Exhibit B

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 2 GENERAL PROVISIONS FOR OIL AND GAS OPERATIONS

19.15.2.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.2.1 NMAC - Rp, 19.15.1.1 NMAC, / /08]

19.15.2.2 SCOPE: 19.15.2 NMAC applies to persons or entities engaged in oil and gas development and production within New Mexico and to 19.15.2 NMAC through 19.15.39 NMAC.
[19.15.2.2 NMAC - Rp, 19.15.1.2 NMAC, / /08]

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, which grants the oil conservation division jurisdiction and authority over all matters relating to the conservation of oil and gas, the prevention of waste of oil and gas and of potash as a result of oil and gas operations, the protection of correlative rights and the disposition of wastes resulting from oil and gas operations.
[19.15.2.3 NMAC - Rp, 19.15.1.3 NMAC, / /08]

19.15.2.4 DURATION: Permanent.
[19.15.2.4 NMAC - Rp, 19.15.1.4 NMAC, / /08]

19.15.2.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.2.5 NMAC - Rp, 19.15.1.5 NMAC, / /08]

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.
[19.15.2.6 NMAC - Rp, 19.15.1.6 NMAC, / /08]

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) "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) "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) "APD" means application for permit to drill.

(11) "API" means the American petroleum institute.

(12) "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 with 19.15.25.12 NMAC through 19.15.25.14 NMAC.

(13) "Aquifer" means a geological formation, group of formations or a part of a formation that is capable of yielding a significant amount of water to a well or spring.

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(14) "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 through the use of 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 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 waterflooding 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 or appears to underlay; 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 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 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 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 the limiting gas-oil ratio for the pool in which the unit is located.

(6) "H_2S" means hydrogen sulfide.

I. Definitions beginning with the letter "I".

(1) "Illegal gas" means gas produced from a gas well in excess of the division-determined allowable.

(2) "Illegal oil" means oil produced in excess of 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 100 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" 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.

(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 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 waste generated in conjunction with the exploration for, drilling for, production of, refining of, processing of, gathering of or transportation of oil, gas or carbon dioxide; waste generated from oil field service company operations; and 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 a lease's development or a producing property's operation, or who is in charge of a facility's operation or management.

(6) "Overproduction" means the amount of oil or gas produced during a proration period in excess of the amount authorized on the proration schedule.

(7) "Owner" means the person who has the right to drill into and to produce from 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 those waters produced in conjunction with the production of oil or gas and commonly collected at field storage, processing or disposal facilities including lease tanks, commingled tank batteries, burn pits, lease ACT units and community or lease salt water disposal systems and that may be collected at gas processing plants, pipeline drips and other processing or transportation facilities.

(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 begins at 7:00 a.m. and ends 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 end 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)) 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 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 on to 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 25 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, NMSA 1978, Section 70-2-12(B)(10), 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 poses 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 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 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, NMSA 1978, Section 70-2-16;

(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 as 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 or 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, / /08]

19.15.2.8 GENERAL OPERATIONS/WASTE PROHIBITED:

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

B. Operators, contractors, drillers, carriers, gas distributors, service companies, pipe pulling and salvaging contractors, treating plant operators or other persons shall conduct their operations in or related to the drilling, equipping, operating, producing, plugging and abandonment of oil, gas, injection, disposal and storage wells or other facilities in a manner that prevents waste of oil and gas, the contamination of fresh waters and shall not wastefully utilize oil or gas or allow either to leak or escape from a natural reservoir or from wells, tanks, containers, pipe or other storage, conduit or operating equipment.

[19.15.2.8 NMAC - Rp, 19.15.1.13 NMAC, / /08]

19.15.2.9 ORDERS: The division or commission may issue orders, including division or commission special pool orders when required and the orders shall prevail against rules if in conflict with them.

[19.15.2.9 NMAC - Rp, 19.15.1.11 NMAC, / /08]

19.15.2.10 GENERAL WAIVERS AND EXCEPTIONS: [RESERVED]

19.15.2.11 EMERGENCY ORDERS AND RULES:

A. Notwithstanding other provisions of 19.15.2 NMAC through 19.15.39 NMAC, in the event the division or commission finds an emergency exists that requires an order's issuance of without a hearing, the emergency rule or order shall have the same validity as if the division or commission held a hearing before the

division or commission after due notice. The emergency rule or order shall remain in force no longer than 15 days from its effective date.

B. Notwithstanding other provisions of 19.15.2 NMAC through 19.15.39 NMAC, if the division or commission finds an emergency exists, the division or commission may conduct a hearing on an application within less than 30 days after party files an application and the director may set the notice period at the director's discretion.
[19.15.2.11 NMAC - Rp, 19.15.14.1225 NMAC, / /08]

19.15.2.12 NUMBERING OF DIVISION ORDERS:

A. Division orders entered after January 1, 1950, pertaining to the allocation of production of oil and gas shall be prefixed with the letter "A" or "AG" in the case of gas pools and shall be numbered consecutively, commencing with the number one, *i.e.*, the first allocation order issued after January 1, 1950, is No. A-1, the next A-1, etc. or AG-1 and AG-2.

B. Other division orders entered after January 1, 1950, shall be prefixed with the letter "R" shall be numbered consecutively, commencing with the number 1, *i.e.*, the first such order issued after January 1, 1950, is No. R-1, the next R-2, etc.
[19.15.2.12 NMAC - Rp, 19.15.15.1304 NMAC, / /08]

19.15.2.13 COMPUTATION OF TIME: In computing a period of time 19.15.2 NMAC through 19.15.39 NMAC prescribes, the day from which the period of time begins to run shall not be included. The last calendar day of the time period shall be included in the computation unless it is a Saturday, Sunday or a day on which state agencies observe a legal holiday. In such case, the period of time runs to the close of business on the next regular workday. If the period is less than 11 days, a Saturday, Sunday or legal holiday is excluded from the computation.
[19.15.2.13 NMAC - Rp, 19.15.14.1226 NMAC, / /08]

19.15.2.14 MEETINGS BY TELECONFERENCE: Pursuant to NMSA 1978, Section 10-15-1 commission members may participate in commission meetings and hearings by conference telephone or other similar communications equipment when it is otherwise difficult or impossible for members to attend the meeting or hearing in person. Each member participating by conference telephone or other similar communications equipment shall be identified when speaking. Participants shall be able to hear each other at the same time. Members of the public hearing attending the meetings or hearing shall be able to hear commission members who speak during the meeting or hearing.
[19.15.2.14 NMAC - Rp, 19.15.1.20 NMAC, / /08]

19.15.2.15 AUTHORITY TO COOPERATE WITH OTHER AGENCIES: The division may from time to time enter into arrangements with state and federal governmental agencies, industry committees and individuals with respect to special projects, services and studies relating to oil and gas conservation and the associated protection of fresh waters.
[19.15.2.15 NMAC - Rp, 19.15.1.17 NMAC, / /08]

19.15.2.16 DUTIES AND AUTHORITY OF FIELD PERSONNEL: Oil and gas inspectors, deputy oil and gas inspectors, scouts, engineers and geologists the division duly appoints have the authority and duty to enforce division rules. Oil and gas inspectors and their deputies may allow minor deviations from 19.15.2 NMAC through 19.15.39 NMAC's requirements as to field practices where, by so doing, waste is prevented or burdensome delay or expenses on the part of the operator is avoided.
[19.15.2.16 NMAC - Rp, 19.15.15.1303, / /08]

19.15.2.17 DISTRICT OFFICES:

A. To expedite administration of the division's work and its rules' enforcement, the state is divided into four districts as follows:

(1) district 1 consisting of Lea, Roosevelt and Curry counties and that portion of Chaves county lying east of the north-south line dividing ranges 29 and 30 east, NMPM with the district office in Hobbs;

(2) district 2 consisting of Eddy, Otero, Dona Ana, Luna, Hidalgo, Grant, Sierra, Lincoln and De Baca counties and that portion of Chaves county lying west of the north-south line dividing ranges 29 and 30 east, NMPM with the district office in Artesia;

(3) district 3 consisting of San Juan, Rio Arriba, McKinley and Sandoval counties with the district

office in Aztec; and

(4) district 4 consisting of the remainder of state with the district office in Santa Fe.

B. Each district office shall be under the charge of a district supervisor, an oil and gas inspector or a deputy oil and gas inspector, unless otherwise specifically required.

C. The district office of the district in which the affected land is located shall take care of matters pertaining to the division.

[19.15.2.17 NMAC - Rp, 19.15.15.1301 NMAC, / /08]

19.15.2.18 RENUMBERING OR REORGANIZATION OF RULES: When the commission approves reorganization or renumbering of division rules, either through amendment or repeal and replacement, persons with permits, orders or agreements that reference rules that have been reorganized or renumbered shall comply with the rules as reorganized or renumbered.

[19.15.2.18 NMAC - N, / /08]

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

19.15.3.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.3.1 NMAC - Rp, 19.15.14.1 NMAC, / /08]

19.15.3.2 SCOPE: 19.15.3 NMAC applies to persons or entities engaged in rulemaking proceedings before the commission.
[19.15.3.2 NMAC - Rp, 19.15.14.2 NMAC, / /08]

19.15.3.3 STATUTORY AUTHORITY: 19.15.3 NMAC is adopted pursuant to the Oil and Gas Act, NMSA 1978, Section 70-2-6, 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, which provides that the division shall prescribe by rule its hearing procedures.
[19.15.3.3 NMAC - Rp, 19.15.14.3 NMAC, / /08]

19.15.3.4 DURATION: Permanent.
[19.15.3.4 NMAC - Rp, 19.15.14.4 NMAC, / /08]

19.15.3.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.3.5 NMAC - Rp, 19.15.14.5 NMAC, / /08]

19.15.3.6 OBJECTIVE: To establish procedures for commission rulemaking proceedings.
[19.15.3.6 NMAC - Rp, 19.15.14.6 NMAC, / /08]

19.15.3.7 DEFINITIONS: [RESERVED]
[See 19.15.2.7 NMAC for definitions.]
[19.15.3.7 NMAC - N, / /08]

19.15.3.8 RULEMAKING INITIATION:

A. The commission may commence a rulemaking proceeding by issuing an order initiating rulemaking. The division, an operator or producer or other person may initiate a rulemaking proceeding by filing an application to adopt, amend or repeal a rule with the commission clerk. The application shall be in writing and applicants shall specifically identify the rule the applicant seeks for the commission to adopt, amend or repeal. The application or order initiating rulemaking shall include the following:

(1) a brief summary of the proposed rule change's intended effect;

(2) a proposed draft of the new rule or amendment;

(3) the applicant's name;

(4) the applicant's address, or the address of its attorney, including an e-mail address and fax number if available;

(5) a proposed legal notice for publication; and

(6) any other matter a commission order requires.

B. An applicant shall file six sets of the application for rulemaking with the commission clerk. The applicant shall file the application by delivering the application to the commission clerk in person, by mail or by facsimile, as long as the applicant mails or delivers six sets of the application to the commission clerk on the next business day.

C. Upon receiving an application for rule change the commission clerk shall file the application, and shall deliver a copy to all commissioners within 10 business days of the application's receipt. Unless the commission chairman or another commissioner indicates, within 10 business days following the commission clerk's delivery of the rule change application, that a hearing is not necessary or appropriate, the chairman shall schedule a hearing on the rule change application. If a commissioner indicates to the chairman, or if the chairman concludes, that a hearing is not necessary or appropriate because the application is repetitive or frivolous or for any other lawful

reason, the commission shall determine within 60 days of the application's filing whether to hear the application, and if the commission decides to hear the application, the chairman shall schedule a hearing on the rule change application.

D. 19.15.3.8 NMAC shall not apply to special pool orders, which the commission or the division may adopt, amend or rescind in adjudicatory proceedings subject to 19.15.4.9 NMAC and 19.15.4.12 NMAC's notice provisions.

[19.15.3.8 NMAC - Rp, 19.14.1201 NMAC, / /08]

19.15.3.9 RULEMAKING NOTICE:

A. The division shall publish notice of a proposed rulemaking set for the hearing in the name of the "State of New Mexico", signed by the commission chairman and bearing the commission's seal. The notice shall state the hearing's date, time and place and the date by which those commenting shall submit their written comments to the commission clerk. The notice shall be published as follows:

(1) one time in a newspaper of general circulation in the counties that the proposed rule change affects, or if the proposed rule change will have statewide effect, in a newspaper of general circulation in the state, no less than 20 days prior to the scheduled hearing date;

(2) on the applicable docket for the commission hearing at which the commission will hear the matter, which the commission clerk shall send by regular or electronic mail not less than 20 days prior to the hearing to all who have requested such notice;

(3) one time in the New Mexico register, with the publication date not less than 10 business days prior to the scheduled hearing date; and

(4) by posting on the division's website not less than 20 days prior to the scheduled hearing date.

B. In cases of emergency, the commission chairman may shorten these time limits by written order.

[19.15.3.9 NMAC - Rp, 19.15.14.1202, / /08]

19.15.3.10 COMMENTS ON RULEMAKING: A person may submit written, electronic or facsimile comments on a proposed rule change, and those comments shall be made part of the hearing record. Individuals or entities shall provide written comments on the proposed rule change to the commission clerk not later than five business days before the scheduled hearing date, unless the commission chairman or the commission extends the time for filing comments. The commission chairman or the commission may extend the time for filing written, electronic or facsimile comments by making an announcement at the hearing, or by posting notice on the division's website. A person may review written, electronic or facsimile comments on a proposed rule change at the division's Santa Fe office. The division shall post copies of written, electronic or facsimile comments that persons have filed with the commission clerk on the division's website as soon as practicable after they are filed.

[19.15.3.10 NMAC - Rp, 19.15.14.1203 NMAC, / /08]

19.15.3.11 RULEMAKING HEARING PARTICIPATION:

A. Non-technical testimony.

(1) A person may testify or make an un-sworn statement at the rulemaking hearing. A person does not need to file prior notification with the commission clerk to present non-technical testimony at the hearing.

(2) A person may also offer exhibits in connection with the testimony, so long as the exhibits are relevant to the proposed rule change and do not unduly repeat the testimony. A person offering exhibits shall file exhibits prior to the scheduled hearing date or submit them at the hearing.

(3) Members of the general public who wish to present non-technical testimony should indicate their intent on a sign-in sheet at the hearing.

B. Technical testimony.

(1) A person, including the division, who intends to present technical testimony or cross-examine witnesses at the hearing shall, no later than five business days before the scheduled hearing date, file six sets of a pre-hearing statement with the commission clerk. Corporations, partnerships, governmental agencies, political subdivisions, unincorporated associations and other collective entities shall appear only through an attorney or through a duly authorized officer or member.

(2) The pre-hearing statement shall include the person or entity's name and its attorney's name; the names of all witnesses the person or entity will call to testify at the hearing; a concise statement of each witnesses' testimony; all technical witnesses' qualifications including a description of the witnesses' education and experience; and the approximate time the person or entity will need to present its testimony. The person or entity shall attach to the pre-hearing statement any exhibits it plans to offer as evidence at the hearing. A corporation or other entity not

represented by an attorney shall identify in its pre-hearing statement the person who will conduct its presentation and shall attach a sworn and notarized statement from the corporation's or entity's governing body or chief executive officer attesting that it authorizes that person to represent the corporation or entity.

(3) The commission may exclude any expert witnesses or technical exhibits not identified in or attached to the pre-hearing statement unless the testimony or exhibit is offered solely for rebuttal or the person or entity offering the testimony or exhibits demonstrates good cause for omitting the witness or exhibit from its pre-hearing statement.

(4) The division shall post copies of pre-hearing statements filed with the commission clerk on the division's website as soon as practicable after they are filed. A person may review pre-hearing statements filed with the commission clerk at the division's Santa Fe office.

C. Modifications to proposed rule changes.

(1) A person, other than the applicant or a commissioner, recommending modifications to a proposed rule change shall, no later than 10 business days prior to the scheduled hearing date, file a notice of recommended modifications with the commission clerk.

(2) The notice shall include:

(a) the text of the recommended modifications to the proposed rule change;

(b) an explanation of the recommended modification's impact; and

(c) reasons for adopting the modification.

[19.15.3.11 NMAC - Rp, 19.15.14.1204 NMAC, / /08]

19.15.3.12 RULEMAKING HEARINGS:

A. Conduct of hearings.

(1) The rules of civil procedure and the rules of evidence shall not apply.

(2) The commission shall conduct the hearing so as to provide a reasonable opportunity for all persons to be heard without making the hearing unreasonably lengthy or cumbersome and without unnecessary repetition. The hearing shall proceed as follows:

(a) the hearing shall begin with a statement from the commission chairman identifying the hearing's nature and subject matter and explaining the procedures to be followed;

(b) the commission may allow persons to make a brief opening statement;

(c) unless otherwise ordered, the applicant, or in the case of commission initiated rulemaking, commission or division staff, shall present its case first;

(d) the commission chairman shall establish an order for other participants' testimony based upon notices of intent to present technical testimony, sign-in sheets, the availability of witnesses who cannot be present for the entire hearing and any other appropriate factor;

(e) the commission may allow persons to make a brief closing statement;

(f) if the hearing continues for more than one day, the commission shall provide an opportunity each day for public comment;

(g) at the close of the hearing, the commission shall determine whether to keep the record open for written submittals including arguments and proposed statements of reasons supporting the proposed commission decision. In considering whether the record will remain open, the commission shall consider the reasons why the material was not presented during the hearing, the significance of material to be submitted and the necessity for a prompt decision; if the commission keeps the record open, the commission chairman shall announce at the hearing's conclusion the subjects on which the commission will allow submittals and the deadline for filing the submittals; and

(h) if the hearing is not completed on the day that it commences, the commission may, by announcement, continue the hearing as necessary without further notice.

B. Testimony and cross-examination.

(1) The commission shall take all testimony under oath or affirmation, which may be accomplished en masse or individually. However, a person may make an un-sworn position statement.

(2) The commission shall admit relevant evidence, unless the commission determines that the evidence is incompetent or unduly repetitious.

(3) A person who testifies at the hearing is subject to cross-examination by a person who has filed a pre-hearing statement on the subject matter of the person's direct testimony. A person who presents technical testimony may also be cross-examined on matters related to the person's background and qualifications. The commission may limit cross-examination to avoid harassment, intimidation, needless expenditure of time or undue repetition.

C. Exhibits.

(1) A person offering an exhibit shall provide six sets of the exhibit for the commission, copies for each of those individuals or entities that have filed an intent to present technical testimony or cross-examine witnesses at the hearing and five additional copies for others who may attend the hearing.

(2) Exhibits offered at the hearing shall be marked with a designation identifying the person offering the exhibit and shall be numbered sequentially.

D. Transcript of proceeding.

(1) The commission shall make a verbatim record of the hearing.

(2) A person may obtain a copy of the hearing transcript. The person requesting the copy shall pay for the cost of the copy of the hearing transcript.

E. Deliberation and decision.

(1) If a quorum of the commission attended the hearing, and if the hearing agenda indicates that a decision might be made at the hearing's conclusion, the commission may immediately deliberate and make a decision in open session on the proposed rule change based on a motion that includes reasons for the decision.

(2) If, during the course of deliberations, the commission determines that additional testimony or documentary evidence is necessary for a proper decision on the proposed rule change, the commission may reopen the hearing for additional evidence after notice pursuant to 19.15.3.9 NMAC.

(3) The commission shall issue a written order adopting or refusing to adopt the proposed rule change, or adopting the proposed rule change in part, and shall include in the order the reasons for the action taken.

(4) Upon the commission's issuance of the order, the commission clerk shall post the order on the division's website and mail or e-mail a copy of the order to each person who presented non-technical testimony at the hearing or who filed a pre-hearing statement, or the person's attorney.

F. Filing. The division shall file with the state records center and archives and publish any rule the commission adopts, amends or repeals consistent with the State Rules Act.

[19.15.3.12 NMAC - Rp, 19.15.14.1205 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 4 ADJUDICATION

19.15.4.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.4.1 NMAC - Rp, 19.15.14.1 NMAC, / /08]

19.15.4.2 SCOPE: 19.15.4 NMAC applies to persons engaged in adjudicatory proceedings before the division or the commission.
[19.15.4.2 NMAC -Rp, 19.15.14.2 NMAC, / /08]

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, 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, which provides that the division shall prescribe by rule its hearing procedures.
[19.15.4.3 NMAC - Rp, 19.15.14.3 NMAC, / /08]

19.15.4.4 DURATION: Permanent.
[19.15.4.4 NMAC - Rp, 19.15.14.4 NMAC, / 08]

19.15.4.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.4.5 NMAC - Rp, 19.15.14.5 NMAC, / /08]

19.15.4.6 OBJECTIVE: To establish procedures for adjudicatory hearings before the division or commission.
[19.15.4.6 NMAC - Rp, 19.15.14.6 NMAC, / /08]

19.15.4.7 DEFINITIONS: [RESERVED]
[See 19.15.2.7 NMAC for definitions.]
[19.15.4.7 NMAC - N, / /08]

19.15.4.8 INITIATING AN ADJUDICATORY HEARING:

A. The division, attorney general, an operator or producer or other person with standing may file an application with the division for an adjudicatory hearing. The director, upon receiving a division examiner's recommendation, may dismiss an application for an adjudicatory proceeding upon a showing that the applicant does not have standing. The person applying for the hearing or an attorney representing that person shall sign the application requesting an adjudicatory hearing. The application shall include:

(1) the applicant's name;

(2) the applicant's address, or the address of the applicant's attorney, including an e-mail address and fax number if available;

(3) the name or general description of the common source or sources of supply or the area the order sought affects;

(4) briefly, the general nature of the order sought;

(5) a proposed legal notice for publication; and

(6) other matter division rules or a division order require.

B. Applicants for adjudicatory hearings shall file written applications with the division clerk at least 30 days before the application's scheduled hearing date.
[19.15.4.8 NMAC - Rp, 19.15.14.1206 NMAC, / /08]

19.15.4.9 ADJUDICATORY HEARING NOTICE:

A. The division shall publish notice of an adjudicatory hearing in the name of the "State of New Mexico", signed by the director and bearing the commission's seal, stating:

(1) the adjudicatory hearing's time and place;

(2) whether the case is set for hearing before the commission or a division examiner;

(3) the applicant's name and address, or address of the applicant's attorney, including an e-mail address and fax number if available;

(4) a case name and number;

(5) a brief description of the hearing's purpose;

(6) a reasonable identification of the adjudication's subject matter that alerts persons who may be affected if the division grants the application;

(7) if the application seeks to adopt, revoke or amend special pool orders; establish or alter a non-standard unit; permit an unorthodox location or establish or affect a well's or proration unit's allowable, the notice shall specify each pool or common source of supply that the division or commission's granting the application may affect; and

(8) if the application seeks compulsory pooling or statutory unitization, the notice shall contain a legal description of the spacing unit or geographical area the applicant seeks to pool or unitize.

B. The division shall publish notice of each adjudicatory hearing before the commission or a division examiner at least 20 days before the hearing by:

(1) posting notice on the division's website;

(2) delivering notice by ordinary first class United States mail or electronic mail to each person who has requested in writing to be notified of such hearings; and

(3) if before the commission, publishing notice in a newspaper of general circulation in the counties the application affects, or if the application's effect will be statewide, in a newspaper of general circulation in the state.

[19.15.4.9 NMAC - Rp, 19.15.14.1207 NMAC, / /08]

19.15.4.10 PARTIES TO ADJUDICATORY PROCEEDINGS:

A. The parties to an adjudicatory proceeding shall include:

(1) the applicant;

(2) a person to whom statute, rule or order requires notice (not including those persons to whom 19.15.4.9 NMAC requires distribution of hearing notices, who are not otherwise entitled to notice of the particular application), who has entered an appearance in the case; and

(3) a person who properly intervenes in the case.

B. A person entitled to notice may enter an appearance at any time by filing a written notice of appearance with the division or the commission clerk, as applicable, or, subject to the provisions in Subsection C of 19.15.4.10 NMAC, by oral appearance on the record at the hearing.

C. A party who has not entered an appearance at least one business day prior to the pre-hearing statement filing date provided in Paragraph (1) of Subsection B of 19.15.4.13 NMAC shall not be allowed to present technical evidence at the hearing unless the commission chairman or the division examiner, for good cause, otherwise directs.

D. A party shall be entitled to a continuance of any hearing if it did not receive notice of the hearing at least three business days prior to the date for filing a timely appearance as 19.15.4 NMAC provides.

[19.15.4.10 NMAC - Rp, 19.15.14.1208 NMAC, / /08]

19.15.4.11 ADJUDICATORY PROCEEDING INTERVENTION:

A. A person with standing with respect to the case's subject matter may intervene by filing a written notice of intervention with the division or commission clerk, as applicable, at least one business day before the date for filing a pre-hearing statement. Notice of intervention shall include:

(1) the intervenor's name;

(2) the intervenor's address, or the address of the intervenor's attorney, including an e-mail address and fax number if available;

(3) the nature of intervenor's interest in the application; and

(4) the extent to which the intervenor opposes issuance of the order applicant seeks.

B. The division examiner or commission chairman may, at their discretion, allow late intervenors to participate if the intervenor files a written notice on or after the date provided in Subsection A of 19.15.4.8 NMAC, or by oral appearance on the record at the hearing.

C. The division examiner or the commission chairman may strike a notice of intervention on a party's motion if the intervenor fails to show that the intervenor has standing, unless the intervenor shows that intervenor's participation will contribute substantially to the prevention of waste, protection of correlative rights or protection of

public health or the environment.
[19.15.4.11 NMAC - Rp, 19.15.14.1209 NMAC; //08]

19.15.4.12 NOTICE REQUIREMENTS FOR SPECIFIC ADJUDICATIONS:

A. Applicants for the following adjudicatory hearings before the division or commission shall give notice, in addition to that 19.15.4.9 NMAC requires, as follows.

(1) Compulsory pooling and statutory unitization.

(a) The applicant shall give notice to an owner of an interest in the mineral estate of any portion of the lands the applicant proposes to be pooled or unitized whose interest is evidenced by a written conveyance document either of record or known to the applicant at the time the applicant filed the application and whose interest has not been voluntarily committed to the area proposed to be pooled or unitized (other than a royalty interest subject to a pooling or unitization clause).

(b) When the applicant has given notice as required in Subparagraph (a) of Paragraph (1) of Subjection 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) If the proposed location is unorthodox by being located closer to the spacing unit's outer boundary than 19.15.15 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.

(d) If the proposed location is unorthodox by being located in a different quarter-quarter section or quarter section than special pool orders provide, the applicant shall notify affected persons.

(3) Non-standard proration unit. The applicant shall notify owners of interest in the mineral estate to be excluded from the proration unit in the quarter-quarter section for 40-acre pools or formations, the one-half quarter section for 80-acre pools or formations, the quarter section for 160-acre pools 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.

(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 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, / /08]

19.15.4.13 PLEADINGS, COPIES, PRE-HEARING STATEMENTS, EXHIBITS AND MOTIONS FOR CONTINUANCE:

A. Pleadings. Applicants shall file two sets of pleadings and correspondence in cases pending before a division examiner with the division clerk and six sets of pleadings and correspondence in cases pending before the commission with the commission clerk. For cases pending before the commission, the commission clerk shall disseminate copies of pleadings and correspondence to the commission members. The party filing the pleading or correspondence shall at the same time serve a copy of the pleading or correspondence upon each party who has

entered an appearance in the case on or prior to the business day immediately preceding the date when the party files the pleading or correspondence with the division or the commission clerk, as applicable. Parties shall accomplish service by hand delivery or transmission by facsimile or electronic mail to a party who has entered an appearance or, if the party is represented, the party's attorney of record. Service upon a party who has not filed a pleading containing a facsimile number or e-mail address may be made by ordinary first class mail. Parties shall be deemed to have made an appearance when they have either sent a letter regarding the case to the division or commission clerk or made an in person appearance at a hearing before the commission or before a division examiner. A written appearance, however, shall not be complete until the appearing party has provided notice to other parties of record. An initial pleading or written entry of appearance a party other than the applicant files shall include the party's address or the address of the party's attorney and an e-mail and facsimile number if available.

B. Pre-hearing statements.

(1) A party to an adjudicatory proceeding who intends to present evidence at the hearing shall file a pre-hearing statement, and serve copies on other parties or, for parties that are represented, their attorneys in the manner Subsection A of 19.15.4.13 NMAC provides, at least four business days in advance of a scheduled hearing before the division or the commission, but in no event later than 5:00 p.m. mountain time, on the Thursday preceding the scheduled hearing date. The statement shall include:

(a) the names of the party and the party's attorney;

(b) a concise statement of the case;

(c) the names of witnesses the party will call to testify at the hearing, and in the case of expert witnesses, their fields of expertise;

(d) the approximate time the party will need to present its case; and

(e) identification of any procedural matters that are to be resolved prior to the hearing.

(2) A party other than the applicant shall include in its pre-hearing statement a statement of the extent to which the party supports or opposes the issuance of the order the applicant seeks and the reasons for such support or opposition. In cases to be heard by the commission, each party shall include copies of exhibits that it proposes to offer in evidence at the hearing with the pre-hearing statement. The commission may exclude witnesses the party did not identify in the pre-hearing statement, or exhibits the party did not file and serve with the pre-hearing statement, unless the party offers such evidence solely for rebuttal or makes a satisfactory showing of good cause for failure to disclose the witness or exhibit.

(3) A pre-hearing statement filed by a corporation or other entity not represented by an attorney shall identify the person who will conduct the party's presentation at the hearing and include a sworn and notarized statement attesting that the corporation's or entity's governing body or chief executive officer authorizes the person to present the corporation or entity in the matter.

(4) For cases pending before the commission, the commission clerk shall disseminate copies of pre-hearing statements and exhibits to the commission members.

C. Motions for continuance. Parties shall file and serve motions for continuance no later than 48 hours prior to time the hearing is set to begin, unless the reasons for requesting a continuance arise after the deadline, in which case the party shall file the motion as expeditiously as possible after becoming aware of the need for a continuance.

[19.15.4.13 NMAC - Rp, 19.15.14.1211 NMAC, //08]

19.15.4.14 CONDUCT OF ADJUDICATORY HEARINGS:

A. Testimony. Hearings before the commission or a division examiner shall be conducted without rigid formality. The division or commission shall take or have someone take a transcript of testimony and preserve the transcript as a part of the division's permanent records. A person testifying shall do so under oath. The division examiner or commission shall designate whether or not an interested party's un-sworn comments and observations are relevant and, if relevant, include the comments and observations in the record.

B. Pre-filed testimony. The director may order the parties to file prepared written testimony in advance of the hearing for cases pending before the commission. The witness shall be present at the hearing and shall adopt, under oath, the prepared written testimony, subject to cross-examination and motions to strike unless the witness' presence at hearing is waived upon notice to other parties and without their objection. The parties shall number pages of the prepared written testimony, which shall contain line numbers on the left-hand side.

C. Appearances pro se or through an attorney. Parties may appear and participate in hearings either pro se (on their own behalf) or through an attorney. Corporations, partnerships, governmental entities, political subdivisions, unincorporated associations and other collective entities may appear only through an attorney or through a duly authorized officer or member. Participation in adjudicatory hearings shall be limited to parties, as

defined in 19.15.4.10 NMAC, except that a representative of a federal, state or tribal governmental agency or political subdivision may make a statement on the agency's or political subdivision's behalf. The commission or division examiner shall have the discretion to allow other persons present at the hearing to make a relevant statement, but not to present evidence or cross-examine witnesses. A person making a statement at an adjudicatory hearing shall be subject to cross-examination by the parties or their attorneys.
[19.15.4.14 NMAC - Rp, 19.15.14.1212 NMAC, / /08]

19.15.4.15 CONTINUANCE OF AN ADJUDICATORY HEARING: A division examiner or the commission chair may continue an adjudicatory hearing before a division examiner or the commission held after due notice to a specified time and place without the necessity of notice of the same being served or published.
[19.15.4.15 NMAC - Rp, 19.15.14.1213 NMAC, / /08]

19.15.4.16 POWER TO REQUIRE ATTENDANCE OF WITNESSES AND PRODUCTION OF EVIDENCE; PRE-HEARING PROCEDURE FOR ADJUDICATORY HEARINGS:

A. Subpoenas. The commission or its members and the director or the director's authorized representative have statutory power to subpoena witnesses and to require the production of books, papers, records, other tangible things or electronic data in a proceeding before the commission or division. The director or the director's authorized representative shall issue a subpoena for attendance at a hearing upon a party's written request. The director or the director's authorized representative shall, upon a party's request, issue a subpoena for production of books, papers, records, other tangible things or electronic data in advance of the hearing. The director or the division examiner assigned to hear the case may consider pre-hearing motions, such as motions for protection or quashing of subpoenas, prior to the hearing pursuant to Subsection C of 19.15.4.16 NMAC or to reserve such matters for consideration at a hearing on the merits. The commission and director or the director's authorized representative shall issue subpoenas for witness depositions in advance of the hearing only in extraordinary circumstances for good cause shown.

B. Pre-hearing conferences. The division examiner or the director may hold a pre-hearing conference prior to the hearing on the merits in cases pending before the division or the commission, respectively, either upon a party's request or upon the director or a division examiner giving notice. The pre-hearing conference's purpose shall be to narrow issues, eliminate or resolve other preliminary matters and encourage settlement. The director or examiner may issue a pre-hearing order following the pre-hearing conference. The director or division examiner shall either provide or ensure that written or oral notice of a pre-hearing conference is given to the applicant and to other parties who, at the time such conference is scheduled, have filed appearances in the case.

C. Hearings on motions. The director or a division examiner may rule on motions that are necessary or appropriate for disposition prior to a hearing on the merits. If the case is pending before the commission, the director shall rule on a motion; provided that the director may refer a motion for hearing by a division examiner specifically designated for the purpose, who, if the case is a de novo application, shall not have participated in the case prior to the filing of the application for de novo hearing. Prior to ruling on a motion, the director or division examiner shall give written or oral notice to each party who has filed an appearance in the case and who may have an interest in the motion's disposition (except a party who has indicated that it does not oppose the motion), and shall allow interested parties an opportunity, reasonable under the circumstances, to respond to the motion. The director or division examiner may conduct a hearing on a motion, following written or oral notice to interested parties, either at a pre-hearing conference or otherwise. If the commission or division receives oral testimony at a hearing, the commission or division examiner shall ensure that a record is made of the testimony as at other hearings.
[19.15.4.16 NMAC - Rp, 19.15.14.1214 NMAC, / /08]

19.15.4.17 RULES OF EVIDENCE AND EXHIBITS FOR ADJUDICATORY HEARINGS:

A. Presentation of evidence. Subject to other provisions of 19.15.4.16 NMAC, the commission or division examiner shall afford full opportunity to the parties at an adjudicatory hearing before the commission or division examiner to present evidence and to cross-examine witnesses. The rules of evidence applicable in a trial before a court without a jury shall not control, but division examiners and the commission may use such rules as guidance in conducting adjudicatory hearings. The commission or division examiner may admit relevant evidence, unless it is immaterial, repetitious or otherwise unreliable. The commission or division examiner may take administrative notice of the authenticity of documents copied from the division's files.

B. Parties introducing exhibits at hearings before the commission or a division examiner shall provide a complete set of exhibits for the court reporter, each commissioner or division examiner and other parties

of record.

C. A party requesting incorporation of records from a previous hearing at a commission hearing shall include copies of the record for each commissioner.

[19.15.4.17 NMAC - Rp, 19.15.14.1215 NMAC, / /08]

19.15.4.18 DIVISION EXAMINER'S QUALIFICATIONS, APPOINTMENT AND REFERRAL OF CASES: The director shall appoint as division examiners division staff who are licensed attorneys, or who have experience in hydrogeology, hydrology, geology, petroleum engineering, environmental engineering or a related field and a college degree in geology, engineering, hydrology or related field. Nothing in 19.15.4.18 NMAC shall prevent a commission member from serving as a division examiner. The director may refer a matter or proceeding to a division examiner for hearing in accordance with 19.15.4 NMAC.

[19.15.4.18 NMAC - Rp, 19.15.14.1216 NMAC, / /08]

19.15.4.19 DIVISION EXAMINER'S POWER AND AUTHORITY: The division examiner to whom the director refers a matter under 19.15.4 NMAC shall have full authority to hold hearings on such matter in accordance with 19.15.4 NMAC, subject only to such limitations as the director may order in a particular case. The division examiner shall have the power to perform all acts and take all measures necessary and proper for the hearing's efficient and orderly conduct, including administering oaths to witnesses, receiving testimony and exhibits offered in evidence and ruling upon such objections as may be interposed. The division examiner shall cause a complete record of the proceedings to be made and transcribed and shall certify the record of the proceedings to the director as provided in 19.15.4.21 NMAC.

[19.15.4.19 NMAC - Rp, 19.15.14.1217 NMAC, / /08]

19.15.4.20 ADJUDICATORY HEARINGS THAT SHALL BE HELD BEFORE THE COMMISSION: Notwithstanding other provisions of 19.15.4 NMAC, the hearing on a matter shall be held before the commission if:

A. it is a hearing pursuant to NMSA 1978, Section 70-2-13; or

B. the director directs the commission to hear the matter.

[19.15.4.20 NMAC - Rp, 19.15.14.1218 NMAC, / /08]

19.15.4.21 REPORT AND RECOMMENDATIONS FROM DIVISION EXAMINER'S HEARING: Upon conclusion of a hearing before a division examiner, the division examiner shall promptly consider the proceedings in such hearing, and based upon the hearing's record prepare a written report with recommendations for the division's disposition of the matter or proceeding. The division examiner shall draft a proposed order and submit it to the director with the certified record of the hearing.

[19.15.14.1219 NMAC - Rp, 19.15.14.1219 NMAC, / /08]

19.15.4.22 DISPOSITION OF CASES HEARD BY DIVISION EXAMINER: After receipt of the division examiner's report, the director shall enter the division's order, which the director may have modified from the division examiner's proposed order, disposing of the matter.

[19.15.4.22 NMAC - Rp, 19.15.14.1220 NMAC, / /08]

19.15.4.23 HEARING BEFORE COMMISSION AND STAYS OF DIVISION ORDERS:

A. De novo applications. When the division enters an order pursuant to a hearing that a division examiner held, a party of record whom the order adversely affects has the right to have the matter heard de novo before the commission, provided that within 30 days from the date the division issues the order the party files a written application for de novo hearing with the commission clerk. If a party files an application for a de novo hearing, the commission chairman shall set the matter or proceeding for hearing before the commission.

B. Stays of division or commission orders. A party requesting a stay of a division or commission order shall file a motion with the commission clerk and serve copies of the motion upon the other parties who appeared in the case, as Subsection A of 19.15.4.10 NMAC provides. The party shall attach a proposed stay order to the motion. The director may grant a stay pursuant to a motion for stay or upon the director's own initiative, after according parties who have appeared in the case notice and an opportunity to respond, if the stay is necessary to prevent waste, protect correlative rights, protect public health or the environment or prevent gross negative consequences to an affected party. A director's order staying a commission order shall be effective only until the commission acts on the motion for stay.

[19.15.4.23 NMAC - Rp, 19.15.14.1221 NMAC, / /08]

19.15.4.24 COPIES OF COMMISSION AND DIVISION ORDERS: Within 10 business days after the division or commission issues an order in an adjudicatory case, including an order granting or refusing rehearing or order following rehearing, the division or commission clerk shall mail a copy of such order to each party or its attorney of record. For purposes of 19.15.4.24 NMAC only, the parties to a case are the applicant and each person who has entered an appearance in the case, in person or by attorney, either by filing a protest, pleading or notice of appearance with the division or commission clerk or by entering an appearance on the record at a hearing.
[19.15.4.24 NMAC - Rp, 19.15.14.1222 NMAC, / /08]

19.15.14.25 REHEARINGS: Within 20 days after entry of a commission order a party of record whom the order adversely affects may file with the commission clerk an application for rehearing on a matter the order determined, setting forth the respect in which the party believes the order is erroneous. The commission shall grant or refuse the application in whole or in part within 10 business days after the party files it, and the commission's failure to act on the application within such period shall be deemed a refusal and a final disposition of such application. In the event the commission grants the rehearing, the commission may enter a new order after rehearing as the circumstances may require.
[19.15.14.25 NMAC - Rp, 19.15.14.1223 NMAC, / /08]

19.15.4.26 EX PARTE COMMUNICATIONS:

A. In an adjudicatory proceeding, except for filed pleadings, at no time after a party files an application for hearing shall a party, interested participant or participant's representative advocate a position with respect to the issues the application involves to a commissioner or the division examiner appointed to hear the case unless the other parties of record to the proceedings have an opportunity to be present.

B. The prohibition in Subsection A of 19.15.4.26 NMAC, above, does not apply to those applications that the applicant believes are unopposed. However, in the event that a party files an objection in a case previously believed to be unopposed, the prohibition in Subsection A of 19.15.4.26 NMAC, above, is immediately applicable.

C. This provision does not prohibit communications between the division's attorney or other division staff and the director that are essential to a case's management.
[19.15.4.26 NMAC - Rp, 19.15.14.1224 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 5 ENFORCEMENT AND COMPLIANCE

19.15.5.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.5.1 NMAC - N, / /08]

19.15.5.2 SCOPE: 19.15.5 NMAC applies to persons engaged in oil and gas development and production within New Mexico.
[19.15.5.2 NMAC - N, / /08]

19.15.5.3 STATUTORY AUTHORITY: 19.15.5 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.
[19.15.5.3 NMAC - N, / /08]

19.15.5.4 DURATION: Permanent.
[19.15.5.4 NMAC - N, / /08]

19.15.5.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.5.5 NMAC - N, / /08]

19.15.5.6 OBJECTIVE: To establish a process to ensure compliance with the Oil and Gas Act, division rules and division and commission orders.
[19.15.5.6 NMAC - N, / /08]

19.15.5.7 DEFINITIONS: [RESERVED]
[See 19.15.2.7 NMAC for definitions.]
[19.15.5.7 NMAC - N, / /08]

19.15.5.8 ENFORCEMENT OF STATUTES AND RULES: The division is charged with the duty and obligation of enforcing the state's rules and statutes relating to the conservation of oil and gas including the protection of public health and the environment. An owner or operator shall obtain information pertaining to the regulation of oil and gas before beginning operations.
[19.15.5.8 NMAC - Rp, 19.15.1.12 NMAC, / /08]

19.15.5.9 COMPLIANCE:

A. An operator is in compliance with Subsection A of 19.15.5.9 NMAC if the operator:

(1) currently meets the financial assurance requirements of 19.15.8 NMAC;

(2) is not subject to a division or commission order, issued after notice and hearing, finding the operator to be in violation of an order requiring corrective action;

(3) does not have a penalty assessment that is unpaid more than 70 days after issuance of the order assessing the penalty; and

(4) has no more than the following number of wells out of compliance with 19.15.25.8 NMAC that are not subject to an agreed compliance order setting a schedule for bringing the wells into compliance with 19.15.25.8 NMAC and imposing sanctions if the schedule is not met:

(a) two wells or 50 percent of the wells the operator operates, whichever is less, if the operator operates 100 wells or less;

(b) five wells if the operator operates between 101 and 500 wells;

(c) seven wells if the operator operates between 501 and 1000 wells; and

(d) 10 wells if the operator operates more than 1000 wells.

B. The division shall notify an operator on a monthly basis when, according to records on file with the division, a well on the inactive well list described in Subsection F of 19.15.5.9 NMAC shows no production or injection for the past 12 months by sending a letter by first class mail to the address the operator has provided the division pursuant to Subsection C of 19.15.9.8 NMAC.

C. The division shall make available on its website and update weekly the status of operators'

financial assurance 19.15.8 NMAC requires, according to division records.

D. Orders requiring corrective action.

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

(2) An operator who contests an order finding it to be in violation of an order requiring corrective action may appeal and may seek a stay of the order. An order that is stayed pending appeal does not affect an operator's compliance with Subsection A of 19.15.5.9 NMAC.

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

E. Penalty assessments.

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

(2) An operator who contests an order assessing penalties may appeal and may seek a stay of the order. An order that is stayed pending appeal does not affect an operator's compliance with Subsection A of 19.15.5.9 NMAC.

F. Inactive wells.

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

(a) does not have its well bore plugged in accordance with 19.15.25.9 NMAC through 19.15.25.11 NMAC;

(b) is not in approved temporary abandonment in accordance with 19.15.25.12 NMAC through 19.15.14 NMAC; and

(c) is not subject to an agreed compliance order setting a schedule for bringing the well into compliance with 19.15.25.8 NMAC and imposing sanctions if the operator does not meet the schedule.

(2) For purposes of 19.15.5.9 NMAC, the listing of a well on the division's inactive well list as a well inactive for more than one year plus 90 days creates a rebuttable presumption that the well is out of compliance with 19.15.25.8 NMAC.

[19.15.5.9 NMAC - Rp, 19.15.1.40 NMAC, / /08]

19.15.5.10 COMPLIANCE PROCEEDINGS:

A. The provisions in 19.15.4 NMAC applicable to adjudicatory proceedings shall apply to compliance proceedings unless altered or amended by 19.15.5.10 NMAC.

