

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**

CASE NO. 16376

IN THE MATTER OF THE:

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION TO AMEND
RULES OF THE COMMISSION CONCERNING THE DRILLING, SPACING, AND
OPERATION OF HORIZONTAL WELLS AND RELATED MATTERS BY AMENDING
SECTION 15 OF RULE 19.15.16 NMAC; STATEWIDE.**

**OIL CONSERVATION DIVISION'S
PRE-HEARING STATEMENT**

The Oil Conservation Division through its counsel files the following Pre-hearing Statement.

PARTIES AND ATTORNEYS

Oil Conservation Division

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Energy, Minerals and Natural Resources
Department
1220 S. St. Francis Drive
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(505) 476-3214
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New Mexico Oil and Gas Association

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STATEMENT OF THE CASE

The Oil Conservation Division (Division) filed an application on August 3, 2018, proposing amendments to 19.15.16.15 NMAC. The Division proposes to amend 19.15.16.15 NMAC to correct clerical errors in Paragraph (8) of Subsection B and Subparagraph (b) of Paragraph (2) of

Subsection E consisting of erroneous cross references in those provisions as adopted by the Commission in Order No. R-15957, issued on May 22, 2018, effective June 26, 2018.

WITNESSES

David K. Brooks, Assistant General Counsel, Energy, Minerals and Natural Resources Department

Qualifications and Experience:

Mr. Brooks has been Assistant General Counsel for the Energy, Minerals and Natural Resources Department since January 18, 2016. He previously served in the same capacity from May 21, 2001 to December 31, 2013. He has worked chiefly with the Oil Conservation Division.

Mr. Brooks is an attorney at law licensed to practice in Texas, New Mexico, and Colorado. He received a B.A. degree in Economics from the University of Texas at Austin in 1969 and a J.D., *magna cum laude*, from the same institution in 1973. He served as law clerk for Hon. Joe R. Greenhill, Chief Justice of the Texas Supreme Court, and practiced law with the Midland, Texas firm of Stubbeman, McRae, Sealy, Laughlin & Browder, and the Dallas, Texas firms of Akin, Gump, Strauss, Hauer & Feld, and Geary Stahl & Spencer, concentrating in oil and gas and land title matters. In 1986, Mr. Brooks was elected a judge of the District Court of Dallas County, Texas, where he served for twelve years.

Mr. Brooks has extensive experience drafting and interpreting Oil Conservation Commission rules. He served on work groups that developed the following parts of the rules:

- 19.15.4 Adjudicatory Proceedings
- 19.15.11 Hydrogen Sulfide Gas
- 19.15.12.10 Surface Commingling
- 19.15.13 Compulsory Pooling
- 19.15.16.15 Special Rules for Horizontal Wells
- 19.15.17 Pits, Closed-Loop Systems and Below Grade Tanks
- 19.15.36 Surface Waste Management Facilities

Statement of Testimony:

Mr. Brooks will testify regarding the Division's proposal to amend 19.15.16.15 NMAC to correct clerical errors in Paragraph (8) of Subsection B and Subparagraph (b) of Paragraph (2) of Subsection E consisting of erroneous cross references in those provisions as adopted by the Commission in Order No. R-15957, issued on May 22, 2018, effective June 26, 2018.

Mr. Brooks' testimony is expected to last approximately 10 minutes.

EXHIBITS

1. Certificate of Compliance with Notice Requirements from Florene Davidson

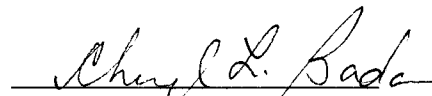
2. Proposed Amendments

Copies of Exhibits 1 and 2 are attached.

PROCEDURAL MATTERS

The Division's counsel knows of no procedural matters that the Commission needs to address.

Respectfully submitted,

A handwritten signature in cursive script, reading "Cheryl L. Bada", written over a horizontal line.

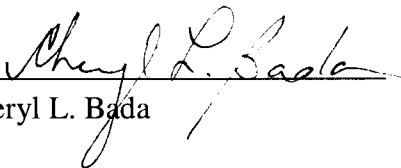
Cheryl L. Bada
Oil Conservation Division
Energy, Minerals and Natural
Resources Department
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3214
Fax: (505) 476-3220
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Attorney for the Oil Conservation Division

Certificate of Service

I hereby certify that the Oil Conservation Division's Pre-Hearing Statement was served by electronic mail to the following on September 24, 2018.

