

**STATE OF NEW MEXICO  
ENERGY MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION COMMISSION**

**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 VARIOUS SECTIONS OF RULES 19.15.2, 19.15.4,  
19.15.14, 19.15.15, 19.15.16 NMAC; STATEWIDE**

**CASE NO. 15957  
ORDER NO. R-14689**

**ORDER OF THE COMMISSION**

THIS MATTER came before the New Mexico Oil Conservation Commission (“Commission”) on the application of the Oil Conservation Division of the Energy, Minerals and Natural Resources Department (“OCD”) to amend Rules 19.15.2, 19.15.4, 19.15.14, 19.15.15, and 19.15.16 NMAC. The Commission, having conducted a hearing from April 17 to 20, 2018 and deliberated in open session following the hearing, and having considered the testimony, the record, and the arguments of the parties, and being otherwise fully advised, enters the following findings, conclusions, and order.

**THE COMMISSION FINDS THAT:**

1. Statutory Authority. The Commission is authorized to adopt rules, after a hearing, under the Oil and Gas Act, NMSA 1978, §§ 70-2-1 to -38 (1935, as amended through 2018). NMSA 1978, § 70-2-12.2 (2015). The Commission and OCD are given “authority over all matters relating to the conservation of oil and gas,” and are given the duty to prevent waste and protect correlative rights. NMSA 1978, §§ 70-2-6 and 70-2-11. In addition, the Commission and OCD are authorized to adopt rules of procedures for proceedings under the Oil and Gas Act, NMSA 1978, § 70-2-7, and to adopt rules for a number of specific purposes, including as relevant to this proceeding:

- (a) to prevent crude petroleum oil, natural gas or water from escaping from strata in which it is found into other strata;
- (b) to require reports showing locations of all oil or gas wells and for the filing of logs and drilling records or reports;
- (c) to require wells to be drilled, operated and produced in such manner as to prevent injury to neighboring leases or properties;
- (d) to identify the ownership of oil or gas producing leases, properties, wells, tanks, refineries, pipelines, plants, structures and all transportation equipment and facilities;
- (e) to require the operation of wells with efficient gas-oil ratios and to fix such ratios; and
- (f) to fix the spacing of wells.

NMSA 1978, § 70-2-12(B).

2. Application and Notice. OCD filed an Application on January 3, 2018, to amend portions of 19.15.2, 19.15.4, 19.15.14, 19.15.15 and 19.15.16 NMAC, as those rules relate to the drilling, spacing and operation of horizontal wells (“proposed rule change”). The Application included a draft of the proposed rule change and a proposed legal notice. 19.15.3.8(A) NMAC.

3. At a public meeting on January 18, 2018, the Commission determined to hold a hearing on the proposed rule change and scheduled the hearing to begin on April 17, 2018, and continue if necessary to April 20, 2018. 19.15.3.8(C) NMAC.

4. Notice of the rulemaking and of the date, time, and place of the hearing was provided as required by NMSA 1978, § 14-4-5.2 (2017) and 19.15.3.9 NMAC, including publication in the New Mexico Register on February 27, 2018. (OCD exhibit 1). A copy of the notice is attached to OCD Exhibit 1.

5. Pre-hearing statements were submitted by the following parties: OCD, New Mexico Oil and Gas Association (“NMOGA”), Jalapeno Corporation (“Jalapeno”), Independent Petroleum Association of New Mexico (“IPANM”), Marathon Oil Permian LLC (“Marathon”) and Energen Resources Corporation (“Energen”). OCD, NMOGA, Jalapeno and Marathon proposed technical witnesses for the hearing; IPANM and Energen did not offer witnesses. In their pre-hearing statements, NMOGA, Jalapeno and Marathon offered changes to the proposed rule changes.

6. Proposed Rule Change. The proposed rule change locates most of the requirements for horizontal wells in one Part: 19.15.16 NMAC. Other changes are proposed for 19.15.2, 19.15.4, 19.15.14 and 19.15.15 NMAC to supplement the horizontal well rules and provide consistency. The following is a summary of the proposed rule changes offered by OCD and available to the public at the time of public notice.

7. 19.15.2 NMAC. The proposed rule changes include substantive changes to four definitions in 19.15.2.7 NMAC: “affected persons,” “mineral interest owner,” “proration unit,” and “royalty interest owner”. The definition for “affected persons” takes language from 19.15.4.12 NMAC and expands the concept so it can be applied to other notice requirements in the rules. The 3 other terms were amended to clarify the definitions and remove ambiguous language. Other definitions in 19.15.2 were amended for clarity and stylistic purposes.

8. 19.15.4 NMAC. The proposed rule change amends the notice requirements for unorthodox well locations and for non-standard proration units in 19.15.4.12 NMAC to remove the description of “affected persons” (now defined in 19.5.2.7 NMAC) and to provide greater specificity on notice to interest owners and to affected persons in adjoining units.

9. 19.15.14 NMAC. The proposed rule change includes a clarification to the cross references in 19.15.14.8 NMAC

10. 19.15.15 NMAC. The proposed rule changes include a number of clarifications to provisions in 19.15.15 NMAC that reference other provisions in 19.15.4 and 19.15.16 which are being amended by other proposed rule changes.

11. 19.15.16 NMAC. The proposed rule changes revise several sections of 19.15.16 NMAC.

(a) Definitions. Existing definitions are deleted for terms no longer used: “non-standard project area,” “penetration point,” “producing area,” “project area,” and “standard project area”. New definitions include: “first take point,” “horizontal spacing unit,” “infill horizontal well,” “last take point,” “multi-lateral well,” “tract,” and “unitized area”. Several other definitions are amended to clarify that a horizontal well is no longer treated as a type of directional well. 19.15.16.7 NMAC. 19.15.16.14 NMAC is rewritten to apply to vertical, deviated and directional wells but not to horizontal wells.

(b) Spacing units. 19.15.16.15 NMAC is rewritten and expanded to include all requirements for horizontal wells. Each horizontal oil or gas well must be dedicated to a standard or non-standard horizontal spacing unit. The rule defines what qualifies as a standard horizontal spacing unit for both horizontal oil wells and gas wells and provides a process for approval of a non-standard horizontal spacing unit. The rule clarifies how the spacing unit requirements apply to infill horizontal wells, multi-lateral horizontal wells and wells on state, federal or tribal lands and in unitized areas. The proposed rule includes specific provisions for existing wells that are included in a new horizontal spacing unit, and for subsequent wells in an existing spacing unit. The proposed rule allows a protest by an owner of an adjoining tract who contends that their correlative rights may be impaired.

(c) Setbacks. The proposed rule change provides specific setback requirements for horizontal oil and gas wells. The rule defines when a well location is considered “unorthodox” either before or after drilling, and the process for obtaining approval of an unorthodox well location.

(d) The proposed rule change assigns an allowable to each horizontal oil or gas well that is equal to the amount of oil or gas that the well can produce. Horizontal oil wells will not be limited by a gas-oil ratio. The proposed rule also clarifies the status of existing horizontal wells and for any conflicts with special pool rules.

12. Public hearing. The Commission commenced a public hearing on the proposed rule changes on April 17, 2018. The hearing continued until April 20, 2018. The Commission deliberated on April 19 and 20, 2018.

13. The following witnesses were presented by the parties: David Brooks (OCD); Rick Foppiano, Brian Taylor, Joseph Beer, Roderick Milligan, T.J. Midkiff and George King (NMOGA); and Harvey Yates (Jalapeno). Marathon did not present a witness at the hearing. Each witness testified under oath and was subject to cross-examination by the Commission, Commission counsel and other parties. The Commission provided opportunities for public comment at various points during the hearing. There was no public comment offered. 19.15.3.12 NMAC.

14. OCD presented David Brooks as a witness. Mr. Brooks testified in support of the proposed rule changes and commented on the modifications offered by the other parties. Mr. Brooks described the proposed changes to each section and offered reasons for the changes. OCD supported almost all of the modifications offered by NMOGA in its pre-hearing statement (Attachment 1 to NMOGA pre-hearing statement). After the completion of testimony from other parties, the Commission recalled Mr. Brooks to clarify the position of OCD on certain proposed amendments offered by other parties.

15. NMOGA presented Rick Foppiano, Brian Taylor, Joseph Beer, Roderick Milligan, T.J. Midkiff and George King as technical witnesses.

a) Rick Foppiano testified to the reasons for the proposed changes, including the shift to horizontal drilling in New Mexico and elsewhere. He testified that the proposed rule changes will address a number of issues specific to horizontal drilling that are not addressed in the current rule and therefore provide greater direction to both the agency and the regulated community while allowing greater flexibility in certain areas. Mr. Foppiano specifically testified on the reasons for definition changes, changes to the requirements for different types of wells, and the new or additional requirements for horizontal wells, including well spacing, setbacks, infill wells, multi-lateral wells, allowables and gas-oil ratios. (NMOGA ex. A). Mr. Foppiano also testified on NMOGA's proposed amendments to the rule changes. (Attachment 1 to NMOGA pre-hearing statement).

b) Brian Taylor testified on the technical aspects of hydraulic fracturing. He focused on simulations of fractures that support the proposed well spacing limitations. 19.15.16.15.A NMAC. (NMOGA ex. B).

c) Joseph Beer testified on the stresses that are exerted on the rock formations where drilling occurs. He testified in support of changes that provide greater opportunities for operators to drill horizontal wells in directions that take advantage of the natural stresses rather than east-west or north-south. (NMOGA ex. C).

d) T.J. Midkiff testified on the patterns of production from horizontal wells which differ significantly from vertical wells. As a result, the current restrictions on allowables may result in waste by curtailing production from horizontal wells or by limiting the number of wells that can be drilled in a spacing unit. He testified in support of removing limits on allowables for horizontal wells and assigning an allowable to a horizontal well that is equal to the amount of oil or gas that a horizontal well can produce. 19.15.16.15.C NMAC (NMOGA ex. E).

e) Roderick Milligan testified on the challenges of drilling horizontal wells and the numerous technical issues and geological anomalies that cause the drilling pattern to deviate somewhat from the proposed line. He testified in support of the provision allowing administrative approval of any variances of the as-drilled locations of 50 feet or less from the proposed locations. Mr. Milligan testified that he had never experienced a variation that was greater than 50 feet. (NMOGA ex. D).

f) George King testified on the technical evidence of fractures that occur with horizontal drilling and hydraulic fracturing. He presented evidence for several studies that show the fractures move out transverse to the well bore and do not move parallel to the well bore. He testified that reducing the setbacks for the first and last take point of laterals will reduce waste and will not impact correlative rights.

