

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

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION,
THROUGH THE ENVIRONMENTAL BUREAU CHIEF, FOR ADOPTION OF
AN AMENDMENT TO 19.15.39 NMAC ADDING NEW SECTIONS TO BE
CODIFIED AT 19.15.39.9 AND 19.15.39.10 NMAC ADDRESSING SPECIAL
PROVISIONS FOR SANTA FE COUNTY AND THE GALISTEO BASIN; SANTA
FE, SANDOVAL AND SAN MIGUEL COUNTIES.

CASE NO. 14255

NOTICE OF RECOMMENDED MODIFICATIONS
SUBMITTED BY THE OIL CONSERVATION DIVISION

The Oil Conservation Division (OCD) recommends the following modifications to the proposed amendment to 19.15.39 NMAC. A red-line version of the complete text of the amendment is attached to this notice as Exhibit A.

1. Subsection A of 19.15.39.9:

A. Applicability. The operator must obtain division approval for an exploration and development plan prior to applying for a permit pursuant to 19.15.14 NMAC to drilling, re-entering or deepening a well located in Santa Fe county or the Galisteo Basin, and must operate the wells covered by the plan in accordance with the plan's requirements until the plan is specifically replaced by a special pool order. Approval of an exploration and development plan does not relieve an operator from its responsibility to obtain any permit required pursuant to the Oil and Gas Act for its activities conducted under the plan. The operator must renew approved an exploration and development plans every five years. The Galisteo Basin includes part of Santa Fe county,

The proposed changes clarify what an approved exploration and development plan represents and does not represent to an operator. An approved exploration and development plan is just that, an approved plan. Approval of a plan does not equate to

approval of any permit required to conduct operations as described in the plan. The operator will need to obtain permits for drilling through the permitting process identified in 19.15.14 NMAC, subject to the additional provisions and conditions imposed by 19.15.39.10 NMAC. The operator will need to obtain permits for managing the drilling waste through the permitting processes identified in 19.15.17 NMAC, subject to the additional conditions imposed by 19.15.39.10 NMAC. If the operator's approved plan allows for injection wells, the operator will need to obtain injection permits pursuant to 19.15.26.8 NMAC. If the operator's approved plan allows for a surface waste management facility, the operator will need to obtain permit pursuant to 19.15.36 NMAC. If the operator's approved plan allows for any exception to a standard or requirement identified in 19.15.17 NMAC or 19.15.36 NMAC, the operator will still need to follow the processes set out in those rules to obtain the exception.

2. Subsection B of 19.15.39.9:

B. Application for Exploration and Development Plan. An operator applying for approval of an exploration and development plan shall file two copies of the application with the division's Santa Fe office and file a copy of the application with the appropriate division district office or offices. The application shall include:

...

(5) a map or maps of the area to be covered by the proposed plan and one half mile beyond the boundary of that area plotting the following, with global positioning system coordinates to the sixth decimal point for un-surveyed areas:

(a) state, federal, private or tribal surface ownership, including for private lands the property boundaries and the name of the property owner at time of application;

This proposed change requires the operator to provide information on private surface ownership that will assist in providing the proper notice.

(c) site-boundaries-of-all-registered-cultural properties;

The proposed change removes the requirement that the operator provide a map showing registered cultural properties because such a map would contain confidential information if the properties are archaeological sites. See NMSA 1978, Section 18-6-11.1. If this provision is removed, the remaining Subparagraphs will need to be re-numbered accordingly.

(d) **all buildings and infrastructure including but not limited to highways and roads, railroads, pipelines, power lines, antennas, wind turbines, solar farms, and mines (surface and subsurface):**

This proposed change clarifies that the listed items are illustrative, but are not an exclusive list of the types of buildings and infrastructure that must be identified.

(e) **watercourses, sinkholes, playas and unstable areas;**

The proposed addition of “watercourses” will add all items defined under that term in OCD rules. Identification of these items is necessary to review the application’s potential effect on fresh water.

(g) **~~All-existing-water-wells~~ wellhead protection areas;**

The proposed change substitutes “wellhead protection areas” for “all existing water wells.” “Wellhead protection areas” is a term defined in OCD rules and is more inclusive.

