graph of factors versus time, showing that the particular installation has experienced no erratic drift. The applicant shall also furnish evidence that the other interested party has agreed to such exception. The division director may then set the frequency for determination of the system's accuracy at the interval which he deems prudent.

D. Failure to operate an automatic custody transfer system in compliance with this rule shall

subject the approval thereof to revocation by the division.

[5-1-61...2-1-96; 19.15.5.309 NMAC - Rn, 19 NMAC 15.E.309, 5-15-00, A, 3-31-03]

19.15.5.310 TANKS, OIL TANKS, FIRE WALLS, AND TANK IDENTIFICATION:

A. Oil shall not be stored or retained in earthen reservoirs, or in open receptacles. Dikes or fire walls shall not be required except such fire walls must be erected and kept around all permanent oil tanks, or battery of tanks that are within the corporate limits of any city, town or village, or where such tanks are closer than 150 feet to any producing oil or gas well or 500 feet to any highway or inhabited dwelling or closer than 1000 feet to any school or church, or where such tanks are so located as to be deemed an objectional hazard within the discretion of the division. Where fire walls are required, fire walls shall form a reservoir having a capacity one-third larger than the capacity of the enclosed tank or tanks.

B. After August 1, 1982, all oil tanks, tank batteries, automatic custody transfer systems, tanks used for salt water collection or disposal, and tanks used for sediment oil treatment or storage shall be identified by a sign posted on or not more than 50 feet from the tank, tank battery, or system. Such signs shall be of durable construction and the lettering thereon shall be kept in a legible condition and shall be large enough to be legible under normal conditions at a distance of 50 feet and shall identify the name of the operator, the name of the lease(s) being served by the tank(s) or system, if any, and the location of such tank(s) or system by unit letter, section, township, and range.

[1-1-50...2-1-96; 19.15.5.310 NMAC - Rn, 19 NMAC 15.E.310, 5-15-00]

19.15.5.311 SEDIMENT OIL, TANK CLEANING, AND TRANSPORTATION OF MISCELLANEOUS HYDROCARBONS:

A. "Sediment oil" is defined as tank bottoms and any other accumulations of liquid hydrocarbons on an oil and gas lease, which hydrocarbons are not merchantable through normal channels.

B. No tank shall be cleaned of sediment oil nor shall sediment oil be removed from any lease without prior approval of the appropriate division district office. Authorization for tank cleaning may be received by the operator of the lease or by the company contracted or otherwise authorized to perform the tank cleaning by obtaining approval on form C-117-A (tank cleaning, sediment oil removal, transportation of miscellaneous hydrocarbons and disposal permit). No operator, contractor, or other party shall engage in the cleaning of any tank of sediment oil or the removal of sediment oil from any lease without an approved copy of form C-117-A at the site.

C. No sediment oil shall be destroyed unless and until the appropriate division district office has approved an application to destroy the same on form C-117-A (tank cleaning, sediment oil removal, transportation of miscellaneous hydrocarbons and disposal permit). Unless the authorization to destroy sediment oil is utilized within ten (10) days after approval of the form C-117-A such authorization is automatically revoked. However, the district supervisor may approve one ten (10) day extension for good cause shown.

D. Any operator, contractor, or party, other than a treating plant operator, who cleans any tank of sediment oil and removes sediment oil from any lease shall file form C-117-B (monthly sediment oil disposal statement) setting out all information required thereon.

E. A representative sample of sediment oil from any source shall be tested in a manner designed to accurately estimate the percentage of good oil expected to be recovered therefrom. Such test shall be performed prior to transport and prior to commingling with sediment oil from other leases or sources and the results recorded on the appropriate form C-117-A. The division recommends the standard centrifugal tests prescribed by API Manual of Petroleum Measurement Standards, Chapter 10, Section 4. Other test procedures may be used if such procedures reliably predict the percentage of good oil to be recovered from sediment oil.

F. All sediment oil removed from storage shall be reported on form C-115 (operator's monthly report) together with the form C-117-A (tank cleaning, sediment oil removal, transportation of

miscellaneous hydrocarbons and disposal permit) permit number.

G. “Miscellaneous hydrocarbons” are defined as tank bottoms occurring at pipeline stations, crude oil storage terminals, or refineries, pipeline break oil, catchings collected in traps, drips, or scrubbers by operators of gasoline plants in such plants or in the gathering lines serving such plants, the catchings collected in private, community, or commercial salt water disposal systems, or any other liquid hydrocarbon which is not lease crude or condensate.

H. Except in case of emergency, no miscellaneous hydrocarbons shall be delivered to a treating plant or other facility until division approval is obtained on form C-117-A (tank cleaning, sediment oil removal, transportation of miscellaneous hydrocarbons and disposal permit).

I. Whenever an emergency exists which requires delivery of miscellaneous hydrocarbons to a treating plant or other facilities prior to approval of form C-117-A, the transporter of such hydrocarbons shall notify the supervisor of the appropriate division district office of the nature and extent of such emergency on the first working day following the emergency and shall file form C-117-A within two working days following the emergency. For prolonged emergencies, the district supervisor may authorize the extended movement of miscellaneous hydrocarbons to a treating plant or other facilities during the period of the emergency and shall approve a form C-117-A filed subsequent to the conclusion of such emergency covering the entire volume of miscellaneous hydrocarbons transported.

[1-1-50...2-1-96; 19.15.5.311 NMAC - Rn, 19 NMAC 15.E.311, 5-15-00]

19.15.5.312 RESERVED: [Formerly “Treating Plants”. Repealed 7-26-95]

19.15.5.313 EMULSION, BASIC SEDIMENTS, AND TANK BOTTOMS:

Wells producing oil shall be operated in such a manner as will reduce as much as practicable the formation of emulsion and basic sediments. These substances and tank bottoms shall not be allowed to pollute fresh waters or cause surface damage.

[1-1-50...2-1-96; 19.15.5.313 NMAC - Rn, 19 NMAC 15.E.313, 5-15-00; A, 03/31/04]

19.15.5.314 GATHERING, TRANSPORTING AND SALE OF DRIP:

A. “Drip” is defined as any liquid hydrocarbon incidentally accumulating in a gas gathering or transportation system.

B. The waste of drip is hereby prohibited when it is economically feasible to salvage the same.

C. The movement and sale of drip is hereby authorized, provided the provisions of this Rule are complied with.

D. No drip shall be transported nor sold until the gas transporter has filed division form C-104 designating the drip transporter authorized to remove the drip from its gas gathering or transportation system.

E. Every person transporting drip within the state of New Mexico shall file division form C-112 each month, showing the amount, source, and disposition of all drip handled during the reporting period, and such other reports as may hereafter be required by the division.

F. Prior to commencement of operations, every person transporting drip directly from a gas gathering or transportation system shall file with the division plats drawn to scale, locating and identifying each drip trap which he is authorized to service.

G. Every person transporting drip directly from a gas gathering or transportation system shall keep a record of daily acquisitions from each drip trap which he is authorized to service, which records shall be made available at all reasonable times for inspection by the division or its authorized representatives.

H. Every gas transporter in the state of New Mexico shall, on or before the first day of November of each year, file with the division maps of its entire gas gathering and transportation systems within the state of New Mexico, locating and identifying thereon each drip trap in said systems, said maps

to be accompanied by a report, on a form prescribed by the division, showing the disposition being made of the drip from each of said drip traps.

[8-26-57...2-1-96; 19.15.5.314 NMAC - Rn, 19 NMAC 15.E.314, 5-15-00]

History of 19.15.5 NMAC:

Pre-NMAC History:

Rule 301, Gas-Oil Ratio and Production Tests, filed 1-8-82;
Rule 301, Gas-Oil Ratio and Production Tests, filed 10-11-89;
Rule 301, Gas-Oil Ratio and Production Tests, filed 2-5-91;
Rule 302, Subsurface Pressure Tests, filed 1-8-82;
Rule 302, Subsurface Pressure Tests, filed 2-5-91;
Rule 303, Segregation of Production from Pools, filed 1-8-82;
Rule 303, Amendment No. 1, Segregation of Production from Pools, filed 1-27-82;
Rule 303, Segregation of Production from Pools, filed 10-11-89;
Rule 303, Segregation of Production from Pools, filed 2-5-91;
Rule 304, Control of Multiple Completed Wells, filed 1-8-82;
Rule 304, Control of Multiple Completed Wells, filed 2-5-91;
Rule 305, Metered Casinghead Gas, filed 1-8-82;
Rule 305, Metered Casinghead Gas, filed 2-5-91;
Rule 306, Casinghead Gas, filed 1-8-82;
Rule 306, Amendment No. 1, Casinghead Gas, filed 2-23-84;
Rule 306, Casinghead Gas, filed 2-5-91;
Rule 307, Use of Vacuum Pumps, filed 1-8-82;
Rule 307, Use of Vacuum Pumps, filed 2-5-91;
Rule 308, Salt or Sulfur Water, filed 1-8-82;
Rule 308, Produced Water, filed 9-16-85;
Rule 308, Salt or Sulfur Water, filed 2-5-91;
Rule 309-A, Central Tank Batteries - Automatic Custody Transfer Equipment, filed 1-8-82;
Rule 309-A, Central Tank Batteries - Automatic Custody Transfer Equipment, filed 2-5-91;
Rule 309-B, Administrative Approval, Lease Commingling, filed 1-8-82;
Rule 309-B, Administrative Approval, Lease Commingling, filed 2-5-91;
Rule 309-C, Administrative Approval, Off-Lease Storage, filed 1-8-82;
Rule 309-C, Administrative Approval, Off-Lease Storage, filed 10-11-89;
Rule 309-C, Administrative Approval, Off-Lease Storage, filed 2-5-91;
Rule 310, Tanks, Oil Tanks, Fire Walls, and Tank Identification, filed 1-8-82;
Rule 310, Amendment No. 1, Tanks, Oil Tanks, Fire Walls, and Tank Identification, filed 1-27-82;
Rule 310, Tanks, Oil Tanks, Fire Walls, and Tank Identification, filed 2-5-91;
Rule 311, Sediment Oil, Tank Cleaning, and Transportation of Miscellaneous Hydrocarbons, filed 1-8-82;
Rule 311, Amendment No. 1, Sediment Oil, Tank Cleaning, and Transportation of Miscellaneous Hydrocarbons, filed 1-27-82;
Rule 311, Sediment Oil, Tank Cleaning, and Transportation of Miscellaneous Hydrocarbons, filed 2-5-91;
Rule 312, Treating Plants, filed 1-8-82
Rule 312, Amendment No. 1, Treating Plants, filed 1-27-82
Rule 312, Treating Plants, filed 8-20-86
Rule 312, Treating Plants, filed 8-17-89
Rule 312, Treating Plants, filed 10-11-89
Rule 312, Treating Plants, filed 7-26-95
Rule 312, Treating Plants, filed 2-5-91
Rule 313, Emulsion, Basic Sediments, and Tank Bottoms, filed 1-8-82;
Rule 313, Emulsion, Basic Sediments, and Tank Bottoms, filed 10-18-85;

Rule 313, Emulsion, Basic Sediments, and Tank Bottoms, filed 8-17-89;
Rule 313, Emulsion, Basic Sediments, and Tank Bottoms, filed 2-5-91;
Rule 314, Gathering, Transportation and Sale of Drip, filed 1-8-82;
Rule 314, Gathering, Transportation and Sale of Drip, filed 2-5-91.

History of Repealed Material: Rule 312, Treating Plants, filed 7-26-95.

Other History:

Rule 301, Gas-Oil Ratio and Production Tests, filed 2-5-91; Rule 302, Subsurface Pressure Tests, filed 2-5-91; Rule 303, Segregation of Production from Pools, filed 2-5-91; Rule 304, Control of Multiple Completed Wells, filed 2-5-91; Rule 305, Metered Casinghead Gas, filed 2-5-91; Rule 306, Casinghead Gas, filed 2-5-91; Rule 307, Use of Vacuum Pumps, filed 2-5-91; Rule 308, Salt or Sulfur Water, filed 2-5-91; Rule 309-A, Central Tank Batteries - Automatic Custody Transfer Equipment, filed 2-5-91; Rule 309-B, Administrative Approval, Lease Commingling, filed 2-5-91; Rule 309-C, Administrative Approval, Off-Lease Storage, filed 2-5-91; Rule 310, Tanks, Oil Tanks, Fire Walls, and Tank Identification, filed 2-5-91; Rule 311, Sediment Oil, Tank Cleaning, and Transportation of Miscellaneous Hydrocarbons, filed 2-5-91; Rule 313, Emulsion, Basic Sediments, and Tank Bottoms, filed 2-5-91; Rule 314, Gathering, Transportation and Sale of Drip, filed 2-5-91; all renumbered, reformatted **to and replaced by** 19 NMAC 15.E, Oil Production Operating Practices, filed 01-18-96.
19 NMAC 15.E, Oil Production Operating Practices, filed 01-18-96 renumbered, reformatted **to and replaced by** 19.15.5 NMAC, effective 5-15-00.

TITLE 19 NATURAL RESOURCES & WILDLIFE
CHAPTER 15 OIL AND GAS
PART 6 NATURAL GAS PRODUCTION OPERATING PRACTICE

19.15.6.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division, 2040 South Pacheco, Santa Fe, New Mexico 87505, (505) 827-7131.
[2-1-96; 19.15.6.1 NMAC - Rn, 19 NMAC 15.F.1, 12-14-01]

19.15.6.2 SCOPE: All persons/entities engaged in oil and gas development and production within New Mexico.
[2-1-96; 19.15.6.1 NMAC - Rn, 19 NMAC 15.F.2, 12-14-01]

19.15.6.3 STATUTORY AUTHORITY: Sections 70-2-1 through 70-2-38 NMSA 1978 sets forth the Oil and Gas Act which grants the Oil Conservation Division jurisdiction and authority over all matters relating to the conservation of oil and gas, the prevention of waste of oil and gas and of potash as a result of oil and gas operations, the protection of correlative rights, and the disposition of wastes resulting from oil and gas operations.
[2-1-96; 19.15.6.3 NMAC - Rn, 19 NMAC 15.F.3, 12-14-01]

19.15.6.4 DURATION: Permanent.
[2-1-96; 19.15.6.4 NMAC - Rn, 19 NMAC 15.F.4, 12-14-01]

19.15.6.5 EFFECTIVE DATE: February 1, 1996.
[2-1-96; 19.15.6.5 NMAC - Rn, 19 NMAC 15.F.5, 12-14-01]

19.15.6.6 OBJECTIVE: To regulate the production of natural gas to enable the Oil Conservation Division to fulfill its statutory mandates under the Oil and Gas Act.
[2-1-96; 19.15.6.6 NMAC - Rn, 19 NMAC 15.F.6, 12-14-01]

19.15.6.7 DEFINITIONS: [RESERVED].

19.15.6.8-400 [RESERVED].

19.15.6.401 METHOD OF DETERMINING NATURAL GAS WELL POTENTIAL:

A. All operators shall conduct tests to determine the daily open flow potential volumes of all natural gas wells from which gas is being used or marketed. Such tests shall be reported on forms prescribed by the division within 60 days after:

- (1) the date of initial connection of the well to a gas transportation facility; and
- (2) the date of reconnection following workover.

B. To establish comparable open flow capacity, wells shall be tested in accordance with the Oil Conservation Division "Manual for Back-Pressure Testing of Natural Gas Wells." In the event the division approves the alternate method for testing, all wells producing from a common source of supply shall be tested in a uniform and comparable manner.

C. All gas wells which are not connected to a gas gathering facility shall be tested within 30 days following the installation of a christmas tree. Tests shall be taken in accordance with the Rules of Procedure for Testing Unconnected Gas Well contained in the Oil Conservation Division "Manual for Back-Pressure Testing of Natural Gas Wells." Tests shall be reported on Form C-122 in compliance with Rule 1122 and shall be filed within 10 days following completion of the test.

[5-25-64...2-1-96; 19.15.6.401 NMAC - Rn, 19 NMAC 15.F.401, 12-14-01]

19.15.6.402 [RESERVED].

[7-15-63...2-1-96; 19.15.6.402 NMAC - Rn, 19 NMAC 15.F.402, 12-14-01; 19.15.6.402 NMAC - Repealed, 02-17-03]

19.15.6.403 NATURAL GAS FROM GAS WELLS TO BE MEASURED:

A. All natural gas produced shall be accounted for by metering or other method approved by the division and reported to the division by the transporter of the gas. Gas produced from a gas well and delivered to a gas transportation facility shall be reported by the owner or operator of the gas transportation facility. Gas produced from a gas well and required to be reported under this rule, which is not delivered to and reported by a gas transportation facility shall be reported by the operator of the well.

B. An operator may apply to the OCD District Supervisor, using Form C-136, for approval of one of the following procedures for measuring gas:

(1) In the event a well is not capable of producing more than 15 MCFD, a measurement method agreed upon by the operator and transporter whereby the parties establish by annual test the producing rate of said well under normal operating conditions and apply that rate to the period of time the well is in a producing status. If such well is capable of producing greater than 5 MCFD, a device shall be attached to the line which will determine the actual time period that the well is flowing.

(2) Any well which has a producing capacity of 100 MCFD or less and which is on a multi-well lease may be produced without being separately metered when the gas is measured using a lease meter at a Central Point Delivery (CPD). The ownership of the lease must be common throughout including working interest, royalty and overriding royalty ownership.

(3) If normal operating conditions change, either party may request a new well test, the cost of which will be borne by the party so requesting unless otherwise agreed upon.

C. Operators and transporters shall report the well volumes on Forms C-115 and C-111 based upon the approved method of measurement and, in the case of a CPD, upon the method of allocation of production to individual wells approved by the district supervisor.

[1-1-50, 12-23-91...2-1-96; 19.15.6.403 NMAC - Rn, 19 NMAC 15.F.403, 12-14-01]

19.15.6.404 NATURAL GAS UTILIZATION:

A. After the completion of a natural gas well, no gas from such well shall be:

- (1) permitted to escape to the air;
- (2) used expansively in engines or pumps and then vented, or
- (3) used to gas-lift wells unless all gas produced is processed in a gasoline plant, used in the manufacture of carbon black, or beneficially used thereafter without waste.

B. Carbon black plants may utilize natural gas only in those instances in which all casinghead gas and residue gas produced in the vicinity of or which may reasonably be reached from the carbon black plant, is being used beneficially.

C. Any carbon black plant constructed after June 10, 1954, or any then existing carbon black plant which enlarges or expands its facilities for the manufacture of carbon black, may utilize natural gas in the manufacture of carbon black only after permission of the division is obtained upon due notice and hearing.

[1-1-50, 6-10-54...2-1-96; 19.15.6.404 NMAC - Rn, 19 NMAC 15.F.404, 12-14-01]

19.15.6.405 STORAGE GAS:

With the exception of the requirement to meter and report monthly the amount of gas injected and the amount of gas withdrawn from storage, in the absence of waste these rules and regulations shall not apply to gas being injected into or removed from storage. (See Rule 1131.)

[1-1-50...2-1-96; 19.15.6.405 NMAC - Rn, 19 NMAC 15.F.405, 12-14-01]

19.15.6.406 CARBON DIOXIDE:

The statewide regulations relating to gas and natural gas, gas wells, and gas reservoirs including, but not limited to, those provisions relating to well locations, acreage dedication requirements, casing and cementing requirements, and measuring and reporting of production shall also apply to carbon dioxide gas, carbon dioxide wells, and carbon dioxide reservoirs.

[1-1-50...2-1-96; 19.15.6.406 NMAC - Rn, 19 NMAC 15.F.406, 12-14-01]

19.15.6.407 DISCONNECTION OF GAS WELLS:

All gas wells which are disconnected from intrastate gas transportation facilities shall be reported to the division by the operator of the well or wells within 30 days of the date of disconnection. Such notice must be filed on Form C-130 in compliance with Rule 1130.

[8-23-77...2-1-96; 19.15.6.407 NMAC - Rn, 19 NMAC 15.F.407, 12-14-01]

19.15.6.408 HARDSHIP GAS WELL:

A. Hardship gas well is defined as a gas well wherein "underground waste" will occur if the well should be shut-in or curtailed below its minimum sustainable flow rate.

B. No well shall be classified as a hardship gas well except after notice and hearing or upon appropriate administrative action of the division.

C. Wells approved as hardship gas wells under Sections 409 and/or 410 of 19.15.6 NMAC shall be given priority access (over other gas wells) to the current available gas market to the extent that they might otherwise be restricted below the approved minimum flow rate.

[3-2-84...2-1-96; 19.15.6.408 NMAC - Rn, 19 NMAC 15.F.408, 12-14-01]

19.15.6.409 APPLICATION FOR HARDSHIP GAS WELL CLASSIFICATION:

A. Application for hardship gas well classification shall be made in the form prescribed by the division and shall include the following:

(1) a narrative description of the problem(s) which leads the applicant to believe that underground waste will occur if the well is shut-in or curtailed below its ability to produce;

(2) documentation that the applicant has made all reasonable and economic attempts to

eliminate or correct the problem(s) or an explanation and justification as to why such attempts were not made;

- (3) a wellbore sketch;
- (4) historical data such as permanent loss of productivity after shut-in, frequency and actual costs of swabbing after shut-in or curtailment including length of swab time required, actual cost figures showing the inability to continue operations without special relief, or any other data which would show that shut-in or curtailment would cause underground waste;
- (5) if failure to obtain a hardship gas well classification would result in premature abandonment of the well, a calculation of the reserves which would be lost thereby;
- (6) the minimum sustainable producing rate as determined by a minimum flow or "log-off" test or documentation of well production history;
- (7) a plat and/or map showing the proration unit dedicated to the well and the ownership of the offsetting acreage;
- (8) the name of the authorized transporter (and purchaser if different) of gas; and
- (9) any other data the applicant considers relevant.

B. Applications for hardship gas well classification shall be made in duplicate with the original copy being filed at Santa Fe and a copy being filed with the appropriate division district office.

C. In addition, the applicant will notify the transporter and purchaser of gas from the well and all offset operators of the application and the requested minimum producing rate and shall so certify to the division in his application.

[3-2-84...2-1-96; 19.15.6.409 NMAC - Rn, 19 NMAC 15.F.409, 12-14-01]

19.15.6.410 PROCESSING OF APPLICATIONS FOR HARDSHIP GAS WELLS:

A. The director of the division may administratively approve any application for hardship gas well classification or he may set such matter for notice and hearing.

B. Applications which are to be approved administratively shall be listed in the dockets of division or commission hearings which are issued from time to time.

(1) If no affected party has filed written objection to any such proposed administrative action within 20 days following the date of the hearing for which the docket is issued, the application may be approved. If any such party shall file an objection before or within such 20 day period, the application will be set for hearing unless withdrawn by the applicant.

(2) The director of the division, on his own or upon the request of an affected party, may require a minimum flow (log-off) test on the well for which the hardship classification is being sought. The applicant shall give notice to the division, the gas transporter and purchaser and the requesting affected party of any minimum flow test conducted following such a request, in order that such test may, at the option of the division or said parties, be witnessed. Notice of any minimum flow test conducted prior to submitting a hardship gas well application shall be given to the appropriate division district office, the gas transporter and purchaser, and offset operators in order that such test may, at the option of said parties, be witnessed.

[3-2-84...2-1-96; 19.15.6.410 NMAC - Rn, 19 NMAC 15.F.410, 12-14-01]

19.15.6.411 EMERGENCY HARDSHIP GAS WELL CLASSIFICATION:

A. The supervisor of the appropriate division district office may grant emergency approval of a hardship gas well classification upon receipt of a copy of the application form and attachments and a request by the applicant.

B. Approval of such emergency classification shall be made in writing to the director of the division, the applicant, and the purchaser. Emergency approval shall be given for 90 days and on a one time only basis.

[3-2-84...2-1-96; 19.15.6.411 NMAC - Rn, 19 NMAC 15.F.411, 12-14-01]

19.15.6.412 LIMITS ON HARDSHIP GAS WELL CLASSIFICATION:

A. No hardship gas well classification shall be retained for a period in excess of one year unless the applicant shall annually request an extension thereof and certify that the condition of the well has not substantially changed.

B. The division on its own motion may require that the applicant show cause why approval of the hardship gas well classification should not be rescinded in cases of suspected abuse, changed market conditions, or for any other reason.

C. Any well classified as a hardship gas well located in a prorated gas pool shall accumulate over or under production. No well which is classified as a hardship gas well shall be shut in for reason of over production.

D. Affected parties may petition the division for hearing for the purpose of offsetting any ratable take advantage which might be gained by the operator of a hardship gas well.

[3-2-84...2-1-96; 19.15.6.412 NMAC - Rn, 19 NMAC 15.F.412, 12-14-01]

19.15.6.413 [RESERVED].

19.15.6.414 GAS SALES BY LESS THAN ONE HUNDRED PERCENT OF THE OWNERS IN A WELL:

When there are separate owners in a well and where any such owner's gas is not being sold with current production from such well, such owner may, if necessary to protect his correlative rights, petition the division for a hearing seeking appropriate relief.

[1-1-84...2-1-96; 19.15.6.414 NMAC - Rn, 19 NMAC 15.F.414, 12-14-01]

History of 19.15.6 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

Rule 401, Method of Determining Natural Gas Well Potential, filed 1-8-82;

Rule 401, Method of Determining Natural Gas Well Potential, filed 2-5-91;

Rule 402, Method and Time of Shut-in Pressure Tests, filed 1-8-82;

Rule 402, Method and Time of Shut-in Pressure Tests, filed 11-6-86;

Rule 402, Method and Time of Shut-in Pressure Tests, filed 2-5-91;

Rule 403, Natural Gas from Gas Well to be Measured, filed 1-8-82;

Rule 403, Natural Gas from Gas Well to be Measured, filed 3-17-86;

Rule 403, Natural Gas from Gas Well to be Measured, filed 2-5-91;

Rule 404, Natural Gas Utilization, filed 1-8-82;

Rule 404, Natural Gas Utilization, filed 2-5-91;

Rule 405, Storage Gas, filed 1-8-82;

Rule 405, Storage Gas, filed 2-5-91;

Rule 406, Carbon Dioxide, filed 1-8-82;

Rule 406, Carbon Dioxide, filed 2-5-91;

Rule 407, Disconnection of Gas Wells, filed 1-8-82;

Rule 407, Disconnection of Gas Wells, filed 2-5-91;

Rule 408, Hardship Gas Well, filed 2-23-84;

Rule 408, Hardship Gas Well, filed 2-5-91;

Rule 409, Application for Hardship Gas Well Classification, filed 2-23-84;

Rule 409, Application for Hardship Gas Well Classification, filed 2-5-91;

Rule 410, Processing of Applications for Hardship Gas Wells, filed 2-23-84;

Rule 410, Processing of Applications for Hardship Gas Wells, filed 2-5-91;

Rule 411, Emergency Hardship Gas Well Classification, filed 2-23-84;

Rule 411, Emergency Hardship Gas Well Classification, filed 2-5-91;
Rule 412, Limits On Hardship Gas Well Classification, filed 2-23-84;
Rule 412, Limits On Hardship Gas Well Classification, filed 2-5-91;
Rule 414, Gas Sales By Less than One Hundred Percent of the Owners in a Well, filed 12-30-86;
Rule 414, Gas Sales By Less than One Hundred Percent of the Owners in a Well, filed 2-5-91;

History of Repealed Material: [RESERVED].

Other History:

Rule 401, Method of Determining Natural Gas Well Potential, filed -5-91; Rule 402, Method and Time of Shut-In Pressure Tests, filed 2-5-91; Rule 403, Natural Gas From Gas Wells to be Measured, filed 2-5-91; Rule 404, Natural Gas Utilization, filed 2-5-91; Rule 405, Storage Gas, filed 2-5-91; Rule 406, Carbon Dioxide, filed 2-5-91; Rule 407, Disconnection of Gas Wells, filed 2-5-91; Rule 408, Hardship Gas Well, filed 2-5-91; Rule 409, Application for Hardship Gas Well Classification, filed 2-5-91; Rule 410, Processing of Applications for Hardship Gas Wells, filed 2-5-91; Rule 411, Emergency Hardship Gas Well Classification, filed 2-5-91; Rule 412, Limits on Hardship Gas Well Classification, filed, 2-5-91; Rule 414, Gas Sales By Less Than One Hundred Percent of the owners in a Well, filed 2-5-91; all renumbered, reformatted **to and replaced by** 19 NMAC 15.F, Natural Gas Production Operating Practice, filed 01-18-96.

19 NMAC 15.F, Natural Gas Production Operating Practice, filed 01-18-96; **renumbered, reformatted and replaced by** 19.15.6 NMAC, effective 12-14-01.

TITLE 19 NATURAL RESOURCES & WILDLIFE
CHAPTER 15 OIL AND GAS
PART 7 OIL PRORATION AND ALLOCATION

19.15.7.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division, 2040 S. Pacheco, Santa Fe, New Mexico 87505, (505) 827-7131.
[2-1-96; 19.15.7.1 NMAC – Rn, 19 NMAC 15.G.1, 6-14-02]

19.15.7.2 SCOPE: All persons/entities engaged in oil and gas development and production within New Mexico.
[2-1-96; 19.15.7.2 NMAC – Rn, 19 NMAC 15.G.2, 6-14-02]

19.15.7.3 STATUTORY AUTHORITY: Sections 70-2-1 through 70-2-38 NMSA 1978 sets forth the Oil and Gas Act which grants the Oil Conservation Division jurisdiction and authority over all matters relating to the conservation of oil and gas, the prevention of waste of oil and gas and of potash as a result of oil and gas operations, the protection of correlative rights, and the disposition of wastes resulting from oil and gas operations.
[2-1-96; 19.15.7.3 NMAC – Rn, 19 NMAC 15.G.3, 6-14-02]

19.15.7.4 DURATION: Permanent.
[2-1-96; 19.15.7.3 NMAC – Rn, 19 NMAC 15.G.4, 6-14-02]

19.15.7.5 EFFECTIVE DATE: February 1, 1996.
[2-1-96; 19.15.7.5 NMAC – Rn, 19 NMAC 15.G.5, 6-14-02]

19.15.7.6 OBJECTIVE: To regulate oil proration and allocation to prevent waste and protect correlative rights pursuant to the Oil and Gas Act.
[2-1-96; 19.15.7.6 NMAC – Rn, 19 NMAC 15.G.6, 6-14-02]

19.15.7.7 DEFINITIONS: [RESERVED].

19.15.7.8-500 [RESERVED].

19.15.7.501 REGULATION OF OIL POOLS:

A. To prevent waste, the division shall prorate and distribute the allowable production among the producers in a pool upon a reasonable basis and recognizing correlative rights.

B. After notice and hearing, the division, in order to prevent waste and protect correlative rights, may promulgate special rules, regulations, or orders pertaining to any pool.

[1-1-50...2-1-96; 19.15.7.501 NMAC – Rn, 19 NMAC 15.G.501, 6-14-02]

19.15.7.502 RATE OF PRODUCING WELLS:

A. Daily Tolerance

(1) It is recognized that oil wells located on units capable of producing their allowables may overproduce one day and underproduce another. No unit capable of producing its allowable, except for the purpose of testing, in the process of completing or recompleting a well or for tests made for the purpose of obtaining scientific data, shall produce any day more than 125% of the daily top unit allowable for the pool in which the same is located. (Subject to the foregoing, any underproduction may be made up by production from the same unit within the same month, and in like manner any overproduction shall be adjusted or balanced by underproduction from the same unit, within the same proration period).

(2) It is also recognized that certain wells must, as a matter of practicality, be produced at daily rates in excess of 125% of the daily top unit allowable for the pool in which such wells are located. The division director is hereby given authority to grant exceptions to the provisions of Paragraph (1) of Subsection A of 19.15.7.502 NMAC, without formal hearing, where application is filed in due form setting out the reasons for such requested exception; applicants for such exceptions shall, at the time of filing, also furnish each operator in the pool in which the subject well is located, a copy of such application. Included in any application for exception or attached thereto, filed under authority hereof, shall be a formal written statement by the applicant that every operator in the pool in which the subject well is located has been served with a copy of such application. The division director shall wait at least ten (10) days after receipt before approving any such application, and shall approve the same only in absence of objection from any operator or interested party, or in his discretion. In the event the Director for any reason fails to approve such application, the division after notice will hear and determine the matter.

B. Monthly Tolerance - No unit shall produce during any one proration period more than the allowable production of such unit for the proration period plus a tolerance of not to exceed five (5) days allowable production. This permissive tolerance of overproduction from a unit shall be subject to all other provisions of 19.15.7.502 NMAC and particularly to the provisions of Subsection D of 19.15.7.502 NMAC. This permissive tolerance of overproduction from a unit shall be adjusted or balanced by subsequent corresponding underproduction from the same unit. Overproduction within the permitted tolerance shall be considered as oil produced against the allowable production assigned to the unit for the proration period during which such overproduction is adjusted or balanced by underproduction.

C. Production in Excess of Monthly Allowable, Plus Tolerance

(1) Oil produced from any unit in excess of the assigned monthly allowable plus the permissive proration period tolerance shall be "illegal oil" as defined in the Oil and Gas Act, unless:

- (a)** such excess oil be produced as a result of mistake or error;
- (b)** mechanical failure beyond the immediate control of the operator; or,
- (c)** resulting from essential tests of the unit within the purview of Oil Conservation

Rules.