B. A compliance proceeding is an adjudicatory proceeding in which the division seeks an order imposing sanctions for violation of a provision of the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38 or a provision of a rule or order issued pursuant to the act. Such sanctions may include but are not limited to:

(1) requiring compliance with a provision of the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38 or a provision of a rule or order issued pursuant to the act;

(2) assessment of civil penalties pursuant to NMSA 1978, Section 70-2-31(A);

(3) corrective action including but not limited to abatement or remediation of contamination and removal of surface equipment;

(4) plugging and abandonment of a well and restoration and remediation of the well location, and authority for the division to forfeit the applicable financial assurance if the well is not plugged and abandoned and the location restored and remediated;

(5) denial, cancellation or suspension of a permit;

(6) denial, cancellation or suspension of authorization to transport; or

(7) shutting in a well or wells.

C. The division initiates an administrative compliance proceeding by filing a written application with the division clerk:

(1) identifying the operator and any other responsible parties against whom the order is sought; including the surety if the division seeks an order allowing forfeiture of a surety bond;

(2) identifying the provision of the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, or the provision of the rule or order issued pursuant to the act, allegedly violated;

(3) providing a general description of the facts supporting the allegations;

(4) stating the sanction or sanctions sought; and

(5) providing proposed legal notice.

D. The division shall provide notice of compliance proceedings as follows:

(1) the division shall publish notice in accordance with 19.15.4.9 NMAC.

(2) the division shall provide notice to the operator and any other responsible parties against whom the compliance order is sought by following the provisions of 19.15.4.12 NMAC.

E. The director may enter into an agreed compliance order with an entity against whom compliance is sought to resolve alleged violations of any provision of the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38 or any provision of any rule or order issued pursuant to the act. The director may enter into an agreed compliance order prior to or after the filing of an application for an administrative compliance proceeding. An agreed compliance order shall have the same force and effect as a compliance order issued after an adjudicatory hearing.

F. Nothing in 19.15.5.10 NMAC precludes the division from bringing other actions provided for in the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, including but not limited to the following: suit for indemnification pursuant to NMSA 1978, Section 70-2-14(E) or NMSA 1978, Section 70-2-38(B); an action through the attorney general with respect to the forfeiture of illegal oil or illegal gas pursuant to NMSA 1978, Section 70-2-32; an injunction under NMSA 1978, Section 70-2-28; or collection of penalties pursuant to NMSA 1978, Section 70-2-31(A).

[19.15.5.10 NMAC - Rp, 19.15.14.1227 NMAC, / /08]

19.15.5.11 ENFORCEABILITY OF PERMITS AND ADMINISTRATIVE ORDERS: A person who conducts an activity pursuant to a permit, administrative order or other written authorization or approval from the division shall comply with every term, condition and provision of the permit, administrative order, authorization or approval.

[19.15.5.11 NMAC - Rp, 19.15.1.41 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 6 TAX INCENTIVES

19.15.6.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.6.1 NMAC - N, / /08]

19.15.6.2 SCOPE: 19.15.6 NMAC applies to persons or entities engaged in oil and gas development and production within New Mexico.
[19.15.6.2 NMAC - N, / /08]

19.15.6.3 STATUTORY AUTHORITY: 19.15.6 NMAC is adopted pursuant to NMSA 1978, Section 7-29A-1 *et seq.* and Section 7-29B-1 *et seq.*
[19.15.6.3 NMAC - N, / /08]

19.15.6.4 DURATION: Permanent.
[19.15.6.4 NMAC - N, / /08]

19.15.6.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.6.5 NMAC - N, / /08]

19.15.6.6 OBJECTIVE: To establish procedures for the certification of eligibility for the enhanced oil recovery project tax incentive, the production restoration project tax incentive, the well workover project tax incentive, the stripper well tax incentive and the new well tax incentive.
[19.15.6.6 NMAC - N, / /08]

19.15.6.7 DEFINITIONS:

A. "Average daily production" means the number derived by dividing the total volume of oil or gas production from the stripper well property reported to the division during a calendar year by the sum of the number of days each eligible well within the property produced or injected during that calendar year.

B. "Eligible well" means an oil or gas well that produces or an injection well that injects and is integral to production, for any period of time during the preceding calendar year.

C. "Expansion or expanded use" means a significant change or modification as the division determines in

(1) the technology or process used for the displacement of oil from an oil well or division-designated pool; or

(2) the expansion, extension or increase in size of the geologic area or adjacent geologic area that could reasonably be determined to represent a new or unique area of activity.

D. "New well" means a oil or gas producing well for which drilling commenced after January 1, 1999 and before July 1, 2000, or a horizontal oil or gas well that was re-completed from a vertical well by drilling operations that commenced after January 1, 1999 and before July 1, 2000, that the division approves and certifies.

E. "Operator",

(1) for purposes of 19.15.6.8 NMAC, means the person responsible for an EOR project's actual physical operation; and

(2) for purposes of 19.15.6.9 NMAC, means the person responsible for an oil or gas well's actual physical operation.

F. "Positive production response" means that the rate of oil production from the wells or pools an EOR project affects is greater than the rate that would have occurred without the project.

G. "Project area" means a pool or a portion of a pool that EOR operations directly affect.

H. "Primary recovery" means the displacement of oil from an oil well or division-designated pool into the well bore by means of the natural pressure of the oil well or pool, including artificial lift.

I. "Production restoration incentive tax exemption" means the severance tax exemption for natural gas or oil produced from an approved production restoration project found in NMSA 1978, Section 7-29-4.

J. "Production restoration project" means returning to production a gas or oil well, including an injection well that has previously produced, which had no more than 30 days of production in a period of 24

consecutive months beginning on or after January 1, 1993 the division has approved and certified;

K. "Recovered oil tax rate" means the tax rate set forth in NMSA 1978, Section 7-29-4, on oil produced from an EOR project.

L. "Routine maintenance" means repair or like-for-like replacement of downhole equipment or other procedure an operator performs to maintain the well's current production;

M. "Secondary recovery project" means an EOR project that:

(1) occurs subsequent to the completion of primary recovery and is not a tertiary recovery project;

(2) involves the application, in accordance with sound engineering principles of carbon dioxide miscible fluid displacement, pressure maintenance, waterflooding or other division accepted and approved secondary recovery method that can reasonably be expected to result in an increase, determined in light of the facts and circumstances, in the amount of oil that may ultimately be recovered; and

(3) encompasses a pool or portion of a pool the boundaries of which can be adequately defined and controlled.

N. "Stripper well property" means an oil or gas producing property that the taxation and revenue department assigns a single production unit number (PUN) and:

(1) if an oil producing property, produced a daily average of less than 10 barrels of oil per eligible well per day for the preceding calendar year;

(2) if a gas producing property, produced a daily average of less than 60,000 cubic feet of gas per eligible well per day during the preceding calendar year; or

(3) if a property with wells that produce both oil and gas, produced a daily average of less than 10 barrels of oil per eligible well per day for the preceding calendar year, as determined by converting the volume of gas the well produced to barrels of oil by using a ratio of 6000 cubic feet to one barrel of oil.

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

P. "Termination" means the operator's discontinuance of an EOR project.

Q. "Tertiary recovery project" means an EOR project that:

(1) occurs subsequent to a secondary recovery project's completion;

(2) involves the application, in accordance with sound engineering principles, of carbon dioxide miscible fluid displacement, pressure maintenance, water flooding or other division accepted and approved tertiary recovery method that can reasonably be expected to result in an increase, determined in light of the facts and circumstances, in the amount of oil that may ultimately be recovered; and

(3) encompasses a pool or portion of a pool the boundaries of which can be adequately defined and controlled.

R. "Well" means a well bore with single or multiple completions, including all horizons and producing formations from the surface to total depth.

S. "Well workover incentive tax rate" means the tax rate NMSA 1978, Section 7-29-4 imposes on gas or oil produced from a well workover project;

T. "Well workover project" means a procedure the operator of a gas or oil well undertakes that is intended to increase production from the well and that the division has approved and certified;

U. "Workover" means a procedure the operator undertakes that is intended to increase production but is not routine maintenance and includes:

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

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

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

(4) fracturing, acidizing or installing compression equipment; or

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

[19.15.6.7 NMAC - Rp, 19.15.1.30 NMAC, 19.15.1.31 NMAC; 19.15.1.32 NMAC, 19.15.31.33 NMAC and 19.15.31.34 NMAC, / /08]

19.15.6.8 ENHANCED OIL RECOVERY PROJECT TAX INCENTIVE:

A. The division shall accept applications for qualification of EOR projects or expansions of EOR projects for the recovered oil tax rate pursuant to the New Mexico Enhanced Oil Recovery Act, NMSA 1978, Sections 7-29A-1 through 7-29A-5.

B. 19.15.6.8 NMAC applies to:

(1) EOR projects;

(2) expansions of existing EOR projects;

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

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

C. To be eligible for the tax rate the operator shall apply for and receive division approval. No project or expansion the division approved prior to March 6, 1992 qualifies.

D. Application.

(1) The operator shall file applications with the division's Santa Fe office. The operator shall also file one copy of the application and attachments with the appropriate division district office.

(2) The operator or its authorized representative having knowledge of the facts in the application shall execute and certify an application, which shall contain:

(a) the operator's name and address;

(b) the project area's description including:

(i) a plat outlining the project area;

(ii) a description of the project area by section, township and range; total acres; and

(iii) the name of the subject pool and formation;

(c) the status of operations in the project area:

(i) if unitized, the unit name and the date and number of the division order approving the unit plan of operation;

(ii) if an application for approval of a unit plan has been made, the date the application was filed with the division; and

(iii) if not unitized, identification of each lease in the project area by lessor, lessee and legal description;

(d) the method of recovery to be used:

(i) identification of the fluids to be injected;

(ii) if the division has approved the project, the date and number of the division order; and

(iii) if the division has not approved the project, the date the application for approval was filed with the division on form C-108;

(e) the project description:

(i) a list of producing wells;

(ii) a list of injection wells;

(iii) the capital costs of additional facilities;

(iv) the total project cost;

(v) the estimated total value of the additional production that will be recovered as a result of the project;

(vi) the anticipated date for commencement of injection;

(vii) the type of fluid to be injected and the anticipated volumes; and if the application is made for an expansion of an existing project, an explanation of what changes in technology the operator will use or what additional geographic area the operator will add to the project area; and

(f) production data including graphs, charts and other supporting data showing the production history and production forecast of oil, gas, casinghead gas and water from the project area.

E. Approval and certification.

(1) Project approval. The division shall approve an EOR project and designate the project area for the recovered oil tax rate when the operator proves that:

(a) the application of the proposed enhanced recovery techniques to the reservoir should result in an increase in the amount of oil that may be ultimately recovered;

(b) the project area has been so depleted that it is prudent to apply enhanced recovery techniques to maximize the ultimate recovery of oil; and

(c) the application is economically and technically reasonable and has not been prematurely filed.

(2) Positive production response certification.

(a) For the recovered oil tax rate to apply to oil produced from an approved qualified EOR project, the operator shall demonstrate a positive production response to the division and file an application for certification of a positive production response with the division's Santa Fe office, which shall include:

(i) a copy of the division's approval of the EOR project or expansion;

(ii) a plat of the affected area showing all injection and producing wells with completion dates; and

(iii) production graphs and supporting data demonstrating a positive production response and showing the volumes of water or other substances that have been injected on the lease or unit since initiation of the EOR project.

(b) The director may administratively approve an application and certify a positive production response or, at the director's discretion or at the applicant's request, may set the application for hearing.

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

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

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

F. Reporting requirements.

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

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

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

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

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

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

G. Termination. When the operator terminates active operation of an EOR project or expansion, the operator shall notify the division and the secretary of taxation and revenue in writing not later than the 30th day after the EOR project's termination or expansion.

[19.15.6.8 NMAC - Rp, 19.15.1.30 NMAC, / /08]

19.15.6.9 PRODUCTION RESTORATION PROJECT TAX INCENTIVE:

A. The division shall accept applications for qualification of production restoration projects for the production restoration incentive tax exemption pursuant to the Natural Gas and Crude Oil Production Incentive Act, NMSA 1978, Sections 7-29B-1 through 7-29B-6.

B. 19.15.6.9 NMAC applies to gas or oil wells division records show had 30 days or less production in a period of 24 consecutive months beginning on or after January 1, 1993 upon which the operator commenced operations to restore production after June 16, 1995.

C. To be eligible for the exemption, the operator shall apply for and receive division approval. No production restoration project commenced prior to June 16, 1995 qualifies.

D. Applications.

(1) An operator shall file an application with the division within 12 months of the production restoration.

(2) The operator shall file the application on behalf of the project's interest owners.

(3) The operator shall file the application on form C-139 using the division's web-based online application.

E. Approval, certification, notification and hearing.

(1) Project approval and certification.

(a) The division shall approve a project and issue a certification to the operator designating the gas or oil well as a production restoration project when the operator proves that:

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

(ii) division records show the well had 30 days or less of production in any period of 24 consecutive months beginning on or after January 1, 1993.

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

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

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

[19.15.6.9 NMAC - Rp, 19.15.1.31 NMAC, / /08]

19.15.6.10 WELL WORKOVER PROJECT TAX INCENTIVE:

A. The division shall accept applications for qualification of well workover projects for the well workover incentive tax rate pursuant to the Natural Gas and Crude Oil Production Incentive Act, NMSA 1978, Sections 7-29B-1 through 7-29B-6.

B. 19.15.6.11 NMAC applies to gas or oil well upon which the operator has commenced a workover after June 16, 1995 that is intended to increase the well's production.

C. To be eligible for the incentive tax rate, the operator shall apply for and receive division approval. No well workover project the operator commences prior to June 16, 1995 qualifies.

D. Application.

(1) The operator shall file the application with the division within 12 months of the workover's completion.

(2) The operator shall file on behalf of the project's interest owners.

(3) The operator shall retain the data used in the application in its files during the period of time the well qualifies for and receives the well workover incentive tax rate.

(4) The operator shall file the application on form C-140 using the division's web-based online application.

E. Approval, certification, notification and hearing.

(1) Project approval and certification.

(a) The division shall approve a workover and issue a certification of approval to the operator designating the gas or oil well as a well workover project when the operator proves that:

(i) the operator has undertaken approved workover procedures on the well that are intended to increase production; and

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

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

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

(3) Hearings and requests for additional information.

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

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

F. Certifications prior to July 1, 1999. Well workover projects the division certified prior to July 1, 1999 shall be deemed to be approved and certified in accordance with the provisions of the Natural Gas and Crude Oil Production Incentive Act and gas or oil produced from those projects shall be eligible for the well workover incentive tax rate effective July 1, 1999.

[19.15.6.10 NMAC - Rp, 19.15.1.32 NMAC, / /08]

19.15.6.11 STRIPPER WELL TAX INCENTIVE:

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

B. 19.15.6.11 NMAC applies to a property that the division certifies as a stripper well property after June 30, 1999.

C. Certification, notification and hearing.

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

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

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

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

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

[19.15.6.11 NMAC - Rp, 19.15.1.33 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 7 FORMS AND REPORTS

19.15.7.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.7.1 NMAC - Rp, 19.15.13.1 NMAC, / /08]

19.15.7.2 SCOPE: 19.15.7 NMAC applies to persons or entities engaged in oil and gas development and production within New Mexico.
[19.15.7.2 NMAC - Rp, 19.15.13.2 NMAC, / /08]

19.15.7.3 STATUTORY AUTHORITY: 19.15.7 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.
[19.15.7.3 NMAC - Rp, 19.15.13.3 NMAC, / /08]

19.15.7.4 DURATION: Permanent.
[19.15.7.4 NMAC - Rp, 19.15.13.4 NMAC, / /08]

19.15.7.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.7.5 NMAC - Rp, 19.15.13.5 NMAC, / /08]

19.15.7.6 OBJECTIVE: To provide for the filing of reports to enable the division to carry outs its statutory mandates under the Oil and Gas Act.
[19.15.7.6 NMAC - Rp, 19.15.13.6 NMAC, / /08]

19.15.7.7 DEFINITIONS: [RESERVED]
[See 19.15.2.7 NMAC for definitions.]
[19.15.7.7 NMAC - N, / /08]

19.15.7.8 GENERAL:

A. Where to file reports. Unless otherwise specifically provided for in a division rule or order, the operator shall file forms and reports 19.15.7 NMAC requires with the appropriate division district office as provided in 19.15.2.17 NMAC and 19.15.7.10 NMAC.

B. Additional data. 19.15.7 NMAC does not limit or restrict the division's authority to require the furnishing of additional reports, data or other information relative to the production, transportation, storing, refining, processing or handling of oil, gas or products in the state as may appear to the division to be necessary or desirable, either generally or specifically, for the prevention of waste and the conservation of the state's natural resources.

C. Books and records. A producer, injector, transporter, storer, refiner, gasoline or extraction plant operator, treating plant operator and initial purchaser of gas within the state shall make and keep appropriate books and records for a period of not less than five years, covering operations in New Mexico, in order to make and substantiate the reports the division requires.

D. Written notices, requests, permits and reports. A person required to file notices, requests, permits or reports shall use the forms listed below for the purpose shown in accordance with the instructions printed on the form and the rule covering the form's use or special order pertaining to its use:

(1) form C-101 - application for permit to drill, deepen or plug back;
(2) form C-102 - well location and acreage dedication plat;
(3) form C-103 - sundry notices and reports on wells;
(4) form C-104 - request for allowable and authorization to transport oil and gas;
(5) form C-105 - well completion or recompletion report and log;
(6) form C-106 - notice of intention to utilize automatic custody transfer equipment;
(7) form C-107 - application for multiple completion;
(8) form C-107-A - application for downhole commingling;
(9) form C-107-B - application for surface commingling (diverse ownership);
(10) form C-108 - application to dispose of salt water by injection into a porous formation;
(11) form C-109 - application for discovery allowable and creation of a new pool;

(12) form C-111 - gas transporter's monthly report (sheet 1 and sheet 2);
(13) form C-112 - transporter's and storer's monthly report;
(14) form C-112-A - receipts continuation sheet;
(15) form C-112-B - deliveries continuation sheet;
(16) form C-113 - refiner's monthly report (sheet 1 and sheet 2);
(17) form C-115 - operator's monthly report;
(18) form C-115-EDP - operator's monthly report (electronic data processing);
(19) form C-116 - gas-oil ratio tests;
(20) form C-117-A - tank cleaning, sediment oil removal, transportation of miscellaneous hydrocarbons and disposal permit;
(21) form C-117-B - monthly sediment oil disposal statement;
(22) form C-118 - treating plant operator's monthly report (sheet 1 and sheet 2);
(23) form C-120-A - monthly water disposal report;
(24) form C-121 - oil purchaser's nomination;
(25) form C-121-A - purchaser's gas nomination;
(26) form C-122 - multi-point and one point back pressure test for gas wells;
(27) form C-122-A - gas well test data sheet-San Juan basin (initial deliverability test, blue paper; annual deliverability test, white);
(28) form C-122-B - initial potential test data sheet;
(29) form C-122-C - deliverability test report;
(30) form C-122-D - worksheet for calculation of static column wellhead pressure (P_w);
(31) form C-122-E - worksheet for stepwise calculation of (surface) (subsurface) pressure (P_c and P_w);
(32) form C-122-F - worksheet for calculation of wellhead pressures (P_c or P_w) from known bottom hole pressure (P_f or P_s);
(33) form C-122-G - worksheet for calculation of static column pressure at gas liquid interface;
(34) form C-123 - request for the creation of a new pool;
(35) form C-124 - reservoir pressure report;
(36) form C-125 - gas well shut-in pressure report;
(37) form C-126 - permit to transport recovered load oil;
(38) form C-127 - request for allowable change;
(39) form C-129 - application for exception to no-flare;
(40) form C-130 - notice of disconnection;
(41) form C-131-A - monthly gas storage report;
(42) form C-131-B - annual LPG storage report;
(43) form C-133 - authorization to move produced water exhibit "A";
(44) form C-134 - application for exception to division order R-8952, 19.15.18.18 NMAC or 19.15.36 NMAC;
(45) form C-135 - gas well connection, reconnection or disconnection notice;
(46) form C-136 - application for approval to use an alternate gas measurement method;
(47) form C-137 - application for waste management facility;
(48) form C-137-EZ - registration/final closure report for small landfarm;
(49) form C-138 - request for approval to accept solid waste;
(50) form C-139 - application for qualification of production restoration project and certification of approval;
(51) form C-140 - application for qualification of well workover project and certification of approval;
(52) form C-141 - release notification and corrective action;
(53) form C-144 - pit, closed-loop system, below-grade tank or proposed alternative method permit or closure plan application;
(54) form C-145 - change of operator; and
(55) form C-146 - change of operator name.

[19.15.7.8 NMAC - Rp, 19.15.13.1100 NMAC, / /08]

19.15.7.9 FORMS UPON REQUEST: The division's forms for written notices, requests and reports it requires are available on the division's website. The division shall furnish paper copies upon request.

[19.15.7.9 NMAC - Rp, 19.15.1.16 NMAC, / /08]

19.15.7.10 WHERE TO FILE REPORTS AND FORMS: A person required to file a report or form shall file the report or form with the division in the number and at the time specified on the form or report or by the applicable section in 19.15.7 NMAC. An operator shall file plugging bonds directly with the division's Santa Fe office.
[19.15.7.10 NMAC - Rp, 19.15.15.1302 NMAC, / /08]

19.15.7.11 UNITED STATES GOVERNMENT LEASES: For wells located on land where the United States or a native american nation, tribe or pueblo owns, an operator shall file applications for permit to drill, deepen or plug back, BLM form no. 3160-3; sundry notices and reports on wells, BLM form no. 3160-5; and well completion or recompletion report and log, BLM form no. 3160-4 with the BLM in lieu of filing the corresponding division forms with the division. All such forms are, however, subject to division approval in the same manner and to the same extent as the corresponding division forms.
[19.15.7.11 NMAC - Rp, 19.15.1.14 NMAC; / /08]

19.15.7.12 APPLICATION FOR PERMIT TO DRILL, DEEPEN OR PLUG BACK (Form C-101): Form C-101 is the form an operator uses to apply for a permit to drill, deepen, re-enter or plug a well back to a different pool or complete or re-complete a well in an additional pool.
[19.15.13.12 NMAC - Rp, 19.15.13.1101 NMAC, / /08]

19.15.7.13 WELL LOCATION AND ACREAGE DEDICATION PLAT (Form C-102):

A. Form C-102 is a dual purpose form the operator uses to show the well's exact location and the acreage dedicated to the well. The form is also used to show the ownership and status of each lease contained within the dedicated acreage. When there is more than one working interest or royalty owner on a given lease, designation of the majority owner et al. is sufficient.

B. An operator shall fill out and certify the information required on form C-102 except the well location on the plat. A professional surveyor, registered in the state of New Mexico, or surveyor approved by the division, shall plot and certify the well location on the plat from the section's outer boundaries.

C. An operator shall file amended form C-102 in the event there is a change in the information the operator previously submitted. The operator does not need to provide certification of the well location when filing amended form C-102.
[19.15.13.13 NMAC - Rp, 19.15.13.1102 NMAC - Rp, / /08]

19.15.7.14 SUNDRY NOTICES AND REPORTS ON WELLS (Form C-103): Form C-103 is a dual purpose form the operator files with the appropriate division district office to obtain division approval prior to commencing certain operations and to report various completed operations.

A. Form C-103 as a notice of intention.

(1) An operator shall file form C-103 and obtain the division's approval prior to:

(a) effecting a change of plans from those the division previously approved on form C-101 or form C-103;

(b) altering a drilling well's casing program or pulling casing or otherwise altering an existing well's casing installation;

(c) making multiple completions in a well;

(d) placing a well in approved temporary abandonment;

(e) plugging and abandoning a well;

(f) performing remedial work on a well that, when completed, will affect the well's original status (this includes making new perforations in existing wells or squeezing old perforations in existing wells, but does not apply to new wells in the process of being completed nor to old wells being deepened or plugged back to another zone when the division has authorized the recompletion by an approved form C-101, application for permit to drill, re-enter, deepen plug back or add a zone, nor to acidizing, fracturing or cleaning out previously completed wells, nor to installing artificial lift equipment); or

(g) downhole commingling in well bores, within pools or areas that the division has established as pre-approved pools or areas.

(2) In the case of well plugging operations, the notice of intention shall include a detailed statement of the proposed work including plans for shooting and pulling casing; plans for mudding, including the mud's weight; plans for cementing, including number of sacks of cement and depths of plugs; restoration and remediation of the location; and the time and date of the proposed plugging operations. The operator shall file a complete log of

the well on form C-105 with the notice of intention to plug the well, if the operator has not previously filed the log (see 19.15.7.16 NMAC); the division shall not release the financial assurance until the operator complies with this requirement.

B. Form C-103 as a subsequent report.

(1) The operator shall file form C-103 as a subsequent report of operations in accordance with 19.15.7.14 NMAC as applicable to the particular operation being reported.

(2) The operator shall use form C-103 in reporting such completed operations as:

(a) commencement of drilling operations;

(b) casing and cement test;

(c) altering a well's casing installation;

(d) work to secure approved temporary abandonment;

(e) plugging and abandonment;

(f) plugging back or deepening within the same pool;

(g) remedial work;

(h) installation of artificial lifting equipment; or

(i) other operations that affect the well's original status but that are not specifically covered in 19.15.7.14 NMAC.

C. Information to be entered on form C-103 for a particular operation is as follows: report of commencement of drilling operations. Within 10 days following the commencement of drilling operations, the operator shall file a report thereof on form C-103. The report shall indicate the hour and the date the operator spudded the well.

D. Report of results of test of casing and cement job; report of casing alteration. The operator shall file a report of casing and cement test within 10 days following the setting of each string of casing or liner. The operator shall file the report on form C-103 and include a detailed description of the test method employed and the results obtained by the test and any other pertinent information 19.15.16.10 NMAC requires. The report shall also indicate the top of the cement and the means by which the operator determined the top. It shall also indicate any changes from the casing program previously authorized for the well.

E. Report of temporary abandonment. The operator shall file a notice of work to secure approved temporary abandonment within 30 days following the work's completion. The report shall present a detailed account of the work done on the well, including location and type of plugs used, if any, and status of surface and downhole equipment and any other pertinent information relative to the well's overall status.

F. Report on plugging of well.

(1) The operator shall file a report of plugging operations within 30 days following completion of plugging operations on a well. The operator shall file the report on form C-103, which shall include the date the operator began plugging operations and the date the operator completed the work, a detailed account of the manner in which the operator performed the work including the depths and lengths of the various plugs set, the nature and quantities of materials employed in the plugging operations including the weight of the mud used, the size and depth of all casing left in the hole and any other pertinent information. (See 19.15.25 NMAC regarding plugging operations.)

(2) The division shall not approve a plugging report until the operator demonstrates compliance with Subsection B of 19.15.25.10 NMAC. The operator shall contact the appropriate division district office when the operator has restored the location in order to arrange for a division representative's inspection of the plugged well and the location.

G. Report of remedial work. The operator shall file a report of remedial work performed on a well within 30 days following the work's completion. The operator shall file the report on form C-103 and present a detailed account of the work done and the manner in which the operator performed the work; the daily production of oil, gas and water both prior to and after the remedial operation; the size and depth of shots; the quantity and type of crude, chemical or other materials the operator employed in the operation; and any other pertinent information. Among the remedial work an operator shall report on form C-103 are the following:

(1) report on shooting, fluid fracturing or chemical treatment of a previously completed well;

(2) report of squeeze job;

(3) report on setting of liner or packer;

(4) report of installation of pumping equipment or gas lift facilities; or

(5) report of any other remedial operations that are not specifically covered herein.

H. Report on deepening or plugging back within the same pool. An operator shall file a report of deepening or plugging back within 30 days following completion of the operations on a well. The operator shall file

the report on form C-103 and present a detailed account of work done and the manner in which the operator performed the work. If the operator recompletes the well in the same pool, the operator shall also report the daily production of oil, gas and water both prior to and after recompletion. If the well is recompleted in another pool, the operator shall file forms C-101, C-102, C-104 and C-105 in accordance with 19.15.7.12 NMAC, 19.15.7.13 NMAC, 19.15.7.15 NMAC and 19.15.7.16 NMAC.

I. Other reports on wells. The operator shall submit reports on other operations that affect the well's original status but that are not specifically covered in 19.15.7.14 NMAC to the division on form C-103 10 days following the operation's completion.

[19.15.7.14 NMAC - Rp, 19.15.13.1103 NMAC, / /08]

19.15.7.15 REQUEST FOR ALLOWABLE AND AUTHORIZATION TO TRANSPORT OIL AND GAS (Form C-104): An operator shall file with the division a complete form C-104 to request the division 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.

[19.15.7.15 NMAC - Rp, 19.15.13.1104 NMAC, / /08]

19.15.7.16 WELL COMPLETION OR RECOMPLETION REPORT AND LOG (Form C-105):

A. Within 20 days following the completion or recompletion of a well, the operator shall file form C-105 with the appropriate division district office accompanied by a summary of special tests conducted on the well, including drill stem tests. In addition, the operator shall file a copy of electrical and radio-activity logs run on the well with form C-105. If the division does not receive form C-105 with attached logs and summaries within the specified 20-day period, the division shall withhold the allowable for the well until the operator has complied with 19.15.7.16 NMAC.

B. In the case of a dry hole, a complete record of the well on form C-105 with the attachments listed in Subsection A of 19.15.7.16 NMAC shall accompany the notice of intention to plug the well, unless previously filed. The division shall not approve the plugging report or release the bond the operator has complied with 19.15.7.16 NMAC.

C. The division shall not keep form C-105 and accompanying attachments confidential unless the well's owner requests in writing that the division keep it confidential. Upon such request, the division shall keep these data confidential for 90 days from the date of the well's completion, provided, however, that the report, logs and other attached data may, when pertinent, be introduced in a public hearing before division examiners, the commission or in a court of law, regardless of the request that they be kept confidential.

[19.15.7.16 NMAC - Rp, 19.15.13.1105 NMAC, / /08]

19.15.7.17 NOTICE OF INTENTION TO UTILIZE AUTOMATIC CUSTODY TRANSFER EQUIPMENT (Form C-106): An operator intending to use an ACT system shall file form C-106, when applicable, in accordance with Subsection A of 19.15.18.15 NMAC.

[19.15.7.17 NMAC - Rp, 19.15.13.1106 NMAC, / /08]

19.15.7.18 APPLICATION FOR MULTIPLE COMPLETION (Form C-107): An operator shall file form C-107, when applicable, in accordance with Subsection A of 19.15.16.15 NMAC.

[19.15.7.18 NMAC - Rp, 19.15.13.1107 NMAC, / /08]

19.15.7.19 APPLICATION FOR AUTHORIZATION TO INJECT (Form C-108): An operator shall file form C-108 in accordance with Subsection B of 19.15.26.8 NMAC.

[19.15.7.19 NMAC - Rp, 19.15.13.1108 NMAC, / /08]

19.15.7.20 APPLICATION FOR DISCOVERY ALLOWABLE AND CREATION OF A NEW POOL (Form C-109): An operator shall file form C-109, when applicable, in accordance with 19.15.20.16 NMAC.

[19.15.7.20 NMAC - Rp, 19.15.13.1109 NMAC, / /08]

19.15.7.21 GAS TRANSPORTER'S MONTHLY REPORT (Form C-111):

A. An operator shall complete and maintain for the division's inspection, form C-111 monthly in accordance with Subsections B, C and D of 19.15.7.21 NMAC. The transporter shall itemize information on sheet no. 2 of form C-111 by pool, by operator and by lease, in alphabetical order.

B. An operator of a gas gathering system, gas transportation system, recycling system, fuel system,

gas lift system, gas drilling operation, etc. shall complete and maintain for division inspection form C-111 each month. The form shall cover gas, casinghead gas and carbon dioxide gas taken into a system during the preceding month and shall show the gas' source and its disposition.

C. An operator of a gasoline plant, cycling plant or other plant at which gasoline, butane, propane, kerosene, oil or other products are extracted from gas within the state shall complete and maintain for the division's inspection form C-111 each month. The form shall cover gas, casinghead gas and carbon dioxide gas the plant has taken during the preceding month and shall show the gas' source and its disposition. If an operator owns more than one plant in a given division district, the operator shall file sheet no. 1 of form C-111 for each plant. In preparing sheet no. 2, the operator shall consolidate requisitions for plants in the district, itemized in the order described in the Subsection A of 19.15.7.21 NMAC.

D. Where a producer takes gas and uses it for any of the above uses, the producer shall complete and maintain for division inspection form C-111 itemizing such gas. The producer shall also include this gas on form C-115. The producer shall also include gas used on the lease from which it was produced for consumption in lease houses, treaters, compressors, combustion engines and other similar equipment, or gas that is flared, on the form C-115 but shall not include it on form C-111.

[19.15.7.21 NMAC - Rp, 19.15.13.1111 NMAC, / /08]

19.15.7.22 TRANSPORTER'S AND STORER'S MONTHLY REPORT (Form C-112): A transporter or storer of oil and liquid hydrocarbons within the state shall complete and maintain for division inspection for each calendar month a form C-112 containing complete information and data indicated by the form respecting stocks of oil and liquid hydrocarbons on hand and receipts and deliveries of oil and liquid hydrocarbons by pipeline and trucks within the state, and receipts and deliveries from leases to storers or refiners; between transporters within the state; between storers and refiners within the state.

[19.15.7.22 NMAC - Rp, 19.15.13.1112 NMAC, / /08]

19.15.7.23 REFINER'S MONTHLY REPORT (Form C-113): A refiner of oil within the state shall file for each calendar month form C-113 containing the information and data indicated by the form respecting oil and products involved in the refiner's operation during each month. The refiner shall file the completed form C-113 for each month and postmark it on or before the 15th day of the next succeeding month.

[19.15.7.23 NMAC - Rp, 19.15.13.1113 NMAC, / /08]

19.15.7.24 OPERATOR'S MONTHLY REPORT (Form C-115):

A. An operator shall file a form C-115 for each non-plugged well completion for which the division has approved a form C-104 and for each secondary or other enhanced recovery project or pressure maintenance project injection well or other injection well within the state, setting forth complete information and data indicated on the forms in the order, format and style the director prescribes. The operator shall estimate oil production from wells producing into common storage as accurately as possible on the basis of periodic tests.

B. An operator shall file the reports 19.15.7.24 NMAC requires using the division's web-based online application on or before the 15th day of the second month following the month of production, or if such day falls on a weekend or holiday, the first workday following the 15th. An operator may apply to the division for exemption from the electronic filing requirement based upon a demonstration that such requirement would operate as an economic or other hardship.

C. If an operator fails to file a form C-115 that the division accepts, the division shall, within 60 days of the appropriate filing date, notify the operator by electronic mail or letter of its intent to revoke the operator's authorization to transport or inject if the operator does not file an acceptable and complete form C-115. If the operator does not file an acceptable and complete form C-115 or request a hearing on the proposed cancellation within 120 days of the original due date of the form C-115, the division may cancel the operator's authority to transport from or inject into all wells it operates.

[19.15.7.24 NMAC - Rp, 19.15.13.1115 NMAC, / /08]

19.15.7.25 GAS-OIL RATIO TESTS (Form C-116): An operator shall make and report gas-oil ratio tests shall on form C-116 as prescribed in 19.15.18.8 NMAC and applicable special pool orders. The operator shall file the form C-116.

[19.15.7.25 NMAC - Rp, 19.15.13.1116 NMAC, / /08]

19.15.7.26 TANK CLEANING, SEDIMENT OIL REMOVAL, TRANSPORTATION OF

MISCELLANEOUS HYDROCARBONS AND DISPOSAL PERMIT (Form C-117-A) AND MONTHLY SEDIMENT OIL DISPOSAL STATEMENT (Form C-117-B):

A. An operator shall file form C-117-A with the appropriate division district office in accordance with Subsections B, C and H of 19.15.18.17 NMAC.

B. An operator shall file form C-117-B with the division's Santa Fe office and the appropriate division district office in accordance with Subsection D of 19.15.18.17 NMAC.

[19.15.7.26 NMAC - Rp, 19.15.13.1117 NMAC, / /08]

19.15.7.27 TREATING PLANT OPERATOR'S MONTHLY REPORT (Form C-118): A treating plant operator shall file on a monthly basis form C-118 with the appropriate division district office. The form C-118 shall contain all the information the form requires. Column 1 of sheet 1-A of form C-118 entitled permit number, references form C-117-A, for each lot of oil the operator picked up for processing.

[19.15.7.27 NMAC - Rp, 19.15.13.1118 NMAC, / /08]

19.15.7.28 MONTHLY WATER DISPOSAL REPORT (Form C-120-A): An operator of a salt water disposal system shall report its operations on form C-120-A. The operator shall file form C-120-A in duplicate, with one copy to the division's Santa Fe office and one copy to the appropriate division district office, and shall postmark the form no later than the 15th day of the second succeeding month.

[19.15.7.28 NMAC - Rp, 19.15.13.1120 NMAC, / /08]

19.15.7.29 PURCHASER'S NOMINATION FORMS (Form C-121 and Form C-121-A):

A. Unless the director requests otherwise, a person expecting to purchase oil from producing wells in New Mexico during the second and third succeeding two months shall file form C-121 with the division's Santa Fe office not later than the 20th day of each odd-numbered month. As an example, nominations submitted by the 20th day of July shall indicate the amount of oil the purchaser desires to purchase daily during September and October

B. The person shall file form C-121-A with the division's Santa Fe office by the first day of the month during which the division will consider at the gas allowable hearing the nominations for the purchase of gas from producing wells in New Mexico during the succeeding month. As an example, purchaser's nominations to take gas from a pool during the month of August would be considered by the division at a hearing during July, and should be submitted to the Santa Fe office of the division by July 1.

C. In addition to the monthly gas nominations, the purchaser shall file 12-month nominations in accordance with the appropriate special pool orders.

[19.15.7.29 NMAC - Rp, 19.15.13.1121 NMAC, / /08]

19.15.7.30 MULTIPOINT AND ONE POINT BACK PRESSURE TEST FOR GAS WELL (Form C-122):

A. Gas well test data sheet - San Juan basin (form C-122-A)

B. Initial potential test data sheet (form C-122-B)

C. Deliverability test report (form C-122-C)

D. Worksheet for calculation of static column wellhead pressure (P_w) (form C- 122-D)

E. Worksheet for stepwise calculation of (surface) (subsurface) pressure (P_c & P_w) (P_f & P_s) (form C-122-E)

F. Worksheet for calculation of wellhead pressures (P_c or P_w) from known bottom hole pressure (P_f or P_s) (form C-122-F)

G. Worksheet for calculation of status column pressure at gas liquid interface (form C-122-G). The operator shall file the forms listed in Subsections A through F of 19.15.7.30 NMAC with the appropriate division district office in accordance with the provisions of the Manual for Back-Pressure Testing of Natural Gas Wells or Gas Well Testing Manual for Northwest New Mexico, 19.15.19.8 NMAC and applicable special pool orders and proration orders.

[19.15.7.30 NMAC - Rp, 19.15.13.1122 NMAC, / /08]

19.15.7.31 REQUEST FOR THE CREATION OF A NEW POOL (Form C-123): The appropriate division district office shall provide the operator of a well that requires the creation of a pool written instructions regarding the filing of form C-123.

[19.15.7.31 NMAC - Rp, 19.15.13.1123 NMAC, / /08]

19.15.7.32 RESERVOIR PRESSURE REPORT (Form C-124):

A. An operator shall file form C-124 to report bottom hole pressures as required under the provisions of 19.15.18.9 NMAC and applicable special pool orders.

B. An operator shall state the name of the pool; the pool datum, if established; the name of the operator and lease; the well number; the wellhead elevation above sea level; the date of the test; the total time the well was shut in prior to the test, the subsurface temperature in degrees Fahrenheit at the test depth; the depth in feet at which the operator made the subsurface pressure test; the observed pressure in psi gauge corrected for calibration and temperature; the corrected pressure computed from applying to the observed pressure the appropriate correction for difference in test depth and reservoir datum plane; and any other information requires on form C-124.

[19.15.7.32 NMAC - Rp, 19.15.13.1124 NMAC and 19.15.5.302 NMAC, / /08]

19.15.7.33 GAS WELL SHUT-IN PRESSURE TESTS (Form C-125): An operator shall file form C-125 to report shut-in pressure tests on gas wells as required under the provisions of special pool orders.

[19.15.7.33 NMAC - Rp, 19.15.13.1125 NMAC, / /08]

19.15.7.34 PERMIT TO TRANSPORT RECOVERED LOAD OIL (Form C-126): An applicant to transport recovered load oil shall file form C-126 with the appropriate division district office in conformance with 19.15.20.15 NMAC.

[19.15.7.34 NMAC - Rp, 19.15.13.1126 NMAC, / /08]

19.15.7.35 REQUEST FOR ALLOWABLE CHANGE (Form C-127): An oil producer shall file form C-127 with the appropriate division district office not later than the 10th day of the month preceding the month for which an oil producer is requesting oil well allowable changes.

[19.15.7.35 NMAC - Rp, 19.15.13.1127 NMAC, / /08]

19.15.7.36 FORMS REQUIRED ON FEDERAL LAND:

A. An operator shall use federal forms in lieu of state forms when filing application for permit to drill, deepen or plug back and sundry notices and reports on wells and well completion or recompletion report and log for wells on federal lands in New Mexico. However, the operator shall submit two extra copies of each of the forms to the BLM, which, upon approval, will transmit the forms to the division. An operator of a well on federal land shall use the following BLM forms in lieu of division forms:

BLM Form No.	Title of Form (Same for both agencies)	Form No.
3160-3 (Nov. 1993)	Application for Permit to Drill, Deepen or Plug Back	C-101
3160-5 (Nov. 1983)	Sundry Notices and Reports on Wells	C-103
3160-4 (Nov. 1983)	Well Completion or Recompletion Report and Log	C-105

B. The above forms as the BLM may revise are the only forms that an operator may file in place of division forms.

C. After a well is completed and ready for pipeline connection, the operator shall file form C-104 along with a copy of form C-105 or BLM form No. 3160-4, whichever is applicable, with the division on wells drilled in the state, regardless of land status. Further, the operator shall file forms 19.15.7 NMAC requires that pertain to production form as set out in 19.15.7 NMAC – the division will not accept other forms.

D. An operator's failure to comply with 19.15.7.36 NMAC shall result in the division's cancellation of form C-104 for the affected well or wells.

[19.15.7.36 NMAC - Rp, 19.15.13.1128 NMAC, / /08]

19.15.7.37 APPLICATION FOR EXCEPTION TO NO-FLARE (Form C-129): An operator shall file form C-129 when applicable, in accordance with 19.15.18.12 NMAC.

[19.15.7.37 NMAC - Rp, 19.15.13.1129 NMAC, / /08]

19.15.7.38 NOTICE OF DISCONNECTION (Form C-130):

A. An operator shall file form C-130 with the division as provided in 19.15.19.13 NMAC.

B. An operator shall state to the best of their knowledge the reasons for disconnecting a gas well from gas transportation facilities.

C. The division shall furnish the New Mexico public regulation commission with a form C-130

indicating that a disconnected gas well may or will be reconnected to a gas transportation facility for ultimate distribution to consumers outside of the state.
[19.15.7.38 NMAC - Rp, 19.15.13.1130 NMAC, / /08]

19.15.7.39 MONTHLY GAS STORAGE REPORT (Form C-131-A); ANNUAL LPG STORAGE REPORT (Form C-131-B):

A. An operator of an underground gas storage project shall report its operation monthly on form C-131-A. The operator shall file form C-131-A with the division's Santa Fe office with a copy to the appropriate division district office and shall postmark it not later than the 24th day of the next succeeding month.

B. An operator of underground liquefied petroleum gas storage projects approved by the division shall report its operations annually on form C-131-B.
[19.15.7.39 NMAC - Rp, 19.15.13.1131 NMAC, / /08]

19.15.7.40 AUTHORIZATION TO MOVE PRODUCED WATER:

A. A transporter of produced water shall obtain the division's approval of form C-133 in accordance with 19.15.34 NMAC prior to transportation.

B. Approval of a single form C-133 is valid for leases the transporter serves.
[19.15.7.40 NMAC - Rp, 19.15.13.1133 NMAC, / /08]

19.15.7.41 GAS WELL CONNECTION, RECONNECTION OR DISCONNECTION NOTICE: A gas transporter accepting gas for delivery from a wellhead or central point of delivery shall notify the division within 30 days of a new connection or reconnection to or disconnection from the gathering or transportation system by filing form C-135 with the appropriate division district office.
[19.15.7.41 NMAC - Rp, 19.15.13.1135 NMAC, / /08]

19.15.7.42 APPLICATION FOR APPROVAL TO USE AN ALTERNATE GAS MEASUREMENT METHOD (Form C-136):

A. An operator shall use form C-136 to request and obtain division approval for use of an alternate procedure for measuring gas production from a well that is not capable of producing more than 15 MCFD (Paragraph (1) of Subsection B of 19.15.19.9 NMAC) or for a well that has a producing capacity of 100 MCFD or less and is on a multi-well lease (Paragraph (2) of Subsection B of 19.15.19.9 NMAC).