(7) **proposed plans for**

...

(c) **a mud-logging program, including a copy of the mud log sheet and a description of the mud-logger’s daily report, which shall include at a minimum the total depth reached, the footage drilled in the preceding 24 hours, oil and gas intervals, fresh**

water zones, and mud ~~parameters~~parameters including mud weight, chlorides, funnel viscosity and filtrate properties.

The proposed modification corrects a spelling error.

- (8) a written contingency plan for all releases, with no exclusion for de minimus amounts, which shall include
- a) best management practices for the prevention and detection of releases ~~procedures for early detection of releases;~~

The proposed change clarifies the type of information to be provided in the contingency plan, and adds that the plan should address prevention as well as detection of releases. It is commonly understood in industry that a best management practices plan will identify the standard operating practices to be used to prevent releases (for example, the installation of secondary containment for above-grade tanks) and to detect releases when they occur (for example, regularly scheduled visual inspections).

- (9) ~~if the area to be included in the proposed exploration and development plan includes a registered historic property, the information required by 4.16.7.9 NMAC. If cultural resources listed in or eligible for listing in either the national register of historic places or the state register of cultural properties, known cemeteries and unmarked human burials are located in the area included in the proposed exploration and development plan or within one half mile of the are included in the plan, the information in 4.10.7.9 NMAC including a description of the effects the proposed operations may have on these sites and proposed mitigation measures;~~

The proposed substitution recognizes that state law protects a variety of cultural properties including marked and unmarked burial grounds (see NMSA 1978, Section 30-12-12 and NMSA 1978, Section 18-6-11.2). Rule 4.10.7.9 NMAC, adopted pursuant to NMSA 1978, Section 18-6-8.1 of the Cultural Properties Act, sets out the information an agency is required to provide to the state historic preservation officer when any land or structure modification which may affect a registered cultural property is proposed.

(10) any proposed exceptions to the requirements set out in Subsection B of 19.15.39.10 NMAC and evidence that operating in accordance with the proposed exceptions will prevent waste, protect correlative rights, protect fresh water and protect human health and the environment ~~from oilfield waste~~;

As originally drafted, this provision would allow an operator to seek an exception from any of the requirements of proposed rule 19.15.39.10 NMAC. Subsection A of 19.15.39.10 NMAC sets out procedural requirements, and the operator should not be allowed to obtain an exception to those requirements. Under the proposed change, the operator may seek exceptions only to the conditions imposed in Subsection B of 19.15.39.10 NMAC. The OCD proposes to delete “from oilfield waste” to make the wording consistent with the standard for approval of an exploration and development plan set out in Subsection J of 19.15.39.9 NMAC.

3. Subsection F of 19.15.39.9 NMAC:

F. Legal Notice. Legal notice of an application for a proposed exploration and development plan or an application to amend, renew or replace an existing exploration and development plan shall include

...

(8) instructions for filing written public comments on the application with the division clerk in ~~with~~ the division’s Santa Fe office;

(9) instructions for requesting a public hearing on an application that has not been set for public hearing;

~~(9)(10)~~ if the application ~~will be~~ has been set for hearing, the date, time and location of the public hearing; and

~~(10)(11)~~ instructions for being placed on a division contact list to receive notice of future applications and hearing notices related to the ~~to amend, renew or replace the~~ exploration and development plan.

These proposed changes to the legal notice provisions clarify the process. Public comments are to be filed with the division clerk. The public may request public hearing

on applications that have not been set for public hearing. The contact list is kept by the division and will be used to provide notice of applications and hearings.

4. Subsection G of 19.15.39.9 NMAC:

G. Administrative Completeness.

...

(2) If the division determines that the application is administratively complete, the division shall:

(d) distribute notice of the application with its next division or commission docket; **and**

(e) post the approved legal notice and the application on the division's website; **and**

(f) provide a copy of the complete application to the state historic preservation office with a request for review and comment.

The proposed changes add a requirement that the division provide the state historic preservation office with a complete copy of any application deemed administratively complete, so the state historic preservation office will have an opportunity to review the application and comment on it, as part of the OCD's consultation requirements pursuant to NMSA 1978, Section 18-6-8.1.