(2) Whenever production from any unit for a proration period is in excess of the assigned

allowable, plus the permitted tolerance authorized herein and the cause of such excess reasonably falls within Subparagraphs (a), (b), or (c) of Paragraph (1) of Subsection C of 19.15.7.502 NMAC, the producer or operator shall briefly set forth the cause of such excess production together with a proposed plan of adjustment thereof, upon all copies of the operator's monthly report (Form C-115) for the month in which such excess production occurs. Such excess production shall be considered as oil produced against the allowable assigned to the unit for the following proration period, and it may be transported from the lease tanks only as and when the unit accrues daily allowable to offset such excess production.

D. General

(1) The tolerance permitted on a daily or monthly basis as provided hereinabove shall not be construed to increase the allowable of a producing unit or to grant authority to any operator to market or to any transporter to transport any quantity of oil in excess of the unit's allowable.

(2) The possession of a quantity of oil in lease storage at the end of any proration period in excess of five days allowable plus any rerun allowable oil shall be construed as violation of this Rule, unless reported in the manner and within the time provided for filing Form C-115 provided by Subsection C of 19.15.7.502 NMAC above.

E. Storage Records - All producers and all transporters of oil are required to maintain adequate records showing unrun allowable oil in storage at the end of each proration period. Such storage oil shall be the amount of oil in tanks from which oil is measured and delivered to the transporter. [8-28-53...2-1-96; 19.15.7.502 NMAC – Rn, 19 NMAC 15.G.502, 6-14-02]

19.15.7.503 AUTHORIZATION FOR PRODUCTION OF OIL:

A. Except as provided below, the daily top unit allowable for any oil pool shall be 100 percent of the depth bracket allowable for the pool determined pursuant to the provisions of 19.15.7.505 NMAC.

B. The division shall have the option, within five days prior to the end of the month, to make a determination as to the likelihood of the total producing capacity of all oil wells in the state being in excess of anticipated reasonable market demand for crude petroleum oil from this state. If the division determines that such capacity may be in excess of the anticipated reasonable market demand, and that a market demand factor of less than 100 percent may be necessary to prevent waste, it shall immediately institute proper proceedings for a hearing to be held before the 20th day of the following month to determine actual reasonable market demand up to a maximum of 6 months.

C. At said hearing the division shall consider all evidence of market demand for crude petroleum oil from this state, and if it is determined that the market demand percentage factor should be less than 100 percent, an order shall be issued establishing the market demand factor and setting a date for the next market demand hearing.

D. The market demand factor thus established shall be multiplied by the applicable depth bracket allowable for each well and each pool to determine its unit allowable. Any fraction of a barrel shall be regarded as a full barrel in determining top unit allowable. Upon initial establishment of a market demand factor, and from time to time thereafter, the division shall issue a proration schedule authorizing the production of oil from the various proration units in the various pools in the state. Any well completed or recompleted after the issuance of said schedule and for which Form C-104 has been approved, shall, by supplement to the schedule, be authorized a daily allowable equal to the top unit allowable in effect. The allowable for such well shall become effective at 7:00 a.m. on the date of the completion, provided Form C-104 is submitted and approved within ten days following date of completion; otherwise the allowable shall be effective on the date the C-104 is approved. (As provided in Rule 1104, "date of completion" is the date when new oil is delivered into the stock tanks.)

E. A non-marginal unit is defined as being a proration unit which is capable of producing top unit allowable for the pool in which it is located and to which has been assigned a top unit allowable. Any such non-marginal unit shall be permitted to produce said top unit allowable without waste and subject to the provisions of 19.15.5.301 NMAC, 19.15.7.502 NMAC and 19.15.7.506 NMAC and all

other applicable rules.

F. A marginal unit is defined as being a proration unit which is incapable of producing top unit allowable for the pool in which it is located as evidenced by well test, production history, or other report or form filed by the operator with the division. Any such marginal unit shall be permitted to produce any amount of oil which it is capable of producing without waste up to top unit allowable for the pool, subject to the provisions of 19.15.5.301 NMAC, 19.15.7.502 NMAC and 19.15.7.506 NMAC, and all other applicable rules, provided that an allowable has been assigned to the unit to authorize such production.

G. A penalized non-marginal unit is defined as being a proration unit to which, because of an excessive gas-oil ratio, an allowable has been assigned which shall be determined in accordance with the procedure set forth in 19.15.7.506 NMAC. In calculating a penalized allowable, any fraction of a barrel shall be regarded as a full barrel.

H. A periodic tabulation of all supplements to the current proration schedule shall be made and distributed by the division.

I. The provisions of Subsection H of 19.15.3.104 NMAC shall be adhered to in fixing top unit allowables.

J. In the event it becomes necessary for any transporter of crude petroleum to resort to pipeline proration in New Mexico, such transporter shall, as soon as possible and not later than 24 hours after the effective date thereof, notify the division of its decision to so prorate; upon receipt of such notice from such transporter, the division may take such emergency action, as may be deemed proper, and/or upon its own motion, after notice, hold a hearing for the purpose of considering any action within its authority, to preserve and protect correlative rights.

K. In case of pipeline proration any operator affected thereby has the right to make application to the division for authorization to have any shortage or underproduction resulting therefrom included in subsequent proration schedules. Such applications shall be made upon a form hereby authorized to be prescribed by the division and filed therewith within thirty days after the close of the first proration period in which such pipeline proration shortage occurred, and such authorization shall be limited in any event to wells capable of producing the daily top unit allowable for such period.

L. In approving any such application the division shall determine the period of time during which such shortage shall be made up without injury to the well or pool, and shall include the same in the regularly approved proration schedules following the conclusion of pipeline proration.

[9-1-72...2-1-96; 19.15.7.503 NMAC – Rn, 19 NMAC 15.G.503, 6-14-02]

19.15.7.504 AUTHORIZATION FOR PRODUCTION OF OIL WHILE COMPLETING, RECOMPLETING, OR TESTING AN OIL WELL:

A. In the event an operator does not have sufficient lease storage to hold oil produced from a well during the process of its drilling, completing, recompleting, or testing, the operator of said well shall be permitted to produce and sell from said well an amount of oil as may be necessary to drill, complete, recomplete or test said well; provided however, that the operator of said well shall file with the division a written application stating the circumstances at said well and setting forth therein the estimated amount of oil to be produced during the aforementioned process of operations, and provided further that said application is approved by the division. Oil produced during the process of drilling, completion or recompletion, or testing a well shall be charged against the allowable production of said well.

B. No well shall be placed on the proration schedule until Form C-104 has been filed with and approved by the division.

[7-1-52...2-1-96; 19.15.7.504 NMAC – Rn, 19 NMAC 15.G.504, 6-14-02]

19.15.7.505 DEPTH BRACKET ALLOWABLES:

A. Subject to the market demand percentage factor determined pursuant to the provisions of 19.15.7.503 NMAC, the daily oil allowable for each oil pool in the state shall be equal to the appropriate

depth bracket allowable below. The depth of the casing shoe or the top perforation in the casing, whichever is higher, in the first well completed in the pool shall determine the depth classification for the pool. Daily oil allowables for each of the several ranges of depth and spacing patterns shall be as follows:

<u>POOL DEPTH RANGE</u>	<u>DEPTH BRACKET ALLOWABLE</u>		
	<u>40 Acres</u>	<u>80 Acres</u>	<u>160 Acres</u>
0 to 4,999 feet	80 bbls.	160 bbls.	
5,000 to 5,999 "	107 "	187 "	347 bbls.
6,000 to 6,999 "	142 "	222 "	382 "
7,000 to 7,999 "	187 "	267 "	427 "
8,000 to 8,999 "	230 "	310 "	470 "
9,000 to 9,999 "	275 "	355 "	515 "
10,000 to 10,999 "	320 "	400 "	560 "
11,000 to 11,999 "	365 "	445 "	605 "
12,000 to 12,999 "	410 "	490 "	650 "
13,000 to 13,999 "	455 "	535 "	695 "
14,000 to 14,999 "	500 "	580 "	740 "
15,000 to 15,999 "	545 "	625 "	785 "
16,000 to 16,999 "	590 "	670 "	830 "
17,000 to 635 "	715 "	875 "	

B. The 40-acre depth bracket allowables shall apply to all undesignated wells not governed by special pool rules and to all pools developed on the normal 40-acre statewide spacing unit.

C. The 80-acre and 160-acre depth bracket allowables shall apply to wells governed by applicable special pool rules promulgated by the division as an exception to the normal 40-acre statewide spacing unit.

D. The division may, where the same is deemed appropriate, assign to a given pool a special depth bracket allowable at variance to the depth bracket allowable normally assigned to a pool of similar depth and spacing. Such special allowable may be more or less than the regular depth bracket allowable and shall be assigned only after notice and hearing.

E. In assigning a lesser than regular depth bracket allowable, the division may consider, among other pertinent factors, reservoir damage, casinghead gas production and disposition, water production and disposition, transportation facilities, the prevention of surface or underground waste, and the protection of correlative rights.

F. Assignment of a greater than regular depth bracket allowable shall be made only after sufficient reservoir information is available to ensure that said allowable can be produced without damage to the reservoir and without causing surface or underground waste. The division shall also consider the availability of crude oil transportation and marketing facilities, casinghead gas transportation, processing, and marketing facilities, water disposal facilities, the protection of correlative rights, and other pertinent factors.

[9-1-72...2-1-96; 19.15.7.505 NMAC – Rn, 19 NMAC 15.G.505, 6-14-02]

19.15.7.506 GAS-OIL RATIO LIMITATION:

A. In allocated pools containing a well or wells producing from a reservoir which contains both oil and gas, each proration unit shall be permitted to produce only that volume of gas equivalent to the applicable limiting gas-oil ratio multiplied by the top unit oil allowable for the pool. In the event the division has not set a gas-oil ratio limit for a particular oil pool, the limiting gas-oil ratio shall be 2,000 cubic feet of gas for each barrel of oil produced. In allocated oil pools all producing wells, whether oil or casinghead gas, shall be placed on the oil proration schedule.

B. Unless heretofore or hereafter specifically exempted by order of the division issued after hearing, a gas-oil ratio limitation shall be placed on all allocated oil pools, and all proration units having a gas-oil ratio exceeding the limit for the pool shall be penalized in accordance with the following

procedure:

(1) Any proration unit which, on the basis of the latest official gas-oil ratio test, has a gas-oil ratio in excess of the limiting gas-oil ratio and has the capacity to produce above the top casinghead gas volume calculated by Subsection A of 19.15.7.506 NMAC for the pool in which it is located shall be permitted to produce daily that number of barrels of oil which shall be determined by multiplying the current top unit allowable by a fraction, the numerator of which shall be the limiting gas-oil ratio for the pool and the denominator of which shall be the official test gas-oil ratio of the well, and the proration unit will be designated non-marginal.

(2) Any unit containing a well or wells producing from a reservoir which contains both oil and gas shall be permitted to produce only that volume of gas equivalent to the applicable limiting gas-oil ratio multiplied by the top unit allowable currently assigned to the pool.

(3) A marginal unit shall be permitted to produce the same volume of gas which it would be permitted to produce if it were a non-marginal unit.

C. All non-marginal proration units to which gas-oil ratio adjustments are applied shall be so indicated in the proration schedule with adjusted allowables stated.

D. In cases of new pools, the limit shall be 2,000 cubic feet per barrel until such time as changed by order of the division issued after a hearing. Upon petition and after notice and hearing according to law, the division will determine or redetermine the specific gas-oil ratio limit which is applicable to a particular allocated oil pool.

[1-1-50...2-1-96; 19.15.7.506 NMAC – Rn, 19 NMAC 15.G.506, 6-14-02]

19.15.7.507 UNITIZED AREAS:

After petition and notice and hearing, the division may grant approval for the combining of contiguous developed proration units into a unitized area.

[1-1-50...2-1-96; 19.15.7.507 NMAC – Rn, 19 NMAC 15.G.507, 6-14-02]

19.15.7.508 RECOVERED LOAD OIL:

A. Recovered load oil may be run from the lease on which it is recovered, provided division approval is obtained by means of Form C-126. Form C-126 must be filed in QUADRUPPLICATE with the appropriate district office of the division. Upon approval, one copy will be returned to the operator and one copy will be sent to the designated transporter as authority to transport the oil.

B. 19.15.7.508 NMAC applies only to oil which has been obtained from a source other than the lease on which it is used.

C. Recovered load oil as used herein is any oil or liquid hydrocarbon which has been used in any operation in an oil or gas well, and which has been recovered as a merchantable product.

[4-15-54...2-1-96; 19.15.7.508 NMAC – Rn, 19 NMAC 15.G.508, 6-14-02]

19.15.7.509 OIL DISCOVERY ALLOWABLE:

A. In addition to the normally assigned allowable, an oil discovery allowable may be assigned to a well completed as a bona fide discovery well in a new common source of supply. Said oil discovery allowable shall be in the amount of 5 barrels for each foot of depth of said well from the surface of the ground to the top of the perforations in the new pool or the depth of the casing shoe, whichever is higher. In counties where there is no other current oil production, and in any county when the discovery is the deepest oil production in the county, the oil discovery allowable shall be 10 barrels per foot of depth.

B. Date of discovery to determine the well which should properly receive the oil discovery allowable for any new pool shall be the date the well is completed and new oil is run into stock tanks, provided however, any operator drilling through and discovering a new oil pool in the course of drilling to a lower horizon may file an affidavit of such discovery within seven days after drill stem tests were made of said pool, accompanying said affidavit with all available pool data. If, prior to completion of

said well, another operator claims discovery of a similar pool and there are reasonable grounds to believe the pools are one and the same, no discovery allowable will be assigned to either well until after the initial well for which the affidavit was filed has been completed. If at that time the operator of the initial well makes formal application for the discovery allowable in said pool, it will be determined after hearing which well shall receive the discovery allowable.

C. To obtain an oil discovery allowable, the owner of a discovery well shall file two copies of division Form C-109, Application for Discovery Allowable and Creation of a New Pool, with the appropriate district office of the division and one with the Santa Fe office. Each copy of said form shall be accompanied by the following:

(1) A map depicting all wells within a two-mile radius of the discovery well. All producing oil and gas wells and the formations from which they are producing or have produced are to be clearly shown as well as all dry holes and the depths to which they were drilled. Maps shall be on a scale one inch equals 1,000 feet and shall also indicate the names of all lessees of record in the depicted area.

(2) A complete electrical log of the subject well with the tops and bottoms of producing formations in the subject well and in nearby wells identified thereon.

(3) If application is based on horizontal separation, a sub-surface structural map of the producing formation(s) for which the discovery allowable is sought, showing seismic or geological interpretation of the subject structure and any troughs, faults, pinch-outs, etc., which separate the subject well from nearby wells producing from the same formation(s).

(4) A geological cross-section prepared from electrical logs of the subject well and nearby wells establishing horizontal as well as vertical separation from other wells depicted on the plat which are producing or have produced from the discovery formation(s).

(5) A summary of all available reservoir data including bottom hole pressure data, fluid levels, core analyses, reservoir liquid characteristics and any other pertinent data on the subject reservoir as well as other nearby reservoirs which may help establish whether the subject well is in fact a discovery.

D. If, in the opinion of the division staff, good cause exists to bring the pool on for hearing as a discovery, and no objection has been received from any other operator, the pool will be placed on the first available hearing docket for inclusion by the staff in its regular pool nomenclature case. If the staff is not in agreement with the applicant's contention that a new pool has been discovered, or if, within ten days after receiving a copy of the application another operator files with the division an objection to the creation of a new pool and the assignment of a discovery allowable, the applicant will be so notified, and he will be expected to present the evidence supporting his case. Or, if the applicant so desires, the application may be set for separate hearing on other than the nomenclature docket for presentation of evidence by the applicant.

E. Effective date of a well's discovery allowable will be 7:00 a.m. on the first day of the month next succeeding the month in which the division approves the discovery.

F. The total discovery allowable attributable to each zone in the well shall be produced over a two-year period commencing with the time of authorization. The well's daily allowable for each pool receiving the discovery allowable shall not exceed the daily top unit allowable for the pool plus the total pool discovery allowable divided by 730 days (731 days if a leap year is included).

G. A discovery well shall be permitted to produce only that volume of gas equivalent to the applicable limiting gas-oil ratio for the pool multiplied by the top unit allowable for the pool plus the daily oil discovery allowable. In addition to all other statewide rules not specifically excepted herein, the provisions of 19.15.7.502 NMAC relating to daily tolerance, monthly tolerance, and underproduction and overproduction, shall apply to oil discovery allowables as well as to regular allowables for discovery wells.

H. Nothing herein contained shall be construed as prohibiting the division from curtailing the discovery allowables of wells during times of depressed market demand, provided however, such discovery allowables shall be reinstated for production at the earliest possible date. Further, when it appears reservoir

damage or waste might result from production of the oil discovery allowable within the normal two-year period, the division may, after notice and hearing, extend said period.

[9-1-66...2-1-96; 19.15.7.509 NMAC – Rn, 19 NMAC 15.G.509, 6-14-02]

History of 19.15.7 NMAC:

Pre-NMAC History:

Rule 501, Regulation of Oil Pools, filed 1-8-82;
Rule 501, Regulations of Oil Pools, filed 2-5-91;
Rule 502, Rate of Producing Wells, filed 1-8-82;
Rule 502, Rate of Producing Wells, filed 2-5-91;
Rule 503, Authorization for Production of Oil, filed 1-8-82;
Rule 503, Authorization for Production of Oil, filed 10-11-89;
Rule 503, Authorization for Production of Oil, filed 2-5-91;
Rule 504, Authorization for Production of Oil While Completing, Recompleting, or Testing an Oil Well, filed 1-8-82;
Rule 504, Authorization for Production of Oil While Completing, Recompleting, or Testing an Oil Well, filed 2-5-91;
Rule 505, Depth Bracket Allowable, filed 1-8-82;
Rule 505, Depth Bracket Allowable, filed 10-11-89;
Rule 505, Depth Bracket Allowable, filed 2-5-91;
Rule 506, Gas-Oil Ratio Limitation, filed 1-8-82;
Rule 506, Gas-Oil Ratio Limitation, filed 10-11-89;
Rule 506, Gas-Oil Ratio Limitation, filed 2-5-91;
Rule 507, Unitized Areas, filed 1-8-82;
Rule 507, Unitized Areas, filed 2-5-91;
Rule 508, Recovered Load Oil, filed 1-8-82;
Rule 508, Recovered Load Oil, filed 2-5-91;
Rule 509, Oil Discovery Allowable, filed 1-8-82;
Rule 509, Oil Discovery Allowable, filed 10-11-89;
Rule 509, Oil Discovery Allowable, filed 2-5-91.

History of Repealed Material: [Reserved]

Other History:

Rule 501, Regulation of Oil Pools, filed 2-5-91; Rule 502, Rate of Producing Wells, filed 2-5-91; Rule 503, Authorization for Production of Oil, filed 2-5-91; Rule 504, Authorization for Production of Oil While Completing, Recompleting, or Testing an Oil Well, filed 2-5-91; Rule 505, Depth Bracket Allowables, filed 2-5-91; Rule 506, Gas-Oil Ratio Limitation, filed 2-5-91; Rule 507, Unitized Areas, filed 2-5-91; Rule 508, Recovered Load Oil, filed 2-5-91; Rule 509, Oil Discovery Allowable, filed 2-5-91 all renumbered, reformatted **to and replaced by** 19 NMAC 15.G, Oil Proration and Allocation, filed 01-18-96.
19 NMAC 15.G, Oil Proration and Allocation, filed 01-18-96 renumbered, reformatted **to and replaced by** 19.15.7 NMAC, effective 6-14-02.

TITLE 19	NATURAL RESOURCES AND WILDLIFE
CHAPTER 15	OIL AND GAS
PART 8	GAS PRORATION AND ALLOCATION

19.15.8.1 **ISSUING AGENCY:** Energy, Minerals and Natural Resources Department, Oil Conservation Division, 2040 S. Pacheco, Santa Fe, New Mexico 87505, (505) 827-7131.

[2-1-96; 19.15.8.1 NMAC – Rn, 19 NMAC 15.H.1, 04-30-03]

19.15.8.2 SCOPE: All persons/entities engaged in oil and gas development and production within New Mexico.

[2-1-96; 19.15.8.2 NMAC - Rn, 19 NMAC 15.H.2, 04-30-03]

19.15.8.3 STATUTORY AUTHORITY: Sections 70-2-1 through 70-2-38 NMSA 1978 sets forth the Oil and Gas Act which grants the oil conservation division jurisdiction and authority over all matters relating to the conservation of oil and gas, the prevention of waste of oil and gas and of potash as a result of oil and gas operations, the protection of correlative rights, and the disposition of wastes resulting from oil and gas operations.

[2-1-96; 19.15.8.3 NMAC - Rn, 19 NMAC 15.H.3, 04-30-03]

19.15.8.4 DURATION: Permanent.

[2-1-96; 19.15.8.4 NMAC - Rn, 19 NMAC 15.H.4, 04-30-03]

19.15.8.5 EFFECTIVE DATE: February 1, 1996.

[2-1-96; 19.15.8.5 NMAC - Rn, 19 NMAC 15.H.5, 04-30-03]

19.15.8.6 OBJECTIVE: To regulate gas proration and allocation to prevent waste and protect correlative rights pursuant to the Oil and Gas Act.

[2-1-96; 19.15.6. NMAC - Rn, 19 NMAC 15.H.6, 04-30-03]

19.15.8.7 DEFINITIONS:

A. Acreage factor: A GPU's acreage factor shall be determined to the nearest hundredth of a unit by dividing the acreage assigned to the GPU by a number equal to the number of acres in a standard GPU for such pool. However, the acreage tolerance provided in Subparagraph (b), of Paragraph (2) of Subsection A, of 19.15.8.605 NMAC, shall apply.

B. Ad factor: An acreage times deliverability factor is calculated in pools in which acreage and deliverability are proration factors. The product obtained by multiplying the acreage factor by the calculated deliverability (expressed as MCF per day) for that GPU shall be known as the AD factor for that GPU. The AD Factor shall be computed to the nearest whole unit.

C. Allocation hearing: A hearing held by the division twice each year to determine pool allocations for the ensuing allocation period.

D. Allocation period: A six-month period beginning at 7:00 A.M. April 1 and October 1 of each year.

E. Balancing date: The date 7:00 A.M. April 1 of each year shall be known as the balancing date, and the twelve months following this date shall be known as the gas proration period.

F. Broker: A third party who negotiates contracts for purchase and resale.

G. Classification period: A three month period beginning at 7:00 A.M. April 1, July 1, October 1, and January 1 of each year.

H. Gas pool: Any pool which has been designated as a gas pool by the division after notice and hearing.

I. Gas proration unit (GPU): The acreage allocated to a well, or in the case of an infill well or wells to a group of wells, for purposes of spacing and proration. GPU's may be either of a standard or nonstandard size as provided in these rules. (GPU's means plural GPU).

J. Gas transporter: Any taker of gas, the party servicing the well meter, or the party responsible for measurement of gas sold from the well or beneficially used off-lease. This could be at the wellhead, at any other point on the lease, or at any other point authorized by the division where connection is made for gas transportation or utilization (other than is necessary for maintaining the

producing ability of the well). The gas transporter can be the gatherer, transporter, producer, or a delegate of one of those parties. The gas transporter shall be identified on form C-104 and will be responsible for filing form C-111 as required under the provisions of 19.15.13.1111 NMAC.

K. Gas purchaser: The purchaser (where ownership of the gas is first exchanged by the producer to the purchaser for an agreed value) of the gas from a gas well or GPU.

L. Hardship gas well: A gas well wherein underground waste will occur if the well is shut-in or curtailed below its minimum sustainable flow rate. No well shall be classified as a hardship gas well except after notice and hearing or upon appropriate administrative action of the division.

M. Infill well: An additional producing well on a GPU which serves as a companion well to an existing well on the GPU.

N. Marginal GPU: A proration unit which is incapable of producing or has not produced the non-marginal allowable based on pool allocation factors. Marginal GPU's do not accrue over or underproduction.

O. Non-marginal GPU: A proration unit receiving an allowable based upon pool allocation factors. Non-marginal proration units accrue over or underproduction.

P. Overproduction: The volume of gas produced on a GPU in any month greater than the assigned non-marginal allowable (does not include gas used in maintaining the producing ability of the well(s) of the GPU). Overproduction accumulates month to month during the proration period.

Q. Prorated gas pool: A prorated gas pool is a gas pool in which, after notice and hearing, the production is allocated by the division according to these rules and any applicable special pool rules.

R. Proration period: The twelve-month period beginning April 1 of each year shall be the gas proration period.

S. Shadow allowable: The gas volume calculated for a marginal GPU that is equal to the allowable assigned to a non-marginal GPU in the same pool of the same A (acreage) or A and AD (acreage deliverability) factors as the marginal GPU.

T. Underproduction: The volume of assigned non-marginal allowable not produced on a GPU. Underproduction accumulates month to month during the proration period.
[5-30-98; 19.15.8.7 NMAC - Rn, 19 NMAC 15.H.7, 04-30-03]

19.15.8.8-600 [RESERVED]

19.15.8.601 ALLOCATION OF GAS PRODUCTION:

When the division determines that allocation of gas production in a designated gas pool is necessary to prevent waste, the division, after notice and hearing, shall consider the nominations of purchasers from that gas pool and other relevant data, and shall fix the allowable production of that pool, and shall allocate production among the gas wells in the pool delivering to a gas transportation facility upon a reasonable basis and recognizing correlative rights. The division shall include in the proration schedule of such pool any gas well which it finds is being unreasonably discriminated against through denial of access to a gas transportation facility which is reasonably capable of handling the type of gas produced by such well.
[1-1-50...2-1-96; 19.15.8.601 NMAC - Rn, 19 NMAC 15.H.601, 04-30-03]

19.15.8.602 PRORATION PERIOD:

The proration period shall be at least six months and the pool allowable and allocations thereof shall be made at least 30 days prior to each proration period.
[1-1-50...2-1-96; 19.15.8.602 NMAC - Rn, 19 NMAC 15.H.602, 04-30-03]

19.15.8.603 ADJUSTMENT OF ALLOWABLES:

When the actual market demand from any allocated gas pool during a proration period is more than or less than the allowable set by the division for the pool for the period, the division shall adjust the gas proration unit allowables for the pool for the next proration period so that each gas proration unit shall

have a reasonable opportunity to produce its fair share of the gas production from the pool and so that correlative rights shall be protected.

[1-1-50...2-1-96; 19.15.8.603 NMAC - Rn, 19 NMAC 15.H.603, 04-30-03]

19.15.8.604 GAS PRORATION UNITS:

Before issuing a proration schedule for an allocated gas pool, the division after notice and hearing, shall fix the gas proration unit for that pool.

[1-1-50...2-1-96; 19.15.8.604 NMAC - Rn, 19 NMAC 15.H.604, 04-30-03]

19.15.8.605 GAS PRORATION RULES:

A. Well Acreage and Location Requirements

(1) Standard Gas Proration Unit Size and Well Spacing:

(a) Unless otherwise provided for in applicable special pool rules, gas wells in prorated gas pools shall be drilled according to the well spacing and acreage requirements contained in these rules provided that when wells are drilled in pools with 640 acre spacing, a government section shall comprise the proration unit.

(b) Any GPU drilled according to Subparagraph (a), of Paragraph (1) of Subsection A of 19.15.8.605 which contains acreage within the tolerances below shall be considered a standard GPU for calculating allowables:

<u>Standard Proration Unit</u>	<u>Acreage Tolerance</u>
160 acres	158-162 acres
320 acres	316-324 acres
640 acres	632-648 acres

(2) Non-Standard Gas Proration Units:

(a) The district supervisor of the appropriate district office of the division has the authority to approve a nonstandard GPU without notice and hearing when the unorthodox size and shape of the GPU is necessitated by a variation in the legal subdivision of the U.S. public land surveys and the nonstandard GPU is not less than 75% nor more than 125% of a standard GPU by accepting a form C-102 land plat showing the proposed nonstandard GPU with the number of acres contained therein, and shall assign an allowable to the nonstandard GPU based upon the acreage factor for that acreage.

(b) Non-standard proration units and unorthodox locations may be approved by the division according to applicable special pool rules or division rules.

B. Nominations

(1) Gas Purchasers Or Gas Transporters Shall Nominate: Each gas purchaser or each gas transporter as herein provided shall file with the division its nomination for the amount of gas which it in good faith desires to purchase and/or expects to transport during the ensuing allocation period from each gas pool regulated by this order. The purchaser may delegate the nomination responsibility to the transporter, operator, or broker by notifying the division's Santa Fe office. One copy of such nomination for each pool shall be submitted to the division's Santa Fe office on form C-121-A by the first day of the month during which the division will consider at its allocation hearing the nominations for the succeeding allocation period. The division shall consider at its allocation hearing the nominations received, actual production, and such other factors as may be deemed applicable in determining the amount of gas that may be produced without waste during the ensuing allocation period.

The division director may, at his discretion, suspend this rule whenever it appears that the nominations are of little or no value.

(2) Schedule: The division shall issue a gas proration schedule for each allocation period showing the monthly allowable for each GPU that may be produced during each month of the ensuing allocation period, the current classification of each GPU, and such other information as is necessary to show the allowable production status of each GPU on the schedule. The division may issue supplemental proration schedules during an allocation period as necessary to show changes in GPU classification,

adjustments to allowables due to changes in market conditions, or to reflect any other changes as the division deems necessary.

(3) Proration of all Gas Wells Within a Pool: The division shall include in the proration schedule the gas wells in the gas pools regulated by this order delivering to a gas transporter, and shall include in the proration schedule any well which it finds is being unreasonably discriminated against through denial of access to a gas transportation facility, which is reasonably capable of handling the type of gas produced by such a well.

C. Allocation and Granting of Allowables

(1) Filing of Form C-102 and Form C-104 Required: No GPU shall be assigned an allowable before receipt of form C-102 (well location and acreage dedication plat) and the approval date of form C-104 (request for allowable and authorization to transport oil and natural gas).

(2) How Allowables are Calculated: The total allowable to be allocated to each gas pool regulated by this order for each allocation period shall be equal to the estimated market demand as determined by the division, plus any adjustments the director deems necessary to equate the total pool allowable to the estimated market demand. The director may make such adjustments as he deems necessary to compensate for overproduction, underproduction, and other circumstances which may necessitate such adjustment to equate pool allowable to the anticipated market demand. The estimated market demand for each pool shall be established from any information the director requires and can consist of nominations from purchasers, transporters or other parties having knowledge of market demand for gas from such pools, actual past production figures, seasonal trends, or any other factors deemed necessary to establish estimated market demand. The director shall not be bound to use all the information requested and can establish market demand by any method so approved. A monthly allowable shall be assigned to each GPU entitled to an allowable for the ensuing allocation period by allocating the pool allowable among all such GPU's in that pool according to the procedure set forth in the following paragraphs of this order. Should market conditions indicate a change is necessary, the director may adjust allowables up or down during the 6-month allocation period using a maximum of 10% as a guideline.

(3) Marginal GPU Allowable: The monthly allowable to be assigned to each marginal GPU shall be equal to its average monthly production from its latest classification period.

(4) Non-Marginal GPU Allowable: Non-marginal GPU allowables shall be determined in conformance with the applicable special pool rules.

(a) In pools where acreage is the only proration factor, the total non-marginal allowable shall be allocated to each GPU in the proportion that each GPU acreage factor bears to the total acreage factor for all non-marginal GPU's.

(b) In pools where acreage and deliverability are proration factors:

(i) A percentage as set forth in special pool rules, of the non-marginal allowable shall be allocated to each GPU in the proportion that each GPU's AD factor bears to the total AD factor for all non-marginal GPU's in the pool; and

(ii) The remaining non-marginal allowable shall be allocated to non-marginal GPU's among each GPU in the proportion that each GPU's acreage factor bears to the total acreage factor for all non-marginal GPU's in the pool.

(5) New Connects Assignment of Allowables: Allowables to newly completed gas wells shall commence, in pools where acreage is the only proration factor, on the date of first delivery of gas to a gas transporter as demonstrated by an affidavit furnished by the transporter to the appropriate division district office or the approval date of form C-102 and form C-104, whichever is later.

(6) Gas Charged Against GPU's Allowable: Except as provided in the Special Pool rules, the volume of produced gas sold or beneficially used other than lease fuel from each GPU shall be charged against the GPU's allowable; however, the gas used in maintaining the producing ability of the well shall not be charged against the allowable.

(7) Change in Acreage: If the acreage assigned to a GPU is changed, the operator shall

notify the appropriate division district office in writing of such change by filing a revised plat (form C-102). The revised allowable, as determined by the division, assigned to the GPU shall be effective on the first day of the month following receipt of the notification.