B. An operator shall fill out the applicable information required on form C-136 with the required supplemental information attached, and file it with the appropriate division district office.
[19.15.7.42 NMAC - Rp, 19.15.13.1136 NMAC, / /08]

19.15.7.43 APPLICATION FOR PRODUCTION RESTORATION PROJECT (C-139):

A. An operator shall use the division's web-based online application to apply for the production restoration tax incentive.

B. An operator shall enter a user identification number and password that it has obtained from the division and select the well for which the operator is requesting the production restoration tax incentive. The operator shall then enter the date it began the production restoration, the date the well returned to production and the process the operator used to return the well to production. The operator shall certify that the information is complete and correct.
[19.15.7.43 NMAC - Rp, Paragraph (5) of Subsection D of 19.15.1.31 NMAC, / /08]

19.15.7.44 APPLICATION FOR WELL WORKOVER PROJCECT (C-140):

A. An operator shall use the division's web-based online application to apply for the well workover tax incentive.

B. An operator shall enter a user identification number and password that it has obtained from the division and select the well for which the operator is requesting the well workover tax incentive. The operator shall enter the date that it commenced the well workover and the date it completed the well workover. The operator shall attach a description of the workover procedure it performed to increase production and a production curve or data tabulation showing at least 12 months of production prior to the well workover and at least three months of production following the well workover to reflect a positive production increase.
[19.15.7.44 NMAC - Rp, Paragraph (6) of Subsection D of 19.15.1.32 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 8 FINANCIAL ASSURANCE

19.15.8.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.8.1 NMAC - N, / /08]

19.15.8.2 SCOPE: 19.15.8 NMAC applies to persons engaged in oil and gas development and production within New Mexico.
[19.15.8.2 NMAC - N, / /08]

19.15.8.3 STATUTORY AUTHORITY: 19.15.8 NMAC is adopted pursuant to the Oil and Gas Act, NMSA 1978, Section 70-2-6, Section 70-2-11, Section 70-2-12 and Section 70-2-14.
[19.15.8.3 NMAC - N, / /08]

19.15.8.4 DURATION: Permanent.
[19.15.8.4 NMAC - N, / /08]

19.15.8.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.8.5 NMAC - N, / /08]

19.15.8.6 OBJECTIVE: To establish financial assurance requirements for persons, firms, corporations or associations who have drilled or acquired, are drilling or propose to drill or acquire an oil, gas or injection or other service well to furnish financial assurance acceptable to the division.
[19.15.8.6 NMAC - N, / /08]

19.15.8.7 DEFINITIONS: [RESERVED]
[See 19.15.2.7 NMAC for definitions.]
[19.15.8.7 NMAC - N, / /08]

19.15.8.8 GENERAL REQUIREMENTS FOR FINANCIAL ASSURANCE:

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

B. Financial assurance documents shall be on forms prescribed by or otherwise acceptable to the division.

C. The division may require proof that the individual signing for an entity on a financial assurance document or an amendment to a financial assurance document has the authority to obligate that entity.
[19.15.8.8 NMAC - Rp, 19.15.3.101 NMAC, / /08]

19.15.8.9 FINANCIAL ASSURANCE FOR WELL PLUGGING:

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

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

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

D. Amounts.

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

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

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

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

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

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

[19.15.8.9 NMAC - Rp, 19.15.3.101 NMAC, / /08]

19.15.8.10 ADDITIONAL REQUIREMENTS FOR CASH AND SURETY BONDS:

A. Surety bonds shall be issued by a reputable corporate surety authorized to do business in the state.

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

[19.15.8.10 NMAC - Rp, 19.15.3.101 NMAC, / /08]

19.15.8.11 ADDITIONAL REQUIREMENTS FOR LETTERS OF CREDIT:

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

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

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

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

[19.15.8.11 NMAC - Rp, 19.15.3.101 NMAC, / /08]

19.15.8.12 RELEASE OF FINANCIAL ASSURANCE:

A. The division shall release a financial assurance document upon the operator's or surety's written request if all wells drilled or acquired under that financial assurance have been plugged and abandoned and the location restored and remediated and released pursuant to 19.15.25.9 NMAC through 19.15.25.11 NMAC, or have been covered by another financial assurance the division has approved.

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

[19.15.8.12 NMAC - Rp, 19.15.3.101 NMAC, / /08]

19.15.8.13 FORFEITURE OF FINANCIAL ASSURANCE:

A. Upon the operator's failure to properly plug and abandon and restore and remediate the location of a well or wells a financial assurance covers, the division shall give notice to the operator and surety, if applicable, and hold a hearing as to whether the well or wells should be plugged and abandoned and the location restored and remediated in accordance with a division-approved plugging program. If it is determined at the hearing that the operator has failed to plug and abandon the well and restore and remediate the location as provided for in the financial assurance or division rules, the director shall issue an order directing the well to be plugged or abandoned

and the location restored and remediated in a time certain. Such an order may also direct the forfeiture of the financial assurance upon the failure or refusal of the operator, surety or other responsible party to properly plug and abandon the well and restore and remediate the location.

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

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

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

[19.15.9.13 NMAC - Rp, 19.15.3.101 NMAC, / /08]

19.15.8.14 EFFECTIVE DATES.

A. 19.15.8 NMAC applies to wells drilled or acquired after December 15, 2005.

B. As to all other wells, 19.15.8 NMAC is effective January 1, 2008.

[19.15.8.14 NMAC - Rp, 19.15.3.101 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 9 WELL OPERATOR PROVISIONS

19.15.9.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.9.1 NMAC - N, / /08]

19.15.9.2 SCOPE: 19.15.9 NMAC applies to persons or entities operating oil or gas wells within New Mexico.
[19.15.9.2 NMAC - N, / /08]

19.15.9.3 STATUTORY AUTHORITY: 19.15.9 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.
[19.15.9.3 NMAC - N, / /08]

19.15.9.4 DURATION: Permanent.
[19.15.9.4 NMAC - N, / /08]

19.15.9.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.9.5 NMAC - N, / /08]

19.15.9.6 OBJECTIVE: To require an operator of a well or wells to register with the division prior to commencing operations and to require the reporting of a change of operator or a change of name to the division.
[19.15.9.6 NMAC - N, / /08]

19.15.9.7 DEFINITIONS: [RESERVED]
[See 19.15.2 NMAC for definitions.]
[19.15.9.7 NMAC - N, / /08]

19.15.9.8 OPERATOR REGISTRATION:

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

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

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

(3) the financial assurance 19.15.8 NMAC requires.

B. The division may deny registration as an operator if:

(1) the applicant is not in compliance with Subsection A of 19.15.5.9 NMAC;

(2) an officer, director, partner in the applicant or person with an interest in the applicant exceeding 25 percent, is or was within the past five years an officer, director, partner or person with an interest exceeding 25 percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC;

(3) the applicant is or was within the past five years an officer, director, partner or person with an interest exceeding 25 percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC;

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

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

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

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

[19.15.9.8 NMAC - Rp, 19.15.3.100 NMAC, / /08]

19.15.9.9 CHANGE OF OPERATOR:

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

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

C. The director or the director's designee may deny a change of operator if:

(1) the new operator is not in compliance with Subsection A of 19.15.5.9 NMAC; or

(2) the new operator is acquiring wells, facilities or sites subject to a compliance order requiring remediation or abatement of contamination, or compliance with 19.15.25.8 NMAC, and the new operator has not entered into an agreed compliance order setting a schedule for compliance with the existing order.

D. In determining whether to grant or deny a change of operator when the new operator is not in compliance with Subsection A of 19.15.5.9 NMAC, the director or the director's designee shall consider such factors as whether the non-compliance with Subsection A of 19.15.5.9 NMAC is caused by the operator not meeting the financial assurance requirements of 19.15.8 NMAC, being subject to a division or commission order finding the operator to be in violation of an order requiring corrective action, having a penalty assessment that has been unpaid for more than 70 days since the issuance of the order assessing the penalty or having more than the allowed number of wells out of compliance with 19.15.25.8 NMAC. If the non-compliance is caused by the operator having more than the allowed number of wells not in compliance with 19.15.25.8 NMAC, the director or director's designee shall consider the number of wells not in compliance, the length of time the wells have been out of compliance and the operator's efforts to bring the wells into compliance.

[19.15.9.9 NMAC - Rp, 19.15.3.100 NMAC, / /08]

19.15.9.10 CHANGE OF NAME:

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

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

[19.15.9.10 NMAC - Rp, 19.15.3.100 NMAC, / /08]

19.15.9.11 EXAMPLES OF CHANGE OF OPERATOR AND CHANGE OF NAME:

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

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

C. Smith production company, inc., a New Mexico operator, merges with XYZ, inc., which does not operate in New Mexico. At the surviving entity's election, this transaction may be treated as a change of name from Smith production company, to XYZ, inc., maintaining the existing OGRID, or as a change of operator, with a new OGRID.

D. Two New Mexico operators, Smith production company, inc. and Jones production company, inc., merge. The surviving corporation is Jones production company, inc. A different entity now operates the wells Smith production company, formerly operated, and the wells must be placed under that entity's OGRID. Jones

production company, inc. and Smith production company, inc. should apply for a change of operator as to the wells Smith production company, inc. operated.
[19.15.9.11 NMAC - Rp, 19.15.3.100 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 10 SAFETY

19.15.10.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.10.1 NMAC - N, / /08]

19.15.10.2 SCOPE: 19.15.10 NMAC applies to persons or entities engaged in oil and gas development and production within New Mexico.
[19.15.10.2 NMAC - N, / /08]

19.15.10.3 STATUTORY AUTHORITY: 19.15.10 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.
[19.15.10.3 NMAC - N, / /08]

19.15.10.4 DURATION: Permanent.
[19.15.10.4 NMAC - N, / /08]

19.15.10.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.10.5 NMAC - N, / /08]

19.15.10.6 OBJECTIVE: To establish safety procedures for drilling and production of oil and gas wells.
[19.15.10.6 NMAC - N, / /08]

19.15.10.7 DEFINITIONS: [RESERVED]
[See 19.15.2.7 NMAC for definitions.]
[19.15.10.7 NMAC - N, / /08]

19.15.10.8 SAFETY PROCEDURES FOR DRILLING AND PRODUCTION:

A. An operator shall

(1) clean oil wells into a pit permitted pursuant to 19.15.17 NMAC or a tank, not less than 40 feet from the derrick floor and 150 feet from a fire hazard;

(2) produce flowing oil wells through an oil and gas separator of ample capacity and in good working order;

(3) not place or leave a boiler or portable electric lighting generator nearer than 150 feet to a producing well or oil tank; and

(4) remove rubbish or debris that might constitute a fire hazard to a distance of at least 150 feet from the vicinity of wells and tanks and burn or dispose of waste in a manner as to avoid creating a fire hazard.

B. When coming out of the hole with drill pipe, the operator shall circulate drilling fluid until equalized and subsequently maintain drilling fluid level at a height sufficient to control bottom hole pressures. During course of drilling, the operator shall test blowout preventers at least once each 24-hour period.
[19.15.10.8 NMAC - Rp, 19.15.3.114 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 11 HYDROGEN SULFIDE GAS

19.15.11.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.11.1 NMAC - N, //08]

19.15.11.2 SCOPE: 19.15.11 NMAC applies to a person subject to the division's jurisdiction, including a person engaged in drilling, stimulating, injecting into, completing, working over or producing an oil, gas or carbon dioxide well or a person engaged in gathering, transporting, storing, processing or refining of oil, gas or carbon dioxide. 19.15.11 NMAC does not exempt or otherwise excuse surface waste management facilities the division permits pursuant to 19.15.36 NMAC from more stringent conditions on the handling of hydrogen sulfide required of such facilities by 19.15.36 NMAC or more stringent conditions in permits issued pursuant to 19.15.36 NMAC, nor shall the facilities be exempt or otherwise excused from the requirements set forth in 19.15.11 NMAC by virtue of permitting under 19.15.36 NMAC.
[19.15.11.2 NMAC - Rp, 19.15.3.118 NMAC, //08]

19.15.11.3 STATUTORY AUTHORITY: 19.15.11 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.
[19.15.11.3 NMAC - N, //08]

19.15.11.4 DURATION: Permanent.
[19.15.11.4 NMAC - N, //08]

19.15.11.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.11.5 NMAC - N, //08]

19.15.11.6 OBJECTIVE: To require oil and gas operations be conducted in a manner that protects the public from exposure to hydrogen sulfide gas.
[19.15.11.6 NMAC - N, //08]

19.15.11.7 DEFINITIONS:

A. "ANSI" means the American national standards institute.

B. "Area of exposure" means the area within a circle constructed with a point of escape at its center and the radius of exposure as its radius.

C. "Dispersion technique" is a mathematical representation of the physical and chemical transportation characteristics, dilution characteristics and transformation characteristics of hydrogen sulfide gas in the atmosphere.

D. "Escape rate" means the maximum volume (Q) that is used to designate the possible rate of escape of a gaseous mixture containing hydrogen sulfide, as set forth in 19.15.11 NMAC.

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

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

(3) For existing oil wells, the escape rate is calculated by multiplying the producing gas/oil ratio by the maximum daily production rate or the best estimate of the maximum daily production rate.

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

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

E. "GPA" means the gas processors association.

F. "LEPC" means the local emergency planning committee established pursuant to the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. section 11001.

G. "NACE" means the national association of corrosion engineers.

H. "Potentially hazardous volume" means the volume of hydrogen sulfide gas of such concentration that:

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

(2) the 500-ppm radius of exposure includes a public road; or

(3) the 100-ppm radius of exposure exceeds 3000 feet.

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

J. "Public road" means a federal, state, municipal or county road or highway.

K. "Radius of exposure" means the radius constructed with the point of escape as its starting point and its length calculated using the following Pasquill-Gifford derived equation, or by such other method as the division may approve:

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

(2) for determining the 500-ppm radius of exposure: $X = [(0.4546)(\text{hydrogen sulfide concentration})(Q)]^{(0.6258)}$, where "X" is the radius of exposure in feet, the "hydrogen sulfide concentration" is the decimal equivalent of the mole or volume fraction of hydrogen sulfide in the gaseous mixture and "Q" is the escape rate expressed in cubic feet per day (corrected for standard conditions of 14.73 psi absolute and 60 degrees fahrenheit);

(3) for a well being drilled, completed, recompleted, worked over or serviced in an area where insufficient data exists to calculate a radius of exposure but where hydrogen sulfide could reasonably be expected to be present in concentrations in excess of 100 ppm in the gaseous mixture, a 100-ppm radius of exposure equal to 3000 feet is assumed.

[19.15.11.7 NMAC - Rp, 19.15.3.118 NMAC, / /08]

19.15.11.8 REGULATORY THRESHOLD:

A. Determination of hydrogen sulfide concentration.

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

(2) The person shall conduct the tests used to make the determination referred to in Paragraph (1) of Subsection A of 19.15.11.8 NMAC in accordance with applicable ASTM or GPA standards or by another division-approved method approved.

(3) If the person conducted a test prior to January 31, 2003 that otherwise meets the requirements of Paragraphs (1) and (2) of Subsection A of 19.15.11.8 NMAC, new testing is not required.

(4) If a change or alteration may materially increase the hydrogen sulfide concentration in a well, facility or operation, the person shall make a new determination in accordance with 19.15.11 NMAC.

B. Concentrations determined to be below 100 ppm. If the hydrogen sulfide concentration in a given well, facility or operation is less than 100 ppm, the person is not required to take further actions pursuant to 19.15.11 NMAC.

C. Concentrations determined to be above 100 ppm.

(1) If the person determines the hydrogen sulfide concentration in a given well, facility or operation is 100 ppm or greater, then the person shall calculate the radius of exposure and comply with applicable requirements of 19.15.11 NMAC.

(2) If calculation of the radius of exposure reveals that a potentially hazardous volume is present, the person shall provide results of the hydrogen sulfide concentration determination and the calculation of the radius of

exposure to the division. For a well, facility or operation, the person shall accomplish the determination, calculation and submission 19.15.11.8 NMAC requires before operations begin.

D. Recalculation. The person shall calculate the radius of exposure if the hydrogen sulfide concentration in a well, facility or operation increases to 100 ppm or greater. The person shall also recalculate the radius of exposure if the actual volume fraction of hydrogen sulfide increases by a factor of 25 percent in a well, facility or operation that previously had a hydrogen sulfide concentration of 100 ppm or greater. If calculation or recalculation of the radius of exposure reveals that a potentially hazardous volume is present, the person shall provide the results to the division within 60 days.

[19.15.11.8 NMAC - Rp, 19.15.3.118 NMAC, //08]

19.15.11.9 HYDROGEN SULFIDE CONTINGENCY PLAN:

A. When required. If a well, facility or operation involves a potentially hazardous volume of hydrogen sulfide, the person shall develop a hydrogen sulfide contingency plan that the person will use to alert and protect the public in accordance with the Subsections B through I of 19.15.11.9 NMAC.

B. Plan contents.

(1) API guidelines. The person shall develop the hydrogen sulfide contingency plan with due consideration of paragraph 7.6 of the guidelines in the API publication Recommended Practices for Oil and Gas Producing and Gas Processing Plant Operations Involving Hydrogen Sulfide, RP-55, most recent edition, or with due consideration to another division-approved standard.

(2) Required contents. The hydrogen sulfide contingency plan shall contain information on the following subjects, as appropriate to the well, facility or operation to which it applies:

(a) Emergency procedures. The hydrogen sulfide contingency plan shall contain information on emergency procedures the person will follow in the event of a release and shall include, at a minimum, information concerning the responsibilities and duties of personnel during the emergency, an immediate action plan as described in the API document referenced in Paragraph (1) of Subsection B of 19.15.11.9 NMAC, and telephone numbers of emergency responders, public agencies, local government and other appropriate public authorities. The plan shall also include the locations of potentially affected public areas and public roads and shall describe proposed evacuation routes, locations of a road blocks and procedures for notifying the public, either through direct telephone notification using telephone number lists or by means of mass notification and reaction plans. The plan shall include information on the availability and location of necessary safety equipment and supplies.

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

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

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

(e) Coordination with state emergency plans. The hydrogen sulfide contingency plan shall describe how the person will coordinate emergency response actions under the plan with the division and the New Mexico state police consistent with the New Mexico hazardous materials emergency response plan.

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

C. Plan activation. The person shall activate the hydrogen sulfide contingency plan when a release creates a hydrogen sulfide concentration greater than the activation level set forth in the hydrogen sulfide contingency plan. At a minimum, the person shall activate the plan whenever a release may create a hydrogen sulfide concentration of more than 100 ppm in a public area, 500 ppm at a public road or 100 ppm 3000 feet from the site of release.

D. Submission.

(1) Where submitted. The person shall submit he hydrogen sulfide contingency plan to the division.

(2) When submitted. The person shall submit a hydrogen sulfide contingency plan for a new well, facility or operation before operations commence. The hydrogen sulfide contingency plan for a drilling, completion, workover or well servicing operation shall be on file with the division before operations commence and may be

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

(3) Electronic submission. A filer who operates more than 100 wells or who operates an oil pump station, compressor station, refinery or gas plant shall submit each hydrogen sulfide contingency plan in electronic format. The file may submit the hydrogen sulfide contingency plan through electronic mail, through an Internet filing or by delivering electronic media to the division, so long as the electronic submission is compatible with the division's systems.

E. Failure to submit plan. A person's failure to submit a hydrogen sulfide contingency plan when required may result in denial of an application for permit to drill, cancellation of an allowable for the subject well or other enforcement action appropriate to the well, facility or operation.

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

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

H. Annual inventory of contingency plans. On an annual basis, each person required to prepare one or more hydrogen sulfide contingency plans pursuant to 19.15.11 NMAC shall file with the appropriate local emergency planning committee and the state emergency response commission an inventory of the wells, facilities and operations for which plans are on file with the division and the name, address and telephone number of a point of contact.

I. Plans required by other jurisdictions. The person may submit a hydrogen sulfide contingency plan the BLM or other jurisdiction require that meets the requirements of 19.15.11.9 NMAC to the division in satisfaction of 19.15.11.9 NMAC.

[19.15.11.9 NMAC - Rp, 19.15.3.118 NMAC, / /08]

19.15.11.10 SIGNS, MARKERS: For each well, facility or operation involving a hydrogen sulfide concentration of 100 ppm or greater, the person shall install and maintain signs or markers that conform with the current ANSI standard Z535.1-2002 (Safety Color Code), or some other division approved standard. The sign or marker shall be readily readable, and shall contain the words "poison gas" and other information sufficient to warn the public that a potential danger exists. The person shall prominently post signs or markers at locations, including entrance points and road crossings, sufficient to alert the public that a potential danger exists.

[19.15.11.10 NMAC - Rp, 19.15.3.118 NMAC, / /08]

19.15.11.11 PROTECTION FROM HYDROGEN SULFIDE DURING DRILLING, COMPLETION, WORKOVER AND WELL SERVICING OPERATIONS:

A. API standards. The person shall conduct drilling, completion, workover and well servicing operations involving a hydrogen sulfide concentration of 100 ppm or greater with due consideration to the guidelines in the API publications Recommended Practice for Oil and Gas Well Servicing and Workover Operations Involving Hydrogen Sulfide, RP-68, and Recommended Practices for Drilling and Well Servicing Operations Involving Hydrogen Sulfide, RP-49, most recent editions, or some other division approved standard.

B. Detection and monitoring equipment. Drilling, completion, workover and well servicing operations involving a hydrogen sulfide concentration of 100 ppm or greater shall include hydrogen sulfide detection and monitoring equipment as follows.

(1) Each drilling and completion site shall have an accurate and precise hydrogen sulfide detection and monitoring system that automatically activates visible and audible alarms when the hydrogen sulfide's ambient air concentration reaches a predetermined value the operator sets, not to exceed 20 ppm. The operator shall locate a sensing point at the shale shaker, rig floor and bell nipple for a drilling site and the cellar, rig floor and circulating tanks or shale shaker for a completion site.

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

(3) The operator shall provide and maintain as operational hydrogen sulfide detection and monitoring equipment during drilling when drilling is within 500 feet of a zone anticipated to contain hydrogen sulfide and continuously thereafter through all subsequent drilling.

C. Wind indicators. Drilling, completion, workover and well servicing operations involving a hydrogen sulfide concentration of 100 ppm or greater shall include wind indicators. The person shall have equipment to indicate wind direction present and visible at all times. The person shall install at least two devices to indicate wind direction at separate elevations that visible from all principal working areas at all times. When a sustained hydrogen sulfide concentration is detected in excess of 20 ppm at a detection point, the person shall display red flags.

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

E. Well control equipment. When the 100 ppm radius of exposure includes a public area, the following well control equipment is required.

(1) Drilling. The person shall install a remote-controlled well control system that is operational at all times beginning when drilling is within 500 vertical feet of the formation believed to contain hydrogen sulfide and continuously thereafter during drilling. The well control system shall include, at a minimum, a pressure and hydrogen-sulfide-rated well control choke and kill system including manifold and blowout preventer that meets or exceeds the specifications in API publications Choke and Kill Systems, 16C and Blowout Prevention Equipment Systems for Drilling Wells, RP 53 or other division approved specifications. The person shall use mud-gas separators. The person shall test and maintain these systems pursuant to the specifications referenced, according to the requirements of 19.15.11 NMAC, or as the division otherwise approves.

(2) Completion, workover and well servicing. The person shall install a remote controlled pressure and hydrogen-sulfide-rated well control system that meets or exceeds API specifications or other division approved specifications that is operational at all times during a well's completion, workover and servicing.

F. Mud program. Drilling, completion, workover and well servicing operations involving a hydrogen sulfide concentration of 100 ppm or greater shall use a hydrogen sulfide mud program capable of handling hydrogen sulfide conditions and well control, including de-gassing.

G. Well testing. Except with prior division approval, a person shall conduct drill-stem testing of a zone that contains hydrogen sulfide in a concentration of 100 ppm or greater only during daylight hours and not permit formation fluids to flow to the surface.

H. If hydrogen sulfide encountered during operations. If hydrogen sulfide was not anticipated at the time the division issued a permit to drill but is encountered during drilling in a concentration of 100 ppm or greater, the operator shall satisfy the requirements of 19.15.11 NMAC before continuing drilling operations. The operator shall notify the division of the event and the mitigating steps that the operator has or is taking as soon as possible, but no later than 24 hours following discovery. The division may grant verbal approval to continue drilling operations pending preparation of a required hydrogen sulfide contingency plan.

[19.15.11.11 NMAC - Rp, 19.15.3.118 NMAC, / /08]

19.15.11.12 PROTECTION FROM HYDROGEN SULFIDE AT OIL PUMP STATIONS, PRODUCING WELLS, TANK BATTERIES AND ASSOCIATED PRODUCTION FACILITIES, PIPELINES, REFINERIES, GAS PLANTS AND COMPRESSOR STATIONS:

A. API standards. A person shall conduct operations at oil pump stations and producing wells, tank batteries and associated production facilities, refineries, gas plants and compressor stations involving a hydrogen sulfide concentration of 100 ppm or greater with due consideration to the guidelines in the API publication Recommended Practices for Oil and Gas Producing and Gas Processing Plant Operations Involving Hydrogen Sulfide, RP-55, latest edition or some other division approved standard.

B. Security. A person shall protect well sites and other unattended, fixed surface facilities involving a hydrogen sulfide concentration of 100 ppm or greater from public access by fencing with locking gates when the location is within 1/4 mile of a public area. For the purposes of Subsection B of 19.15.11.12 NMAC, a surface pipeline is not considered a fixed surface facility.

C. Wind direction indicators. Oil pump stations, producing wells, tank batteries and associated production facilities, pipelines, refineries, gas plants and compressor stations involving a hydrogen sulfide concentration of 100 ppm or greater shall have equipment to indicate wind direction. The person shall install wind direction equipment that is visible from all principal working areas at all times.

D. Control equipment. When the 100 ppm radius of exposure includes a public area, the following

additional measures are required.

(1) The person shall install and maintain in good operating condition safety devices, such as automatic shut-down devices, to prevent hydrogen sulfide's escape. Alternatively, the person shall establish safety procedures to achieve the same purpose.

(2) A well shall possess a secondary means of immediate well control through the use of an appropriate christmas tree or downhole completion equipment. The equipment shall allow downhole accessibility (reentry) under pressure for permanent well control.

E. Tanks or vessels. The person shall chain each stair or ladder leading to the top of a tank or vessel containing 300 ppm or more of hydrogen sulfide in the gaseous mixture or mark it to restrict entry.

[19.15.11.12 NMAC - Rp, 19.15.3.118 NMAC, / /08]

19.15.11.13 PERSONNEL PROTECTION AND TRAINING: The person shall provide persons responsible for implementing a hydrogen sulfide contingency plan training in hydrogen sulfide hazards, detection, personal protection and contingency procedures.

[19.15.11.13 NMAC - Rp, 19.15.3.118 NMAC, / /08]

19.15.11.14 STANDARDS FOR EQUIPMENT THAT MAY BE EXPOSED TO HYDROGEN SULFIDE: Whenever a well, facility or operation involves a potentially hazardous hydrogen sulfide volume, the person shall select equipment with consideration for both the hydrogen sulfide working environment and anticipated stresses and shall use NACE Standard MR0175 (latest edition) or some other division approved standard for selection of metallic equipment or, if applicable, use adequate protection by chemical inhibition or other methods that control or limit hydrogen sulfide's corrosive effects.

[19.15.11.14 NMAC - Rp, 19.15.3.118 NMAC, / /08]

19.15.11.15 EXEMPTIONS: A person may petition the director or the director's designee for an exemption to a requirement of 19.15.11 NMAC. A petition shall provide specific information as to the circumstances that warrant approval of the exemption requested and how the person will protect public safety. The director or the director's designee, after considering all relevant factors, may approve an exemption if the circumstances warrant and so long as the person protects public safety.

[19.15.11.15 NMAC - Rp, 19.15.3.118 NMAC, / /08]

19.15.11.16 NOTIFICATION OF THE DIVISION: The person shall notify the division upon a release of hydrogen sulfide requiring activation of the hydrogen sulfide contingency plan as soon as possible, but no more than four hours after plan activation, recognizing that a prompt response should supersede notification. The person shall submit a full report of the incident to the division on form C-141 no later than 15 days following the release.

[19.15.11.16 NMAC - Rp, 19.15.3.118 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 12 POOLS

19.15.12.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.12.1 NMAC - N, / /08]

19.15.12.2 SCOPE: 19.15.12 NMAC applies to persons engaged in oil and gas development and production within New Mexico.
[19.15.12.2 NMAC - N, / /08]

19.15.12.3 STATUTORY AUTHORITY: 19.15.12 NMAC is adopted pursuant to the Oil and Gas Act, NMSA 1978, Section 70-2-6, Section 70-2-11, Section 70-2-12, Section 70-2-16 and Section 70-2-17.
[19.15.12.3 NMAC - N, / /08]

19.15.12.4 DURATION: Permanent.
[19.15.12.4 NMAC - N, / /08]

19.15.12.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.12.5 NMAC - N, / /08]

19.15.12.6 OBJECTIVE: To regulate oil and gas operations that involve commingling of oil or gas from different pools or leases, in order to prevent waste and protect correlative rights.
[19.15.12.6 NMAC - N, / /08]

19.15.12.7 DEFINITIONS:

A. "Diverse ownership" means leases or pools have a different working, royalty or overriding royalty interest owners or a different ownership percentages of the same working, royalty or overriding royalty interest owners.

B. "Identical ownership" means leases or pools have the same working, royalty and overriding royalty owners in exactly the same percentages.

C. "Lease" means a contiguous geographical area of identical ownership overlying a pool or portion of a pool. An area pooled, unitized or communitized, either by agreement or by division order, or a participating area shall constitute a lease. If there is diversity of ownership between different pools, or between different zones or strata, then each such pool, zone or stratum having diverse ownership shall be considered a separate lease.
[19.15.12.7 NMAC - Rp, 19.15.5.303 NMAC, / /08]

19.15.12.8 CLASSIFYING AND DEFINING POOLS: The division shall determine whether a particular well or pool is a gas or oil well, or a gas or oil pool, and from time to time classify and reclassify wells and name pools accordingly, and shall determine the limits of a pool or pools producing oil or gas and from time to time re-determine such limits.
[19.15.12.8 NMAC - Rp, 19.15.1.15 NMAC, / /08]

19.15.12.9 SEGREGATION OF PRODUCTION FROM DIFFERENT POOLS OR LEASES:

A. Pool segregation required. An operator shall produce each pool as a single common source of supply and complete, case, maintain and operate wells in the pool so as to prevent communication within the well bore with other pools. An operator shall at all times segregate oil or gas produced from each pool. The combination commingling of production, before marketing, with production from other pools without division approval is prohibited.

B. Lease segregation required. An operator shall not transport oil or gas from a lease until it has been accurately measured or determined by other methods acceptable to the division. An operator shall at all times segregate production from each lease. The combination or commingling of production, before marketing, with production from other leases without division approval is prohibited.

C. Exceptions. The division may permit exceptions to Subsections A and B of 19.15.12.9 NMAC for surface commingling, downhole commingling and off-lease storage or measurement pursuant to 19.15.12.10

NMAC, 19.15.12.11 NMAC and 19.15.12.12, respectively. Exceptions granted by previous division orders remain in effect in accordance with their terms and conditions.
[19.15.12.9 NMAC - Rp, 19.15.5.303 NMAC, / /08]

19.15.12.10 SURFACE COMMINGLING - OIL, GAS OR OIL AND GAS:

A. To prevent waste, to promote conservation and to protect correlative rights, the division may grant exceptions to permit the surface commingling of oil or gas in common facilities from two or more pools, two or more leases or combinations of pools and leases provided that:

(1) the division shall approve the method the applicant uses to allocate the production to the various leases or pools to be commingled;

(2) if state, federal or tribal lands are involved, the operator has notified the state land office or BLM, as applicable, of the proposed commingling; and

(3) the operator has met the other applicable requirements in 19.15.12.10 NMAC.

B. Specific requirements and provisions for commingling of leases, pools or leases and pools with identical ownership.

(1) Measurement and allocation methods.

(a) Well test method. If all wells or units to be commingled are marginal and are physically incapable of producing the top proration unit allowable for their respective pools, or if all affected pools are unprorated, the division shall permit commingling without separately measuring the production from each pool or lease. Instead, the operator may determine the production from each well and from each pool or lease from well tests conducted periodically, but no less than annually. The well test method shall not apply to wells or units that can produce an amount of oil equal to the top proration unit allowable for the pool but are restricted because of high gas-oil ratios. The operator of a marginal commingling installation shall notify the division any time a well or unit commingled under 19.15.12.10 NMAC becomes capable of producing the top proration unit allowable for its pool, at which time the division shall require separate measurement.

(b) Metering method. The operator may determine production from each pool or lease by separately metering before commingling.

(c) Subtraction method. If production from all except one of the pools or leases to be commingled is separately measured, the operator may determine the production from the remaining pool or lease by the subtraction method as follows:

(i) for oil, the net production from the unmetered pool or lease shall be the difference between the net pipeline runs with the beginning and ending stock adjustments and the sum of the net production of the metered pools or leases;

(ii) for gas, the net production from the unmetered pool or lease shall be the difference between the volume recorded at the sales meter and the sum of the volumes recorded at the individual pool or lease meters.

(d) Top allowable producers. If a well or unit in a prorated pool to be commingled can physically be produced at top proration unit allowable rates (even if restricted because of high gas-oil ratios), the division may permit commingling only if the operator or a gatherer, transporter or processor meters the production from the unit prior to commingling, or determines it by the subtraction method.

(e) Alternative methods. An operator may determine production from each pool or lease to be commingled by other methods the division has specifically approved prior to commingling. The division shall determine what evidence is necessary to support a request to use an alternative method.

(2) Prior to commingling, the applicant shall notify the division by filing form C-103 in the division's Santa Fe office with the following information set forth in the form or attached to the form:

(a) identification of each of the leases, pools or leases and pools to be commingled;

(b) the method of allocation the applicant will use; if the applicant proposes using the well test method for production from a prorated pool, the notification to the division shall be accompanied by a tabulation of production showing that the average daily production of an affected proration unit over a 60-day period has been below the top proration unit allowable for the subject pool (or for a newly drilled well without a 60-day production history, a tabulation of the available production) or other evidence acceptable to the division to establish that the well or wells on the unit are not capable of producing the top proration unit allowable; if the proposed allocation method is other than an approved method provided in Subsection B of 19.15.12.10 NMAC, the operator shall submit evidence of the method's reliability;

(c) a certification by a licensed attorney or qualified petroleum landman that the ownership in the pools and leases to be commingled is identical as defined in 19.15.12.7 NMAC; and

(d) evidence of notice to the state land office or the BLM, if required.

(3) Approval. The division may authorize commingling without a notice or hearing and the operator may commence commingling upon the division's approval of form C-103, subject to compliance with any conditions of the approval the division noted, provided that the operator shall not commence commingling involving state, federal or tribal leases unless or until approved by the state land office or the BLM, as applicable.

C. Specific requirements and provisions for commingling of leases, pools or leases and pools with diverse ownership.

(1) Measurement and allocation methods. Where there is diversity of ownership between two or more leases, two or more pools or between different pools and leases, the division shall only permit surface commingling of production from the leases and pools if the operator accurately meters production from each of such pools or leases or determines the production by other methods the division has specifically approved prior to commingling.

(2) Meter proving and calibration frequencies.

(a) Oil. The operator shall test each meter used in oil production accounting for accuracy as follows: monthly, if more than 100,000 barrels of oil per month are measured through the meter; quarterly, if between 10,000 and 100,000 barrels of oil per month are measured through the meter; and semi-annually, if less than 10,000 barrels of oil per month are measured through the meter.

(b) Gas. For each gas sales and allocation meter, the operator shall test the metering equipment's accuracy at the point of delivery or allocation following the initial installation and following repair and retested: quarterly, if 100 MCFGPD or more are measured through the meter; and semi-annually, if less than 100 MCFGPD are measured through the meter.

(c) Correction and adjustment. If a meter proving and calibration test reveals inaccuracy in the metering equipment of more than two percent, the operator shall correct the volume measured and adjust the meter to zero error. The operator shall submit a corrected report adjusting the volume of oil or gas measured and showing the calculations made in correcting the volumes. The operator shall correct the volumes back to the time the inaccuracy occurred, if known. If the time is unknown, the operator shall correct the volumes for the last half of the period elapsed since the last calibration date. If a test reveals an inaccuracy of less than two percent, the operator shall adjust the meter, but correction of prior production is not required.

(3) Low production gas wells. For gas wells producing less than 15 MCFGPD, the operator may estimate production as an acceptable alternative to individual well measurement provided that commingling of production from different pools or leases does not take place unless otherwise authorized pursuant to 19.15.12 NMAC.

(4) Approval process.

(a) In general. Where there is diversity of ownership, the division may grant an exception to the requirements of 19.15.12.9 NMAC to permit surface commingling of production from different leases, pools or leases and pools only after notice and an opportunity for hearing as provided in Paragraph (4) of Subsection C of 19.15.12.10 NMAC.

(b) Application. The operator shall submit an application for administrative approval to the division's Santa Fe office on form C-107-B, which shall contain a list of the parties (interest owners) owning an interest in the production to be commingled (including owners of royalty and overriding royalty interests whether or not they have a right or option to take their interests in kind) and a method of allocating production to ensure the protection of correlative rights.

(c) Notice. The applicant shall notify the interest owners in accordance with 19.15.4.12 NMAC. The applicant shall submit a statement attesting that the applicant, on or before the date the applicant submitted the application to the division, notified each of the interest owners by sending them a copy of the application and the attachments to the application, by certified mail, return receipt requested, and advising them that they must file any objection in writing with the division's Santa Fe office within 20 days from the date the division received the application. The division may approve the application administratively, without hearing, upon receipt of written waivers from interest owners, or if no interest owner has filed an objection within the 20-day period. If the division receives an objection, it shall set the application for hearing. The division shall notify the applicant, who shall give formal notice of the hearing to each party who has filed an objection and to such other persons as the division directs.

(d) Hearing ordered by the division. The division may set for hearing an application for administrative approval of surface commingling, and, in such case, the applicant shall give notice of the hearing in the manner the division directs.

(e) Notice by publication. When an applicant is unable to locate all interest owners after

exercising reasonable diligence, the applicant shall provide notice by publication and submit proof of publication with the application. Such proof shall consist of a copy of the legal advertisement that was published in a newspaper of general circulation in the county or counties in which the commingled production is located. The advertisement shall include

(i) the applicant's name, address, telephone number and contact party;

(ii) the location by section, township and range of the leases from which production will be commingled and the location of the commingling facility;

(iii) the source of all commingled production by pool name; and

(iv) a notation that interested parties must file objections or requests for hearing in writing with the division's Santa Fe office within 20 days after publication, or the division may approve the application.

(f) Effect of protest. The division shall include protests and requests for hearing it receives in the case file; provided however, the division shall not consider the protest as evidence. If the protesting party does not appear at the hearing, the division may grant application without receiving additional evidence in support of the application.

(g) Additions. A surface commingling order may authorize, prospectively, the inclusion of additional pools or leases within defined parameters set forth in the order, provided that

(i) the notice to the interest owners includes a statement that authorization for subsequent additions is being sought and of the parameters for the additions the applicant proposes, and

(ii) the division finds that subsequent additions within defined parameters will not, in reasonable probability, reduce the commingled production's value or otherwise adversely affect the interest owners; a subsequent application to amend an order to add to the commingled production other leases, pools or leases and pools that are within the defined parameters requires notice only to the owners of interests in the production to be added, unless the division otherwise directs.

(h) State, federal or tribal lands. Notwithstanding the issuance of an exception under 19.15.12.10 NMAC, an operator shall not commence commingling involving state, federal or tribal leases unless or until approved by the state land office or the BLM, as applicable.

[19.15.12.10 NMAC - Rp, 19.15.5.303 NMAC, / /08]

19.15.12.11 DOWNHOLE COMMINGLING:

A. The director may grant an exception to 19.15.12.9 NMAC to permit the commingling of multiple producing pools in existing or proposed well bores when the following conditions are met.

(1) The fluids from each pool are compatible and combining the fluids will not damage the pools.

(2) The commingling will not jeopardize the efficiency of present or future secondary recovery operations in the pools to be commingled.

(3) The bottom perforation of the lower zone is within 150 percent of the depth of the top perforation in the upper zone and the lower zone is at or below normal pressure with normal pressure assumed to be 0.433 psi per foot of depth. If the pools to be commingled are not within this vertical interval, then evidence is required to demonstrate that commingling will not result in shut-in or flowing well bore pressures in excess of any commingled pool's fracture parting pressure. The fracture parting pressure is assumed to be 0.65 psi per foot of depth unless the applicant submits other measured or calculated pressure data acceptable to the division.

(4) The commingling will not result in the permanent loss of reserves due to cross-flow in the well bore.

(5) Fluid-sensitive formations that may be subject to damage from water or other produced liquids are protected from contact with the liquids produced from other pools in the well.

(6) If any of the pools being commingled is prorated, or the well's production has been restricted by division order in any manner, the allocated production from each producing pool in the commingled well bore shall not exceed the top oil or gas allowable rate for a well in that pool or rate restriction applicable to the well.

(7) The commingling will not reduce the value of the total remaining production.

(8) Correlative rights will not be violated.

B. The director may rescind authority to commingle production in a well bore and require the operator produce the pools separately if, in the director's opinion, waste or reservoir damage is resulting, correlative rights are being impaired or the efficiency of a secondary recovery project is being impaired, or any changes or conditions render the installation no longer eligible for downhole commingling.

C. When the conditions set forth in Subsection A of 19.15.12.11 NMAC are satisfied, the director may approve a request to downhole commingle production in one of the following ways.

(1) Individual exceptions. An operator shall file applications to downhole commingle in well bores located outside of an area subject to a downhole commingling order issued in a "reference case" and not within a pre-approved pool or area on form C-107-A with the division.

(a) The director may administratively approve a form C-107-A in the absence of a valid objection filed within 20 days after the division's receipt of the application if, in the director's opinion, waste will not occur and correlative rights will not be impaired.

(b) In those instances where the ownership or percentages between the pools to be commingled is not identical, applicant shall send a copy of form C-107-A to interest owners in the spacing unit by certified mail, return receipt requested.

(c) The applicant shall send copies of form C-107-A to the state land office for wells in spacing units containing state lands or the BLM for wells in spacing units containing federal or tribal lands.

(d) The director may set an administratively filed form C-107-A for hearing.

(2) Exceptions for wells located in pre-approved pools or areas. Applicants shall file applications to downhole commingle in well bores within pools or areas that have been established by the division as "pre-approved pools or areas" pursuant to Paragraph (2) of Subsection D of 19.15.12.11 NMAC on form C-103 at the appropriate division district office. The district supervisor of the appropriate division district office may approve the proposed downhole commingling following receipt of form C-103. In addition to the information required by form C-103, the applicant shall include:

(a) the number of division order that established pre-approved pool or area;

(b) the names of pools to be commingled;

(c) perforated intervals;

(d) allocation method and supporting data;

(e) a statement that the commingling will not reduce the total remaining production's value;

(f) in those instances where the ownership or percentages between the pools to be commingled is not identical, a statement attesting that applicant sent notice to the interest owners in the spacing unit by certified mail, return receipt requested of its intent to apply for downhole commingling and no objection was received within 20 days of sending this notice; and

(g) a statement attesting that applicant sent a copy of form C-103 to the state land office for wells in spacing units containing state lands or the BLM for wells in spacing units containing federal or tribal lands using sundry notice form 3160-5.

(3) Exceptions for wells located in areas subject to a downhole commingling order issued in a "reference case". Applicants shall file applications to downhole commingle in well bores within an area subject to a division order that excepted any of the criteria required by 19.15.12.11 NMAC or form C-107-A with the district supervisor of the appropriate division district office and, except for the place of filing, shall meet the requirements of the applicable order issued in that "reference case".

D. Applications for establishing a "reference case" or for pre-approval of downhole commingling on an area-wide or pool-wide basis.

(1) Reference cases. If sufficient data exists for a lease, pool, formation or geographical area to render it unnecessary to repeatedly provide the data on form C-107-A, an operator may except any of the various criteria required under 19.15.12.11 NMAC or set forth in form C-107-A by establishing a "reference case". The division, upon its own motion or application from an operator, may establish "reference cases" either administratively or by hearing. Upon division approval of such "reference cases" for specific criteria, the division shall require subsequent form C-107-A only to cite the division order number that established the exceptions and not require the applicant to submit data for those criteria. The division may approve applications involving exceptions to the specific criteria required by 19.15.12.11 NMAC or by form C-107-A after the applicant sends notice to the interest owners in the affected spacing units by certified mail, return receipt requested, based on evidence that the approval would adequately satisfy the conditions of Subsection A of 19.15.12.11 NMAC.

(2) Pre-approval of downhole commingling on a pool-wide or area-wide basis. If sufficient data exists for multiple formations or pools that have previously been commingled or are proposed to be commingled, the division, upon its own motion or application from an operator, may establish downhole commingling on a pool-wide or area-wide basis either administratively or by hearing.