5. Subsection H of 19.15.39.9 NMAC:

H. Public Notice. Within 20 days of receiving an approved legal notice and the division's determination that an application is administratively complete, the operator shall

...

(2) mail the approved notice by **first-class-mail certified mail, return receipt requested**, to

...

(c) the leader of each **all** tribes, pueblos and nations in New Mexico;

The proposed change to certified mail will assist in proving that proper notice was provided. The proposed change to Subparagraph (c) will require operators to send notice specifically to the leader of each tribe, pueblo and nation in New Mexico, so the

information will reach the appropriate individual. Contact information for the leaders of tribes, pueblos and nations in New Mexico is available from the Department of Indian Affairs.

6. Subsection I of 19.15.39.9 NMAC:

I. Public Hearings.

(1) The division shall set all applications for approval of exploration and development plans for public hearing, with the public hearing to be set no sooner than 60 days after the operator serves service of public notice.

The proposed change makes clear that the service of public notice by the operator is the action that determines the 60-day period, not the posting of the application by the OCD.

(4) If the division sets for public hearing an application to amend, renew or replace an existing exploration or development plan, the operator shall

~~(a)~~ submit to the Santa Fe office of the division for approval a notice of hearing containing the information required by Subsection F of 19.15.39.9 NMAC and, at least 30 days prior to the hearing date;

~~(b)~~(a) publish the approved notice of hearing ~~at least 30 days before the hearing~~ in a newspaper of general circulation in the county or counties in the area covered by the exploration and development plan and within one half mile of the boundary of the area covered by the exploration and development plan;

~~(e)~~(b) mail the approved notice of hearing by certified mail, return receipt requested~~first-class mail at least 30 days before the hearing~~ to those persons and entities entitled to public notice under Paragraph 2 of Subsection H of 19.15.39.9 NMAC; and

~~(d)~~(c) mail the approved notice of hearing by first class mail or transmit the notice of hearing by electronic mail to those individuals and entities on the division's contact list for the exploration and development plan.

The proposed change clarifies that all publication and mailing of hearing notices on amendments, renewals and replacements of plans must be done at least 30 days prior to the hearing day. As currently drafted, the 30-day requirement does not apply to notice

given to persons and entities on the contact list. The proposed change also requires notices to be sent by certified mail, return receipt requested, so notice can be proved.

7. Subsection J of 19.15.39.10 NMAC:

J. Plan Approvals, Conditions, Denials, Amendments, Revocations, Renewals and Transfers.

(3) The division may impose conditions on its approval of an application for an exploration and development plan or an amendment or renewal of an exploration and development plan if the division determines that the conditions are necessary to prevent waste, protect correlative rights, protect fresh water, and protect human health and the environment ~~from oilfield waste~~.

The proposed change deletes “from oilfield waste” to make the wording consistent with the standard for approval of an exploration and development plan set out in Subsection J of 19.15.39.9 NMAC.

8. Subsection A of 19.15.39.10 NMAC:

A. An application for permit to drill, re-enter or deepen a well that requires an exploration and development plan pursuant to 19.15.39.9 NMAC must include the following in addition to meeting the requirements set out in 19.15.14-10 NMAC:

The proposed change clarifies that applicants must comply with all of the provisions of 19.15.14 NMAC, the part which sets out the requirements for drilling permits. As originally drafted, Subsection A of 19.15.39.10 references only Section 10 of Part 14, which only addresses the director’s approval or denial of a permit to drill, deepen or plug back.

(1) a permit application pursuant to 19.15.17 NMACa-form C-144 for the closed-loop system, or for the pit if the operator’s approved exploration and development plan allows pits;

The proposed change will require the operator to submit a complete Part 17 permit application with its application for permit to drill, re-enter or deepen a well (APD). As

originally drafted, this provision only required the operator to submit a form C-144 with its APD. A Part 17 permit application includes not only the form C-144 but additional documents such as an operational and maintenance plan, a design and construction plan, a closure plan, demonstrations of compliance to the applicable siting requirements and possibly a hydrogeologic report or data, if applicable. Rule 19.15.39.10 NMAC requires that this information be submitted with the APD so the OCD can make use of this information in determining the conditions to attach to an APD pursuant to 19.15.14.10 NMAC.