Michael H. Feldewert
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Jordan L. Kessler
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Attorneys for the New Mexico
Oil and Gas Association


Cheryl L. Bada

**STATE OF NEW MEXICO
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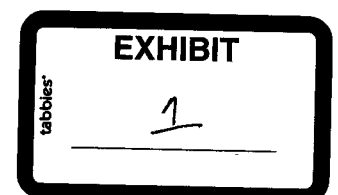
CERTIFICATE OF COMPLIANCE WITH NOTICE REQUIREMENTS

**As Clerk to the New Mexico Oil Conservation Commission, I hereby certify that notice of
this matter has been provided as follows:**

- 1. The Notice of Proposed Rulemaking for this Case ("Notice") was sent to the State
Records Center and Archives and was published in the New Mexico Register on
September 11, 2018. (Attachment A)**
- 2. A copy of the Notice was sent to the Albuquerque Journal and was published on
September 4, 2018. (Attachment B)**
- 3. On August 26, 2018, a copy of the Notice was posted on the Oil Conservation Division
website and remained posted through the date of the public hearing.**
- 4. On August 28, 2018, a copy of the Notice was sent to the Oil Conservation Division
field offices in Hobbs, Artesia, and Aztec to be available to the public.**
- 5. By August 28, 2018, a copy of the Notice had been mailed or e-mailed to all persons on
the Commission mailing list for rulemakings.**
- 6. On August 28, 2018, a copy of the Notice was e-mailed to the New Mexico Legislative
Council for distribution to committees.**
- 7. On August 22, 2018, a copy of the Notice was posted to the New Mexico Department of
Information Technology's Sunshine Portal.**

NEW MEXICO OIL CONSERVATION COMMISSION

Florene Davidson
Florene Davidson, Commission Clerk



New Mexico Register / Volume XXIX, Issue 17 / September 11, 2018**NOTICE OF PUBLIC MEETING AND PUBLIC HEARING**

The State of New Mexico through its Oil Conservation Commission (Commission) hereby gives notice of the following meeting and public hearing to be held commencing at 9:00 a.m. on October 11, 2018, in Porter Hall, 1st floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico, before the Oil Conservation Commission. A preliminary agenda for the meeting will be available to the public no later than two weeks prior to the meeting. A final agenda will be available no later than 72 hours preceding the meeting.

Case No. 16376: APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION TO AMEND RULES OF THE COMMISSION CONCERNING THE DRILLING, SPACING, AND OPERATION OF HORIZONTAL WELLS AND RELATED MATTERS BY AMENDING SECTION 15 OF RULE 19.15.16 NMAC; STATEWIDE.

The New Mexico Oil Conservation Division (OCD) proposes to amend Section 15 of 19.15.16 NMAC to correct clerical errors in Paragraph (8) of Subsection B and Subparagraph (b) of Paragraph (2) of Subsection E consisting of erroneous cross references in those provisions as adopted by the Commission in Order No. R-15957, issued on May 22, 2018, effective June 26, 2018.

Purpose of Proposed Rule. The proposed changes will make non-substantive changes to correct clerical errors in the recently adopted rule amendments.

Legal Authority. These amendments are authorized by the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, and specifically Section 70-2-11(A) (which authorizes the adoption of rules to carry out the purposes of the Act) and Section 70-2-12(B) (10) (which authorizes the Commission to fix the spacing of wells). The rulemaking proceeding will be governed by the Commission's rule on rulemaking, 19.15.3 NMAC.

The full text of the proposed rule amendments is available from Commission Clerk, Florene Davidson at (505) 476-3458 or can be viewed on the Rules page of the Oil Conservation Division's website at <http://www.emnrd.state.nm.us/oed>, or at Oil Conservation Division offices in Santa Fe, Hobbs, Artesia, or Aztec.

Public Hearing and Comment. The Commission will hold a public hearing on the proposed rules at the Commission meeting which will commence at 9:00 A.M. on October 11, 2018, in Porter Hall, 1st Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico. The hearing may be continued to following days if not completed.