(a) Applications for pre-approval shall include the data required by form C-107-A, a list of the names and address of operators in the pools, previous orders authorizing downhole commingling for the pools or area and a map showing the location of wells in the pools or area and indicating those wells approved for downhole commingling.

(b) The director may approve applications for pre-approval of downhole commingling on a

pool-wide or area-wide basis after the applicant sends notice to operators in the affected pools or area by certified mail, return receipt requested, based on evidence that such approval adequately satisfies the conditions of 19.15.12.11 NMAC.

(c) Upon approval of certain pools or areas for downhole commingling, an operator may obtain approval for subsequent applications for approval to downhole commingle wells within those pools or areas by filing form C-103 in accordance with Paragraph (2) of Subsection C of 19.15.12.11 NMAC.

(3) The division shall maintain and continually update a list of pre-approved pools or areas in Subsection E of 19.15.12.11 NMAC.

E. Pre-approved pools and areas. Downhole commingling is approved within the following pool combinations or geographical areas (provided, however, that the operator shall file form C-103 with the appropriate division district office in accordance with the procedure set forth in Paragraph (2) of Subsection C of 19.15.12.11 NMAC):

Pre-approved pools or geographic areas for downhole commingling, permian basin	
All Blinebry, Tubb, Drinkard, Blinebry-Tubb, Blinebry-Drinkard and Tubb-Drinkard pool combinations within the following geographic area in Lea County:	
township 18 south, ranges 37, 38 and 39 east	township 23 south, ranges 36, 37 and 38 east
township 19 south, ranges 36, 37, 38 and 39 east	township 24 south, ranges 36, 37 and 38 east
township 20 south, ranges 36, 37, 38 and 39 east	township 25 south, ranges 36, 37 and 38 east
township 21 south, ranges 36, 37 and 38 east	township 26 south, ranges 36, 37 and 38 east
township 22 south, ranges 36, 37 and 38 east	
Blinebry pools	
6660 Blinebry oil and gas pool (oil)	34200 Justis-Blinebry pool
72480 Blinebry oil and gas pool (pro gas)	46990 monument-Blinebry pool
6670 west Blinebry pool	47395 Nadine-Blinebry pool
12411 Cline lower paddock-Blinebry pool	47400 west Nadine paddock-Blinebry pool
29710 Hardy-Blinebry pool	47960 oil center-Blinebry pool
31700 east Hobbs-Blinebry pool	96314 north Teague lower paddock-Blinebry assoc.
31680 Hobbs upper-Blinebry pool	58300 Teague paddock-Blinebry pool
31650 Hobbs lower-Blinebry pool	59310 east Terry-Blinebry pool
33230 house-Blinebry pool	63780 Weir-Blinebry pool
33225 south house-Blinebry pool	63800 east Weir-Blinebry pool
Tubb pools	
12440 Cline-Tubb pool	47530 west Nadine-Tubb pool
77120 Fowler-Tubb pool	58910 Teague-Tubb pool
26635 south Fowler-Tubb pool	96315 north Teague-Tubb associated pool
78760 house-Tubb pool	60240 Tubb oil and gas pool (oil)
33460 east house-Tubb pool	86440 Tubb oil and gas pool (pro gas)
33470 north house-Tubb pool	87080 Warren-Tubb pool
47090 monument-Tubb pool	87085 east Warren-Tubb pool
47525 Nadine-Tubb pool	
Drinkard pools	
7900 south Brunson Drinkard-abo pool	47505 west Nadine-Drinkard pool
12430 Cline Drinkard-abo pool	47510 Nadine Drinkard-Abo pool
15390 D-K Drinkard pool	57000 Skaggs-Drinkard pool
19190 Drinkard pool	96768 northwest Skaggs-Drinkard pool
19380 south Drinkard pool	58380 Teague-Drinkard pool
26220 Fowler-Drinkard pool	96313 north Teague Drinkard-Abo pool
28390 Goodwin-Drinkard pool	63080 Warren-Drinkard pool
31730 Hobbs-Drinkard pool	63120 east Warren-Drinkard pool
33250 house-Drinkard pool	63840 Weir-Drinkard pool
47503 east Nadine-Drinkard pool	
Blinebry-Tubb pools	
62965 Warren Blinebry-Tubb oil and gas pool	

Tubb-Drinkard pools	
18830 dollarhide Tubb-Drinkard pool	33600 imperial Tubb-Drinkard pool
29760 Hardy Tubb-Drinkard pool	35280 Justis Tubb-Drinkard pool
96356 north Hardy Tubb-Drinkard pool	

pool-combinations, Lea county
airstrip-bone spring (960) and airstrip-wolfcamp (970) pools
Baish-wolfcamp (4480) and maljamar-abo (43250) pools
Blinebry oil and gas and Wantz-abo (62700) pools
Blinebry oil and gas and south Brunson-Ellenburger (8000) pools
Blinebry oil and gas and paddock (49210) pools
cerca lower-wolfcamp (11800) and cerca upper-pennsylvanian (11810) pools
Drinkard (19190) and paddock (49210) pools
Drinkard (19190) and Wantz-abo (62700) pools
Drinkard (19190) and Wantz-granite wash (62730) pools
lazy J penn (37430) and south Baum-wolfcamp (4967) pools
mesa verde-Delaware (96191) and mesa verde-bone spring (96229) pools
west red tank-Delaware (51689) and red tank-bone spring (51683) pools
south shoe bar-wolfcamp (56300) and south shoe bar upper-penn (56285) pools
Skaggs-glorieta (57190) and Skaggs-Drinkard (57000) pools
west Triste draw-Delaware (59945) and south sand dunes bone spring (53805) pools
Triste draw-Delaware (59930) and Triste draw-bone spring (96603) pools
Tubb oil and gas and paddock (49210) pools
north vacuum-Abo (61760) and vacuum-wolfcamp (62340) pools
vacuum-Blinebry (61850) and vacuum-Glorieta (62160) pools
vacuum-Blinebry (61850) and vacuum-Drinkard (62110) pools
vacuum upper-penn (62320) and vacuum-wolfcamp (62340) pools
Wantz-abo (62700) and Wantz-granite wash (62730) pools

pool combinations, Eddy county
red lake queen-grayburg-san andres (51300) and northeast red lake-glorieta yeso (96836) pools

pool combination, San Juan basin
basin-dakota (71599) and angels peak-Gallup associated (2170) pools
basin-dakota (71599) and Armenta-Gallup (2290) pools
basin-dakota (71599) and Baca-Gallup (3745) pools
basin-dakota (71599) and bisti lower-Gallup (5890) pools
basin-dakota (71599) and BS mesa-Gallup (72920) pools
basin-dakota (71599) and Calloway-Gallup (73700) pools
basin-dakota (71599) and devils fork-Gallup associated (17610) pools
basin-dakota (71599) and ensenada-Gallup (96321) pools
basin-dakota (71599) and flora vista-Gallup (76640) pools
basin-dakota (71599) and Gallegos-Gallup associated (26980) pools
basin-dakota (71599) and ice canyon-Gallup (93235) pools
basin-dakota (71599) and Kutz-Gallup (36550) pools
basin-dakota (71599) and Largo-Gallup (80000) pools
basin-dakota (71599) and otero-Gallup (48450) pools
basin-dakota (71599) and Tapacito-Gallup associated (58090) pools
basin-dakota (71599) and wild horse-Gallup (87360) pools
basin-dakota (71599) and Aztec-pictured cliffs (71280) pools
basin-dakota (71599) and Ballard-pictured cliffs (71439) pools
basin-dakota (71599) and blanco-pictured cliffs (72359) pools
basin-dakota (71599) and south blanco-pictured cliffs (72439) pools
basin-dakota (71599) and Fulcher Kutz-pictured cliffs (77200) pools
basin-dakota (71599) and west Kutz-pictured cliffs (79680) pools
basin-dakota (71599) and Tapacito-pictured cliffs (85920) pools
basin-fruitland coal (71629) and Aztec-pictured cliffs (71280) pools
basin-fruitland coal (71629) and Ballard-pictured cliffs (71439) pools

basin-fruitland coal (71629) and blanco-pictured cliffs (72359) pools
basin-fruitland coal (71629) and east blanco-pictured cliffs (72400) pools
basin-fruitland coal (71629) and south blanco-pictured cliffs (72439) pools
basin-fruitland coal (71629) and carracas-pictured cliffs (96154) pools
basin-fruitland coal (71629) and choza mesa-pictured cliffs (74960) pools
basin-fruitland coal (71629) and Fulcher Kutz-pictured cliffs (77200) pools
basin-fruitland coal (71629) and west Kutz-pictured cliffs (79680) pools
basin-fruitland coal (71629) and Gavilan-pictured cliffs (77360) pools
basin-fruitland coal (71629) and gobernador-pictured cliffs (77440) pools
basin-fruitland coal (71629) and huerfano-pictured cliffs (78840) pools
basin-fruitland coal (71629) and Potwin-pictured cliffs (83000) pools
basin-fruitland coal (71629) and Tapacito-pictured cliffs (85920) pools
basin-fruitland coal (71629) and twin mounds fruitland sand-pictured cliffs (86620) pools
basin-fruitland coal (71629) and W. A. W. fruitland sand-pictured cliffs (87190) pools
blanco-mesaverde (72319) and basin-dakota (71599) pools
blanco-mesaverde (72319) and blanco-pictured cliffs (72359) pools
blanco-mesaverde (72319) and south blanco-pictured cliffs (72439) pools
blanco-mesaverde (72319) and gobernador-pictured cliffs (77440) pools
blanco-mesaverde (72319) and west lindrith Gallup-dakota (39189) pools
blanco-mesaverde (72319) and Tapacito-pictured cliffs (85920) pools
blanco-mesaverde (72319) and Armenta-Gallup (2290) pools
blanco-mesaverde (72319) and BS mesa-Gallup (72920) pools
blanco-mesaverde (72319) and Calloway-Gallup (73700) pools
blanco-mesaverde (72319) and ensenada-Gallup (96321) pools
blanco-mesaverde (72319) and flora vista-Gallup (76640) pools
blanco-mesaverde (72319) and Largo-Gallup (80000) pools
blanco-mesaverde (72319) and west lindrith Gallup-Dakota (39189) pools
blanco-mesaverde (72319) and McDermott Gallup (81050) pools
blanco-mesaverde (72319) and Potter-Gallup (50387) pools
blanco-mesaverde (72319) and Tapacito-Gallup associated (58090) pools
blanco-mesaverde (72319) and wild horse-Gallup (87360) pools
otero-chacra (82329) and Aztec-pictured cliffs (71280) pools
otero-chacra (82329) and basin-dakota (71599) pools
otero-chacra (82329) and blanco-mesaverde (72319) pools
otero-chacra (82329) and south blanco-pictured cliffs (72439) pools
otero-chacra (82329) and Fulcher Kutz-pictured cliffs (77200) pools

[19.15.12.11 NMAC - Rp, 19.15.5.303 NMAC, 7/08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 13 COMPULSORY POOLING

19.15.13.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.13.1 NMAC - N, / /08]

19.15.13.2 SCOPE: 19.15.13 NMAC applies to persons engaged in oil and gas development and production within New Mexico.
[19.15.13.2 NMAC - N, / /08]

19.15.13.3 STATUTORY AUTHORITY: 19.15.13 NMAC is adopted pursuant to the Oil and Gas Act, NMSA 1978, Section 70-2-6, Section 70-2-11, Section 70-2-12 and Section 70-2-17.
[19.15.13.3 NMAC - N, / 08]

19.15.13.4 DURATION: Permanent.
[19.15.13.4 NMAC - N, / /08]

19.15.13.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.13.6 NMAC - N, / /08]

19.15.13.6 OBJECTIVE: To establish requirements for implementation of the division's statutory authority to pool interests in oil and gas spacing units.
[19.15.13.6 NMAC - N, / /08]

19.15.13.7 DEFINITIONS:

A. "Infill well" means a well in a compulsory pooled proration or spacing unit to be completed in a pool in which an existing well drilled pursuant to the compulsory pooling order has been completed and not plugged and abandoned.

B. "Operator", for the purposes of 19.15.13 NMAC, means the division or commission appointed operator of a compulsory pooled proration or spacing unit, or its successor.

C. "Pooled working interest" means a working interest or unleased mineral interest that is pooled by division or commission order and not by voluntary agreement of the owner of the interest, except for an unleased mineral interest on federal, state or tribal lands.
[19.15.13.7 NMAC - N, / /08]

19.15.13.8 CHARGE FOR RISK:

A. General rule. Compulsory pooling orders the division enters pursuant to NMSA 1978, Section 70-2-17, as amended, may provide for the recovery, out of the share of production allocable to the working interest of a party that elects not to pay its proportionate share of well costs in advance, in addition to reasonable well costs and costs of supervision and management, of a charge for risk associated with the drilling, completion or working over and re-completion of each unit well for which the order provides. Unless otherwise ordered pursuant to Subsection D of 19.15.13.8 NMAC, the charge for risk is 200 percent of well costs.

B. Well costs shall include the reasonable costs of drilling, reworking, diverting, deepening, plugging back and testing the well; completing the well in a formation pooled by the order; and equipping the well for production.

(1) If, however, a well was previously completed in another formation or bottom hole location, or was previously abandoned without completion, well costs as to that well shall mean only the reasonable costs of re-entering, reworking, diverting, deepening, plugging back or testing the well; completion in the pooled formation or formations and; if necessary, reequipping the well for production, unless the division determines that allowance of all or some portion of historical costs of drilling is just and reasonable due to particular circumstances.

(2) If a well is completed in two or more formations having diverse ownership or a different risk charge percentage, the order shall provide for allocation of well costs between the formations.

(3) As to an interest owner who elects not to pay its share of well costs associated with a specific well in advance, as provided in the applicable order, well costs shall include costs of a subsequent operation undertaken

to secure or enhance production from a formation pooled by the order prior to the time that the entire amount of the non-consenting owner's share of well costs and applicable risk charge have been recovered from the non-consenting owner's share of the well's production. The costs shall include expenses for reworking, diverting, deepening, plugging back, testing, completion or recompletion and equipping for production, but not ordinary operating expenses.

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

C. An applicant for compulsory pooling is not required to present technical evidence justifying the risk charge provided in Subsection A of 19.15.13.8 NMAC.

D. Exceptions. A person responding to a compulsory pooling application who seeks a different risk charge than that provided in Subsection A of 19.15.13.8 NMAC shall so state in a timely pre-hearing statement filed with the division and served on the applicant in accordance with 19.15.14.13 NMAC, and shall have the burden to prove the justification for the risk charge sought by relevant geologic or technical evidence. The hearing examiner may allow a responding party who has not filed a pre-hearing statement, but who appears in person or by attorney at the hearing, to offer evidence in support of a different risk charge than that Subsection A of 19.15.13.8 NMAC provides, but in such cases the hearing examiner shall allow a continuance of the hearing, if requested, to enable the applicant to present rebuttal evidence.

[19.15.13.8 NMAC - Rp, 19.15.1.35 NMAC, / /08]

19.15.13.9 INFILL WELLS: Whenever 19.15.15 NMAC or an applicable pool order authorizes one or more infill wells within a proration or spacing unit pooled by division or commission order pursuant to NMSA 1978, Section 70-2-17, either the operator or an owner of a pooled working interest may, at any time after completion of the initial well provided in the pooling order, propose drilling of an infill well.

[19.15.13.9 NMAC - Rp, 19.15.1.36 NMAC, / /08]

19.15.13.10 PROPOSAL BY THE OPERATOR:

A. If the operator proposes an infill well, it shall notify each pooled working interest owner of the proposal by certified mail, return receipt requested, specifying the proposed well's location and depth and including a schedule of estimated well costs and a statement of each pooled working interest owner's gross working interest percentage.

B. Each pooled working interest owner may elect to participate in the proposed infill well by notice in writing to the operator within 30 days after the owner receives the proposal, provided that the election to participate shall not be effective unless the owner so electing pays to the operator the amount of the owner's share of estimated well costs within 30 days after the date of transmission of its notice of election to participate.

C. A pooled working interest owner not electing to participate in the proposed infill well shall be deemed to have elected to become a non-consenting owner with respect to the infill well. The operator shall withhold from the proceeds of the well's production accruing to the working interest of a non-consenting owner the non-consenting owner's share of costs, as defined in 19.15.13 NMAC, of the infill well, together with a risk charge computed at the same rate as provided in the pooling order with respect to the initial well. The operator shall distribute the amounts withheld from the non-consenting owner's share of production for well costs and risk charges proportionately to the persons who have advanced the infill well's cost.

D. Unless it withdraws the proposal the operator shall commence drilling of the proposed infill well no later than 120 days after the expiration of the initial notice period of 30 days. The director may extend the time for commencement of drilling once for not more than an additional 120 days, upon showing of good cause for the extension, without notice or hearing. If the operator has not commenced drilling within the time provided no election previously made shall be binding on a party. If the operator still desires to drill the infill well, it shall resubmit written notice proposing the well as if no prior proposal had been made.

[19.15.13.10 NMAC - Rp, 19.15.1.36 NMAC, / /08]

19.15.13.11 PROPOSAL BY POOLED WORKING INTEREST OWNER:

A. If a pooled working interest owner proposes an infill well, it shall notify the operator of the proposal by certified mail, return receipt requested, specifying the proposed well's location and depth and including a schedule of estimated well costs. The proposing owner shall mail a copy of the proposal to each of the other

pooled working interest owners, or their successors in title as identified by documents of record in the office of the clerk of the county where the proposed well will be located, at the same time that it mails the proposal to the operator.

B. The operator shall, within 60 days after receipt of such notice, either propose an infill well at the specified location and depth as an operator proposal pursuant to 19.15.13.10 NMAC, or notify the owner proposing the well that it declines to do so.

(1) If the operator proposes the well and less than all working interest owners elect to participate, the operator may withdraw the proposal unless the originally proposing owner, within 30 days of receipt of notice of such occurrence, advances the share of estimated well costs allocable to all non-consenting owners of pooled working interests.

(2) If the operator proposes the well and all owners consent to the well or the originally proposing owner advances the share of well costs allocable to an otherwise unsubscribed interest, the operator shall commence drilling the proposed infill well within 120 days after it receives notice that either condition has occurred. The director may extend the time for commencement of drilling once for not more than an additional 120 days, upon showing of good cause for the extension, without notice or hearing. Well costs applicable to a non-consenting owner of a pooled working interest, together with the risk charge provided in the original pooling order, shall be recoverable out of the non-consenting owner's share of production as in other cases.

C. If the operator declines to propose a well proposed to it by a pooled working interest owner or fails to commence the well within the time provided, the proposing owner may apply to the division for an order authorizing the drilling of the proposed infill well under the compulsory pooling order's terms. The owner filing the application shall give notice of the application as provided in 19.15.4.12 NMAC to the owners of working interests in the proration or spacing unit, including those whose interests in the proration or spacing unit are pooled by agreement, and, if the proration or spacing unit includes state, federal or tribal minerals, to the state land office or the BLM, as applicable.

[19.15.13.11 NMAC - Rp, 19.15.1.36 NMAC, / /08]

19.15.13.12 REFUND OF MONEY ADVANCED: If the operator does not commence an infill well proposed pursuant to 19.15.13.10 NMAC within the time provided, including an extension the division allows, it shall refund amounts it received from a pooled party as advance payment of well costs for the well within 10 days after the expiration of the time provided for commencement of drilling, together with interest on the amount received calculated at the rate of bank of America prime plus three percentage points.

[19.15.13.12 NMAC - Rp, 19.15.1.36 NMAC, / /08]

19.15.13.13 DETERMINATION OF REASONABLE COSTS: The provision of the applicable compulsory pooling order regarding reporting of actual well costs to the division and to pooled working interest owners, opportunity for objections to those costs, determinations of reasonableness of well costs and adjustment of the amount paid to a participating pooled working interest owner to reflect reasonable well costs shall apply to a well drilled pursuant to 19.15.13.10 NMAC or 19.15.13.11 NMAC.

[19.15.13.13 NMAC - Rp, 19.15.1.36 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 14 DRILLING PERMITS

19.15.14.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.14.1 NMAC - N, / /08]

19.15.14.2 SCOPE: 19.15.14 NMAC applies to persons engaged in drilling oil and gas wells within New Mexico.
[19.15.14.2 NMAC - N, / /08]

19.15.14.3 STATUTORY AUTHORITY: 19.15.14 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.
[19.15.14.3 NMAC - N, / /08]

19.15.14.4 DURATION: Permanent.
[19.15.14.4 NMAC - N, / /08]

19.15.14.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.14.5 NMAC - N, / /08]

19.15.14.6 OBJECTIVE: To require an operator to obtain a permit prior to commencing drilling, deepening or re-entry operations or before plugging a well back to a different pool or completing or re-completing a well in an additional pool and to establish procedures for application for and approval or denial of the permit.
[19.15.14.6 NMAC - N, / /08]

19.15.14.7 DEFINITIONS: [RESERVED]
[See 19.15.2.7 NMAC for definitions.]
[19.15.14.7 NMAC - N, / /08]

19.15.14.8 PERMIT TO DRILL, DEEPEN OR PLUG BACK: An operator shall obtain a permit from the division prior to commencing drilling, deepening or re-entry operations, or before plugging a well back to a different pool or completing or re-completing a well in an additional pool.
[19.15.14.8 NMAC - Rp, 19.15.3.102 NMAC, / /08]

19.15.14.9 APPLICATIONS: An operator shall file a complete form C-101 and complete form C-102 with the division and meet the following requirements, if applicable:

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

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

C. an applicant for a permit to operate a well in a spacing or proration unit containing an existing well or wells operated by another operator shall also comply with Subsection B of 19.15.15.12 NMAC.
[19.15.14.9 NMAC - Rp, 19.15.3.102 NMAC and 19.15.13.1101 NMAC, / /08]

19.15.14.10 APPROVAL OR DENIAL OF A PERMIT TO DRILL, DEEPEN OR PLUG BACK:

A. The director or the director's designee may deny a permit to drill, deepen or plug back if the applicant is not in compliance with Subsection A of 19.15.5.9 NMAC. In determining whether to grant or deny the permit, the director or the director's designee shall consider such factors as whether the non-compliance with Subsection A of 19.15.5.9 NMAC is caused by the operator not meeting the financial assurance requirements of 19.15.8 NMAC, being subject to a division or commission order finding the operator to be in violation of an order requiring corrective action, having a penalty assessment that has been unpaid for more than 70 days since the

issuance of the order assessing the penalty or having more than the allowed number of wells out of compliance with 19.15.25.8 NMAC. If the non-compliance is caused by the operator having more than the allowed number of wells not in compliance with 19.15.25.8 NMAC, the director or director's designee shall consider the number of wells not in compliance, the length of time the wells have been out of compliance and the operator's efforts to bring the wells into compliance.

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

C. If the division denies the permit it shall return the form C-101 to the applicant with the cause for rejection stated.

[19.15.14.10 NMAC - Rp, 19.15.3.102 NMAC and 19.15.13.1101 NMAC, / /08]

19.15.14.11 APPROVED FORM C-101 AT WELL SITE: The operator shall keep a copy of the approved form C-101 at the well site during drilling operations.

[19.15.14.11 NMAC - Rp, 19.15.3.102 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 15 WELL SPACING AND LOCATION

19.15.15.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.15.1 NMAC - N, / /08]

19.15.15.2 SCOPE: 19.15.15 NMAC applies to persons engaged in drilling oil and gas wells within New Mexico.
[19.15.15.2 NMAC - N, / /08]

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, which authorizes the division to establish well spacing.
[19.15.15.3 NMAC - N, / /08]

19.15.15.4 DURATION: Permanent.
[19.15.15.4 NMAC - N, / /08]

19.15.15.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.15.5 NMAC - N, / /08]

19.15.15.6 OBJECTIVE: To classify wells and establish well location and well acreage requirements and procedures for multiple operators within a spacing unit, obtaining approval of unorthodox well locations and for pooling or communitizing small acreage oil lots.
[19.15.15.6 NMAC - N, / /08]

19.15.15.7 DEFINITIONS: [RESERVED]
[See 19.15.2.7 NMAC for definitions.]
[19.15.15.7 NMAC - N, / /08]

19.15.15.8 CLASSIFICATION OF WELLS: WILDCAT AND DEVELOPMENT WELLS:

A. Wildcat well.

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

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

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

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

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

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

B. Development well.

(1) A well that is not a wildcat well is classified as a development well for the nearest pool that has produced oil or gas from the formation to which the well is projected to be drilled. The operator shall space, drill, operate and produce development well in accordance with the rule or order in effect for that pool, provided the well is completed in that pool.

(2) An operator shall operate and produce a well classified as a development well for a pool but completed in a producing formation not included in that pool's vertical limits in accordance with the rule in effect for the nearest pool that is producing from that formation within the two miles in San Juan, Rio Arriba, Sandoval and McKinley counties or within one mile everywhere else. If there is no designated pool for that producing formation within the two miles in San Juan, Rio Arriba, Sandoval and McKinley counties or within one mile

everywhere else, the well shall be re-classified as a wildcat well.
[19.15.15.18 NMAC - Rp, 19.15.3.104 NMAC, / /08]

19.15.15.9 OIL WELL ACREAGE AND WELL LOCATION REQUIREMENTS:

A. A wildcat well that the operator projects to drill as an oil well to a formation and in an area that in the division's opinion may reasonably be presumed to produce oil rather than gas, and each development well for a defined oil pool unless otherwise provided in special pool orders, shall be located on a spacing unit consisting of approximately 40 contiguous surface acres, substantially in the form of a square that is a legal subdivision of the United States public land surveys and is a governmental quarter-quarter section or lot, and shall be located no closer than 330 feet to a boundary of the unit. Unless otherwise provided in applicable special pool order, a 40-acre oil spacing unit may contain up to four wells. Only those 40-acre spacing units committed to active secondary recovery projects shall be permitted more than four wells.

B. If a well drilled as an oil well is completed as a gas well but does not conform to the applicable gas well location requirements, the operator shall apply for administrative approval for a non-standard location before the well can produce. The director may set the application for hearing.
[19.15.15.9 NMAC - Rp, 19.15.3.104 NMAC, / /08]

19.15.15.10 GAS WELL ACREAGE AND WELL LOCATION REQUIREMENTS: A wildcat well that the operator projects to drill as a gas well to a formation and in an area that in the division's opinion may reasonably be presumed to produce gas rather than oil and each development well for a defined gas pool, unless otherwise provided in special pool orders, shall be spaced and located as follows:

A. 640-acre spacing applies to a deep gas well in Rio Arriba, San Juan, Sandoval or McKinley county that is projected to be drilled to a gas producing formation older than the Dakota formation or is a development well within a gas pool created and defined by the division after June 1, 1997 in a formation older than the Dakota formation, which formation or pool is located within the surface outcrop of the pictured cliffs formation (*i.e.*, the San Juan basin). The well shall be located on a spacing unit consisting of 640 contiguous surface acres, more or less, substantially in the form of a square that is a section and legal subdivision of the United States public land surveys and shall be located no closer than:

(1) 1200 feet to an outer boundary of the spacing unit;

(2) 130 feet to a quarter section line; and

(3) 10 feet to a quarter-quarter section line or subdivision inner boundary.

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

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

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

C. 160-acre spacing applies to a gas well not covered above. The well shall be located in a spacing unit consisting of 160 surface contiguous acres, more or less, substantially in the form of a square that is a quarter section and a legal subdivision of the United States public land surveys and shall be located no closer than 660 feet to an outer boundary of the unit and no closer than 10 feet to a quarter-quarter section or subdivision inner boundary.
[19.15.15.10 NMAC - Rp, 19.15.3.104 NMAC, / /08]

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 10 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 70 percent or more than 130 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 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 non-standard spacing units pursuant to Paragraph (2) of Subsection B of 19.15.15.11 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; 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 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.

[19.15.15.11 NMAC - Rp, 19.15.3.104 NMAC, / /08]

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, //08]

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 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; 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, //08]

19.15.15.14 EFFECT OF NON-STANDARD UNITS ON ALLOWABLES:

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

B. If the drilling tract is within a prorated/allocated gas pool or is subsequently placed within the pool

and the drilling tract consists of less than 158 acres or more than 162 acres in 160-acre pools, less than 316 acres or more than 324 acres in 320-acre pools or less than 632 acres or more than 648 acres in 640-acre pools, the top allowable for the well shall be decreased or increased in the proportion that the number of acres in the drilling tract bears to a standard spacing unit for the pool.

C. In computing acreage under Subsections A and B of 19.15.15.14 NMAC, less than one quarter acre shall not be counted but one-half acre or more shall count as one acre.

D. The provisions of Subsections A and B of 19.15.15.14 NMAC apply only to wells completed after January 1, 1950.

[19.15.15.14 NMAC - Rp, 19.15.3.104 NMAC, / /08]

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

[19.15.15.15 NMAC - Rp, 19.15.3.104 NMAC, / /07]

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 to the division's Santa Fe office 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; and

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

(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, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 16 DRILLING AND PRODUCTION

19.15.16.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.16.1 NMAC - Rp, 19.15.3.1 NMAC, / /08]

19.15.16.2 SCOPE: 19.15.16 NMAC applies to persons engaged in the drilling and production of oil and gas wells within New Mexico.
[19.15.16.2 NMAC - Rp, 19.15.3.2 NMAC, / /08]

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.
[19.15.16.3 NMAC - Rp, 19.15.3.3 NMAC, / /08]

19.15.16.4 DURATION: Permanent.
[19.15.16.4 NMAC - Rp, 19.15.3.4 NMAC, / /08]

19.15.16.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.16.5 NMAC - Rp, 19.15.3.5 NMAC, / /08]

19.15.16.6 OBJECTIVE: To regulate the drilling and production of oil and gas wells within the state.
[19.15.16.6 NMAC - , Rp, 19.15.3.6 NMAC, / /08]

19.15.16.7 DEFINITIONS:

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

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

C. "Directional well" means a well bore that is intentionally deviated from vertical with an intentional azimuth.

D. "Kick-off point" means the point at which a directional well is intentionally deviated from vertical.

E. "Lateral" means a portion of a directional well past the point where the well bore has been intentionally departed from the vertical.

F. "Penetration point" means the point where a directional well penetrates the top of the pool from which it is intended to produce.

G. "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 north, south, east and west boundaries, inside of which a vertical 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 pools.

H. "Producing interval" means that portion of a directional well drilled inside a pool's vertical limits between its penetration point and its terminus.

I. "Project area" means an area the operator designates on form C-102 that a spacing unit's outer boundaries enclose, a combination of complete, contiguous spacing units or an approved secondary, tertiary or pressure maintenance project.

J. "Project well" means a well drilled, completed, produced or injected into as either a vertical well, deviated well or directional well.

K. "Spacing unit" means the acreage that is dedicated for a well in accordance with 19.15.15 NMAC. Included in this definition is a unit of proration for oil or gas as defined by the division and all non-standard units the division has previously approved.

L. "Terminus" means the farthest point attained along the well bore.

M. "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, / /08]

19.15.16.8 SIGN ON WELLS:

A. An operator shall identify wells and related facilities the division regulates by a sign, which shall remain in place until the operator plugs and abandons the well and closes the related facilities.

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

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

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

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

F. Each sign shall show the:

(1) well number;

(2) property name;

(3) operator's name;

(4) location by footage, quarter-quarter section, township and range (or unit letter can be substituted for the quarter-quarter section); and

(5) API number.

[19.15.16.8 NMAC - Rp, 19.15.3.103 NMAC, / /08]

19.15.16.9 SEALING OFF STRATA:

A. During the drilling of an oil well, injection well or other service well, the operator shall seal and separate the oil, gas and water strata above the producing or injection horizon to prevent their contents from passing into other strata.

B. The operator shall ensure that fresh waters and waters of present or probable value for domestic, commercial or stock purposes are confined to their respective strata and are adequately protected by division-approved methods. The operator shall take special precautions by methods satisfactory to the division in drilling and abandoning wells to guard against loss of artesian water from the strata in which it occurs, and the contamination of artesian water by objectionable water, oil or gas.

C. The operator shall ensure that water is shut off and excluded from the various oil- and gas-bearing strata that are penetrated. The operator shall ordinarily make water shut-offs by cementing casing.

[19.15.16.9 NMAC - Rp, 19.15.3.106 NMAC, / /08]

19.15.16.10 CASING AND TUBING REQUIREMENTS:

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

B. The operator shall use sufficient cement on surface casing to fill the annular space behind the casing to the top of the hole, provided that authorized division field personnel may allow exceptions to this requirement when known conditions in a given area render compliance impracticable.

C. Cementing shall be by pump and plug method unless the division expressly authorizes some other method.

D. Cementing shall be with conventional-type hard-setting cements to which the operator has added additives (lighteners, densifiers, extenders, accelerators, retarders, etc.) to suit conditions in the well.

E. Authorized division field personnel may, when conditions warrant, allow exceptions to Subsection D of 19.15.16.10 NMAC and permit the operator to use oil-base casing packing material in lieu of hard-setting cements on intermediate and production casing strings; provided that when the operator uses such materials on the intermediate casing string, the operator places conventional-type hard-setting cements throughout all oil- and gas-bearing zones and throughout at least the lowermost 300 feet of the intermediate casing string. When the operator uses such materials on the production casing string, the operator shall place conventional-type hard-setting cements throughout all oil- and gas-bearing zones that shall extend upward a minimum of 500 feet above the uppermost perforation or, in the case of an open-hole completion, 500 feet above the production casing shoe.

F. The operator shall test casing strings and prove satisfactory as provided in Subsection I of

19.15.16.10 NMAC.

G. After cementing, but before commencing tests Subsection I of 19.15.16.10 NMAC requires, all casing strings shall stand cemented in accordance with one of the options in Paragraphs (1) and (2) of Subsection G of 19.15.16.10 NMAC. Regardless of which option the operator chooses, the casing shall remain stationary and under pressure for at least eight hours after the operator places the cement. Casing shall be under pressure if the operator uses some acceptable means of holding pressure or if the operator employs one or more float valves to hold the cement in place. The operator shall either

(1) allow casing strings to stand cemented a minimum of 18 hours prior to commencing tests; an operator using this option shall report on form C-103 the actual time the cement was in place before the operator initiated tests; or

(2) in the counties of San Juan, Rio Arriba, McKinley, Sandoval, Lea, Eddy, Chaves and Roosevelt only, allow casing strings to stand cemented until the cement reaches a compressive strength of at least 500 psi in the "zone of interest" before commencing tests; provided however, that the operator shall not commence tests until the cement is in place for at least eight hours.

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

(b) To determine that a minimum compressive strength of 500 psi has been attained, the operator shall use the typical performance data for the particular cement mix used in the well, at the minimum temperature indicated for the zone of interest by Figure 107-A, Temperature Gradient Curves. Typical performance data used shall be that data the cement manufacturer or a competent materials testing agency furnishes, as determined in accordance with the latest edition of API publication Recommended Practice for Testing Well Cements, RP 10B-2.

(See Temperature Gradient - Page 17A)

H. An operator using the compressive strength criterion in Paragraph (2) of Subsection G of 19.15.16.10 NMAC shall report the following information on form C-103:

(1) volume of cement slurry in cubic feet and brand name of cement and additives, percent additives used and sequence of placement if the operator uses more than one type cement slurry;

(2) approximate temperature of cement slurry when mixed;

(3) estimated minimum formation temperature in zone of interest;

(4) estimate of cement strength at time of casing test; and

(5) actual time cement in place prior to starting test.

I. The operator shall test casing strings except conductor pipe after cementing and before commencing other operations on the well. The operator shall file form C-103 with the division for each casing string reporting the grade and weight of pipe used. In the case of combination strings utilizing pipe of varied grades or weights, the operator shall report the footage of each grade and weight used. The operator shall also report results of the casing test, including actual pressure held on pipe and the pressure drop observed on the same form C-103.

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

(2) The operator may test casing strings in wells drilled with cable tools as outlined in Paragraph (1) of Subsection I of 19.15.16.10 NMAC, or by bailing the well dry in which case the hole shall remain satisfactorily dry for a period of at least one hour before the operator commences further operations on the well.

J. Well tubing requirements.

(1) The operator shall tube flowing oil wells equipped with casing larger in size than 2 7/8-inch OD.

(2) The operator shall tube gas wells equipped with casing larger in size than 3½-inch OD.

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

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

(5) The district supervisor may request that the director review an application. The operator shall submit information and give notice as the director requests. The division may approve un-protested applications

after 20 days of receipt of the application and supporting information. If a person protests the application, or the director decides, the division shall set the application for hearing.
[19.15.16.10 NMAC - Rp, 19.15.3.107 NMAC, //08]

19.15.16.11 DEFECTIVE CASING OR CEMENTING: If a well appears to have a defective casing program or faultily cemented or corroded casing that will permit or may create underground waste or contamination of fresh waters, the operator shall give written notice to the division within five working days and proceed with diligence to use the appropriate method and means to eliminate the hazard. If the hazard of waste or contamination of fresh water cannot be eliminated, the operator shall properly plug and abandon the well.
[19.15.16.11 NMAC - Rp, 19.15.3.108 NMAC, //08]

19.15.16.12 BLOWOUT PREVENTION: (See Subsection B of 19.15.10 NMAC also)

A. The operator shall install and maintain blowout preventers in good working order on drilling rigs operating in areas of known high pressures at or above the projected depth of the well and in areas where pressures that will be encountered are unknown, and on workover rigs working on wells in which high pressures are known to exist.

B. The operator shall install and maintain blowout preventers in good working order on drilling rigs and workover rigs operating within the corporate limits of a city, town or village, or within 1320 feet of habitation, a school or a church, wherever located.

C. An operator, when filing form C-101 or form C-103 for an operation requiring blowout prevention equipment in accordance with Subsections A and B of 19.15.16.12 NMAC, shall submit a proposed blowout prevention program for the well. The district supervisor may modify the program as submitted if, in the district supervisor's judgment, modification is necessary.
[19.15.16.12 NMAC - Rp, 19.15.3.109 NMAC, //08]

19.15.16.13 PULLING OUTSIDE STRINGS OF CASING: In pulling outside strings of casing from an oil or gas well, the operator shall keep and leave the space outside the casing left in the hole full of mud-laden fluid or cement of adequate specific gravity to seal off fresh and salt water strata and strata bearing oil or gas not producing.
[19.15.16.13 NMAC - Rp, 19.15.3.110 NMAC, //08]

19.15.16.14 DEVIATION TESTS 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 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 well bores. If all or part of a directional well bore's producing interval is projected to be outside of the producing area, the well's location is considered unorthodox. To obtain approval for the well's location, the applicant shall file a written application in duplicate with the director with a copy to the appropriate division district office and shall otherwise follow the normal process in Subsection C of 19.15.15.3 NMAC.

(3) Allowables for project areas with multiple proration units. The division shall base the maximum allowable it assigns to the project area within a prorated pool upon the number of standard spacing units or approved non-standard spacing units that the directional well bore's producing interval develop or traverse. The maximum allowable shall apply to production from the project area, including vertical well bores on standard spacing units inside the project area.

(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 is 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.

[19.15.16.14 NMAC - Rp, 19.15.3.111 NMAC, / /08]

19.15.16.15 MULTIPLE COMPLETIONS; BRADENHEAD GAS WELLS:

A. Multiple completions.

(1) Filing. An operator intending to multiple complete shall file form C-101 or C-103 with the division for approval before completing and C-104 after completing along with information required by the form instructions.

(2) Operation and testing.

(a) The operator shall complete and produce wells so that commingling of hydrocarbons from separate pools does not occur.

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

(c) The operator shall equip wells so that reservoir pressure may be determined for each of the separate pools, and may install meters so that the gas or oil produced from each of the separate pools may be accurately measured.

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

(e) The division may require the operator to properly plug a zone of a multiple-completed well

if the plugging appears necessary to prevent waste, protect correlative rights or protect ground water, public health or the environment.

B. Bradenhead gas wells.

(1) The division may permit production of gas from a bradenhead gas well only after hearing, except as noted in Paragraph (3) of Subsection B of 19.15.16.15 NMAC.

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

(3) The director may grant an exception to Subsection A of 19.15.16.15 NMAC's requirements without notice and hearing where the operator files the application in due form, and when the lowermost producing zone involved in the completion is an oil or gas producing zone within an oil or gas pool's defined limits and the producing zone to be produced through the bradenhead connection is a gas producing zone within a gas pool's defined limits. The applicant shall include with the application a written stipulation that the applicant has properly notified offset operators.

(4) The applicant shall furnish operators who offset the lease upon which the subject well is located a copy of the application. The director shall wait at least 10 days before approving gas production from the bradenhead gas well, and shall approve the production only in the absence of an offset operator's objection. If an operator objects to the completion the director shall consider the matter only after proper notice and hearing.

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

(6) Subsection B of 19.15.16.15 NMAC shall apply only to wells completed after January 1, 1950 or, in Lea County after February 1, 1937, as bradenhead gas wells.

[19.15.16.15 NMAC - Rp, 19.15.3.112 NMAC, / /08]

19.15.16.16 SHOOTING AND CHEMICAL TREATMENT OF WELLS: If shooting, fracturing or treating a well injures the producing formation, injection interval, casing or casing seat and may create underground waste or contaminate fresh water, the operator shall within five working days notify in writing the division and proceed with diligence to use the appropriate method and means for rectifying the damage. If shooting, fracturing or chemical treating results in the well's irreparable injury the division may require the operator to properly plug and abandon the well.

[19.15.16.16 NMAC - Rp, 19.15.3.113 NMAC, / /08]

19.15.16.17 WELL AND LEASE EQUIPMENT:

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

B. The operator shall install and maintain valves in good working order to permit pressures to be obtained on both casing and tubing. The operator shall equip each flowing well to control properly the flowing of each well, and in case of an oil well, produce the well into an oil and gas separator of a type the industry generally uses.

[19.15.16.17 NMAC - Rp, 19.15.3.115 NMAC, / /08]

19.15.16.18 LOG, COMPLETION AND WORKOVER REPORTS: Within 20 days after the completion of a well drilled for oil or gas, or the recompletion of a well into a different common source of supply, the operator shall file a completion report with the division on form C-105. For the purpose of 19.15.16.18 NMAC, a hole drilled or cored below fresh water or that penetrates oil- or gas-bearing formations or that an owner drills is presumed to be a well drilled for oil or gas.

[19.15.16.18 NMAC - Rp, 19.15.3.117 NMAC, / /08]

19.15.16.19 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;

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

(4) is in compliance with 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.

[19.15.16.19 NMAC - Rp, 19.15.13.1104 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 18 PRODUCTION OPERATING PRACTICES

19.15.18.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.18.1 NMAC - N, / /08]

19.15.18.2 SCOPE: 19.15.18 NMAC applies to persons engaged in oil and gas development and production within New Mexico.
[19.15.18.2 NMAC - N, / /08]

19.15.18.3 STATUTORY AUTHORITY: 19.15.18 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.
[19.15.18.3 NMAC - N, / /08]

19.15.18.4 DURATION: Permanent.
[19.15.18.4 NMAC - N, / /08]

19.15.18.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.18.5 NMAC - N, / /08]

19.15.18.6 OBJECTIVE: To regulate the production of oil and gas wells within the state in order to prevent waste, protect correlative rights and protect public health and the environment.
[19.15.18.6 NMAC - N, / /08]

19.15.18.7 DEFINITIONS: "Drip" means a liquid hydrocarbon incidentally accumulating in a gas gathering or transportation system.
[19.15.2.7 NMAC - Rp, Subsection A of 19.15.5.314 NMAC, / /08]

19.15.18.8 GAS-OIL RATIO AND PRODUCTION TESTS:

A. An operator shall take a gas-oil ratio test no sooner than 20 days nor later than 30 days following the completion or recompletion of each oil well, if:

(1) the well is a wildcat, or

(2) the well is located in a pool that is not exempt from 19.15.18.8 NMAC's requirements.

B. Provisions of 19.15.18.8 NMAC that are applicable to the pool shall govern wells completed within one mile of the outer boundary of a defined oil pool producing from the same formation. The operator shall report the test results to the division on form C-116 within 10 days following the test's completion. The gas-oil ratio the operator reports shall become effective for proration purposes on the first day of the calendar month following the date they are reported.

C. Each operator shall take an annual gas-oil ratio test of each producing oil well, located within a pool not exempted from the requirements of 19.15.18.8 NMAC, during a period the division prescribes. The division shall establish a gas-oil ratio survey schedule setting forth the period in which operators are to take gas-oil ratio tests for each pool where the division requires a test. The gas-oil ratio test shall be a test the division designates, made by the method and in the manner the division in its discretion may prescribe from time to time.

D. An operator shall file the results of gas-oil ratio tests taken during survey periods with the division on form C-116 not later than the 10th of the month following the close of the survey period for the pool in which the well is located. The gas-oil ratios thus reported shall become effective for proration purposes on the first day of the second month following the survey period's close. Unless the operator files form C-116 within the required time limit, the division shall not assign a further allowable to the affected well until the operator file form C-116.