9. Subsection B of 19.15.39.10 NMAC:

B. Unless otherwise specified in an approved exploration and development plan, an application for permit to drill, re-enter or deepen a well that requires an exploration and development plan shall be subject to the following conditions:

The proposed change makes re-entering a well subject to the conditions set out in 19.15.39.10 NMAC.

(1) the operator shall drill the well using a closed loop system that uses above ground steel tanks for the management of drilling or workover fluids without using below-grade tanks or pits;

The proposed change defines “closed loop system,” using the same language in 19.15.17 NMAC.

(2) the operator shall not use the on-site closure methods identified in Subsection F of 19.15.17.13 NMAC ~~dispose of waste on-site;~~

The proposed change clarifies that this provision addresses the proper handling and disposal of waste generated from the drilling, re-entering or deepening a well pursuant to 19.15.17 NMAC, and prohibit the on-site burial of such waste. The provision does not

address and was not meant to prohibit the use of properly permitted salt water injection wells or surface waste management facilities.

(5) the operator shall isolate all fresh water zones and aquifers throughout their vertical extent with at least two cemented casing strings;

The proposed change clarifies that all fresh water will be protected by at least two cemented casing strings, not just aquifers.

Conclusion

The OCD respectfully requests that the Oil Conservation Commission approve the recommended modifications to proposed Sections 19.15.39.9 and 19.14.39.10 NMAC.

RESPECTFULLY SUBMITTED,



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19.15.39.9 [NEW] SPECIAL PROVISIONS FOR SANTA FE COUNTY AND THE GALISTEO BASIN:

A. Applicability. The operator must obtain division approval for an exploration and development plan prior to applying for a permit pursuant to 19.15.14 NMAC to drilling, re-entering or deepening a well located in Santa Fe county or the Galisteo Basin, and must operate the wells covered by the plan in accordance with the plan's requirements until the plan is specifically replaced by a special pool order. Approval of an exploration and development plan does not relieve an operator from its responsibility to obtain any permit required pursuant to the Oil and Gas Act for its activities conducted under the plan. The operator must renew an approved exploration and development plans every five years. The Galisteo Basin includes part of Santa Fe county,

- (1) the following sections in Sandoval county:
 - (a) sections 1 and 2 of township 13 north, range 6 east, NMPM;
 - (b) sections 1 through 4, 9 through 15, 22 through 26, 35 and 36 of township 14 north, range 6 east, NMPM;
 - (c) sections 10 through 30, and 32 through 36 of township 15 north, range 6 east, NMPM;
 - (d) sections 13 and 25 of township 15 north, range 5 east, NMPM; and
- (2) the following sections in San Miguel county:
 - (a) sections 4 through 9, and 16 through 21 of township 13 north, range 12 east, NMPM;
 - (b) sections 4 through 10, 13 through 24, and 27 through 33 of township 14 north, range 12 east, NMPM; and
 - (c) sections 19 and 29 through 32 of township 15 north, range 12 east, NMPM.

B. Application for Exploration and Development Plan. An operator applying for approval of an exploration and development plan shall file two copies of the application with the division's Santa Fe office and file a copy of the application with the appropriate division district office or offices. The application shall include:

- (1) the operator's name, address and telephone number, with an e-mail address and facsimile number if available;
- (2) a legal description of the area to be covered by the plan including at a minimum the operator's best estimate of the productive area;
- (3) identification of the target zone or zones;
- (4) a topographic map of the area to be covered by the proposed plan and one half mile beyond the boundary of that area;
- (5) a map or maps of the area to be covered by the proposed plan and one half mile beyond the boundary of that area plotting the following, with global positioning system coordinates to the sixth decimal point for un-surveyed areas:
 - (a) state, federal, private or tribal surface ownership, including for private lands the property boundaries and the name of the property owner at time of application;
 - (b) municipal and county boundaries;
 - ~~(c) site boundaries of all registered cultural properties as defined in NMSA 1978, Section 18-6-3, and the site boundaries of those registered cultural properties;~~
 - ~~(d)~~(c) farms;
 - ~~(e)~~(d) all buildings and infrastructure including but not limited to highways and roads, railroads, pipelines, power lines, antennas, wind turbines, solar farms, and mines (surface and subsurface);
 - ~~(f)~~(e) watercourses, sinkholes, playas and unstable areas;
 - ~~(g)~~(f) municipal fresh water well fields covered under a municipal ordinance adopted pursuant to NMSA 1978, Section 3-27-3, as amended;
 - ~~(h)~~(g) all existing water wells wellhead protection areas;
 - ~~(i)~~(h) all existing oil and gas wells; and
 - ~~(j)~~(i) the location of proposed exploratory wells and related facilities, including but not limited to tank batteries, gathering lines, waste disposal facilities, compressor stations and access roads;

(6) a hydrogeologic and site report that provides sufficient information and detail on the area's topography, soils, geology, surface hydrology and ground water hydrology to enable the division to evaluate the actual and potential effects on soils, surface water and ground water;

(7) proposed plans for
(a) installing monitor wells to determine depth to water and saturated thickness, obtain baseline water samples and detect releases;
(b) a drilling program describing the air drilling program or mud program to be used;

(c) a mud-logging program, including a copy of the mud log sheet and a description of the mud-logger's daily report, which shall include at a minimum the total depth reached, the footage drilled in the preceding 24 hours, oil and gas intervals, fresh water zones, and mud ~~parameters~~parameters including mud weight, chlorides, funnel viscosity and filtrate properties;

(d) addressing wastes generated during the drilling and production processes;

(e) minimizing pad size and consolidating facilities; and
(f) developing the area if the exploratory wells are productive, including the operator's best estimate of the number and location of development wells and related facilities;

(8) a written contingency plan for all releases, with no exclusion for de minimus amounts, which shall include

(a) procedures for early detection of releases;
(b) instructions for notifying appropriate responders, with a contact list including current names, telephone numbers, e-mail addresses, facsimile numbers and addresses;
(c) identification of applicable equipment, materials and supplies available locally or regionally to respond to releases, with advance arrangements for acquiring the equipment, materials and supplies; and

(d) response plans based on the severity and nature of the release;
(9) ~~if the area to be included in the proposed exploration and development plan includes a registered historic cultural property, the information required by 4.16.7.9 NMAC if cultural resources listed in or eligible for listing in either the national register of historic places or the state register of cultural properties, known cemeteries and unmarked human burials are located in the area included in the proposed exploration and development plan or within one half mile of the area included in the plan, the information in 4.10.7.9 NMAC including a description of the effects the proposed operations may have on these sites and proposed mitigation measures;~~

(10) any proposed exceptions to the requirements set out in Subsection B of 19.15.39.10 NMAC and evidence that operating in accordance with the proposed exceptions will prevent waste, protect correlative rights, protect fresh water and protect human health and the environment ~~from oilfield waste~~;

(11) a proposed legal notice complying with Subsection F of 19.15.39.9 NMAC;

(12) other information that the division may require to demonstrate that the plan will prevent waste, protect correlative rights, protect fresh water, protect human health and the environment, and will assure the division that operation of the plan will be in compliance with division rules and orders; and

(13) certification by the operator that the information submitted in the application is true, accurate and complete to the best of the operator's knowledge, after reasonable inquiry.

C. Amendments to Exploration and Development Plans. An operator must obtain an approved amendment to its exploration and development plan prior to expanding the area covered by the plan, increasing the number or changing the locations of proposed wells or related facilities, or changing the terms of the proposed plan. An operator applying for an amendment to an exploration and development plan shall file two copies of the application with the division's Santa Fe office and file a copy of the application with the appropriate division district office or offices. The application shall:

(1) describe the proposed amendment(s);
(2) update the information provided in the original application pursuant to Subsection B of 19.15.39.9 NMAC; and
(3) provide a proposed legal notice complying with Subsection F of 19.15.39.9 NMAC.