16. Jalapeno presented Harvey E. Yates, Jr. as a witness. Mr. Yates testified to his concerns about several of the proposed rule changes. A general concern was that much of the testimony supporting the proposed rule changes focused on the current horizontal drilling in shale zones, but the rule changes are not limited to the shale zone. Conversely, the proposed rule changes allow greater flexibility for horizontal wells than is allowed for vertical wells. Specifically, Mr. Yates was concerned that the proposal to change the setback to 100 feet for oil wells (330 feet for gas wells) from the first and last take points would not protect correlative rights in other zones. Mr. Yates was also concerned that the change in setbacks did not apply to vertical wells in shale zones.

17. Mr. Yates also testified that the requirement to include "stranded" tracts would force vertical wells into horizontal spacing units without their consent. 19.15.16.15.A(1)(d) NMAC. He was also concerned about infill well provisions that reference the compulsory pooling rules would require the same risk charge to an infill well without the opportunity for a hearing. 19.15.16.15.A(11)(c) NMAC. Similarly, the transition provisions that automatically approve a drilling area as a non-standard spacing unit should be required to go back to hearing. 19.15.16.15.D(4) NMAC.

18. Horizontal wells have become the dominant type of oil and gas well drilled today both in New Mexico and nationwide. Almost 90% of the current drill rigs in the U.S. are drilling horizontal wells. There is a significant increase in oil drilling and production in the U.S., particularly in the Permian Basin of Texas and New Mexico. Currently, there are 78 horizontal wells being drilled in New Mexico; 77 are in the Permian Basin. (Foppiano testimony; NMOGA ex. A15-A21).

19. The proposed rule change resulted from a work group that has been reviewing New Mexico's rules on horizontal drilling for the past two years. Membership in the work group included OCD, State Land Office, U.S. Bureau of Land Management and numerous operators. (Foppiano testimony; NMOGA ex. A22-A23).

20. Changes to Published Rule. During the rulemaking proceeding, several sets of further changes to the proposed rule were offered. Several parties proposed amendments in their pre-hearing statements: NMOGA, Marathon and Jalapeno. NMOGA discussed their changes during their witnesses' direct testimony. Jalapeno discussed some of their changes in direct testimony. In response to the testimony and questions from the Commissioners, additional recommended changes were submitted by all parties except Jalapeno prior to deliberation by the Commission ("hearing amendments"). Marathon withdrew their proposed amendments in favor of the hearing amendments.

21. Deliberations and Actions. The Commission commenced deliberation on April 19 and continued on April 20. During deliberation, the Commission reviewed the proposed rule changes, the further amendments submitted by the parties, and the evidence presented during the hearing both for and against the proposed rule changes. The Commission directed Commission counsel to prepare a clean version of the proposed rule changes based on the deliberation, and a draft Order. On May 22, 2018, the Commission reviewed the final draft of the proposed rule changes, completed deliberations and adopted this Order. The Commission adopted the attached rule changes which consist of the proposed rule changes with amendments, some of which were offered by the parties and some by the Commission.

22. Reasons for Adopting the Rule Changes. The Commission finds that with the predominance of horizontal drilling today, the Commission's rules need to be updated to provide greater clarity and specificity for horizontal wells and to meet the Commission's obligations to prevent waste and protect correlative rights, and to adopt rules to fix the spacing of wells and to "require wells to be drilled, operated and produced in such manner as to prevent injury to neighboring leases or properties governing the drilling of wells." NMSA 1978, § 70-2-12(B).

23. The Commission finds that the proposed rule changes, as amended, expand upon the current limited rules governing horizontal wells and provide clear direction to the agency and the operators on the requirements, and the approval process, for horizontal wells, and provide limitations and flexibility where needed. The proposed rule changes eliminate imprecise terms in the current rule and add new definitions that clarify the process for approving horizontal wells. The proposed rule changes provide specifically for the spacing of horizontal wells with standard and non-standard horizontal spacing units, and setbacks for well locations. New provisions for unorthodox well locations, infill horizontal wells, multilateral horizontal wells are proposed, along with changes to requirements for notice, allowables and gas-oil ratios for horizontal wells. Certain major proposed rule changes were the subject of more extensive deliberations by the Commission and are discussed in more detail below.

24. Well Spacing and Spacing Units. The Commission finds that providing for separate horizontal spacing units to apply to horizontal wells will result in better, and more appropriate, standards for horizontal wells. The Commission amended the proposal to clarify that every horizontal well must be dedicated to a standard, or approved non-standard, horizontal spacing unit, except that certain infill wells and laterals can be dedicated to an existing or proposed spacing unit. 19.15.16.15.A(1) NMAC. The Commission adopts the requirements for standard spacing units which allow wells to follow different directions; by allowing the drilling to follow geological stress patterns, recovery is maximized, and waste is minimized. (Beers testimony). Concerns were raised in testimony about a proposed limitation on oil spacing units that attempted to prevent "stranding" of tracts. (Yates testimony). The Commission found that there was not sufficient evidence to support this proposal and did not adopt it.

25. Jalapeno argues that the definitions for the terms “horizontal spacing unit,” “standard horizontal spacing unit” and “non-standard horizontal spacing unit” are too vague and conflict with the Oil and Gas Act requirements. NMSA 1978, § 70-2-12(B)(10) (Commission authorized to adopt rules “to fix the spacing of wells”); § 70-2-17. Jalapeno argues that the Commission must fix the spacing of horizontal wells in the same way it did for other wells by allocating a specific amount of acreage for different types of wells. See 19.15.15.9 NMAC (40- acre spacing units for oil wells); 19.15.15.10 NMAC (160, 320 and 640 acre spacing units for gas wells). The Commission found that the definition of horizontal spacing units in the proposed rule change is supported by the evidence concerning the requirements for horizontal wells, provides sufficient clarity and direction to meet the statutory direction, and balances the Commission’s goals of preventing waste and protecting correlative rights.

26. Infill wells. The proposed rule change adds a definition of the term “infill horizontal well” similar to the current definition of “infill well,” 19.15.13.7.A NMAC, and provides that infill horizontal wells do not need to be dedicated to a horizontal spacing unit. 19.15.16.15.A(8) NMAC (original proposal). Marathon submitted pre-hearing amendments that would allow multiple wells to be approved in one spacing unit and not be considered infill wells; Marathon later supported the hearing amendments which changed the proposed definition of “infill horizontal well” to allow an infill horizontal well to be dedicated to a horizontal spacing unit where another well has been completed or proposed. The Commission found that there was substantial evidence to support changes based on the current and expanding practice of simultaneously drilling adjacent horizontal wells to increase production and reduce waste. The Commission amended the proposed rule change to specifically require infill horizontal wells to be dedicated to a spacing unit but allow them to be dedicated to an existing or proposed horizontal spacing unit. 19.15.16.15.A(2) NMAC. The Commission adopted the revised definition of “infill horizontal well.” 19.15.16.7.H NMAC.

27. Jalapeno raised concerns that the proposed rule change applied the current rules on compulsory pooling for infill wells (19.15.13.10 and 11 NMAC) to infill horizontal wells. 19.15.16.15.B(9)(c). In particular, Jalapeno is concerned about having the same risk charge applied to infill wells as is applied to the initial well. Jalapeno also raised more general concerns about risk charges for horizontal wells. The Commission found that the scope of this rulemaking did not include the Part for compulsory pooling and risk charges (19.15.13 NMAC), and such concerns should be addressed in another rulemaking.

28. Overlapping spacing units. The proposed rule changes address the situations where new horizontal spacing units overlap with existing spacing units, and where subsequent wells are drilled in existing spacing units. 19.15.16.15.B(9) NMAC. The rule changes provide for existing wells to remain in their existing spacing unit unless all working interest owners consent, and for subsequent wells to obtain approval or provide notice to all operators and owners. Jalapeno sought changes to eliminate the option of a division order and to require approval of all owners for a subsequent well. The Commission

approved changes to the proposal that eliminate the division order option and clarify which existing notice procedures apply.

29. Setbacks. The Commission considered the testimony on setback distances to strike a balance between minimizing waste and protecting correlative rights. 19.15.16.15.C NMAC. The Commission found that, based on the evidence, the proposed setback distance perpendicular from the lateral to the boundary of the unit (330 feet for an oil well; 660 feet from a gas well) is reasonable. These distances also follow the current rules. 19.15.15.9(A) NMAC (oil wells) and 19.15.15.10(C) NMAC (gas wells). The proposed distance from the first and last take points (100 feet for an oil well; 330 feet for a gas well) differs from the existing requirements but the evidence from horizontal drilling indicates that this setback will reduce waste without impacting correlative rights. (King testimony). Concerns were raised that these setbacks would be inappropriate if horizontal drilling was used in formations other than shale. (Yates testimony). The Commission concluded that the agency had other tools to address the specifics of different pools and formations. E.g., 19.15.2.9 NMAC (special pool orders prevail against rules).

30. Unorthodox well locations. The Commission restructured paragraphs (5) and (6) of 19.15.16.15.C to capture the different situations that produce unorthodox well locations and to specify the process which is necessary to obtain approval for each situation. The Commission found that there was substantial evidence to support the 50-foot allowance for drilling. (Milligan testimony). The 50-foot allowance is found in the current rule for directional and horizontal well bores. 19.15.16.14.B NMAC (2012).

31. Allowables. The Oil and Gas Act authorizes the Commission, when necessary to prevent waste, to limit the total allowable production of oil or gas from a pool to an amount less than the pool could produce if no restriction were imposed. NMSA 1978, §§ 70-2-15, 16. The proposed rule change would assign to a horizontal well an allowable equal to the amount of oil or gas that the well can produce. The Commission found that there was substantial evidence to show not only that allowables for horizontal wells are not necessary to prevent waste, but that lower allowables would also cause waste. (Midkiff testimony). Jalapeno argued that the proposed rule change did not treat horizontal and vertical wells uniformly because it allowed OCD the authority to assign a lower allowable to an existing proration unit where a horizontal oil well was also located. The Commission agreed and amended the proposal to authorize OCD to assign a lower allowable to any pool if necessary to prevent waste. 19.15.16.15.D(1) NMAC.

32. The Commission finds that the proposed rule changes, as modified by the Commission, are supported by substantial evidence in the record. The Commission reviewed the amendments to the proposed rule changes submitted by the parties. Many changes clarified the rule language and were adopted by the Commission. More significant changes were discussed above. The changes approved by the Commission are within the scope of the rulemaking as provided in the notice.

**THE COMMISSION CONCLUDES THAT:**

1. The Commission has jurisdiction, under the Oil and Gas Act, NMSA 1978, §§ 70-2-1 to -38, over the parties and subject matter of this case.
2. The Commission has legal authority, under the Oil and Gas Act, to enact the proposed rule changes.
3. The Commission provided due public notice and an opportunity for the public to provide comments regarding the proposed rule change. A public hearing was held and reasonable opportunity was provided for all persons present to provide testimony, evidence and exhibits.
4. All Commissioners were present at the public hearing and considered all the evidence presented during the hearing including the proposed amendments submitted by the parties. The Commission deliberated after the hearing and adopted the rule changes.
5. The amendments to the proposed rule changes adopted by the Commission were a logical outgrowth of the original proposal.
6. The Commission concludes that there is substantial evidence in the record to support the proposed rule changes, as amended by the Commission, that these rule changes are within the authority of the Commission under the Oil and Gas Act and that these rule changes are reasonable and further the goals of the Oil and Gas Act.