(8) **Minimum Allowables:** After notice and hearing, the division may assign minimum allowables for prorated gas pools to avoid waste, encourage efficient operations, and to prevent the premature abandonment of wells. (see Special Pool Rules for minimum allowable amount.) In determining the volume of minimum allowable for a well with a standard proration unit, the division shall take into account economic and engineering factors such as drilling and operating costs, anticipated revenues, taxes, and any similar data that will establish that the ultimate recovery of hydrocarbons will be increased from the pool because of the adoption of a minimum allowable for the pool. Once adopted, the minimum allowable for wells with nonstandard proration units shall be proportionally adjusted.

(9) **Deliverability Tests:** In pools where acreage and deliverability are proration factors, wells on non-marginal GPUs will be tested in accordance with division rules and the test results shall be used in calculating deliverabilities for the succeeding proration period. Wells on GPUs reclassified to non-marginal shall be tested within 90 days of the order and thereafter in accordance with the appropriate testing schedule for the pool. Wells on marginal GPUs are exempt from deliverability testing.

D. Balancing of Production

(1) **Underproduction:** Any non-marginal GPU which has an underproduced status as of the end of a gas proration period shall be allowed to carry such underproduction forward in the next gas proration period and may produce such underproduction in addition to the allowable assigned during such succeeding period. Any underproduction carried forward into a gas proration period and remaining unproduced at the end of such gas proration period shall be canceled.

(2) **Balancing Underproduction:** Production during any one month of a gas proration period greater than the allowable assigned to a GPU for such a month shall be applied against the underproduction carried into such a period in determining the amount of allowable, if any, to be canceled.

(3) **Overproduction:** Any GPU which has an overproduced status as of the end of a gas proration period shall carry such overproduction forward into the next gas proration period. Said overproduction shall be made up by underproduction during the succeeding gas proration period. Any GPU which has not made up the overproduction carried into a gas proration period by the end of said period shall be shut in until such overproduction is made up.

(a) **Twelve-Times Overproduced, Northwest:** For the prorated gas pools of northwest New Mexico, if it is determined that GPU is overproduced in an amount exceeding twelve times its current year January allowable (or, in the case of a newly connected well, a marginal well, or a well recently reclassified as non-marginal, twelve times the January allowable assigned to a non-marginal GPU of similar acreage and deliverability factors), it shall be shut in until its overproduction is less than twelve times its January allowable, as determined hereinabove.

(b) **Six-Times Overproduced, Southeast:** For the prorated gas pools of southeast New Mexico, if it is determined that a GPU is overproduced in an amount exceeding six times its current year January allowable (or, in the case of a newly connected well, a marginal well, or a well recently reclassified as non-marginal, six times the January allowable assigned to a non-marginal GPU of a similar acreage factor), it shall be shut in until its overproduction is less than six times its January allowable, as determined hereinabove.

(4) **Exception to Shut in for Overproduction:** The director shall have authority to permit a GPU which is subject to shut-in, pursuant to Subparagraphs (a) or (b) of Paragraph (3) of Subsection D of 19.15.8.605 NMAC above to produce up to 250 MCF of gas per month upon proper showing to the director that complete shut-in would cause undue hardship, provided however, such permission may be rescinded for any GPU produced greater than the monthly rate authorized by the director.

(5) **Balancing Overproduction:** Allowable assigned to a GPU during any one month of a gas proration period greater than the production for the same month shall be applied against the overproduction chargeable to such GPU in determining the overproduction which must be made up

pursuant to the provisions of Subparagraphs (a) or (b) of Paragraph (3) of Subsection D of 19.15.8.605 NMAC above.

(6) **Exception to Balancing Overproduction:** The director may allow overproduction to be made up at a lesser rate than permitted under Subparagraphs (a) or (b) of Paragraph (3) of Subsection D of 19.15.8.605 NMAC above upon a showing at public hearing that the same is necessary to avoid material damage to the well.

(7) **Hardship Gas Wells:** If a GPU containing a hardship gas well is overproduced, the operator must take the necessary steps to reduce production in order to reduce the overproduction. Any overproduction existing at the time of designation of a well as a hardship gas well or accruing to the GPU thereafter shall be carried forward until it is made up by underproduction. No GPU containing a hardship gas well, which GPU is overproduced, shall be permitted to produce at a rate higher than the minimum producing rate authorized by the division.

(8) **Moratorium on Shut-ins:** The director shall have authority to grant a pool-wide moratorium of up to three months as to the shutting in of gas wells in a pool during periods of high demand emergency upon proper showing that such emergency exists, and that a significant number of the wells in the pool are subject to shut-in pursuant to the provisions of Subparagraphs (a) or (b) of Paragraph (3) of Subsection D of 19.15.8.605 NMAC above. No moratorium beyond the aforementioned three months shall be granted except after notice and hearing.

(9) The director may reinstate allowable to wells which suffered cancellation of allowable under Paragraph (1) of Subsection D of 19.15.8.605 NMAC above or Paragraph (3) of Subsection E of 19.15.8.605 NMAC below or loss of allowable due to reclassification of a well under Paragraph (2) of Subsection E of 19.15.8.605 NMAC below. If such cancellation or loss of allowable was caused by non-access or limited access to the average market demand in the pool rather than inability of the well to produce. Upon petition, with a showing of circumstances which prevented production of the non-marginal allowable, and evidence that the well was capable of producing at allowable rates during the period for which reinstatement is requested, the allowable may be reinstated in such amounts needed to avoid curtailment or shut-in of the well for excessive overproduction. Such petition shall be approved administratively or docketed for hearing within 30 days after receipt in the division's Santa Fe office.

E. Classification of GPU's

(1) **Reclassification by the Director:** The director may reclassify a marginal or non-marginal GPU anytime the GPU's producing ability justifies such reclassification. The director may suspend the reclassification of GPU's on his own initiative, or upon proper showing by an affected interest owner, should it appear that such suspension is necessary to permit underproduced GPU's, which would otherwise be reclassified, a proper opportunity to make up such underproduction.

(2) **Reclassification to Marginal:** A non-marginal well may be reclassified as marginal in either of the following ways:

(a) After the production data is available for the last month of each classification period, any GPU which had an underproduced status at the beginning of the allocation period shall be reclassified to marginal if its highest single month's production during the classification period is less than its average monthly allowable during such period; however, the operator of any GPU so classified, or other affected interest owner, shall have 30 days after receipt of notification of marginal classification in which to submit satisfactory evidence to the division that the GPU is not of marginal character and should not be so classified; or

(b) A GPU which is underproduced more than the overproduction limit as described in -Subparagraphs (a) or (b) of Paragraph (3) of Subsection D of 19.15.8.605 NMAC above, whichever is applicable, shall be reclassified as marginal.

(3) **Cancellation of Underproduction for Marginal GPU:** A GPU which is classified as marginal shall not be permitted to accumulate underproduction, and any underproduction accrued to a GPU before its classification as marginal shall be canceled.

(4) **Reclassification to Non-Marginal:** If, at the end of any classification period, a marginal

GPU has produced more gas during the proration period to that time than its shadow allowable for that same period, the GPU shall be reclassified as a non-marginal GPU.

(5) Reinstatement of Status: A GPU reclassified to non-marginal under the provisions of Paragraph (4) of Subsection E of 19.15.8.605 NMAC above shall have reinstated to it all underproduction which accrued or would have accrued as a non-marginal GPU from the current proration period, underproduction from the prior proration period may be reinstated after notice and hearing. All uncompensated-for overproduction accruing to the GPU while marginal shall be chargeable upon reclassification to non-marginal.

F. Reporting of Production - Filing C-111 and C-115 Reports: Transporters and operators shall file gas transportation and production reports pursuant to 19.15.13.1111 NMAC and 19.15.13.1115 NMAC of the division rules provided that upon approval by the director as to the specific program to be used, any producer or transporter of gas may be permitted to report metered production of gas on a chart-period basis; provided the following provisions shall be applicable to each gas well:

(1) Reports for a month shall include not less than 24 nor more than 32 reported days.

(2) Reported days may include as many as the last seven days of the previous month but no days of the succeeding month.

(3) The total of the monthly reports for a year shall include not less than 360 nor more than 368 reported days.

(4) For purposes of these rules, the term "month" shall mean "calendar month" for those reporting on a calendar month basis, and shall mean "reporting month" for those reporting on a chart-period basis according to the exception provided in this rule.

[5-30-98; 19.15.8.605 NMAC - Rn, 19 NMAC 15.H.605, 04-30-03]

19.15.8.606 TESTS AND TEST PROCEDURES FOR PRORATED POOLS IN NORTHWEST NEW MEXICO:

A. Type of Tests Required for Wells Completed in Prorated Gas Pools

(1) Reclassified GPUs: An operator of a well on a gas proration unit (GPU) that has been reclassified as non-marginal will conduct deliverability tests on that well within 90 days of the order reclassifying it, unless there are current tests on file with the division or that order requires a new test. A current test is a test which was conducted during the last test period for that pool or later.

(2) Non-marginal GPUs: Operators will conduct deliverability tests on wells on non-marginal GPUs every five years. If the division determines that a well's test data and production data warrant more frequent testing of a well, the division may set up special testing schedules for that well.

(3) Scheduling of Tests

(a) Notification of Pools to be Tested: By September 1 of each year the Aztec district office of the division will notify operators of non-marginal GPUs if their wells will be tested during the following test period.

(b) The results of all deliverability tests required must be filed with the Aztec district office within 90 days following the completion of each test. Provided however, that any test completed between December 31 of the test year and March 10 of the following year are due no later than March 31. No extension of time for filing tests beyond March 31 will be granted except after notice and hearing.

(c) Failure to file any test within the above-prescribed times will subject the GPU to the loss of one day's allowable for each day the test is late.

(d) Any well scheduled for testing during its test year may have the conditioning period, test flow period, and part of the seven-day shut-in period conducted in December of the previous year provided that, if the seven-day shut-in period immediately follows the test flow period, the seven-day shut-in pressure is to be measured in January of the test year. The earliest date that a well can be scheduled for a deliverability test would be such that the test flow period would end on December 25 of the previous year.

(e) Downhole commingled wells are to be scheduled for tests on dates for the pool

of the lowermost prorated completion of the well.

(f) In the event a well is shut-in by the division for overproduction, the operator may produce the well for a period of time to secure a test after written notification to the division. All gas produced during this testing period will be used in determining the over/under produced status of the well.

(g) An operator may schedule a well for a deliverability retest upon notification to the Aztec district office at least ten days before the test is to be commenced. Such retest will be for substantial reason and will be subject to the approval of the division. A retest will be conducted in conformance with the deliverability test procedures of these rules. The division, at its discretion, may require the retesting of any well by notification to the operator to schedule such retest. These tests, as filed on form C-122A, should be identified as "RETEST" in the remarks column.

(4) Witnessing of Tests: Any deliverability test may be witnessed by any or all of the following: a representative of the division, an offset operator, a representative of the gas transportation facility connected to the well under test, or a representative of the gas transportation facility taking gas from an offset operator.

B. Procedure for Testing

(1) The test shall begin by producing a well in the normal operating manner into the pipeline through either the casing or tubing, but not both, for a period of fourteen consecutive days. This shall be known as the conditioning period. The production valve and choke settings shall not be changed during either the conditioning or flow periods, except during the first ten days of the conditioning period when maximum production would over-range the meter chart or location production equipment. The first ten days of the conditioning period shall not have more than 48 hours of cumulative interruptions of flow. The eleventh to fourteenth days, inclusive of the conditioning period, shall have no interruptions of flow whatsoever. Any interruption of flow that occurs as normal operation of the well as stop-cock flow, intermittent flow, or well blow down will not be counted as shut-in time in either the conditioning or flow period.

(2) The daily flowing rate shall be determined from an average of seven or eight consecutive producing days, following a minimum conditioning period of 14 consecutive days of production. This shall be known as the flow period.

(3) Instantaneous pressure shall be measured by a deadweight gauge or other method approved by the division during the seven-day or eight-day flow period at the casinghead, tubinghead, and orifice meter, and shall be recorded along with instantaneous meter-chart static pressure reading.

(4) If a well is producing through a compressor that is located between the wellhead and the meter run, the meter run pressure and the wellhead casing pressure and the wellhead tubing pressure are to be reported on form C-122A. (Neither the suction pressure nor the discharge pressure of the compressor is considered **wellhead** pressure.) A note shall be entered in the remarks portion on form C-122A stating: "This well produced through a compressor."

(5) When it is necessary to restrict the flow of gas between the wellhead and the orifice meter, the ratio of the downstream pressure, psia, to the upstream pressure, psia, shall be determined. When this ratio is 0.57 or less, critical flow conditions shall be considered to exist across the restriction.

(6) When more than one restriction between the wellhead and the orifice meter causes the pressures to reflect critical flow between the wellhead and the orifice meter, the pressures across each of these restrictions shall be measured to determine whether critical flow exists at any restriction. When critical flow does not exist at any restriction, the pressures taken to disprove the critical flow shall be reported to the division on form C-122A in item (n) of the form. When critical flow conditions exist, the instantaneous flowing pressures required above shall be measured during the last 48 hours of the seven-day or eight-day flow period.

(7) When critical flow exists between the wellhead and the orifice meter, the measured wellhead flowing pressure of the string through which the well flowed during the test shall be used as P_i when calculating the static wellhead working pressure (P_w) using the method established below.

(8) When critical flow does not exist at any restriction, P_t shall be the corrected average static pressure from the meter chart plus friction loss from the wellhead to the orifice meter.

(9) The static wellhead working pressure (P_w) of any well under test shall be the calculated seven-day or eight-day average static tubing pressure if the well is flowing through the casing; it shall be the calculated seven-day or eight-day average static casing pressure if the well is flowing through the tubing. The static wellhead working pressure (P_w) shall be calculated by applying the tables and procedures set out in the "Gas Well Testing Manual for Northwest New Mexico" ("the Manual") available from the division.

(10) To obtain the shut-in pressure of a well under test, the well shall be shut-in some time during the current testing season for a period of seven to fourteen consecutive days, which have been preceded by a minimum of seven days of uninterrupted production. Such shut-in pressure shall be measured on the seventh to fourteenth day of shut-in of the well with a deadweight gauge or other method approved by the division. The seven-day shut-in pressure shall be measured on both the tubing and the casing when communication exists between the two strings. The higher of such pressures shall be used as P_c in the deliverability calculation. When any such shut-in pressure is determined by the division to be abnormally low or the well can not be shut-in due to "HARDSHIP" classification, the shut-in pressure to be used as P_c shall be determined by one of the following methods:

(a) A division-designated value.

(b) An average shut-in pressure of all offset wells completed in the same zone. Offset wells include the four side and four corner wells, if available.

(c) A calculated surface pressure based on a calculated bottom-hole pressure. Such calculations shall be made in accordance with the examples in the manual.

(11) All wellhead pressures, as well as the flowing meter pressure tests which are to be taken during the seven-day or eight-day deliverability test period as required above, shall be taken with a deadweight gauge or other method approved by the division. The pressure readings and the date and time according to the chart shall be recorded and maintained in the operator's records with the test information.

(12) Orifice meter charts shall be changed and arranged so as to reflect upon a single chart the flow data for the gas from each well for the full seven-day or eight-day deliverability test period; however, no tests shall be voided if satisfactory explanation is made as to the necessity for using test volumes through two chart periods. Corrections shall be made for pressure base, measured flowing temperature, specific gravity, and supercompressibility; provided however, if the specific gravity of the gas from any well under test is not available, an estimated specific gravity may be assumed therefore, based upon that of gas from near-by wells, the specific gravity of which has been actually determined by measurement.

(13) The average flowing meter pressure for the seven-day or eight-day flow period and the corrected integrated volume shall be determined by the purchasing company that integrates the flow charts and furnished to the operator or testing agency.

(14) The seven-day or eight-day flow period volume shall be calculated from the integrated readings as determined from the flow period orifice meter chart. The volume so calculated shall be divided by the number of testing days on the chart to determine the average daily rate of flow during said flow period. The flow period shall have a minimum of seven and a maximum of eight legibly recorded flowing days to be acceptable for test purposes. The volume used in this calculation shall be corrected to the division's standard conditions of 15.025 psia pressure base, 60 degrees F. temperature base and 0.60 specific gravity base.

(15) The daily volume of flow, as determined from the flow period chart readings, shall be calculated by applying the basic orifice meter formula or other acceptable industry standard practices.

$$Q = C' (h_w P_t)^{.5}$$

Where:

Q = Metered volume of flow Mcf/d @ 15.025 psia, 60 degrees F., and 0.60 specific gravity.

C' = The 24-hour basic orifice meter flow factor corrected for flowing temperature, gravity, and supercompressibility.

h_w = Daily average differential meter pressure from flow period chart.

P_f = Daily average flowing meter pressure from flow period chart.

(16) The basic orifice meter flow factors, flowing temperature factor, and specific gravity factor shall be determined from the tables in the manual.

(17) The daily flow period average corrected flowing meter pressure, psig, shall be used to determine the supercompressibility factor. Supercompressibility tables may be obtained from the division.

(18) When supercompressibility correction is made for a gas containing either nitrogen or carbon dioxide in excess of two percent, the supercompressibility factors of such gas shall be determined by the use of Table V of the C.N.G.A. Bulletin TS-402 for pressures 100-500 psig, or Table II, TS-461 for pressures in excess of 500 psig.

(19) The use of tables for calculating rates of flow from integrator readings which do not specifically conform to the division's "Back Pressure Test Manual", or the Manual, may be approved for determining the daily flow period rates of flow upon a showing that such tables are appropriate and necessary.

(20) The daily average integrated rate of flow for the seven-day or eight-day flow period shall be corrected for meter error by multiplication by a correction factor. Said correction factor shall be determined by dividing the square root of the deadweight flowing meter pressure, psia, by the square root of the chart flowing meter pressure, psia.

(21) "Deliverability pressure" is a defined pressure applied to each well and used in the process of comparing the abilities of wells in a pool to produce at static wellhead working pressures equal to a percentage of the seven-day shut-in pressure of the respective individual wells. Such percentage shall be determined and announced periodically by the division based on the relationship of the average static wellhead working pressures (P_w) divided by the average seven-day shut-in pressure (P_c) of the pool.

(22) The deliverability of gas at the deliverability pressure of any well under test shall be calculated from the test data derived from the tests above required by use of the following deliverability formula:

$$D = \frac{(P_c^2 - P_d^2)^n}{Q [(P_c^2 - P_w^2)]}$$

Where:

D = Deliverability Mcf/d at the deliverability pressure, (P_d), (at Standard Conditions of 15.025 psia, 60 degrees F. and 0.60 sp. gr.).

Q = Daily flow rate in Mcf/d, at wellhead pressure (P_w).

P_c = Seven-day shut-in wellhead pressure, psia.

P_d = Deliverability pressure, psia, as defined above.

P_w = Average static wellhead working pressure, as determined from seven-day or eight-day flow period, psia, and calculated from tables in the manual entitled "Pressure Loss Due to Friction Tables for Northwest New Mexico".

n = Average pool slope of back pressure curves as follows:

For pictured cliffs and shallower formations, 0.85

For formations deeper than pictured cliffs, 0.75

(Note: Special rules for any specific pool or formation may supersede the above values. Check special rules if in doubt.)

(23) The value of the multiplier in the above formula (ratio factor after the application of the pool slope) by which Q is multiplied shall not exceed a limiting value to be determined and announced periodically by the division. Such determination shall be made after a study of the test data of the pool obtained during the previous testing season.

(24) Downhole commingled wells are to be tested in the test year for the pool of the

lowermost prorated completion of the well and shall use pool slope (n), and deliverability pressure of the lowermost pool. The total flow rate from the downhole commingled well will be used to calculate a value of deliverability. For each prorated gas zone of a downhole commingled well, a form C-122A is required to be filed. Also, in the summary portion of that form all zones will indicate the same data for line h, P_c , Q, P_w , and P_d . The value shown for deliverability (D) will be that percentage of the total deliverability of the well that is applicable to this zone. A note shall be placed in the remarks column that indicates the percentage of deliverability to be allocated to this zone of the well.

(25) Any test prescribed herein will be considered acceptable if the average flow rate for the final seven-day or eight-day deliverability test is not more than ten percent in excess of any consecutive seven-day or eight-day average of the preceding two weeks. A deliverability test not meeting this requirement may be declared invalid, requiring the well to be re-tested.

(26) All charts relative to deliverability tests or copies thereof shall be made available to the division upon its request.

(27) Operators shall use only testing agencies, whether individuals, companies, pipeline companies, or operators, that maintain a log of all tests accomplished by them including all field test data. The operator shall maintain the above data for a period of not less than two years plus the current test year.

(28) All forms heretofore mentioned are hereby adopted for use in the northwest New Mexico area in open form subject to such modification as experience may indicate desirable or necessary.

(29) Deliverability tests for gas wells in all formations shall be conducted and reported in accordance with these rules. Provided, however, these rules shall be subject to any specific modification or change contained in Special Pool Rules adopted for any pool after notice and hearing.

C. Informational Tests

(1) One-Point Back Pressure Test: A one-point back pressure test may be taken on newly completed wells before their connection or reconnection to a gas transportation facility. This test shall not be a required official test, but may be taken for informational purposes at the option of the operator. When taken, this test must be taken and reported as prescribed below.

(2) Test Procedure

(a) This test shall be accomplished after a minimum shut-in of seven days. The shut-in pressure shall be measured with a deadweight gauge or other method approved by the division.

(b) The flow rate shall be that rate in Mcf/d measured at the end of a three hour test flow period. The flow from the well shall be for three hours through a positive choke, which has a 3/4 inch orifice.

(c) A 2-inch nipple which provides a mechanical means of accurately measuring the pressure and temperature of the flowing gas shall be installed immediately upstream from the positive choke.

(d) The absolute open flow shall be calculated using the conventional back pressure formula as shown in the manual or the division's "Back Pressure Test Manual."

(e) The observed data and flow calculations shall be reported in duplicate on form C-122, "Multi-Point Back Pressure Test for Gas Wells."

(f) Non-critical flow shall be considered to exist when the choke pressure is 13 psig or less. When this condition exists the flow rate shall be measured with a pitot tube and nipple as specified in the manual or in the division's manual of "Tables and Procedure for Pitot Tests." The pitot test nipple shall be installed immediately downstream from the 3/4-inch positive choke.

(g) Any well completed with 2-inch nominal size tubing (1.995-inch ID) or larger shall be tested through the tubing.

(3) Other tests for informational purposes may be conducted prior to obtaining a pipeline connection for a newly completed well upon receiving specific approval therefore from the Aztec district office. Approval of these tests shall be based primarily upon the volume of gas to be vented.

[5-30-98; 19.15.8.606 NMAC - Rn, 19 NMAC 15.H.606, 04-30-03]

History of 19.15.8 NMAC:

Pre-NMAC History:

Rule 601, Allocation of Gas Production, filed 1-8-82;
Rule 601, Allocation of Gas Production, filed 2-5-91;
Rule 602, Proration Period, filed 1-8-82;
Rule 602, Proration Period, filed 2-5-91;
Rule 603, Adjustment of Allowables, filed 1-8-82;
Rule 603, Adjustment of Allowables, filed 2-5-91;
Rule 604, Gas Proration Units, filed 1-8-82;
Rule 604, Gas Proration Units, filed 2-5-91.

History of Repealed Material: [Reserved]

Other History:

Rule 601, Allocation of Gas Production, filed 2-5-91; Rule 602, Proration Period, filed 2-5-91; Rule 603, Adjustment of Allowables, filed 2-5-91; Rule 604, Gas Proration Units, filed 2-5-91 all renumbered, reformatted **to and replaced by** 19 NMAC 15.H, Gas Proration and Allocation, filed 01-18-96. 19 NMAC 15.H, Gas Proration and Allocation, filed 01-18-96 renumbered, reformatted **to and replaced by** 19.15.8 NMAC, effective 4-30-03.

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 9 SECONDARY OR OTHER ENHANCED RECOVERY, PRESSURE MAINTENANCE, SALT WATER DISPOSAL, AND UNDERGROUND STORAGE

19.15.9.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department. [2-1-96; 19.15.9.1 NMAC - Rn, 19 NMAC 15.I.1, 11-30-00; A, 11-30-00]

19.15.9.2 SCOPE: All persons/entities engaged in oil and gas development and production within New Mexico. [2-1-96; 19.15.9.2 NMAC - Rn, 19 NMAC 15.I.2, 11-30-00]

19.15.9.3 STATUTORY AUTHORITY: Sections 70-2-1 through 70-2-38 NMSA 1978 sets forth the Oil and Gas Act which grants the Oil Conservation Division jurisdiction and authority over all matters relating to the conservation of oil and gas, the prevention of waste of oil and gas and of potash as a result of oil and gas operations, the protection of correlative rights, and the disposition of wastes resulting from oil and gas operations. [2-1-96; 19.15.9.3 NMAC - Rn, 19 NMAC 15.I.3, 11-30-00]

19.15.9.4 DURATION: Permanent. [2-1-96; 19.15.9.4 NMAC - Rn, 19 NMAC 15.I.4, 11-30-00]

19.15.9.5 EFFECTIVE DATE: February 1, 1996, unless a later date is cited at the end of a section. [2-1-96; 19.15.9.5 NMAC - Rn, 19 NMAC 15.I.5, 11-30-00; A, 11-30-00]

19.15.9.6 OBJECTIVE: To regulate secondary or other enhanced recovery, pressure maintenance, salt water disposal, and underground storage to prevent waste, protect correlative rights and protect public health and the environment pursuant to the Oil and Gas Act.

[2-1-96; 19.15.9.6 NMAC - Rn, 19 NMAC 15.I.6, 11-30-00]

19.15.9.7 DEFINITONS: Reserved.

[2-1-96; 19.15.9.7 NMAC - Rn, 19 NMAC 15.I.7, 11-30-00]

19.15.9.8-700 RESERVED.

[2-1-96; 19.15.9.8-700 NMAC - Rn, 19 NMAC 15.I.7-700, 11-30-00]

19.15.9.701 INJECTION OF FLUIDS INTO RESERVOIRS:

A. Permit for Injection Required - The injection of gas, liquefied petroleum gas, air, water, or any other medium into any reservoir for the purpose of maintaining reservoir pressure or for the purpose of secondary or other enhanced recovery or for storage or the injection of water into any formation for the purpose of water disposal shall be permitted only by order of the division after notice and hearing, unless otherwise provided herein.

B. Method of Making Application

(1) Application for authority for the injection of gas, liquefied petroleum gas, air, water or any other medium into any formation for any reason, including but not necessarily limited to the establishment of or the expansion of water flood projects, enhanced recovery projects, pressure maintenance projects, and salt water disposal, shall be by submittal of division Form C-108 complete with all attachments.

(2) The Applicant shall furnish, by certified or registered mail, a copy of the application to the owner of the surface of the land on which each injection or disposal well is to be located and to each leasehold operator within one-half mile of the well.

C. Administrative Approval

(1) If the application is for administrative approval rather than for a hearing, it must also be accompanied by a copy of a legal publication published by the applicant in a newspaper of general circulation in the county in which the proposed injection well is located. (The details required in such legal notice are listed on Side 2 of Form C-108).

(2) No application for administrative approval may be approved until 15 days following receipt by the division of Form C-108 complete with all attachments including evidence of mailing as required under Subsection B, Paragraph (2) above of 19.15.9.701 NMAC and proof of publication as required by Subsection C, Paragraph (1) above of 19.15.9.701 NMAC.

(3) If no objection is received within said 15-day period, and a hearing is not otherwise required, the application may be approved administratively.

D. Hearings - If a written objection to any application for administrative approval of an injection well is filed within 15 days after receipt of a complete application, or if a hearing is required by these rules or deemed advisable by the division director, the application shall be set for hearing and notice thereof given by the division.

E. Salt Water Disposal Wells

(1) The division director shall have authority to grant an exception to the requirements of Subsection A of 19.15.9.701 NMAC for water disposal wells only, without hearing, when the waters to be disposed of are mineralized to such a degree as to be unfit for domestic, stock, irrigation, or other general use, and when said waters are to be disposed of into a formation older than Triassic (Lea County only) and provided no objections are received pursuant to Subsection C of 19.15.9.701 NMAC.

(2) Disposal will not be permitted into zones containing waters having total dissolved solids concentrations of 10,000 mg/1 or less except after notice and hearing, provided however, that the division may establish exempted aquifers for such zones wherein such injection may be approved administratively.

(3) Notwithstanding the provisions of Subsection E, Paragraph (2) above of 19.15.9.701 NMAC, the division director may authorize disposal into such zones if the waters to be disposed of are of

higher quality than the native water in the disposal zone.

F. Pressure Maintenance Projects

(1) Pressure maintenance projects are defined as those projects in which fluids are injected into the producing horizon in an effort to build up and/or maintain the reservoir pressure in an area which has not reached the advanced or "stripper" state of depletion.

(2) All applications for establishment of pressure maintenance projects shall be set for hearing. The project area and the allowable formula for any pressure maintenance project shall be fixed by the division on an individual basis after notice and hearing.

(3) Pressure maintenance projects may be expanded and additional wells placed on injection only upon authority from the division after notice and hearing or by administrative approval.

(4) The division director shall have authority to grant an exception to the hearing requirements of Subsection A of 19.15.9.701 NMAC for the conversion to injection of additional wells within a project area provided that any such well is necessary to develop or maintain efficient pressure maintenance within such project and provided that no objections are received pursuant to Subsection C of 19.15.9.701 NMAC.

(5) An established pressure maintenance project shall have only one designated operator. Any application for exception must be set for hearing.

G. Water Flood Projects

(1) Water flood projects are defined as those projects in which water is injected into a producing horizon in sufficient quantities and under sufficient pressure to stimulate the production of oil from other wells in the area, and shall be limited to those areas in which the wells have reached an advanced state of depletion and are regarded as what is commonly referred to as "stripper" wells.

(2) All applications for establishment of water flood projects shall be set for hearing.

(3) The project area of a water flood project shall comprise the proration units owned or operated by a given operator upon which injection wells are located plus all proration units owned or operated by the same operator which directly or diagonally offset the injection tracts and have producing wells completed on them in the same formation; provided however, that additional proration units not directly nor diagonally offsetting an injection tract may be included in the project area if, after notice and hearing, it has been established that such additional units have wells completed thereon which have experienced a substantial response to water injection.

(4) The allowable assigned to wells in a water flood project area shall be equal to the ability of the wells to produce and shall not be subject to the depth bracket allowable for the pool nor to the market demand percentage factor.

(5) Nothing herein contained shall be construed as prohibiting the assignment of special allowables to wells in buffer zones after notice and hearing. Special allowables may also be assigned in the limited instances where it is established at a hearing that it is imperative for the protection of correlative rights to do so.

(6) Water flood projects may be expanded and additional wells placed on injection only upon authority from the division after notice and hearing or by administrative approval.

(7) The division director shall have authority to grant an exception to the hearing requirements of Subsection A of 19.15.9.701 NMAC for conversion to injection of additional wells provided that any such well is necessary to develop or maintain thorough and efficient water flood injection for any authorized project and provided that no objections are received pursuant to Subsection C of 19.15.9.701 NMAC.

(8) An established water flood project shall have only one designated operator. Any application for exception must be set for hearing.

H. Storage Wells

(1) The division director shall have authority to grant an exception to the hearing requirements of Subsection A of 19.15.9.701 NMAC for the underground storage of liquefied petroleum gas or liquid hydrocarbons in secure caverns within massive salt beds, and provided no objections are

received pursuant to Subsection C of 19.15.9.701 NMAC.

(2) In addition to the filing requirements of Subsection B of 19.15.9.701 NMAC, the applicant for approval of a storage well under this rule shall file the following:

(a) With the division director, a plugging bond in accordance with the provisions of Rule 101;

(b) With the appropriate district office of the division in triplicate:

(i) Form C-101, Application for Permit to Drill, Deepen, or Plug Back;

(ii) Form C-102, Well Location and Acreage Dedication Plat; and

(iii) Form C-105, Well Completion or Recompletion Report and Log.

[1-1-50...2-1-96; 19.15.9.701 NMAC - Rn, 19 NMAC 15.I.701, 11-30-00; A, 5/31/05]

19.15.9.702 CASING AND CEMENTING OF INJECTION WELLS:

Wells used for injection of gas, air, water, or any other medium into any formation shall be cased with safe and adequate casing or tubing so as to prevent leakage, and such casing or tubing shall be so set and cemented as to prevent the movement of formation or injected fluid from the injection zone into any other zone or to the surface around the outside of any casing string.

[1-1-50...2-1-96; 19.15.9.702 NMAC - Rn, 19 NMAC 15.I.702, 11-30-00]

19.15.9.703 OPERATION AND MAINTENANCE:

A. Injection wells shall be equipped, operated, monitored, and maintained to facilitate periodic testing and to assure continued mechanical integrity which will result in no significant leak in the tubular goods and packing materials used and no significant fluid movement through vertical channels adjacent to the well bore.

B. Injection project, including injection wells and producing wells and all related surface facilities shall be operated and maintained at all times in such a manner as will confine the injected fluids to the interval or intervals approved and prevent surface damage or pollution resulting from leaks, breaks, or spills.

C. Failure of any injection well, producing well, or surface facility, which failure may endanger underground sources of drinking water, shall be reported under the "Immediate Notification" procedure of Rule 116.