E. In the case of special tests taken between regular gas-oil ratio surveys, the gas-oil ratio becomes effective for proration purposes upon the date the division receives form C-116 reporting the test results. A special test does not exempt a well from the regular survey.

F. During a gas-oil ratio test, an operator shall not produce a well at a rate exceeding the top proration unit allowable for the pool in which it is located by more than 25 percent.

G. The director may exempt such pools as the director deems proper from the gas-oil ratio test

requirements of 19.15.18.8 NMAC. The exemption shall be by division order directed to the operators in the pool being exempted.

H. The director may require annual productivity tests of oil wells in pools exempt from gas-oil ratio tests, during a period the division prescribes. The division shall establish an oil well productivity survey schedule setting forth the period in which productivity tests are to be taken for each pool where the division requires the tests.

I. An operator shall file the results of productivity tests taken during survey periods with the division on form C-116 (with the word "exempt" inserted in the column normally used for reporting gas production) not later than the 10th of the month following the close of the survey period for the pool in which the well is located. Unless the operator files form C-116 within the required time limit, the division shall not assign further allowables to the affected well until the operator files form C-116.

J. In the case of special productivity tests taken between regular test survey periods, which result in a change of allowable assigned to the well, the allowable change shall become effective upon the date the division receives form C-116. A special test does not exempt a well from the regular survey.

K. During the productivity test, an operator shall not produce a well at a rate exceeding the top proration unit allowable for the pool in which it is located by more than 25 percent.

[19.15.18.8 NMAC - Rp, 19.15.5.301 NMAC, / /08]

19.15.18.9 BOTTOM HOLE PRESSURE TESTS: The operator shall make a bottom hole pressure test on the discovery well of a new pool and shall report the results of the test to the division within 30 days after the discovery well's completion. On or before December 1 of each calendar year the division shall designate the months in which operators shall take bottom hole pressure tests in designated pools. The division shall include in the designated list the required shut-in pressure time and datum of tests to be taken in each pool. In the event a newly discovered pool is not included in the division's list, the division shall issue a supplementary bottom hole pressure schedule. Tests the division designates shall only apply to flowing wells in each pool. A person qualified by both training and experience to make such test shall make the test with an approved bottom hole pressure instrument that is calibrated against an approved dead-weight tester at intervals frequent enough to ensure its accuracy within one percent. Unless the division otherwise designates, all wells shall remain completely shut in for at least 24 hours prior to the test. In the event the division does not establish a definite datum the operator shall obtain the bottom hole determination as close as possible to the mid-point of the reservoir's productive sand. The operator shall report the test results to the division on form C-124, which shall contain the information required by Subsection B of 19.15.7.32 NMAC.

[19.15.18.9 NMAC - Rp, 19.15.5.302 NMAC, / /08]

19.15.18.10 CONTROL OF MULTIPLE COMPLETED WELLS: The operator shall at all times operate, produce and maintain multiple completed wells that the division has authorized in a manner to ensure the complete segregation of the various common sources of supply. The division may require the operator take tests the division deems necessary to determine the effectiveness of segregation of the different common sources of supply.

[19.15.18.10 NMAC - Rp, 19.15.5.304 NMAC, / /08]

19.15.18.11 METERED CASINGHEAD GAS: The owner of a lease is not required to measure the exact amount of casinghead gas the owner produces and uses for fuel purposes in the lease's development and normal operation. The owner of the lease shall meter and report casinghead gas produced and sold or transported away from a lease, except small amounts of flare gas, in cubic feet monthly to the division. The owner of the lease may calculate the amount of casinghead gas sold in small quantities for use in the field upon a basis generally acceptable in the industry, or upon a basis approved by the division in lieu of meter measurements.

[19.15.18.11 NMAC - Rp, 19.15.5.305 NMAC, / /08]

19.15.18.12 CASINGHEAD GAS:

A. An operator shall not flare or vent casinghead gas produced from a well after 60 days following the well's completion.

B. An operator seeking an exception to Subsection A of 19.15.18.12 NMAC shall file an application for an exception on form C-129 with the appropriate division district office. The district supervisor may grant an exception when the flaring or venting casinghead gas appears reasonably necessary to protect correlative rights, prevent waste or prevent undue hardships on the applicant. The district supervisor shall either grant the exception within 10 days after the application's receipt or refer it to the director who shall advertise the matter for public hearing if the applicant desires a hearing.

C. The division shall suspend the allowable assigned to the well if the operator flares or vents gas from a well in violation of 19.15.18.12 NMAC.

D. No extraction plant processing gas in the state shall flare or vent casinghead gas unless flaring or venting is made necessary by mechanical difficulty of a very limited temporary nature or unless the gas flared or vented is of no commercial value.

E. In the event of a more prolonged mechanical difficulty or in the event of plant shut-downs or curtailment because of scheduled or non-scheduled maintenance or testing operations or other reasons, or in the event a plant is unable to accept, process and market all of the casinghead gas produced by wells connected to its system, the plant operator shall notify the division as soon as possible of the full details of the shut-down or curtailment, following which the division shall take such action as is necessary to reduce the total flow of gas to the plant.

F. Pending connection of a well to a gas-gathering facility, or when a well has been excepted from the provisions of Subsection A of 19.15.18.12 NMAC, the operator shall burn all gas produced and not used, and report the estimated volume on form C-115.

G. The provisions of Subsection A of 19.15.18.12 NMAC do not apply to wells completed prior to January 1, 1971, in pools that had no gas-gathering facilities on that date, provided however the provisions shall apply to all wells in such a pool 60 days after the date of first casinghead gas connection in the pool.

[19.15.18.12 NMAC - Rp, 19.15.5.306 NMAC, / /08]

19.15.18.13 OPERATION AT BELOW ATMOSPHERIC PRESSURE:

A. An operator may use vacuum pumps, gathering system compressors or other devices to operate a well or gathering system at below atmospheric pressure only if that operator has

(1) executed a written agreement with the operator of the downstream gathering system or pipeline to which the well or gathering system so operated is immediately connected allowing operation of the well or gathering system at below atmospheric pressure; and

(2) filed a sundry notice in the appropriate division district office for each well operated at below atmospheric pressure or served by a gathering system operated at below atmospheric pressure, within 90 days before beginning operation at below atmospheric pressure, notifying the division that the well or gathering system serving the well is being operated at below atmospheric pressure.

B. A gathering system operator may use vacuum pumps, gathering system compressors or other devices to operate a gathering system at below atmospheric pressure, or may accept gas originating from a well operated at below atmospheric pressure or that has been carried by an upstream gathering system operated at below atmospheric pressure, only if that operator has executed a written agreement with the operator of the downstream gathering system or pipeline to which the gathering system is immediately connected allowing delivery of gas from a well or gathering system that has been operated at below atmospheric pressure into the downstream gathering system or pipeline.

[19.15.18.13 NMAC - Rp, 19.15.5.307 NMAC, / /08]

19.15.18.14 SALT OR SULPHUR WATER: An operator shall report monthly on form C-115 the amount of water produced with the oil and gas from each well.

[19.15.18.14 NMAC - Rp, 19.15.5.308, / /08]

19.15.18.15 AUTOMATIC CUSTODY TRANSFER EQUIPMENT:

A. Oil shall be received and measured in facilities of an approved design. The facilities shall permit the testing of each well at reasonable intervals and may be comprised of manually gauged, closed stock tanks for which the operator of the ACT system has prepared proper strapping tables, or of ACT equipment. The division shall permit ACT equipment's use only after the operator complies with the following. The operator shall file with the division form C-106 and receive approval for use of the ACT equipment prior to transferring oil through the ACT system. The carrier shall not accept delivery of oil through the ACT system until the division has approved form C-106.

B. The operator of the ACT system shall submit form C-106 to the appropriate division district office, which is accompanied by the following:

(1) plat of the lease showing all wells that the any well operator will produce into the ACT system;

(2) schematic diagram of the ACT equipment, showing on the diagram all major components such as surge tanks and their capacity, extra storage tanks and their capacity, transfer pumps, monitors, reroute valves, treaters, samplers, strainers, air and gas eliminators, back pressure valves and metering devices (indicating type and

capacity, *i.e.* whether automatic measuring tank, positive volume metering chamber, weir-type measuring vessel or positive displacement meter); the schematic diagram shall also show means employed to prove the measuring device's accuracy; and

(3) letter from transporter agreeing to utilization of ACT system as shown on schematic diagram.

C. The division shall not approve form C-106 unless the operator of the ACT system will install and operate the ACT system in compliance with the following requirements.

(1) Provision is made for accurate determination and recording of uncorrected volume and applicable temperature, or of temperature corrected volume. The system's overall accuracy shall equal or surpass manual methods.

(2) Provision is made for representative sampling of the oil transferred for determination of API gravity and BS&W content.

(3) Provision is made if required by either the oil's producer or the transporter to give adequate assurance that the ACT system runs only merchantable oil.

(4) Provision is made for set-stop counters to stop the flow of oil through the ACT system at or prior to the time the allowable has been run. Counters shall provide non-reset totalizers that are visible for inspection at all times.

(5) Necessary controls and equipment are enclosed and sealed, or otherwise arranged to provide assurance against, or evidence of, accidental or purposeful mismeasurement resulting from tampering.

(6) The ACT system's components are properly sized to ensure operation within the range of their established ratings. All system components that require periodic calibration or inspection for proof of continued accuracy are readily accessible; the frequency and methods of the calibration or inspection shall be as set forth in Paragraph (12) of Subsection C of 19.15.18.15 NMAC.

(7) The control and recording system include adequate fail-safe features that provides assurance against mismeasurement in the event of power failure, or the failure of the ACT system's component parts.

(8) The ACT system and allied facilities include fail-safe equipment as may be necessary, including high level switches in the surge tank or overflow storage tank that, in the event of power failure or malfunction of the ACT or other equipment, will shut down artificially lifted wells connected to the ACT system and will shut in flowing wells at the well-head or at the header manifold, in which latter case the operator of the ACT system shall pressure test all flowlines to at least 1½ times the maximum well-head shut-in pressure prior to the ACT system's initial use and every two years thereafter.

(9) As an alternative to the requirements of Paragraph (8) of Subsection C of 19.15.18.15 NMAC the producer shall provide and at all times maintain a minimum of available storage capacity above the normal high working level of the surge tank to receive and hold the amount of oil that may be produced during maximum unattended time of lease operation.

(10) In all ACT systems employing automatic measuring tanks, weir-type measuring vessels, positive volume metering chambers or any other volume measuring container, the container and allied components shall be properly calibrated prior to initial use and shall be operated, maintained and inspected as necessary to ensure against incrustation, changes in clingage factors, valve leakage or other leakage and improper action of floats, level detectors, etc.

(11) In ACT systems employing positive displacement meters, the meter and allied components shall be properly calibrated prior to initial use and shall be operated, maintained and inspected as necessary to ensure against oil mismeasurement.

(12) The operator of the ACT system shall check the measuring and recording devices of ACT systems for accuracy at least once each month unless it has obtained an exception to such determination from the division. Where applicable, the operator of the ACT system shall use API standard 1101, Measurement of Petroleum Hydrocarbons by Positive Displacement Meter. Meters may be proved against master meters, portable prover tanks or prover tanks permanently installed on the lease. If the operator of the ACT system uses permanently installed prover tanks, the distance between the opening and closing levels and the provision for determining the opening and closing readings shall be sufficient to detect variations of 5/100 of one percent. The operator of the ACT system shall file reports of determination on the division form entitled "meter test report" or on another acceptable form in duplicate with the appropriate division district office.

(13) To obtain an exception to the requirement in Paragraph (12) of Subsection C of 19.15.18.15 NMAC that all measuring and recording devices be checked for accuracy once each month, either the producer or transporter may file a request with the director setting forth facts pertinent to the exception. The application shall include a history of the average factors previously obtained, both tabulated and plotted on a graph of factors versus time, showing that the particular installation has experienced no erratic drift. The applicant shall also furnish

evidence that the other interested party has agreed to the exception. The director may then set the frequency for determination of the system's accuracy at the interval which the director deems prudent.

D. The division may revoke its approval of an ACT system's form C-106 if the system's operator fails to operate it in compliance with 19.15.18.15 NMAC.

[19.15.18.15 NMAC - Rp, 19.15.5.309 NMAC, / /08]

19.15.18.16 TANKS, OIL TANKS, FIRE WALLS AND TANK IDENTIFICATION:

A. No person shall store or retain oil in earthen reservoirs or in open receptacles. Dikes or fire walls are not required except an operator shall erect and maintain fire walls around permanent oil tanks or tank batteries that are within the corporate limits of a city, town or village, or where such tanks are closer than 150 feet to a producing oil or gas well or 500 feet to a highway or inhabited dwelling or closer than 1000 feet to a school or church, or where the tanks are so located that the division deems them an objectional hazard. Where fire walls are required, fire walls shall form a reservoir having a capacity one-third larger than the capacity of the enclosed tank or tanks.

B. The operator shall identify oil tanks, tank batteries, ACT systems, tanks used for salt water collection or disposal and tanks used for sediment oil treatment or storage by a sign posted on or not more than 50 feet from the tank, tank battery or system. The sign shall be of durable construction and the operator shall keep the lettering on the sign in a legible condition; the lettering shall be large enough to be legible under normal conditions at a distance of 50 feet and the sign shall identify the operator's name, the name of the lease being served by the tank or system, if any, and the location of the tank or system by unit letter, section, township and range.

[19.15.18.16 NMAC - Rp, 19.15.5.310 NMAC, / /08]

19.15.18.17 SEDIMENT OIL, TANK CLEANING AND TRANSPORTATION OF MISCELLANEOUS HYDROCARBONS:

A. No person shall clean a tank of sediment oil or remove sediment oil from a lease without the appropriate division district office's prior approval. The lease operator or the company contracted or otherwise authorized to perform the tank cleaning may receive authorization for tank cleaning by obtaining division approval on form C-117-A. No operator, contractor or other party shall clean a tank of sediment oil or remove sediment oil from a lease without an approved copy of form C-117-A at the site.

B. No person shall destroy sediment oil without the appropriate division district office's approval of an application to destroy the sediment oil on form C-117-A. Unless a person receiving an authorization to destroy sediment oil utilizes the authorization to destroy sediment oil within 10 days after division approval of the form C-117-A the authorization is automatically revoked. However, the district supervisor may approve one 10 day extension for good cause shown.

C. A person, other than a treating plant operator, who cleans a tank of sediment oil and removes sediment oil from a lease shall file form C-117-B with the division setting out all information the form requires

D. A person taking possession of or disposing of sediment oil shall test a representative sample of sediment oil in a manner designed to accurately estimate the percentage of good oil expected to be recovered from the sediment oil. The person shall perform the test prior to transport and prior to commingling with sediment oil from other leases or sources and record the results on form C-117-A. The division recommends the standard centrifugal tests prescribed by API publication Sediment and Water, Sect: 4: Determination of Sediment and Water in Crude Oil by the Centrifuge Method (Field Procedure), MPMS 10.4. The person may use other test procedures if the procedures reliably predict the percentage of good oil to be recovered from sediment oil.

E. A person taking possession of or disposing of sediment oil shall report sediment oil removed from storage on form C-115 together with the form C-117-A permit number.

F. Except in an emergency, no person shall deliver miscellaneous hydrocarbons to a treating plant or other facility until that person has obtained division approval on form C-117-A.

G. Whenever an emergency exists that requires delivery of miscellaneous hydrocarbons to a treating plant or other facilities prior to approval of form C-117-A, the transporter of the hydrocarbons shall notify the supervisor of the appropriate division district office of the emergency's nature and extent on the first working day following the emergency and shall file form C-117-A within two working days following the emergency. For prolonged emergencies, the district supervisor may authorize the extended movement of miscellaneous hydrocarbons to a treating plant or other facilities during the emergency period and shall approve a form C-117-A filed subsequent to the emergency's conclusion covering the entire volume of miscellaneous hydrocarbons transported.

[19.15.18.17 NMAC - Rp, 19.15.5.311 NMAC, / /08]

19.15.18.18 EMULSION, BASIC SEDIMENTS AND TANK BOTTOMS: The operator shall operate wells producing oil in a manner that reduces as much as practicable the formation of emulsion and basic sediments. No person shall allow these substances and tank bottoms to pollute fresh waters or cause surface damage.
[19.15.18.18 NMAC - Rp, 19.15.5.313 NMAC, / /08]

19.15.18.19 GATHERING, TRANSPORTING AND SALE OF DRIP:

A. The waste of drip is prohibited when it is economically feasible to salvage the drip.

B. A person may move and sell drip, provided it complies with 19.15.18.19 NMAC.

C. A person shall not transport or sell drip until the gas transporter files division form C-104 designating the drip transporter authorized to remove the drip from its gas gathering or transportation system.

D. Each month, a person transporting drip within the state shall complete and maintain for division inspection form C-112, showing the amount, source and disposition of drip handled during the reporting period, and such other reports as the division may require.

E. Prior to commencement of operations, every person transporting drip directly from a gas gathering or transportation system shall file with the division plats drawn to scale, locating and identifying each drip trap that the person is authorized to service.

F. A person transporting drip directly from a gas gathering or transportation system shall keep a record of daily acquisitions from each drip trap that the person is authorized to service and make the records available at all reasonable times for inspection by the division or its authorized representatives.

G. A gas transporter shall, on or before the first day of November of each year, file with the division maps of its entire gas gathering and transportation systems, locating and identifying on the map each drip trap in the systems, the maps to be accompanied by a report, on a division-prescribed form, showing the disposition being made of the drip from each of the drip traps.
[19.15.18.19 NMAC - Rp, 19.15.5.314 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 19 NATURAL GAS PRODUCTION OPERATING PRACTICES

19.15.19.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.19.1 NMAC - Rp, 19.15.6.1 NMAC, / /08]

19.15.19.2 SCOPE: 19.15.19 NMAC applies to persons engaged in gas development and production within New Mexico.
[19.15.19.2 NMAC - Rp, 19.15.6.2 NMAC, / /08]

19.15.19.3 STATUTORY AUTHORITY: 19.15.19 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.
[19.15.19.3 NMAC - Rp, 19.15.6.3 NMAC, / /08]

19.15.19.4 DURATION: Permanent.
[19.15.19.4 NMAC - Rp, 19.15.6.4 NMAC, / /08]

19.15.19.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.19.5 NMAC - Rp, 19.15.6.5 NMAC, / /08]

19.15.19.6 OBJECTIVE: To regulate the gas production within the state in order to prevent waste, protect correlative rights and protect public health and the environment.
[19.15.19.6 NMAC - Rp, 19.15.6.6 NMAC, / /08]

19.15.19.7 DEFINITIONS: [RESERVED]
[See 19.15.2.7 NMAC for definitions.]
[19.15.19.7 NMAC - Rp, 19.15.6.7 NMAC, / /08]

19.15.19.8 METHOD OF DETERMING GAS WELL POTENTIAL:

A. An operator shall conduct tests to determine the daily open flow potential volumes of gas wells from which gas is being used or marketed. The operator shall report the tests on division-prescribed forms within 60 days after

(1) the date of the well's initial connection to a gas transportation facility; and

(2) the date of reconnection following workover.

B. To establish comparable open flow capacity, the operator shall test wells in accordance with the division's Manual for Back-Pressure Testing of Natural Gas Wells. If the division approves the alternate method for testing, the operator shall test all wells producing from a common source of supply in a uniform and comparable manner.

C. The operator of a gas well that is not connected to a gas gathering facility shall test the well within 30 days following a christmas tree's installation. The operator shall take the tests in accordance with the Procedure for Testing Unconnected Gas Well contained in the division's Manual for Back-Pressure Testing of Natural Gas Wells. The operator shall report the tests on form C-122 in compliance with 19.15.7.31 NMAC and file it within 10 days following the test's completion.
[19.15.19.8 NMAC - Rp, 19.15.6.401 NMAC, / /08]

19.15.19.9 GAS FROM GAS WELLS TO BE MEASURED:

A. The transporter of gas produced shall account for the gas by metering or other division-approved method and report it to the division. The owner or operator of the gas transportation facility shall report gas produced from a gas well and delivered to a gas transportation facility. The well operator shall report gas produced from a gas well and required to be reported by 19.15.19.9 NMAC that is not delivered to and reported by a gas transportation facility.

B. An operator may apply to the district supervisor, using form C-136, for approval of one of the following procedures for measuring gas.

(1) In the event a well is not capable of producing more than 15 MCFD, a measurement method

agreed upon by the operator and transporter whereby the parties establish by annual test the producing rate of the well under normal operating conditions and apply that rate to the period of time the well is in a producing status. If the well is capable of producing greater than five MCFD, the transporter shall attach a device to the line that determines the actual time period that the well is flowing.

(2) An operator may produce a well that has a producing capacity of 100 MCFD or less and that is on a multi-well lease without the well being separately metered when the gas is measured using a lease meter at a CPD. The lease's ownership shall be common throughout including working interest, royalty and overriding royalty ownership.

(3) If normal operating conditions change, either party may request a new well test, the cost of which the party requesting the new well test shall bear unless the parties otherwise agree.

C. The operator and transporter shall report the well volumes on forms C-115 and C-111 based upon the approved method of measurement and, in the case of a CPD, upon the method of allocation of production to individual wells the district supervisor approves.

[19.15.19.9 NMAC - Rp, 19.15.6.403 NMAC, / /08]

19.15.19.10 GAS UTILIZATION: After the completion of a gas well, the operator shall not permit gas from the well to escape to the air, use the gas expansively in engines or pumps and then vent or use the gas to gas-lift wells unless all gas produced is processed in a gasoline plant or beneficially used thereafter without waste.

[19.15.19.10 NMAC - Rp, 19.15.6.404 NMAC, / /08]

19.15.19.11 STORAGE GAS: With the exception of the requirement to meter and report monthly the amount of gas injected and the amount of gas withdrawn from storage, in the absence of waste 19.15.19 NMAC shall not apply to gas being injected into or removed from storage. (See 19.15.7.40 NMAC)

[19.15.19.11 NMAC - Rp, 19.15.6.405 NMAC, / /08]

19.15.19.12 CARBON DIOXIDE: The rules relating to gas, gas wells and gas reservoirs including those provisions relating to well locations, acreage dedication requirements, casing and cementing requirements and measuring and reporting of production also apply to carbon dioxide gas, carbon dioxide wells and carbon dioxide reservoirs.

[19.15.19.12 NMAC - Rp, 19.15.6.406 NMAC, / /08]

19.15.19.13 DISCONNECTION OF GAS WELLS: The operator shall report gas wells that are disconnected from intrastate gas transportation facilities to the division within 30 days of the date of disconnection. The operator shall file the notice on form C-130 in compliance with 19.15.7.39 NMAC.

[19.15.19.13 NMAC - Rp, 19.15.6.407 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 20 OIL PRORATION AND ALLOCATION

19.15.20.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.20.1 NMAC - Rp, 19.15.7.1 NMAC, / /08]

19.15.20.2 SCOPE: 19.15.20 NMAC applies to persons engaged in oil development and production within New Mexico.
[19.15.20.2 NMAC - Rp, 19.15.7.2 NMAC, / /08]

19.15.20.3 STATUTORY AUTHORITY: 19.15.20 NMAC is adopted pursuant to the Oil and Gas Act, NMSA 1978, Section 70-2-6, Section 70-2-11, Section 70-2-12, Section 70-2-16 and Section 70-2-17.
[19.15.20.3 NMAC - Rp, 19.15.7.3 NMAC, / /08]

19.15.20.4 DURATION: Permanent.
[19.15.20.4 NMAC - Rp, 19.15.7.4 NMAC, / /08]

19.15.20.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.20.5 NMAC - Rp, 19.15.7.5 NMAC, / /08]

19.15.20.6 OBJECTIVE: To establish requirements implementing the division's statutory authority to prorate and allocate oil production.
[19.15.20.6 NMAC - Rp, 19.15.7.6 NMAC, / /08]

19.15.20.7 DEFINITIONS:

A. "Date of completion" means the date when new oil is delivered into the stock tanks.

B. "Marginal unit" means a proration unit that is incapable of producing the top proration unit allowable for the pool in which it is located as evidenced by well tests, production history or other report or form the operator files with the division.

C. "Non-marginal unit" means a proration unit that is incapable of producing top proration unit allowable for the pool in which it is located and to which the division has assigned a top proration unit allowable.

D. "Recovered load oil" means oil or liquid hydrocarbon that has been used in an operation in an oil or gas well, and that has been recovered as a merchantable product.
[19.15.20.7 NMAC - Rp, 19.15.7.7 NMAC, Subsection D of 19.15.7.503 NMAC and Subsection B of 19.15.7.508 NMAC, / /08]

19.15.20.8 REGULATION OF OIL POOLS:

A. To prevent waste, the division shall prorate and distribute the allowable production among the producers in a pool upon a reasonable basis and recognizing correlative rights.

B. After notice and hearing, the division, in order to prevent waste and protect correlative rights, may enter special orders pertaining to a pool.
[19.15.20.8 NMAC - Rp, 19.15.7.501 NMAC, / /08]

19.15.20.9 RATE OF PRODUCING WELLS:

A. Daily tolerance.

(1) Oil wells located on units capable of producing their allowables may overproduce one day and underproduce another. No unit capable of producing its allowable, except for the purpose of testing, in the process of completing or recompleting a well or for tests made for the purpose of obtaining scientific data, shall produce any day more than 125 percent of the daily top proration unit allowable for the pool in which the well is located. (Subject to the foregoing, an underproduction may be made up by production from the same unit within the same month, and in like manner any overproduction shall be adjusted or balanced by underproduction from the same unit, within the same proration period).

(2) Certain wells must, as a matter of practicality, be produced at daily rates in excess of 125 percent of the daily top proration unit allowable for the pool in which the wells are located. The director may grant

exceptions to the provisions of Paragraph (1) of Subsection A of 19.15.20.9 NMAC, without formal hearing, where an operator has filed application setting out the reasons for the requested exception.

(a) Applicants for the exceptions shall, at the time of filing, furnish each operator in the pool in which the well is located a copy of the application.

(b) The applicant shall include in an application for exception or attach to the application a formal written statement that the applicant has served every operator in the pool in which the well is located with a copy of the application.

(3) The director shall wait at least 10 days after receipt before approving the application, and shall approve the application only in absence of objection from an operator or interested party, or in the director's discretion. In the event the director fails to approve the application, the division after notice shall hear and determine the matter.

B. Monthly tolerance. No unit shall produce during any one proration period more than the unit's allowable production for the proration period plus a tolerance of not to exceed five days allowable production. This permissive tolerance of overproduction from a unit is subject to all other provisions of 19.15.20.9 NMAC and particularly to the provisions of Subsection D of 19.15.20.9 NMAC. The operator shall adjust or balance permissive tolerance of overproduction from a unit shall by subsequent corresponding underproduction from the same unit. The division shall consider overproduction within the permitted tolerance as oil produced against the allowable production assigned to the unit for the proration period during which the overproduction is adjusted or balanced by underproduction.

C. Production in excess of monthly allowable, plus tolerance.

(1) Oil produced from a unit in excess of the assigned monthly allowable plus the permissive proration period tolerance shall be "illegal oil" as defined in the Oil and Gas Act, unless:

(a) the excess oil is produced as a result of mistake or error;

(b) mechanical failure beyond the operator's immediate control; or

(c) resulting from essential tests of the unit within the purview of division rules.

(2) Whenever production from a unit for a proration period exceeds the assigned allowable, plus the permitted tolerance authorized in Subsection B of 19.15.20.9 NMAC and the cause of the excess reasonably falls within Subparagraphs (a), (b) or (c) of Paragraph (1) of Subsection C of 19.15.20.9 NMAC, the producer or operator shall briefly set forth the excess production's cause together with a proposed plan for production adjustment in the comments area of form C-115 for the month in which the excess production occurs. The excess production shall be considered as oil produced against the allowable assigned to the unit for the following proration period, and it may be transported from the lease tanks only as and when the unit accrues daily allowable to offset the excess production.

D. General.

(1) The tolerance permitted on a daily or monthly basis as provided in Subsections A and B of 19.15.20.9 NMAC does not increase a producing unit's allowable or grant an operator authority to market or a transporter authority to transport any quantity of oil in excess of the unit's allowable.

(2) The possession of a quantity of oil in lease storage at the end of a proration period in excess of five days allowable plus any rerun allowable oil is a violation of 19.15.20.9 NMAC, unless the operator reports the possession in the manner and within the time provided in Subsection C of 19.15.20.9 NMAC for filing form C-115.

E. Storage records. Producers and transporters of oil shall maintain adequate records showing unrun allowable oil in storage at the end of each proration period. The storage oil shall be the amount of oil in tanks from which oil is measured and delivered to the transporter.

[19.15.20.10 NMAC - Rp, 19.15.7.502 NMAC, / /08]

19.15.20.10 AUTHORIZATION FOR PRODUCTION OF OIL:

A. Except as provided below, the daily top proration unit allowable for an oil pool is 100 percent of the depth bracket allowable for the pool determined pursuant to 19.15.20.12 NMAC.

B. The division may, within five days prior to the end of the month, determine the likelihood the total producing capacity of all oil wells in the state exceeding anticipated reasonable market demand for oil from the state. If the division determines that the capacity may exceed the anticipated reasonable market demand, and that a market demand factor of less than 100 percent may be necessary to prevent waste, it shall immediately institute proper proceedings for a hearing to be held before the 20th day of the following month to determine actual reasonable market demand up to a maximum of six months.

C. At the hearing the division shall consider all evidence of market demand for oil from this state, and if it determines that the market demand percentage factor should be less than 100 percent, issue an order

establishing the market demand factor and set a date for the next market demand hearing.

D. The division shall multiply the market demand factor established by the applicable depth bracket allowable for each well and each pool to determine its unit allowable. A fraction of a barrel is regarded as a full barrel in determining top proration unit allowable. Upon initial establishment of a market demand factor, and from time to time thereafter, the division shall issue a proration schedule authorizing the production of oil from the various proration units in the various pools in the state. A well completed or recompleted after the schedule's issuance and for which the division has approved form C-104, shall, by supplement to the schedule, be authorized a daily allowable equal to the top proration unit allowable in effect. The allowable for the well is effective at 7:00 a.m. on the date of the completion, provided the operator submits form C-104 and the division approves the form within 10 days following the completion date; otherwise the allowable is effective on the date the division approves the form C-104.

E. A non-marginal unit may produce the top proration unit allowable without waste and subject to the provisions of 19.15.18.7 NMAC, 19.15.20.9 NMAC and 19.15.20.13 NMAC and all other applicable rules.

F. A marginal unit may produce any amount of oil that it is capable of producing without waste up to the pool's top proration unit allowable, subject to the provisions of 19.15.18.7 NMAC, 19.15.20.9 NMAC and 19.15.20.13 NMAC and all other applicable rules if the division has assigned an allowable to the unit to authorize the production.

G. A penalized non-marginal unit is a proration unit to which, because of an excessive gas-oil ratio, the division has assigned an allowable determined in accordance with the procedure in 19.15.20.13 NMAC. In calculating a penalized allowable, a fraction of a barrel is regarded as a full barrel.

H. The division shall make and distribute a periodic tabulation of all supplements to the current proration schedule.

I. The division shall adhere to 19.15.15.14 NMAC in fixing top proration unit allowables.

J. If it becomes necessary for an oil transporter to resort to pipeline proration, the transporter shall, as soon as possible and not later than 24 hours after the effective date of the pipeline proration, notify the division of its decision to prorate. Upon receipt of the notice from the transporter, the division may take such emergency action as it deems proper or upon its own motion, after notice, hold a hearing for the purpose of considering any action within its authority to preserve and protect correlative rights.

K. In case of pipeline proration an operator the pipeline proration affects may apply to the division for authorization to have an underproduction resulting from the pipeline proration included in subsequent proration schedules. The operator shall apply upon a division-prescribed form and file it with the division within 30 days after the close of the first proration period in which the pipeline proration underproduction occurred. The authorization is limited to wells capable of producing the daily top proration unit allowable for the period.

L. In approving the application the division shall determine the time period during which the underproduction shall be made up without injury to the well or pool, and shall include the time period in the regularly approved proration schedules following the pipeline proration's conclusion.

[19.15.20.10 NMAC - Rp, 19.15.7.503 NMAC, / /08]

19.15.20.11 AUTHORIZATION FOR PRODUCTION OF OIL WHILE COMPLETING, RECOMPLETING OR TESTING AN OIL WELL:

A. If an operator does not have sufficient lease storage to hold oil produced from a well during its drilling, completing, recompleting or testing, the operator may produce and sell from the well an amount of oil necessary to drill, complete, recomplete or test the well; provided however, that the operator shall file with the division a written application stating the circumstances at the well and setting forth in the application the estimated amount of oil to be produced during the aforementioned operations, and provided further that the division approves the application. Oil produced during drilling, completion or recompletion or testing a well shall be charged against the well's allowable production.

B. The division shall not place a well on the proration schedule until the operator files with the division and the division approves the form C-104.

[19.15.20.11 NMAC - Rp, 19.15.7.504 NMAC, / /08]

19.15.20.12 DEPTH BRACKET ALLOWABLES:

A. Subject to the market demand percentage factor determined pursuant to 19.15.20.10 NMAC, the daily oil allowable for each oil pool in the state shall equal the appropriate depth bracket allowable below. The depth of the casing shoe or the top perforation in the casing, whichever is higher, in the first well completed in the pool shall determine the pool's depth classification. Daily oil allowables for each of the several ranges of depth and

spacing patterns are as follows, shown in barrels:

POOL DEPTH RANGE	DEPTH BRACKET ALLOWABLE		
	40 Acres	80 Acres	160 Acres
0 to 4999 feet	80	160	
5000 to 5999	107	187	347
6000 to 6999	142	222	382
7000 to 7999	187	267	427
8000 to 8999	230	310	470
9000 to 9999	275	355	515
10,000 to 10,999	320	400	560
11,000 to 11,999	365	445	605
12,000 to 12,999	410	490	650
13,000 to 13,999	455	535	695
14,000 to 14,999	500	580	740
15,000 to 15,999	545	625	785
16,000 to 16,999	590	670	830
17,000 and deeper	635	715	875

B. The 40-acre depth bracket allowables apply to all undesignated wells not governed by special pool orders and to all pools developed on the normal 40-acre statewide spacing unit.

C. The 80-acre and 160-acre depth bracket allowables apply to wells governed by applicable special pool orders the division issues as an exception to the normal 40-acre statewide spacing unit.

D. The division may, where deemed appropriate, assign to a given pool a special depth bracket allowable at variance to the depth bracket allowable normally assigned to a pool of similar depth and spacing. The special allowable may be more or less than the regular depth bracket allowable and shall be assigned only after notice and hearing.

E. In assigning a lesser than regular depth bracket allowable, the division may consider, among other pertinent factors, reservoir damage, casinghead gas production and disposition, water production and disposition, transportation facilities, the prevention of surface or underground waste and the protection of correlative rights.

F. The division shall assign a greater than regular depth bracket allowable only after sufficient reservoir information is available to ensure that the allowable can be produced without damage to the reservoir and without causing surface or underground waste. The division shall also consider the availability of oil transportation and marketing facilities; casinghead gas transportation, processing and marketing facilities; water disposal facilities; the protection of correlative rights; and other pertinent factors.

[19.15.20.12 NMAC - Rp, 19.15.7.505 NMAC, / /08]

19.15.20.13 GAS-OIL RATIO LIMITATION:

A. In allocated pools containing a well or wells producing from a reservoir that contains both oil and gas, each proration unit shall produce only that volume of gas equivalent to the applicable limiting gas-oil ratio multiplied by the pool's top unit oil allowable. In the event the division has not set a gas-oil ratio limit for a particular oil pool, the limiting gas-oil ratio shall be 2000 cubic feet of gas for each barrel of oil produced. In allocated oil pools the division shall place all producing wells, whether oil or casinghead gas, on the oil proration schedule.

B. Unless specifically exempted by division order issued after hearing, the division shall place a gas-oil ratio limitation on all allocated oil pools, and penalize all proration units having a gas-oil ratio exceeding the pool's limit in accordance with the following procedure.

(1) A proration unit that, on the basis of the latest official gas-oil ratio test, has a gas-oil ratio that exceeds the limiting gas-oil ratio and has the capacity to produce above the top casinghead gas volume calculated by Subsection A of 19.15.20.13 NMAC for the pool in which it is located may produce daily that number of barrels of oil that the division determines by multiplying the current top proration unit allowable by a fraction, the numerator of which shall be the limiting gas-oil ratio for the pool and the denominator of which shall be the well's official test gas-oil ratio, and the proration unit shall be designated non-marginal.

(2) A unit containing a well or wells producing from a reservoir that contains both oil and gas shall produce only that volume of gas equivalent to the applicable limiting gas-oil ratio multiplied by the top proration unit allowable currently assigned to the pool.

(3) A marginal unit may produce the same volume of gas that it would be permitted to produce if it

were a non-marginal unit.

C. The division shall indicate non-marginal proration units to which gas-oil ratio adjustments are applied in the proration schedule with adjusted allowables stated.

D. In cases of new pools, the limit shall be 2000 cubic feet per barrel until such time as changed by division order issued after a hearing. Upon petition and after notice and hearing according to law, the division shall determine or redetermine the specific gas-oil ratio limit that is applicable to a particular allocated oil pool.
[19.15.20.13 NMAC - Rp, 19.15.7.506 NMAC, / /08]

19.15.20.14 UNITIZED AREAS: After petition and notice and hearing, the division may approve the combining of contiguous developed proration units into a unitized area.
[19.15.20.14 NMAC - Rp, 19.15.7.507 NMAC, / /08]

19.15.20.15 RECOVERED LOAD OIL:

A. An operator may run recovered load oil from the lease on which it is recovered, provided the operator obtains division approval of form C-126. The operator shall file form C-126 with the appropriate division district office. Upon approval, the division shall return one copy to the operator and send one copy to the designated transporter as authority to transport the oil.

B. 19.15.20.15 NMAC applies only to oil that has been obtained from a source other than the lease on which it is used.
[19.15.20.15 NMAC - Rp, 19.15.7.508 NMAC, / /08]

19.15.20.16 OIL DISCOVERY ALLOWABLE:

A. In addition to the normally assigned allowable, the division may assign an oil discovery allowable to a well completed as a bona fide discovery well in a new common source of supply. The oil discovery allowable shall be in the amount of five barrels for each foot of depth of the well from the surface of the ground to the top of the perforations in the new pool or the depth of the casing shoe, whichever is higher. In counties where there is no other current oil production, and in a county when the discovery is the deepest oil production in the county, the oil discovery allowable shall be 10 barrels per foot of depth.

B. The date of discovery the division uses to determine the well that should properly receive the oil discovery allowable for a new pool is the date the operator completes the well and runs new oil into stock tanks. Provided however, an operator drilling through and discovering a new oil pool in the course of drilling to a lower horizon may file an affidavit of the discovery within seven days after making drill stem tests of the pool, accompanying the affidavit with all available pool data. If, prior to well's completion, another operator claims discovery of a similar pool and there are reasonable grounds to believe the pools are one and the same, the division shall not assign a discovery allowable to either well until after the initial well for which the affidavit was filed is completed. If at that time the operator of the initial well formally applies for the discovery allowable in the pool, the division shall determine after hearing which well receives the discovery allowable.

C. To obtain an oil discovery allowable, the owner of a discovery well shall file form C-109 with the appropriate division district office and the division's Santa Fe office. Each copy of the form shall be accompanied by the following.

(1) A map depicting all wells within a two-mile radius of the discovery well. The owner of the discovery shall clearly show producing oil and gas wells and the formations from which they are producing or have produced as well as all dry holes and the depths to which they were drilled. Maps shall be on a scale one inch equals 1000 feet and shall also indicate the names of all lessees of record in the depicted area.

(2) A complete electrical log of the subject well with the tops and bottoms of producing formations in the subject well and in nearby wells identified thereon.

(3) If the application is based on horizontal separation, a sub-surface structural map of the producing formations for which the owner of the discovery seek the discovery allowable, showing seismic or geological interpretation of the subject structure and any troughs, faults, pinch-outs, etc., that separate the subject well from nearby wells producing from the same formation or formations.

(4) A geological cross-section prepared from electrical logs of the subject well and nearby wells establishing horizontal as well as vertical separation from other wells depicted on the plat that are producing or have produced from the discovery formation or formations.

(5) A summary of all available reservoir data including bottom hole pressure data, fluid levels, core analyses, reservoir liquid characteristics and any other pertinent data on the subject reservoir as well as other nearby reservoirs that may help establish whether the subject well is in fact a discovery.

D. If, in the division staff's opinion, good cause exists to bring the pool for hearing as a discovery, and the division has received no objection from another operator, the division shall place the pool on the first available hearing docket for inclusion by the staff in its regular pool nomenclature case. If the staff disagrees with the applicant's contention that a new pool has been discovered or if within 10 days after receiving a copy of the application another operator files with the division an objection to the creation of a new pool and the assignment of a discovery allowable, the division shall notify the applicant. The applicant will be expected to present the evidence supporting the applicant's case. Or, if the applicant so desires, the division may set the application for separate hearing on other than the nomenclature docket for presentation of evidence by the applicant.

E. The effective date of a well's discovery allowable is 7:00 a.m. on the first day of the month next succeeding the month in which the division approves the discovery.

F. The total discovery allowable attributable to each zone in the well shall be produced over a two-year period commencing with the time of authorization. The well's daily allowable for each pool receiving the discovery allowable shall not exceed the daily top proration unit allowable for the pool plus the total pool discovery allowable divided by 730 days (731 days if a leap year is included).

G. A discovery well may produce only that volume of gas equivalent to the applicable limiting gas-oil ratio for the pool multiplied by the top proration unit allowable for the pool plus the daily oil discovery allowable. In addition to all other statewide rules not specifically excepted in 19.15.20.16 NMAC, the provisions of 19.15.20.9 NMAC relating to daily tolerance, monthly tolerance and underproduction and overproduction shall apply to oil discovery allowables as well as to regular allowables for discovery wells.

H. Nothing contained in 19.15.20.16 NMAC prohibits the division from curtailing the discovery allowables of wells during times of depressed market demand. However, the division shall reinstate such discovery allowables for production at the earliest possible date. Further, when it appears reservoir damage or waste may result from production of the oil discovery allowable within the normal two-year period, the division may, after notice and hearing, extend the period.

[19.15.20.16 NMAC - Rp, 19.15.7.509 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 21 GAS PRORATION AND ALLOCATION

19.15.21.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.21.1 NMAC - Rp, 19.15.21.1 NMAC, / /08]

19.15.21.2 SCOPE: 19.15.21 NMAC applies to persons engaged in gas development and production within New Mexico.
[19.15.21.2 NMAC - Rp, 19.15.21.2 NMAC, / /08]

19.15.21.3 STATUTORY AUTHORITY: 19.15.21 NMAC is adopted pursuant to the Oil and Gas Act, NMSA 1978, Section 70-2-6, Section 70-2-11, Section 70-2-12, Section 70-2-16 and Section 70-2-17.
[19.15.21.3 NMAC - Rp, 19.15.8.3 NMAC, / /08]

19.15.21.4 DURATION: Permanent.
[19.15.21.4 NMAC - Rp, 19.15.8.4 NMAC, / /08]

19.15.21.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.21.5 NMAC - Rp, 19.15.8.5 NMAC, / /08]

19.15.21.6 OBJECTIVE: To establish requirements implementing the division's statutory authority to prorate and allocate gas production to prevent waste and protect correlative rights.
[19.15.21.6 NMAC - Rp, 19.15.8.6 NMAC, / /08]

19.15.21.7 DEFINITIONS:

A. "Acreage factor" means a GPU's acreage factor determined to the nearest hundredth of a unit by dividing the acreage assigned to the GPU by a number equal to the number of acres in a standard GPU for the pool. However, the acreage tolerance provided in Subparagraph (b) of Paragraph (1) of Subsection A of 19.15.8.21.12 NMAC shall apply.

B. "AD factor" means an acreage multiplied by the deliverability factor is calculated in pools in which acreage and deliverability are proration factors. The product obtained by multiplying the acreage factor by the calculated deliverability (expressed as MCF per day) for that GPU is known as the AD factor for that GPU. The AD factor is computed to the nearest whole unit.

C. "Allocation hearing" means a hearing the division holds twice each year to determine pool allocations for the ensuing allocation period.

D. "Allocation period" means a six-month period beginning at 7:00 a.m. April 1 and October 1 of each year.

E. "Balancing date" means the date beginning at 7:00 a.m. April 1 of each year; the 12 months following this date is the gas proration period.

F. "Broker" means a third party who negotiates contracts for purchase and resale.

G. "Classification period" means a three month period beginning at 7:00 a.m. on April 1, July 1, October 1 and January 1 of each year.

H. "Deliverability pressure" means the designated delivery pressure at which pipeline companies can accept gas from gas wells depending on the pipeline's capacity.

I. "Gas pool" means a pool that the division has designated as a gas pool after notice and hearing.

J. "Gas proration unit (GPU)" means the acreage allocated to a well, or in the case of an infill well or wells to a group of wells, for purposes of spacing and proration. A GPU may be either of a standard or nonstandard size as provided in 19.15.21 NMAC.