Written or electronic comments on the proposed rule may be hand delivered or mailed to the Commission Clerk, Florene Davidson, 3rd floor, 1220 South St. Francis Drive, Santa Fe, NM 87505, or e-mailed to florene.davidson@state.nm.us. All written or electronic comments must be received by the Commission Clerk no later than 9:00 A.M. on October 11, 2018, unless the Commission or the Commission Chair extends this deadline.

Persons intending to submit proposed modifications to the proposed rule amendments, to present technical testimony at the hearing, or to cross-examine witnesses must file six copies of a Pre-hearing Statement conforming to the requirements of Subsection B of 19.15.3.11 NMAC, no later than 5:00 P.M. on September 26, 2018. Pre-hearing Statements must be hand-delivered, mailed, or e-mailed to the Commission Clerk at the above address.

Any person who has not submitted a pre-hearing statement may present non-technical testimony or make an unsworn statement at the hearing. A person may also offer exhibits with the testimony so long as the exhibits are relevant to the proposed rule changes and do not unduly repeat the testimony. Any person who wishes to present non-technical testimony should indicate his or her intent on a sign-in sheet at the hearing. A person who testifies at the hearing is subject to cross-examination by the commissioners, commission counsel, or a party on the subject matter of the person's direct testimony.

If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Ms. Davidson at (505) 476-3458 or through the New Mexico Relay Network at 1-800-659-1779 by September 26, 2018. Public documents can be provided in various accessible forms. Please contact Ms. Davidson if a summary or other type of accessible form is needed. A party who plans to use projection equipment at a hearing must contact Ms. Davidson seven business days prior to the hearing requesting the use of the projection equipment. Wireless internet is available; however, the person requesting to use the wireless connection must provide a laptop computer.

There is no technical information that served as a basis for the proposed amendments.

State of New Mexico
Energy, Minerals and Natural Resources Department

Susana Martinez
Governor

F. David Martin
Cabinet Secretary

Brett F. Woods, Ph.D.
Deputy Cabinet Secretary

David Catanach
Division Director
Oil Conservation Division



August 28, 2018

via email: Legals@abqpubco.com

Albuquerque Publishing Company
7777 Jefferson NE
Albuquerque, NM 87109

Attention: Legal Department

Re: Notice of Publication

Dear Legal Department:

Please publish the attached notice one time immediately on receipt of this request. Please proofread carefully, as any error in a land description or in a key word or phrase can invalidate the entire notice.

Immediately upon completion of publication, please send the following to this office:

- 1. Publisher's affidavit in duplicate.**
- 2. Statement of cost (also in duplicate).**
- 3. Certified invoices for prompt payment.**

We should have these immediately after publication in order that the legal notice will be available for the hearing which it advertises, and also so that there will be no delay in your receiving payment.

Please publish the notice as soon as possible.

Sincerely,

Florene Davidson

Attachment

Attachment B

Notice of Public Meeting and Public Hearing

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There is no technical information that served as a basis for the proposed amendments.

Given under the Seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 28th day of August, 2018.

STATE OF NEW MEXICO

OIL CONSERVATION COMMISSION

Heather Riley

Chair, Oil Conservation Commission

S E A L



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Given under the Seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 26th day of

August, 2018.