D. Injection well or producing well failures requiring casing repair or cementing are to be reported to the division prior to commencement of workover operations.

E. Injection wells or projects which have exhibited failure to confine injected fluids to the authorized injection zone or zones may be subject to restriction of injection volume and pressure, or shut-in, until the failure has been identified and corrected.

[7-1-81...2-1-96; 19.15.9.703 NMAC - Rn, 19 NMAC 15.I.703, 11-30-00]

19.15.9.704 TESTING, MONITORING, STEP-RATE TESTS, NOTICE TO THE DIVISION, REQUESTS FOR PRESSURE INCREASES:

A. Testing

(1) Prior to commencement of injection and any time tubing is pulled or the packer is resealed, wells shall be tested to assure the integrity of the casing and the tubing and packer, if used, including pressure testing of the casing-tubing annulus to a minimum of 300 psi for 30 minutes or such other pressure and/or time as may be approved by the appropriate district supervisor. A pressure recorder shall be used and copies of the chart shall be submitted to the appropriate division district office within 30 days following the test date.

(2) At least once every five years thereafter, injection wells shall be tested to assure their continued mechanical integrity. Tests demonstrating continued mechanical integrity shall include the following:

(a) measurement of annular pressures in wells injecting at positive pressure under a

packer or a balanced fluid seal; or,

(b) pressure testing of the casing-tubing annulus for wells injecting under vacuum conditions; or,

(c) such other tests which are demonstrably effective and which may be approved for use by the division.

(3) Notwithstanding the test procedures outlined above, the division may require more comprehensive testing of the injection wells when deemed advisable, including the use of tracer surveys, noise logs, temperature logs, or other test procedures or devices.

(4) In addition, the division may order special tests to be conducted prior to the expiration of five years if conditions are believed to so warrant. Any such special test which demonstrates continued mechanical integrity of a well shall be considered the equivalent of an initial test for test scheduling purposes, and the regular five-year testing schedule shall be applicable thereafter.

(5) The injection well operator shall advise the division of the date and time any initial, five-year, or special tests are to be commenced in order that such tests may be witnessed.

B. Monitoring - Injection wells shall be so equipped that the injection pressure and annular pressure may be determined at the wellhead and the injected volume may be determined at least monthly.

C. Step-Rate Tests, Notice to the Division, Requests for Injection Pressure Limit Increases

(1) Whenever an operator shall conduct a step-rate test for the purpose of increasing an authorized injection or disposal well pressure limit, notice of the date and time of such test shall be given in advance to the appropriate division district office.

(2) Copies of all injection or disposal well pressure-limit increase applications and supporting documentation shall be submitted to the division director and to the appropriate district office. [7-1-81...2-1-96; 19.15.9.704 NMAC - Rn, 19 NMAC 15.I.704, 11-30-00]

19.15.9.705 COMMENCEMENT, DISCONTINUANCE, AND ABANDONMENT OF INJECTION OPERATIONS:

A. The following provisions apply to all injection projects, storage projects, salt water disposal wells and special purpose injection wells:

B. Notice of Commencement and Discontinuance

(1) Immediately upon the commencement of injection operations in any well, the operator shall notify the division of the date such operations began.

(2) Within 30 days after permanent cessation of gas or liquefied petroleum gas storage operations or within 30 days after discontinuance of injection operations into any other well, the operator shall notify the division of the date of such discontinuance and the reasons therefor.

(3) Before any injection well is temporarily abandoned or plugged, the operator shall obtain approval from the appropriate district office of the division in the same manner as when temporarily abandoning or plugging oil and gas wells or dry holes.

C. Abandonment of Injection Operations

(1) Whenever there is a continuous one year period of non-injection into any injection project, storage project, salt water disposal well, or special purpose injection well, such project or well shall be considered abandoned, and the authority for injection shall automatically terminate ipso facto.

(2) For good cause shown, the division director may grant an administrative extension or extensions of injection authority as an exception to Subsection C, Paragraph (1) above of 19.15.9.705 NMAC.

[1-1-50...2-1-96; 19.15.9.705 NMAC - Rn, 19 NMAC 15.I.705, 11-30-00; A, 11-30-00; A, 07-15-00]

19.15.9.706 RECORDS AND REPORTS:

A. The operator of an injection well or project for secondary or other enhanced recovery, pressure maintenance, natural gas storage, salt water disposal, or injection of any other fluids shall keep accurate records and shall report monthly to the division gas or fluid volumes injected, stored, and/or

produced as required on the appropriate form listed below:

- (1) Secondary or Other Enhanced Recovery on Form C-115;
- (2) Pressure Maintenance on Form C-115 and as otherwise prescribed by the Division;
- (3) Salt Water Disposal on Form C-120-A;
- (4) Natural Gas Storage on Form C-131-A; and
- (5) Injection of other fluids on a form prescribed by the Division.

B. The operator of a liquefied petroleum gas storage project shall report annually on Form C-131-B, Annual LPG Storage Report.

[1-1-50...2-1-96; 19.15.9.706 NMAC - Rn, 19 NMAC 15.I.706, 11-30-00]

19.15.9.707 RECLASSIFICATION OF WELLS:

The division director shall have authority to reclassify an injection well from any category defined in Subsection B of 19.15.9.701 NMAC to any other category without notice and hearing upon request and proper showing by the operator thereof.

[7-1-81...2-1-96; 19.15.9.707 NMAC - Rn, 19 NMAC 15.I.707, 11-30-00]

19.15.9.708 TRANSFER OF AUTHORITY TO INJECT:

A. Authority to inject granted under any order of the division is not transferable except upon approval of the division. Approval of transfer of authority to inject may be obtained by filing Form C-104 in accordance with Rule 1104 E.

B. The division may require a demonstration of mechanical integrity prior to approving transfer of authority to inject.

[1-1-50...2-1-96; 19.15.9.708 NMAC - Rn, 19 NMAC 15.I.708, 11-30-00]

19.15.9.709 REMOVAL OF PRODUCED WATER FROM LEASES AND FIELD FACILITIES:

A. Transportation of any produced water by motor vehicle from any lease, central tank battery, or other facility, without an approved Form C-133 (Authorization to Move Produced Water) is prohibited.

B. Authorization to transport produced water may be obtained by filing three copies of Form C-133 with the director of the division in Santa Fe.

C. No owner or operator shall permit produced water to be removed from its leases or field facilities by motor vehicle except by a person possessing an approved Form C-133.

[1-1-50...2-1-96; 19.15.9.709 NMAC - Rn, 19 NMAC 15.I.709, 11-30-00]

19.15.9.710 DISPOSITION OF TRANSPORTED PRODUCED WATER:

A. No person, including any transporter, may dispose of produced water on the surface of the ground, or in any pit, pond, lake, depression, draw, streambed, or arroyo, or in any watercourse, or in any other place or in any manner which will constitute a hazard to any fresh water supplies.

B. Delivery of produced water to approved salt water disposal facilities, secondary recovery or pressure maintenance injection facilities, or to a drill site for use in drilling fluid will not be construed as constituting a hazard to fresh water supplies provided the produced waters are placed in tanks or other impermeable storage at such facilities.

C. The supervisor of the appropriate district office of the division may grant temporary exceptions to Paragraph A. above for emergency situations, for use of produced water in road construction or maintenance, or for use of produced waters for other construction purposes upon request and a proper showing by a holder of an approved Form C-133 (Authorization to Move Produced Water).

D. Vehicular movement or disposition of produced water in any manner contrary to these rules shall be considered cause, after notice and hearing, for cancellation of Form C-133.

[2-1-82...2-1-96; 19.15.9.710 NMAC - Rn, 19 NMAC 15.I.710, 11-30-00]

19.15.9.711 APPLICABLE TO SURFACE WASTE MANAGEMENT FACILITIES ONLY:

A. A surface waste management facility is defined as any facility that receives for collection, disposal, evaporation, remediation, reclamation, treatment or storage any produced water, drilling fluids, drill cuttings, completion fluids, contaminated soils, bottom sediment and water (BS&W), tank bottoms, waste oil or, upon written approval by the division, other oilfield related waste. Provided, however, if (a) a facility performing these functions utilizes underground injection wells subject to regulation by the division pursuant to the federal Safe Drinking Water Act, and does not manage oilfield wastes on the ground in pits, ponds, below grade tanks or land application units, (b) if a facility, such as a tank only facility, does not manage oilfield wastes on the ground in pits, ponds below grade tanks or land application units or (c) if a facility performing these functions is subject to Water Quality Control Commission Regulations, then the facility shall not be subject to this rule.

(1) A commercial facility is defined as any surface waste management facility that does not meet the definition of centralized facility.

(2) A centralized facility is defined as a surface waste management facility that accepts only waste generated in New Mexico and that:

(a) does not receive compensation for waste management;

(b) is used exclusively by one generator subject to New Mexico's "Oil and Gas Conservation Tax Act" Section 7-30-1 NMSA-1978 as amended; or

(c) is used by more than one generator subject to New Mexico's "Oil and Gas Conservation Tax Act" Section 7-30-1 NMSA-1978 as amended under an operating agreement and which receives wastes that are generated from two or more production units or areas or from a set of jointly owned or operated leases.

(3) Centralized facilities exempt from permitting requirements are:

(a) facilities that receive wastes from a single well;

(b) facilities that receive less than 50 barrels of RCRA exempt liquid waste per day and have a capacity to hold 500 barrels of liquids or less or 1400 cubic yards of solids or less and when a showing can be made to the satisfaction of the division that the facility will not harm fresh water, public health or the environment;

(c) emergency pits that are designed to capture fluids during an emergency upset period only and provided such fluids will be removed from the pit within twenty-four (24) hours from introduction;

(d) facilities that do not meet the requirements of the foregoing exemptions in Subsection A, Paragraph (3) of 19.15.9.711 NMAC, but that are shown by the facility operator to the satisfaction of the division to not present a risk to public health and the environment.

B. Unless exempt from Section 19.15.9.711 NMAC, all commercial and centralized facilities including facilities in operation on the effective date of Section 19.15.9.711 NMAC, new facilities prior to construction and all existing facilities prior to major modification or major expansion shall be permitted by the division in accordance with the following requirements:

(1) Application Requirements - An application, Form C-137, for a permit for a new facility or to modify an existing facility shall be filed in DUPLICATE with the Santa Fe office of the division and ONE COPY with the appropriate division district office. The application shall comply with division guidelines and shall include:

(a) The names and addresses of the applicant and all principal officers of the business if different from the applicant;

(b) A plat and topographic map showing the location of the facility in relation to governmental surveys (1/4 1/4 section, township, and range), highways or roads giving access to the facility site, watercourses, water sources, and dwellings within one (1) mile of the site;

(c) The names and addresses of the surface owners of the real property on which the management facility is sited and surface owners of the real property of record within one (1) mile of the

site;

(d) A description of the facility with a diagram indicating location of fences and cattle guards, and detailed construction/installation diagrams of any pits, liners, dikes, piping, sprayers, and tanks on the facility;

(e) A plan for management of approved wastes.

(f) A contingency plan for reporting and cleanup of spills or releases;

(g) A routine inspection and maintenance plan to ensure permit compliance;

(h) A Hydrogen Sulfide Prevention and Contingency Plan to protect public health;

(i) A closure plan including a cost estimate sufficient to close the facility to protect public health and the environment; said estimate to be based upon the use of equipment normally available to a third party contractor;

(j) Geological/hydrological evidence, including depth to and quality of groundwater beneath the site, demonstrating that disposal of oilfield wastes will not adversely impact fresh water;

(k) Proof that the notice requirements of Section 19.15.9.711 NMAC have been met;

(l) Certification by an authorized representative of the applicant that information submitted in the application is true, accurate, and complete to the best of the applicant's knowledge.

(m) Such other information as is necessary to demonstrate that the operation of the facility will not adversely impact public health or the environment and that the facility will be in compliance with OCD rules and orders.

(2) Notice Requirements:

(a) Prior to public notice, the applicant shall give written notice of application to the surface owners of record within one (1) mile of the facility, the county commission where the facility is located or is proposed to be located, and the appropriate city official(s) if the facility is located or proposed to be located within city limits or within one (1) mile of the city limits. The distance requirements for notice may be extended by the director if the director determines the proposed facility has the potential to adversely impact public health or the environment at a distance greater than one (1) mile. The director may require additional notice as needed. A copy and proof of such notice will be furnished to the division.

(b) The applicant will issue public notice in a form approved by the division in a newspaper of general circulation in the county in which the facility is to be located. For permit modifications, the division may require the applicant to issue public notice and give written notice as above.

(c) Any person seeking to comment or request a public hearing on such application must file comments or hearing requests with the division within 30 days of the date of public notice. Requests for a public hearing must be in writing to the director and shall set forth the reasons why a hearing should be held. A public hearing shall be held if the director determines there is significant public interest.

(d) The division will distribute notice of the filing of an application for a new facility or major modifications with the next OCD and OCC hearing docket following receipt of the application.

(3) Financial Assurance Requirements:

(a) Centralized Facilities: Upon determination by the director that the permit can be approved, any applicant of a centralized facility shall submit acceptable financial assurance in the amount of \$25,000 per facility or a statewide "blanket" financial assurance in the amount of \$50,000 to cover all of that applicant's facilities in a form approved by the director.

(b) New Commercial Facilities or major expansions or major modification of Existing Facilities: Upon determination by the director that a permit for a commercial facility to commence operation after the effective date of this rule can be approved, or upon determination by the director that a major modification or major expansion of an existing facility can be approved, any applicant of such a commercial facility shall submit acceptable financial assurance in the amount of the

closure cost estimated in Subsection B, Paragraph (1), Subparagraph (i) above of 19.15.9.711 NMAC in a form approved by the director according to the following schedule:

(i) within one (1) year of commencing operations or when the facility is filled to 25% of the permitted capacity, whichever comes first, the financial assurance must be increased to 25% of the estimated closure cost;

(ii) within two (2) years of commencing operations or when the facility is filled to 50% of the permitted capacity, whichever comes first, the financial assurance must be increased to 50% of the estimated closure cost;

(iii) within three (3) years of commencing operations or when the facility is filled to 75% of the permitted capacity, whichever comes first, the financial assurance must be increased to 75% of the estimated closure cost;

(iv) within four (4) years of commencing operations or when the facility is filled to 100% of the permitted capacity, whichever comes first, the financial assurance must be increased to the estimated closure cost.

(c) Existing Commercial Facilities: All permittees of commercial facilities approved for operation at the time this rule becomes effective shall have submitted financial assurance in the amount of the closure cost estimated pursuant to Subsection B, Paragraph (1), Subparagraph (i) above of 19.15.9.711 NMAC but not less than \$25,000 nor more than \$250,000 per facility in a form approved by the director.

(i) within one (1) year of the effective date of Section 19.15.9.711 NMAC the financial assurance amount must be increased to 25% of the estimated closure costs or \$62,500.00, whichever is less;

(ii) within two (2) years of the effective date of Section 19.15.9.711 NMAC the financial assurance amounts must be increased to 50% of the estimated closure costs or \$125,000.00, whichever is less;

(iii) within three (3) years of the effective date of Section 19.15.9.711 NMAC the financial assurance amounts must be increased to 75% of the estimated closure costs or \$187,000.00, whichever is less;

(iv) within four (4) years of the effective date of Section 19.15.9.711 NMAC the financial assurance amounts must be increased to the estimated closure cost or \$250,000.00, whichever is less.

(d) The financial assurance required in subparagraphs (a), (b), or (c), above shall be payable to the State of New Mexico and conditioned upon compliance with statutes of the State of New Mexico and rules of the division, and acceptable closure of the site upon cessation of operation, in accordance with Subsection B, Paragraph (1), Subparagraph (i) of 19.15.9.711 NMAC. If adequate financial assurance is posted by the applicant with a federal or state agency and the financial assurance otherwise fulfills the requirements of this rule, the division may consider the financial assurance as satisfying the requirement of Section 19.15.9.711 NMAC. The applicant must notify the division of any material change affecting the financial assurance within 30 days of discovery of such change.

(4) The director may accept the following forms of financial assurance:

(a) Surety Bonds

(i) A surety bond shall be executed by the permittee and a corporate surety licensed to do business in the State.

(ii) Surety bonds shall be noncancellable during their terms.

(b) Letter of Credit - Letter of credit shall be subject to the following conditions:

(i) The letter may be issued only by a bank organized or authorized to do business in the United States;

(ii) Letters of credit shall be irrevocable for a term of not less than five (5) years. A letter of credit used as security in areas requiring continuous financial assurance coverage shall be forfeited and shall be collected by the State of New Mexico if not replaced by other suitable financial

assurance or letter of credit at least 90 days before its expiration date;

(iii) The letter of credit shall be payable to the State of New Mexico upon demand, in part or in full, upon receipt from the director of a notice of forfeiture.

(c) Cash Accounts - Cash accounts shall be subject to the following conditions:

(i) The director may authorize the permittee to supplement the financial assurance through the establishment of a cash account in one or more federally insured or equivalently protected accounts made payable upon demand to, or deposited directly with, the State of New Mexico.

(ii) Any interest paid on a cash account shall not be retained in the account and applied to the account unless the director has required such action as a permit requirement.

(iii) Certificates of deposit may be substituted for a cash account with the approval of the Director.

(d) Replacement of Financial Assurances

(i) The director may allow a permittee to replace existing financial assurances with other financial assurances that provide equivalent coverage.

(ii) The director shall not release existing financial assurances until the permittee has submitted, and the director has approved, acceptable replacements.

(5) A permit may be denied, revoked or additional requirements imposed by a written finding by the director that a permittee has a history of failure to comply with division rules and orders and state or federal environmental laws.

(6) The director may, for protection of public health and the environment, impose additional requirements such as setbacks from an existing occupied structure.

(7) The director may issue a permit upon a finding that an acceptable application has been filed and that the conditions of paragraphs 2 and 3 above have been met. All permits are revocable upon showing of good cause after notice and, if requested, hearing. Permits shall be reviewed a minimum of once every five (5) years for compliance with state statutes, Division rules and permit requirements and conditions.

C. Operational Requirements

(1) All surface waste management facility permittees shall file forms C-117-A, C-118, and C-120-A as required by OCD rules.

(2) Facilities permitted as treating plants will not accept sediment oil, tank bottoms and other miscellaneous hydrocarbons for processing unless accompanied by an approved Form C-117A or C-138.

(3) Facilities will only accept oilfield related wastes except as provided in Subsection C, Paragraph (4), Subparagraph (c) of 19.15.9.711 NMAC below. Wastes which are determined to be RCRA Subtitle C hazardous wastes by either listing or characteristic testing will not be accepted at a permitted facility.

(4) The permittee shall require the following documentation for accepting wastes, other than wastes returned from the wellbore in the normal course of well operations such as produced water and spent treating fluids, at commercial waste management facilities:

(a) Exempt Oilfield Wastes: As a condition to acceptance of the materials shipped, a generator, or his authorized agent, shall sign a certificate which represents and warrants that the wastes are: generated from oil and gas exploration and production operations; exempt from Resource Conservation and Recovery Act (RCRA) Subtitle C regulations; and not mixed with non-exempt wastes. The permittee shall have the option to accept on a monthly, weekly, or per load basis a load certificate in a form of its choice. While the acceptance of such exempt oilfield waste materials does not require the prior approval of the division, both the generator and permittee shall maintain and shall make said certificates available for inspection by the division for compliance and enforcement purposes.

(b) Non-exempt, Non-hazardous Oilfield Wastes: Prior to acceptance, a "Request For Approval To Accept Solid Waste", OCD Form C-138, accompanied by acceptable documentation to determine that the waste is non-hazardous shall be submitted to the appropriate district office. Acceptance

will be on a case-by-case basis after approval from the division's Santa Fe office.

(c) Non-oilfield Wastes: Non-hazardous, non-oilfield wastes may be accepted in an emergency if ordered by the Department of Public Safety. Prior to acceptance, a "Request To Accept Solid Waste", OCD Form C-138 accompanied by the Department of Public Safety order will be submitted to the appropriate district office and the division's Santa Fe office. With prior approval from the division, other non-hazardous, non-oilfield waste may be accepted into a permitted surface waste management facility if the waste is similar in physical and chemical composition to the oilfield wastes authorized for disposal at that facility and is either: (1) exempt from the "hazardous waste" provisions of Subtitle C of the federal Resource Conservation and Recovery Act; or (2) has tested non-hazardous and is not listed as hazardous. Prior to acceptance, a "Request For Approval to Accept Solid Waste," OCD Form C-138, accompanied by acceptable documentation to characterize the waste, shall be submitted to and approved by the division's Santa Fe office.

(5) The permittee of a commercial facility shall maintain for inspection the records for each calendar month on the generator, location, volume and type of waste, date of disposal, and hauling company that disposes of fluids or material in the facility. Records shall be maintained in appropriate books and records for a period of not less than five years, covering their operations in New Mexico.

(6) Disposal at a facility shall occur only when an attendant is on duty unless loads can be monitored or otherwise isolated for inspection before disposal. The facility shall be secured to prevent unauthorized disposal when no attendant is present.

(7) No produced water shall be received at the facility from motor vehicles unless the transporter has a valid Form C-133, Authorization to Move Produced Water, on file with the division.

(8) To protect migratory birds, all tanks exceeding 16 feet in diameter, and exposed pits and ponds shall be screened, netted or covered. Upon written application by the permittee, an exception to screening, netting or covering of a facility may be granted by the district supervisor upon a showing that an alternative method will protect migratory birds or that the facility is not hazardous to migratory birds.

(9) All facilities will be fenced in a manner approved by the director.

(10) A permit may not be transferred without the prior written approval of the director. Until such transfer is approved by the director and the required financial assurance is in place, the transferor's financial assurance will not be released.

D. Facility Closure

(1) The permittee shall notify the division thirty (30) days prior to its intent to cease accepting wastes and close the facility. The permittee shall then begin closure operations unless an extension of time is granted by the director. If disposal operations have ceased and there has been no significant activity at the facility for six (6) months and the permittee has not responded to written notice as defined in Subsection D, Paragraph (2), Subparagraph (a) of 19.15.9.711 NMAC, then the facility shall be considered abandoned and shall be closed utilizing the financial assurance pledged to the facility. Closure shall be in accordance with the approved closure plan and any modifications or additional requirements imposed by the director to protect public health and the environment. At all times the permittee must maintain the facility to protect public health and the environment. Prior to release of the financial assurance covering the facility, the division will inspect the site to determine that closure is complete.

(2) If a permittee refuses or is unable to conduct operations at the facility in a manner that protects public health or the environment or refuses or is unable to conduct or complete the closure plan, the terms of the permit are not met, or the permittee defaults on the conditions under which the financial assurance was accepted, the director shall take the following actions to forfeit all or part of the financial assurance:

(a) Send written notice by certified mail, return receipt requested, to the permittee and the surety informing them of the decision to close the facility and to forfeit all or part of the financial assurance, including the reasons for the forfeiture and the amount to be forfeited and notifying the

permittee and surety that a hearing request must be made within ten (10) days of receipt of the notice.

(b) Advise the permittee and surety of the conditions under which the forfeiture may be avoided. Such conditions may include but are not limited to:

(i) An agreement by the permittee or another party to perform closure operations in accordance with the conditions of the permit, the closure plan and these Rules, and that such party has the ability to satisfy the conditions.

(ii) The director may allow a surety to complete closure if the surety can demonstrate an ability to complete the closure in accordance with the approved plan. No surety liability shall be released until successful completion of closure.

(c) In the event forfeiture of the financial assurance is required by this rule, the director shall proceed to collect the forfeited amount and use the funds collected from the forfeiture to complete the closure. In the event the amount forfeited is insufficient for closure, the permittee shall be liable for the deficiency. The director may complete or authorize completion of closure and may recover from the permittee all reasonably incurred costs of closure and forfeiture in excess of the amount forfeited. In the event the amount forfeited was more than the amount necessary to complete closure and all costs of forfeiture, the excess shall be returned to the party from whom it was collected.

(d) Upon showing of good cause, the director may order immediate cessation of operations of the facility when it appears that such cessation is necessary to protect public health or the environment, or to assure compliance with division rules and orders.

(e) In the event the permittee cannot fulfill the conditions and obligations of the permit, the State of New Mexico, its agencies, officers, employees, agents, contractors and other entities designated by the State shall have all rights of entry into, over and upon the facility property, including all necessary and convenient rights of ingress and egress with all materials and equipment to conduct operation, termination and closure of the facility, including but not limited to the temporary storage of equipment and materials, the right to borrow or dispose of materials, and all other rights necessary for operation, termination and closure of the facility in accordance with the permit.

E. Waste management facilities in operation at the time Section 19.15.9.711 NMAC becomes effective shall:

(1) within one (1) year after the effective date permitted facilities submit the information required in Subsection B, Paragraph (1), Subparagraphs (a, h, i and l) of 19.15.9.711 NMAC not already on file with the Division;

(2) within one (1) year after the effective date unpermitted facilities submit the information required in Subsection B, Paragraph (1), Subparagraphs (a) through (j) and Subsection B, Paragraph (1), Subparagraph (l) of 19.15.9.711 NMAC;

(3) comply with Subsections C and D of 19.15.9.711 NMAC unless the director grants an exemption from a requirement in these sections based upon a demonstration by the operator that such requirement is not necessary to protect public health and the environment.

[6-6-88...2-1-96; 19.15.9.711 NMAC - Rn, 19 NMAC 15.I.711, 11-30-00; A, 4-15-03]

19.15.9.712 DISPOSAL OF CERTAIN NON-DOMESTIC WASTE AT SOLID WASTE FACILITIES:

A. General - Certain non-domestic waste arising from the exploration, development, production or storage of crude oil or natural gas, certain nondomestic waste arising from the oil field service industry, and certain non-domestic waste arising from the transportation, treatment or refinement of crude oil or natural gas, may be disposed of at a solid waste facility.

B. Definitions - The following words and phrases have particular meanings for purposes of this section:

(1) "BTEX." The acronym "BTEX" in this section refers to benzene, toluene, ethylbenzene and xylene.

(2) "Discharge Plan." A "discharge plan" is a plan submitted and approved by the division

pursuant to NMSA 1978, Section 70-2-12(B)(22) (2000 Cum.Supp.) and rules and regulations of the Water Quality Control Commission.

(3) "EPA." The acronym "EPA" refers to the United States Environmental Protection Agency.

(4) "EPA Clean." The phrase "EPA Clean" refers to cleanliness standards established by the EPA in 40 C.F.R. Part 261, Section 261.7(b).

(5) "NESHAP." The acronym "NESHAP" refers to the National Emission Standards for Hazardous Air Pollutants of the EPA, 40 C.F.R. Part 61.

(6) "NORM." The acronym "NORM" refers to naturally occurring radioactive materials regulated by 20 NMAC 3.1, Subpart 14.

(7) "Section." "Section" or "this section" refers to Section 19.15.9.712 NMAC.

(8) "Solid Waste Facility." A "solid waste facility" is a facility permitted or authorized as a solid waste facility by the New Mexico Environment Department pursuant to the Solid Waste Act, NMSA 1978, Sections 74-9-1 *et seq.* and rules and regulations of the Environmental Improvement Board, to accept industrial solid waste or other special waste.

(9) "TCLP" The acronym "TCLP" in this section refers to the testing protocol established by the EPA in 40 C.F.R. Part 261, entitled "Toxicity Characteristic Leaching Procedure" or an alternative hazardous constituent analysis approved by the Division.

(10) "TPH." The acronym "TPH" in this section refers to the phrase "total petroleum hydrocarbons."

(11) "Waste." The word "waste" refers to nondomestic waste resulting from the exploration, development, production or storage of crude oil or natural gas pursuant to NMSA 1978, Section 70-2-12(B)(21) and nondomestic waste arising from the oil field service industry, and certain non-domestic waste arising from the transportation, treatment or refinement of crude oil or natural gas pursuant to NMSA 1978, Section 70-2-12(B)(22).

C. Procedure

(1) Waste Listed in Subsection D, Paragraph (1) of Section 19.15.9.712 NMAC. Waste listed in Subsection D, Paragraph (1) of Section 19.15.9.712 NMAC may be disposed of at a solid waste facility without prior written authorization of the division.

(2) Waste Listed in Subsection D, Paragraph (2) of Section 19.15.9.712 NMAC. Waste listed in Subsection D, Paragraph (2) of Section 19.15.9.712 NMAC may be disposed of at a solid waste facility after testing and prior written authorization of the division. Before authorization is granted, copies of test results must be provided to the division and to the solid waste facility where the waste is to be disposed. Disposal may commence only after written authorization of the division. In appropriate cases and so long as a representative sample is tested, the division may authorize disposal of a waste stream listed in Subsection D, Paragraph (2) of Section 19.15.9.712 NMAC without individual testing of each delivery.

(3) Waste Listed in Subsection D, Paragraph (3) of Section 19.15.9.712 NMAC. Waste listed in Subsection D, Paragraph (3) of Section 19.15.9.712 NMAC may be disposed of at a solid waste facility on a case-by-case basis after testing required at the discretion of the division and after prior written authorization of the division. Before authorization is granted, copies of test results must be provided to the division and to the solid waste facility where the waste is to be disposed. Disposal may commence only after written authorization of the division.

(4) Simplified Procedure for Holders of Discharge Plans. Holders of an approved discharge plan may amend the discharge plan to provide for disposal of waste listed in Waste Listed in Subsection D, Paragraph (2) of Section 19.15.9.712 NMAC and, as applicable, Subsection D, Paragraph (3) of Section 19.15.9.712 NMAC. If the amendment to the Discharge Plan is approved, wastes listed in Subsection D, Paragraph (2) of Section 19.15.9.712 NMAC and Subsection D, Paragraph (3) of Section 19.15.9.712 NMAC may be disposed of at a solid waste facility without the necessity of prior written authorization of the division.

D. Waste Governed By This Section

(1) Waste That Does Not Require Testing Before Disposal:

(a) Barrels, drums, 5-gallon buckets, 1-gallon containers so long as empty and EPA-clean.

(b) Uncontaminated brush and vegetation arising from clearing operations.

(c) Uncontaminated concrete.

(d) Uncontaminated construction debris.

(e) Non-friable asbestos and asbestos contaminated waste material, so long as the disposal complies with all applicable federal and state regulations for non-friable asbestos materials and so long as asbestos is removed from steel pipes and boilers and, if applicable, the steel recycled.

(f) Detergent buckets, so long as completely empty.

(g) Fiberglass tanks so long as the tank is empty, cut up or shredded, and EPA clean.

(h) Grease buckets, so long as empty and EPA clean.

(i) Uncontaminated ferrous sulfate or elemental sulfur so long as recovery and sale as a raw material is not possible.

(j) Metal plate and metal cable.

(k) Office trash.

(l) Paper and paper bags, so long as empty (paper bags).

(m) Plastic pit liners, so long as cleaned well.

(n) Soiled rags or gloves. If wet, must pass Paint Filter Test prior to disposal.

(o) Uncontaminated wood pallets.

(2) Waste That Must Be Tested:

(a) Activated alumina must be tested for TPH and BTEX.

(b) Activated carbon must be tested for TPH and BTEX.

(c) Amine filters must be tested for BTEX (and air-dried for at least 48 hours before testing).

(d) Friable asbestos and asbestos-contaminated waste material must be tested pursuant to NESHAP (and so long as the disposal otherwise complies with all applicable federal and state regulations for friable asbestos materials, and so long as asbestos is removed from steel pipes and boilers and, if applicable, the steel should be recycled before disposal).

(e) Cooling tower filters must be tested for TCLP/chromium (and drained and then air-dried for at least 48 hours before testing).

(f) Dehydration filter media must be tested for TPH and BTEX (and drained and then air-dried for at least 48 hours before testing).

(g) Gas condensate filters must be tested for BTEX (and drained and then air-dried for at least 48 hours before testing).

(h) Glycol filters must be tested for BTEX (and drained and then air-dried for at least 48 hours before testing).

(i) Iron sponge must be oxidized completely and then undergo Ignitability Testing.

(j) Junked pipes, valves, and metal pipe must be tested for NORM.

(k) Molecular sieve must be tested for TPH and BTEX (and must be cooled in a non-hydrocarbon inert atmosphere and hydrated in ambient air for at least 24 hours before testing).

(l) Pipe scale and other deposits removed from pipeline and equipment must be tested for TPH, TCLP/metals and NORM.

(m) Produced water filters must be tested for Corrosivity (and drained and then air-dried for at least 48 hours before testing).

(n) Sandblasting sand must be tested for TCLP/metals or, at the discretion of the Division, TCLP/total metals.

(o) Waste oil filters must be tested for TCLP/metals (and must be drained thoroughly of oil for at least 24 hours before testing and oil and metal parts must be recycled).

(3) Waste That May Be Disposed Of On A Case-By-Case Basis:

- (a)** Sulfur contaminated soil.
- (b)** Catalysts.
- (c)** Contaminated soil other than petroleum contaminated soil.
- (d)** Petroleum contaminated soil in the event of an emergency declared by the

director.

- (e)** Contaminated concrete.
- (f)** Demolition debris not otherwise specified herein.
- (g)** Unused dry chemicals (in addition to any testing required by the Division, a copy of the Material Safety Data Sheet shall be forwarded to the Division and the solid waste facility on each chemical proposed for disposal).