**IT IS THEREFORE ORDERED THAT:** The proposed changes to 19.15.2, 19.15.4, 19.15.14, 19.15.15 and 19.15.16 NMAC, as submitted to the Commission by the OCD and as amended by the Commission during deliberation, are hereby approved by the Commission. The adoption of the rule changes will be final upon the later of (a) the action, or deemed action, of the Commission on a rehearing application filed pursuant to NMSA 1978, § 70-2-25, or (b) 20 days from the date of this order if no rehearing application is filed. The rule change shall not be filed with the state records administrator until the rule change is adopted and then must be filed within 15 days after the adoption. If no rehearing is required by the Commission, this Order shall serve as the “concise explanatory statement” required by NMSA 1978, § 14-4-5.5 (2017).

DONE at Santa Fe, New Mexico, on May 22, 2018.

**STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION**

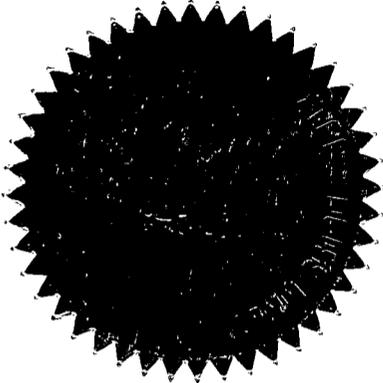
**ROBERT BALCH, Member**



**ED MARTIN, Member**



**HEATHER RILEY, Chair**



SEAL

This is an amendment to 19.15.2 NMAC, amending Sections 1, 3, 6 and 7, effective XX/XX/XXXX.

**19.15.2.1 ISSUING AGENCY:** ~~[Energy, Minerals and Natural Resources Department, Oil Conservation Division]~~ Oil Conservation Commission.

[19.15.2.1 NMAC - Rp, 19.15.1.1 NMAC, 12/1/2008; A, XX/XX/201X]

**19.15.2.3 STATUTORY AUTHORITY:** 19.15.2 NMAC is adopted pursuant to the Oil and Gas Act, ~~[NMSA 1978,]~~ Sections 70-2-1 through 70-2-38 NMSA 1978, 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]~~ because 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 - Rp, 19.15.1.3 NMAC, 12/1/2008; A, XX/XX/201X]

**19.15.2.6 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 NMSA 1978.

[19.15.2.6 NMAC - Rp, 19.15.1.6 NMAC, 12/1/2008; A, XX/XX/201X]

**19.15.2.7 DEFINITIONS:** These definitions apply to 19.15.2 NMAC through 19.15.39 NMAC.

**A. Definitions beginning with the letter "A".**

- (1) "Abate" means to investigate, contain, remove or mitigate water pollution.
- (2) "Abatement" means the investigation, containment, removal or other mitigation of water pollution.
- (3) "Abatement plan" means a description of operational, monitoring, contingency and closure requirements and conditions for water pollution's prevention, investigation and abatement.
- (4) "ACT" means automatic custody transfer.
- (5) "Adjoining spacing units" mean those existing or prospective spacing units in the same pool that are touching at a point or line on the subject spacing unit.
- (6) "Adjusted allowable" means the allowable production a well or proration unit receives after all adjustments are made.
- (7) "AFE" means authorization for expenditure.
- (8) "Affected persons" means the following persons owning interests in a spacing unit or other identified tract:

(a) the operator, as shown in division records, of a well on the tract, or, if the tract is included in a division-approved or federal unit, the designated unit operator;

(b) in the absence of an operator, or with respect to an application wherein the operator of the spacing unit or identified tract is the applicant, each working interest owner whose interest is evidenced by a written conveyance document either of record or known to the applicant as of the date the applicant files the application;

(c) as to any tract or interest therein that is not subject to an existing oil and gas lease, each mineral interest owner whose interest is evidenced by a written conveyance document either of record or known to the applicant as of the date the applicant filed the application; and

(d) if the United States or state of New Mexico owns the mineral estate in the spacing unit or identified tract or any part thereof, the BLM or state land office, as applicable; or

(e) if the mineral estate in the spacing unit or identified tract or any part thereof is tribal land, the BLM, the United States department of the interior, bureau of Indian affairs, and the relevant tribe.

~~(8)~~ (9) **“Allocated pool”** means a pool in which the total oil or gas production is restricted and is allocated to various wells in the pool in accordance with proration schedules.

~~(9)~~ (10) **“Allowable production”** means that number of barrels of oil or cubic feet of gas the division authorizes to be produced from an allocated pool.

~~(10)~~ (11) **“APD”** means application for permit to drill.

~~(11)~~ (12) **“API”** means the American petroleum institute.

~~(12)~~ (13) **“Approved temporary abandonment”** means the status of a well that is inactive, has been approved in accordance with 19.15.25.13 NMAC and ~~[is in compliance]~~ complies with 19.15.25.12 NMAC through 19.15.25.14 NMAC.

~~(13)~~ (14) **“Aquifer”** means a geological formation, group of formations or a part of a formation that ~~[is capable of yielding]~~ can yield a significant amount of water to a well or spring.

~~(14)~~ (15) **“ASTM”** means ASTM International - an international standards developing organization that develops and publishes voluntary technical standards for a wide range of materials, products, systems and services.

**B. Definitions beginning with the letter “B”.**

(1) **“Back allowable”** means the authorization for production of an underproduction resulting from pipeline proration.

(2) **“Background”** means, 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 does not prevent the director from requiring abatement of commingled plumes of pollution, does not prevent responsible persons from seeking contribution or other legal or equitable relief from other persons and does not preclude the director from exercising enforcement authority under any applicable statute, rule or common law.

(3) **“Barrel”** means 42 United States gallons measured at 60 degrees fahrenheit and atmospheric pressure at the sea level.

(4) **“Barrel of oil”** means 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”** means a vessel, excluding sumps and pressurized pipeline drip traps, where a portion of the tank’s sidewalls is below the surrounding ground surface’s elevation. Below-grade tank does not include an above ground storage tank that is located above or at the surrounding ground surface’s elevation and is surrounded by berms.

(6) **“Berm”** means an embankment or ridge constructed to prevent the movement of liquids, sludge, solids or other materials.

(7) **"Biopile"**, also known as biocell, bioheap, biomound or compost pile, means a pile of contaminated soils used to reduce concentrations of petroleum constituents in excavated soils [using] through biodegradation. This technology involves heaping contaminated soils into piles or "cells" and stimulating aerobic microbial activity within the soils through the aeration or addition of minerals, nutrients and moisture.

(8) **"BLM"** means the United States department of the interior, bureau of land management.

(9) **"Bottom hole pressure"** means the gauge pressure in psi under conditions existing at or near the producing horizon.

(10) **"Bradenhead gas well"** means a well producing gas through wellhead connections from a gas reservoir that has been successfully cased off from an underlying oil or gas reservoir.

(11) **"BS&W"** means basic sediments and water.

(12) **"BTEX"** means benzene, toluene, ethylbenzene and xylene.

**C. Definitions beginning with the letter "C".**

(1) **"Carbon dioxide gas"** means noncombustible gas composed chiefly of carbon dioxide occurring naturally in underground rocks.

(2) **"Casinghead gas"** means a gas or vapor or both gas and vapor indigenous to and produced from a pool the division classifies as an oil pool. This also includes gas-cap gas produced from such an oil pool.

(3) **"Cm/sec"** means centimeters per second.

(4) **"CPD"** means central point delivery.

(5) **"Combination multiple completion"** means 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 conventional multiple completion.

(6) **"Commission"** means the oil conservation commission.

(7) **"Commission clerk"** means the division employee the director designates to provide staff support to the commission and accept filings in rulemaking or adjudicatory cases before the commission.

(8) **"Common purchaser for gas"** means a 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.

(9) **"Common purchaser for oil"** means every person now engaged or hereafter engaging in the business of purchasing oil to be transported through pipelines.

(10) **"Common source of supply"**. See pool.

(11) **"Condensate"** means 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.

(12) **“Contiguous”** means acreage joined by more than one common point, that is, the common boundary is at least one side of a governmental quarter-quarter section.

(13) **“Conventional completion”** means a well completion in which the production string of casing has an outside diameter [~~in excess of~~] exceeding 2.875 inches.

(14) **“Conventional multiple completion”** means 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.

(15) **“Correlative rights”** means 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 the owner’s just and equitable share of the oil or gas in the pool, being an amount, so far as can be practically determined, and so far as can be practicably obtained without waste, substantially in the proportion that the quantity of recoverable oil or gas under the property bears to the total recoverable oil or gas in the pool, and for the purpose to use the owner’s just and equitable share of the reservoir energy.

(16) **“Cubic feet of gas or cubic foot of gas”** means 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 psi (15.025 psi absolute), at a standard base temperature of 60 degrees fahrenheit.

**D. Definitions beginning with the letter “D”.**

(1) **“Deep pool”** means a common source of supply that is situated 5000 feet or more below the surface.

(2) **“Depth bracket allowable”** means the basic oil allowable the division assigns a pool and based on its depth, unit size or special pool orders, which, when multiplied by the market demand percentage factor in effect, determines the pool’s top proration unit allowable.

(3) **“Director”** means the director of the New Mexico energy, minerals and natural resources department, oil conservation division.

(4) **“Division”** means the New Mexico energy, minerals and natural resources department, oil conservation division.

(5) **“Division clerk”** means the division employee the director designates to accept filings in adjudicatory cases before the division.

(6) **“Downstream facility”** means a facility associated with the transportation (including gathering) or processing of gas or oil (including a refinery, gas plant, compressor station or crude oil pump station); brine production; or the oil field service industry.

(7) **“DRO”** means diesel range organics.

**E. Definitions beginning with the letter “E”.**

(1) **“EC”** means electrical conductivity.

(2) **“Enhanced oil recovery project”** means the use or the expanded use of a process for the displacement of 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 water flooding process; an immiscible, miscible, chemical, thermal or biological process; or any other related process.

(3) **“EOR project”** means an enhanced oil recovery project.

(4) **“EPA”** means the United States environmental protection agency.

(5) **“Exempted aquifer”** means an aquifer that does not currently serve as a source of drinking water, and that cannot now and will not in the foreseeable future serve as a source of drinking water because:

(a) it is hydrocarbon producing;

(b) it is situated at a depth or location that 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.

(6) **“Exempt waste”** means oil field waste exempted from regulation as hazardous waste pursuant to Subtitle C of RCRA and applicable regulations.

(7) **“Existing spacing unit”** means a spacing unit containing a producing well.