STATE OF NEW MEXICO
OIL CONSERVATION
COMMISSION

Heather Riley
Chair, Oil Conservation
Commission

Journal: September 4, 2018

Albuquerque Journal

Published in the Albuquerque Journal on Tuesday September 04, 2018

Notice of Public Meeting and Public Hearing The State of New Mexico through its Oil Conservation Commission (Commission) hereby gives notice of the following meeting and public hearing to be held commencing at 9:00 a.m. on October 11, 2018, in Porter Hall, 1st floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico, before the Oil Conservation Commission. A preliminary agenda for the meeting will be available to the public no later than two weeks prior to the meeting. A final agenda will be available no later than 72 hours preceding the meeting. Case No. 16376: APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION TO AMEND RULES OF THE COMMISSION CONCERNING THE DRILLING, SPACING, AND OPERATION OF HORIZONTAL WELLS AND RELATED MATTERS BY AMENDING SECTION 15 OF RULE 19.15.16 NMAC; STATEWIDE. The New Mexico Oil Conservation Division (OCD) proposes to amend Section 15 of 19.15.16 NMAC to correct clerical errors in Paragraph (8) of Subsection B and Subparagraph (b) of Paragraph (2) of Subsection E consisting of erroneous cross references in those provisions as adopted by the Commission in Order No. R-15957, issued on May 22, 2018, effective June 26, 2018. Purpose of Proposed Rule. The proposed changes will make non-substantive changes to correct clerical errors in the recently adopted rule amendments. Legal Authority. These amendments are authorized by the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, and specifically Section 70-2-11(A) (which authorizes the adoption of rules to carry out the purposes of the Act) and Section 70-2-12(B)(10) (which authorizes the Commission to fix the spacing of wells). The rulemaking proceeding will be governed by the Commission's rule on rulemaking, 19.15.3 NMAC. The full text of the proposed rule amendments is available from Commission Clerk, Florene Davidson at (505) 476-3458 or can be viewed on the Rules page of the Oil Conservation Division's website at <http://www.emnrd.state.nm.us/ocd>, or at Oil Conservation Division offices in Santa Fe, Hobbs, Artesia, or Aztec. Public Hearing and Comment. The Commission will hold a public hearing on the proposed rules at the Commission meeting which will commence at 9:00 A.M. on October 11, 2018, in Porter Hall, 1st Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico. The hearing may be continued to following days if not completed. Written or electronic comments on the proposed rule may be hand delivered or mailed to the Commission Clerk, Florene Davidson, 3rd floor, 1220 South St. Francis Drive, Santa Fe, NM 87505, or e-mailed to florene.davidson@state.nm.us. All written or electronic comments must be received by the Commission Clerk no later than 9:00 A.M. on October 11, 2018, unless the Commission or the Commission Chair extends this deadline. Persons intending to submit proposed modifications to the proposed rule amendments, to present technical testimony at the hearing, or to cross-examine witnesses must file six copies of a Pre-hearing Statement conforming to the requirements of Subsection B of 19.15.3.11 NMAC, no later than 5:00 P.M. on September 26, 2018. Pre-hearing Statements must be hand-delivered, mailed, or e-mailed to the Commission Clerk at the above address. Any person who has not submitted a pre-hearing statement may present non-technical testimony or make an unsworn statement at the hearing. A person may also offer exhibits with the testimony so long as the exhibits are relevant to the proposed rule changes and do not unduly repeat the testimony. Any person who wishes to present non-technical testimony should indicate his or her intent on a sign-in sheet at the hearing. A person who testifies at the hearing is subject to cross-examination by the commissioners, commission counsel, or a party on the subject matter of the person's direct testimony. If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Ms. Davidson at (505) 476-3458 or through the New Mexico Relay Network at 1-800-659-1779 by September 26, 2018. Public documents can be provided in various accessible forms. Please contact Ms. Davidson if a summary or other type of accessible form is needed. A party who plans to use projection equipment at a hearing must contact Ms. Davidson seven business days prior to the hearing requesting the use of the projection equipment. Wireless internet is available; however, the person requesting to use the wireless

connection must provide a laptop computer. There is no technical information that served as a basis for the proposed amendments. Given under the Seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 28th day of August, 2018. STATE OF NEW MEXICO OIL CONSERVATION COMMISSION Heather Riley Chair, Oil Conservation Commission Journal: September 4, 2018

This is an amendment to 19.15.16 NMAC, amending Section 15, effective // .

19.15.16.15 HORIZONTAL WELLS:

A. General provisions.

(1) An operator shall not file an application for permit to drill nor commence the drilling of a horizontal oil or gas well until the operator has either:

(a) received the consent of at least one working interest owner or unleased mineral interest owner of each tract (in the target pool or formation) in which any part of the horizontal oil or gas well's completed interval will be located; or

(b) obtained a compulsory pooling order from the division for an appropriate horizontal spacing unit.

(2) Each horizontal well shall be dedicated to a standard horizontal spacing unit or an approved non-standard horizontal spacing unit, except for infill horizontal wells and multi-lateral horizontal wells described in Subparagraph (a) of Paragraph (7) of Subsection B of 19.15.16.15 NMAC, which may be dedicated to an existing or proposed horizontal spacing unit.