D. Renewals of Exploration and Development Plans.

(1) An operator applying for renewal of its exploration and development plan shall file two copies of the application with the division's Santa Fe office and file a copy of the application with the appropriate division district office or offices. The application shall:

(a) update the information provided pursuant to Subsection B of 19.15.39.9 NMAC; and

(b) provide a proposed legal notice complying with Subsection F of 19.15.39.9 NMAC.

(2) The operator may combine an application to renew its exploration and development plan with an application to amend the exploration and development plan.

E. Replacement of an Exploration and Development Plan with a Special Pool Order.

(1) An operator who has operated wells under an approved exploration and development plan for at least 5 years may apply for approval to replace the plan with a special pool order.

(2) An operator applying for approval to replace the exploration and development plan with a special pool order shall file two copies of the application with the division's Santa Fe office and file a copy of the application with the appropriate division district office or offices. The application shall:

(a) describe provisions to be included in the special pool order to protect fresh water and to protect human health and the environment;

(b) update the information provided pursuant to Subsection B of 19.15.39.9 NMAC; and

(c) provide a proposed legal notice complying with Subsection F of 19.15.39.9 NMAC.

F. Legal Notice. Legal notice of an application for a proposed exploration and development plan or an application to amend, renew or replace an existing exploration and development plan shall include

(1) the operator's name, address and telephone number, and an e-mail address and facsimile number if available;

(2) a legal and a common description of the area covered by the exploration and development plan;

(3) in the case of an application for an exploration or development plan, a summary of the proposed plan including the number and location of proposed exploratory and development wells and related facilities;

(4) in the case of an application to amend an existing exploration and development plan, a summary of the existing plan and a summary of the proposed amendment;

(5) in the case of an application to renew an existing exploration and development plan, a summary of the existing plan;

(6) in the case of an application to replace an existing exploration and development plan, a summary of the provisions to be included in the special pool order to protect fresh water and protect human health and the environment;

(7) instructions for viewing the complete application on the division's website or at the appropriate division district office or offices;

(8) instructions for filing written public comments on the application with the division clerk in ~~with~~ the division's Santa Fe office;

(9) instructions for requesting a public hearing on an application that has not been set for public hearing;

~~(9)(10)~~ if the application ~~will be~~ has been set for hearing, the date, time and location of the public hearing; and

~~(10)(11)~~ instructions for being placed on a division contact list to receive notice of future applications and hearing notices related to the ~~to amend, renew or replace the~~ exploration and development plan.

G. Administrative Completeness.

(1) Within 60 days of receiving an application for an exploration and development plan or an application to amend, renew or replace an existing exploration and development plan, the division shall notify the operator in writing of its determination on whether the application is administratively complete. An application is administratively complete if it contains all the information required by 19.15.39.9 NMAC.

(2) If the division determines that the application is administratively complete, the

division shall:

- (a) notify the operator in writing that the application is administratively complete;
- (b) provide the operator with an approved legal notice;
- (c) provide the operator with a copy of the current contact list of individuals and entities requesting notice of actions related to the exploration and development plan;
- (d) distribute notice of the application with its next division or commission docket; ~~and~~
- (e) post the approved legal notice and the application on the division's website; ~~and~~
- (f) provide a copy of the complete application to the state historic preservation office with a request for review and comment.

(3) If the division determines that the application is not administratively complete, the division's written notification to the operator shall identify the deficiencies.

(4) The operator may re-submit an application to correct deficiencies, correct errors or add information. The division's receipt of a re-submittal triggers a new 30 day period for the division to notify the operator of the division's determination on administrative completeness.

H. Public Notice. Within 20 days of receiving an approved legal notice and the division's determination that an application is administratively complete, the operator shall

(1) publish the approved legal notice in a newspaper of general circulation in the affected county or counties;

(2) mail the approved notice by ~~first class mail~~ certified mail, return receipt requested, to

(a) holders of mineral interests in the area covered by the exploration and development plan and the area within one half mile of the boundary of the exploration and development plan if they have not already agreed to participate in the plan;

(b) surface interest owners in the area covered by the exploration and development plan and the area within one half mile of the boundary of the exploration and development plan;

(c) the leader of each ~~all~~ tribes, pueblos and nations in New Mexico;

(d) the governments of counties and municipalities located within or partially located within the area covered by the exploration and development plan or the area within one half mile of the boundary of the exploration and development plan;

(e) the state historic preservation officer; and

(f) the game and fish department; and

(3) mail the approved notice of hearing by first class mail or transmit the notice of hearing by electronic mail to those individuals and entities on the division's contact list for the exploration and development plan.