**F. Definitions beginning with the letter “F”.**

(1) **“Facility”** means a 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 that at least one pool ~~[underlays]~~ underlies or appears to ~~[underlay]~~ underlie; and also includes the underground reservoir or reservoirs containing oil or gas. 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 (regardless of quality, unless the water exceeds 10,000 mg/l TDS and it can be shown that degradation of the particular water body will not adversely affect hydrologically connected fresh ground water), the surface waters of streams regardless of the water quality within a given reach, and underground waters containing 10,000 mg/l or less of TDS except for which, after notice and hearing, it is found there is no present or reasonably foreseeable beneficial use that contamination of such waters would impair.

**G. Definitions beginning with the letter “G”.**

(1) **“Gas”**, also known as natural gas, means a combustible vapor composed chiefly of hydrocarbons occurring naturally in a pool the division has classified as a gas pool.

(2) **“Gas lift”** means a method of lifting liquid to the surface by injecting gas into a well from which oil production is obtained.

(3) **“Gas-oil ratio”** means the ratio of the casinghead gas produced in standard cubic feet to the number of barrels of oil concurrently produced during any stated period.

(4) **“Gas-oil ratio adjustment”** means 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.

(5) **“Gas transportation facility”** means a pipeline in operation serving gas wells for the transportation of gas, or some other device or equipment in like operation where the gas produced from gas wells connected with the pipeline or other device or equipment can be transported or used for consumption.

(6) **“Gas well”** means a well producing gas from a gas pool, or a well with a gas-oil ratio ~~[in excess of]~~ exceeding 100,000 cubic feet of gas per barrel of oil producing from an oil pool.

(7) **“Geomembrane”** means an impermeable polymeric sheet material that is impervious to liquid and gas ~~[as long as]~~ if it maintains its integrity, and is used as an integral part of an engineered structure designed to limit the movement of liquid or gas in a system.

(8) **“Geotextile”** means a sheet material that is less impervious to liquid than a geomembrane but more resistant to penetration damage, and is used as part of an engineered structure or system to serve as a filter to prevent the movement of soil fines into a drainage system, to provide planar flow for drainage, to serve as a cushion to protect geomembranes or to provide structural support.

(9) **“GRO”** means gasoline range organics.

(10) **“Ground water”** means interstitial water that occurs in saturated earth material and ~~[is capable of entering]~~ can enter a well in sufficient amounts to be used as a water supply.

(11) **“Ground water sensitive area”** means an area the division specifically designates after evaluation of technical evidence where ground water exists that would likely exceed WQCC standards if contaminants were introduced into the environment.

**H. Definitions beginning with the letter “H”.**

(1) **“Hardship gas well”** means a gas well where underground waste occurs if the well is shut-in or curtailed below its minimum sustainable flow rate.

(2) **“Hazard to public health”** exists when water that 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 the 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 a toxic pollutant as defined at Subsection WW 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 investigates and considers 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.

(3) **“Hazardous waste”** means non-exempt waste that exceeds the minimum standards for waste hazardous by characteristics established in RCRA regulations, 40 CFR 261.21-261.24, or listed hazardous waste as defined in 40 CFR, part 261, subpart D, as amended.

(4) **“HDPE”** means high-density polyethylene.

(5) **“High gas-oil ratio proration unit”** means a unit with at least one producing oil well with a gas-oil ratio ~~[in excess of]~~ exceeding the limiting gas-oil ratio for the pool in which the unit is located.

(6) **“H<sub>2</sub>S”** means hydrogen sulfide.

**I. Definitions beginning with the letter “P”.**

(1) **“Illegal gas”** means gas produced from a gas well ~~[in excess of]~~ exceeding the division-determined allowable.

(2) **“Illegal oil”** means oil produced ~~[in excess of]~~ exceeding the allowable the division fixes.

(3) **“Illegal product”** means a product of illegal gas or illegal oil.

(4) **“Inactive well”** means a well that is not being used for beneficial purposes such as production, injection or monitoring and that is not being drilled, completed, repaired or worked over.

(5) **“Injection well”** means a well used for the injection of air, gas, water or other fluids into an underground stratum.

**J. [RESERVED]**

**K. Definitions beginning with the letter “K”. “Knowingly and willfully”**, for [the purpose of] assessing civil penalties, means the voluntary or conscious performance of an act that is prohibited or the voluntary or conscious failure to perform an act or duty that is required. It does not include performances or failures to perform that are honest mistakes or merely inadvertent. It includes, but does not require, performances or failures to perform that result from a criminal or evil intent or from a specific intent to violate the law. The conduct’s knowing and willful nature may be established by plain indifference to or reckless disregard of the requirements of statutes, rules, orders or permits. A consistent pattern or performance or failure to perform also may be sufficient to establish the conduct’s knowing and willful nature, where such consistent pattern is neither the result of honest mistakes nor mere inadvertency. Conduct that is otherwise regarded as being knowing and willful is rendered neither accidental nor mitigated in character by the belief that the conduct is reasonable or legal.

**L. Definitions beginning with the letter “L”.**

(1) **“Limiting gas-oil ratio”** means the gas-oil ratio the division assigns to a particular oil pool to limit the volumes of casinghead gas that may be produced from the various oil producing units within that particular pool.

(2) **“Liner”** means a continuous, low-permeability layer constructed of natural or human-made materials that restricts the migration of liquid oil field wastes, gases or leachate.

(3) **“LLDPE”** means linear low-density polyethylene.

(4) **“Load oil”** means oil or liquid hydrocarbon that has been used in remedial operation in an oil or gas well.

(5) **“Log”** means a systematic detailed and correct record of formations encountered in drilling a well.

**M. Definitions beginning with the letter “M”.**

(1) **“Marginal unit”** means a proration unit that is incapable of producing top proration unit allowable for the pool in which it is located.

(2) **“Market demand percentage factor”** means that percentage factor of one hundred percent or less as the division determines at an oil allowable hearing, which, when multiplied by the depth bracket allowable applicable to each pool, determines that pool’s top proration unit allowable.

(3) **“MCF”** means a thousand cubic feet.

(4) **“MCFD”** means a thousand cubic feet per day.

(5) **“MCFGPD”** means a thousand cubic feet of gas per day.

(6) **“Mg/l”** means milligrams per liter.

(7) **“Mg/kg”** means milligrams per kilogram.

(8) **“Mineral estate”** is the most complete ownership of oil and gas recognized in law and includes the mineral interests and the royalty interests.

(9) **“Mineral interest [owners] owner”** means ~~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] a working interest owner, or an owner of a right to explore for and develop oil and gas that is not subject to an existing oil and gas lease.

(10) **“Minimum allowable”** means the minimum amount of production from an oil or gas well that 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.

(11) **“Miscellaneous hydrocarbons”** means tank bottoms occurring at pipeline stations; oil storage terminals or refineries; pipeline break oil; catchings collected in traps, drips or scrubbers by gasoline plant operators in the plants or in the gathering lines serving the plants; the catchings collected in private, community or commercial salt water disposal systems; or other liquid hydrocarbon that is not lease crude or condensate.

**N. Definitions beginning with the letter “N”.**

(1) **“Non-aqueous phase liquid”** means an interstitial body of liquid oil, petroleum product, petrochemical or organic solvent, including an emulsion containing such material.

(2) **“Non-exempt waste”** means oil field waste not exempted from regulation as hazardous waste pursuant to Subtitle C of RCRA and applicable regulations.

(3) **“Non-hazardous waste”** means non-exempt oil field waste that is not hazardous waste.

(4) **“Non-marginal unit”** means a proration unit that [~~is capable of producing~~] can produce the top proration unit allowable for the pool in which it is located, and to which the division assigns a top proration unit allowable.

(5) **“NORM”** means the naturally occurring radioactive materials regulated by 20.3.14 NMAC.

**O. Definitions beginning with the letter “O”.**

(1) **“Official gas-oil ratio test”** means the periodic gas-oil ratio test the operator performs pursuant to division order by the method and in the manner the division prescribes.

(2) **“Oil”** means petroleum hydrocarbon produced from a well in the liquid phase and that existed in a liquid phase in the reservoir. This definition includes crude oil or crude petroleum oil.

(3) **“Oil field waste”** means non-domestic waste resulting from the exploration, development, production or storage of oil or gas pursuant to Paragraph (21) of Subsection B of Section 70-2-12 NMSA 1978 and the oil field service industry, the transportation of crude oil or natural gas, the treatment of natural gas or the refinement of crude oil pursuant to Paragraph (22) of Subsection B of Section 70-2-12 NMSA 1978, including waste generated from oil field remediation or abatement activity regardless of the date of release. Oil field waste does not include waste not generally associated with oil and gas industry operations such as tires, appliances or ordinary garbage or refuse unless generated at a division-regulated facility, and does not include sewage, regardless of the source.

(4) **“Oil well”** means a well capable of producing oil and that is not a gas well as defined in Paragraph (6) of Subsection G of 19.15.2.7 NMAC.

(5) **“Operator”** means a person who, duly authorized, [~~is in charge of~~] manages a lease’s development or a producing property’s operation, or who [~~is in charge of~~] manages a facility’s operation [~~or management~~].

(6) **“Overproduction”** means the amount of oil or gas produced during a proration period [~~in excess of~~] exceeding the amount authorized on the proration schedule.

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

**P. Definitions beginning with the letter “P”.**

(1) **“Penalized unit”** means a proration unit to which, because of an excessive gas-oil ratio, the division assigns an allowable that is less than top proration unit allowable for the pool in which it is located and [~~also~~] less than the ability of the well or wells on the unit to produce.

(2) **“Person”** means an individual or entity including partnerships, corporations, associations, responsible business or association agents or officers, the state or a political subdivision of the state or an agency, department or instrumentality of the United States and of its officers, agents or employees.

(3) **“Pit”** means a 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 safety, secondary containment and storm water or run-on control.

(4) **“Playa lake”** means 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 an underground reservoir containing a common accumulation of oil or gas. Each zone of a general structure, which zone is completely separated from other zones in the structure, is covered by the word pool as used in 19.15.2 NMAC through 19.15.39 NMAC. “Pool” is synonymous with “common source of supply” and with “common reservoir”.

(6) **“Potential”** means a well’s properly determined capacity to produce oil or gas under division-prescribed conditions.

(7) **“Ppm”** means parts per million by volume.

(8) **“PQL”** means practical quantitation limit.

(9) **“Pressure maintenance”** means the injection of gas or other fluid into a reservoir, either to maintain the reservoir’s existing pressure or to retard the reservoir pressure’s natural decline.

(10) **“Produced water”** means water that is an incidental byproduct from drilling for or the production of oil and gas.

(11) **“Producer”** means the owner of a well or wells capable of producing oil or gas or both in paying quantities.

(12) **“Product”** means a commodity or thing made or manufactured from oil or gas, and derivatives of oil or 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 oil or gas or a derivative thereof.

(13) **“Proration day”** consists of 24 consecutive hours that begin at 7:00 a.m. and end at 7:00 a.m. on the following day.