K. "Gas purchaser" means the purchaser (where the producer first exchanges ownership of the gas to the purchaser for an agreed value) of the gas from a gas well or GPU.

L. "Gas transporter" means a taker of gas, the party servicing the well meter or the party responsible for measuring the gas sold from the well or beneficially used off-lease. This could be at the wellhead, at any other point on the lease or at a division-authorized point where connection is made for gas transportation or utilization (other than is necessary for maintaining the well's producing ability). The gas transporter can be the gatherer,

transporter, producer or a delegate of one of those parties. The gas transporter shall be identified on form C-115 and shall be responsible for creating and maintaining form C-111 as required under 19.15.7.21 NMAC's provisions.

M. "Infill well" means an additional producing well on a GPU that serves as a companion well to an existing well on the GPU.

N. "Marginal GPU" means a proration unit that is incapable of producing or has not produced the non-marginal allowable based on pool allocation factors. Marginal GPUs do not accrue over or underproduction.

O. "Non-marginal GPU" means a proration unit receiving an allowable based upon pool allocation factors. Non-marginal proration units accrue over or underproduction.

P. "Overproduction" means the volume of gas produced on a GPU in a month greater than the assigned non-marginal allowable (does not include gas used in maintaining the GPU's wells' producing ability). Overproduction accumulates month to month during the proration period.

Q. "Prorated gas pool" means a prorated gas pool is a gas pool in which, after notice and hearing, the division allocates production according to 19.15.21 NMAC and any applicable special pool orders.

R. "Proration period" means the 12-month period beginning April 1 of each year.

S. "Shadow allowable" means the gas volume calculated for a marginal GPU that is equal to the allowable assigned to a non-marginal GPU in the same pool of the same A (acreage) or A and AD (acreage deliverability) factors as the marginal GPU.

T. "Underproduction" means the volume of assigned non-marginal allowable not produced on a GPU. Underproduction accumulates month to month during the proration period.

[19.15.21.7 NMAC - Rp, 19.15.8.7 NMAC, / /08]

19.15.21.8 ALLOCATION OF GAS PRODUCTION: When the division determines that allocation of gas production in a designated gas pool is necessary to prevent waste the division, after notice and hearing, shall consider the nominations of purchasers from that gas pool and other relevant data, fix the pool's allowable production and allocate production among the gas wells in the pool delivering to a gas transportation facility upon a reasonable basis and recognizing correlative rights. The division shall include in the pool's proration schedule gas wells that the division finds are being unreasonably discriminated against through denial of access to a gas transportation facility that is reasonably capable of handling the type of gas the wells produce.

[19.15.21.8 NMAC - Rp, 19.15.8.601 NMAC, / /08]

19.15.21.9 PRORATION PERIOD: The proration period shall be at least six months and the division shall make the pool allowable and allocations of the pool allowable at least 30 days prior to each proration period.

[19.15.21.9 NMAC - Rp, 19.15.8.602 NMAC, / /08]

19.15.21.10 ADJUSTMENT OF ALLOWABLES: When the actual market demand from an allocated gas pool during a proration period is more than or less than the allowable the division set for the pool for the period, the division shall adjust the gas proration unit allowables for the pool for the next proration period so that each gas proration unit has a reasonable opportunity to produce its fair share of the gas production from the pool and so that correlative rights are protected.

[19.15.21.10 NMAC - Rp, 19.15.8.603 NMAC, / /08]

19.15.21.11 GAS PRORATION UNITS: Before issuing a proration schedule for an allocated gas pool, the division after notice and hearing shall fix the pool's gas proration unit.

[19.15.21.11 NMAC - Rp, 19.15.8.604 NMAC, / /08]

19.15.21.12 GAS PRORATION RULES:

A. Well acreage and location requirements.

(1) Standard gas proration unit size and well spacing.

(a) Unless otherwise provided for in applicable special pool orders, operators shall drill gas wells in prorated gas pools according to the well spacing and acreage requirements contained in 19.15.21 NMAC provided that when an operator drills a well in a pool with 640 acre spacing, a government section shall comprise the proration unit.

(b) A GPU an operator drills according to Subparagraph (a) of Paragraph (1) of Subsection A of 19.15.21.12 NMAC that contains acreage within the tolerances below is a standard GPU for calculating allowables:

Standard Proration Unit	Acreage Tolerance

160 acres	158-162 acres
320 acres	316-324 acres
640 acres	632-648 acres

(2) Nonstandard gas proration units.

(a) The district supervisor of the appropriate division district office may approve a nonstandard GPU without notice and hearing when the GPU's unorthodox size and shape is necessitated by a variation in the legal subdivision of the United States public land surveys and the nonstandard GPU is not less that 75 percent nor more than 125 percent of a standard GPU by accepting a form C-102 land plat from the operator showing the proposed nonstandard GPU with the number of acres contained in the proposed nonstandard GPU, and shall assign an allowable to the nonstandard GPU based upon the acreage factor for that acreage.

(b) The division may approve nonstandard proration units and unorthodox locations according to applicable special pool orders or division rules.

B. Nominations.

(1) Gas purchasers or gas transporters shall nominate. Each gas purchaser or each gas transporter shall file with the division its nomination for the amount of gas that it in good faith desires to purchase or expects to transport during the ensuing allocation period from each gas pool 19.15.21 NMAC regulates. The purchaser may delegate the nomination responsibility to the transporter, operator or broker by notifying the division's Santa Fe office. The purchaser shall submit the nomination for each pool to the division's Santa Fe office on form C-121-A by the first day of the month during which the division will consider at its allocation hearing the nominations for the succeeding allocation period. The division shall consider at its allocation hearing the nominations received, actual production and other factors the division deems applicable in determining the amount of gas that may be produced without waste during the ensuing allocation period.

(2) The director may suspend Subsection B of 19.15.21.12 NMAC whenever it appears that the nominations are of little or no value.

(3) Schedule. The division shall issue a gas proration schedule for each allocation period showing the monthly allowable for each GPU that the operator may produce during each month of the ensuing allocation period, each GPUs' current classification and other information as is necessary to show the allowable production status of each GPU on the schedule. The division may issue supplemental proration schedules during an allocation period as necessary to show changes in GPU classification, adjustments to allowables due to changes in market conditions or to reflect other changes the division deems necessary.

(4) Proration of all gas wells within a pool. The division shall include in the proration schedule the gas wells, in the gas pools 19.15.21 NMAC regulates, delivering to a gas transporter, and shall include in the proration schedule wells that the division finds are being unreasonably discriminated against through denial of access to a gas transportation facility, which are reasonably capable of handling the type of gas the wells produce.

C. Allocation and granting of allowables.

(1) Filing of form C-102 and form C-104 required. The division shall not assign a GPU an allowable before receipt of form C-102 and the approval date of form C-104.

(2) How allowables are calculated. The total allowable to be allocated to each gas pool for each allocation period shall equal the estimated market demand as the division determines, plus any adjustments the director deems necessary to equate the total pool allowable to the estimated market demand. The director may make adjustments the director deems necessary to compensate for overproduction, underproduction and other circumstances that may necessitate the adjustment to equate pool allowable to the anticipated market demand. The director shall establish estimated market demand for each pool from any information the director requires and can consist of nominations from purchasers, transporters or other parties having knowledge of market demand for gas from the pools, actual past production figures, seasonal trends or any other factors the director deems necessary to establish estimated market demand. The director is not required to use all the information requested and can establish market demand by any method the director approves. The division shall assign a monthly allowable to each GPU entitled to an allowable for the ensuing allocation period by allocating the pool allowable among all such GPUs in that pool according to the procedure set forth in 19.15.21 NMAC. Should market conditions indicate a change is necessary, the director may adjust allowables up or down during the six-month allocation period using a maximum of 10 percent as a guideline.

(3) Marginal GPU allowable. The monthly allowable the division assigns to each marginal GPU shall equal the marginal GPU's average monthly production from its latest classification period.

(4) Non-marginal GPU allowable. The division shall determine non-marginal GPU allowables in conformance with the applicable special pool orders.

(a) In pools where acreage is the only proration factor, the division shall allocate the total non-

marginal allowables to each GPU in the proportion that each GPU acreage factor bears to the total acreage factor for all non-marginal GPUs.

(b) In pools where acreage and deliverability are proration factors:

(i) the division shall allocate a percentage as set forth in special pool orders of the non-marginal allowable to each GPU in the proportion that each GPU's AD factor bears to the total AD factor for all non-marginal GPU's in the pool; and

(ii) the division shall allocate the remaining non-marginal allowable to non-marginal GPUs among each GPU in the proportion that each GPU's acreage factor bears to the total acreage factor for all non-marginal GPUs in the pool.

(5) New connects assignment of allowables. Allowables to newly completed gas wells shall commence, in pools where acreage is the only proration factor, on the date of first delivery of gas to a gas transporter as demonstrated by an affidavit the transporter furnishes to the appropriate division district office or the approval date of form C-102 and form C-104, whichever is later.

(6) Gas charged against GPU's allowable. Except as provided in the special pool orders, the operator shall charge the volume of produced gas sold or beneficially used other than lease fuel from each GPU against the GPU's allowable; however, the operator shall not charge the gas it uses in maintaining the well's producing ability against the allowable.

(7) Change in acreage. If an operator requests to change the acreage assigned to a GPU, the operator shall file form C-102 with the appropriate division district office. The revised allowable, as the division determines, assigned to the GPU shall be effective on the first day of the month following the division's receipt of the notification.

(8) Minimum allowables. After notice and hearing, the division may assign minimum allowables for prorated gas pools to avoid waste, encourage efficient operations and to prevent wells' premature abandonment. (See special pool orders for minimum allowable amount.) In determining the volume of minimum allowable for a well with a standard proration unit, the division shall take into account economic and engineering factors such as drilling and operating costs, anticipated revenues, taxes and any similar data that establish that the ultimate recovery of hydrocarbons will increase from the pool because of the adoption of a minimum allowable for the pool. Once adopted, the division shall proportionally adjust minimum allowable for wells with nonstandard proration units.

(9) Deliverability tests. In pools where acreage and deliverability are proration factors, an operator shall test wells on non-marginal GPUs in accordance with division rules and the division shall use the test results in calculating deliverabilities for the succeeding proration period. The operator shall test wells on GPUs reclassified to non-marginal within 90 days of the order and thereafter in accordance with the appropriate testing schedule for the pool. Wells on marginal GPUs are exempt from deliverability testing.

D. Balancing of production.

(1) Underproduction. A non-marginal GPU that has an underproduced status as of the end of a gas proration period may carry the underproduction forward in the next gas proration period and may produce the underproduction in addition to the allowable assigned during the succeeding period. The division shall cancel an underproduction carried forward into a gas proration period and remaining unproduced at the end of the gas proration period.

(2) Balancing underproduction. Production during any one month of a gas proration period greater than the allowable the division assigned to a GPU for such a month shall be applied against the underproduction carried into such a period in determining the amount of allowable, if any, to be canceled.

(3) Overproduction. A GPU that has an overproduced status as of the end of a gas proration period shall carry the overproduction forward into the next gas proration period. The overproduction shall be made up by underproduction during the succeeding gas proration period. The division shall shut-in a GPU that has not made up the overproduction carried into a gas proration period by the end of the period until the overproduction is made up.

(a) Twelve-times overproduced, northwest. For the prorated gas pools of northwest New Mexico, if the division determines that a GPU is overproduced in an amount exceeding 12 times its current year January allowable (or, in the case of a newly connected well, a marginal well or a well recently reclassified as non-marginal, 12 times the January allowable assigned to a non-marginal GPU of similar acreage and deliverability factors), it shall be shut in until its overproduction is less than 12 times its January allowable, as determined hereinabove.

(b) Six-times overproduced, southeast. For the prorated gas pools of southeast New Mexico, if the division determines that a GPU is overproduced in an amount exceeding six times its current year January allowable (or, in the case of a newly connected well, a marginal well or a well recently reclassified as non-marginal, six times the January allowable assigned to a non-marginal GPU of a similar acreage factor), the division shall shut-

in the GPU until its overproduction is less than six times its January allowable, as determined in Subsection C of 19.15.21 NMAC.

(4) Exception to shut in for overproduction. The director may permit a GPU that is subject to shut-in pursuant to Paragraph (3) of Subsection D of 19.15.21.12 NMAC to produce up to 250 MCF of gas per month upon the operator's proper showing to the director that complete shut-in would cause undue hardship, provided however, the director may rescind permission for a GPU produced greater than the monthly rate the director.

(5) Balancing overproduction. Allowable assigned to a GPU during a one month of a gas proration period greater than the production for the same month shall be applied against the overproduction chargeable to the GPU in determining the overproduction that must be made up pursuant to the provisions of Paragraph (3) of Subsection D of 19.15.21.12 NMAC above.

(6) Exception to balancing overproduction. The director may allow the operator to make up overproduction tat a lesser rate than permitted under Paragraph (3) of Subsection D of 19.15.21.12 NMAC upon the operator's showing at public hearing that the lesser rate is necessary to avoid material damage to the well.

(7) Hardship gas wells. If a GPU containing a hardship gas well is overproduced, the operator shall take the necessary steps to reduce production in order to reduce the overproduction. An overproduction existing at the time of a well's designation as a hardship gas well or accruing to the GPU after the designation shall be carried forward until it is made up by underproduction. The division shall not permit a GPU containing a hardship gas well, which GPU is overproduced, to produce at a rate higher than the minimum producing rate the division authorized.

(8) Moratorium on shut-ins. The director may grant a pool-wide moratorium of up to three months as to the shutting in of gas wells in a pool during periods of high demand emergency upon the operator's proper showing that the emergency exists, and that a significant number of the wells in the pool are subject to shut-in pursuant to the provisions of Paragraph (3) of Subsection D of 19.15.21.12 NMAC. The director shall not grant a moratorium beyond three months except after notice and hearing.

(9) The director may reinstate allowable to wells that suffered cancellation of allowable under Paragraph (1) of Subsection D of 19.15.21.12 NMAC or Paragraph (3) of Subsection E of 19.15.21.12 NMAC or loss of allowable due to reclassification of a well under Paragraph (2) of Subsection E of 19.15.21.12 NMAC if the cancellation or loss of allowable was caused by non-access or limited access to the average market demand in the pool rather than inability of the well to produce. Upon petition, with a showing of circumstances that prevented production of the non-marginal allowable, and evidence that the well was capable of producing at allowable rates during the period for which reinstatement is requested, the allowable may be reinstated in such amounts needed to avoid curtailment or shut-in of the well for excessive overproduction. The division may approve the petition administratively or docket the petition for hearing within 30 days after receipt in the division's Santa Fe office.

E. Classification of GPUs.

(1) Reclassification by the director. The director may reclassify a marginal or non-marginal GPU anytime the GPUs producing ability justifies reclassification. The director may suspend the reclassification of GPUs on the director's own initiative, or upon an affected interest owner's proper showing, if it appears that the suspension is necessary to permit underproduced GPUs, which would otherwise be reclassified, a proper opportunity to make up the underproduction.

(2) Reclassification to marginal. The director may reclassify a non-marginal GPU as marginal in either of the following ways.

(a) After the production data is available for the last month of each classification period, the director may reclassify a GPU that had an underproduced status at the beginning of the allocation period to marginal if its highest single month's production during the classification period is less than its average monthly allowable during the period. However, the operator of a GPU so classified, or other affected interest owner, shall have 30 days after receipt of notification of marginal classification in which to submit satisfactory evidence to the division that the GPU is not of marginal character and should not be so classified.

(b) The director may reclassify a GPU that is underproduced more than the overproduction limit as described in Paragraph (3) of Subsection D of 19.15.21.12 NMAC as marginal.

(3) Cancellation of underproduction for marginal GPU. The division shall not permit a GPU that is classified as marginal to accumulate underproduction, and shall cancel an underproduction accrued to a GPU before its classification as marginal.

(4) Reclassification to non-marginal. If, at the end of a classification period, a marginal GPU has produced more gas during the proration period to that time than its shadow allowable for that same period, the division shall reclassify the GPU as a non-marginal GPU.

(5) Reinstatement of status. The division shall reinstate to a GPU reclassified to non-marginal under the provisions of Paragraph (4) of Subsection E of 19.15.21.12 NMAC all underproduction that accrued or would

have accrued as a non-marginal GPU from the current proration period. The division may reinstate underproduction from the prior proration period after notice and hearing. Uncompensated-for overproduction accruing to the GPU while marginal shall be chargeable upon reclassification to non-marginal.

F. Reporting of production - filing C-111 and C-115 reports. Transporters and operators shall file gas transportation and production reports pursuant to 19.15.7.21 NMAC and 19.15.7.24 NMAC provided that upon the director's approval as to the specific program to be used, a producer or transporter of gas may report metered production of gas on a chart-period basis; provided the following provisions apply to each gas well:

(1) reports for a month shall include not less than 24 or more than 32 reported days;

(2) reported days may include as many as the last seven days of the previous month but no days of the succeeding month; and

(3) the total of the monthly reports for a year shall include not less than 360 or more than 368 reported days.

For purposes of Subsection F of 19.15.21.12 NMAC, the term "month" means "calendar month" for those reporting on a calendar month basis, and means "reporting month" for those reporting on a chart-period basis according to the exception provided in Subsection F of 19.15.21.12 NMAC.

[19.15.21.12 NMAC - Rp, 19.15.8.605 NMAC, / /08]

19.15.21.13 TESTS AND TEST PROCEDURES FOR PRORATED POOLS IN NORTHWEST NEW MEXICO:

A. Type of tests required for wells completed in prorated gas pools.

(1) Reclassified GPUs. An operator of a well on a GPU that the director has reclassified as non-marginal shall conduct deliverability tests on that well within 90 days of the order reclassifying it, unless there are current tests on file with the division or that order requires a new test. A current test is a test that was conducted during the last test period for that pool or later.

(2) Non-marginal GPUs. Operators shall conduct deliverability tests on wells on non-marginal GPUs every five years. If the division determines that a well's test data and production data warrant more frequent testing of the well, the division may set up special testing schedules for that well.

(3) Scheduling of tests.

(a) Notification of pools to be tested. By September 1 of each year the division's Aztec district office shall notify operators of non-marginal GPUs if their wells will be tested during the following test period.

(b) The operators shall file the results of all deliverability tests required with the Aztec district office within 90 days following the completion of each test. Provided however, that a test completed between December 31 of the test year and March 10 of the following year is due no later than March 31. The division shall not grant an extension of time for filing tests beyond March 31 except after notice and hearing.

(c) The operator's failure to file a test within the above-prescribed times subjects the GPU to the loss of one day's allowable for each day the test is late.

(d) A well scheduled for testing during its test year may have the conditioning period, test flow period and part of the seven-day shut-in period conducted in December of the previous year provided that, if the seven-day shut-in period immediately follows the test flow period, the operator shall measure the seven-day shut-in pressure in January of the test year. The earliest date that a well can be scheduled for a deliverability test is such that the test flow period would end on December 25 of the previous year.

(e) Downhole commingled wells are to be scheduled for tests on dates for the pool of the well's lowermost prorated completion.

(f) In the event the division shuts-in a well for overproduction, the operator may produce the well for a period of time to secure a test after written notification to the division. The operator shall use gas produced during this testing period in determining the well's over/under produced status.

(g) An operator may schedule a well for a deliverability retest upon notification to the Aztec district office at least 10 days before the operator will commence the test. The retest shall be for substantial reason and is subject to the division's approval. The operator shall conduct a retest in conformance with the deliverability test procedures of 19.15.21.13 NMAC. The division may require the retesting of a well by notification to the operator to schedule the retest. The operator shall identify these tests, as filed on form C-122-A, as "RETEST" in the remarks column.

(4) Witnessing of tests. Any or all of the following may witness a deliverability test: a division representative, an offset operator, a representative of the gas transportation facility connected to the well under test or a representative of the gas transportation facility taking gas from an offset operator.

B. Procedure for testing.

(1) The test shall begin by producing a well in the normal operating manner into the pipeline through either the casing or tubing, but not both, for a period of 14 consecutive days. This is known as the conditioning period. The operator shall not change the production valve and choke settings during either the conditioning or flow periods, except during the first 10 days of the conditioning period when maximum production would over-range the meter chart or location production equipment. The first 10 days of the conditioning period shall not have more than 48 hours of cumulative interruptions of flow. The 11th to 14th days, inclusive of the conditioning period, shall have no interruptions of flow. An interruption of flow that occurs as the well's normal operation as stop-cock flow, intermittent flow or well blow down shall not be counted as shut-in time in either the conditioning or flow period.

(2) The operator shall determine daily flowing rate from an average of seven or eight consecutive producing days, following a minimum conditioning period of 14 consecutive days of production. This is known as the flow period.

(3) The operator shall measure instantaneous pressure by a deadweight gauge or other division-approved method during the seven-day or eight-day flow period at the casinghead, tubinghead and orifice meter, and record it along with instantaneous meter-chart static pressure reading.

(4) If a well is producing through a compressor that is located between the wellhead and the meter run, the operator shall report the meter run pressure and the wellhead casing pressure and the wellhead tubing pressure on form C-122-A. Neither the suction pressure nor the discharge pressure of the compressor is considered wellhead pressure. The operator shall enter a note in the remarks portion on form C-122-A stating: "This well produced through a compressor".

(5) When it is necessary to restrict the flow of gas between the wellhead and the orifice meter, the operator shall determine the ratio of the downstream pressure, psi absolute, to the upstream pressure, psi absolute. When this ratio is 0.57 or less, the operator shall consider critical flow conditions to exist across the restriction.

(6) When more than one restriction between the wellhead and the orifice meter causes the pressures to reflect critical flow between the wellhead and the orifice meter, the operator shall measure the pressures across each of these restrictions to determine whether critical flow exists at any restriction. When critical flow does not exist at any restriction, the operator shall report the pressures taken to disprove the critical flow to the division on form C-122-A in item (n) of the form. When critical flow conditions exist, the operator shall measure the instantaneous flowing pressures required in Paragraph (3) of Subsection B of 19.15.21.13 NMAC during the last 48 hours of the seven-day or eight-day flow period.

(7) When critical flow exists between the wellhead and the orifice meter, the operator shall use the measured wellhead flowing pressure of the string through which the well flowed during the test as P_t when calculating the static wellhead working pressure (P_w) using the method established in Paragraph (9) of Subsection B of 19.15.21.13 NMAC

(8) When critical flow does not exist at any restriction, P_t shall be the corrected average static pressure from the meter chart plus friction loss from the wellhead to the orifice meter.

(9) The operator shall calculate the static wellhead working pressure (P_w) of a well under test seven-day or eight-day average static tubing pressure if the well is flowing through the casing; it shall be the calculated seven-day or eight-day average static casing pressure if the well is flowing through the tubing. The operator shall calculate the static wellhead working pressure (P_w) by applying the tables and procedures set out in the Gas Well Testing Manual for Northwest New Mexico available from the division.

(10) To obtain the shut-in pressure of a well under test, the operator shall shut-in the well some time during the current testing season for a period of seven to 14 consecutive days, which have been preceded by a minimum of seven days of uninterrupted production. The operator shall measure the shut-in pressure on the seventh to 14th day of shut-in of the well with a deadweight gauge or other division-approved method. The operator shall measure the seven-day shut-in pressure on both the tubing and the casing when communication exists between the two strings. The operator shall use the higher of such pressures as P_c in the deliverability calculation. When the division determines a shut-in pressure to be abnormally low or the well can not be shut-in due to "HARDSHIP" classification, the operator shall determine the shut-in pressure to be used as P_c by one of the following methods:

(a) a division-designated value;

(b) an average shut-in pressure of all offset wells completed in the same zone; offset wells include the four side and four corner wells, if available; or

(c) a calculated surface pressure based on a calculated bottom hole pressure; the operator shall make the calculations in accordance with the examples in the "Gas Well Testing Manual for Northwest New Mexico".

(11) The operator shall take all wellhead pressures, as well as the flowing meter pressure tests that are to be taken during the seven-day or eight-day deliverability test period in Subsection B of 19.15.21.13 NMAC, with

a deadweight gauge or other division-approved method. The operator shall record and maintain the pressure readings and the date and time according to the chart in the operator's records with the test information.

(12) The operator shall change and arrange orifice meter charts to reflect upon a single chart the flow data for the gas from each well for the full seven-day or eight-day deliverability test period; however, the division shall not void a test if the operator satisfactory explains the necessity for using test volumes through two chart periods. The operator shall make corrections for pressure base, measured flowing temperature, specific gravity and supercompressibility, provided however, if the specific gravity of the gas from a well under test is not available, the operator may assume an estimated specific gravity for the well, based upon that of gas from nearby wells, the specific gravity of which has been actually determined by measurement.

(13) The purchasing company that integrates the flow charts shall determine the average flowing meter pressure for the seven-day or eight-day flow period and the corrected integrated volume and furnish them to the operator or testing agency.

(14) The operator shall calculate the seven-day or eight-day flow period volume from the integrated readings as determined from the flow period orifice meter chart. The operator shall divide volume calculated by the number of testing days on the chart to determine the average daily rate of flow during the flow period. The flow period shall have a minimum of seven and a maximum of eight legibly recorded flowing days to be acceptable for test purposes. The operator shall correct the volume used in this calculation to the division's standard conditions of 15.025 psi absolute pressure base, 60 degrees fahrenheit temperature base and 0.60 specific gravity base.

(15) The operator shall calculate the daily volume of flow, as determined from the flow period chart readings, by applying the basic orifice meter formula or other acceptable industry standard practices.

$Q = C' (h_w P_f)^{.5}$

Where:

Q = metered volume of flow MCFD @ 15.025 psi absolute, 60 degrees fahrenheit, and 0.60 specific gravity.

C' = the 24-hour basic orifice meter flow factor corrected for flowing temperature, gravity and supercompressibility.

h_w = daily average differential meter pressure from flow period chart.

P_f = daily average flowing meter pressure from flow period chart.

(16) The basic orifice meter flow factors, flowing temperature factor and specific gravity factor shall be determined from the tables in the manual.

(17) The operator shall use the daily flow period average corrected flowing meter pressure, psi gauge, to determine the supercompressibility factor. The operator may obtain supercompressibility tables from the division.

(18) When the operator makes a supercompressibility correction for a gas containing either nitrogen or carbon dioxide in excess of two percent, the operator shall determine the gas' supercompressibility factors.

(19) The division may approve use of tables for calculating rates of flow from integrator readings that do not specifically conform to the division's Manual for Back-Pressure Testing of Natural Gas Wells for determining the daily flow period rates of flow upon the operator's showing that the tables are appropriate and necessary.

(20) The operator shall correct the daily average integrated rate of flow for the seven-day or eight-day flow period for meter error by multiplication by a correction factor. The operator shall determine the correction factor by dividing the square root of the deadweight flowing meter pressure, psi absolute, by the square root of the chart flowing meter pressure, psi absolute.

(21) The operator shall calculate the deliverability of gas at the deliverability pressure of a well under test from the test data derived from the required tests using the following deliverability formula:

$$D = Q \left[\frac{(P_c^2 - P_d^2)}{(P_c^2 - P_w^2)}\right]^n$$

Where:

D = deliverability MCFD at the deliverability pressure, (P_d), (at standard conditions of 15.025 psi absolute, 60 degrees fahrenheit and 0.60 specific gravity).

Q = daily flow rate in MCFD, at wellhead pressure (P_w).

P_c = seven-day shut-in wellhead pressure, psi absolute.

P_d = deliverability pressure, psi absolute, as defined above.

P_w = average static wellhead working pressure, as determined from seven-day or eight-day flow period, psi absolute, and calculated from tables in the manual entitled Pressure Loss Due to Friction Tables for Northwest New Mexico.

n = average pool slope of back pressure curves as follows:

for pictured cliffs and shallower formations, 0.85; and
for formations deeper than pictured cliffs, 0.75.
(Note: Special orders for any specific pool or formation may supersede the above values. Check special pool orders if in doubt.)

(22) The value of the multiplier in the above formula (ratio factor after the application of the pool slope) by which Q is multiplied shall not exceed a limiting value the division determines and announces periodically. The division shall make the determination after a study of the test data of the pool obtained during the previous testing season.

(23) The operator shall test downhole commingled wells in the test year for the pool of the well's lowermost prorated completion and shall use pool slope (n) and the lowermost pool's deliverability pressure. The operator shall use the total flow rate from the downhole commingled well to calculate a value of deliverability. For each prorated gas zone of a downhole commingled well the operator shall file a form C-122-A. Also, in the summary portion of that form all zones shall indicate the same data for line h, P_c, Q, P_w and P_d. The value shown for deliverability (D) is that percentage of the well's total deliverability that is applicable to this zone. The operator shall place a note in the remarks column that indicates the percentage of deliverability to be allocated to this zone of the well.

(24) The division shall consider a test prescribed in 19.15.21 NMAC acceptable if the average flow rate for the final seven-day or eight-day deliverability test is not more than 10 percent in excess of any consecutive seven-day or eight-day average of the preceding two weeks. The division may declare a deliverability test not meeting this requirement and require the operator to re-test the well.

(25) The operator shall make charts relative to deliverability tests or copies of the charts available to the division upon its request.

(26) Operators shall use only testing agencies, whether individuals, companies, pipeline companies or operators, that maintain a log of all tests they have accomplished including all field test data. The operator shall maintain the data collected pursuant to tests Subsection B of 19.15.21.13 NMAC requires for a period of not less than two years plus the current test year.

(27) Forms C-122-A and C-122-B are adopted for use in the northwest New Mexico area in open form subject to modification by the division as experience may indicate desirable or necessary.

(28) The operator shall conduct and report deliverability tests for gas wells in formations in accordance with 19.15.21.13 NMAC. Provided, however, 19.15.21.13 NMAC is subject to a specific modification or change contained in special pool orders the division adopts for a pool after notice and hearing.

C. Informational tests.

(1) One-point back pressure test. The operator may take a one-point back pressure test on newly completed wells before their connection or reconnection to a gas transportation facility. This test is a required official test, but the operator may take the test for informational purposes. When taken, the operator shall take and report this test as prescribed in Paragraph (2) of Subsection C of 19.15.21.13 NMAC.

(2) Test procedure.

(a) The operator shall accomplish this test after a minimum shut-in of seven days. The operator shall measure the shut-in pressure with a deadweight gauge or other division-approved method.

(b) The flow rate shall be that rate in MCFD measured at the end of a three hour test flow period. The flow from the well shall be for three hours through a positive choke, which has a 3/4 inch orifice.

(c) The operator shall install a two-inch nipple that provides a mechanical means of accurately measuring the pressure and temperature of the flowing gas immediately upstream from the positive choke.

(d) The operator shall calculate the absolute open flow using the conventional back pressure formula as shown in the division's Manual for Back-Pressure Testing of Natural Gas Wells.

(e) The operator shall report the observed data and flow calculations in duplicate on form C-122.

(f) Non-critical flow shall be considered to exist when the choke pressure is 13 psi gauge or less. When this condition exists the operator shall measure the flow rate with a pitot tube and nipple as specified in the division's Manual for Back-Pressure Testing of Natural Gas Wells or in the division's manual of Tables and Procedure for Pitot Tests. The operator shall install the pitot test nipple immediately downstream from the 3/4-inch positive choke.

(g) The operator shall test a well completed with two-inch nominal size tubing (1.995-inch internal diameter) or larger through the tubing.

(3) The operator may conduct other tests for informational purposes prior to obtaining a pipeline connection for a newly completed well upon receiving specific approval to conduct the other tests from the Aztec

district office. The Aztec district office shall base approval of these tests primarily upon the volume of gas to be vented.

[19.5.21.13 NMAC - Rp, 19.15.8.606 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 22 HARDSHIP GAS WELLS

19.15.22.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.22.1 NMAC - N, / /08]

19.15.22.2 SCOPE: 19.15.22 NMAC applies to persons engaged in oil and gas development and production within New Mexico.
[19.15.22.2 NMAC - N, / /08]

19.15.22.3 STATUTORY AUTHORITY: 19.15.22 NMAC is adopted pursuant to NMSA 1978, Section 70-2-6, Section 70-2-11 and Section 70-2-12.
[19.15.22.3 NMAC - N, / /08]

19.15.22.4 DURATION: Permanent.
[19.15.22.4 NMAC - N, / /08]

19.15.22.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.22.5 NMAC - N, / /08]

19.15.22.6 OBJECTIVE: To provide and application and approval process for hardship gas well classification.
[19.15.22.6 NMAC - N, / /08]

19.15.22.7 DEFINITIONS: [RESERVED]
[See 19.15.2.7 NMAC for definitions.]
[19.15.22.7 NMAC - N, / /08]

19.15.22.8 HARDSHIP GAS WELL:

A. The division shall not classify a well as a hardship gas well except after notice and hearing or upon the division's appropriate administrative action.

B. Wells the division approves as hardship gas wells under 19.15.22.9 NMAC and 19.15.22.10 NMAC have priority access over other gas wells to the current available gas market to the extent that they might otherwise be restricted below the approved minimum flow rate.
[19.15.22.8 NMAC - Rp, 19.15.6.408 NMAC, / /08]

19.15.22.9 APPLICATION FOR HARDSHIP GAS WELL CLASSIFICATION:

A. An operator shall apply for hardship gas well classification in the form the division prescribes and shall include the following:

(1) a narrative description of the problems that lead the applicant to believe that underground waste will occur if the well is shut-in or curtailed below its ability to produce;

(2) documentation that the applicant has made all reasonable and economic attempts to eliminate or correct the problem or an explanation and justification as to why the applicant did not make such attempts;

(3) a well bore sketch;

(4) historical data such as permanent loss of productivity after shut-in, frequency and actual costs of swabbing after shut-in or curtailment including length of swab time required, actual cost figures showing the inability to continue operations without special relief or other data that would show that shut-in or curtailment would cause underground waste;

(5) if failure to obtain a hardship gas well classification would result in the well's premature abandonment, a calculation of the reserves that would be lost by the failure;

(6) the minimum sustainable producing rate as determined by a minimum flow or log-off test or documentation of well production history;

(7) a plat or map showing the proration unit dedicated to the well and the offsetting acreage's ownership;

(8) the name of the authorized transporter (and purchaser if different) of gas; and

(9) other data the applicant considers relevant.

B. The operator shall file an application for hardship gas well classification with the division's Santa Fe office and send a copy to the appropriate division district office.

C. In addition, the applicant shall notify the transporter and purchaser of gas from the well and all offset operators of the application and the requested minimum producing rate and shall so certify to the division in the application.

[19.15.22.9 NMAC - Rp, 19.15.6.409 NMAC, / /08]

19.15.22.10 PROCESSING OF APPLICATIONS FOR HARDSHIP GAS WELLS:

A. The director may administratively approve an application for hardship gas well classification or the director may set the matter for notice and hearing.

B. The division shall list applications that the director is to approve administratively in the dockets of division or commission hearings that are issued from time to time.

(1) If no affected party files a written objection to the proposed administrative action within 20 days following the date of the hearing for which the docket is issued, the director may approve the application. If an affected party files an objection before or within the 20 day period, the division shall set the application for hearing unless the applicant withdraws the application.

(2) The director, on the director's own or upon an affected party's request, may require a minimum flow (log-off) test on the well for which the hardship classification is sought. The applicant shall give notice to the division, the gas transporter and purchaser and the requesting affected party of a minimum flow test conducted following the request, in order that the test may, at the option of the division or the parties, be witnessed. The applicant shall give notice of a minimum flow test conducted prior to submitting a hardship gas well application to the appropriate division district office, the gas transporter and purchaser and offset operators in order that the test may, at the option of the parties, be witnessed.

[19.15.22.10 NMAC - Rp, 19.15.6.410 NMAC, / /08]

19.15.22.11 EMERGENCY HARDSHIP GAS WELL CLASSIFICATION:

A. The district supervisor of the appropriate division district office may grant emergency approval of a hardship gas well classification upon receipt of a copy of the application and attachments and a request by the applicant.

B. The district supervisor shall approve the emergency classification in writing and send a copy to the director, the applicant and the purchaser. The district supervisor may only give emergency approval for 90 days and on a one time only basis.

[19.15.22.11 NMAC - Rp, 19.15.6.411 NMAC, / /08]

19.15.22.12 LIMITS ON HARDSHIP GAS WELL CLASSIFICATION:

A. No hardship gas well classification shall be retained for a period in excess of one year unless the applicant annually requests an extension of the classification and certifies that the well's condition has not substantially changed.

B. The division on its own motion may require that the applicant show cause why the division should not rescind approval of the hardship gas well classification in cases of suspected abuse, changed market conditions or other reason.

C. A well the division has classified as a hardship gas well located in a prorated gas pool shall accumulate over or under production. The division shall not shut in a well classified as a hardship gas well for reason of over production.

D. Affected parties may petition the division for hearing for the purpose of offsetting a ratable take advantage that the operator of a hardship gas well might gain.

[19.15.22.12 NMAC - Rp, 19.15.6.412 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 23 OFF LEASE TRANSPORT OF CRUDE OIL OR CONTAMINANTS

19.15.23.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.23.1 NMAC - N, / /08]

19.15.23.2 SCOPE: 19.15.23 NMAC applies to persons engaged in the off-lease transport of oil or contaminants.
[19.15.23.2 NMAC - N, / /08]

19.15.23.3 STATUTORY AUTHORITY: 19.15.23 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, which authorizes the division to regulate the transport of oil or gas or their products through the use of certificates of clearance or tenders.
[19.15.23.3 NMAC - N, / /08]

19.15.23.4 DURATION: Permanent.
[19.15.23.4 NMAC - N, / /08]

19.15.23.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.23.5 NMAC - N, / /08]

19.15.23.6 OBJECTIVE: To document the transport of oil or lease condensate or liquids that may contain oil, lease condensate, sediment oil or miscellaneous hydrocarbons to verify the location from where they were removed.
[19.15.23.6 NMAC - N, / /08]

19.15.23.7 DEFINITIONS: [RESERVED]
[See 19.15.2.7 NMAC for definitions.]
[19.15.23.7 NMAC - N, / /08]

19.15.23.8 DOCUMENTATION REQUIRED:

A. Off-lease transportation of oil or lease condensate by motor vehicle shall be pursuant to an approved form C-104 and shall be accompanied by a run ticket or equivalent document. The documentation shall identify the transporter's name and address, the operator's name, the name of and the lease or facility from which the oil was taken, the date of removal, the API gravity of the oil, the observed percentage of BS&W, the volume of oil or opening and closing tank gauges or meter readings and the driver's signature. The document shall provide space for recording of the lease number and for the signature of the operator or the operator's representative.

B. Off-lease transportation of oil or lease condensate by motor vehicle shall be accompanied by documentation sufficient to verify the location of the tanks or facility from which the transporter removed the liquid. The location may be shown on the run ticket or equivalent document or may be carried separately.

C. Off-lease transportation of liquids that may contain oil, lease condensate, sediment oil or miscellaneous hydrocarbons shall be accompanied by a run ticket, work order or equivalent document, *i.e.*, form C-117-A. The documentation shall identify the transporter's name and address, the operator's name, the name of the lease or facility from which the liquid was removed, the nature of the liquid removed including the observed percentage of liquid hydrocarbons, the volume or estimated volume of liquids and the destination.

D. Off-lease transportation of liquids that may contain oil, lease condensate, sediment oil or miscellaneous hydrocarbons shall be accompanied by documentation sufficient to verify the location of the tanks or facility from which the transporter removed the liquid. The location may be shown on the run ticket or equivalent document or may be carried separately.

E. The transporter shall carry the documentation required under Subsections A and B of 19.15.23.8 NMAC in the vehicle during transportation and produce the documentation for examination and inspection by a division employee, a state police officer or other law enforcement officer upon identification and request.

F. Except where the owner and the transporter are the same, one copy of the documentation shall be left at the facility from which the oil or other liquids were removed.

[19.15.23.8 NMAC - Rp, 19.15.10.804 NMAC, //08]

19.15.23.9 OFF-LEASE TRANSPORTATION OR STORAGE PRIOR TO MEASUREMENT:

A. The division may grant exceptions to the requirements of Subsection A of 19.15.11.9 NMAC, administratively, without hearing, to permit production from one lease to be transported prior to measurement to another lease for storage on that lease when:

(1) the operator files an application for off-lease transportation or storage prior to measurement on division form C-107-B with the division's Santa Fe office and sends one copy to the appropriate division district office;

(2) the production is from the same common source of supply;

(3) commingling of production from different leases will not result;

(4) there will be no intercommunication of the handling, separating, treating or storage facilities designated to each lease;

(5) parties owning working interests in the production to be transported off lease prior to measurement have been notified of the application in accordance with 19.15.4.12 NMAC and have consented in writing, or the applicant furnishes proof that the parties were notified by registered or certified mail of its intent to transport the production from one lease to another lease for storage prior to measurement, and after a period of 20 days following receipt of the application, no party has filed objection to the application with the division; and

(6) if state, federal or tribal lands are involved, the operator has notified the state land office or the BLM, as applicable.

B. The division may set for hearing an application for approval of off-lease transportation or storage prior to measurement, in which event notice of hearing shall be given, pursuant to 19.15.4.12 NMAC, to owners of working interests in the production to be transported off lease prior to measurement, and to such other owners as the division may direct.

[19.15.23.9 NMAC - Rp, 19.15.5.303 NMAC, //08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 24 ILLEGAL SALE AND RATABLE TAKE

19.15.24.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.24.1 NMAC - Rp, 19.15 10.1 NMAC and 19.15.11.1 NMAC, / /08]

19.15.24.2 SCOPE: 19.15.24 NMAC applies to those persons involved in the sale, purchase or transport of oil or gas.
[19.15.24.2 NMAC - Rp, 19.15.10.2 NMAC and 19.15.11.2 NMAC, / /08]

19.15.24.3 STATUTORY AUTHORITY: 19.15.24 NMAC is adopted pursuant to the Oil and Gas Act, NMSA 1978, Section 70-2-6, Section 70-2-11, Section 70-2-19 and Section 70-2-22, which authorizes the division to regulate the sale or purchase or acquisition, or the transportation, refining, processing or handling of oil or gas produced in excess of the amount allowed by statute, rule or commission or division order.
[19.15.24.3 NMAC - Rp, 19.15.10.3 NMAC and 19.15.11.3 NMAC, / /08]

19.15.24.4 DURATION: Permanent.
[19.15.24.4 NMAC - Rp, 19.15.10.4 NMAC and 19.15.11.4 NMAC, / /08]

19.15.24.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.24.5 NMAC - Rp, 19.15.10.5 and 19.15.11.5 NMAC, / /08]

19.15.24.6 OBJECTIVE: To regulate oil and gas purchasing and transport.
[19.15.24.6 NMAC - Rp, 19.15.10.6 NMAC and 19.15.11.6 NMAC, / /08]

19.15.24.7 DEFINITIONS: [RESERVED]
[See 19.15.2.7 NMAC for definitions.]
[19.15.24.7 NMAC - N, / /08]

19.15.24.8 GAS SALES BY LESS THAN ONE HUNDRED PERCENT OF THE OWNERS IN A WELL: When there are separate owners in a well and where an owner's gas is not being sold with the well's current production, the owner may, if necessary to protect the owner's correlative rights, petition the division for a hearing seeking appropriate relief.
[19.15.24.8 NMAC - Rp, 19.15.6.414 NMAC, / /08]

19.15.24.9 ILLEGAL SALE PROHIBITED: The sale, purchase or acquisition or the transporting, refining, processing or handling in any other way of oil or of gas in whole or in part (or a gas product so produced) produced in excess of the amount a statute or a division rule or order allows is prohibited.
[19.15.24.9 NMAC - Rp, 19.15.10.801 NMAC and 19.15.11.901 NMAC, / /08]

19.15.24.10 RATABLE TAKE; COMMON PURCHASER OF OIL:

A. Persons engaged in the purchase of oil to be transported through pipelines are a common purchaser of oil, and shall without discrimination in favor of one producer as against another in the same field, purchase oil tendered to it that has been lawfully produced in the vicinity of, or that may be reasonably reached by pipelines through which it is transporting oil may or the pipelines' gathering branches or that may be delivered to the pipeline or the pipelines' gathering branches by truck or otherwise and shall fully perform all a common purchaser's duties.

B. If a common purchaser does not need all the oil lawfully produced within a field, or if it is unable to purchase all the oil, then it shall purchase from each producer in a field ratably, taking and purchasing the same quantity of oil from each well to the extent that each well is capable of producing its ratable portions. However, nothing in Subsection B of 19.15.24.10 NMAC requires more than one pipeline connection for each producing well.

C. In the event a common purchaser of oil is also a producer or is affiliated with a producer, directly or indirectly, the common purchaser shall not discriminate in favor of its own production or in favor of the production of an affiliated producer as against that of others and the common purchaser shall treat the oil produced

by the common purchaser or the common purchaser's affiliate as that produced by another producer for the purposes of ratable taking.

D. It shall be unlawful for a common purchaser, to unjustly or unreasonably discriminate as to the relative quantities of oil it purchases in various fields of the state; the division to determine the justice or reasonableness, shall consider the production and age of wells in the respective fields and all other factors. It is the intent of 19.15.24.10 NMAC that all fields be allowed to produce and market a just and equitable share of the oil produced and marketed in the state, insofar as the oil can be produced and marketed economically and without waste.