(h) Contaminated ferrous sulfate or elemental sulfur.

(i) Unused pipe dope.

(j) Support balls.

(k) Tower packing materials.

(l) Contaminated wood pallets.

(m) Partial sacks of unused drilling mud (in addition to any testing required by the Division, a copy of the Material Safety Data Sheet shall be forwarded to Division and the solid waste facility at which the partial sacks will be disposed).

(n) Other wastes as applicable.

E. Testing

(1) General - Testing required herein shall be conducted according to the Test Methods for Evaluating Solid Waste, EPA No. SW-846. Any questions concerning the standards or a particular testing facility should be directed to the division.

(2) Methodology - Testing must be conducted according to the test method listed:

(a) TPH: EPA method 418.1 or 8015 (D-R-O and G-R-O only) or an alternative hydrocarbon analysis approved by the division.

(b) TCLP: EPA Method 1311 or an alternative hazardous constituent analysis approved by the division.

(c) Paint Filter Testing: EPA Method 9095A.

(d) Ignitability Test: EPA Method 1030.

(e) Corrosivity: EPA Method 1110.

(f) Reactivity: Test procedures and standards established on a case-by-case basis by the division.

(g) NORM. 20 NMAC 3.1, Subpart 14.

(3) Limits - To be eligible for disposal pursuant to this section, substances found during testing shall not exceed the following limits:

(a) Benzene: Less than 10 mg/Kg.

(b) BTEX: Less than 500 mg/Kg (sum of all).

(c) TPH: Shall not exceed 1000 mg/Kg.

(d) Hazardous Air Pollutants: Shall not exceed the standards set forth in NESHAP.

(e) TCLP: Shall not exceed the following:

(i) Arsenic: 5.0 mg/l

(ii) Barium: 100.0 mg/l

(iii) Cadmium: 1.0 mg/l

(iv) Chromium: 5.0 mg/l

(v) Lead: 5.0 mg/l

(vi) Mercury: 0.2 mg/l

(vii) Selenium: 1.0 mg/l

(viii) Silver: 5.0 mg/l

[12-30-95, 2-1-96; A, 6-15-99; 19.15.9.712 NMAC - Rn, 19 NMAC 15.I.712, 11-30-00; N, 3-20-01, A, 4-13-01].

19.15.9.713 This entire section moved and renumbered to 19 NMAC 15.A.32.

[12-30-95, 2-1-96; A, 6-15-99; 19.15.9.713 NMAC - Rn, 19 NMAC 15.I.713; 11-30-00]

19.15.9.714 DISPOSAL OF REGULATED NATURALLY OCCURRING RADIOACTIVE MATERIAL (REGULATED NORM):

A. Purpose - This rule establishes procedures for the disposal of regulated naturally occurring radioactive material (Regulated NORM) associated with the oil and gas industry. Any person disposing of Regulated NORM, as defined at 19 NMAC 15.A.7, is subject to this rule and to the New Mexico Environmental Improvement Board regulations at 20 NMAC 3.1, Subpart 14.

B. Nonretrieved Flowlines and Pipelines

(1) The Division will consider a proposal for leaving flowlines and pipelines (hereinafter “pipeline”) that contain Regulated NORM in the ground provided such abandonment procedures are performed in a manner to protect the environment, public health, and fresh waters. Division approval is contingent on the applicant meeting the following requirements as a minimum:

(2) An application submitted to the division must contain the following as a minimum:

(a) The pipeline layout over its entire length on an OCD Form C-102 (Well Location and Acreage Dedication Plat) including the legal description of the location of both ends and all surface ownership along the pipeline.

(b) Results of a radiation survey conducted at all accessible points and a surface radiation survey along the complete pipeline route in a form approved by the division. All surveys are to be conducted consistent with procedures approved by the division.

(c) The type of material for which the pipeline had been used.

(d) The procedure to be used for flushing hydrocarbons and/or produced water from the pipeline.

(e) An explanation as to why it is more beneficial to leave the pipeline in the ground than to retrieve it.

(f) Proof of notice of the proposed abandonment to all surface owners where the pipeline is located. Additional notification may be required as described in Subsection F of 19.15.9.714 NMAC.

(3) Procedure

(a) Upon approval of the application by the division, the operator must notify the OCD district office at least 24 hours prior to beginning any work on the pipeline abandonment.

(b) As a condition of completion of the pipeline abandonment, all accessible points must be permanently capped.

(4) General

(a) No additional Regulated NORM may be placed in any pipeline to be abandoned under this section other than that which accumulated in the pipeline under normal operation of the pipeline.

(b) Any pipeline that does not exhibit Regulated NORM pursuant to required surveys may be abandoned without application under this section in accordance with the operator’s applicable lease agreements.

(c) If an appurtenance of a pipeline contains Regulated NORM, but upon removal of the appurtenance, no accessible point or surface above the pipeline exhibits the presence of Regulated NORM, then the applicant must submit to the division the information regarding the Regulated NORM in the appurtenance and a statement concerning management of that Regulated NORM. With respect to the pipeline left in the ground, the applicant will be subject to the requirements under Subsection B of 19.15.9.714 NMAC with the exception of Subsection B, Paragraph (2), Subparagraph (f) of 19.15.9.714

NMAC.

C. Commercial or Centralized Surface Waste Management Facilities

(1) The division will consider proposals for the disposal of Regulated NORM in commercial or centralized surface waste management facilities, provided such disposal is performed in a manner to protect the environment, public health, and fresh waters. Division approval is contingent on the applicant obtaining a permit in accordance with Section 19.15.9.711 NMAC for the facility and complying with additional requirements specifically related to Regulated NORM disposal as described below.

(2) Application - All requests for authority to receive and dispose of Regulated NORM in commercial or centralized surface waste management facilities must be set for hearing by the division in order for the operator of the facility to obtain or modify a permit in accordance with Section 19.15.9.711 NMAC. A request to dispose of Regulated NORM at a facility previously permitted under Section 19.15.9.711 NMAC will be considered a major modification to that facility. The hearing request must be submitted to the Division and must contain the following at a minimum:

(a) Complete plans for the facility, including the sources of Regulated NORM, radiation survey readings, quantities of Regulated NORM to be disposed, and monitoring proposals;

(b) A copy of this permit for the facility, if one has been issued by the division;

(c) Proof of public notice of the application as required by Section 19.15.9.711 NMAC; and

(d) Evidence of issuance of a specific license pursuant to 20 NMAC 3.1, Subpart 14, a license pursuant to 20 NMAC 3.1, Subpart 13, and any other authorizations required by law.

(3) Procedures

(a) Operating procedures that are protective of the environment, public health, and fresh waters will be established in the division's order.

(b) Any person desiring to dispose of Regulated NORM in an approved commercial or centralized surface waste management facility must furnish Regulated NORM information to the facility operator sufficient for the operator to submit Form C-138 (Request for Approval to Accept Solid Waste) for approval to the division. The facility operator must receive division approval prior to receiving the Regulated NORM at the disposal facility.

D. Downhole Disposal in Wells to be Plugged and Abandoned

(1) The division will consider proposals for downhole disposal of Regulated NORM in wells that are to be plugged and abandoned, provided such plugging and abandonment procedures are performed in a manner to protect the environment, public health and fresh waters and in accordance with division rules pertaining to well plugging and abandonment.

(2) Application

(a) A plugging and abandonment (P&A) Form C-103 must be completed by the applicant and submitted to the division for approval.

(b) In addition to all other information required for P&A submittal, the form must specifically state that Regulated NORM will be placed in the wellbore. The abandonment procedure contained in the application must identify depths at which the Regulated NORM will be placed, radiation survey results conducted on the Regulated NORM to be disposed, the procedure to be used to place the Regulated NORM in the wellbore, and the specific form of Regulated NORM being placed in the wellbore (e.g. scale, pipe, dirt, etc).

(c) Notice of the submittal of an application to dispose of Regulated NORM in a P&A well must be sent to the surface owner and the mineral lessor. Additional notification may be required as described in Subsection F of 19.15.9.714 NMAC.

(3) Procedures

(a) All P&A procedures routinely required by the division must be followed unless specifically superseded at the instruction of the division to facilitate the Regulated NORM disposal.

(b) No work will be commenced until the application for Regulated NORM disposal

in a P&A well has been approved by the division.

(c) The cement plug located directly above the Regulated NORM and the surface plug must be color-dyed with red iron oxide.

(4) General

(a) Regulated NORM must be disposed at a depth of at least 100 feet below the lower most known Underground Source of Drinking Water (USDW) zone. There must be evidence that there is cement across the known USDW zones.

(b) Abnormally pressured zone(s) in the wellbore that might result in migration of the Regulated NORM after it has been placed in the P&A well must be addressed in the application.

E. Injection

(1) The division will consider proposals for injecting Regulated NORM into injection wells provided such injection is performed in a manner to protect the environment, public health, and fresh waters and such injection is in compliance with division Rules pertaining to injection. Division approval is contingent on the applicant meeting the following requirements at a minimum:

(2) Disposal wells

(a) An application submitted to the division must contain the following information at a minimum:

(i) For both existing and newly permitted disposal wells, a completed Form C-108 (Application for Authorization to Inject) with proof of required notification and a statement that Regulated NORM will be injected;

(ii) Description of Regulated NORM to be disposed including its source, radiation levels, and quantity; and

(iii) Description of any process used on the material to improve injectivity;

(b) Procedures

(i) Regulated NORM to be injected may only be from the applicant's operations.

(ii) Each time Regulated NORM is injected, a Form C-103 (Subsequent Report Form) must be submitted to the division and district offices. This form must be submitted within five (5) working days following the injection and must contain the following information: source of Regulated NORM; NORM radiation level; quantity of material injected; description of any process used on the material to improve injectivity; the injection pressure while injecting; and date(s) of injection.

(iii) Failures and repairs - All mechanical failures must be reported to the appropriate district office within 24 hours of the occurrence. A description of the failure and immediate measures taken in response to the failure must be submitted no later than 15 days following the occurrence. The operator must notify the District office of proposed repair plans. Approval of repair plans must be received prior to any work commencing, and notice of commencement must be given to the district office such that the repairs may be witnessed and/or inspected. All well repairs must be monitored by the operator to ensure Regulated NORM does not escape the wellbore or is completely contained in the repair operations.

(iv) At the time of abandonment of the disposal well, the injection interval that was used for Regulated NORM injection must be squeezed with cement or a cement plug must be located directly above the injection interval. Cement in either case must contain red iron oxide.

(v) The injection zone must be at a depth of at least 100 feet below the lower most known USDW zone.

(3) Injection in Enhanced Oil Recovery (EOR) Injection Wells - The division will consider issuing a permit for the disposal of Regulated NORM into injection wells within an approved Enhanced Oil Recovery (EOR) Project only after notice and hearing and upon a minimum demonstration that:

(a) such injection will not reduce the efficiency of the project or otherwise cause a reduction in the ultimate recovery of hydrocarbons from the project;

(b) such injection will not cause an increase in the radiation level of Regulated NORM produced from the EOR interval in any producing well located either within or offsetting the project area; and

(c) the operations will be in conformance with provisions of Subsection E, Paragraph (2) of 19.15.9.714 NMAC above.

(4) Injection Above Fracture Pressure

(a) The division will consider issuing a permit for the disposal of Regulated NORM in a disposal well above fracture pressure only after notice and hearing and upon receiving the following minimum information from the applicant:

(i) A completed Form C-108 clearly stating that disposal of Regulated NORM at or above fracture pressure is proposed.

(ii) Information required under Subsection E, Paragraph (2) of 19.15.9.714 NMAC above.

(iii) Model results predicting the fracture propagation including the expected height, extension, direction, and any other evidence sufficient to demonstrate that the fracture will not extend beyond the injection interval or into the confining zones. The application must include the procedure, the anticipated pressures and the type and pressure rating of equipment that will be used. The current or potential utilization of zones immediately above and below the zone of interest may be considered by the division in the acceptance or rejection of model predictions.

(iv) A contingency plan of the procedures, including containment plans, that will be employed if a mechanical failure occurs.

(b) Procedures

(i) 24 hour notice that injection will commence must be given to the district office.

(ii) Upon completion of the injection, the disposal interval must be squeezed with cement or a cement plug must be located directly above the injection interval (cement in either case must contain red iron oxide), and a Form C-103 (Subsequent Report Form) must be submitted to the division and the district office within five working days of the injection. If the operator desires to return the well to injection below fracture pressure, such plans must be contained in the application.

(5) Injection in Commercial Disposal Facilities - The division will consider issuing a permit for the commercial disposal of Regulated NORM by injection only after notice and hearing, and provided a specific license has been obtained pursuant to 20 NMAC 3.1, Subpart 14 and a license has been obtained pursuant to 20 NMAC 3.1, Subpart 13. In addition to obtaining these licenses the operator must also comply with Subsection E, Paragraph (2), Subparagraph (b), Sub-subparagraph (i) above of 19.15.9.714 NMAC.

F. Additional Notification

(1) The director may, at his discretion, require additional notice for any application under this rule.

(2) Any notified party seeking to comment or request a public hearing on such an application must file comments or a hearing request with the division within 20 days of notice. A request for a hearing must be in writing and must set forth the reasons why a hearing should be held.

(3) A public hearing will be held as required in 19.15.9.714 NMAC or if the director determines there is sufficient cause.

[7-15-96; 19.15.9.714 NMAC - Rn, 19 NMAC 15.I.714, 11-30-00]

HISTORY of 19.15.9 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

Rule 701, Injection of Fluids into Reservoirs, 1-08-82

Rule 701, Injection of Fluids into Reservoirs, 1-28-87
Rule 701, Injection of Fluids into Reservoirs, 2-05-91
Rule 702, Casing and Cementing of Injection Wells, 1-08-82
Rule 702, Casing and Cementing of Injection Wells, 2-05-91
Rule 703, Operation and Maintenance, 1-08-82
Rule 703, Operation and Maintenance, 2-05-91
Rule 704, Testing and Monitoring, 1-08-82
Rule 704, Testing, Monitoring, Step-Rate Tests, Notice to the Division, Requests for Pressure Increases, 11-07-86
Rule 704, Testing, Monitoring, Step-Rate Tests, Notice to the Division, Requests for Pressure Increases, 2-05-91
Rule 705, Commencement, Discontinuance, And Abandonment of Injection Operations, 1-08-82
Rule 705, Commencement, Discontinuance, And Abandonment of Injection Operations, 2-05-91
Rule 706, Records and Reports, 1-08-82
Rule 706, Records and Reports, 2-05-91
Rule 707, Reclassification of Wells, 1-08-82
Rule 707, Reclassification of Wells, 2-05-91
Rule 708, Transfer of Authority To Inject, 1-08-82
Rule 708, Transfer of Authority To Inject, 2-05-91
Rule 709, Removal of Produced Water from Leases and Field Facilities, 1-27-82
Rule 709, Removal of Produced Water from Leases and Field Facilities, 9-16-85
Rule 709, Removal of Produced Water from Leases and Field Facilities, 2-05-91
Rule 710, Disposition of Transported Produced Water, 1-27-82
Rule 710, Disposition of Produced Water, 9-16-85
Rule 710, Disposition of Transported Produced Water, 2-05-91
Rule 711, Commercial Surface Waste Disposal Facilities, 6-6-88
Rule 711, Commercial Surface Waste Disposal Facilities, 10-11-89
Rule 711, Commercial Surface Waste Disposal Facilities, 2-5-91
Rule 711, Applicable to Surface Waste Management Facilities Only, 7-27-95
Rule 711, Applicable to Surface Waste Management Facilities Only, 12-18-95
Rule 712, Qualification of Production Restoration Projects and Certification for the Production Restoration Incentive Tax Exemption, 12-07-95
Rule 713, Qualification of Well Workover Projects and Certification for the Well Workover Incentive Tax Rate, 12-07-95

Other History:

Rule 701, Injection of Fluids into Reservoirs, 2-05-91; Rule 702, Casing and Cementing of Injection Wells, 2-05-91; Rule 703, Operation and Maintenance, 2-05-91; Rule 704, Testing, Monitoring, Step-Rate Tests, Notice to the Division, Requests for Pressure Increases, 2-05-91; Rule 705, Commencement, Discontinuance, And Abandonment of Injection Operations, 2-05-91; Rule 706, Records and Reports, 2-05-91; Rule 707, Reclassification of Wells, 2-05-91; Rule 708, Transfer of Authority To Inject, 2-05-91; Rule 709, Removal of Produced Water from Leases and Field Facilities, 2-05-91; Rule 710, Disposition of Transported Produced Water, 2-05-91; Rule 711, Applicable to Surface Waste Management Facilities Only, 12-18-95; Rule 712, Qualification of Production Restoration Projects and Certification for the Production Restoration Incentive Tax Exemption, 12-07-95; and Rule 713, Qualification of Well Workover Projects and Certification for the Well Workover Incentive Tax Rate, 12-07-95 **all renumbered and reformatted to 19 NMAC 15.I**, filed 01-18-96.
Renumbered and amended **from** 19 NMAC 15.I, filed 01-18-96 **to** 19.15.9 NMAC, effective 11-30-2000.

**CHAPTER 15
PART 10**

**OIL AND GAS
OIL PURCHASING AND TRANSPORTING**

19.15.10.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Dept., Oil Conservation Division, 2040 S. Pacheco, Santa Fe, New Mexico 87505, (505) 827-7131.
[2/1/96; 19.15.10.1 NMAC - Rn, 19 NMAC 15.J.1, 04-15-03]

19.15.10.2 SCOPE: All persons/entities engaged in oil and gas development and production within New Mexico.
[2/1/96; 19.15.10.2 NMAC - Rn, 19 NMAC 15.J.2, 04-15-03]

19.15.10.3 STATUTORY AUTHORITY: Sections 70-2-1 through 70-2-38 NMSA 1978 sets forth the Oil and Gas Act which grants the Oil Conservation Division jurisdiction and authority over all matters relating to the conservation of oil and gas, the prevention of waste of oil and gas and of potash as a result of oil and gas operations, the protection of correlative rights and the disposition of wastes resulting from oil and gas operations.
[2/1/96; 19.15.10.3 NMAC - Rn, 19 NMAC 15.J.3, 04-15-03]

19.15.10.4 DURATION: Permanent.
[2/1/96; 19.15.10.4 NMAC - Rn, 19 NMAC 15.J.4, 04-15-03]

19.15.10.5 EFFECTIVE DATE: February 1, 1996 [unless a later date is cited at the end of a section]
[2/1/96; 19.15.10.5 NMAC - Rn, 19 NMAC 15.J.5, 04-15-03]

19.15.10.6 OBJECTIVE: To regulate oil purchasing and transporting under the Oil and Gas Act.
[2/1/96; 19.15.10.6 NMAC - Rn, 19 NMAC 15.J.6, 04-15-03]

19.15.10.7 DEFINITIONS: [RESERVED]

19.15.10.8 - 800 [RESERVED]

19.15.10.801 ILLEGAL SALE PROHIBITED:

The sale or purchase or acquisition, or the transporting, refining, processing or handling in any other way, of crude petroleum oil or of any crude petroleum produced in excess of the amount allowed by any statute of this state, or by any rule, regulation or order of the division made thereunder, is prohibited.
[1/1/50...2/1/96; 19.15.10.801 NMAC - Rn, 19 NMAC 15.J.801, 04-15-03]

19.15.10.802 RATABLE TAKE; COMMON PURCHASER:

A. Every person now engaged or hereafter engaging in the business of purchasing oil to be transported through pipelines shall be a common purchaser thereof, and shall without discrimination in favor of one producer as against another in the same field, purchase any oil tendered to it which has been lawfully produced in the vicinity of, or which may be reasonably reached by pipelines through which it is transporting oil, or the gathering branches thereof, or which may be delivered to the pipeline or gathering branches thereof by truck or otherwise and shall fully perform all the duties of a common purchaser. If any common purchaser shall not have need for all such oil lawfully produced within a field, or if for any reason it shall be unable to purchase all such oil, then it shall purchase from each producer in a field ratably, taking and purchasing the same quantity of oil from each well to the extent that each well is capable of producing its ratable portions; provided, however, nothing herein contained shall be construed to require more than one pipeline connection for each producing well. In the event any such common

purchaser of oil is likewise a producer or is affiliated with a producer, directly or indirectly, it is hereby expressly prohibited from discriminating in favor of its own production or in favor of the production of an affiliated producer as against that of others and the oil produced by such common purchaser, or by the affiliate of such common purchaser shall be treated as that of any other producer for the purposes of ratable taking.

B. It shall be unlawful for any common purchaser, to unjustly or unreasonably discriminate as to the relative quantities of oil purchased by it in various fields of the state; the question of the justice or reasonableness to be determined by the division, taking into consideration the production and age of wells in the respective fields and all other factors. It is the intent of this rule that all fields shall be allowed to produce and market a just and equitable share of the oil produced and marketed in the state, insofar as the same can be effected economically and without waste.

C. In order to preclude premature abandonment, the common purchaser within its purchasing area is authorized and directed to make 100 percent purchases from units of settled production producing ten (10) barrels or less daily of crude petroleum in lieu of ratable purchases or takings. Provided, however, where such purchaser's takings are curtailed below ten (10) barrels per unit of crude petroleum daily, then such purchaser is authorized and directed to purchase equally from all such units within its purchasing area, regardless of their producing ability insofar as they are capable of producing. [7/1/52...2/1/96; 19.15.10.802 NMAC - Rn, 19 NMAC 15.J.802, 04-15-03]

19.15.10.803 PRODUCTION OF LIQUID HYDROCARBONS FROM GAS WELLS:

A. All liquid hydrocarbons produced incidental to the authorized production of gas from a well classified by the division as a gas well shall, for all purposes, be legal production.

B. For purposes of this rule, all gas produced from a gas well shall be considered to be authorized production with the following exceptions:

(1) When the well is being produced without an approved form C-104, designating the gas transporter and the oil or condensate transporter for said well.

(2) When the well has been directed to be shut in by the division.

C. In the event a gas well is directed to be shut in by the division, both the gas transporter and oil transporter named on the well's form C-104 shall be immediately notified of such fact. [12/1/57...2/1/96; 19.15.10.803 NMAC - Rn, 19 NMAC 15.J.803, 04-15-03]

19.15.10.804 DOCUMENTATION REQUIRED:

A. All off-lease transportation of crude oil or lease condensate by motor vehicle shall be pursuant to an approved form C-104 and shall be accompanied by a run ticket or equivalent document. The documentation shall identify the name and address of the transporter, the name of the operator and of the lease or facility from which the oil was taken, the date of removal, the API gravity of the oil, the observed percentage of BS and W, the volume of oil or opening and closing tank gauges or meter readings and the signature of the driver. The document shall provide space for recording of the lease number and for signature of the operator or his representative.

B. After August 1, 1982, all such transportation must be accompanied by documentation sufficient to verify the location of the tanks or facility from which the liquid was removed. The location may be shown on the run ticket or equivalent document or may be carried separately.

C. All off-lease transportation of liquids which may contain crude oil, lease condensate, sediment oil or miscellaneous hydrocarbons shall be accompanied by a run ticket, work order or equivalent document, i.e., form C-117-A. The documentation shall identify the name and address of the transporter, the name of the operator and of the lease or facility from which the liquid was removed, the nature of the liquid removed including the observed percentage of liquid hydrocarbons, the volume or estimated volume of liquids and the destination.

D. After August 1, 1982, all such transportation must be accompanied by documentation sufficient to verify the location of the tanks or facility from which the liquid was removed. The location

may be shown on the run ticket or equivalent document or may be carried separately.

E. The documentation required under Subsections A and B of 19.15.10.804 NMAC above shall be carried in the vehicle during transportation and shall be produced for examination and inspection by any employee of the division, any state police officer or any other law enforcement officer upon identification and request.

F. Except where the owner and the transporter are the same, one copy of such documentation shall be left at the facility from which the oil or other liquids were removed.
[2/1/82...2/1/96; 19.15.10.804 NMAC - Rn, 19 NMAC 15.J.804, 04-15-03]

HISTORY OF 19.15.10 NMAC:

Pre-NMAC History: The material in this Part was derived from that previously filed with the State Records Center and Archives:

Rule 801, Illegal Sale Prohibited, 1/8/82.

Rule 801, Illegal Sale Prohibited, 2/5/91.

Rule 802, Ratable Take; Common Purchaser, 1/8/82.

Rule 802, Ratable Take; Common Purchaser, 2/5/91.

Rule 803, Production of Liquid Hydrocarbons From Gas Wells, 1/8/82.

Rule 803, Production of Liquid Hydrocarbons From Gas Wells, 2/5/91.

Rule 804, Documentation Required, 1/27/82.

Rule 804, Documentation Required, 2/5/91.

History of Repealed Material: [RESERVED]

Other History:

Rule 801, Illegal Sale Prohibited, 2/5/91; Rule 802, Ratable Take; Common Purchaser, 2/5/91; Rule 803, Production of Liquid Hydrocarbons From Gas Wells, 2/5/91; Rule 804, Documentation Required, 2/5/91, **all renumbered and reformatted to 19 NMAC 15.J**, filed 01/18/96.

Renumbered and reformatted **from** 19 NMAC 15.J, filed 01-18-96 **to** 19.15.10 NMAC, effective 04/15/2003.

TITLE 19 NATURAL RESOURCES AND WILDLIFE

CHAPTER 15 OIL AND GAS

PART 11 GAS PURCHASING AND TRANSPORTING

19.15.11.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Dept., Oil Conservation Division, 2040 S. Pacheco, Santa Fe, New Mexico 87505, (505) 827-7131.
[2/1/96; 19.15.11.1 NMAC - Rn, 19 NMAC 15.K.1, 09-30-03]

19.15.11.2 SCOPE: All persons/entities engaged in oil and gas development and production within New Mexico.
[2/1/96; 19.15.11.2 NMAC - Rn, 19 NMAC 15.K.2, 09-30-03]

19.15.11.3 STATUTORY AUTHORITY: Sections 70-2-1 through 70-2-38 NMSA 1978 sets forth the Oil and Gas Act which grants the oil conservation division jurisdiction and authority over all matters relating to the conservation of oil and gas, the prevention of waste of oil and gas and of potash as a result of oil and gas operations, the protection of correlative rights and the disposition of wastes resulting from oil and gas operations.
[2/1/96; 19.15.11.3 NMAC - Rn, 19 NMAC 15.K.3, 09-30-03]

19.15.11.4 DURATION: Permanent.
[2/1/96; 19.15.11.4 NMAC - Rn, 19 NMAC 15.K.4, 09-30-03]

19.15.11.5 EFFECTIVE DATE: February 1, 1996 [unless a later date is cited at the end of a section].
[2/1/96; 19.15.11.5 NMAC - Rn, 19 NMAC 15.K.5, 09-30-03]

19.15.11.6 OBJECTIVE: To regulate gas purchasing and transporting and enable the oil conservation division to fulfill its statutory mandate pursuant to the Oil and Gas Act.
[2/1/96; 19.15.11.6 NMAC - Rn, 19 NMAC 15.K.6, 09-30-03]

19.15.11.7 DEFINITIONS: [RESERVED]

19.15.11.8 - 900 [RESERVED]

19.15.11.901 ILLEGAL SALE PROHIBITED:

The sale, purchase or acquisition or the transporting, refining, processing or handling in any other way, of natural gas in whole or in part (or of any product of natural gas so produced) produced in excess of the amount allowed by any statute of this state, or by any rule, regulation or order of the division made thereunder, is prohibited.

[1/1/50...2/1/96; 19.15.11.901 NMAC - Rn, 19 NMAC 15.K.901, 09-30-03]

19.15.11.902 RATABLE TAKE:

A. Any person now or hereafter engaged in purchasing from one or more producers, gas produced from gas wells or casinghead gas produced from oil wells shall be a common purchaser thereof within each common source of supply from which it purchases, and as such it shall purchase gas lawfully produced from gas wells or casinghead gas produced from oil wells with which its gas transportation facilities are connected in the pool and other gas lawfully produced within the pool and tendered to a point on its gas transportation facilities. Such purchases shall be made without unreasonable discrimination in favor of one producer against another in the price paid, the quantities purchased, the bases of measurement or the gas transportation facilities afforded for gas of like quantity, quality and pressure available from such wells. In the event any such person is likewise a producer, he is prohibited to the same extent from discriminating in favor of himself on production from gas wells or casinghead gas produced from oil wells in which he has an interest, direct or indirect, as against other production from gas wells or casinghead gas produced from oil wells in the same pool. For the purposes of Section 902 of 19.15.11 NMAC, reasonable differences in prices paid or facilities afforded, or both, shall not constitute unreasonable discrimination if such differences bear a fair relationship to differences in quality, quantity or pressure of the gas available or to the relative lengths of time during which such gas will be available to the purchaser. The provisions of this Subsection shall not apply to:

- (1) any wells or pools used for storage and withdrawal from storage of natural gas originally produced not in violation of the rules, regulations or orders of the division; or
 - (2) persons purchasing gas principally for use in the recovery or production of oil or gas,
- or
- (3) any well which has been designated a "hardship well" by the division.

B. Any common purchaser taking gas produced from gas wells or casinghead gas produced from oil wells from a common source of supply shall take ratably under such rules, regulations and orders, concerning quantity, as may be promulgated by the division consistent with Section 902 of 19.15.11 NMAC. The division, in promulgating such rules, regulations and orders may consider the quality and the deliverability of the gas, the pressure of the gas at the point of delivery, acreage attributable to the well, market requirements in the case of unprorated pools and other pertinent factors.

C. Nothing in Section 902 of 19.15.11 NMAC shall be construed or applied to require, directly or indirectly, any person to purchase gas of a quality or under a pressure or under any other

condition by reason of which such gas cannot be economically and satisfactorily used by such purchaser by means of his gas transportation facilities then in service.

[1/1/50...2/1/96; 19.15.11.902 NMAC - Rn, 19 NMAC 15.K.902, 09-30-03]

HISTORY OF 19.15.11 NMAC:

Pre-NMAC History: The material in this Part was derived from that previously filed with the State Records Center and Archives:

Rule 901, Illegal Sale Prohibited, filed 1/8/82;

Rule 901, Illegal Sale Prohibited, filed 2/5/91;

Rule 902, Ratable Take, filed 1/8/82;

Rule 902, Ratable Take, filed 2/5/91.

History of Repealed Material: [RESERVED]

Other History:

Rule 901, Illegal Sale Prohibited and Rule 902, Ratable Take, (both filed 2/5/91) were both renumbered and reformatted and replaced by 19 NMAC 15.K, Gas Purchasing and Transporting, effective 2/1/96.

19 NMAC 15.K, Gas Purchasing and Transporting (filed 01-18-96), renumbered **from** 19 NMAC 15.K to 19.15.11 NMAC, effective 09-30-03.

TITLE 19 NATURAL RESOURCES AND WILDLIFE

CHAPTER 15 OIL AND GAS

PART 12 REFINING

19.15.12.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Dept., Oil Conservation Division, 2040 S. Pacheco, Santa Fe, New Mexico 87505, (505) 827-7131.

[2/1/96; 19.15.12.1 NMAC - Rn, 19 NMAC 15.L.1, 10/15/03]

19.15.12.2 SCOPE: All persons/entities engaged in oil and gas development and production within New Mexico.

[2/1/96; 19.15.12.2 NMAC - Rn, 19 NMAC 15.L.2, 10/15/03]

19.15.12.3 STATUTORY AUTHORITY: Sections 70-2-1 through 70-2-38 NMSA 1978 sets forth the Oil and Gas Act which grants the oil conservation division jurisdiction and authority over all matters relating to the conservation of oil and gas, the prevention of waste of oil and gas and of potash as a result of oil and gas operations, the protection of correlative rights and the disposition of wastes resulting from oil and gas operations.

[2/1/96; 19.15.12.3 NMAC - Rn, 19 NMAC 15.L.3, 10/15/03]

19.15.12.4 DURATION: Permanent.

[2/1/96; 19.15.12.4 NMAC - Rn, 19 NMAC 15.L.4, 10/15/03]

19.15.12.5 EFFECTIVE DATE: February 1, 1996 [unless a later date is cited at the end of a section]

[2/1/96; 19.15.12.5 NMAC - Rn, 19 NMAC 15.L.5, 10/15/03]

19.15.12.6 OBJECTIVE: To regulate refining to enable the oil conservation division to fulfill its statutory mandates under the Oil and Gas Act.

[2/1/96; 19.15.12.6 NMAC - Rn, 19 NMAC 15.L.6, 10/15/03]

19.15.12.7 DEFINITIONS: [RESERVED]

19.15.12.8 - 1000 [RESERVED]

19.15.12.1001 REFINERY REPORTS:

Each refiner of oil within the state of New Mexico shall furnish for each calendar month a "Refiner's Monthly Report," form C-113, containing the information and data indicated by such form, respecting oil and products involved in such refiner's operations during each month. Such report for each month shall be prepared and filed according to instructions on the form, on or before the 15th day of the next succeeding month.