(14) **“Proration month”** means the calendar month that begins at 7:00 a.m. on the first day of the month and ends at 7:00 a.m. on the first day of the next succeeding month.

(15) **“Proration period”** means for oil the proration month and for gas the 12-month period that begins at 7:00 a.m. on January 1 of each year and ends at 7:00 a.m. on January 1 of the succeeding year or other period designated by general or special order of the division.

(16) **“Proration schedule”** means the division orders authorizing the production, purchase and transportation of oil, casinghead gas and gas from the various units of oil or of gas in allocated pools.

(17) **“Proration unit”** means 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)] Subsection B of Section 70-2-17 NMSA 1978) 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 shall be the same size and shape as a spacing unit. All proration units are spacing units but not all spacing units are proration units.~~]

(18) **“Prospective spacing unit”** means a hypothetical spacing unit that does not yet have a producing well.

(19) **“PVC”** means poly vinyl chloride.

(20) **“Psi”** means pounds per square inch.

**Q. [RESERVED]**

**R. Definitions beginning with the letter “R”.**

(1) **“RCRA”** means the federal Resource Recovery and Conservation Act.

(2) **“Recomplete”** means the subsequent completion of a well in a different pool from the pool in which it was originally completed.

(3) **“Regulated NORM”** means NORM contained in oil-field soils, equipment, sludges or other materials related to oil-field operations or processes exceeding the radiation levels specified in 20.3.14.1403 NMAC.

(4) **“Release”** means breaks, leaks, spills, releases, fires or blowouts involving oil, produced water, condensate, drilling fluids, completion fluids or other chemical or contaminant or mixture thereof, including oil field wastes and gases to the environment.

(5) **“Remediation plan”** means 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 or actions. The plan may also include an alternative proposing no action beyond the spill report's submittal.

(6) **“Responsible person”** means the owner or operator who shall complete a division-approved corrective action for pollution from releases.

(7) **“Royalty interest owner”** means the owner of an interest [~~in the non-executive rights~~] in oil and gas that does not presently entitle the owner to explore, drill or otherwise develop those minerals, including lessors, royalty interest owners and overriding royalty interest owners. Royalty interests are non-cost bearing.

(8) **“Run-on”** means rainwater, leachate or other liquid that drains from other land onto any part of a division-approved facility.

**S. Definitions beginning with the letter “S”.**

(1) **“SAR”** means the sodium adsorption ratio.

(2) **“Secondary recovery”** means a method of recovering quantities of oil or gas from a reservoir which quantities would not be recoverable by ordinary primary depletion methods.

(3) **“Sediment oil”** means tank bottoms and other accumulations of liquid hydrocarbons on an oil and gas lease, which hydrocarbons are not merchantable through normal channels.

(4) **“Shallow pool”** means a pool that has a depth range from zero to 5000 feet.

(5) **“Shut-in”** means the status of a production well or an injection well that is temporarily closed [~~down~~], whether by closing a valve or disconnection or other physical means.

(6) **“Shut-in pressure”** means the gauge pressure noted at the wellhead when the well is completely shut-in, not to be confused with bottom hole pressure.

(7) **“Significant modification of an abatement plan”** means a change in the abatement technology used excluding design and operational parameters, or relocation of twenty five percent or more of the compliance sampling stations, for a single medium, as designated pursuant to Subparagraph (d) of Paragraph (2) of Subsection D of 19.15.30.13 NMAC.

(8) **“Soil”** means earth, sediments or other unconsolidated accumulations of solid particles produced by the physical and chemical disintegration of rocks, and that may or may not contain organic matter.

(9) **“Spacing unit”** means the area allocated to a well under a well spacing order or rule. Under the Oil and Gas Act, Paragraph (10) of Subsection B of Section 70-2-12 NMSA 1978, the commission may 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 form C-102.

(10) **“Subsurface water”** means ground water and water in the vadose zone that may become ground water or surface water in the reasonably foreseeable future or that vegetation may use.

(11) **“Surface waste management facility”** means a facility that receives oil field waste for collection, disposal, evaporation, remediation, reclamation, treatment or storage except:

(a) a facility that utilizes underground injection wells subject to division regulation pursuant to the federal Safe Drinking Water Act, and does not manage oil field wastes on the ground in pits, ponds, below-grade tanks or land application units;

(b) a facility permitted pursuant to the New Mexico environmental improvement board rules or WQCC rules;

(c) a temporary pit as defined in 19.15.17 NMAC;

(d) a below-grade tank or pit that receives oil field waste from a single well, permitted pursuant to 19.15.37 NMAC, regardless of the capacity or volume of oil field waste received;

(e) a facility located at an oil and gas production facility and used for temporary storage of oil field waste generated on-site from normal operations, if the facility does not pose a threat to fresh water, public health, safety or the environment;

(f) a remediation conducted in accordance with a division-approved abatement plan pursuant to 19.15.30 NMAC, a corrective action pursuant to 19.15.29 NMAC or a corrective action of a non-reportable release;

(g) a facility operating pursuant to a division emergency order;

(h) a site or facility where the operator is conducting emergency response operations to abate an immediate threat to fresh water, public health, safety or the environment or as the division has specifically directed or approved; or

(i) a facility that receives only exempt oil field waste, receives less than 50 barrels of liquid water per day (averaged over a 30-day period), has a capacity to hold 500 barrels of liquids or less and is permitted pursuant to 19.15.17 NMAC.

**T. Definitions beginning with the letter "T".**

(1) **"Tank bottoms"** means that accumulation of hydrocarbon material and other substances that settles naturally below oil in tanks and receptacles that are used in oil's handling and storing, and which accumulation contains [~~in excess of~~] more than two percent of BS&W; 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 to the tank.

(2) **"TDS"** means total dissolved solids.

(3) **"Temporary abandonment"** means the status of a well that is inactive.

(4) **"Top proration unit allowable for gas"** means the maximum number of cubic feet of gas, for the proration period, the division allocates to a gas producing unit in an allocated gas pool.

(5) **"Top proration unit allowable for oil"** means the maximum number of barrels for oil daily for each calendar month the division allocates on a proration unit basis in a pool to non-marginal units. The division shall determine the top proration unit allowable for a pool by multiplying the applicable depth bracket allowable by the market demand percentage factor in effect.

(6) **"TPH"** means total petroleum hydrocarbons.

(7) **"Treating plant"** means a 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 other waste oil marketable.

(8) **"Tribal lands"** means those lands for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe. This includes reservations, pueblo land grants, tribal trust lands and individual trust allotments.

(9) **"Tribal leases"** means those leases of minerals or interests in or rights to minerals for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe.

(10) **"Tribal minerals"** means those minerals for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe.

(11) **"Tubingless completion"** means a well completion in which the production string of casing has an outside diameter of 2.875 inches or less.

(12) **"Tubingless multiple completion"** means completion in which two or more common sources of supply are produced through an equal number of casing strings cemented in a common wellbore, 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 cement.

**U. Definitions beginning with the letter "U".**

(1) **“Underground source of drinking water”** means an aquifer that supplies water for human consumption or that contains ground water having a TDS concentration of 10,000 mg/l or less and that is not an exempted aquifer.

(2) **“Underproduction”** means the amount of oil or the amount of gas during a proration period by which a given proration unit failed to produce an amount equal to that the division authorizes in the proration schedule.

(3) **“Unit of proration for gas”** consists of such multiples of 40 acres as may be prescribed by division-issued special pool orders.

(4) **“Unit of proration for oil”** consists of one 40-acre tract or such multiples of 40-acre tracts as may be prescribed by division-issued special pool orders.

(5) **“Unorthodox well location”** means a location that does not conform to the spacing requirements division rules establish.

(6) **“Unstable area”** means a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all [of] a division-approved facility's structural components. Examples of unstable areas are areas of poor foundation conditions, areas susceptible to mass earth movements and karst terrain areas where karst topography is developed [as a result] because of dissolution of limestone, dolomite or other soluble rock. Characteristic physiographic features of karst terrain include sinkholes, sinking streams, caves, large springs and blind valleys.

(7) **“Upstream facility”** means a facility or operation associated with the exploration, development, production or storage of oil or gas that is not a downstream facility.

V. **Definitions beginning with the letter “V”.** **“Vadose zone”** means 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, includes:

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

(b) surface waste as those words are generally understood in the oil and gas business, and to embrace the unnecessary or excessive surface loss or destruction without beneficial use, however caused, of gas of any type or in any form, or oil, or a 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 oil or gas, in excess of the reasonable market demand;

(c) oil production in this state in excess of the reasonable market demand for the oil; the excess production causes or results in waste that the Oil and Gas Act prohibits; reasonable market demand as used herein with respect to oil means the demand for the oil, for reasonable current requirements for current consumption and use within or outside of the state, together with the demand of amounts as are reasonably necessary for building up or maintaining reasonable storage reserves of oil or the products thereof, or both the oil and products;

(d) the non-ratable purchase or taking of oil in this state; the non-ratable taking and purchasing causes or results in waste, as defined in Subparagraphs (a), (b) and (c) of Paragraph (1) of Subsection W of 19.15.2.7 NMAC and causes waste by violating the Oil and Gas Act, Section 70-2-16 NMSA 1978;

(e) the production in this state of gas from a gas well or wells, or from a gas pool, in excess of the reasonable market demand from such source for gas of the type produced or in excess of the capacity of gas transportation facilities for such type of gas; the words "reasonable market demand", as used herein with respect to gas, shall be construed to mean the demand for 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 gas or products thereof, or both the gas and products.

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

(4) **"Watercourse"** means a river, creek, arroyo, canyon, draw or wash or other channel having definite banks and bed with visible evidence of the occasional flow of water.

(5) **"Water pollution"** means 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 property use.

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

(7) **"Well bore"** means the interior surface of a cased or open hole through which drilling, production or injection operations are conducted.

(8) **"Wellhead protection area"** means the area within 200 horizontal feet of a 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 does not include areas around water wells drilled after an existing oil or gas waste storage, treatment or disposal site was established.

(9) **"Wetlands"** means those areas that are inundated or saturated by surface or ground water 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. This definition does not include constructed wetlands used for wastewater treatment purposes.

(10) **"Working interest owner"** means the owner of an operating interest under an oil and gas lease who has the exclusive right to exploit the oil and gas minerals. Working interests are cost bearing.

(11) **"WQCC"** means the New Mexico water quality control commission.

[19.15.2.7 NMAC - Rp, 19.15.1.7 NMAC, 12/1/2008; A, 3/31/2015; A, 6/30/2016; A, XX/XX/201X]

This is an amendment to 19.15.4.12 NMAC, amending Sections 1, 3 and 12, effective XX/XX/XXXX.