E. In order to preclude premature abandonment, the common purchaser within its purchasing area shall make 100 percent purchases from units of settled production producing 10 barrels or less daily of crude petroleum in lieu of ratable purchases or takings. However, where the common purchaser's takings are curtailed below 10 barrels per unit of crude petroleum daily, then the common purchaser shall purchase equally from all units within its purchasing area, regardless of their producing ability insofar as they are capable of producing.
[19.15.24.10 NMAC - Rp, 19.15.10.802 NMAC, / /08]

19.15.24.11 PRODUCTION OF LIQUID HYDROCARBONS FROM GAS WELLS:

A. Liquid hydrocarbons produced incidental to the authorized production of gas from a well the division has classified as a gas well are legal production.

B. For purposes of 19.15.24.11 NMAC the division shall consider gas produced from a gas well to be authorized production with the following exceptions:

(1) when the operator produces the well without an approved form C-104, designating the gas transporter and the oil or condensate transporter for the well; or

(2) when the division has directed the operator to shut-in the well.

C. In the event the division directs an operator to shut-in a gas well, the operator and the division shall immediately notify both the gas transporter and oil transporter.
[19.15.24.11 NMAC - Rp, 19.15.10.803 NMAC, / /08]

19.15.24.12 RATABLE TAKE OF GAS:

A. A person engaged in purchasing from one or more producers, gas produced from gas wells or casinghead gas produced from oil wells shall be a common purchaser of gas within each common supply source from which it purchases, and shall purchase gas lawfully produced from gas wells or casinghead gas produced from oil wells with which its gas transportation facilities are connected in the pool and other gas lawfully produced within the pool and tendered to a point on its gas transportation facilities.

B. The common purchaser shall make purchases without unreasonable discrimination in favor of one producer against another in the price paid, the quantities purchased, the bases of measurement or the gas transportation facilities afforded for gas of like quantity, quality and pressure available from the wells.

C. In the event the common purchaser is also a producer, the common purchaser shall not discriminate in favor of the common purchaser on production from gas wells or casinghead gas produced from oil wells in which the common purchaser has an interest, direct or indirect, as against other production from gas wells or casinghead gas produced from oil wells in the same pool. For the purposes of 19.15.24.12 NMAC, reasonable differences in prices paid or facilities afforded, or both, do not constitute unreasonable discrimination if the differences bear a fair relationship to differences in quality, quantity or pressure of the gas available or to the relative lengths of time during which the gas will be available to the purchaser. The provisions of Subsection C of 19.15.24.12 NMAC shall not apply to:

(1) a well or pool used for storage and withdrawal from storage of gas originally produced not in violation of division rules or orders; or

(2) a person purchasing gas principally for use in the recovery or production of oil or gas, or

(3) a well that the division designates a hardship well.

D. A common purchaser taking gas produced from gas wells or casinghead gas produced from oil wells from a common source of supply shall take ratably under division rules and orders, concerning quantity, as the division or commission promulgates consistent with 19.15.24.12 NMAC. The division or commission, in promulgating the rules and orders may consider the gas' quality and the deliverability, the gas' pressure at the point of delivery, acreage attributable to the well, market requirements in the case of unprorated pools and other pertinent factors.

E. Nothing in 19.15.24.12 NMAC requires, directly or indirectly, a common purchaser to purchase gas of a quality, under a pressure or under other condition by reason of which the common purchaser cannot

economically and satisfactorily use the gas by means of the common purchaser's gas transportation facilities then in service.

[19.15.24.12 NMAC - Rp, 19.15.11.902 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 25 PLUGGING AND ABANDONMENT OF WELLS

19.15.25.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.25.1 NMAC - Rp, 19.15.4.1 NMAC, / /08]

19.15.25.2 SCOPE: 19.15.25 NMAC applies to persons that operate oil or gas wells within New Mexico.
[19.15.25.2 NMAC - Rp, 19.15.4.2 NMAC, / /08]

19.15.25.3 STATUTORY AUTHORITY: 19.15.25 NMAC is adopted pursuant to the Oil and Gas Act, NMSA 1978, Section 70-2-12, which authorizes the division to require dry or abandoned wells to be plugged so as to confine oil, gas or water in the strata in which they are found and to prevent it from escaping into other strata.
[19.15.25.3 NMAC - Rp, 19.15.4.3 NMAC, / /08]

19.15.25.4 DURATION: Permanent.
[19.15.25.4 NMAC - Rp, 19.15.4.4 NMAC, / /08]

19.15.25.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.25.5 NMAC - Rp, 19.15.4.5 NMAC, / /08]

19.15.25.6 OBJECTIVE: To establish requirements for properly abandoning and plugging wells drilled for oil or gas or service wells including seismic, core, exploration or injection wells or placing the wells in temporary abandonment in order to protect public health, fresh water and the environment.
[19.15.25.6 NMAC - Rp, 19.15.4.6 NMAC, / /08]

19.15.25.7 DEFINITIONS: [RESERVED]
[See 19.15.2.7 NMAC for definitions.]
[19.15.25.7 NMAC - N, / /08]

19.15.25.8 WELLS TO BE PROPERLY ABANDONED:

A. The operator of wells drilled for oil or gas or services wells including seismic, core, exploration or injection wells, whether cased or uncased, shall plug the wells as Subsection B of 19.15.25.8 NMAC requires.

B. The operator shall either properly plug and abandon a well or place the well in approved temporary abandonment in accordance with 19.15.25 NMAC within 90 days after:

(1) a 60 day period following suspension of drilling operations;

(2) a determination that a well is no longer usable for beneficial purposes; or

(3) a period of one year in which a well has been continuously inactive.

[19.15.25.8 NMAC - Rp, 19.15.4.201 NMAC, / /08]

19.15.25.9 NOTICE OF PLUGGING:

A. The operator shall file notice of intention to plug with the division on form C-103 prior to commencing plugging operations. The notice shall provide all the information 19.15.7.14 NMAC requires including operator and well identification and proposed procedures for plugging the well.

B. In addition, the operator shall provide a well bore diagram showing the proposed plugging procedure.

C. The operator shall notify the division 24 hours prior to commencing plugging operations. In the case of a newly drilled dry hole, the operator may obtain verbal approval from the appropriate district supervisor or the district supervisor's representative of the plugging method and time operations are to begin. The operator shall file written notice in accordance with 19.15.25.11 NMAC with the division within 10 days after the district supervisor has given verbal approval.
[19.15.25.9 NMAC - Rp, 19.15.4.202 NMAC, / /08]

19.15.25.10 PLUGGING:

A. Before an operator abandons a well, the operator shall plug the well in a manner that permanently

confines all oil, gas and water in the separate strata in which they are originally found. The operator may accomplish this by using mud-laden fluid, cement and plugs singly or in combination as approved by the division on the notice of intention to plug.

B. The operator shall mark the exact location of plugged and abandoned wells with a steel marker not less than four inches in diameter set in cement and extending at least four feet above mean ground level. The operator name, lease name and well number and location, including unit letter, section, township and range, shall be welded, stamped or otherwise permanently engraved into the marker's metal. A person shall not build permanent structures preventing access to the wellhead over a plugged and abandoned well without the division's written approval. A person shall not remove a plugged and abandonment marker without the division's written approval.

C. The operator may use below-ground plugged and abandonment markers only with the division's written approval when an above-ground marker would interfere with agricultural endeavors. The below-ground marker shall have a steel plate welded onto the abandoned well's surface or conductor pipe and shall be at least three feet below the ground surface and of sufficient size so that all the information 19.15.16.8 NMAC requires can be stenciled into the steel or welded onto the steel plate's surface. The division may require a re-survey of the well location.

D. As soon as practical, but no later than one year after the completion of plugging operations, the operator shall:

(1) level the location;

(3) remove deadmen and other junk; and

(4) take other measures necessary or required by the division to restore the location to a safe and clean condition.

E. The operator shall close all pits and below-grade tanks pursuant to 19.15.17 NMAC.

F. Upon completion of plugging and clean up restoration operations as required, the operator shall contact the appropriate division district office to arrange for an inspection of the well and location.

[19.15.25.10 NMAC - Rp, 19.15.4.202 NMAC, / /08]

19.15.25.11 REPORTS FOR PLUGGING AND ABANDOMENT:

A. The operator shall file form C-105 as provided in 19.15.7.16 NMAC.

B. Within 30 days after completing required restoration work, the operator shall file with the division a record of the work done on form C-103 as provided in 19.15.7.14 NMAC.

C. The division shall not approve the record of plugging or release a bond until the operator has filed necessary reports and the division has inspected and approved the location.

[19.15.25.11 NMAC - Rp, 19.15.4.202 NMAC, / /08]

19.15.25.12 APPROVED TEMPORARY ABANDONMENT: The division may place a well in approved temporary abandonment for a period of up to five years. Prior to the expiration of an approved temporary abandonment the operator shall return the well to beneficial use under a plan the division approves, permanently plug and abandon the well and restore and remediate the location or apply for a new approval to temporarily abandon the well.

[19.15.25.12 NMAC - Rp, 19.15.4.203 NMAC, / /08]

19.15.25.13 REQUEST FOR APPROVAL AND PERMIT FOR APPROVED TEMPORARY ABANDONMENT:

A. An operator seeking approval for approved temporary abandonment shall submit on form C-103 and a notice of intent to seek approved temporary abandonment for the well describing the proposed temporary abandonment procedure the operator will use. The operator shall not commence work until the division has approved the request. The operator shall give 24 hours notice to the appropriate division district office before beginning work.

B. The division shall not approve temporary abandonment until the operator furnishes evidence demonstrating that the well's casing and cementing are mechanically and physically sound and in such condition as to prevent:

(1) damage to the producing zone;

(2) migration of hydrocarbons or water;

(3) the contamination of fresh water or other natural resources; and

(4) the leakage of a substance at the surface.

C. The operator shall demonstrate both internal and external mechanical integrity pursuant to

Subsection A of 19.15.25.14 NMAC.

D. Upon successful completion of the work on the temporarily abandoned well, the operator shall submit a request for approved temporary abandonment to the appropriate division district office on form C-103 together with other information Subsection E of 19.15.7.14 NMAC requires.

E. The division shall specify the permit's expiration date, which shall be not more than five years from the date of approval.

[19.15.25.13 NMAC - Rp, 19.15.4.203 NMAC, / /08]

19.15.25.14 DEMONSTRATING MECHANICAL INTEGRITY:

A. An operator may use the following methods of demonstrating internal casing integrity for wells to be placed in approved temporary abandonment:

(1) the operator may set a cast iron bridge plug within 100 feet of uppermost perforations or production casing shoe, load the casing with inert fluid and pressure test to 500 psi surface pressure with a pressure drop of not more than 10 percent over a 30 minute period;

(2) the operator may run a retrievable bridge plug or packer to within 100 feet of uppermost perforations or production casing shoe, and test the well to 500 psi surface pressure for 30 minutes with a pressure drop of not greater than 10 percent over a 30 minute period; or

(3) the operator may demonstrate that the well has been completed for less than five years and has not been connected to a pipeline.

B. During the testing described in Paragraphs (1) and (2) of Subsection A of 19.15.25.14 NMAC the operator shall:

(1) open all casing valves during the internal pressure tests and report a flow or pressure change occurring immediately before, during or immediately after the 30 minute pressure test;

(2) top off the casing with inert fluid prior to leaving the location;

(3) report flow during the test in Paragraph (2) of Subsection A of 19.15.25.14 NMAC to the appropriate division district office prior to completion of the temporary abandonment operations; the division may require remediation of the flow prior to approving the well's temporary abandonment.

C. An operator may use any method approved by the EPA in 40 C.F.R. section 146.8(c) to demonstrate external casing and cement integrity for wells to be placed in approved temporary abandonment.

D. The division shall not accept mechanical integrity tests or logs conducted more than 12 months prior to submittal.

E. The operator shall record mechanical integrity tests on a chart recorder with a maximum two hour clock and maximum 1000 pound spring, which has been calibrated within the six months prior to conducting the test. Witnesses to the test shall sign the chart. The operator shall submit the chart with form C-103 requesting approved temporary abandonment.

F. The division may approve other testing methods the operator proposes if the operator demonstrates that the test satisfies the requirements of Subsection B of 19.15.25.13 NMAC.

[19.15.25.14 NMAC - Rp, 19.15.4.203 NMAC, / /08]

19.15.25.15 WELLS TO BE USED FOR FRESH WATER:

A. When a well to be plugged may safely be used as a fresh water well and the landowner agrees to take over the well for that purpose, the operator does not need to plug the well above the sealing plug set below the fresh water formation.

B. The operator shall comply with other requirements contained in 19.15.25.9 NMAC through 19.15.25.11 NMAC regarding plugging, including surface restoration and reporting requirements.

C. Upon completion of plugging operations, the operator shall file with the division a written agreement signed by the landowner whereby the landowner agrees to assume responsibility for the well. Upon the filing of this agreement and division approval of well abandonment operations, the operator is no longer responsible for the well, and the division may release bonds on the well.

[19.15.25.15 NMAC - Rp, 19.15.4.204 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 26 INJECTION

19.15.26.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.26.1 NMAC - Rp, 19.15.9.1 NMAC, / /08]

19.15.26.2 SCOPE: 19.15.26 NMAC applies to persons engaged in secondary or other enhanced recovery of oil or gas, pressure maintenance, salt water disposal and underground storage of oil or gas.
[19.15.26.2 NMAC - Rp, 19.15.9.2 NMAC, / /08]

19.15.26.3 STATUTORY AUTHORITY: 19.15.26 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, which authorizes the division to permit the injection of gas or other substances into a pool for repressuring, cycling, pressure maintenance, secondary or other enhanced recovering operations; and to regulate the disposition of water produced or used in connection with drilling for or producing oil or gas and to direct subsurface disposal of the water.
[19.15.26.3 NMAC - Rp, 19.15.9.3 NMAC, / /08]

19.15.26.4 DURATION: Permanent.
[19.15.26.4 NMAC - Rp, 19.15.9.4 NMAC, / /08]

19.15.26.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.26.5 NMAC - Rp, 19.15.9.5 NMAC, / /08]

19.15.26.6 OBJECTIVE: To regulate secondary or other enhanced recovery, pressure maintenance, salt water disposal and underground storage to prevent waste, protect correlative rights and protect public health, fresh water and the environment.
[19.15.26.6 NMAC - Rp, 19.15.9.6 NMAC, / /08]

19.15.26.7 DEFINITIONS:

A. "Affected person" means the division designated operator; in the absence of an operator, a lessee whose interest is evidence by a written conveyance document either of record or known to the applicant as of the date the applicant files the application; or 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 for permit to inject.

B. "Pressure maintenance project" means a project in which an operator injects fluids into the producing horizon in an effort to build up or maintain the reservoir pressure in an area that has not reached the advanced or stripper state of depletion.

C. "Water flood project" means a project in which an operator injects water into a producing horizon in sufficient quantities and under sufficient pressure to stimulate oil production from other wells in the area, and is limited to those areas in which the wells have reached an advanced state of depletion and are regarded as what is commonly referred to as stripper wells.
[19.15.26.7 NMAC - Rp, 19.15.9.701 NMAC, / /08]

19.15.26.8 INJECTION OF FLUIDS INTO RESERVOIRS:

A. Permit for injection required. An operator shall not inject gas, liquefied petroleum gas, air, water or other fluid into a reservoir or formation to maintain reservoir pressure or for secondary or other enhanced recovery or for storage or inject water into a formation for disposal except pursuant to a permit the division has granted after notice and hearing, or that the division has granted by administrative order as authorized in 19.15.26.8 NMAC. The division shall grant a permit for injection under 19.15.26.8 NMAC only to an operator who is in compliance with Subsection A of 19.15.5.9 NMAC. The division may revoke a permit for injection issued under 19.15.26.8 NMAC after notice and hearing if the operator is not in compliance with Subsection A of 19.15.5.9 NMAC.

B. Method of making application.

(1) The operator shall apply for authority to inject gas, liquefied petroleum gas, air, water or other

medium into a formation for any reason, including the establishment of or the expansion of water flood projects, enhanced recovery projects, pressure maintenance projects or salt water disposal, by submitting form C-108 complete with all attachments to the division.

(2) The applicant shall furnish, by certified or registered mail, a copy of the application to each owner of the land surface on which each injection or disposal well is to be located and to each leasehold operator or other affected person within any tract wholly or partially contained within one-half mile of the well.

C. Administrative approval.

(1) If the application is for administrative approval rather than for a hearing, it shall be accompanied by a copy of a legal notice the applicant published in a newspaper of general circulation in the county in which the proposed injection well is located. The legal notice shall include

(a) the applicant's name, address, phone number and contact party;

(b) the injection well's intended purpose, with the exact location of single wells or the section, township and range location of multiple wells;

(c) the formation name and depth with expected maximum injection rates and pressures; and

(d) a notation that interested parties shall file objections or requests for hearing with the division within 15 days.

(2) The division shall not approve an application for administrative approval until 15 days following the division's receipt of form C-108 complete with all attachments including evidence of mailing as required under Paragraph (2) of Subsection B of 19.15.26.8 NMAC and proof of publication as required by Paragraph (1) of Subsection C of 19.15.26.8 NMAC.

(3) If the division does not receive an objection within the 15-day period, and a hearing is not otherwise required, the division may approve the application administratively.

D. Hearings. If a written objection to an application for administrative approval of an injection well is filed within 15 days after receipt of a complete application, if 19.15.26.8 NMAC requires a hearing or if the director deems a hearing advisable, the division shall set the application for hearing and give notice of the hearing.

E. Water disposal wells.

(1) The director may grant an application for a water disposal well administratively, without hearing, only when the waters to be disposed of are mineralized to such a degree as to be unfit for domestic, stock, irrigation or other general use and when the waters are to be disposed of into a formation older than Triassic (Lea county only) and the division receives no objections pursuant to Subsection C of 19.15.26.8 NMAC.

(2) The division shall not permit disposal into zones containing waters having total dissolved solids concentrations of 10,000 mg/l or less except after public notice and hearing, provided that the division may, by order issued after public notice and hearing, establish exempted aquifers for such zones where the division may administratively approve the injection.

(3) Notwithstanding the provisions of Paragraph (2) of Subsection E of 19.15.26.8 NMAC, the director may authorize disposal into such zones administratively if the waters to be disposed of are of higher quality than the native water in the disposal zone.

F. Pressure maintenance projects.

(1) The division shall set applications for establishment of pressure maintenance projects for hearing. The division shall fix the project area and the allowable formula for a pressure maintenance project on an individual basis after notice and hearing.

(2) The division may authorize an operator to expand a pressure maintenance projects and place additional wells on injection after hearing or administratively, subject to the notice requirements of Subsection B of 19.15.26.8 NMAC.

(3) The director may grant an exception to the hearing requirements of Subsection A of 19.15.26.8 NMAC for the conversion to injection of additional wells within a project area provided that the wells are necessary to develop or maintain efficient pressure maintenance within the project and provided that the division receives no objections pursuant to Subsection C of 19.15.26.8 NMAC.

(4) An established pressure maintenance project shall have only one designated operator. The division shall set an application for exception for hearing.

G. Water flood projects.

(1) The division shall set applications for establishment of water flood projects for hearing.

(2) The project area of a water flood project shall comprise the proration units a given operator owns or operates upon which injection wells are located plus proration units the same operator owns or operates that directly or diagonally offset the injection tracts and have producing wells completed on them in the same formation; provided however, that the division may include in the project area additional proration units not directly or

diagonally offsetting an injection tract if, after notice and hearing, the operator establishes that the additional units have wells completed on the unit that have experienced a substantial response to water injection.

(3) The allowable the division assigns to wells in a water flood project area shall equal the wells' ability to produce and are not subject to the depth bracket allowable for the pool or to the market demand percentage factor.

(4) Nothing in Subsection G of 19.15.26.8 NMAC shall prohibit the division's assignment of special allowables to wells in buffer zones after notice and hearing. The division may assign special allowables in the limited instances where it is established at a hearing that it is imperative for the protection of correlative rights to do so.

(5) The division shall authorize the expansion of water flood projects and the placement of additional wells on injection after hearing or administratively, subject to the notice requirements of Subsection B of 19.15.26.8 NMAC.

(6) The director may grant an exception to the hearing requirements of Subsection A of 19.15.26.8 NMAC for conversion to injection of additional wells provided that the well is necessary to develop or maintain thorough and efficient water flood injection for an authorized project and provided that the division does not receive an objection pursuant to Subsection C of 19.15.26.8 NMAC.

(7) An established water flood project shall have only one designated operator. The division shall set for hearing an application for exception.

H. Storage wells.

(1) The director may grant administratively, without hearing, an application for the underground storage of liquefied petroleum gas or liquid hydrocarbons in secure caverns within massive salt beds, and provided the applicant has complied with the notice provisions of Subsection B of 19.15.26.8 NMAC and the division receives no objections pursuant to Subsection C of 19.15.26.8 NMAC.

(2) In addition to the filing requirements of Subsection B of 19.15.26.8 NMAC, the applicant for approval of a storage well under Subsection H of 19.15.26.8 NMAC shall file the following:

(a) with the director, financial assurance in accordance with the provisions of 19.5.8 NMAC; and

(b) with the appropriate division district office:

(i) form C-101;

(ii) form C-102; and

(iii) form C-105.

[19.15.26.8 NMAC - Rp, 19.15.9.701 NMAC, / /08]

19.15.26.9 CASING AND CEMENTING OF INJECTION WELLS: The operator of a well used for injection of gas, air, water or other medium into a formation shall case the well with safe and adequate casing or tubing so as to prevent leakage, and set and cement the casing or tubing to prevent the movement of formation or injected fluid from the injection zone into another zone or to the surface around the outside of a casing string.
[19.15.26.9 NMAC - Rp, 19.15.9.702 NMAC, / /08]

19.15.26.10 OPERATION AND MAINTENANCE:

A. The operator of an injection well shall equip, operate, monitor and maintain the well to facilitate periodic testing and to assure continued mechanical integrity that will result in no significant leak in the tubular goods and packing materials used and no significant fluid movement through vertical channels adjacent to the well bore.

B. The operator of an injection project shall operate and maintain at all times the injection project, including injection wells, producing wells and related surface facilities, in such a manner as will confine the injected fluids to the interval or intervals approved and prevent surface damage or pollution resulting from leaks, breaks or spills.

C. The operator shall report the failure of an injection well, producing well or surface facility, which failure may endanger underground sources of drinking water, to the division under the "immediate notification" procedure of 19.15.29.10 NMAC

D. The operator shall report injection well or producing well failures requiring casing repair or cementing to the division prior to commencement of workover operations.

E. The division may restrict the injected volume and pressure for, or shut-in, injection wells or projects that have exhibited failure to confine injected fluids to the authorized injection zone or zones, until the operator has identified and corrected the failure.

[9.15.26.10 NMAC - Rp 19.15.9.703 NMAC, / /08]

19.15.26.11 TESTING, MONITORING, STEP-RATE TESTS, NOTICE TO THE DIVISION, REQUESTS FOR PRESSURE INCREASES:

A. Testing.

(1) Prior to commencement of injection and any time the operator pulls the tubing or reseats the packer, the operator shall test the well to assure the integrity of the casing and the tubing and packer, if used, including pressure testing of the casing-tubing annulus to a minimum of 300 psi for 30 minutes or such other pressure or time as the appropriate district supervisor may approve. The operator shall use a pressure recorder and submit copies of the chart to the appropriate division district office within 30 days following the test date.

(2) At least once every five years thereafter, the operator shall test an injection well to assure its continued mechanical integrity. Tests demonstrating continued mechanical integrity shall include the following:

(a) measurement of annular pressures in a well injecting at positive pressure under a packer or a balanced fluid seal;

(b) pressure testing of the casing-tubing annulus for a well injecting under vacuum conditions; or

(c) other tests that are demonstrably effective and that the division may approve for use.

(3) Notwithstanding the test procedures outlined in Paragraphs (1) and (2) of Subsection A of 19.15.26.11 NMAC, the division may require the operator to conduct more comprehensive testing of the injection well when deemed advisable, including the use of tracer surveys, noise logs, temperature logs or other test procedures or devices.

(4) In addition, the division may order that the operator conduct special tests prior to the expiration of five years if the division believes conditions so warrant. The division shall consider a special test that demonstrates a well's continued mechanical integrity the equivalent of an initial test for test scheduling purposes, and the regular five-year testing schedule shall be applicable thereafter.

(5) The operator shall advise the division of the date and time an initial, five-year or special tests are to be commenced so the division may witness the tests.

B. Monitoring. The operator shall equip an injection well so that the injection pressure and annular pressure may be determined at the wellhead and the injected volume may be determined at least monthly.

C. Step-rate tests, notice to the division, requests for injection pressure limit increases.

(1) Whenever an operator conducts a step-rate test for the purpose of increasing an authorized injection or disposal well pressure limit, the operator shall give notice of the date and time of the test in advance to the appropriate division district office.

(2) The operator shall submit copies of injection or disposal well pressure-limit increase applications and supporting documentation to the division's Santa Fe office and to the appropriate division district office.

[19.15.26.11 NMAC - Rp, 19.15.9.704 NMAC, / /08]

19.15.26.12 COMMENCEMENT, DISCONTINUANCE AND ABANDONMENT OF INJECTION OPERATIONS:

A. The following provisions apply to injection projects, storage projects, salt water disposal wells and special purpose injection wells.

B. Notice of commencement and discontinuance.

(1) Immediately upon the commencement of injection operations in a well, the operator shall notify the division of the date the operations began.

(2) Within 30 days after permanent cessation of gas or liquefied petroleum gas storage operations or within 30 days after discontinuance of injection operations into any other well, the operator shall notify the division of the date of the discontinuance and the reasons for the discontinuance.

(3) Before temporarily abandoning or plugging an injection well, the operator shall obtain approval from the appropriate division district office in the same manner as when temporarily abandoning or plugging oil and gas wells or dry holes.

C. Abandonment of injection operations.

(1) Whenever there is a continuous one year period of non-injection into all wells in an injection or storage project or into a salt water disposal well or special purpose injection well, the division shall consider the project or well abandoned, and the authority for injection shall automatically terminate ipso facto.

(2) For good cause shown, the director may grant an administrative extension or extensions of injection authority as an exception to Paragraph (1) of Subsection C of 19.15.26.12 NMAC, provided that any such

extension may be granted only prior to the end of one year or continuous non-injection, or during the term of a previously granted extension.
[19.15.26.12 NMAC - Rp, 19.15.9.705 NMAC, / /08]

19.15.26.13 RECORDS AND REPORTS:

A. The operator of an injection well or project for secondary or other enhanced recovery, pressure maintenance, gas storage, salt water disposal or injection of other fluids shall keep accurate records and shall report monthly to the division gas or fluid volumes injected, stored or produced as required on the appropriate form listed below:

(1) secondary or other enhanced recovery on form C-115;

(2) pressure maintenance on form C-115 and as otherwise prescribed by the division;

(3) salt water disposal not regulated by 19.15.36 NMAC on form C-115;

(4) salt water disposal at surface waste management facilities regulated by 19.15.36 NMAC on form C-120-A;

(5) gas storage on form C-131-A; and

(6) injection of other fluids on a division-prescribed form.

B. The operator of a liquefied petroleum gas storage project shall report to the division annually on form C-131-B.
[19.15.26.13 NMAC - Rp, 19.15.9.706 NMAC, / /08]

19.15.26.14 RECLASSIFICATION OF WELLS: The director may reclassify an injection well from a category defined in Subsection B of 19.15.26.8 NMAC to another category without notice and hearing upon the request and proper showing by the injection well's operator.
[19.15.26.14 NMAC - 19.15.9.707 NMAC, / /08]

19.15.26.15 TRANSFER OF AUTHORITY TO INJECT:

A. Authority to inject granted under a division order is not transferable except upon division approval. An operator may obtain approval of transfer of authority to inject by filing completed form C-145.

B. The division may require the operator to demonstrate mechanical integrity of each injection well that will be transferred prior to approving transfer of authority to inject.
[19.15.26.15 NMAC - Rp, 19.15.9.708 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 29 RELEASE NOTIFICATION

19.15.29.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.29.1 NMAC - N, / /08]

19.15.29.2 SCOPE: 19.15.29 NMAC applies to persons engaged in oil and gas development and production within New Mexico.
[19.15.29.2 NMAC - N, / /08]

19.15.29.3 STATUTORY AUTHORITY: 19.15.29 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.
[19.15.29.3 NMAC - N, / /08]

19.15.29.4 DURATION: Permanent.
[19.15.29.4 NMAC - N, / /08]

19.15.29.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.29.5 NMAC - N, / /08]

19.15.29.6 OBJECTIVE: To require persons who operate or control the release or the location of the release to report the unauthorized release of oil, gases, produced water, condensate or oil field waste including regulated NORM, or other oil field related chemicals, contaminants or mixtures of those chemicals or contaminants that occur during drilling, producing, storing, disposing, injecting, transporting, servicing or processing and to establish reporting procedures.
[19.15.29.6 NMAC - N, / /08]

19.15.29.7 DEFINITIONS:

A. "Major release" means

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

(2) an unauthorized release of a volume that:

(a) results in a fire;

(b) will reach a water course;

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

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

(3) an unauthorized release of gases in excess of 500 MCF; or

(4) a release of a volume that may with reasonable probability be detrimental to water or exceed the standards in Subsections A and B or C of 19.15.30.9 NMAC.

B. "Minor release" means an unauthorized release of a volume, greater than five barrels but not more than 25 barrels; or greater than 50 MCF but less than 500 MCF of gases.
[19.15.29.7 NMAC - Rp, 19.15.3.116 NMAC, / /08]

19.15.29.8 RELEASE NOTIFICATION:

A. The person operating or controlling either the release or the location of the release shall notify the division of unauthorized release occurring during the drilling, producing, storing, disposing, injecting, transporting, servicing or processing of oil, gases, produced water, condensate or oil field waste including regulated NORM, or other oil field related chemicals, contaminants or mixture of the chemicals or contaminants, in accordance with the requirements of 19.15.29 NMAC.

B. The person operating or controlling either the release or the location of the release shall notify the division in accordance with 19.15.29 NMAC with respect to a release from a facility of oil or other water contaminant, in such quantity as may with reasonable probability be detrimental to water or exceed the standards in Subsections A and B or C of 19.15.30.9 NMAC.
[19.15.29.8 NMAC - Rp, 19.15.3.116 NMAC, / /08]

19.15.29.9 REPORTING REQUIREMENTS: The person operating or controlling either the release or the location of the release provide notification of releases in 19.15.29.8 NMAC as follows.

A. The person shall report a major release by giving both immediate verbal notice and timely written notice pursuant to Subsections A and B of 19.15.29.10 NMAC.

B. The person shall report a minor release by giving timely written notice pursuant to Subsection B of 19.15.29.10 NMAC.

[19.15.29.9 NMAC - Rp, 19.15.3.116 NMAC, / /08]

19.15.29.10 CONTENTS OF NOTIFICATION:

A. The person operating or controlling either the release or the location of the release shall provide immediate verbal notification within 24 hours of discovery to the division district office for the area within which the release takes place. In addition, the person shall provide immediate verbal notification of a release of a volume that may with reasonable probability be detrimental to water or exceed the standards in Subsections A and B or C of 19.15.30.9 NMAC to the division's environmental bureau chief. The notification shall provide the information required on form C-141.

B. The person operating or controlling either the release or the location of the release shall provide timely written notification is required within 15 days to the division district office for the area within which the release occurs by completing and filing form C-141. In addition, the person shall provide timely written notification of a release of a volume that may with reasonable probability be detrimental to water or exceed the standards in Subsections A and B or C of 19.15.30.9 NMAC to the division's environmental bureau chief within 15 days after the release is discovered. The written notification shall verify the prior verbal notification and provide appropriate additions or corrections to the information contained in the prior verbal notification.

[19.15.29.10 NMAC - Rp, 19.15.3.116 NMAC, / /08]

19.15.29.11 CORRECTIVE ACTION: The responsible person shall complete division approved corrective action for releases that endanger public health or the environment. The responsible person shall address releases in accordance with a remediation plan submitted to and approved by the division or with an abatement plan submitted in accordance with 19.15.30 NMAC.

[19.15.29.11 NMAC - Rp, 19.15.3.116 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 30 REMEDIATION

19.15.30.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.30.1 NMAC - N, / /08]

19.15.30.2 SCOPE: 19.15.30 NMAC applies to persons engaged in oil and gas development and production within New Mexico.
[19.15.30.2 NMAC - N, / /08]

19.15.30.3 STATUTORY AUTHORITY: 19.15.30 NMAC is adopted pursuant to the Oil and Gas Act, NMSA 1978, Sections 70-2-6, 70-2-11 and 70-2-12.
[19.15.30.3 NMAC - N, / /08]

19.15.30.4 DURATION: Permanent.
[19.15.30.4 NMAC - N, / /08]

19.15.30.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.30.5 NMAC - N, / /08]

19.15.30.6 OBJECTIVE: To abate pollution of subsurface water so that ground water of the state that has a background concentration of 10,000 mg/l or less TDS, is either remediated or protected for use as domestic, industrial and agricultural water supply, and to remediate or protect those segments of surface waters that are gaining because of subsurface-water inflow, for uses designated in the water quality standards for interstate and intrastate surface waters in New Mexico, 20.6.4 NMAC; and abate surface-water pollution so that surface waters of the state are remediated or protected for designated or attainable uses as defined in the water quality standards for interstate and intrastate surface waters in New Mexico, 20.6.4 NMAC.
[19.15.30.6 NMAC - Rp, 19.15.1.19 NMAC, / /08]

19.15.30.7 DEFINITIONS: [RESERVED]
[See 19.15.2.7 NMAC for definitions.]
[19.15.30.7 NMAC - N, / /08]

19.15.30.8 PREVENTION AND ABATEMENT OF WATER POLLUTION:

A. If the background concentration of a water contaminant exceeds the standard or requirement of Subsections A, B or C of 19.15.30.9 NMAC, the responsible person shall abate the pollution to the background concentration.

B. The standards and requirements set forth in of Subsections A, B or C of 19.15.30.9 NMAC are not intended as maximum ranges and concentrations for use, and nothing contained in 19.15.30.9 NMAC limits the use of waters containing higher ranges and concentrations.
[19.15.30.8 NMAC - Rp, 19.15.1.19 NMAC, / /08]

19.15.30.9 ABATEMENT STANDARDS AND REQUIREMENTS:

A. The responsible person shall abate the vadose zone so that water contaminants in the vadose zone will not with reasonable probability contaminate ground water or surface water, in excess of the standards in Subsections B and C of 19.15.30.9 NMAC, through leaching, percolation or other transport mechanisms, or as the water table elevation fluctuates.

B. The responsible person shall abate ground-water pollution at a place of withdrawal for present or reasonably foreseeable future use, where the TDS concentration is 10,000 mg/l or less, to conform to the following standards:

(1) toxic pollutants as defined in 20.6.2.7 NMAC shall not be present; and

(2) the standards of 20.6.2.3103 NMAC shall be met.

C. The responsible person shall abate surface-water pollution to conform to the water quality standards for interstate and intrastate surface waters in New Mexico, 20.6.4 NMAC.

D. The division shall not consider subsurface-water and surface-water abatement complete until eight consecutive quarterly samples, or an alternate lesser number of samples the director approves, from the compliance sampling stations the director approved meet the abatement standards in Subsections A, B and C of 19.15.30.9 NMAC. The division shall consider abatement of water contaminants measured in solid-matrix samples of the vadose zone complete after one-time sampling from compliance stations the director approves.

E. Technical infeasibility.

(1) If a responsible person is unable to meet the abatement standards set forth in Subsections A and B of 19.15.30.9 NMAC using commercially accepted abatement technology pursuant to an approved abatement plan, the responsible person may propose that abatement standards compliance is technically infeasible.

(a) The director may consider technical infeasibility proposals involving the use of experimental abatement technology.

(b) The responsible person may demonstrate technical infeasibility by a statistically valid extrapolation of the decrease in concentrations of a water contaminant over the remainder of a 20 year period, such that projected future reductions during that time would be less than 20 percent of the concentration at the time the responsible person proposes technical infeasibility. A statistically valid decrease cannot be demonstrated by fewer than eight consecutive quarters.

(c) The technical infeasibility proposal shall include a substitute abatement standard for those contaminants that is technically feasible. The responsible person shall meet abatement standards for other water contaminants not demonstrated to be technically infeasible.

(2) The director shall not approve a proposed technical infeasibility demonstration for a water contaminant if its concentration is greater than 200 percent of the abatement standard for the contaminant.

(3) If the director cannot approve any or all portions of a proposed technical infeasibility demonstration because the water contaminant concentration is greater than 300 percent of the abatement standard for each contaminant, the responsible person may further pursue the issue of technical infeasibility by filing a petition with the division seeking approval of alternate abatement standards pursuant to Subsection F of 19.15.30.9 NMAC.

F. Alternative abatement standards.

(1) At any time during or after the stage 2 abatement plan's submission, the responsible person may file a petition seeking approval of alternative abatement standards for the standards set forth in Subsections A and B of 19.15.30.9 NMAC. The division may approve alternative abatement standards if the petitioner demonstrates that:

(a) either compliance with the abatement standards is not feasible, by the maximum use of technology within the responsible person's economic capability; or there is no reasonable relationship between the economic and social costs and benefits, including attainment of the standards set forth in 19.15.30.9 NMAC to be obtained;

(b) the proposed alternative abatement standards are technically achievable and cost-benefit justifiable; and

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

(2) The responsible person shall file a written petition with the division's environmental bureau chief. The petition may include a transport, fate and risk assessment in accordance with accepted methods, and other information as the petitioner deems necessary to support the petition. The petition shall:

(a) state the petitioner's name and address;

(b) state the date of the petition;

(c) describe the facility or activity for which the petitioner seeks the alternate abatement standards;

(d) state the address or description of the property upon which the facility is located;

(e) describe the water body or watercourse the release affected;

(f) identify the abatement standard from which petitioner wishes to vary;

(g) state why the petitioner believes that compliance with 19.15.30 NMAC will impose an unreasonable burden upon the petitioner's activity;

(h) identify the water contaminant for which the petitioner proposes the alternative standard;

(i) state the alternative standard the petitioner proposes;

(j) identify the three-dimensional body of water pollution for which the petitioner seeks approval; and

(k) state the extent to which the abatement standards set forth in 19.15.30.9 NMAC are now, and will in the future be, violated.

(3) The division's environmental bureau chief shall review the petition and, within 60 days after

receiving the petition, submit a written recommendation to the director to approve, approve subject to conditions or disapprove any or all of the proposed alternative abatement standards. The recommendation shall include the reasons for the division's environmental bureau chief's recommendation. The division's environmental bureau chief shall submit a copy of the recommendation to the petitioner by certified mail.

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

(5) If the director grants a public hearing, the division shall conduct the hearing in accordance with division hearing procedures.

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

[19.15.30.9 NMAC - Rp, 19.15.1.19 NMAC, / /08]

19.15.30.10 MODIFICATION OF ABATEMENT STANDARDS: If applicable abatement standards are modified after the division approves the abatement measures, the abatement standards that are in effect at the time that the division approved the abatement measures shall be the abatement standards for the duration of the abatement action, unless the director determines that compliance with those standards may with reasonable probability create a present or future hazard to public health or the environment. In an appeal of the director's determination that additional actions are necessary, the director shall have the burden of proof.

[19.15.30.10 NMAC - Rp, 19.15.1.19 NMAC, / /08]

19.15.30.11 ABATEMENT PLAN REQUIRED:

A. Unless otherwise provided by 19.15.30 NMAC responsible persons who are abating, or who are required to abate, water pollution in excess of the standards and requirements set forth in 19.15.30.9 NMAC shall do so pursuant to an abatement plan the director approves. When the director has approved an abatement plan, the responsible person's actions leading to and including abatement shall be consistent with the abatement plan's terms and conditions.

B. In the event of a transfer of the ownership, control or possession of a facility for which an abatement plan is required or approved, where the transferor is a responsible person, the transferee also shall be considered a responsible person for the abatement plan's duration, and may jointly share the responsibility to conduct the actions 19.15.30 NMAC requires with other responsible persons.

(1) The transferor shall notify the transferee in writing at least 30 days prior to the transfer that the division has required or approved an abatement plan for the facility, and shall deliver or send by certified mail to the director a copy of the notification together with a certificate or other proof that the transferee has received the notification.

(2) The transferor and transferee may agree to a designated responsible person who shall assume the responsibility to conduct the actions 19.15.30 NMAC requires. The responsible persons shall notify the director in writing if a designated responsible person is agreed upon.

(3) If the director determines that the designated responsible person has failed to conduct the actions 19.15.30 NMAC requires, the director shall notify all responsible persons of this failure in writing and allow them 30 days, or longer for good cause shown, to conduct the required actions before setting a show cause hearing requiring those responsible persons to appear and show cause why they should not be ordered to comply, a penalty should not be assessed, a civil action should not be commenced in district court or the division should not take other appropriate action.

C. If the source of the water pollution to be abated is a facility that operated under a discharge plan, the director may require the responsible person to submit a financial assurance plan that covers the estimated costs to conduct the actions the abatement plan requires. Such a financial assurance plan shall be consistent with financial assurance requirements the division adopts.

[19.15.30.11 NMAC - Rp, 19.15.1.19 NMAC, / /08]

19.15.30.12 EXEMPTIONS FROM ABATEMENT PLAN REQUIREMENT:

A. Except as provided in Subsection B of 19.15.30.12 NMAC, 19.15.30.11 NMAC and 19.15.30.13 NMAC do not apply to a person who is abating water pollution:

(1) from an underground storage tank, under the authority of the New Mexico environmental improvement board's underground storage tank rules, 20.5 NMAC, or in accordance with the Ground Water Protection Act, NMSA 1978, Section 74-6B-1 *et seq.*;

(2) under the EPA's authority pursuant to either the Federal Comprehensive Environmental Response, Compensation and Liability Act, and amendments, or RCRA;

(3) pursuant to the New Mexico environmental improvement board's hazardous waste management rule, 20.4.1 NMAC;

(4) under the authority of the United States nuclear regulatory commission or the United States department of energy pursuant to the Atomic Energy Act;

(5) under the authority of a ground-water discharge plan the director approved, provided that such abatement is consistent with the requirements and provisions of 19.15.30.8 NMAC, 19.15.30.9 NMAC, Subsections C and D of 19.15.30.13 NMAC, 19.15.30.14 NMAC and 19.15.30.19 NMAC;

(6) under the authority of a letter of understanding, settlement agreement or administrative order on consent or other agreement signed by the director or director's designee prior to March 15, 1997, provided that abatement is being performed in compliance with the terms of the letter of understanding, settlement agreement or administrative order or other agreement on consent; and

(7) on an emergency basis, or while abatement plan approval is pending, or in a manner that will likely result in compliance with the standards and requirements set forth in 19.15.30.9 NMAC within one year after notice is required to be given pursuant to 19.15.29.9 NMAC provided that the division does not object to the abatement action.

B. If the director determines that abatement of water pollution subject to Subsection A of 19.15.30.12 NMAC will not met the standards of Subsections B and C of 19.15.30.9 NMAC, or that additional action is necessary to protect health, welfare, environment or property, the director may notify a responsible person, by certified mail, to submit an abatement plan pursuant to 19.15.30.11 NMAC and Subsection A of 19.15.30.14 NMAC. The notification shall state the reasons for the director's determination. In an appeal of the director's determination under Subsection B of 19.15.30.12 NMAC, the director shall have the burden of proof.
[19.15.30.12 NMAC - Rp, 19.15.1.19 NMAC, / /08]

19.15.30.13 ABATEMENT PLAN PROPOSAL:

A. Except as provided for in 19.15.30.12 NMAC a responsible person shall, within 60 days of receipt of the director's written notice that the division requires an abatement plan, submit an abatement plan proposal to the director for approval. The responsible person may submit stage 1 and stage 2 abatement plan proposals together. For good cause shown, the director may allow for a total of 120 days to prepare and submit the abatement plan proposal.

B. Voluntary abatement.

(1) a person wishing to abate water pollution in excess of the standards and requirements set forth in 19.15.30.9 NMAC may submit a stage 1 abatement plan proposal to the director for approval. Following the director's approval of a final site investigation report prepared pursuant to stage 1 of an abatement plan, a person may submit a stage 2 abatement plan proposal to the director for approval.

(2) Following approval of a stage 1 or stage 2 abatement plan proposal under Paragraph (1) of Subsection B of 19.15.30.13 NMAC the person submitting the approved plan shall be a responsible person under 19.15.30 NMAC for the purpose of performing the approved stage 1 or stage 2 abatement plan. Nothing in 19.15.30 NMAC precludes the director from applying 19.15.29.11 NMAC to a responsible person if applicable.