(3) A horizontal spacing unit that does not meet the following criteria for a standard horizontal spacing unit shall be considered a non-standard horizontal spacing unit and must be approved pursuant to the process described in Paragraph (5) of Subsection B of 19.15.16.15 NMAC.

(4) Subject to Paragraph (9) of Subsection B of 19.15.16.15 NMAC, horizontal spacing units can overlap other horizontal spacing units or vertical well spacing units.

B. Well spacing.

(1) **Standard horizontal spacing units for horizontal oil wells.** In lieu of an oil spacing unit described in Subsection A of 19.15.15.9 NMAC, the operator shall dedicate to each horizontal oil well a standard horizontal spacing unit that meets the following criteria.

(a) The horizontal spacing unit shall comprise one or more contiguous tracts that the horizontal oil well's completed interval penetrates, each of which consists of a governmental quarter-quarter section or equivalent.

(b) In addition to tracts the horizontal oil well penetrates, the operator may include quarter-quarter sections or equivalent tracts in the standard horizontal spacing unit that are located within 330 feet of the proposed horizontal oil well's completed interval (measured along a line perpendicular to the proposed completed interval or its tangent).

(c) If, however, the perimeter of the area that includes all the tracts that the horizontal oil well penetrates encloses an area that is substantially rectangular, then the operator may not bring in additional tracts that would result in a non-rectangular horizontal spacing unit.

(d) The horizontal spacing unit shall contain at least the minimum acreage required by existing or subsequently adopted special pool orders for a spacing unit in any pool where all or part of the horizontal oil well's completed interval is located.

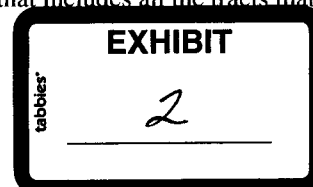
(2) **Exception for pools with larger spacing.** If the horizontal oil well is located entirely or partially in a pool for which existing or subsequently adopted special pool orders prescribe oil spacing units larger than 40 acres, then the horizontal spacing unit may, as an alternative to quarter-quarter sections, comprise one or more tracts of the size and configuration so prescribed, provided that the standard horizontal spacing unit shall include only such tracts that are oriented in the same direction. If a horizontal oil well's completed interval is located within two or more pools for the same formation, and the operator elects to construct a standard horizontal spacing unit utilizing tracts of the size and configuration prescribed by special pool orders, the operator shall use tracts of the maximum tract size prescribed for any of the included pools.

(3) **Standard horizontal spacing units for horizontal gas wells.** In lieu of a gas spacing unit described in 19.15.15.10 NMAC, the operator shall dedicate to each horizontal gas well a standard horizontal spacing unit that meets all the following criteria.

(a) The horizontal spacing unit shall comprise one or more contiguous tracts that the horizontal gas well's completed interval penetrates, each of which consists of a governmental quarter section or equivalent.

(b) In addition to tracts the well penetrates, the operator may include quarter sections or equivalent tracts in the standard horizontal spacing unit that are located within 330 feet of the proposed horizontal gas well's completed interval (measured along a line perpendicular to the proposed completed interval or its tangent).

(c) If, however, the perimeter of the area that includes all the tracts that the



horizontal gas well penetrates encloses an area that is substantially rectangular, then the operator may not bring in additional tracts that would result in a non-rectangular horizontal spacing unit.

(d) The horizontal spacing unit shall contain at least the minimum acreage required by 19.15.15.10 NMAC or by existing or subsequently adopted special pool orders for a spacing unit in any pool where all or part of the horizontal gas well's completed interval is located.

(4) **Exception for pools with larger spacing.** If the horizontal gas well is located entirely or partially in an area or pool for which 19.15.15.10 NMAC or existing or subsequently adopted special pool orders prescribe gas spacing units larger than 160 acres, then the horizontal spacing unit may, as an alternative to quarter sections, comprise one or more tracts of the size and configuration so prescribed, provided that the standard horizontal spacing unit shall include only such tracts that are oriented in the same direction. If a horizontal gas well's completed interval is located within two or more pools for the same formation, and the operator elects to construct a standard horizontal spacing unit utilizing tracts of the size and configurations prescribed by 19.15.15.10 NMAC or special pool orders, the operator shall use the maximum tract size prescribed for any of the included pools.