[1/1/50...2/1/96; 19.15.12.1001 NMAC - Rn, 19 NMAC 15.L.1001, 10/15/03]

19.15.12.1002 GASOLINE PLANT REPORTS:

A. Each operator of a gasoline plant, cycling plant or any other plant at which gasoline, butane, propane, condensate, kerosene, oil or other liquid products are extracted from natural gas within the state of New Mexico shall furnish for each calendar month a Gas Purchaser's Monthly Report, form C-111, containing the information indicated by such form respecting natural gas and products involved in the operation of each plant during each month. (19.15.12.1002 NMAC shall also be applicable to plants in the state of New Mexico processing carbon dioxide gas into liquid or solid form.)

B. Form C-111 shall be filed in accordance with the provisions of Rule 1111 [now 19.15.13.1111 NMAC].

[1/1/50...2/1/96; 19.15.12.1002 NMAC - Rn, 19 NMAC 15.L.1002, 10/15/03]

HISTORY OF 19.15.12 NMAC:

Pre-NMAC History: The material in this Part was derived from that previously filed with the State Records Center and Archives:

Rule 1001, Refinery Reports, filed 1/8/82.

Rule 1001, Refinery Reports, filed 2/5/91.

Rule 1002, Gasoline Plant Reports, filed 1/8/82.

Rule 1002, Gasoline Plant Reports, filed 2/5/91.

History of Repealed Material: [RESERVED]

Other History:

Rule 1001, Refinery Reports, filed 2/5/91 and Rule 1002, Gasoline Plant Reports, filed 2/5/91 were both renumbered, reformatted and replaced by 19 NMAC 15.L, Refining, effective 2/2/96.

19 NMAC 15.L, Refining (filed 1/18/96) was renumbered, reformatted and replaced by 19.15.12 NMAC, effective 10/15/03.

**TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 13 REPORTS**

19.15.13.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division, 2040 S. Pacheco, Santa Fe, New Mexico 87505, (505) 827-7131.

[2-1-96; 19.15.13.1 NMAC - Rn, 19 NMAC 15.M.1, 06/30/04]

19.15.13.2 SCOPE: All persons/entities engaged in oil and gas development and production within New Mexico.

[2-1-96; 19.15.13.2 NMAC - Rn, 19 NMAC 15.M.2, 06/30/04]

19.15.13.3 STATUTORY AUTHORITY: Sections 70-2-1 through 70-2-38 NMSA 1978 sets forth the Oil and Gas Act which grants the oil conservation division jurisdiction and authority over all matters relating to the conservation of oil and gas, the prevention of waste of oil and gas and of potash as a result of oil and gas operations, the protection of correlative rights and the disposition of wastes resulting from oil and gas operations.

[2-1-96; 19.15.13.3 NMAC - Rn, 19 NMAC 15.M.3, 06/30/04]

19.15.13.4 DURATION: Permanent.

[2-1-96; 19.15.13.4 NMAC - Rn, 19 NMAC 15.M.4, 06/30/04]

19.15.13.5 EFFECTIVE DATE: February 1, 1996 [unless a later date is cited at the end of a section]

[2-1-96; 19.15.13.5 NMAC - Rn, 19 NMAC 15.M.5, 06/30/04]

19.15.13.6 OBJECTIVE: To provide for the filing of reports to enable the oil conservation division to carry out its statutory mandates under the Oil and Gas Act.

[2-1-96; 19.15.13.6 NMAC - Rn, 19 NMAC 15.M.6, 06/30/04]

19.15.13.7 DEFINITIONS: [RESERVED].

19.15.13.8 - 1099 [RESERVED].

19.15.13.1100 GENERAL:

A. Where to file reports: Unless otherwise specifically provided for in any rule or order of the division, all forms and reports required by these rules shall be filed with the appropriate district office of the division as provided in 19.15.15.1301 NMAC and 19.15.15.1302 NMAC.

B. Additional data: These rules shall not be construed to limit or restrict the authority of the oil conservation division to require the furnishing of such additional reports, data or other information relative to the production, transportation, storing, refining, processing or handling of crude petroleum oil, natural gas or products in the state of New Mexico as may appear to it to be necessary or desirable, either generally or specifically, for the prevention of waste and the conservation of natural resources of the state of New Mexico.

C. Books and records: All producers, injectors, transporters, storers, refiners, gasoline or extraction plant operators, treating plant operators, and initial purchasers of natural gas within the state of New Mexico shall make and keep appropriate books and records for a period of not less than five years, covering their operations in New Mexico, from which they may be able to make and substantiate the reports required by these rules.

D. Written notices, requests, permits and reports: The forms listed below shall be used for the purpose shown in accordance with the instructions printed thereon and the rule covering the use of the form, or any special rule or order pertaining to its use:

- (1) Form C-101 Application for Permit to Drill, Deepen or Plug Back
- (2) Form C-102 Well Location and Acreage Dedication Plat
- (3) Form C-103 Sundry Notices and Reports on Wells
- (4) Form C-104 Request for Allowable and Authorization to Transport Oil and Natural

Gas

- (5) Form C-105 Well Completion or Recompletion Report and Log
- (6) Form C-106 Notice of Intention to Utilize Automatic Custody Transfer Equipment
- (7) Form C-107 Application for Multiple Completion
- (8) Form C-108 Application to Dispose of Salt Water by Injection into a Porous

Formation

- (9) Form C-109 Application for Discovery Allowable and Creation of a New Pool
- (10) Form C-111 Gas Transporter's Monthly Report (Sheet 1 and Sheet 2)
- (11) Form C-112 Transporter's and Storer's Monthly Report
- (12) Form C-113 Refiner's Monthly Report (Sheet 1 and Sheet 2)
- (13) Form C-115 Operators Monthly Report
- (14) Form C-115-EDP Operator's Monthly Report (electronic data processing)
- (15) Form C-116 Gas-Oil Ratio Tests
- (16) Form C-117-A Tank Cleaning, Sediment Oil Removal, Transportation of

Miscellaneous Hydrocarbons and Disposal Permit

- (17) Form C-117-B Monthly Sediment Oil Disposal Statement
- (18) Form C-118 Treating Plant Operator's Monthly Report (Sheet 1 and Sheet 2)
- (19) Form C-119 Carbon Black Plant Monthly Report
- (20) Form C-120-A Monthly Water Disposal Report
- (21) Form C-121 Crude Oil Purchaser's Nomination
- (22) Form C-121-A Purchaser's Gas Nomination
- (23) Form C-122 Multi-Point and One Point Back Pressure Test for Gas wells
- (24) Form C-122-A Gas Well Test Data Sheet-San Juan Basin (Initial Deliverability Test, blue paper; Annual Deliverability Test, white)
- (25) Form C-122-B Initial Potential Test Data Sheet
- (26) Form C-122-C Deliverability Test Report
- (27) Form C-122-D Worksheet for Calculation of Static Column Wellhead Pressure

(P_w).

- (28) Form C-122-E Worksheet for Stepwise Calculation of (Surface) (Subsurface) Pressure (P_c & P_w)
- (29) Form C-122-F Worksheet for Calculation of Wellhead Pressures (P_c or P_w) from Known Bottomhole Pressure (P_f or P_s)
- (30) Form C-122-G Worksheet for Calculation of Static Column Pressure at Gas Liquid

Interface

- (31) Form C-123 Request for the Creation of a New Pool
- (32) Form C-124 Reservoir Pressure Report
- (33) Form C-125 Gas Well Shut-in Pressure Report
- (34) Form C-126 Permit to Transport Recovered Load Oil
- (35) Form C-127 Request for Allowable Change
- (36) Form C-129 Application for Exception to No-Flare Rule 306
- (37) Form C-130 Notice of Disconnection
- (38) Form C-131-A Monthly Gas Storage Report
- (39) Form C-131-B Annual LPG Storage Report
- (40) Form C-133 Authorization to Move Produced Water Exhibit "A"
- (41) Form C-134 Application for Exception to Division Order R-8952, (Protection of Migratory Birds Rule Subsection B of 19.15.3.105 NMAC, Subsection H of 19.15.5.312 NMAC, 19.15.5.313 NMAC, or Paragraph (8) of Subsection C of 19.15.9.711 NMAC
- (42) Form C-135 Gas Well Connection, Reconnection or Disconnection Notice
- (43) Form C-136 Application for Approval To Use An Alternate Gas Measurement

Method

- (44) Form C-137 Application for Waste Management Facility
- (45) Form C-138 Request for Approval to Accept Solid Waste
- (46) Form C-139 Application For Qualification of Production Restoration Project and Certification of Approval

(47) Form C-140 Application For Qualification of Well Workover Project and Certification of Approval

[1-1-50...2-1-96; 19.15.13.1100 NMAC - Rn, 19 NMAC 15.M.1100, 06/30/04]

19.15.13.1101 APPLICATION FOR PERMIT TO DRILL, DEEPEN OR PLUG BACK (Form C-101):

A. Before commencing drilling or deepening operations, or before plugging a well back to another zone, the operator of the well must obtain a permit to do so. To obtain such permit, the operator shall submit to the division five copies of form C-101, application for permit to drill, deepen or plug back, completely filled out. If the operator has an approved bond in accordance with 19.15.3.101 NMAC, one copy of the drilling permit will be returned to him on which will be noted the division's approval, with any modification deemed advisable. If the proposal cannot be approved for any reason, the forms C-101 will be returned with the cause for rejection stated thereon.

B. Form C-101 must be accompanied by three copies of form C-102, well location and acreage dedication plat. (See 19.15.13.1102 NMAC.)

C. If the well is to be drilled on state land, submit six copies of form C-101 and four copies of form C-102, the extra copy of each form being for the state land office.

[1-1-64...2-1-96; 19.15.13.1101 NMAC - Rn, 19 NMAC 15.M.1101, 06/30/04]

19.15.13.1102 WELL LOCATION AND ACREAGE DEDICATION PLAT (Form C-102):

A. Form C-102 is a dual purpose form used to show the exact location of the well and the acreage dedicated thereto. The form is also used to show the ownership and status of each lease contained within the dedicated acreage. When there is more than one working interest or royalty owner on a given lease, designation of the majority owner et al. will be sufficient.

B. All information required on form C-102 shall be filled out and certified by the operator of the well except the well location on the plat. This is to be plotted from the outer boundaries of the section and certified by a professional surveyor, registered in the state of New Mexico, or surveyor approved by the division.

C. Form C-102 shall be submitted in triplicate or quadruplicate as provided in 19.15.13.1101 NMAC.

D. Amended form C-102 (in triplicate or quadruplicate) shall be filed in the event there is a change in any of the information previously submitted. The well location need not be certified when filing amended form C-102.

[1-1-65...2-1-96; 19.15.13.1102 NMAC - Rn, 19 NMAC 15.M.1102, 06/30/04]

19.15.13.1103 SUNDRY NOTICES AND REPORTS ON WELLS (Form C-103):

Form C-103 is a dual purpose form to be filed with the appropriate district office of the division to obtain division approval prior to commencing certain operations and also to report various completed operations.

A. Form C-103 as a notice of intention

(1) Form C-103 shall be filed in triplicate by the operator and approval obtain from the division prior to:

(a) Effecting a change of plans from those previously approved on form C-101 or form C-103.

(b) Altering a drilling well's casing program or pulling casing or otherwise altering an existing well's casing installation.

(c) Temporarily abandoning a well.

(d) Plugging and abandoning a well.

(e) Performing remedial work on a well which, when completed, will affect the original status of the well. (This shall include making new perforations in existing wells or squeezing old perforations in existing wells, but is not applicable to new wells in the process of being completed nor to

old wells being deepened or plugged back to another zone when such recompletion has been authorized by an approved form C-101, application for permit to drill, deepen or plug back, nor to acidizing, fracturing or cleaning out previously completed wells, nor to installing artificial lift equipment.)

(2) In the case of well plugging operations, the notice of intention shall include a detailed statement of the proposed work, including plans for shooting and pulling casing, plans for mudding, including weight of mud, plans for cementing, including number of sacks of cement and depths of plugs, and the time and date of the proposed plugging operations. If not previously filed, a complete log of the well on form C-105 (See 19.15.13.1105 NMAC.) shall accompany the notice of intention to plug the well; the bond will not be released until this is complied with.

B. Form C-103 as a subsequent report

(1) Form C-103 as a subsequent report of operations shall be filed in accordance with the section of this rule applicable to the particular operation being reported.

(2) Form C-103 is to be used in reporting such completed operations as:

(a) commencement of drilling operations;

(b) casing and cement test;

(c) altering a well's casing installation;

(d) temporary abandonment;

(e) plug and abandon;

(f) plugging back or deepening;

(g) remedial work;

(h) installation of artificial lifting equipment;

(i) change of operator of a drilling well;

(j) such other operations which affect the original status of the well but which are

not specifically covered herein.

C. Information to be entered on form C-103, subsequent report, for a particular operation is as follows: Report of commencement of drilling operations. Within ten days following the commencement of drilling operations, the operator of the well shall file a report thereof on form C-103 in triplicate. Such report shall indicate the hour and the date the well was spudded.

D. Report of results of test of casing and cement job; report of casing alteration: A report of casing and cement test shall be filed by the operator of the well within ten days following the setting of each string of casing or liner. Said report shall be filed in triplicate on form C-103 and shall present a detailed description of the test method employed and the results obtained by such test and any other pertinent information required by 19.15.1.107 NMAC. The report shall also indicate the top of the cement and the means by which such top was determined. It shall also indicate any changes from the casing program previously authorized for the well.

E. Report of temporary abandonment: A report of temporary abandonment of a well shall be filed by the operator of the well within thirty days following completion of the work. The report shall be filed in triplicate and shall present a detailed account of the work done on the well, including location and type of plugs used, if any, and status of surface and downhole equipment and any other pertinent information relative to the overall status of the well.

F. Report on plugging of well

(1) A report of plugging operations shall be filed by the operator of the well within 30 days following completion of plugging operations on any well. Said report shall be filed in triplicate on form C-103 and shall include the date the plugging operations were begun and the date the work was completed, a detailed account of the manner in which the work was performed including the depths and lengths of the various plugs set, the nature and quantities of materials employed in the plugging operations including the weight of the mud used, the size and depth of all casing left in the hole and any other pertinent information. (See 19.15.4.201 NMAC - 19.15.4.204 NMAC regarding plugging operations.)

(2) No plugging report will be approved by the division until the pits have been filled and

the location levelled and cleared of junk. It shall be the responsibility of the operator to contact the appropriate district office of the division when the location has been so restored in order to arrange for an inspection of the plugged well and the location by a division representative.

G. Report of remedial work - A report of remedial work performed on a well shall be filed by the operator of the well within 30 days following completion of such work. Said report shall be filed in quadruplicate on form C-103 and shall present a detailed account of the work done and the manner in which such work was performed; the daily production of oil, gas and water both prior to and after the remedial operation; the size and depth of shots; the quantity of and, crude, chemical or other materials employed in the operation, and any other pertinent information. Among the remedial work to be reported on form C-103 are the following:

- (1) report on shooting, fluid fracturing or chemical treatment of a previously completed well;
- (2) report of squeeze job;
- (3) report on setting of liner or packer;
- (4) report of installation of pumping equipment or gas lift facilities;
- (5) report of any other remedial operations which are not specifically covered herein.

H. Report on deepening or plugging back within the same pool - A report of deepening or plugging back shall be filed by the operator of the well within 30 days following completion of such operations on any well. Said report shall be filed in quadruplicate on form C-103 and shall present a detailed account of work done and the manner in which such work was performed. If the well is recompleted in the same pool, it shall also report the daily production of oil, gas, and water both prior to and after recompletion. If the well is recompleted in another pool, forms C-101, C-102, C-104 and C-105 must be filed in accordance with Sections 1101, 1102, 1104 and 1105 of 19.15.13 NMAC.

I. Report of change of operator of a drilling well - A report of change of ownership shall be filed by the new operator of any drilling well within ten days following actual transfer of ownership or responsibility. Said report shall be filed in triplicate on form C-103 and shall include the name and address of both the new operator and the previous operator, the effective date of the change of ownership or responsibility and any other pertinent information. No change in the operator of a drilling well will be approved by the division unless the new operator has an approved bond in accordance with 19.15.3.101 NMAC. (Form C-104 shall be used to report transfer of operator of a completed well; see 19.15.13.1104 NMAC.

J. Other reports on wells - Reports on any other operations which affect the original status of the well but which are not specifically covered herein shall be submitted to the division on form C-103, in triplicate, by the operator of the well ten days following the completion of such operation. [1-1-65...2-1-96; 19.15.13.1103 NMAC - Rn, 19 NMAC 15.M.1103, 06/30/04]

19.15.13.1104 REQUEST FOR ALLOWABLE AND AUTHORIZATION TO TRANSPORT OIL AND NATURAL GAS (Form C-104):

A. Form C-104 completely filled out by the operator of the well must be filed in quintuplicate before an allowable will be assigned to any newly completed or recompleted well. (A recompleted well shall be considered one which has been deepened or plugged back to produce from a different pool than previously.) Form C-104 must be accompanied by a tabulation of all deviation tests taken on the well as provided by 19.15.3.111 NMAC.

B. The allowable assigned to an oil well shall be effective at 7:00 o'clock a.m. on the date of completion, provided the form C-104 is received by the division during the month of completion. Date of completion shall be that date when new oil is delivered into the stock tanks. Unless otherwise specified by special pool rules, the allowable assigned to a gas well shall be effective at 7:00 o'clock a.m. on the date of connection to a gas transportation facility, as evidenced by an affidavit of connection from the transporter to the division, or the date of receipt of form C-104 by the division, whichever date is later.

C. No allowable will be assigned to any well until a standard unit for the pool in which the

well is completed has been dedicated by the operator, or a non-standard unit has been approved by the division, or a standard unit has been communitized or pooled and dedicated to the well.

D. No allowable will be assigned to any well until all forms and reports due have been received by the division and the well is otherwise in full compliance with these rules.

E. Form C-104 with sections I, II, III and VI, completely filled out shall be filed in quintuplicate by the operator of the well in the event there is a change of operator of any producing well, injection well or disposal well, a change in pool designation, lease name or well number, or any other pertinent change in condition of any such well. When filing form C-104 for change of operator, the new operator shall file the form in the above manner, and shall give the name and address of the previous as well as the present operator. The form C-104 will not be approved by the division unless the new operator has an approved bond in compliance with 19.15.3.101 NMAC.

[1-1-65...2-1-96; A, 7-31-97; 19.15.13.1104 NMAC - Rn, 19 NMAC 15.M.1104, 06/30/04]

19.15.13.1105 WELL COMPLETION OR RECOMPLETION REPORT AND LOG (Form C-105):

A. Within 20 days following the completion or recompletion of any well, the operator shall file form C-105 with the division. It must be filed in quintuplicate and each copy accompanied by a summary of all special tests conducted on the well, including drill stem tests. In addition, one copy of all electrical and radio-activity logs run on the well must be filed with form C-105. If the form C-105 with attached log(s) and summaries is not received by the division within the specified 20-day period, the allowable for the well will be withheld until this rule has been complied with.

B. In the case of a dry hole, a complete record of the well on form C-105 with the above attachments shall accompany the notice of intention to plug the well, unless previously filed. The plugging report will not be approved nor the bond released until this rule has been complied with.

C. Form C-105 and accompanying attachments will not be kept confidential by the division unless so requested in writing by the owner of the well. Upon such request, the division will keep these data confidential for 90 days from the date of completion of the well, provided, however, that the report, log(s) and other attached data may, when pertinent, be introduced in any public hearing before the division or its examiners or in any court of law, regardless of the request that they be kept confidential.

[1-1-65...2-1-96; 19.15.13.1105 NMAC - Rn, 19 NMAC 15.M.1105, 06/30/04]

19.15.13.1106 NOTICE OF INTENTION TO UTILIZE AUTOMATIC CUSTODY TRANSFER EQUIPMENT (Form C-106):

Form C-106, when applicable, shall be filed in accordance with Subsection A of 19.15.5.309 NMAC.

[1-1-65...2-1-96; 19.15.13.1106 NMAC - Rn, 19 NMAC 15.M.1106, 06/30/04]

19.15.13.1107 APPLICATION FOR MULTIPLE COMPLETION (Form C-107):

Form C-107, when applicable, shall be filed in accordance with Subsection A of 19.15.3.112 NMAC.

[1-1-65...2-1-96; 19.15.13.1107 NMAC - Rn, 19 NMAC 15.M.1107, 06/30/04]

19.15.13.1108 APPLICATION FOR AUTHORIZATION TO INJECT (Form C-108):

Form C-108 shall be filed in accordance with Subsection B of 19.15.9.701 NMAC.

[1-1-65...2-1-96; 19.15.13.1108 NMAC - Rn, 19 NMAC 15.M.1108, 06/30/04]

19.15.13.1109 APPLICATION FOR DISCOVERY ALLOWABLE AND CREATION OF A NEW POOL (Form C-109):

Form C-109, when applicable, shall be filed in accordance with 19.15.7.509 NMAC.

[9-1-66...2-1-96; 19.15.13.1109 NMAC - Rn, 19 NMAC 15.M.1109, 06/30/04]

19.15.13.1110 No Rule; there is no form C-110 at present:

[1-1-65...2-1-96; 19.15.13.1110 NMAC - Rn, 19 NMAC 15.M.1110, 06/30/04]

19.15.13.1111 GAS TRANSPORTER'S MONTHLY REPORT (Form C-111):

A. Form C-111, gas transporter's monthly report, shall be filed monthly in accordance with the rules below. It shall be postmarked on or before the 15th day of the second month following the month gas was taken. One copy shall be filed with the appropriate district office of the division and one copy with the Santa Fe office of the division. One additional copy shall also be sent to the Hobbs office of the division. Information on sheet no. 2 of form C-111 shall be itemized by pools, by operators and by leases, in alphabetical order.

B. Form C-111 shall be filed each month by the operator of any gas gathering system, gas transportation system, recycling system, fuel system, gas lift system, gas drilling operation, etc. The form shall cover all natural gas, casinghead gas and carbon dioxide gas taken into any such system during the preceding month and shall show the source of the gas and the disposition thereof.

C. Form C-111 shall also be filed each month by the operator of any gasoline plant, cycling plant or other plant at which gasoline, butane, propane, kerosene, oil or other products are extracted from gas within the state of New Mexico. The form shall cover all natural gas, casinghead gas and carbon dioxide gas taken by any such plant during the preceding month and shall show the source of the gas and the disposition thereof. If a plant operator owns more than one plant in a given division district, sheet no. 1 of form C-111 shall be filed for each such plant. In preparing sheet no. 2, the plant operator shall consolidate all requisitions for all plants in the district, itemized in the order described in the Subsection A of 19.15.13.1111 NMAC.

D. Where gas is taken by the producer and utilized by the producer for any of the above uses, the producer shall file Form C-111 itemizing such gas. The producer shall also include this gas on the operator's monthly report, form C-115. Gas used on the lease from which it was produced for consumption in lease houses, treaters, compressors, combustion engines and other similar equipment, or gas which is flared, shall also be included on the Form C-115 but is not to be included on the form C-111. [1-1-65...2-1-96; 19.15.13.1111 NMAC - Rn, 19 NMAC 15.M.1111, 06/30/04]

19.15.13.1112 TRANSPORTER'S AND STORER'S MONTHLY REPORT (Form C-112):

Each transporter and each storer of crude petroleum oil and liquid hydrocarbons within the state of New Mexico shall file for each calendar month a transporter's and storer's monthly report, form C-112, containing complete information and data indicated by such form respecting stocks of crude petroleum oil and liquid hydrocarbons on hand and receipts and deliveries of crude petroleum oil and liquid hydrocarbons by pipeline and trucks within the state of New Mexico, and receipts and deliveries from leases to storers or refiners; between transporters within the state; between storers and refiners within the state. Form C-112 shall be filed in duplicate and postmarked on or before the 15th day of the second succeeding month.

[1-1-65...2-1-96; 12-31-96; 19.15.13.1112 NMAC - Rn, 19 NMAC 15.M.1112, 06/30/04]

19.15.13.1113 REFINER'S MONTHLY REPORT (Form C-113):

Every refiner of crude petroleum oil within the state of New Mexico shall furnish for each calendar month refiner's monthly report, form C-113, containing the information and data indicated by such form respecting crude petroleum oil and products involved in such refiner's operation during each month. Such report for each month shall be filed in duplicate and be postmarked on or before the 15th day of the next succeeding month.

[1-1-65...2-1-96; 12-31-96; 19.15.13.1113 NMAC - Rn, 19 NMAC 15.M.1113, 06/30/04]

19.15.13.1114 No Rule; there is no form C-114 at present:

[1-1-65...2-1-96; 12-31-96; 19.15.13.1114 NMAC - Rn, 19 NMAC 15.M.1114, 06/30/04]

19.15.13.1115 OPERATOR'S MONTHLY REPORT (Form C-115):

A. The operator shall file a monthly report, form C-115, for each non-plugged well completion for which the division has approved a C-104 authorization to transport, and for each secondary or other enhanced recovery project or pressure maintenance project injection well or other injection well within the state of New Mexico, setting forth complete information and data indicated on said forms in the order, format and style the division director prescribes. The operator shall estimate oil production from wells producing into common storage as accurately as possible on the basis of periodic tests.

B. The operator shall file the reports required to be filed by 19.15.13.1115 NMAC using the division's web-based online application on or before the 15th day of the second month following the month of production, or if such day falls on a weekend or holiday, the first workday following the 15th. Any operator may apply to the division for exemption from the electronic filing requirement based upon a demonstration that such requirement would operate as an economic or other hardship.

C. If an operator fails to file a form C-115 that the division accepts, the division shall, within 60 days of the appropriate filing date, notify the operator by electronic mail or letter of its intent to revoke the operator's authorization to transport or inject if the operator does not submit an acceptable and complete form C-115. If the operator does not file an acceptable and complete form C-115 or request a hearing on the proposed cancellation within 120 days of the original due date of the form C-115, the division may cancel the operator's authority to transport from or inject into all wells it operates. [1-1-65...2-1-96; 19.15.13.1115 NMAC - Rn, 19 NMAC 15.M.1115, 06/30/04; A, 12/15/05]

19.15.13.1116 GAS-OIL RATIO TESTS (Form C-116):

Gas-oil ratio tests shall be made and reported on form C-116 as prescribed in 19.15.5.301 NMAC, Gas-Oil Ratio Tests, and any applicable special pool rules. This form shall be submitted in duplicate. [1-1-65...2-1-96; 19.15.13.1116 NMAC - Rn, 19 NMAC 15.M.1116, 06/30/04]

19.15.13.1117 TANK CLEANING, SEDIMENT OIL REMOVAL, TRANSPORTATION OF MISCELLANEOUS HYDROCARBONS AND DISPOSAL PERMIT (Form C-117-A) AND MONTHLY SEDIMENT OIL DISPOSAL STATEMENT (Form C-117-B):

A. Form C-117-A, tank cleaning, sediment oil removal, transportation of miscellaneous hydrocarbons and disposal permit, shall be submitted to the appropriate district office of the division in quintuplicate and in accordance with Subsections B, C and H of 19.15.5.311 NMAC.

B. Form C-117-B, monthly sediment oil disposal statement, shall be submitted both to the Santa Fe office and the appropriate district office(s) of the division in accordance with Subsection D of 19.15.5.311 NMAC.

[1-1-65...2-1-96; 19.15.13.1117 NMAC - Rn, 19 NMAC 15.M.1117, 06/30/04]

19.15.13.1118 TREATING PLANT OPERATOR'S MONTHLY REPORT (Form C-118):

Form C-118 shall be submitted in duplicate to the appropriate district office of the division in accordance with 19.15.9.711 NMAC, and shall contain all the information required thereon. Column 1 of sheet 1-A of form C-118 entitled "permit number," has reference to the tank cleaning, sediment oil removal, transportation of miscellaneous hydrocarbons and disposal permit, form C-117-A, for each lot of oil picked up for processing.

[1-1-65...2-1-96; 19.15.13.1118 NMAC - Rn, 19 NMAC 15.M.1118, 06/30/04]

19.15.13.1119 CARBON BLACK PLANT MONTHLY REPORT (Form C-119):

Each operator of a carbon black plant within the state of New Mexico shall file for each calendar month the monthly volume of gas received by him from a gasoline extraction plant or plants, and a monthly volume or volumes of gas received by him from each lease operator delivering natural gas directly to such

plant, together with the opening and closing stocks and the production and deliveries by grades of carbon black or other products produced. Such reports shall be filed in duplicate on form C-119, carbon black plant monthly report, and be postmarked on or before the 15th day of the next succeeding month. In addition, form C-111 shall be filed each month in accordance with 19.15.13.1111 NMAC if the carbon black plant operator makes any purchase directly from a lease or operates any gas gathering or transmission system.

[1-1-65...2-1-96; 19.15.13.1119 NMAC - Rn, 19 NMAC 15.M.1119, 06/30/04]

19.15.13.1120 MONTHLY WATER DISPOSAL REPORT (Form C-120-A):

Each operator of a salt water disposal system shall report such operations on form C-120-A. Form C-120-A shall be filed in duplicate (one copy with the Santa Fe office and one copy with the appropriate district office) and shall be postmarked no later than the 15th day of the second succeeding month.

[1-1-65...2-1-96; 19.15.13.1120 NMAC - Rn, 19 NMAC 15.M.1120, 06/30/04]

19.15.13.1121 PURCHASER'S NOMINATION FORMS (Form C-121 and Form C-121-A):

A. Unless requested otherwise by the division director, one copy of form C-121, crude oil purchaser's nomination, shall be submitted to the Santa Fe office of the division not later than the 20th day of each odd-numbered month. Nominations shall be filed by each person expecting to purchase oil from producing wells in New Mexico during the second and third succeeding two months. As an example, nominations submitted by the 20th day of July shall indicate the amount of oil the purchaser desires to purchase daily during September and October

B. One copy of form C-121-A, purchaser's gas nomination, shall be submitted to the Santa Fe office of the division by the first day of the month during which the division will consider at the gas allowable hearing the nominations for the purchase of gas from producing wells in New Mexico during the succeeding month. As an example, purchaser's nominations to take gas from a pool during the month of August would be considered by the division at a hearing during July, and should be submitted to the Santa Fe office of the division by July 1.

C. In addition to the monthly gas nominations, twelve-months nominations shall be filed in accordance with the appropriate pool rules.

[1-1-65...2-1-96; 19.15.13.1121 NMAC - Rn, 19 NMAC 15.M.1121, 06/30/04]

19.15.13.1122 MULTIPOINT AND ONE POINT BACK PRESSURE TEST FOR GAS WELL (Form C-122):

A. Gas well test data sheet - san juan basin (form C-122-A)

B. Initial potential test data sheet (form C-122-B)

C. Deliverability test report (form C-122-C)

D. Worksheet for calculation of static column wellhead pressure (P_w) (form C- 122-D)

E. Worksheet for stepwise calculation of (surface) (subsurface) pressure (P_c & P_w) (P_f & P_s) (form C-122-E)

F. Worksheet for calculation of wellhead pressures (P_c or P_w) from known bottomhole pressure (P_f or P_s) (form C-122-F)

G. Worksheet for calculation of status column pressure at gas liquid interface (form C-122-G). The above forms shall be submitted to the appropriate district office of the division in accordance with the provisions of the "manual for back-pressure testing of natural gas wells," or "gas well testing manual for northwest New Mexico", 19.15.6.401 NMAC of the division rules and regulations, and applicable special pool rules and proration orders. These forms shall be submitted in duplicate except form C-122-A which shall be submitted in triplicate.

[1-1-66...2-1-96; 19.15.13.1122 NMAC - Rn, 19 NMAC 15.M.1122, 06/30/04]

19.15.13.1123 REQUEST FOR THE CREATION OF A NEW POOL (Form C-123):

The operator of a well which requires the creation of a pool shall be given written instructions by the appropriate district office regarding the filing of form C-123 in duplicate.

[1-1-65...2-1-96; 19.15.13.1123 NMAC - Rn, 19 NMAC 15.M.1123, 06/30/04]

19.15.13.1124 RESERVOIR PRESSURE REPORT (Form C-124):

Form C-124 shall be submitted in triplicate and shall be used to report bottom hole pressures as required under the provisions of 19.15.5.302 NMAC and any applicable special pool rules.

[1-1-65...2-1-96; 19.15.13.1124 NMAC - Rn, 19 NMAC 15.M.1124, 06/30/04]

19.15.13.1125 GAS WELL SHUT-IN PRESSURE TESTS (Form C-125):

Form C-125 shall be submitted in triplicate and shall be used to report shut-in pressure tests on gas wells as required under the provisions of 19.15.6.402 NMAC and any applicable special pool rules.

[1-1-65...2-1-96; 19.15.13.1125 NMAC - Rn, 19 NMAC 15.M.1125, 06/30/04]

19.15.13.1126 PERMIT TO TRANSPORT RECOVERED LOAD OIL (Form C-126):

Form C-126 shall be submitted in quadruplicate to the appropriate district office of the division and shall be used in conformance with 19.15.7.508 NMAC.