C. Stage 1 abatement plan. The stage 1 of the abatement plan's purpose is to design and conduct a site investigation that adequately defines site conditions, and provide the data necessary to select and design an effective abatement option. Stage 1 of the abatement plan may include the following information depending on the media affected, and as needed to select and implement an expeditious abatement option:

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

(2) site investigation work plan that defines:

(a) site geology and hydrogeology; the vertical and horizontal extent and magnitude of vadose-zone and ground-water contamination; subsurface hydraulic conductivity; transmissivity, storativity and rate and direction of contaminant migration; inventory of water wells inside and within one mile from the perimeter of the three-dimensional body where the standards set forth in Subsection C of 19.15.30.9 NMAC are exceeded; and

location and number of wells the pollution actually or potentially affects; and

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

(3) monitoring program, including sampling stations and frequencies, for the abatement plan's duration that may be modified, after the director's approval, as the responsible person creates additional sampling stations;

(4) quality assurance plan, consistent with the sampling and analytical techniques listed in Subsection B of 20.6.2.3107 NMAC and with 20.6.4.14 NMAC of the water quality standards for interstate and intrastate surface waters in New Mexico, for all work to be conducted pursuant to the abatement plan;

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

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

D. Stage 2 abatement plan.

(1) A responsible person shall submit a stage 2 abatement plan proposal to the director for approval within 60 days, or up to 120 days for good cause shown, after the director's approval of the final site investigation report prepared pursuant to stage 1 of the abatement plan. The responsible person may submit a stage 1 and 2 abatement plan proposal together. Stage 2 of the abatement plan's purpose is to select and design, if necessary, an abatement option that, when implemented, results in attainment of the abatement standards and requirements set forth in 19.15.30.9 NMAC, including post-closure maintenance activities.

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

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

(b) development and assessment of abatement options;

(c) a description, justification and design, if necessary, of the preferred abatement option;

(d) modification, if necessary, of the monitoring program the director approved pursuant to stage 1 of the abatement plan, including the designation of pre- and post-abatement-completion sampling stations and sampling frequencies to be used to demonstrate compliance with the standards and requirements set forth in 19.15.30.9 NMAC;

(e) site maintenance activities, if needed, the responsible person proposes to perform after abatement activities terminate;

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

(g) a public notification proposal designed to satisfy the requirements of Subsections B and C of 19.15.30.15 NMAC; and

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

[19.15.30.13 NMAC - Rp, 19.15.1.19 NMAC, / /08]

19.15.30.14 OTHER REQUIREMENTS:

A. A responsible person shall allow the director's authorized representative upon presentation of proper credentials and with reasonable prior notice, to:

(1) enter the facility at reasonable times;

(2) inspect and copy records an abatement plan requires;

(3) inspect treatment works, monitoring and analytical equipment;

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

(5) use monitoring systems and wells under the responsible person's control in order to collect samples of media listed in Paragraph (4) of Subsection A of 19.15.30.14 NMAC; and

(6) gain access to off-site property the responsible person does not own or control, but is accessible to the responsible person through a third-party access agreement, provided that the agreement allows it.

B. A responsible person shall provide the director, or director's representative, with at least four working days advance notice of sampling to be performed pursuant to an abatement plan, or a well plugging, abandonment or destruction at a facility where the division has required an abatement plan.

C. A responsible person wishing to plug, abandon or destroy a monitoring or water supply well

within the perimeter of the three-dimensional body where the standards set forth in Subsection B of 19.15.30.9 NMAC of are exceeded, at a facility where the division has required an abatement plan, shall propose such action by certified mail to the director for approval, unless the state engineer's approval is required. The responsible person shall design the proposed action to prevent water pollution that could result from water contaminants migrating through the well or bore hole. The proposed action shall not take place without the director's written approval, unless the responsible person does not receive written approval or disapproval within 30 days after the date the director receives the proposal.
[19.15.30.14 NMAC - Rp, 19.15.1.19 NMAC, / /08]

19.15.30.15 PUBLIC NOTICE AND PARTICIPATION:

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

(1) surface owners of record within one mile of the perimeter of the geographic area where the standards and requirements set forth in 19.15.30.9 NMAC are exceeded;

(2) the county commission where the geographic area where the standards and requirements set forth in 19.15.30.9 NMAC are exceeded is located;

(3) the appropriate city officials if the geographic area where the standards and requirements set forth in 19.15.30.9 NMAC are exceeded is located or is partially located within city limits or within one mile of the city limits;

(4) those persons, the director identifies, who have requested notification, who shall be notified by mail;

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

(6) the governor or president of a tribe, pueblo or nation if the geographic area where the standards and requirements set forth in 19.15.30.9 NMAC are exceeded is located or is partially located within tribal boundaries or within one mile of the tribal boundaries, who shall be notified by certified mail;

(7) the director may extend the distance requirements for notice if the director determines the proposed abatement plan has the potential to adversely impact public health or the environment at a distance greater than one mile. The director may require additional notice as needed. The applicant shall furnish a copy and proof of the notice to the division.

B. Within 15 days after the division determines that a stage 1 abatement plan or a stage 2 abatement plan is administratively complete, the responsible person shall issue public notice in a division-approved form in a newspaper of general circulation in the county in which the release occurred, and in a newspaper of general circulation in the state. For the purposes of Subsection B of 19.15.30.15 NMAC, an administratively complete stage 1 abatement plan is a document that satisfies the requirements of Subsection C of 19.15.30.13 NMAC and an administratively complete stage 2 abatement plan is a document that satisfies the requirements of Paragraph (2) of Subsection D of 19.15.30.13 NMAC. The public notice shall include, as approved in advance by the director:

(1) the responsible person's name and address;

(2) the location of the proposed abatement;

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

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

(5) a statement that the public may view a copy of the abatement plan at the division's Santa Fe office or at the division's district office for the area in which the release occurred, and a statement describing how the public can access the abatement plan electronically from a division-maintained site if such access is available;

(6) a statement that the division will accept the following comments and requests for consideration if the director receives them within 30 days after the date of publication of the public notice:

(a) written comments on the abatement plan; and

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

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

C. A person seeking to comment on a stage 1 abatement plan, or to comment or request a public hearing on a stage 2 abatement plan, shall file written comments or hearing requests with the division within 30 days after the date of public notice, or within 30 days after the director receives a proposed significant modification of a stage 2 abatement plan. Requests for a public hearing shall set forth the reasons why a hearing should be held. The

division shall hold a public hearing if the director determines that there is significant public interest or that the request has technical merit.

D. The division shall distribute notice of an abatement plan's filing with the next division and commission hearing docket following the plan's receipt.

[19.15.30.15 NMAC - Rp, 19.15.1.19 NMAC, / /08]

19.15.30.16 DIRECTOR APPROVAL OR NOTICE OF DEFICIENCY OF SUBMITTALS:

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

B. If the division does not hold a public hearing pursuant to Subsection C of 19.15.30.15 NMAC then the director shall, within 90 days after receiving a stage 2 abatement plan proposal, approve the plan, or notify the responsible person of the plan's deficiency, based upon the information available.

C. If the division holds a public hearing pursuant to Subsection C of 19.15.30.15 NMAC then the director shall, within 60 days after receiving the required information, approve stage 2 of the abatement plan proposal, or notify the responsible person of the plan's deficiency, based upon the information contained in the plan and the information submitted at the hearing.

D. If the director notifies a responsible person of a deficiency in a site investigation report, or in a stage 1 or stage 2 abatement plan proposal, the responsible person shall submit a modified document to cure the deficiencies the director specifies within 30 days after receiving the notice of deficiency. The responsible person is in violation of 19.15.30 NMAC if the responsible person fails to submit a modified document within the required time, or if the responsible person does not in the modified document make a good faith effort to cure the deficiencies the director specified.

E. Provided that the responsible person meets the other requirements of 19.15.30 NMAC and provided further that stage 2 of the abatement plan, if implemented, shall result in the standards and requirements set forth in 19.15.30.9 NMAC being met within a schedule that is reasonable given the site's particular circumstances, the director shall approve the plan.

[19.15.30.16 NMAC - Rp, 19.15.1.19 NMAC, / /08]

19.15.30.17 INVESTIGATION AND ABATEMENT: A responsible person who receives the division's approval for stage 1 or stage 2 of an abatement plan shall conduct investigation, abatement, monitoring and reporting activities in compliance with 19.15.30 NMAC and according to the terms and schedules contained in the approved abatement plans.

[19.15.30.17 NMAC - Rp, 19.15.1.19 NMAC, / /08]

19.15.30.18 ABATEMENT PLAN MODIFICATION:

A. The division may modify an approved abatement plan at the responsible person's written request in accordance with 19.15.30 NMAC with the director's written approval.

B. If data the responsible person submitted pursuant to monitoring requirements specified in the approved abatement plan or other information available to the director indicates that the abatement action is ineffective, or is creating unreasonable injury to or interference with health, welfare, environment or property, the director may require a responsible person to modify an abatement plan within the shortest reasonable time so as to effectively abate water pollution that exceeds the standards and requirements set forth in 19.15.30.9 NMAC, and to abate and prevent unreasonable injury to or interference with health, welfare, environment or property.

[19.15.30.18 NMAC - Rp, 19.15.1.19 NMAC, / /08]

19.15.30.19 COMPLETION AND TERMINATION:

A. The division shall consider abatement complete when the responsible person meets the standards and requirements set forth in 19.15.30.9 NMAC. At that time, the responsible person shall submit an abatement completion report, documenting compliance with the standards and requirements set forth in 19.15.30.9 NMAC, to the director for approval. The abatement completion report also shall propose changes to long-term monitoring and site maintenance activities, if needed, to be performed after the abatement plan's termination.

B. Provided that the responsible person meets the other requirements of 19.15.30 NMAC and provided further that the responsible person has met the standards and requirements set forth in 19.15.30.9 NMAC, the director shall approve the abatement completion report. When the director approves the abatement completion report, the director shall also notify the responsible person in writing that the abatement plan is terminated.

[19.15.30.19 NMAC - Rp, 19.15.1.19 NMAC, / /08]

19.15.30.20 DISPUTE RESOLUTION: In the event of a technical dispute regarding the requirements of 19.15.29 NMAC, 19.15.30.9 NMAC, 19.15.30.12 NMAC, 19.15.30.13 NMAC, 19.15.30.18 NMAC or 19.15.30.19 NMAC, including notices of deficiency, the responsible person may notify the director by certified mail that a dispute has arisen, and the responsible person desires to invoke the dispute resolution provisions of 19.15.30.20 NMAC provided that the responsible person shall send the notification within 30 days after the responsible person receives the director's decision that causes the dispute. Upon the notification, the deadlines affected by the technical dispute shall be extended for a 30 day negotiation period, or for a maximum of 60 days if approved by the director for good cause shown. During this negotiation period, the director or the director's designee and the responsible person shall meet at least once. A mutually agreed upon third part may facilitate the meeting, but the third party shall assume no power or authority granted or delegated to the director by the Oil and Gas Act or by the division or commission. If the dispute remains unresolved after the negotiation period, the director's decision shall be final.
[19.15.30.20 NMAC - Rp, 19.15.1.19 NMAC, / /08]

19.15.30.21 APPEALS FROM DIRECTOR'S AND DIVISION'S DECISIONS:

A. If the director

(1) determines that an abatement plan is required pursuant to 19.15.29.11 NMAC;

(2) approves or provides notice of deficiency of a proposed abatement plan, technical infeasibility demonstration or abatement completion report; or

(3) modifies or terminates an approved abatement plan the director shall provide written notice of the action by certified mail to the responsible person and other persons who participated in the action.

B. A person who participated in the action before the director and the action listed in Subsection A of 19.15.30.21 NMAC adversely affects may file a petition requesting a hearing before a division examiner.

C. The person shall make the petition in writing and file it with the division within 30 days after receiving notice of the director's action. The petition shall specify the portions of the action to which the petitioner objects, certify that the person has mailed or hand-delivered a copy of the petition to the director and to the applicant or permittee if the petitioner is not the applicant or permittee and have attached a copy of the action for which review the person seeks review. Unless a person makes a timely petition for hearing, the director's action is final.

D. The hearing before the division shall be conducted in the same manner as other division hearings.

E. The petitioner shall pay the cost of the court reporter for the hearing.

F. A party adversely affected by a division order pursuant to a hearing held by a division examiner, shall have a right to have the matter heard de novo before the commission.

G. The appeal provisions do not relieve the owner, operator or responsible person of their obligations to comply with federal or state laws including regulations or rules.
[19.15.30.21 NMAC - Rp, 19.15.1.19 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 34 PRODUCED WATER

19.15.34.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.34.1 NMAC - N, / /08]

19.15.34.2 SCOPE: 19.15.34 NMAC applies to persons engaged in transporting produced water, drilling fluids or other oil liquid oil field waste or having them transported or in disposing of produced water or oil field waste within New Mexico.
[19.15.34.2 NMAC - N, / /08]

19.15.34.3 STATUTORY AUTHORITY: 19.15.34 NMAC is adopted pursuant to the Oil and Gas Act, NMSA 1978, Section 70-2-12, which authorizes the division to regulate the disposition of water produced or used in connection with the drilling for or producing of oil or gas and to direct surface or subsurface disposal of the water.
[19.15.34.3 NMAC - N, / /08]

19.15.34.4 DURATION: Permanent.
[19.15.34.4 NMAC - N, / /08]

19.15.34.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.34.5 NMAC - N, / /08]

19.15.34.6 OBJECTIVE: To establish procedures by which persons may transport produced water, drilling fluids and other liquid oil field waste and dispose of produced water or other oil field waste.
[19.15.34.6 NMAC - N, / /08]

19.15.34.7 DEFINITIONS: [RESERVED]
[See 19.15.2.7 NMAC for definitions.]
[19.15.34.7 NMAC - N, / /08]

19.15.34.8 TRANSPORATION OF PRODUCED WATER, DRILLING FLUIDS AND OTHER LIQUID OIL FIELD WASTE:

A. A person shall not transport produced water, drilling fluids or other liquid oil field waste, including drilling fluids and residual liquids in oil field equipment, except for small samples removed for analysis, by motor vehicle from a lease, central tank battery or other facility without an approved form C-133, authorization to move liquid waste. The transporter shall maintain a photocopy of the approved form C-133 in the transporting vehicle.

B. A person may apply for authorization to move produced water, drilling fluids or other liquid oil field waste by filing a complete form C-133 with the division's Santa Fe office. Authorization is granted upon the division's approval of form C-133.

C. An owner or operator shall not permit produced water, drilling fluids or other liquid oil field waste to be removed from its leases or field facilities, except for small samples removed for analysis, by motor vehicle except by a person possessing an approved form C-133. The division shall post a list of currently approved form C-133s, authorization to move liquid waste, on its website. The list of form C-133s posted on the division's website on the first business day of each month shall be deemed notice of valid form C-133s for the remainder of that month.
[19.15.34.8 NMAC - Rp, 19.15.2.51 NMAC; / /08]

19.15.34.9 DENIAL OF A FORM C-133: The division may deny approval of a form C-133 if:

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

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

C. the applicant does not possess a carrier permit under the single state registration system the public regulation commission administers, if it is required to have such a permit under applicable statutes or rules; or

D. the applicant or an officer, director or partner in the applicant, or a person with an interest in the applicant exceeding 25 percent, is or was within the past five years an officer, director, partner or person with an interest exceeding 25 percent in another entity that possesses or has possessed an approved form C-133 that has been cancelled or suspended, has a history of violating division rules or other state or federal environmental laws; is subject to a commission or division order, issued after notice and hearing, finding such entity to be in violation of an order requiring corrective action; or has a penalty assessment for violation of division or commission rules or orders that is unpaid more than 70 days after issuance of the order assessing the penalty.
[19.15.34.9 NMAC - Rp, 19.15.2.51 NMAC, / /08]

19.15.34.10 CANCELLATION OR SUSPENSION OF AUTHORIZATION TO MOVE LIQUID WASTES: A transporter's vehicular movement or disposition of produced water, drilling fluids or other liquid oil field wastes in a manner contrary to division rules is a ground for denial of approval of form C-133 in addition to the those specified in Subsection D of 19.15.34.9 NMAC. It is also cause, after notice and an opportunity for hearing, for the division to cancel or suspend a transporter's authorization to move liquid wastes.
[19.15.34.10 NMAC - Rp, 19.15.2.51 NMAC, / /08]

19.15.34.11 DISPOSITION OF PRODUCED WATER AND OTHER OIL FIELD WASTE: Except as authorized by 19.15.30 NMAC, 19.15.17 NMAC, 19.15.36 NMAC, 19.15.29 NMAC or 19.15.26.8 NMAC, persons, including transporters, shall not dispose of produced water or other oil field waste:

(1) on or below the surface of the ground; in a pit; or in a pond, lake, depression or watercourse;

(2) in another place or in a manner that may constitute a hazard to fresh water, public health, safety or the environment; or

(3) in a permitted pit or registered or permitted surface waste management facility without the permission of the owner or operator of the pit or facility.
[19.15.34.11 NMAC - Rp, 19.15.2.52 NMAC, / /08]

19.15.34.12 METHODS FOR DISPOSAL OF PRODUCED WATER: Persons disposing of produced water shall use one of the following disposition methods:

A. disposition in a manner that does not constitute a hazard to fresh water, public health, safety or the environment; delivery to a permitted salt water disposal well or facility, secondary recovery or pressure maintenance injection facility, surface waste management facility or permanent pit permitted pursuant to 19.15.17 NMAC; or to a drill site for use in drilling fluid; or

B. use in accordance with a division-issued use permit or other division authorization.
[19.15.34.12 NMAC - Rp, 19.15.2.52 NMAC, / /08]

19.15.34.13 METHODS FOR DISPOSAL OF OTHER OIL FIELD WASTE: Persons shall dispose of other oil field waste by transfer to an appropriate permitted or registered surface waste management facility or injection facility or applied to a division-authorized beneficial use. Persons may transport recovered drilling fluids to other drill sites for reuse provided that such fluids are transported and stored in a manner that does not constitute a hazard to fresh water, public health, safety or the environment.
[19.15.34.13 NMAC - Rp, 19.15.2.52 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 35 WASTE DISPOSAL

19.15.35.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.35.1 NMAC - Rp, 19.15.9.1 NMAC, / /08]

19.15.35.2 SCOPE: 19.15.35 NMAC applies to persons engaged in oil and gas development and production within New Mexico.
[19.15.35.2 NMAC - Rp, 19.15.9.2 NMAC, / /08]

19.15.35.3 STATUTORY AUTHORITY: 19.15.35 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, which authorizes the division to regulate the disposition of non-domestic waste resulting from the exploration, development, production or storage of oil or gas; from the oil field service industry; the transportation of oil or gas; the treatment of gas; or the refinement of oil.
[19.15.35.3 NMAC - Rp, 19.15.9.3 NMAC, / /08]

19.15.35.4 DURATION: Permanent.
[19.15.35.4 NMAC - Rp, 19.15.9.4 NMAC, / /08]

19.15.35.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.35.5 NMAC - Rp, 19.15.9.5 NMAC, / /08]

19.15.35.6 OBJECTIVE: To establish procedures for the disposal of certain non-domestic waste at solid waste facilities permitted by the New Mexico environment department and for the disposal of regulated NORM associated with the oil and gas industry.
[19.15.35.6 NMAC - Rp, 19.15.9.6 NMAC, / /08]

19.15.35.7 DEFINITIONS:

A. "Discharge plan" means a plan the operator submits and the division approves pursuant to NMSA 1978, Section 70-2-12(B)(22) and WQCC rules.

B. "EPA clean" means the cleanliness standards established by the EPA in 40 C.F.R. section 261.7(b).

C. "NESHAP" means the National Emission Standards for Hazardous Air Pollutants of the EPA, 40 C.F.R. Part 61.

D. "Solid waste facility" means a facility permitted or authorized as a solid waste facility by the New Mexico environment department pursuant to the Solid Waste Act, NMSA 1978, Sections 74-9-1 *et seq.* and New Mexico environmental improvement board rules to accept industrial solid waste or other special waste.

E. "TCLP" means the testing protocol established by the EPA in 40 C.F.R. Part 261, entitled "Toxicity Characteristic Leaching Procedure" or an alternative hazardous constituent analysis the division has approved.

F. "Waste" means non-domestic waste resulting from the exploration, development, production or storage of oil or gas pursuant to NMSA 1978, Section 70-2-12(B)(21) and non-domestic waste arising from the oil field service industry, and certain non-domestic waste arising from the transportation, treatment or refinement of oil or gas pursuant to NMSA 1978, Section 70-2-12(B)(22).
[19.15.35.7 NMAC - Rp, 19.15.9.712 NMAC and 19.15.9.714 NMAC, / /08]

19.15.35.8 DISPOSAL OF CERTAIN NON-DOMESTIC WASTE AT SOLID WASTE FACILITIES:

A. A person may dispose of certain non-domestic waste arising from the exploration, development, production or storage of oil or gas; certain non-domestic waste arising from the oil field service industry; and certain non-domestic waste arising from oil or gas' transportation, treatment or refinement at a solid waste facility in accordance with 19.15.35.8 NMAC.

B. Procedure.

(1) A person may dispose of waste listed in Paragraph (1) of Subsection D of 19.15.35.8 NMAC at a solid waste facility without the division's prior written authorization.

(2) A person may dispose of waste listed in Paragraph (2) of Subsection D of 19.15.35.8 NMAC of at a solid waste facility after testing and the division's prior written authorization. Before the division grants authorization, the applicant for the authorization shall provide copies of test results to the division and to the solid waste facility where the applicant will dispose of the waste. In appropriate cases and so long as a representative sample is tested, the division may authorize disposal of a waste stream listed in Paragraph (2) of Subsection D of 19.15.35.8 NMAC without individual testing of each delivery.

(3) A person may dispose of waste listed in Paragraph (3) of Subsection D of 19.15.35.8 NMAC at a solid waste facility on a case-by-case basis after testing the division may require and the division's prior written authorization. Before the division grants authorization, the applicant for the authorization shall provide copies of test results to the division and to the solid waste facility where it will dispose of the waste.

(4) Simplified procedure for holders of discharge plans. Holders of an approved discharge plan may amend the discharge plan to provide for disposal of waste listed in Paragraph (2) of Subsection D of 19.15.35.8 NMAC and, as applicable, Paragraph (3) of Subsection D of 19.15.35.8 NMAC. If the division approves the amendment to the discharge plan, the holder may dispose of wastes listed in Paragraphs (2) and (3) of Subsection D of 19.15.35.8 NMAC at a solid waste facility without obtaining the division's prior written authorization.

C. The following provisions apply to the types of waste described below as specified.

(1) The person disposing of the waste does not have to test the following waste before disposal:

(a) barrels, drums, five-gallon buckets or one-gallon containers so long as they are empty and EPA-clean;

(b) uncontaminated brush and vegetation arising from clearing operations;

(c) uncontaminated concrete;

(d) uncontaminated construction debris;

(e) non-friable asbestos and asbestos contaminated waste material, so long as the disposal complies with applicable federal regulations and state rules for non-friable asbestos materials and so long as the facility operator removes the asbestos from steel pipes and boilers and, if applicable, recycles the steel;

(f) detergent buckets, so long as the buckets are completely empty;

(g) fiberglass tanks so long as the tank is empty, cut up or shredded and EPA clean;

(h) grease buckets, so long as empty and EPA clean;

(i) uncontaminated ferrous sulfate or elemental sulfur so long as recovery and sale as a raw material is not possible;

(j) metal plate and metal cable;

(k) office trash;

(l) paper and paper bags, so long as the paper bags are empty;

(m) plastic pit liners, so long as the person cleans them well;

(n) soiled rags or gloves, which if wet pass the paint filter test prior to disposal; or

(o) uncontaminated wood pallets.

(2) The person disposing of the waste shall test the following wastes for the substances indicated prior to disposal:

(a) activated alumina for TPH and BTEX;

(b) activated carbon for TPH and BTEX;

(c) amine filters, which the facility operator air-dries for at least 48 hours before testing, for BTEX;

(d) friable asbestos and asbestos-contaminated waste material, which the facility operator removes asbestos from steel pipes and boilers and, if applicable, recycles the steel before disposal, where the disposal otherwise complies with applicable federal regulations and state rules for friable asbestos materials pursuant to NESHAP;

(e) cooling tower filters, which the facility operator drains and then air-dries for at least 48 hours before testing, for TCLP/chromium;

(f) dehydration filter media, which the facility operator drains and then air-dries for at least 48 hours before testing, for TPH and BTEX;

(g) gas condensate filters, which the facility operator drains and then air-dries for at least 48 hours before testing, for BTEX;

(h) glycol filters, which the facility operator drains and then air-dries for at least 48 hours before testing, for BTEX;

(i) iron sponge, which the facility operator oxidizes completely, for ignitability testing;

(j) junked pipes, valves and metal pipe for NORM;

(k) molecular sieves, which the facility operator cools in a non-hydrocarbon inert atmosphere and hydrates in ambient air for at least 24 hours before testing, for TPH and BTEX;

(l) pipe scale and other deposits removed from pipeline and equipment for TPH, TCLP/metals and NORM;

(m) produced water filters, which the facility operator drains and then air-dries for at least 48 hours before testing, for corrosivity;

(n) sandblasting sand for TCLP/metals or, if the division requires, TCLP/total metals; or

(o) waste oil filters, which the facility operator drains thoroughly of oil at least 24 hours before testing and recycles the oil and metal parts, for TCLP/metals.

(3) A person may dispose of the following wastes on a case-by-case basis with the division's approval:

(a) sulfur contaminated soil;

(b) catalysts;

(c) contaminated soil other than petroleum contaminated soil;

(d) petroleum contaminated soil in the event of a director-declared emergency;

(e) contaminated concrete;

(f) demolition debris not otherwise specified in 19.15.35.8 NMAC;

(g) unused dry chemicals; in addition to testing the division requires, the person applying for division approval shall forward a copy of the material safety data sheet to the division and the solid waste facility on each chemical proposed for disposal;

(h) contaminated ferrous sulfate or elemental sulfur;

(i) unused pipe dope;

(j) support balls;

(k) tower packing materials;

(l) contaminated wood pallets;

(m) partial sacks of unused drilling mud; in addition to testing the division requires, the person applying for division approval shall forward a copy of the material safety data sheet to division and the solid waste facility at which the it will dispose of the partial sacks; or

(n) other wastes as applicable.

D. Testing.

(1) The person applying for division approval to dispose of waste in a solid waste facility shall conduct testing required by 19.15.35.8 NMAC according to the Test Methods for Evaluating Solid Waste, EPA No. SW-846 and shall direct questions concerning the standards or a particular testing facility to the division.

(2) The testing facility shall conduct testing according to the test method listed:

(a) TPH: EPA method 418.1 or 8015 (DRO and GRO only) or an alternative, division-approved hydrocarbon analysis;

(b) TCLP: EPA Method 1311 or an alternative hazardous constituent analysis approved by the division;

(c) paint filter test: EPA Method 9095A;

(d) ignitability test: EPA Method 1030;

(e) corrosivity: EPA Method 1110;

(f) reactivity: test procedures and standards the division establishes on a case-by-case basis; and

(g) NORM. 20.3.14 NMAC.

(3) To be eligible for disposal pursuant to 19.15.35.8 NMAC, the concentration of substances the testing facility identifies during testing shall not exceed the following limits:

(a) benzene: 9.99 mg/kg;

(b) BTEX: 499.99 mg/kg (sum of all);

(c) TPH: 1000 mg/kg;

(d) hazardous air pollutants: the standards set forth in NESHAP; and

(e) TCLP:

(i) arsenic: 5 mg/l,

(ii) barium: 100 mg/l,

(iii) cadmium: 1 mg/l,

(iv) chromium: 5 mg/l,

(v) . lead: 5 mg/l,

(vi) mercury: 0.2 mg/l,
(vii) selenium: 1 mg/l, and
(viii) silver: 5 mg/l.

[19.15.35.8 NMAC - Rp, 19.15.9.712 NMAC, / /08]

19.15.35.9 DISPOSAL OF REGULATED NORM: A person disposing of regulated NORM, as defined at 19.15.2.7 NMAC, is subject to 19.15.35.9 NMAC through 19.15.35.14 NMAC and to the New Mexico environmental improvement board rules, 20.3.14 NMAC.

[19.15.35.9 NMAC - Rp, 19.15.9.714 NMAC, / /08]

19.15.35.10 NON-RETRIEVED FLOWLINES AND PIPELINES:

A. The division shall consider a proposal from an operator for leaving flowlines and pipelines (hereinafter "pipeline") that contain regulated NORM in the ground provided the operator performs the abandonment procedures in a manner to protect the environment, public health and fresh waters. Division approval is contingent on the applicant meeting the following requirements as a minimum:

B. An application the applicant submits to the division shall contain the following as a minimum:

(1) the pipeline layout over its entire length on a form C-102 including the legal description of the location of both ends and surface ownership along the pipeline;

(2) results of a radiation survey the applicant conducts at all accessible points and a surface radiation survey along the complete pipeline route in a division-approved form; surveys conducted consistent with division-approved procedures;

(3) the type of material for which the applicant or any predecessor operator used the pipeline;

(4) the procedure the applicant will use for flushing hydrocarbons or produced water from the pipeline;

(5) an explanation as to why it is more beneficial to leave the pipeline in the ground than to retrieve it; and

(6) proof the applicant has sent notice of the proposed abandonment to all surface owners where the pipeline is located.; the director may require the applicant to send additional notification as described in 19.15.35.14 NMAC.

C. Upon division approval of the application, the operator shall notify the appropriate division district office at least 24 hours prior to beginning work on the pipeline abandonment.

D. As a condition of completion of the pipeline abandonment, the operator shall permanently cap all accessible points.

E. An operator shall not place additional regulated NORM in a pipeline to be abandoned under 19.15.35.10 NMAC other than that which accumulated in the pipeline under the pipeline's normal operation.

F. An operator may abandon a pipeline that does not exhibit regulated NORM pursuant to required surveys without an application pursuant to 19.15.35.10 NMAC in accordance with the operator's applicable lease agreements.

G. If a pipeline's appurtenance contains regulated NORM, but upon the appurtenance's removal, no accessible point or surface above the pipeline exhibits the presence of regulated NORM, then the applicant shall submit to the division the information regarding the regulated NORM in the appurtenance and a statement concerning that regulated NORM's management. With respect to the pipeline left in the ground, the applicant is subject to the requirements of 19.15.35.10 NMAC with the exception of Paragraph (6) of Subsection B of 19.15.35.10 NMAC.

[19.15.35.10 NMAC - Rp, 19.15.9.714 NMAC, / /08]

19.15.35.11 COMMERCIAL OR CENTRALIZED SURFACE WASTE MANAGEMENT FACILITIES:

A. The division shall consider proposals for the disposal of regulated NORM in commercial or centralized surface waste management facilities, provided the applicant performs the disposal in a manner that protects the environment, public health and fresh waters. Division approval is contingent on the applicant obtaining a permit in accordance with 19.15.36 NMAC for the facility and complying with additional requirements specifically related to regulated NORM disposal as described in Subsections B through D of 19.15.35.11 NMAC.

B. The division shall set requests for permission to receive and dispose of regulated NORM in commercial or centralized surface waste management facilities for hearing in order for the facility's operator to obtain or modify a permit in accordance with 19.15.36 NMAC. The division shall consider a request to dispose of

regulated NORM at a facility previously permitted under 19.15.36 NMAC a major modification to that facility. The facility's operator shall submit a hearing request to the division that contains the following at a minimum:

(1) complete plans for the facility, including the sources of regulated NORM, radiation survey readings, quantities of regulated NORM to be disposed and monitoring proposals;

(2) a copy of this permit for the facility, if the division has issued one;

(3) proof of public notice of the application as required by 19.15.36 NMAC; and

(4) evidence of issuance of a specific license pursuant to 20.3.14 NMAC, a license pursuant to 20.3.13 NMAC and other authorizations required by law.

C. The division shall establish operating procedures that are protective of the environment, public health and fresh waters in its order.

D. A person desiring to dispose of regulated NORM in an approved commercial or centralized surface waste management facility shall furnish regulated NORM information to the facility's operator sufficient for the operator to submit form C-138 for division approval. The facility operator shall receive division approval prior to receiving the regulated NORM at the disposal facility.

[19.15.35.11 NMAC - Rp, 19.15.9.714 NMAC, / /08]

19.15.35.12 DOWNHOLE DISPOSAL IN WELLS TO BE PLUGGED AND ABANDONED:

A. The division shall consider proposals from an operator for downhole disposal of regulated NORM in wells that are to be plugged and abandoned, provided the operator performs the plugging and abandonment procedures in a manner that protects the environment, public health and fresh waters and in accordance with division rules pertaining to well plugging and abandonment.

B. The applicant shall complete form C-103 and submit it to the division for approval.

(1) In addition to all other information required for C-103 submittal, the form shall specifically state that the applicant will place regulated NORM in the well bore. The abandonment procedure contained in the application shall identify depths at which the operator will place regulated NORM, radiation survey results conducted on the regulated NORM to be disposed, the procedure the operator will use to place the regulated NORM in the well bore and the specific form of regulated NORM the operator will place in the well bore (*e.g.* scale, pipe, dirt, etc).

(2) The applicant shall address abnormally pressured zones in the well bore that might result in migration of the regulated NORM after it has been placed in the plugged and abandoned well in the application.

(3) The applicant shall send notice of the submittal of an application to dispose of regulated NORM in a plugged and abandoned well to the surface owner and the mineral lessor. The director may require additional notification as described in 19.15.35.14 NMAC.

C. The operator shall not commence work until the division has approved the application for regulated NORM disposal in a plugged and abandoned well.

D. The operator shall comply with the following requirements when disposing of the regulated NORM in a plugged and abandoned well.

(1) The operator shall follow plugging and abandonment procedures the division routinely requires unless specifically superseded at the division's instruction facilitate the regulated NORM disposal.

(2) The operator shall color-dye the cement plug located directly above the regulated NORM and the surface plug with red iron oxide.

(3) The operator shall dispose of regulated NORM at a depth of at least 100 feet below the lower most known underground source of drinking water zone. There must be evidence that there is cement across the known underground source of drinking water zones.

[19.15.35.12 NMAC - Rp, 19.15.9.714 NMAC, / /08]

19.15.35.13 INJECTION:

A. The division shall consider an operator's proposal for injecting regulated NORM into injection wells provided the operator will perform the injection in a manner that protects the environment, public health and fresh waters and complies with division rules pertaining to injection. Division approval is contingent on the applicant meeting the requirements in Subsection B of 19.15.35.13 NMAC at a minimum.

B. An applicant wishing to dispose of regulated NORM in a disposal well shall comply with the following requirements.

(1) An application submitted to the division for permission to dispose of a regulated NORM in an existing or newly permitted disposal well shall contain the following information at a minimum:

(a) a completed form C-108 with proof of required notification and a statement that regulated

NORM will be injected;

(b) a description of regulated NORM to be disposed including its source, radiation levels and quantity; and

(c) a description of the process used on the material to improve injectivity.

(2) An operator shall comply with the following requirements when disposing of regulated NORM in a disposal well.

(a) The operator may only inject regulated NORM from the operator's operations.

(b) Each time the operator injects regulated NORM into the disposal well, the operator shall submit a form C-103 to the division and the appropriate division district office. The operator shall submit the completed form C-103 five working days following the injection, which contains the following information: source of regulated NORM; NORM radiation level, quantity of material injected, description of any process the operator used on the material to improve injectivity, the injection pressure while injecting and dates of injection.

(c) The operator shall report mechanical failures to the appropriate division district office within 24 hours of the failure. The operator shall submit a description of the failure and immediate measures the operator took in response to the failure no later than 15 days following the failure. The operator shall notify the appropriate division district office of proposed repair plans. The operator shall receive division approval of repair plans prior to commencing work and provide notice of commencement to the appropriate division district office so that the division may witness or inspect repairs. The operator shall monitor well repairs to ensure regulated NORM does not escape the well bore or is completely contained in the repair operations.

(d) At the time of the disposal well's abandonment, the operator shall squeeze the injection interval that the operator used for regulated NORM injection with cement or locate a cement plug directly above the injection interval. Cement in either case shall contain red iron oxide.

(e) The injection zone shall be at a depth of at least 100 feet below the lower most known underground drinking water zone.

C. Injection in EOR injection wells. The division shall consider issuing a permit for the disposal of regulated NORM into injection wells within an approved EOR project only after notice and hearing and upon the applicant's minimum demonstration that:

(1) the injection will not reduce the project's efficiency or otherwise cause a reduction in the ultimate recovery of hydrocarbons from the project;

(2) the injection will not cause an increase in the radiation level of regulated NORM produced from the EOR interval in an producing well located either within or offsetting the project area; and

(3) the operations will conform to provisions of Subsection B of 19.15.35.13 NMAC.

D. Injection above fracture pressure.

(1) The division shall consider issuing a permit for the disposal of regulated NORM in a disposal well above fracture pressure only after notice and hearing and upon receiving the following minimum information from the applicant:

(a) a completed form C-108 clearly stating that disposal of regulated NORM at or above fracture pressure is proposed;

(b) information required under Subsection B of 19.15.35.13 NMAC above;

(c) model results predicting the fracture propagation including the expected height, extension, direction and any other evidence sufficient to demonstrate that the fracture will not extend beyond the injection interval or into the confining zones; the application shall include the procedure, the anticipated pressures and the type and pressure rating of equipment that the operator will use; the division may consider the current or potential utilization of zones immediately above and below the zone of interest in the acceptance or rejection of model predictions; and

(d) a contingency plan of the procedures, including containment plans that the operator will employ if a mechanical failure occurs.

(2) The operator shall comply with the following requirements when disposing of regulated NORM is a disposal well above fracture pressure.

(a) The operator shall notify the appropriate division district office 24 hours prior to commencing injection.

(b) Upon completion of the injection, the operator shall squeeze the disposal interval with cement or locate a cement plug directly above the injection interval. In either case the cement in either case shall contain red iron oxide. The operator shall submit a completed form C-103 to the division and the appropriate division district office within five working days of the injection. If the operator desires to return the well to injection below fracture pressure, the operator shall include those plans in the application.

E. Injection in commercial disposal facilities. The division shall consider issuing a permit for the commercial disposal of regulated NORM by injection only after notice and hearing, and provided the applicant has obtained a specific license pursuant to 20.3.14 NMAC and pursuant to 20.3.13 NMAC. In addition to obtaining these licenses the operator shall also comply with Subparagraph (a) of Paragraph 2 of Subsection B of 19.15.35.13 NMAC.

[19.15.35.13 NMAC - Rp, 19.15.9.714 NMAC, / /08]

19.15.35.14 ADDITIONAL NOTIFICATION:

A. The director may require additional notice for an application under 19.15.35.9 NMAC to 19.15.35.13 NMAC.

B. A notified party seeking to comment or request a public hearing on an application shall file comments or a written hearing request with the division within 20 days after receiving notice. A request for a hearing shall set forth the reasons why the division should hold a hearing.

C. The division shall hold a public hearing as required in 19.15.35.9 NMAC through 19.15.35.13 NMAC or if the director determines there is sufficient cause to hold a public hearing.

[19.15.35.14 NMAC - Rp, 19.15.9.714 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 37 REFINING

19.15.37.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.37.1 NMAC - Rp, 19.15.12.1 NMAC, / /08]

19.15.37.2 SCOPE: 19.15.37 NMAC applies to persons engaged in refining oil; operating gasoline, cycling or other plants where gasoline, butane, propane, condensate, kerosene, oil or other liquid products are extracted from gas; or processing carbon dioxide gas into liquid or solid form within New Mexico.
[19.15.37.2 NMAC - Rp, 19.15.12.2 NMAC, / /08]

19.15.37.3 STATUTORY AUTHORITY: 19.15.37 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.
[19.15.37.3 NMAC - Rp, 19.15.12.3 NMAC, / /08]

19.15.37.4 DURATION: Permanent.
[19.15.37.4 NMAC - Rp, 19.15.12.4 NMAC, / /08]

19.15.37.5 EFFECTIVE DATE: _____, 2008, unless a later dated is cited at the end of a section.
[19.15.37.5 NMAC - Rp, 19.15.12.5 NMAC, / /08]

19.15.37.6 OBJECTIVE: To regulate the refining of oil; operating gasoline, cycling or other plants where gasoline, butane, propane, condensate, kerosene, oil or other liquid products are extracted from gas; or processing of carbon dioxide gas.
[19.15.37.6 NMAC - Rp, 19.15.12.6 NMAC, / /08]

19.15.37.7 DEFINITIONS: [RESERVED]
[See 19.15.2.7 NMAC for definitions.]
[19.15.37.7 NMAC - N, / /08]

19.15.37.8 REFINERY REPORTS: Each oil refiner shall furnish to the division for each calendar month a completed form C-113 containing the information and data the form requires, respecting oil and products involved in the refiner's operations during each month. The oil refiner shall complete and file the form C-113 with the division for each month according to instructions on the form, on or before the 15th day of the next succeeding month.
[19.15.37.8 NMAC - Rp, 19.15.12.1001 NMAC, / /08]

19.15.37.9 GASOLINE PLANT REPORTS:

A. An operator of a gasoline plant, cycling plant or other plant at which gasoline, butane, propane, condensate, kerosene, oil or other liquid products are extracted from gas shall file with the division for each calendar month a completed form C-111 containing the information indicated on the form respecting gas and products involved in each plant's operation during each month. 19.15.37.9 NMAC also applies to plants processing carbon dioxide gas into liquid or solid form.

B. The operator shall file the completed form C-111 in accordance with the provisions of 19.15.7.21 NMAC.
[19.15.37.9 NMAC - Rp, 19.15.12.1002 NMAC, / /08]

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 39 SPECIAL RULES

19.15.39.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.39.1 NMAC - N, / /08]

19.15.39.2 SCOPE: 19.15.39 NMAC applies to persons engaged in oil and gas development and production within New Mexico.
[19.15.39.2 NMAC - N, / /08]

19.15.39.3 STATUTORY AUTHORITY: 19.15.39 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.
[19.15.39.3 NMAC - N, / /08]

19.15.39.4 DURATION: Permanent.
[19.15.39.4 NMAC - N, / /08]

19.15.39.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section.
[19.15.39.5 NMAC - N, / /08]

19.15.39.6 OBJECTIVE: To regulate oil and gas operations in areas of particular environmental sensitivity in order to provide appropriate protection for fresh water, public health and the environment in those areas.
[19.15.39.6 NMAC - N, / /08]

19.15.39.7 DEFINITIONS: [RESERVED]
[See 19.15.2.7 NMAC for definitions.]
[19.15.39.7 NMAC - N, / /08]

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

A. The selected areas comprise:

(1) all of Sierra county except the area west of range 8 west NMPM and north of township 18 south, NMPM; and

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

(a) township 11 south, range 9 1/2 east and range 10 east NMPM;
(b) township 12 south, range 10 east and ranges 13 east through 16 east, NMPM;
(c) township 13 south, ranges 11 east through 16 east, NMPM;
(d) township 14 south, ranges 11 east through 16 east, NMPM;
(e) township 15 south, ranges 11 east through 16 east, NMPM;
(f) township 16 south, ranges 11 east through 15 east, NMPM;
(g) township 17 south, range 11 east (surveyed) and ranges 12 east through 15 east, NMPM;
(h) township 18 south, ranges 11 east through 15 east, NMPM;
(i) township 20 1/2 south, range 20 east, NMPM;
(j) township 21 south, range 19 east and range 20 east, NMPM; and
(k) township 22 south, range 20 east, NMPM; and also excepting also the un-surveyed area bounded as follows:

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

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

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

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

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

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

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

B. The division shall not issue permits under 19.15.17 NMAC for pits located in the selected areas.

C. Produced water injection wells located in the selected areas are subject to the following requirements in addition to those set out in 19.15.25 NMAC and 19.15.34 NMAC.

(1) The division shall issue permits under 19.15.26.8 NMAC only after notice and hearing.

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

(a) one-half mile; or

(b) one and one-third times the radius of the zone of endangering influence, as calculated under EPA regulation 40 C.F.R. section 146.6(a) or by other method acceptable to the division; but in no case shall the radius of the area of review exceed one and one-third miles.

(3) The operator shall demonstrate fresh water aquifers' vertical extent prior to using a new or existing well for injection.

(4) The operator shall isolate fresh water aquifers throughout their vertical extent with at least two cemented casing strings. In addition,

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

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

(5) The operator shall run cement bond logs acceptable to the division after each casing string is cemented, and file the logs with the appropriate division district office. For existing wells the casing and cementing program shall comply with 19.15.26.9 NMAC.

(6) The operator shall construct produced water transportation lines of corrosion-resistant materials acceptable to the division, and pressure test the water transportation lines to one and one-half times the maximum operating pressure prior to operation, and annually thereafter.

(7) The operator shall place tanks on impermeable pads and surround the tanks with lined berms or other impermeable secondary containment device having a capacity at least equal to one and one-third times the capacity of the largest tank, or, if the tanks are interconnected, of all interconnected tanks.

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

(9) The operator shall perform a mechanical integrity tests as described in Paragraph (2) of Subsection A of 19.15.26.11 NMAC annually, shall advise the appropriate division district office of the date and time the operator is commencing a mechanical integrity test so that the division may witness the test and shall file the pressure chart with the appropriate division district office.

[19.15.39.8 NMAC - Rp, 19.15.1.21 NMAC, / /08]