**19.15.4.1 ISSUING AGENCY:** [~~Energy, Minerals and Natural Resources Department, Oil Conservation Division~~] Oil Conservation Commission.  
[19.15.4.1 NMAC - Rp, 19.15.14.1 NMAC, 12/1/2008; A, XX/XX/201X]

**19.15.4.3 STATUTORY AUTHORITY:** 19.15.4 NMAC is adopted pursuant to the Oil and Gas Act, [~~NMSA 1978,~~] Section 70-2-6 NMSA 1978, which grants the oil conservation division and the oil conservation commission 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 [~~NMSA 1978,~~] Section 70-2-7 NMSA 1978, which provides that the division shall prescribe by rule its hearing procedures. [19.15.4.3 NMAC - Rp, 19.15.14.3 NMAC, 12/1/2008; A, XX/XX/201X]

**19.15.4.12 NOTICE REQUIREMENTS FOR SPECIFIC ADJUDICATIONS:**

A. Applications for the following adjudicatory hearings before the division or commission, in addition to that 19.15.14.9 NMAC requires, as follows:

(1) **Compulsory pooling and statutory unitization.**

(a) The applicant shall give notice to [~~an~~] each 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). An applicant seeking compulsory pooling of a standard horizontal spacing unit need not give notice to affected persons in adjoining spacing units or tracts unless the division so directs.

(b) When the applicant has given notice as required in Subsection A of 19.15.4.9 NMAC, of a compulsory pooling application, [~~the proposed unit is not larger in size than provided in 19.15.15 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 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 unopposed pooling applications for hearing. If the division finds the application complete, the information submitted with the application shall constitute the record in the case, and the division shall issue an order based on the record.

(e) At an interested person's request or upon the division's own initiative, the division shall set a 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, a 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, a mineral interest owner whose interest is evidenced by a written conveyance document either of record or known to the applicant as of the date the applicant 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 working interest owners in that spacing unit.]~~

~~(c)~~ (a) If the proposed well location is unorthodox by being located closer to the spacing unit's outer boundary than 19.15.15 NMAC, 19.15.16 NMAC or applicable special pool orders permit, the applicant shall notify the affected persons in ~~[the adjoining spacing units towards which the unorthodox location encroaches]~~ each adjoining spacing unit in the same pool or formation located closer to the unorthodox well location than the minimum distance prescribed by the applicable rule or order. If an adjoining tract is not included in a spacing unit in the same pool or formation in which the well may be completed, then for such tract the applicant shall notify affected persons in the same pool or formation in any adjoining quarter-quarter section (if the proposed well will be completed in a pool where the standard spacing unit is 40 acres), or any adjoining quarter section (if the proposed well will be completed in a pool where the standard spacing unit is greater than 40 acres), that is located closer to the unorthodox well location than the minimum setback distance prescribed by the applicable rule or order.

~~(d)~~ (b) If the proposed well location is unorthodox by ~~[being located in]~~ being in a different quarter-quarter section or quarter section than Subsection B of 19.15.15.10 NMAC or special pool orders provide, the applicant shall notify affected persons in all spacing units or tracts in the same pool or formation that adjoin the proposed well's spacing unit.

(3) **Non-standard proration unit.** The applicant shall notify all owners of ~~[interest]~~ interests in the mineral estate, including mineral interest owners and royalty owners, 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 for 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. This requirement shall not apply to applications for non-standard horizontal spacing units pursuant to Paragraph (5) of Subsection B of 19.15.16.15 NMAC.

(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) division-designated operators in the pool; and
- (ii) 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) division-designated operators in the pool; and
- (ii) 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 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 owners of interests in the mineral estate in the spacing unit if ownership is not common for commingled zones within the spacing unit.

(7) **Surface disposal of produced water or other fluids.** The applicant shall notify surface owners within one-half mile of the site.

(8) **Surface commingling.** The applicant shall give notice as Subsection C of 19.15.12.10 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 a notice 19.15.4.9 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]~~ how protests may be made. When an applicant has been unable to locate 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 the applicant has:

(1) complied with notice provisions of 19.15.4.9 NMAC;

(2) conducted a good-faith diligent effort to find the correct addresses of persons entitled to notice; and

(3) given notice at that correct address as 19.15.4.9 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 19.15.4.9 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. [19.15.4.12 NMAC - Rp, 19.15.14.1210 NMAC, 12/1/2008; A, XX/XX/201X]

This is an amendment to 19.15.14 NMAC, amending Sections 1 and 8, effective XX/XX/XXXX.

**19.15.14.1 ISSUING AGENCY:** [~~Energy, Minerals and Natural Resources Department, Oil Conservation Division~~] Oil Conservation Commission.  
[19.15.14.1 NMAC - N, 12/1/2008; A, XX/XX/201X]

**19.15.14.8 PERMIT TO DRILL, DEEPEN OR PLUG BACK:**

**A. Permit required.** An operator is required to obtain a permit approved by the division prior to commencing drilling, deepening or re-entry operations, commencing an additional lateral, plugging a well back to a different pool, or completing or re-completing a well in an additional pool.

**B. Mineral owner or [lessee] working interest owner consent required.**

**(1)** An operator shall not file an application for permit to drill nor commence drilling operations until the operator has either:

**(a)** received the consent of at least one [lessee] working interest owner or owner of an unleased mineral interest at the proposed bottom hole location; or

**(b)** obtained a compulsory pooling order from the division.

**(2)** In addition, an operator filing an application for permit to drill a horizontal [~~or directional~~] well shall comply with Paragraph (1) of Subsection A of 19.15.16.15 NMAC.

[19.15.14.8 NMAC - Rp, 19.15.3.102 NMAC, 12/1/2008; A, 2/15/2012; A, 4/16/2012; A, XX/XX/201X]

**This is an amendment to 19.15.15 NMAC, Sections 1, 3, 11, 12, 13, 15 and 16, effective XX/XX/XXXX.**

**19.15.15.1 ISSUING AGENCY:** [~~Energy, Minerals and Natural Resources Department, Oil Conservation Division~~] Oil Conservation Commission.

[19.15.15.1 NMAC - N, 12/1/2008; A, XX/XX/201X]

**19.15.15.3 STATUTORY AUTHORITY:** 19.15.15 NMAC is adopted pursuant to the Oil and Gas Act, [~~NMSA 1978,~~] Section 70-2-6, Section 70-2-11 and Section 70-2-12 NMSA 1978, which authorizes the division to establish well spacing.

[19.15.15.3 NMAC - N, 12/1/2008; A, XX/XX/201X]

**19.15.15.11 ACREAGE ASSIGNMENT:**

**A. Well tests and classification.** The operator of a wildcat or development gas well to which more than 40 acres has been dedicated shall conduct a potential test within 30 days following the well's completion and file the test with the division within [40] 45 days following the test's completion. (See 19.15.19.8 NMAC.)

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

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

(3) The operator's failure to file the test within the specified time subjects the well to the acreage reduction.

**B. Non-standard spacing units.** An operator shall not produce a well that does not have the required amount of acreage dedicated to it for the pool or formation in which it is completed until the division has formed and dedicated a standard spacing unit for the well or approved a non-standard spacing unit.

(1) Division district offices may approve non-standard spacing units without notice when the unorthodox size or shape is necessitated by a variation in the legal subdivision of the United States public land surveys or consists of an entire governmental section, and the non-standard spacing unit is not less than seventy percent or more than one hundred-thirty percent of a standard spacing unit. The operator shall obtain division approval of form C-102 showing the proposed non-standard spacing unit and the acreage contained in the unit.

(2) The director may approve administratively an application for non-standard spacing units after notice and opportunity for hearing when the unorthodox size or shape is necessitated by a variation in the legal subdivision of the United States public land surveys or the following facts exist:

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

(b) 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.

(3) An operator shall file an application for administrative approval of a non-standard spacing ~~[units]~~ unit pursuant to Paragraph (2) of Subsection B of 19.15.15.11 NMAC or Paragraph (5) of Subsection B of 19.15.16.15 NMAC, with the division's Santa Fe office that is accompanied by:

(a) 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;

(b) a list of affected persons ~~[as defined in Paragraph (2) of Subsection A of 19.15.4.12 NMAC]~~ entitled to notice of the application; and

(c) a statement discussing the reasons for the formation of the non-standard spacing unit.

(4) The applicant shall submit a statement attesting that the applicant, on or before the date the applicant submitted the application to the division, notified the affected persons identified on the list described in Paragraph (3) of Subsection B of 19.15.15.11 NMAC by sending a copy of the application, including a copy of the plat described in Paragraph (3) of Subsection B of 19.15.15.11 NMAC, by certified mail, return receipt requested, advising them that if they have an objection they must file the objection in writing with the division within 20 days from the date the division receives the application. The director may approve the application without hearing upon receipt of waivers from all the notified persons or if no person has filed an objection within the 20-day period.

(5) The director may set for hearing an application for administrative approval.

**C. Exceptions to number of wells per spacing unit.** The director may permit exceptions to 19.15.15 NMAC or special pool orders concerning the number of wells allowed per spacing unit only after notice and opportunity for hearing. An applicant for an exception shall notify all affected persons ~~[defined in Paragraph (2) of Subsection A of 19.15.4.12 NMAC]~~ in adjoining spacing units in the same pool or in adjoining tracts not included in such spacing units.

[19.15.15.11 NMAC - Rp, 19.15.3.104 NMAC, 12/1/2008; A, XX/XX/201X]

**19.15.15.12 SPECIAL RULES FOR MULTIPLE OPERATORS WITHIN A SPACING UNIT:**

**A. 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 all operators of wells producing from that proration unit agree, the allowable production from the newly completed well shall not exceed the difference between the allowable production for the proration unit and the actual production from the pool of the existing well or wells within the proration unit. The division may authorize exceptions to Subsection A of 19.15.15.12 NMAC after hearing following appropriate notice.

**B. Notice requirements.**

(1) An 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 the well, furnish written notification of its intent to the operator of each existing well, and, if the unit includes state, federal or tribal minerals, to the state land office or BLM, as applicable; provided that separate notification to the BLM is not required if the operator will file the application with the BLM pursuant to 19.15.7.11 NMAC.

(2) The operator shall send the notices by certified mail, return receipt requested, and shall specify the proposed well's location and depth.

(3) The applicant shall submit with its application for permit to drill, deepen or plug back either

(a) a statement attesting that, at least 20 days before the date that the application was submitted to the division, the applicant sent notices to the designated parties, by certified mail, return receipt requested, advising them that if they have an objection they must deliver a written statement of objection to the proposing operator within 20 days of the date the operator mailed the notice, and that it has received no such objection; or

(b) written waivers from all persons required to be notified (the BLM's approval of the application being deemed equivalent to waiver by that agency); in event of objection, the division may approve the application only after hearing.

**C. Transfer of wells.** If an operator transfers operation of less than all [of] its wells located within a spacing or proration unit to another operator, and the spacing unit includes state, federal or tribal minerals, the operator shall, prior to filing form C-145 to effectuate the transfer, notify in writing the state land office or BLM, as applicable, of the transfer.