(5) **Non-standard horizontal spacing units.**

(a) **Administrative approval.** The division may approve non-standard horizontal spacing units for horizontal oil or gas wells after notice and opportunity for hearing, if necessary to prevent waste or protect correlative rights, in accordance with the procedures provided for director approval of non-standard spacing units in Paragraphs (3) through (5) of Subsection B of 19.15.15.11 NMAC.

(b) **Notice.** The operator shall give notice of any application for approval of a non-standard horizontal spacing unit, by certified mail, return receipt requested, to affected persons in all tracts that:

(i) are excluded from the horizontal spacing unit, if the horizontal spacing unit would be a standard horizontal spacing unit except for the exclusion of such tracts; or

(ii) adjoin the non-standard horizontal spacing unit, in all other cases.

(c) **Form of notice.** The notice shall comply with Paragraph (4) of Subsection B of 19.15.15.11 NMAC.

(d) Unless otherwise authorized by the division, the operator shall not commence drilling in the proposed non-standard spacing unit until the division issues a final order granting the application.

(6) **State, federal or tribal lands.** If the horizontal spacing unit includes state, federal or tribal minerals, the operator shall send a copy of form C-102 to the applicable affected persons identified in Subparagraphs (d) and (e) of Paragraph (8) of Subsection A of 19.15.2.7 NMAC. No horizontal spacing unit may be designated that lies partly within, and partly outside of, a state exploratory unit, or a federal exploratory unit or participating area if the horizontal spacing unit includes state trust lands, without the written consent of the commissioner of public lands.

(7) **Multi-lateral horizontal wells.**

(a) Multiple laterals in the same pool or formation and oriented such that the completed interval of each lateral is located entirely within the boundaries of a horizontal spacing unit for the longest lateral may be dedicated to the same horizontal spacing unit.

(b) Except as provided in Subparagraph (a) of Paragraph (7) of Subsection B of 19.15.16.15 NMAC, the operator of a multi-lateral horizontal well shall dedicate a separate horizontal spacing unit to each lateral.

(c) The division may grant exceptions to the requirements of Subparagraphs (a) and (b) of Paragraph (7) of Subsection B of 19.15.16.15 NMAC pursuant to Paragraph (5) of Subsection B of 19.15.16.15 NMAC.

(8) **Unitized areas.** For a horizontal well the completed interval of which is located wholly within a unitized area or an area with uniform ownership as to the mineral estate in the objective formation, the horizontal spacing unit configuration requirements of ~~[Subparagraphs (c) and (d) of Paragraph (1), and Subparagraph (c) of Paragraph (2)]~~ Subparagraph (c) of Paragraph (1) and Subparagraph (c) of Paragraph (3) of 19.15.16.15 NMAC do not apply.

(9) **Existing and subsequent wells in horizontal spacing units.**

(a) **Existing wells.** Existing wells in spacing units, horizontal or otherwise, that are wholly or partially included in a new horizontal spacing unit remain dedicated to their existing spacing units and are not part of the new horizontal spacing unit unless otherwise agreed by all working interest owners in the existing and new spacing units. If all owners (and BLM or state land office, if federal or state minerals are included, and the appropriate governmental authority if tribal minerals are included, in the old or new spacing unit) agree to re-dedicate the existing well to the new horizontal spacing unit, the operator shall file an amended form C-102

reflecting the re-dedication, and shall attach a certificate to the effect that all owners have agreed in writing thereto.

(b) **Subsequent wells in existing spacing units.** Subject to the terms of any applicable operating agreement, or to 19.15.13 NMAC or any applicable compulsory pooling order as to any compulsory pooled interests:

(i) a horizontal well that will have a completed interval partially in an existing well's spacing unit, and in the same pool or formation, may be drilled only with the approval of, or, in the absence of approval, after notice to, all operators and working interest owners of record or known to the applicant in the existing and new well's spacing units;

(ii) any subsequent well, horizontal or otherwise, with a completed interval located wholly within an existing well's horizontal spacing unit, and in the same pool or formation, if not designated as an infill horizontal well, may be drilled only with the approval of, or, in the absence of approval, after notice to, all operators and working interest owners of record or known to the applicant in the existing and new well's spacing units; and

(iii) the notice procedures of Subsection B of 19.15.15.12 NMAC shall apply to notices required pursuant to Items (i) or (ii) of Subparagraph (b) of Paragraph (9) of Subsection B of 19.15.16.15 NMAC.