[1-1-65...2-1-96; 19.15.13.1126 NMAC - Rn, 19 NMAC 15.M.1126, 06/30/04]

19.15.13.1127 REQUEST FOR ALLOWABLE CHANGE (Form C-127):

One copy of form C-127 shall be filed by the oil producer with the appropriate district office of the division not later than the 10th day of the month preceding the month for which oil well allowable changes are requested.

[1-1-65...2-1-96; 19.15.13.1127 NMAC - Rn, 19 NMAC 15.M.1127, 06/30/04]

19.15.13.1128 FORMS REQUIRED ON FEDERAL LAND:

A. Federal forms shall be used in lieu of state forms when filing application for permit to drill, deepen or plug back and sundry notices and reports on wells and well completion or recompletion report and log for wells on federal lands in New Mexico. However, it shall be the duty of the operator to submit two extra copies of each of such forms to the BLM, which, upon approval, will transmit same to the division. The following BLM forms will be used in lieu of division forms by operators of wells on federal land:

<u>BLM Form No</u>	<u>Title of Form</u>	<u>Form No.</u>
3160-3 (Nov. 1993)	Application for Permit to Drill, Deepen or Plug Back	C-101
3160-5 (Nov. 1983)	Sundry Notices and Reports on Wells	C-103
3160-4 (Nov. 1983)	Well Completion or Recompletion Report and Log	C-105

B. The above forms as may be revised are the only forms that may be submitted in place of division forms.

C. After a well is completed and ready for pipeline connection, division form C-104 shall be filed along with a copy of form C-105 or BLM form No. 3160-4, whichever is applicable, with the division on any and all wells drilled in the state, regardless of land status. Further, all reports and forms as required under the preceding rules of this section of the rules and regulations that pertain to production must be filed on the proper oil conservation division form as set out in said rule - no other forms will be accepted.

D. Failure to comply with the provisions of this rule will result in the cancellation of form

C-104 for the affected well or wells.

[1-1-65...2-1-96; 19.15.13.1128 NMAC - Rn, 19 NMAC 15.M.1128, 06/30/04]

19.15.13.1129 APPLICATION FOR EXCEPTION TO NO-FLARE RULE 306 (Form C-129):

Form C-129, when applicable, shall be filed in accordance with 19.15.5.306 NMAC.

[9-1-72...2-1-96; 19.15.13.1129 NMAC - Rn, 19 NMAC 15.M.1129, 06/30/04]

19.15.13.1130 NOTICE OF DISCONNECTION (Form C-130):

A. Form C-130, notice of disconnection, shall be filed in triplicate with the division by the operator of the well as provided in 19.15.6.407 NMAC.

B. The operator shall state, to the best of his knowledge, the reasons for disconnecting any gas well from gas transportation facilities.

C. The division shall furnish the New Mexico public service commission with any form C-130 indicating that a disconnected gas well may or will be reconnected to a gas transportation facility for ultimate distribution to consumers outside of the state of New Mexico.

[8-23-77...2-1-96; 19.15.13.1130 NMAC - Rn, 19 NMAC 15.M.1130, 06/30/04]

19.15.13.1131 MONTHLY GAS STORAGE REPORT (Form C-131-A) ANNUAL LPG STORAGE REPORT (Form C-131-B):

A. Each operator of an underground natural gas storage project shall report its operation monthly on form C-131-A. Form C-131-A shall be filed in duplicate (one copy to the appropriate district office) and shall be postmarked not later than the 24th day of the next succeeding month.

B. Each operator of an underground liquefied petroleum gas storage project approved by the division shall report its operation annually on form C-131-B.

[7-1-81...2-1-96; 19.15.13.1131 NMAC - Rn, 19 NMAC 15.M.1131, 06/30/04]

19.15.13.1132 [RESERVED].

19.15.13.1133 AUTHORIZATION TO MOVE PRODUCED WATER:

A. Each person who is a transporter of produced water shall obtain approval of form C-133, authorization to move produced water, in accordance with Subsection C of 19.15.9.709 NMAC. prior to any such transportation.

B. Approval of a single form C-133 is valid for all leases served by such transporter.

[2-1-82...2-1-96; 19.15.13.1133 NMAC - Rn, 19 NMAC 15.M.1133, 06/30/04]

19.15.13.1134 [RESERVED].

19.15.13.1135 GAS WELL CONNECTION, RECONNECTION OR DISCONNECTION NOTICE:

Every gas transporter accepting gas for delivery from a wellhead or central point of delivery shall notify the division within thirty (30) days of a new connection or reconnection to or disconnection from the gathering or transportation system by filing form C-135 in duplicate with the appropriate district office of the division.

[2-1-91...2-1-96; 19.15.13.1135 NMAC - Rn, 19 NMAC 15.M.1135, 06/30/04]

19.15.13.1136 APPLICATION FOR APPROVAL TO USE AN ALTERNATE GAS MEASUREMENT METHOD (Form C-136):

A. Form C-136 shall be used to request and approve use of an alternate procedure for measuring gas production from a well which is not capable of producing more than 15 MCFD (Paragraph (1) of Subsection B of 19.15.6.403 NMAC or for any well which has a producing capacity of 100 MCFD

or less and is on a multi-well lease (Paragraph (2) of Subsection B of 19.15.6.403 NMAC.)

B. All applicable information required on form C-136 shall be filled out with the required supplemental information attached, and shall be submitted in quadruplicate to the appropriate district office of the division.

[12-23-91; 2-1-96; 19.15.13.1136 NMAC - Rn, 19 NMAC 15.M.1136, 06/30/04]

HISTORY OF 19.15.13 NMAC:

Pre-NMAC History: The material in this Part was derived from that previously filed with the State Records Center and Archives:

Rule 1100, General, 1/8/82.

Rule 1100, Amendment No. 1, General M-Reports, 1/27/82.

Rule 1100, Amendment No. 2, General M-Reports, 5/6/82.

Rule 1100, General M-Reports, 3/17/86.

Rule 1100, General, 10/11/89.

Rule 1100, General, 2/5/91.

Rule 1101, Application for Permit to Drill, Deepen, or Plug Back (Form C-101), 1/8/82.

Rule 1101, Application for Permit to Drill, Deepen, or Plug Back (Form C-101), 2/5/91.

Rule 1102, Well Location and Acreage Dedication Plat (Form C-102), 1/8/82.

Rule 1102, Well Location and Acreage Dedication Plat (Form C-102), 3/15/89.

Rule 1102, Well Location and Acreage Dedication Plat (Form C-102), 2/5/91.

Rule 1103, Sundry Notices and Reports on Wells (Form C-103), 1/8/82.

Rule 1103, Sundry Notices and Reports on Wells (Form C-103), 2/5/91.

Rule 1104, Request for Allowable and Authorization to Transport Oil and Natural Gas (Form C-104), 1/8/82.

Rule 1104, Request for Allowable and Authorization to Transport Oil and Natural Gas (Form C-104), 2/5/91.

Rule 1105, Well Completion or Recompletion Report and Log (Form C-105), 1/8/82.

Rule 1105, Well Completion or Recompletion Report and Log (Form C-105), 2/5/91.

Rule 1106, Notice of Intention to Utilize Automatic Custody Transfer Equipment (Form C-106), 1/8/82.

Rule 1106, Notice of Intention to Utilize Automatic Custody Transfer Equipment (Form C-106), 2/5/91.

Rule 1107, Application for Multiple Completion (Form C-107), 1/8/82.

Rule 1107, Amendment No. 1, Application for Multiple Completion (Form C-107), 1/27/82.

Rule 1107, Application for Multiple Completion (Form C-107), 2/5/91.

Rule 1108, Application for Authorization to Inject (Form C-108), 1/8/82.

Rule 1108, Application for Authorization to Inject (Form C-108), 2/5/91.

Rule 1109, Application for Discovery Allowable and Creation of a New Pool (Form C-109), 1/8/82.

Rule 1109, Application for Discovery Allowable and Creation of a New Pool (Form C-109), 2/5/91.

Rule 1111, Gas Transporter's Monthly Report (Form C-111), 1/8/82.

Rule 1111, Gas Transporter's Monthly Report (Form C-111), 3/17/86.

Rule 1111, Gas Transporter's Monthly Report (Form C-111), 2/5/91.

Rule 1112, Transporter's and Storer's Monthly Report (Form C-112), 1/8/82.

Rule 1112, Transporter's and Storer's Monthly Report (Form C-112), 2/5/91.

Rule 1113, Refiner's Monthly Report (Form C-113), 1/8/82.

Rule 1113, Refiner's Monthly Report (Form C-113), 10/11/89.

Rule 1113, Refiner's Monthly Report (Form C-113), 2/5/91.

Rule 1115, Operator's Monthly Report (Form C-115), 1/8/82.

Rule 1115, Operator's Monthly Report (Form C-115), 2/5/91.

Rule 1116, Gas-Oil Ratio Tests (Form C-116), 1/8/82.

Rule 1116, Gas-Oil Ratio Tests (Form C-116), 2/5/91.

Rule 1117, Sediment Oil Disposition Permits (Form C-117-A and C-117-B), 1/8/82.

Rule 1117, Amendment No. 1, Tank Cleaning, Sediment Oil Removal, Transportation of Miscellaneous Hydrocarbons and Disposal Permit (Form C-117-A) and Monthly Sediment Oil Disposal Statement (Form C-117-B), 1/27/82.
Rule 1117, Tank Cleaning, Sediment Oil Removal, Transportation of Miscellaneous Hydrocarbons and Disposal Permit (Form C-117-A) and Monthly Sediment Oil Disposal Statement (Form C-117-B), 2/5/91.
Rule 1118, Treating Plant Operator's Monthly Report (Form C-118), 1/8/82.
Rule 1118, Amendment No. 1, Treating Plant Operator's Monthly Report (Form C-118), 1/27/82.
Rule 1118, Treating Plant Operator's Monthly Report (Form C-118), 2/5/91.
Rule 1119, Carbon Black Plant Monthly Report (Form C-119), 1/11/82.
Rule 1119, Carbon Black Plant Monthly Report (Form C-119), 2/5/91.
Rule 1120, Monthly Water Disposal Report (Form C-120), 1/11/82.
Rule 1120, Monthly Water Disposal Report (Form C-120), 2/5/91.
Rule 1121, Purchaser's Nomination Forms (Form C-121 and Form C-121-A), 1/11/82.
Rule 1121, Purchaser's Nomination Forms (Form C-121 and Form C-121-A), 2/5/91.
Rule 1122, Multipoint and One Point Back Pressure Test for Gas Well (Form C-122), 1/11/82.
Rule 1122, Multipoint and One Point Back Pressure Test for Gas Well (Form C-122), 10/11/89.
Rule 1122, Multipoint and One Point Back Pressure Test for Gas Well (Form C-122), 2/5/91.
Rule 1123, Request for the Creation of a New Pool (Form C-123), 1/11/82.
Rule 1123, Request for the Creation of a New Pool (Form C-123), 2/5/91.
Rule 1124, Reservoir Pressure Report (Form C-124), 1/11/82.
Rule 1124, Reservoir Pressure Report (Form C-124), 2/5/91.
Rule 1125, Gas Well Shut-In Pressure Tests (Form C-125), 1/11/82.
Rule 1125, Amendment No. 1, Gas Well Shut-In Pressure Tests (Form C-125), 2/23/84.
Rule 1125, Gas Well Shut-In Pressure Tests (Form C-125), 2/5/91.
Rule 1126, Permit to Transport Recovered Load Oil (Form C-126), 1/11/82.
Rule 1126, Permit to Transport Recovered Load Oil (Form C-126), 2/5/91.
Rule 1127, Request for Allowable Change (Form C-127), 1/11/82.
Rule 1127, Request for Allowable Change (Form C-127), 2/5/91.
Rule 1128, Forms Required on Federal Land, 1/11/82.
Rule 1128, Forms Required on Federal Land, 2/5/91.
Rule 1129, Application for Exception to No-Flare Rule306 (Form C-129), 1/11/82.
Rule 1129, Application for Exception to No-Flare Rule306 (Form C-129), 2/5/91.
Rule 1130, Notice of Disconnection (Form C-130), 1/11/82.
Rule 1130, Notice of Disconnection (Form C-130), 2/5/91.
Rule 1131, Monthly Gas Storage Report (Form C-131-A) Annual LPG Storage Report (Form C-131-B), 1/11/82.
Rule 1131, Monthly Gas Storage Report (Form C-131-A) Annual LPG Storage Report (Form C-131-B), 2/5/91.
Rule 1133, Authorization to Move Produced Water, 1/27/82.
Rule 1133, Authorization to Move Produced Water, 2/5/91.
Rule 1135, Gas Well Connection, Reconnection or Disconnection Notice, 1/14/91.
Rule 1135, Gas Well Connection, Reconnection or Disconnection Notice, 2/5/91.

History of Repealed Material: [RESERVED].

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

19.15.14.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil

Conservation Division, 1220 S. St. Francis Drive, Santa Fe, New Mexico 87505, (505) 476-3440.
[19.15.14.1 NMAC - Rp, 19.15.14.1 NMAC, 09/30/05]

19.15.14.2 SCOPE: All rulemaking hearings before the oil conservation commission or adjudicatory hearings before the oil conservation commission (commission) or oil conservation division (division).

[19.15.14.2 NMAC - Rp, 19.15.14.2 NMAC, 09/30/05]

19.15.14.3 STATUTORY AUTHORITY: NMSA 1978, Sections 70-2-1 through 70-2-38 set forth the Oil and Gas Act, which grants the division jurisdiction and authority over all matters relating to the conservation of oil and gas, the prevention of waste of oil and gas and of potash as a result of oil and gas operations, the protection of correlative rights and the disposition of wastes resulting from oil and gas operations, and grants the commission concurrent jurisdiction and authority with the division to the extent necessary for the commission to perform its duties.

[19.15.14.3 NMAC - Rp, 19.15.14.3 NMAC, 09/30/05]

19.15.14.4 DURATION: Permanent.

[19.15.14.4 NMAC - Rp, 19.15.14.4 NMAC, 09/30/05]

19.15.14.5 EFFECTIVE DATE: September 30, 2005, unless a later date is cited at the end of a section.

[19.15.14.5 NMAC - Rp, 19.15.14.5 NMAC, 09/30/05]

19.15.14.6 OBJECTIVE: This part's objective is to set forth general provisions and definitions pertaining to the division's and the commission's authority pursuant to the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, by encouraging participation in the division's and commission's hearings, making possible effective presentation of the evidence and the parties' and the general public's points of view, allowing all participants a reasonable opportunity to submit data, views and arguments and to assure that division and commission hearings are conducted in a fair and equitable manner.

[19.15.14.6 NMAC - Rp, 19.15.14.6 NMAC, 09/30/05]

19.15.14.7 - 1200 [RESERVED]

19.15.14.1201 RULEMAKING INITIATION:

A. The commission may commence a rulemaking proceeding by issuing an order initiating rulemaking. The division, any operator or producer or any other person may initiate a rulemaking proceeding by filing an application to adopt, amend or repeal a rule with the commission clerk. The application shall be in writing and applicants shall specifically identify the rule the applicant seeks for the commission to adopt, amend or repeal. The application or order initiating rulemaking shall include the following:

- (1) a brief summary of the proposed rule change's intended effect;
- (2) a proposed draft of the new rule or amendment;
- (3) the applicant's name;
- (4) the applicant's address, or the address of its attorney, including an e-mail address and fax number if available;
- (5) a proposed legal notice for publication; and
- (6) any other matter a commission order requires.

B. An applicant shall file six sets of the application for rulemaking with the commission clerk. The applicant shall file the application by delivering the application to the commission clerk in person, by mail or by facsimile, as long as the applicant mails or delivers six sets of the application to the

commission clerk on the next business day.

C. Upon receiving an application for rule change the commission clerk shall file the application, and shall deliver a copy to all commissioners within 10 business days of the application's receipt. Unless the commission chairman or another commissioner indicates, within 10 business days following the commission clerk's delivery of the rule change application, that a hearing is not necessary or appropriate, the chairman shall schedule a hearing on the rule change application. If a commissioner indicates to the chairman, or if the chairman concludes, that a hearing is not necessary or appropriate because the application is repetitive or frivolous or for any other lawful reason, the commission shall determine within 60 days of the application's filing whether to hear the application, and if the commission decides to hear the application, the chairman shall schedule a hearing on the rule change application.

D. 19.15.14.1201 NMAC shall not apply to special pool rules, which the commission or the division may adopt, amend or rescind in adjudicatory proceedings subject to 19.15.14.1207 and 1210 NMAC's notice provisions.
[19.15.14.1201 NMAC - Rp, 19.15.14.1201 NMAC, 09/30/05]

19.15.14.1202 RULEMAKING NOTICE:

A. The division shall publish notice of any proposed rulemaking set for the hearing in the name of the "State of New Mexico", signed by the division director and bearing the commission's seal. The notice shall state the hearing's date, time and place and the date by which those commenting shall submit their written comments to the commission clerk. The notice shall be published as follows:

(1) one time in a newspaper of general circulation in the counties that the proposed rule change affects, or if the proposed rule change will have statewide effect, in a newspaper of general circulation in the state, no less than 20 days prior to the scheduled hearing date;

(2) on the applicable docket for the commission hearing at which the commission will hear the matter, which the commission clerk shall send by regular or electronic mail not less than 20 days prior to the hearing to all who have requested such notice;

(3) one time in the New Mexico register, with the publication date not less than 10 business days prior to the scheduled hearing date; and

(4) by posting on the division's website not less than 20 days prior to the scheduled hearing date.

B. In cases of emergency, the division director may shorten these time limits by written order.

[19.15.14.1202 NMAC - Rp, 19.15.14.1201 & 1205 NMAC, 09/30/05]

19.15.14.1203 COMMENTS ON RULEMAKING: Any person may submit written, electronic or facsimile comments on a proposed rule change, and those comments shall be made part of the hearing record. Individuals or entities shall provide written comments on the proposed rule change to the commission clerk not later than five business days before the scheduled hearing date, unless the division director or the commission extends the time for filing comments. The division director or the commission may extend the time for filing written, electronic or facsimile comments by making an announcement at the hearing, or by posting notice on the division's website. Any person may review written, electronic or facsimile comments on a proposed rule change at the division's Santa Fe office. The division shall post copies of written, electronic or facsimile comments that individuals or entities have filed with the commission clerk on the division's website as soon as practicable after they are filed.

[19.15.14.1203 NMAC - N, 09/30/05]

19.15.14.1204 RULEMAKING HEARING PARTICIPATION:

A. Non-technical testimony.

(1) Any person may testify or make an un-sworn statement at the rulemaking hearing. A person does not need to file prior notification with the commission clerk to present non-technical

testimony at the hearing.

(2) Any person may also offer exhibits in connection with his testimony, so long as the exhibits are relevant to the proposed rule change and do not unduly repeat the testimony. A person offering exhibits shall file any exhibits prior to the scheduled hearing date or submit them at the hearing. A person offering exhibits shall provide six sets of each exhibit for the commission, copies for each of those individuals or entities that have filed an intent to present technical testimony or cross-examine witnesses at the hearing and five additional copies for others who may attend the hearing.

(3) Members of the general public who wish to present non-technical testimony should indicate their intent on a sign-in sheet at the hearing.

B. Technical testimony.

(1) Any person, including the division, who intends to present technical testimony or cross-examine witnesses at the hearing shall, no later than five business days before the scheduled hearing date, file six sets of a pre-hearing statement with the commission clerk. Corporations, partnerships, governmental agencies, political subdivisions, unincorporated associations and other collective entities may appear only through an attorney or through a duly authorized officer or member.

(2) The pre-hearing statement shall include the person or entity's name and its attorney's name; the names of all witnesses the person or entity will call to testify at the hearing; a concise statement of each witness' testimony; all technical witnesses' qualifications including a description of the witnesses' education and experience; and the approximate time the person or entity will need to present its testimony. The person or entity shall attach to the pre-hearing statement any exhibits it plans to offer as evidence at the hearing. A corporation or other entity not represented by an attorney shall identify in its pre-hearing statement the person who will conduct its presentation and shall attach a sworn and notarized statement from the corporation's or entity's governing body or chief executive officer attesting that it authorizes that person to represent the corporation or entity.

(3) The commission may exclude any expert witnesses or technical exhibits not identified in or attached to the pre-hearing statement unless the testimony or exhibit is offered solely for rebuttal or the person or entity offering the testimony or exhibits demonstrates good cause for omitting the witness or exhibit from its pre-hearing statement.

(4) The division shall post copies of pre-hearing statements filed with the commission clerk on the division's website as soon as practicable after they are filed. Any person may review pre-hearing statements filed with the commission clerk at the division's Santa Fe office.

C. Modifications to proposed rule changes.

(1) Any person, other than the applicant or a commissioner, recommending modifications to a proposed rule change shall, no later than 10 business days prior to the scheduled hearing date, file a notice of recommended modifications with the commission clerk.

(2) The notice shall include:

- (a) the text of the recommended modifications to the proposed rule change;
- (b) an explanation of the recommended modification's impact; and
- (c) reasons for adopting the modification.

[19.15.14.1204 NMAC - Rp, 19.15.14.1208 & 1212 NMAC, 09/30/05]

19.15.14.1205 RULEMAKING HEARINGS:

A. Conduct of hearings.

(1) The rules of civil procedure and the rules of evidence shall not apply.

(2) The commission shall conduct the hearing so as to provide a reasonable opportunity for all persons to be heard without making the hearing unreasonably lengthy or cumbersome and without unnecessary repetition. The hearing shall proceed as follows:

- (a) the hearing shall begin with a statement from the commission chairman identifying the hearing's nature and subject matter and explaining the procedures to be followed;
- (b) the commission may allow any person to make a brief opening statement;

(c) unless otherwise ordered, the applicant, or in the case of commission initiated rulemaking, commission or division staff, shall present its case first;

(d) the commission chairman shall establish an order for other participants' testimony based upon notices of intent to present technical testimony, sign-in sheets, the availability of witnesses who cannot be present for the entire hearing and any other appropriate factor;

(e) the commission may allow any person to make a brief closing statement;

(f) if the hearing continues for more than one day, the commission shall provide an opportunity each day for public comment;

(g) at the close of the hearing, the commission shall determine whether to keep the record open for written submittals including arguments and proposed statements of reasons supporting the proposed commission decision. In considering whether the record will remain open, the commission shall consider the reasons why the material was not presented during the hearing, the significance of material to be submitted and the necessity for a prompt decision; if the commission keeps the record open, the commission chairman shall announce at the hearing's conclusion the subjects on which the commission will allow submittals and the deadline for filing the submittals; and

(h) if the hearing is not completed on the day that it commences, the commission may, by announcement, continue the hearing as necessary without further notice.

B. Testimony and cross-examination.

(1) The commission shall take all testimony under oath or affirmation, which may be accomplished en masse or individually. However, any person may make an un-sworn position statement.

(2) The commission shall admit any relevant evidence, unless the commission determines that the evidence is incompetent or unduly repetitious.

(3) Any person who testifies at the hearing is subject to cross-examination by any person who has filed a pre-hearing statement on the subject matter of his direct testimony. Any person who presents technical testimony may also be cross-examined on matters related to his background and qualifications. The commission may limit cross-examination to avoid harassment, intimidation, needless expenditure of time or undue repetition.

C. Exhibits.

(1) Any person offering an exhibit shall provide six sets of the exhibit for the commission, copies for each of those individuals or entities that have filed an intent to present technical testimony or cross-examine witnesses at the hearing and five additional copies for others who may attend the hearing.

(2) All exhibits offered at the hearing shall be marked with a designation identifying the person offering the exhibit and shall be numbered sequentially.

D. Transcript of proceeding.

(1) A verbatim record shall be made of the hearing.

(2) Any person may obtain a copy of the hearing transcript. The person requesting the copy shall pay for the cost of the copy of the hearing transcript.

E. Deliberation and decision.

(1) If a quorum of the commission attended the hearing, and if the hearing agenda indicates that a decision might be made at the hearing's conclusion, the commission may immediately deliberate and make a decision in open session on the proposed rule change based on a motion that includes reasons for the decision.

(2) If, during the course of deliberations, the commission determines that additional testimony or documentary evidence is necessary for a proper decision on the proposed rule change, the commission may reopen the hearing for additional evidence after notice pursuant to 19.15.14.1202 NMAC.

(3) The commission shall issue a written order adopting or refusing to adopt the proposed rule change, or adopting the proposed rule change in part, and shall include in the order the reasons for the action taken.

(4) Upon the commission's issuance of the order, the commission clerk shall post the order

on the division's website and mail or e-mail a copy of the order to each person who presented non-technical testimony at the hearing or who filed a pre-hearing statement, or the person's attorney.

F. Filing. The division shall file with the state records center and archives and publish any rule the commission adopts, amends or repeals consistent with the State Rules Act.

[19.15.14.1205 NMAC - Rp, 19.15.14.1212 NMAC, 09/30/05]

19.15.14.1206 INITIATING AN ADJUDICATORY HEARING:

A. The division, attorney general, any operator or producer or any other person with standing may file an application with the division for an adjudicatory hearing. The division director, upon receiving a division examiner's recommendation, may dismiss an application for an adjudicatory proceeding upon a showing that the applicant does not have standing. The person applying for the hearing or an attorney representing that person shall sign the application requesting an adjudicatory hearing. The application shall include:

- (1) the applicant's name;
- (2) the applicant's address, or the address of the applicant's attorney, including an e-mail address and fax number if available;
- (3) the name or general description of the common source or sources of supply or the area the order sought affects;
- (4) briefly, the general nature of the order sought;
- (5) a proposed legal notice for publication; and
- (6) any other matter these rules or a division order require.

B. Applicants for adjudicatory hearings shall file written applications with the division clerk at least 30 days before the application's scheduled hearing date.

[19.15.14.1206 NMAC - Rp, 19.15.14.1203 NMAC, 09/30/05]

19.15.14.1207 ADJUDICATORY HEARING NOTICE:

A. The division shall publish notice of any adjudicatory hearing in the name of the "State of New Mexico", signed by the division director and bearing the commission's seal, stating:

- (1) the adjudicatory hearing's time and place;
- (2) whether the case is set for hearing before the commission or a division examiner;
- (3) the applicant's name and address, or address of the applicant's attorney, including an e-mail address and fax number if available;
- (4) a case name and number;
- (5) a brief description of the hearing's purpose;
- (6) a reasonable identification of the adjudication's subject matter that alerts persons who may be affected if the division grants the application;
- (7) if the application seeks to adopt, revoke or amend special pool rules; establish or alter a non-standard unit; permit an unorthodox location or establish or affect any well's or proration unit's allowable, the notice shall specify each pool or common source of supply that the division or commission's granting the application may affect; and

(8) if the application seeks compulsory pooling or statutory unitization, the notice shall contain a legal description of the spacing unit or geographical area the applicant seeks to pool or unitize.

B. The division shall publish notice of each adjudicatory hearing before the commission or a division examiner at least 20 days before the hearing by:

- (1) posting notice on the division's website;
- (2) delivering notice by ordinary first class United States mail or electronic mail to each person who has requested in writing to be notified of such hearings; and
- (3) if before the commission, publishing notice in a newspaper of general circulation in the counties the application affects, or if the application's effect will be statewide, in a newspaper of general circulation in the state.

[19.15.14.1207 NMAC - Rp, 19.15.14.1204 & 1205 NMAC, 09/30/05]

19.15.14.1208 PARTIES TO ADJUDICATORY PROCEEDINGS:

- A.** The parties to an adjudicatory proceeding shall include:
- (1) the applicant;
 - (2) any person to whom statute, rule or order requires notice (not including those persons to whom 19.15.14.1207 NMAC requires distribution of hearing notices, who are not otherwise entitled to notice of the particular application), who has entered an appearance in the case; and
 - (3) any person who properly intervenes in the case.
- B.** A person entitled to notice may enter an appearance at any time by filing a written notice of appearance with the division or the commission clerk, as applicable, or, subject to the provisions in Subsection C of 19.15.4.1208 NMAC below, by oral appearance on the record at the hearing.
- C.** A party who has not entered an appearance at least one business day prior to the pre-hearing statement filing date provided in Paragraph (1) of Subsection B of 19.15.14.1211 NMAC shall not be allowed to present technical evidence at the hearing unless the commission chairman or the division examiner, for good cause, otherwise directs.
- D.** A party shall be entitled to a continuance of any hearing if it did not receive notice of the hearing at least three business days prior to the date for filing a timely appearance as these rules provide.

[19.15.14.1208 NMAC - Rp, 19.15.14.1203 NMAC, 09/30/05]

19.15.14.1209 ADJUDICATORY PROCEEDING INTERVENTION:

- A.** Any person with standing with respect to the case's subject matter may intervene by filing a written notice of intervention with the division or commission clerk, as applicable, at least one business day before the date for filing a pre-hearing statement. Notice of intervention shall include:
- (1) the intervenor's name;
 - (2) the intervenor's address, or the address of the intervenor's attorney, including an e-mail address and fax number if available;
 - (3) the nature of intervenor's interest in the application; and
 - (4) the extent to which the intervenor opposes issuance of the order applicant seeks.
- B.** The division examiner or commission chairman may, at their discretion, allow late intervenors to participate if the intervenor files a written notice on or after the date provided in Subsection A of 19.15.14.1206 NMAC, or by oral appearance on the record at the hearing.
- C.** The division examiner or the commission chairman may strike a notice of intervention on a party's motion if the intervenor fails to show that the intervenor has standing, unless the intervenor shows that intervenor's participation will contribute substantially to the prevention of waste, protection of correlative rights or protection of public health or the environment.

[19.15.14.1209 NMAC - N, 09/30/05]

19.15.14.1210 NOTICE REQUIREMENTS FOR SPECIFIC ADJUDICATIONS:

- A.** Applicants for the following adjudicatory hearings before the division or commission shall give notice, in addition to that 19.15.14.1207 NMAC requires, as set forth below:
- (1) Compulsory pooling and statutory unitization.
 - (a) The applicant shall give notice to any owner of an interest in the mineral estate of any portion of the lands the applicant proposes to be pooled or unitized whose interest is evidenced by a written conveyance document either of record or known to the applicant at the time the applicant filed the application and whose interest has not been voluntarily committed to the area proposed to be pooled or unitized (other than a royalty interest subject to a pooling or unitization clause).
 - (b) When the applicant has given notice as required in Subparagraph (a) of Paragraph (1) of Subsection A of 19.15.14.1207 NMAC, of a compulsory pooling application, the proposed unit is not larger in size than provided in 19.15.3.104 NMAC or applicable special pool orders,

and those owners the applicant has located do not oppose the application, the applicant may file under the following alternative procedure. The application shall include the following:

(i) a statement that the applicant expects no opposition including the reasons why;

(ii) a map outlining the spacing unit to be pooled, showing the ownership of each separate tract in the proposed unit and the proposed well's location;

(iii) the names and last known addresses of the interest owners to be pooled and the nature and percent of their interests and an attestation that the applicant has conducted a diligent search of all public records in the county where the well is located and of phone directories, including computer searches;

(iv) the names of the formations and pools to be pooled;

(v) a statement as to whether the pooled unit is for gas or oil production or both;

(vi) written evidence of attempts the applicant made to gain voluntary agreement including but not limited to copies of relevant correspondence;

(vii) proposed overhead charges (combined fixed rates) to be applied during drilling and production operations along with the basis for such charges;

(viii) the location and proposed depth of the well to be drilled on the pooled units; and

(ix) a copy of the authorization for expenditure (AFE) the applicant, if appointed operator, will submit to the well's interest owners.

(c) Applicants shall provide with all submittals sworn and notarized statements by those persons who prepared submittals, attesting that the information is correct and complete to the best of their knowledge and belief.

(d) The division shall set all unopposed pooling applications for hearing. If the division finds the application complete, the information submitted with the application will constitute the record in the case, and the division shall issue an order based on the record.

(e) At any interested person's request or upon the division's own initiative, the division shall set any pooling application for full hearing with oral testimony by the applicant.

(2) Unorthodox well locations.

(a) "Affected persons" are the following persons owning interests in the adjoining spacing units:

(i) the division-designated operator;

(ii) in the absence of an operator, any lessee whose interest is evidenced by a written conveyance document either of record or known to the applicant as of the date he files the application; and

(iii) in the absence of an operator or lessee, any mineral interest owner whose interest is evidenced by a written conveyance document either of record or known to the applicant as of the date he filed the application.

(b) In the event the proposed unorthodox well's operator is also the operator of an existing, adjoining spacing unit, and ownership is not common between the adjoining spacing unit and the spacing unit containing the proposed unorthodox well, then "affected persons" include all working interest owners in that spacing unit.

(c) If the proposed location is unorthodox by being located closer to the spacing unit's outer boundary than 19.15.3.104 NMAC or applicable special pool rules permit, the applicant shall notify the affected persons in the adjoining spacing units towards which the unorthodox location encroaches.

(d) If the proposed location is unorthodox by being located in a different quarter-quarter section or quarter section than special pool orders provide, the applicant shall notify all affected persons.

(3) Non-standard proration unit. The applicant shall notify all owners of interest in the mineral estate to be excluded from the proration unit in the quarter-quarter section (for 40-acre pools or formations), the one-half quarter section (for 80-acre pools or formations), the quarter section (for 160-acre pools or formations), the half section (for 320-acre pools or formations) or section (for 640-acre pools or formations) in which the non-standard unit is located and to such other persons as the division requires.