**D. Compulsory pooled units.** No provision of 19.15.15 NMAC authorizes the operation of a producing well within a unit described in an existing compulsory pooling order by an operator other than the operator designated in the order.

**E. Federal or state exploratory units.** No provision of 19.15.15 NMAC authorizes a producing well's operation within a federal exploratory unit or state exploratory unit by an operator other than the unit's designated operator except as provided by BLM regulations or state land office rules applicable to the unit.

[19.15.15.12 NMAC - Rp, 19.15.3.104 NMAC, 12/1/2008; A, XX/XX/201X]

**19.15.15.13 UNORTHODOX LOCATIONS:**

**A.** Well locations within a secondary recovery, tertiary recovery or pressure maintenance project for producing wells or injection wells that are unorthodox based on 19.15.15.9 NMAC's requirements and are necessary for an efficient production and injection pattern are 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 a quarter-quarter section line or subdivision inner boundary. These locations only require such prior approvals as are necessary for an orthodox location.

**B.** The director may grant an exception to the well location requirements of 19.15.15.9 NMAC, [and] 19.15.15.10 NMAC and 19.15.16.15 NMAC or special pool orders after notice and opportunity for hearing when the exception is necessary to prevent waste or protect correlative rights.

**C.** The operator shall submit applications for administrative approval pursuant to Subsection B of 19.15.15.13 NMAC to the division's Santa Fe office accompanied by a plat showing the spacing unit, the proposed unorthodox well location and the adjoining spacing units and wells; a list of affected persons [~~as defined in Paragraph (2) of Subsection A of 19.15.4.12 NMAC~~] entitled to notice pursuant to Paragraph (2) of Subsection A of 19.15.4.12 NMAC; and information evidencing the need for the exception. The division shall give notice as required in 19.15.4.9 NMAC and the operator shall give notice as required by Paragraph (2) of Subsection A of 19.15.4.12 NMAC.

**D.** The applicant shall submit a statement attesting that the applicant, on or before the date that the applicant submitted the application to the division, sent notification to the affected persons by furnishing a copy of the application, including a copy of the plat described in Subsection C of 19.15.15.13 NMAC, by certified mail, return receipt requested, advising them that if they have an objection they shall file it in writing with the division 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.

E. The director may set for hearing an application for administrative approval of an unorthodox location.

F. **Whenever the division approves an unorthodox location, it may order any action** necessary to offset an advantage of the unorthodox location.

[19.15.15.13 NMAC - Rp, 19.15.3.104 NMAC, 12/1/2008; A, XX/XX/201X]

**19.15.15.15 DIVISION-INITIATED EXCEPTIONS:** ~~[In order to]~~ To prevent waste, the division may, after hearing, set different spacing requirements and require different acreage for drilling tracts in a defined oil or gas pool.

[19.15.15.15 NMAC - Rp, 19.15.3.104 NMAC, 12/1/2008; A, XX/XX/201X]

**19.15.15.16 POOLING OR COMMUNITIZATION OF SMALL OIL LOTS:**

A. 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:

(1) the operator ~~[submits an application for administrative approval]~~ applies to the division's Santa Fe office for administrative approval with an application accompanied by:

(a) a plat showing the dimensions and acreage involved, the acreage's ownership, the location of existing and proposed wells and adjoining spacing units;

(b) a list of affected persons ~~[as defined in Paragraph (2) of Subsection A of 19.15.4.12 NMAC]~~ in the oil lots and the contiguous spacing unit to be pooled or communitized; and

(c) a statement discussing the reasons for the pooling or communitization;  
and

(2) the applicant submits a statement attesting that the applicant, on or before the date the applicant submitted the application to the division, sent notification to the affected persons by submitting a copy of the application, including a copy of the plat described in Paragraph (1) of Subsection A of 19.15.15.16 NMAC, by certified mail, return receipt requested, advising them that if they have an objection they must file it in writing with the division within 20 days from the date the division receives the application.

B. 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 an application for administrative approval.

D. 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.

[19.15.15.16 NMAC - Rp, 19.15.3.104 NMAC, 12/1/2008; A, XX/XX/201X]

This is an amendment to 19.15.16 NMAC, amending Sections 1, 3, 7, 14, 15 and 20 effective XX/XX/XXXX.

**19.15.16.1 ISSUING AGENCY:** ~~[Energy, Minerals and Natural Resources Department, Oil Conservation Division]~~ Oil Conservation Commission.  
[19.15.16.1 NMAC - Rp, 19.15.3.1 NMAC, 12/1/2008; A, XX/XX/201X]

**19.15.16.3 STATUTORY AUTHORITY:** 19.15.16 NMAC is adopted pursuant to the Oil and Gas Act, ~~[NMSA 1978;]~~ Section 70-2-6, Section 70-2-11 and Section 70-2-12 ~~NMSA 1978.~~  
[19.15.16.3 NMAC - Rp, 19.15.3.3 NMAC, 12/1/2008; A, XX/XX/201X]

**19.15.16.7 DEFINITIONS:** These definitions apply specifically to 19.15.16 NMAC. For additional definitions that may apply see 19.15.2 NMAC.

A. **"Azimuth"** means the deviation in the horizontal plane of a well bore expressed in terms of compass degrees.

B. **"Completed interval"** means that portion of a well bore or lateral that is:

- (1) cased, cemented and perforated;
- (2) an open hole; or
- (3) isolated by a packer or other non-permeable means and open to the formation.

C. **"Deviated well"** means a well bore that is intentionally deviated from vertical but not with an intentional azimuth.

D. **"Directional well"** means a well bore that is intentionally deviated from vertical with an intentional azimuth but is not a horizontal well.

E. **"First take point"** means the shallowest measured depth of the well bore where the completed interval starts.

F. **"Horizontal spacing unit"** means the spacing unit dedicated to a horizontal well.

~~[E.]~~ G. **"Horizontal well"** means a ~~[directional]~~ well bore with one or more laterals that extend a minimum of 100 feet ~~[horizontally]~~ laterally in the target zone. A well with multiple laterals from a common well bore in the same or different target zones or formations shall be considered one well.

H. **"Infill horizontal well"** means a horizontal well the completed interval or intervals of which are located wholly within the horizontal spacing unit dedicated to a previously drilled or proposed horizontal well in the same pool and that the operator designates as an infill horizontal well on form C-102. For the purposes of this definition, "proposed" means that an APD has been submitted to a regulatory agency.

~~[F.]~~ I. **"Kick-off point"** means the point at which a directional or horizontal well is intentionally deviated from the vertical.

J. **"Last take point"** means the deepest measured depth of the well bore where the completed interval ends.

~~[G.]~~ K. **"Lateral"** means ~~[a]~~ the portion of a directional or horizontal well past the point where the well bore has been intentionally deviated from the vertical.

L. **"Multi-lateral well"** means a horizontal well with multiple laterals from a common well bore in the same or different target zones or formations.

~~[H.]~~ **"Non-standard project area"** means a project area that is not a standard project area.

~~[I.]~~ M. **"Open hole"** means that portion of a well bore or lateral that is:

- (1) not cased, or
- (2) cased, but the casing is not cemented in place, and is not otherwise isolated from

the formation.

~~[J.]~~ **"Penetration point"** means the beginning of the completed interval of a horizontal or other directional well or lateral.

~~[K.]~~ **"Producing area"** means the portion of a project area that lies within a window formed by plotting the measured distance from the project area's outer boundaries, inside of which a well bore can be drilled and produced in conformity with the setback requirements from the outer boundary of a standard spacing unit for the applicable pool.

~~[L.]~~ **"Project area"** means an area the operator designates on form C-102, well location and acreage dedication plat that comprises;

~~(1) one or more complete, contiguous spacing units (in one section or in more than one section) that are developed by the horizontal well; or~~

~~(2) an entire voluntary or statutory unit for an approved enhanced recovery or pressure maintenance project, an approved state exploratory unit, or a participating area in a federal unit.~~

~~M. "Standard project area" means a project area that;~~

~~(1) is described in Paragraph (2) of Subsection L of 19.15.16.7 NMAC;~~

~~(2) consists of a single spacing unit;~~

~~(3) consists of two or more spacing units within a single section that collectively comprise:~~

~~(a) the entire section, a half section or half section equivalent, or a quarter section or quarter section equivalent; or~~

~~(b) the north, south, east or west half of a half section or half section equivalent or of a quarter section or quarter section equivalent; or~~

~~(4) consists of a combination of two or more otherwise standard project areas, if the resulting area is substantially in the form of a rectangle; provided that a project area consisting of three 40-acre units within a single section and excluding the fourth spacing unit is not a standard project area.]~~

~~N. "Terminus" means the farthest point [attained] drilled along the well bore or lateral.~~

~~O. "Tract" means a legal subdivision of the United States public survey substantially in the form of a square or rectangle.~~

~~P. "Unitized area" means any area where ownership of production from the relevant pool or formation is consolidated pursuant to an agreement, whether voluntary and filed in the county land records, or approved by federal or state authority, including but not limited to a statutory unit, an approved enhanced recovery unit, a participating area in a federal exploratory unit, a federal unit which does not provide for participating areas, a state exploratory unit or a communitized unit if all interests in the communitized unit are committed to the communitization agreement.~~

~~Q. "Vertical well" means a well that does not have an intentional departure or course deviation from the vertical.~~

~~[19.15.16.7 NMAC - Rp, 19.15.3.111 NMAC, 12/1/2008; A, 2/15/2012; A, XX/XX/201X]~~

**19.15.16.14 [DEVIATION TESTS; DEVIATED, DIRECTIONAL AND HORIZONTAL WELLS] DEVIATION TESTS AND WELLBORE SURVEYS; VERTICAL, DEVIATED AND DIRECTIONAL WELLS:**

~~A. Deviated well bores.~~

~~(1) Deviation tests required. An operator shall test a vertical or deviated well that is drilled or deepened at reasonably frequent intervals to determine the deviation from the vertical. The operator shall make the tests at least once each 500 feet or at the first bit change succeeding 500 feet. The operator shall file with the division a tabulation of deviation tests run, that is sworn to and notarized, with form C-104.~~

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

~~(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 applicable unit's outer boundaries, then the well is considered unorthodox. To obtain authority to produce the well, the operator shall file an application with the director with a copy to the appropriate division district office, and shall otherwise follow the normal process outlined in Subsection C of 19.15.15.13 NMAC to obtain approval of the unorthodox location.~~

~~(4) Directional survey requirements. Upon the director's request, the operator shall directionally survey a vertical or deviated well. The operator shall notify the appropriate division district office of the approximate time the operator will conduct the directional survey. The operator shall file directional surveys run on a well with the division upon the well's completion. The division shall not assign an allowable to the well until the operator has filed the directional surveys.~~