(c) The provisions of 19.15.13.10 NMAC and 19.15.13.11 NMAC shall apply to any proposal to drill an infill horizontal well in a horizontal spacing unit subject to a compulsory pooling order unless the order includes specific provision for such additional well.

(10) **Pooling of horizontal spacing units.** Whenever the operator of any horizontal well shall dedicate thereto lands comprising a standard or approved non-standard horizontal spacing unit in which there are two or more separately owned parcels of land, or royalty interests or undivided interests in oil or gas minerals which are separately owned, or any combination thereof, that have not been previously pooled for oil and gas production from the horizontal spacing unit, the operator shall obtain voluntary agreements pooling said lands or interests or an order of the division pooling said lands before producing the horizontal well.

(11) **Protests.** Without limitation of any other right or remedy, an owner of a tract that adjoins a proposed or existing horizontal spacing unit but is not included therein who contends that a horizontal well in the adjoining horizontal spacing unit is impairing, or will impair, the owner's correlative rights may file a protest with the division. The division, after notice and hearing, may grant such relief as it determines to be necessary and appropriate, including, but not limited to, imposing a limitation on the rate or amount of production from the adjoining horizontal spacing unit.

C. **Setbacks.**

(1) **Generally.** The following setback distances shall apply to each horizontal well.

(a) The distance in the horizontal plane from any point in the completed interval to any outer boundary of the horizontal spacing unit, measured along a line perpendicular to the completed interval or to the tangent thereof, shall be a minimum of 330 feet for an oil well or 660 feet for a gas well.

(b) The first and last take point of a horizontal well shall be no closer than 100 feet for an oil well or 330 feet for a gas well, in the horizontal plane, to any outer boundary of the horizontal spacing unit.

(2) **District office to approve.** The appropriate division district office may grant a permit for a horizontal well provided every point in the well's completed interval complies with the setback requirements described above or is located at an unorthodox well location the division has approved.

(3) **Surface location.** A horizontal well's surface location may be located anywhere inside or outside the boundaries of the horizontal spacing unit, provided the completed interval is located at an orthodox, or division-approved unorthodox, well location within the horizontal spacing unit.

(4) **Internal setbacks.** No internal setbacks are applicable within the horizontal spacing unit.

(5) **Unorthodox well locations.** The horizontal well's location is considered unorthodox if:

(a) any part of the horizontal well's completed interval is projected to be closer to an outer boundary of the horizontal spacing unit than allowed by Paragraph (1) of Subsection C of 19.15.16.15 NMAC, or other applicable rule or special pool order;

(b) a directional survey shows that the horizontal well's first or last take point, as drilled, is located closer to the outer boundary of the horizontal spacing unit than allowed by Subparagraph (b) of Paragraph (1) of Subsection C of 19.15.16.15 NMAC;

(c) a directional survey shows that any part of the horizontal well's completed interval, as drilled, is more than 50 feet from its projected location and closer to the outer boundary of the horizontal

spacing unit than allowed by Subparagraph (a) of Paragraph (1) of Subsection C of 19.15.16.15 NMAC or other applicable rule or special pool order; or

(d) for previously approved unorthodox well locations, if a directional survey shows that any part of the completed interval is located more than 50 feet (or, if less, twenty-five percent of the previously authorized distance) closer to the outer boundary of the horizontal spacing unit than the approved location.

(6) **Approval of unorthodox well locations.** To obtain approval for the unorthodox well location, the operator shall file an application in the division's Santa Fe office in accordance with the procedures described in Subsections B, C and D of 19.15.15.13 NMAC. For Subparagraph (a) of Paragraph (5) of Subsection C of 19.15.16.15 NMAC, the operator shall obtain approval for the location before drilling the well. For Subparagraphs (b), (c) and (d) of Paragraph (5) of Subsection C of 19.15.16.15 NMAC, the operator shall obtain approval for the as-drilled location before producing the horizontal well.