(4) Special pool orders regulating or affecting a specific pool.

(a) Except for non-standard proration unit applications, if the application involves changing the amount of acreage to be dedicated to a well, the applicant shall notify:

(i) all division-designated operators in the pool; and

(ii) all owners of interests in the mineral estate in existing spacing units with producing wells.

(b) If the application involves other matters, the applicant shall notify:

(i) all division-designated operators in the pool; and

(ii) all division-designated operators of wells within the same formation as the pool and within one mile of the pool's outer boundary that have not been assigned to another pool.

(5) Special orders regarding any division-designated potash area. The applicant shall notify all potash lessees, oil and gas operators, oil and gas lessees and unleased mineral interest owners within the designated potash area.

(6) Downhole commingling. The applicant shall notify all owners of interests in the mineral estate in the spacing unit if ownership is not common for all commingled zones within the spacing unit.

(7) Surface disposal of produced water or other fluids. The applicant shall notify any surface owner within one-half mile of the site.

(8) Surface commingling. The applicant shall give notice as 19.15.5.303 NMAC prescribes.

(9) Adjudications not listed above. The applicant shall give notice as the division requires.

B. Type and content of notice. The applicant shall send any notice 19.15.14.1207 NMAC requires by certified mail, return receipt requested, to the last known address of the person to whom notice is to be given at least 20 days prior to the application's scheduled hearing date and shall include a copy of the application; the hearing's date, time and place and the means by which protests may be made.

When an applicant has been unable to locate all persons entitled to notice after exercising reasonable diligence, the applicant shall provide notice by publication, and submit proof of publication at the hearing. Such proof shall consist of a copy of a legal advertisement that was published at least 10 business days before the hearing in a newspaper of general circulation in the county or counties in which the property is located, or if the application's effect is statewide, in a newspaper of general circulation in this state, together with the newspaper's affidavit of publication.

C. At the hearing, the applicant shall make a record, either by testimony or affidavit, that the applicant or its authorized representative has signed, that:

(1) the applicant has complied with notice provisions of 19.15.14.1207 NMAC;

(2) the applicant has conducted a good-faith diligent effort to find the correct addresses of all persons entitled to notice; and

(3) the applicant has given notice at that correct address as 19.15.14.1207 NMAC requires.

In addition, the record shall contain the name and address of each person to whom notice was sent and, where proof of receipt is available, a copy of the proof.

D. Evidence of failure to provide notice as 19.15.14.1207 NMAC requires may, upon proper showing, be considered cause for reopening the case.

E. In the case of an administrative application where the required notice was sent and a timely filed protest was made, the division shall notify the applicant and the protesting party in writing that the case has been set for hearing and the hearing's date, time and place. No further notice is required.

19.15.14.1211 PLEADINGS, COPIES, PRE-HEARING STATEMENTS, EXHIBITS AND MOTIONS FOR CONTINUANCE:

A. Pleadings. Applicants shall file two sets of pleadings and correspondence in cases pending before a division examiner with the division clerk and six sets of pleadings and correspondence in cases pending before the commission with the commission clerk. For cases pending before the commission, the commission clerk shall disseminate copies of pleadings and correspondence to the commission members. The party filing the pleading or correspondence shall at the same time serve a copy of the pleading or correspondence upon each party who has entered an appearance in the case on or prior to the business day immediately preceding the date when the party files the pleading or correspondence with the division or the commission clerk, as applicable. Parties shall accomplish service by hand delivery or transmission by facsimile or electronic mail to any party who has entered an appearance or, if the party is represented, the party's attorney of record. Service upon a party who has not filed a pleading containing a facsimile number or e-mail address may be made by ordinary first class mail. Parties shall be deemed to have made an appearance when they have either sent a letter regarding the case to the division or commission clerk or made an in person appearance at any hearing before the commission or before a division examiner. A written appearance, however, shall not be complete until the appearing party has provided notice to other parties of record. Any initial pleading or written entry of appearance a party other than the applicant files shall include the party's address or the address of the party's attorney and an e-mail and facsimile number if available.

B. Pre-hearing statements.

(1) Any party to an adjudicatory proceeding who intends to present evidence at the hearing shall file a pre-hearing statement, and serve copies on other parties or, for parties that are represented, their attorneys in the manner Subsection A of 19.15.14.1211 NMAC provides, at least four business days in advance of a scheduled hearing before the division or the commission, but in no event later than 5:00 pm mountain time, on the Thursday preceding the scheduled hearing date. The statement shall include:

- (a) the names of the party and the party's attorney;
- (b) a concise statement of the case;
- (c) the names of witnesses the party will call to testify at the hearing, and in the case of expert witnesses, their fields of expertise;
- (d) the approximate time the party will need to present its case; and
- (e) identification of any procedural matters that are to be resolved prior to the hearing.

(2) Any party other than the applicant shall include in its pre-hearing statement a statement of the extent to which the party supports or opposes the issuance of the order the applicant seeks and the reasons for such support or opposition. In cases to be heard by the commission, each party shall include copies of all exhibits that it proposes to offer in evidence at the hearing with the pre-hearing statement. The commission may exclude witnesses the party did not identify in the pre-hearing statement, or exhibits the party did not file and serve with the pre-hearing statement, unless the party offers such evidence solely for rebuttal or makes a satisfactory showing of good cause for failure to disclose the witness or exhibit.

(3) A pre-hearing statement filed by a corporation or other entity not represented by an attorney shall identify the person who will conduct the party's presentation at the hearing and include a sworn and notarized statement attesting that the corporation's or entity's governing body or chief executive officer authorizes the person to present the corporation or entity in the matter.

(4) For cases pending before the commission, the commission clerk shall disseminate copies of pre-hearing statements and exhibits to the commission members.

C. Motions for continuance. Parties shall file and serve motions for continuance no later than 48 hours prior to time the hearing is set to begin, unless the reasons for requesting a continuance

arise after the deadline, in which case the party shall file the motion as expeditiously as possible after becoming aware of the need for a continuance.

[19.15.14.1211 NMAC - Rp, 19.15.14.1208 NMAC, 09/30/05]

19.15.14.1212 CONDUCT OF ADJUDICATORY HEARINGS:

A. Testimony. Hearings before the commission or a division examiner shall be conducted without rigid formality. The division or commission shall take or have someone take a transcript of testimony and preserve the transcript as a part of the division's permanent records. Any person testifying shall do so under oath. The division examiner or commission shall designate whether or not an interested party's un-sworn comments and observations are relevant and, if relevant, include the comments and observations in the record.

B. Pre-filed testimony. The division director may order the parties to file prepared written testimony in advance of the hearing for cases pending before the commission. The witness shall be present at the hearing and shall adopt, under oath, the prepared written testimony, subject to cross-examination and motions to strike unless the witness' presence at hearing is waived upon notice to other parties and without their objection. The parties shall number pages of the prepared written testimony, which shall contain line numbers on the left-hand side.

C. Appearances pro se or through an attorney. Parties may appear and participate in hearings either pro se (on their own behalf) or through an attorney. Corporations, partnerships, governmental entities, political subdivisions, unincorporated associations and other collective entities may appear only through an attorney or through a duly authorized officer or member. Participation in adjudicatory hearings shall be limited to parties, as defined in 19.15.14.1208 NMAC, except that a representative of a federal, state or tribal governmental agency or political subdivision may make a statement on the agency's or political subdivision's behalf. The commission or division examiner shall have the discretion to allow any other person present at the hearing to make a relevant statement, but not to present evidence or cross-examine witnesses. Any person making a statement at an adjudicatory hearing shall be subject to cross-examination by the parties or their attorneys.

[19.15.14.1212 NMAC - Rp, 19.15.14.1210 NMAC, 09/30/05]

19.15.14.1213 CONTINUANCE OF AN ADJUDICATORY HEARING: Any adjudicatory hearing before the commission or a division examiner held after due notice may be continued by the person presiding at such hearing to a specified time and place without the necessity of notice of the same being served or published.

[19.15.14.1213 NMAC - Rp, 19.15.14.1209 NMAC, 09/30/05]

19.15.14.1214 POWER TO REQUIRE ATTENDANCE OF WITNESSES AND PRODUCTION OF EVIDENCE; PRE-HEARING PROCEDURE FOR ADJUDICATORY HEARINGS:

A. Subpoenas. The commission or its members and the division director or the division director's authorized representative have statutory power to subpoena witnesses and to require the production of books, papers, records, other tangible things or electronic data in any proceeding before the commission or division. The division director or the division director's authorized representative shall issue a subpoena for attendance at a hearing upon a party's written request. The division director or the division director's authorized representative shall, upon a party's request, issue a subpoena for production of books, papers, records, other tangible things or electronic data in advance of the hearing. The division director or the division examiner assigned to hear the case have discretion to consider pre-hearing motions, such as motions for protection or quashing of subpoenas, prior to the hearing pursuant to Subsection C of 19.15.14.1214 NMAC or to reserve such matters for consideration at a hearing on the merits. The commission and division director or the division director's authorized representative shall issue subpoenas for witness depositions in advance of the hearing only in extraordinary circumstances for good cause shown.

B. Pre-hearing conferences. The division examiner or the division director may hold a pre-hearing conference prior to the hearing on the merits in cases pending before the division or the commission, respectively, either upon a party's request or upon the division director or a division examiner giving notice. The pre-hearing conference's purpose shall be to narrow issues, eliminate or resolve other preliminary matters and encourage settlement. The division director or examiner may issue a pre-hearing order following the pre-hearing conference. The division director or division examiner shall either provide or ensure that written or oral notice of a pre-hearing conference is given to the applicant and to all other parties who, at the time such conference is scheduled, have filed appearances in the case.

C. Hearings on motions. The division director or any division examiner may rule on motions that are necessary or appropriate for disposition prior to a hearing on the merits. If the case is pending before the commission, the division director shall rule on any such motion; provided that the division director may refer any such motion for hearing by a division examiner specifically designated for the purpose, who, if the case is a de novo application, shall not have participated in the case prior to the filing of the application for de novo hearing. Prior to ruling on any motion, the division director or division examiner shall give written or oral notice to each party who has filed an appearance in the case and who may have an interest in the motion's disposition (except a party who has indicated that it does not oppose the motion), and shall allow interested parties an opportunity, reasonable under the circumstances, to respond to the motion. The division director or division examiner may conduct a hearing on any motion, following written or oral notice to all interested parties, either at a pre-hearing conference or otherwise. If the commission or division receives oral testimony at any hearing, the commission or division examiner shall ensure that a record is made of the testimony as at other hearings. [19.15.14.1214 NMAC - Rp, 19.15.14.1211 NMAC, 09/30/05]

19.15.14.1215 RULES OF EVIDENCE AND EXHIBITS FOR ADJUDICATORY HEARINGS:

A. Presentation of evidence. Subject to other provisions of 19.15.1214 NMAC, the commission or division examiner shall afford full opportunity to all parties at an adjudicatory hearing before the commission or division examiner to present evidence and to cross-examine witnesses. The rules of evidence applicable in a trial before a court without a jury shall not control, but division examiners and the commission may use such rules as guidance in conducting adjudicatory hearings. The commission or division examiner may admit any relevant evidence, unless it is immaterial, repetitious or otherwise unreliable. The commission or division examiner may take administrative notice of the authenticity of documents copied from the division's files.

B. Parties introducing exhibits at hearings before the commission or a division examiner shall provide a complete set of exhibits for the court reporter, each commissioner or division examiner and other parties of record.

C. A party requesting incorporation of records from a previous hearing at a commission hearing shall include copies of the record for all commissioners. [19.15.14.1215 NMAC - Rp, 19.15.14.1212 NMAC, 09/30/05]

19.15.14.1216 DIVISION EXAMINER'S QUALIFICATIONS, APPOINTMENT AND

REFERRAL OF CASES: The division director shall appoint as division examiners division staff who are licensed attorneys, or who have experience in hydrogeology, hydrology, geology, petroleum engineering, environmental engineering or a related field and a college degree in geology, engineering, hydrology or related field. Nothing in this section shall prevent any commission member from serving as a division examiner. The division director may refer any matter or proceeding to a division examiner for hearing in accordance with these rules.

[19.15.14.1216 NMAC - Rp, 19.15.14.1213 & 1214 NMAC, 09/30/05]

19.15.14.1217 DIVISION EXAMINER'S POWER AND AUTHORITY: The division examiner to whom the division director refers any matter under these rules shall have full authority to hold hearings on such matter in accordance with these rules, subject only to such limitations as the division director may order in a particular case. The division examiner shall have the power to perform all acts and take all measures necessary and proper for the efficient and orderly conduct of such hearing, including administering oaths to witnesses, receiving testimony and exhibits offered in evidence and ruling upon such objections as may be interposed. The division examiner shall cause a complete record of the proceedings to be made and transcribed and shall certify same to the division director as hereinafter provided.

[19.15.14.1217 NMAC - Rp, 19.15.14.1215 NMAC, 09/30/05]

19.15.14.1218 ADJUDICATORY HEARINGS THAT SHALL BE HELD BEFORE THE COMMISSION: Notwithstanding any other provisions of these rules, the hearing on any matter shall be held before the commission if:

- A. it is a hearing pursuant to NMSA 1978, Section 70-2-13; or
- B. the division director directs the commission to hear the matter.

[19.15.14.1218 NMAC - Rp, 19.15.14.1216 NMAC, 09/30/05]

19.15.14.1219 REPORT AND RECOMMENDATIONS FROM DIVISION EXAMINER'S HEARING: Upon conclusion of any hearing before a division examiner, the division examiner shall promptly consider the proceedings in such hearing, and based upon the hearing's record prepare a written report with recommendations for the division's disposition of the matter or proceeding. The division examiner shall draft a proposed order and submit it to the division director with the certified record of the hearing.

[19.15.14.1219 NMAC - Rp, 19.15.14.1218 NMAC, 09/30/05]

19.15.14.1220 DISPOSITION OF CASES HEARD BY DIVISION EXAMINER: After receipt of the division examiner's report, the division director shall enter the division's order, which the division director may have modified from the division examiner's proposed order, disposing of the matter.

[19.15.14.1220 NMAC - Rp, 19.15.14.1219 NMAC, 09/30/05]

19.15.14.1221 HEARING BEFORE COMMISSION AND STAYS OF DIVISION ORDERS:

A. De novo applications. When the division enters an order pursuant to a hearing that a division examiner held, a party of record whom the order adversely affects has the right to have the matter heard de novo before the commission, provided that within 30 days from the date the division issues the order the party files a written application for de novo hearing with the commission clerk. If any party files an application for a de novo hearing, the commission chairman shall set the matter or proceeding for hearing before the commission.

B. Stays of division or commission orders. Any party requesting a stay of a division or commission order shall file a motion with the commission clerk and serve copies of the motion upon all other parties who appeared in the case, as Subsection A of 19.15.14.1208 NMAC provides. The party shall attach a proposed stay order to the motion. The division director may grant a stay pursuant to a motion for stay or upon his own initiative, after according all parties who have appeared in the case notice and an opportunity to respond, if the stay is necessary to prevent waste, protect correlative rights, protect public health or the environment or prevent gross negative consequences to any affected party. Any division director's order staying a commission order shall be effective only until the commission acts on the motion for stay.

[19.15.14.1221 NMAC - Rp, 19.15.14.1220 NMAC, 09/30/05]

19.15.14.1222 COPIES OF COMMISSION AND DIVISION ORDERS: Within 10 business days after the division or commission issues an order in an adjudicatory case, including any order granting or refusing rehearing or order following rehearing, the division or commission clerk shall mail a copy of such order to each party or its attorney of record. For purposes of 19.15.14.1222 NMAC only, the parties to a case are the applicant and each person who has entered an appearance in the case, in person or by attorney, either by filing a protest, pleading or notice of appearance with the commission clerk or by entering an appearance on the record at a hearing.

[19.15.14.1222 NMAC - Rp, 19.15.14.1221 NMAC, 09/30/05]

19.15.14.1223 REHEARINGS: Within 20 days after entry of any commission order any party of record whom the order adversely affects may file with the commission clerk an application for rehearing on any matter the order determined, setting forth the respect in which the party believes the order is erroneous. The commission shall grant or refuse any such application in whole or in part within 10 business days after the party files it, and the commission's failure to act on the application within such period shall be deemed a refusal and a final disposition of such application. In the event the commission grants the rehearing, the commission may enter a new order after rehearing as the circumstances may require.

[19.15.14.1223 NMAC - Rp, 19.15.14.1222 NMAC, 09/30/05]

19.15.14.1224 EX PARTE COMMUNICATIONS:

A. In an adjudicatory proceeding, except for filed pleadings, at no time after a party files an application for hearing shall any party, interested participant or his representative advocate any position with respect to the issues the application involves to any commissioner or the division examiner appointed to hear the case unless all other parties of record to the proceedings have an opportunity to be present.

B. The prohibition in Subsection A of 19.15.14.1224 NMAC, above, does not apply to those applications that the applicant believes are unopposed. However, in the event that a party files an objection in a case previously believed to be unopposed, the prohibition in Subsection A of 19.15.14.1224 NMAC, above, is immediately applicable.

C. This provision does not prohibit communications between the division's attorney or other division staff and the division director that are essential to management of a case.

[19.15.14.1224 NMAC - Rp, 19.15.14.1223 NMAC, 09/30/05]

19.15.14.1225 EMERGENCY ORDERS AND RULES:

A. Notwithstanding any other provision of 19.15.14 NMAC, in the event the division or commission finds an emergency exists that requires adoption of a rule or issuance of an order without a hearing, such emergency rule or order shall have the same validity as if the division or commission has held a hearing before the division or commission after due notice. Such emergency rule or order shall remain in force no longer than 15 days from its effective date.

B. Notwithstanding any other provision of 19.15.14 NMAC, if the division or commission finds an emergency exists, the division or commission may conduct a hearing on any application within less than 30 days after party files an application, and the division director may set the notice period at his discretion.

[19.15.14.1225 NMAC - Rp, 19.15.14.1202 NMAC, 09/30/05]

19.15.14.1226 COMPUTATION OF TIME: In computing a period of time this part prescribes, the day from which the period of time begins to run shall not be included. The last calendar day of the time period shall be included in the computation unless it is a Saturday, Sunday or a day on which state agencies observe

a legal holiday. In such case, the period of time runs to the close of business on the next regular workday. If the period is less than 11 days, a Saturday, Sunday or legal holiday is excluded from the computation.
[19.15.14.1226 NMAC - N, 09/30/05]

19.15.14.1227 COMPLIANCE PROCEEDINGS:

A. The provisions in 19.15.14 NMAC applicable to adjudicatory proceedings shall apply to compliance proceedings unless altered or amended by 19.15.14.1227 NMAC.

B. A compliance proceeding is an adjudicatory proceeding in which the division seeks an order imposing sanctions for violation of any provision of the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38 or any provision of any rule or order issued pursuant to the act. Such sanctions may include but are not limited to:

(1) requiring compliance with any provision of the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38 or any provision of any rule or order issued pursuant to the act;

(2) assessment of civil penalties pursuant to NMSA 1978, Section 70-2-31(A);

(3) corrective action including but not limited to abatement or remediation of contamination and removal of surface equipment;

(4) plugging and abandonment of a well and restoration and remediation of the well location, and authority for the division to forfeit the applicable financial assurance if the well is not plugged and abandoned and the location restored and remediated;

(5) denial, cancellation or suspension of a permit;

(6) denial, cancellation or suspension of authorization to transport; or

(7) shutting in a well or wells.

C. The division initiates an administrative compliance proceeding by filing a written application with the division clerk:

(1) identifying the operator and any other responsible parties against whom the order is sought; including the surety if the division seeks an order allowing forfeiture of a surety bond;

(2) identifying the provision of the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, or the provision of the rule or order issued pursuant to the act, allegedly violated;

(3) providing a general description of the facts supporting the allegations;

(4) stating the sanction or sanctions sought; and

(5) providing proposed legal notice.

D. The division shall provide notice of compliance proceedings as follows:

(1) the division shall publish notice in accordance with 19.15.14.1207 NMAC.

(2) the division shall provide notice to the operator and any other responsible parties against whom the compliance order is sought by following the provisions of 19.15.14.1210 NMAC.

E. The division director may enter into an agreed compliance order with an entity against whom compliance is sought to resolve alleged violations of any provision of the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38 or any provision of any rule or order issued pursuant to the act. The division director may enter into an agreed compliance order prior to or after the filing of an application for an administrative compliance proceeding. An agreed compliance order shall have the same force and effect as a compliance order issued after an adjudicatory hearing.

F. Nothing in 19.15.14.1227 NMAC precludes the division from bringing other actions provided for in the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, including but not limited to the following: suit for indemnification pursuant to NMSA 1978, Section 70-2-14(E) or NMSA 1978, Section 70-2-38(B); an action through the attorney general with respect to the forfeiture of illegal oil or illegal gas pursuant to NMSA 1978, Section 70-2-32; an injunction under NMSA 1978, Section 70-2-28; or collection of penalties pursuant to NMSA 1978, Section 70-2-31(A).

[19.15.14.1227 NMAC - N, 12/15/05]

HISTORY OF 19.15.14 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the state records center and archives:

Rule 1201, Necessity for Hearing, 1-11-82;
Rule 1201, Necessity for Hearing, 2-5-91;
Rule 1202, Emergency Orders, 1-11-82;
Rule 1202, Emergency Orders, 2-5-91;
Rule 1203, Method of Initiating a Hearing, 1-11-82;
Rule 1203, Method of Initiating a Hearing, 2-5-91;
Rule 1204, Method of Giving Legal Notice for Hearing, 1-11-82;
Rule 1204, Method of Giving Legal Notice for Hearing, 11-5-85;
Rule 1204, Method of Giving Legal Notice for Hearing, 2-5-91;
Rule 1204, Publication of Notice for Hearing, 4-12-91;
Rule 1205, Contents of Notice of Hearing, 1-11-82;
Rule 1205, Contents of Notice of Hearing, 11-5-85;
Rule 1205, Contents of Notice of Hearing, 2-5-91;
Rule 1206, Personal Service of Notice, 1-11-82;
Rule 1206, Preparation of Notices, 11-5-85;
Rule 1206, Personal Service of Notice, 2-5-91;
Rule 1207, Preparation of Notices, 1-11-82;
Rule 1207, Additional Notice Requirements, 11-5-85;
Rule 1207, Additional Notice Requirements, 3-27-87;
Rule 1207, Additional Notice Requirements, 1-6-88;
Rule 1207, Additional Notice Requirements, 2-5-91;
Rule 1208, Filing Pleadings, 1-11-82;
Rule 1208, Filing Pleadings, 2-5-91;
Rule 1209, Continuance of Hearing Without New Service, 1-11-82;
Rule 1209, Continuance of Hearing Without New Service, 2-5-91;
Rule 1210, Conduct of Hearings, 1-11-82;
Rule 1210, Conduct of Hearings, 2-5-91;
Rule 1211, Power to Require Attendance of Witnesses and Production of Evidence, 1-11-82;
Rule 1211, Power to Require Attendance of Witnesses and Production of Evidence, 2-5-91;
Rule 1212, Rules of Evidence, 1-11-82;
Rule 1212, Rules of Evidence, 2-5-91;
Rule 1213, Examiners' Qualifications and Appointment, 1-11-82;
Rule 1213, Examiners' Qualifications and Appointment, 2-5-91;
Rule 1214, Referral of Cases to Examiners, 1-11-82;
Rule 1214, Referral of Cases to Examiners, 2-5-91;
Rule 1215, Examiner's Power of Authority, 1-11-82;
Rule 1215, Examiner's Power of Authority, 2-5-91;
Rule 1216, Hearings Which Must be Held Before the Commission, 1-11-82;
Rule 1216, Hearings Which Must be Held Before the Commission, 2-5-91;
Rule 1217, Examiner's Manner of Conducting Hearing, 1-11-82;
Rule 1217, Examiner's Manner of Conducting Hearing, 2-5-91;
Rule 1218, Report and Recommendations, Examiner's Hearings, 1-11-82;
Rule 1218, Report and Recommendations, Examiner's Hearings, 2-5-91;
Rule 1219, Disposition of Cases Heard by Examiners, 1-11-82;
Rule 1219, Disposition of Cases Heard by Examiners, 2-5-91;
Rule 1220, De Novo Hearing Before Commission, 1-11-82;
Rule 1220, De Novo Hearing Before Commission, 12-30-86;
Rule 1220, De Novo Hearing Before Commission, 2-5-91;

Rule 1221, Notice of Commission and Division Orders, 1-11-82;
Rule 1221, Notice of Commission and Division Orders, 2-5-91;
Rule 1222, Rehearings, 1-11-82;
Rule 1222, Rehearings, 2-5-91.

History of Repealed Material:

Rule 1206, Personal Service of Notice, Repealed 4-12-91.
19.15.14 NMAC, Procedure (filed 8-14-03), repealed 9-30-05.

Other History: Rule 1201, Necessity for Hearing, filed 2-5-91; Rule 1202, Emergency Orders, filed 2-5-91; Rule 1203, Method of Initiating a Hearing, filed 2-5-91; Rule 1204, Publication of Notice for Hearing, filed 4-12-91; Rule 1205, Contents of Notice of Hearing, filed 2-5-91; Rule 1207, Additional Notice Requirements, filed 2-5-91; Rule 1208, Filing Pleadings, filed 2-5-91; Rule 1209, Continuance of Hearing Without New Service, filed 2-5-91; Rule 1210, Conduct of Hearings, filed 2-5-91; Rule 1211, Power to Require Attendance of Witnesses and Production of Evidence, filed 2-5-91; Rule 1212, Rules of Evidence, filed 2-5-91; Rule 1213, Examiners' Qualifications and Appointment, filed 2-5-91; Rule 1214, Referral of Cases to Examiners, filed 2-5-91; Rule 1215, Examiner's Power of Authority, filed 2-5-91; Rule 1216, Hearings Which Must be Held Before the Commission, filed 2-5-91; Rule 1217, Examiner's Manner of Conducting Hearing, filed 2-5-91; Rule 1218, Report and Recommendations, Examiner's Hearings, filed 2-5-91; Rule 1219, Disposition of Cases Heard by Examiners, filed 2-5-91; Rule 1220, De Novo Hearing Before Commission, filed 2-5-91; Rule 1221, Notice of Commission and Division Orders, filed 2-5-91; Rule 1222, Rehearings, filed 2-5-91 were all renumbered, reformatted and replaced by 19 NMAC 15.N, Procedure, effective 2-1-96.

19 NMAC 15.N, Procedure, filed 1-18-96 was renumbered, reformatted and replaced by 19.15.14 NMAC, Procedure, effective 8-29-03.

19.15.14 NMAC, Procedure (filed 8-14-03), replaced by 19.15.14 NMAC, Procedure, effective 9-30-05.

CHAPTER 15 OIL AND GAS

PART 15 ADMINISTRATION

19.15.15.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division, 2040 S. Pacheco, Santa Fe, New Mexico 87505, (505) 827-7131.
[2-1-96; 19.15.15.1 NMAC - Rn, 19 NMAC 15.O.1, 07-30-04]

19.15.15.2 SCOPE: All persons/entities engaged in oil and gas development and production within New Mexico.
[2-1-96; 19.15.15.2 NMAC - Rn, 19 NMAC 15.O.2, 07-30-04]

19.15.15.3 STATUTORY AUTHORITY: Sections 70-2-1 through 70-2-38 NMSA 1978 sets forth the and Gas Act which grants the oil conservation division jurisdiction and authority over all matters relating to the observation of oil and gas, the prevention of waste of oil and gas and of potash as a result of oil and gas operations, the protection of correlative rights, and the disposition of wastes resulting from oil and gas operations.
[2-1-96; 19.15.15.3 NMAC - Rn, 19 NMAC 15.O.3, 07-30-04]

19.15.15.4 DURATION: Permanent.
[2-1-96; 19.15.15.4 NMAC - Rn, 19 NMAC 15.O.4, 07-30-04]

19.15.15.5 EFFECTIVE DATE: February 1, 1996. [Unless a later date is cited at the end of a section.]

[2-1-96; 19.15.15.5 NMAC - Rn, 19 NMAC 15.O.5, 07-30-04]

19.15.15.6 OBJECTIVE: The objective of this part is to provide for administration of the authority granted to the Oil Conservation Division under the Oil and Gas Act.

[2-1-96; 19.15.15.6 NMAC - Rn, 19 NMAC 15.O.6, 07-30-04]

19.15.15.7 DEFINITIONS: [RESERVED].

19.15.15.8-1300 [RESERVED].

19.15.15.1301 DISTRICT OFFICES:

A. To expedite administration of the work of the oil conservation division of the New Mexico energy, minerals and natural resources department and the enforcement of its rules and regulations, the state shall be divided into four districts as follows:

(1) district 1: Lea, Roosevelt, and Curry counties, and that portion of Chaves county lying east of the north-south line dividing ranges 29 and 30 east, NMPM; the district office shall be in Hobbs, New Mexico.

(2) district 2: Eddy, Otero, Dona Ana, Luna, Hidalgo, Grant, Sierra, Lincoln, and De Baca counties, and that portion of Chaves county lying west of the north-south line dividing ranges 29 and 30 east, NMPM; the district office shall be in Artesia, New Mexico.

(3) district 3: San Juan, Rio Arriba, McKinley, and Sandoval counties; the district office shall be in Aztec, New Mexico;

(4) district 4: remainder of state; the district office shall be in Santa Fe, New Mexico; each district office shall be under the charge of a district supervisor, an oil and gas inspector, or a deputy oil and gas inspector; unless otherwise specifically required, all matters pertaining to the division shall be taken care of through the district office of the district in which the affected land is located.

[1-1-50...2-1-96; 19.15.15.1301 NMAC - Rn, 19 NMAC 15.O.1301, 07-30-04]

19.15.15.1302 WHERE TO FILE REPORTS AND FORMS:

All reports and forms required by the rules to be filed with the division shall be filed in the number and at the time specified on the form or report or by the applicable rules in 19.15.13 NMAC. Unless otherwise specified, all such reports and forms shall be filed at the district office of the district in which the land that is the subject matter of the report is located. All plugging bonds shall be filed directly with the Santa Fe office of the division. A list of all plugging bonds approved and in force shall be kept in each district office.

[1-1-50...2-1-96; 19.15.15.1302 NMAC - Rn, 19 NMAC 15.O.1302, 07-30-04]

19.15.15.1303 DUTIES AND AUTHORITY OF FIELD PERSONNEL:

Oil and gas inspectors, deputy oil and gas inspectors, scouts, engineers and geologists duly appointed by the division have the authority and duty to enforce the rules and regulations of the division. Only oil and gas inspectors and their deputies shall have discretion to allow minor deviations from requirements of the rules as to field practices where, by so doing, waste will be prevented or burdensome delay or expenses on the part of the operator will be avoided.

[1-1-50...2-1-96; 19.15.15.1303 NMAC - Rn, 19 NMAC 15.O.1303, 07-30-04]

19.15.15.1304 NUMBERING OF DIVISION ORDERS:

A. All orders of the division made after January 1, 1950, pertaining to the allocation of production of oil and gas are prefixed with the letter "A" or "AG" in the case of gas pools and are numbered consecutively, commencing with the number 1, i.e., the first allocation order issued after January 1, 1950, is No. A-1, the next A-1, etc or AG-1 and AG-2.

B. All other orders of the division made after January 1, 1950, are prefixed with the letter "R" and are numbered consecutively, commencing with the number 1, i.e., the first such order issued after January 1, 1950, is No. R-1, the next R-2, etc.
[1-1-50...2-1-96; 19.15.15 NMAC.1304 - Rn, 19 NMAC 15.O.1304, 07-30-04]

History of 19.15.15 NMAC:

Pre-NMAC History: The material in this Part was derived from that previously filed with the State Records Center and Archives:

Rule 1301, District Offices, filed 1-11-82;
Rule 1301, District Offices, filed 2-5-91;
Rule 1302, Where to File Reports and Forms, filed 1-11-82;
Rule 1302, Where to File Reports and Forms, filed 2-5-91;
Rule 1303, Duties and Authority of Field Personnel, filed 1-11-82;
Rule 1303, Duties and Authority of Field Personnel, filed 2-5-91;
Rule 1304, Numbering of Division Orders, filed 1-11-82;
Rule 1304, Numbering of Division Orders, filed 10-11-89;
Rule 1304, Numbering of Division Orders, filed 2-5-91.

History of Repealed Material: [RESERVED]

Other History: Rule 1301, District Offices (filed 2-5-91); Rule 1302, Where to File Reports and Forms (filed 2-5-91); Rule 1303, Duties and Authority of Field Personnel (filed 2-5-91); and Rule 1304, Numbering of Division Orders (filed 2-5-91) were all renumbered, reformatted and replaced by 19 NMAC 15.O, Administration, effective 2-1-96.

19 NMAC 15.O, Administration (filed 1-18-96) was renumbered, reformatted and replaced by 19.15.15 NMAC, Administration, effective 07-30-04.

**PART P
(RESERVED)**

**PART Q
(RESERVED)**