~~B. Directional or horizontal well bores.~~

~~(1) **Directional drilling within a project area.** The appropriate division district office may grant a permit to directionally drill a well bore if the producing interval is entirely within the producing area or at an unorthodox location the division previously approved. Additionally, if the project area consists of a combination of drilling units and includes state, federal or tribal lands, the operator shall send a copy of form C-102 to the state land office or the BLM, as applicable.~~

~~(2) **Unorthodox locations.** If all or part of a directional well bore's completed interval is projected to be outside of the producing area, or if any portion of a directional well bore's completed interval, as drilled, is located more than 50 feet from its projected location as indicated on form C-102 filed with the application for permit to drill the well and is outside of the producing area, the well's location is considered unorthodox. To obtain approval for the well's location, the operator shall file a written application in the Santa Fe office of the division in accordance with Subsection C of 19.15.15.13 NMAC.~~

~~(3) **Allowables for project areas with multiple proration units.** The division shall assign to a project area within a prorated pool an allowable equal to the applicable unit allowable for the pool multiplied by the number of standard spacing units or approved non-standard spacing units that a horizontal well's or lateral's completed interval develops. If a project area includes a spacing unit or smaller project area dedicated to an existing well bore, unless the operators of all wells in the project area otherwise agree, the project area's allowable shall be computed by deducting the actual production from the existing well bore or well bores from the total allowable for the project area not to exceed the existing allowable for the well bore or well bores.~~

~~(4) **Directional surveys required.** An operator shall run a directional survey on each well drilled pursuant to Subsection B of 19.15.16.14 NMAC. The operator shall notify the appropriate division district office of the approximate time the operator will conduct the directional survey. The operator shall file a directional survey run on a well with the division upon the well's completion. The division shall not assign an allowable to the well until the operator files the directional survey. If the directional survey indicates that 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 applicable unit's outer boundary, then the operator shall file an application with the director with a copy to the appropriate division district office and shall otherwise follow the normal process outlined in Subsection C of 19.15.15.13 NMAC to obtain approval of the unorthodox location.~~

~~(5) **Re-entry of vertical or deviated well bores for directional drilling projects.** These well bores are considered orthodox provided the surface location is orthodox and the producing interval's location is within the tolerance allowed for deviated well bores under Paragraph (3) of Subsection A of 19.15.16.14 NMAC.~~

~~C. **Additional matters.**~~

~~(1) Directional surveys that 19.15.16.14 NMAC requires shall have shot points no more than 200 feet apart and shall be run by competent surveying companies that are approved by the director. The division shall allow exceptions to the minimum shot point spacing provided the survey's accuracy is still within acceptable limits.~~

~~(2) The director may set an application for administrative approval whereby the operator shall submit appropriate information and give notice as the director requests. The division may approve un-protested applications administratively within 20 days after the division receives the application and supporting information. If the application is protested, or the director decides that a hearing is appropriate, the division may set the application for hearing.~~

~~(3) The division shall grant permission to deviate or directionally drill a well bore for any reason or in a manner not provided for in 19.15.16.14 NMAC only after notice and opportunity for hearing.]~~

~~A. **Vertical and deviated well bores.**~~

~~(1) **Deviation tests required.** An operator shall test a vertical or deviated well that is drilled or deepened at reasonably frequent intervals to determine the deviation from the vertical. The operator shall make the tests at least once each 500 feet or at the first bit change succeeding 500 feet. The operator shall file with the division along with its form C-104 a tabulation of deviation tests run, that is sworn to and notarized.~~

~~(2) **Excessive deviation.** When the deviation averages more than five degrees in a 500-foot interval, the operator shall include the calculations of the hole's maximum possible horizontal displacement. When the maximum possible horizontal displacement exceeds the distance to the~~

appropriate unit's nearest outer boundary line the operator shall run a directional survey to establish the location of the well's completed interval.

(3) **Unorthodox well locations.** If the results of the directional survey of a vertical or deviated well indicate that the completed interval is more than 50 feet from the approved surface location and closer than the minimum setback requirements to the applicable unit's outer boundary, then the well is considered unorthodox. To obtain authority to produce the well, the operator shall file an application with the division's Santa Fe office, and shall follow the process outlined in Subsection C of 19.15.15.13 NMAC to obtain approval of the unorthodox well location.

(4) **Directional survey requirements.** Upon the director's request, the operator shall directionally survey a vertical or deviated well. The operator shall file directional surveys run on a well, in division-approved format, with the division upon the well's completion. The division shall not approve a form C-104 for the well until the operator has filed the directional surveys.

**B. Directional well bores.**

(1) **Directional drilling.** The appropriate division district office may grant a permit to directionally drill a well bore if every point of the completed interval is projected to be located at a distance greater than or equal to the minimum setback distance from the applicable spacing unit's outer boundaries or at an unorthodox well location the division previously approved.

(2) **Unorthodox well locations.** If all or part of a directional well's completed interval is projected to be located less than the minimum distance from the outer boundary of the well's spacing unit, the well's location is considered unorthodox. To obtain approval for the well's location, the operator shall file an application in the division's Santa Fe office in accordance with Subsection C of 19.15.15.13 NMAC.

(3) **Directional surveys required.** An operator shall run a directional survey on each well drilled pursuant to Subsection B of 19.15.16.14 NMAC. The operator shall file a directional survey, in division-approved format, with the division upon the well's completion. The division shall not approve a form C-104 for the well until the operator files the directional survey. The well's location will be considered unorthodox if the directional survey indicates that part of a well's completed interval, as drilled, is located more than 50 feet from its projected location and closer to an outer boundary of the spacing unit than applicable minimum setback distance. For previously approved unorthodox well locations, the well's as-drilled location is unorthodox if the directional survey indicates 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 spacing unit than the approved location.

C. **Directional survey specifications.** Directional surveys that 19.15.16.14 NMAC requires 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.

[19.15.16.14 NMAC - Rp, 19.15.3.111 NMAC, 12/1/2008; A, 2/15/2012; A, XX/XX/201X]

**19.15.16.15 [SPECIAL RULES FOR] HORIZONTAL WELLS:**

~~[A. **Directional and horizontal well consent requirement.** An operator shall not file an application for permit to drill nor commence drilling of a horizontal or directional well until the operator has either:~~

~~(1) received the consent of at least one lessee or owner of an unleased mineral interest in each tract (in the target pool or formation) in which any part of the well's completed interval will be located; or~~

~~(2) obtained a compulsory pooling order from the division.~~

~~**B. Setbacks.**~~

~~(1) Horizontal wells drilled in project areas as defined in Subsection L of 19.15.16.7 NMAC shall have setbacks from the outer boundaries of the project area the same as if the well were drilled in a single spacing unit for the pool.~~

~~(2) Subject to the provisions of Paragraph (2) of Subsection B of 19.15.16.14 NMAC, every point of the completed interval must meet the minimum setback requirement from the outer boundaries of the project area, or an exception must be approved for a non-standard location.~~

~~(3) No internal setbacks are required within the project area.~~

~~(4) A horizontal well's surface location may be outside the setbacks or outside the project area provided, that the completed interval is entirely within the project area and complies with the applicable setback requirements.~~

~~C. Existing and subsequent wells in project areas.~~

~~(1) Existing wells in spacing units or project areas that are included in a newly designated project area remain dedicated to their existing spacing units or project areas and are not part of the new project area unless otherwise agreed by all working interest owners in the existing and newly designated project areas.~~

~~(2) Subject to the terms of any applicable joint operating agreement, subsequent wells with a completed interval in a horizontal well's project area may be drilled only with the approval of all working interest owners in the project area, or by order of the division after notice to all working interest owners in the project area and opportunity for hearing.~~

~~D. Pool rules. Provision 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 spacing unit, do not apply to horizontal wells. Without limitation of any other right or remedy, an owner or operator of a tract in the same pool as a project area, that is not included in the project area, who contends that a horizontal well in the project area is impairing, or will impair, the owner's or operator's correlative rights may file an application 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 project area.~~

~~E. Formation of project areas.~~

~~(1) Except as provided in Paragraphs (2) and (3) of Subsection E of 19.15.16.15 NMAC, a project area may be formed by filing a form C-102 designating the proposed project area, and simultaneously mailing or delivering a copy thereof to the New Mexico state land office if the proposed project area includes state trust lands.~~

~~(2) Before designating a non-standard project area, the operator shall give 20 days notice by certified mail, return receipt requested, to affected persons, as defined in Subparagraph (a) of Paragraph (2) of Subsection A of 19.15.4.12 NMAC, in all spacing units that:~~

~~(a) are excluded from the project area, if the project area would be a standard project area except for the exclusion of one spacing unit; or~~

~~(b) adjoin the project area, in all other cases.~~

~~(3) The notice shall state that the affected persons may protest the designation of a non-standard project area by mailing a protest to the operator within 20 days after mailing of notice as provided in Paragraph (2) of Subsection E of 19.15.16.15 NMAC. Within seven business days after receiving a protest of the proposed non-standard project area, the operator shall notify the division of the protest, and the division shall set the matter for hearing. Unless otherwise authorized by the division, the operator shall not commence drilling in the proposed non-standard project area until the protest has been determined by division order.~~

~~(4) No project area 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 project area includes state trust lands, without the written consent of the commissioner of public lands.~~

~~F. Consolidation of project area. If a horizontal well is dedicated to a project area in which there is more than one owner of any interest in the mineral estate, the operator of the horizontal well shall cause the project area to be consolidated by voluntary agreement or, if applicable, compulsory pooling before the division may approve a request for form C-104 for the horizontal well.]~~

~~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) of Subsection B 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 [date of adoption], 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 of 19.15.16.15 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 [date of adoption], 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 [date of adoption], 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 [date of adoption], 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, XX/XX/201X]

**19.15.16.20 ALLOWABLES AND AUTHORIZATION TO TRANSPORT OIL AND GAS:**

A. The division may assign an allowable to a newly completed or re-completed well or a well completed in an additional pool or issue an operator authorization to transport oil or gas from the well if the operator:

(1) has filed a complete form C-104;  
(2) has provided a sworn and notarized tabulation of all deviation tests the operator has run on the well, and directional surveys with calculated bottom hole location, in accordance with the requirements of 19.15.16.14 NMAC or 19.15.16.15 NMAC;

(3) has dedicated a standard spacing unit or horizontal spacing unit for the pool in which the well is completed, a standard spacing unit or horizontal spacing unit has been communitized or pooled and dedicated to the well or the division has approved a non-standard spacing unit or horizontal spacing unit; and

(4) ~~[is in compliance]~~ complies with ~~[subsection]~~ Subsection A of 19.15.5.9 NMAC.

B. The allowable the division assigns to an oil well is effective at 7:00 a.m. on the completion date, provided the division receives form C-104 during the month of completion. The date of completion shall be that date when new oil is delivered into the stock tanks. Unless otherwise specified by special pool orders, the allowable the division assigns to a gas well is effective at 7:00 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.  
[19.15.16.20 NMAC – Rn, 19.15.16.19 NMAC, 2/15/2012; A, XX/XX/201X]