(7) **Unitized areas.** For a horizontal well the completed interval of which is located wholly within in a unitized area or an area with uniform ownership as to the mineral estate in the objective formation, the setbacks prescribed in Subsection C of 19.15.16.15 NMAC apply only to the outer boundaries of the unitized area, area of uniform ownership or of any uncommitted tract or partially committed tract, instead of the outer boundaries of the horizontal spacing unit.

D. Allowables.

(1) **Oil allowables and gas-oil ratios.** Unless the division determines, after notice and hearing, that to prevent waste a reduced allowable must be assigned to a pool, the division shall assign to a horizontal oil well in an oil pool an oil allowable equal to the amount of oil that the horizontal oil well can produce. If any non-marginal proration unit exists in the same pool as a horizontal oil well, the division shall assign to each oil well located in the unit an allowable equal to its productive capacity. Production of gas or oil from any horizontal oil well shall not be limited by a limiting gas-oil ratio as provided in Subsection A of 19.15.20.13 NMAC.

(2) **Gas allowables.** The division shall assign to a horizontal gas well completed in a prorated gas pool an allowable equal to the amount of gas the horizontal gas well can produce. If any non-marginal gas proration unit exists in the same pool as a horizontal gas well, the division shall assign a top proration unit allowable for gas to such unit that is equal to the amount of gas than the unit can produce.

(3) **Effective dates.** Paragraphs (1) and (2) of Subsection D of 19.15.16.15 NMAC shall apply to all pools and areas of the state commencing on the first day of the first month after June 26, 2018 but shall cease to apply to any particular pool on the date of any order, hereafter issued following notice and hearing, whereby the division or commission determines that reduced allowables for such pool are necessary to prevent waste.

E. Other matters.

(1) **Directional survey requirements.** The operator of each horizontal well shall run a directional survey and file the directional survey, in a division-approved format, upon the well's completion. Directional surveys shall have shot points no more than 200 feet apart and shall be run by competent surveying companies. The division shall allow exceptions to the minimum shot point spacing provided the survey's accuracy is still within acceptable limits. The division shall not approve a form C-104 for the well until the operator has filed the required directional survey.

(2) **Downhole commingling.**

(a) **Pools or laterals in the same formation.** Provisions of 19.15.12.11 NMAC requiring approval for downhole commingling do not apply to commingling of oil or gas within a single lateral of a horizontal well bore that is produced from adjacent pools within the same formation, or from multiple laterals of a single well bore that are completed in the same pool or formation and dedicated to the same horizontal spacing unit.

(b) **Other multi-lateral wells.** Except as provided in Subparagraph (a) of Paragraph (2) of Subsection [D] E of 19.1

5.16.15 NMAC, horizontal wells with multiple laterals shall only be produced pursuant to division-approved downhole commingling authority obtained pursuant to 19.15.12.11 NMAC, unless pool segregation is maintained until the fluids reach the wellhead.

(3) **Conflicts with existing rules or special pool orders.** Provisions of statewide rules or special pool orders in effect on February 15, 2012 that limit the number of wells that may simultaneously produce from the portion of a pool or area underlying a spacing unit, or a particular portion of a spacing unit, do not apply to horizontal wells. Provisions of statewide rules or special pool rules in effect on June 26, 2018, save and except the special provisions for the Purple Sage; Wolfcamp (Gas) Pool in ordering paragraphs (1) through (7) of division order R-14262, that conflict with any of any provisions in 19.15.16.15 NMAC do not apply to horizontal wells. Special pool orders or amendments thereto adopted after June 26, 2018 shall prevail over rules as provided in 19.15.2.9 NMAC.

(4) **Transitional provisions.** Any horizontal well drilled, commenced or permitted prior to June 26, 2018 shall retain as its horizontal spacing unit the standard or non-standard spacing unit or project area originally dedicated thereto. If that area is not a standard horizontal spacing unit as provided in Subsection B of 19.15.16.15 NMAC, that area is hereby approved as a non-standard horizontal spacing unit for the horizontal well so drilled, commenced or permitted.

[19.15.16.15 NMAC - Rp, 19.15.3.112 NMAC, 12/1/2008; 19.15.16.15 NMAC - N, 2/15/2012; A, 6/26/2018; A, / /]