I. Public Hearings.

(1) The division shall set all applications for approval of exploration and development plans for public hearing, with the public hearing to be set no sooner than 60 days after the operator serves service of public notice.

(2) The division may hold a public hearing on an application to amend, renew or replace an existing exploration and development plan.

(3) If the division acts administratively to deny an application to amend, renew or replace an existing exploration and development plan, or acts administratively to approve an amendment, renewal or replacement of an existing exploration and development plan with conditions or terms, the operator may, within 30 days of receipt of the administrative order, file an application for hearing on the application. The division shall set the application for public hearing.

(4) If the division sets for public hearing an application to amend, renew or replace an existing exploration or development plan, the operator shall

~~(a)~~ submit to the Santa Fe office of the division for approval a notice of hearing containing the information required by Subsection F of 19.15.39.9 NMAC and, at least 30 days prior to the hearing date;

~~(b)-(a)~~ publish the approved notice of hearing at least 30 days before the hearing in a newspaper of general circulation in the county or counties in the area covered by the

exploration and development plan and within one half mile of the boundary of the area covered by the exploration and development plan;

~~(e)(b)~~ mail the approved notice of hearing by ~~first-class mail at least 30 days before the hearing certified mail, return receipt requested~~, to those persons and entities entitled to public notice under Paragraph 2 of Subsection H of 19.15.39.9 NMAC; and

~~(d)(c)~~ mail the approved notice of hearing by first class mail or transmit the notice of hearing by electronic mail to those individuals and entities on the division's contact list for the exploration and development plan.

J. Plan Approvals, Conditions, Denials, Amendments, Revocations, Renewals and Transfers.

(1) The division may approve an exploration and development plan for a period not to exceed five years. The division may renew an exploration and development plan for additional periods not to exceed five years.

(2) The division may approve an application for an exploration and development plan or an application to amend, renew or replace an existing exploration and development plan if the division determines that

- (a) the operator is in compliance with Subsection A of 19.15.5.9 NMAC;
- (b) the application provides the information required by 19.15.39.9

NMAC;

- (c) the operator has provided the notice required by 19.15.39.9 NMAC;

and

- (d) approval of the application will prevent waste, protect correlative rights, protect fresh water, and protect human health and the environment.

(3) The division may impose conditions on its approval of an application for an exploration and development plan or an amendment or renewal of an exploration and development plan if the division determines that the conditions are necessary to prevent waste, protect correlative rights, protect fresh water, and protect human health and the environment ~~from oilfield waste~~.

(4) The division may include provisions in a special pool order that replaces an exploration and development plan if the division determines that the provisions are necessary to prevent waste, protect correlative rights, protect fresh water, and protect human health and the environment.

(5) After notice to the operator and hearing, the division may revoke approval of an exploration and development plan and require wells covered by that plan to be shut-in if the operator is out of compliance with the plan or is out of compliance with Subsection A of 19.15.5.9 NMAC.

(6) If an exploration and development plan expires and the operator has not filed an application to renew the plan, the operator shall shut-in the wells covered by the plan. If the operator has filed an application to renew the plan prior to its expiration, the operator may continue to operate wells covered by the plan until a final order is issued on the application for renewal.

(7) The exploration and development plan shall remain in effect until revoked, amended or replaced pursuant to 19.15.39.9 NMAC.

(8) In the event another operator becomes operator of record of wells subject to the exploration and development plan, the new operator shall be bound by the terms of the applicable approved exploration and development plan or special pool order.

19.15.39.10 [NEW] ADDITIONAL REQUIREMENTS FOR APPLICATIONS TO DRILL, RE-ENTER OR DEEPEN WELLS SUBJECT TO AN EXPLORATION AND DEVELOPMENT PLAN:

A. An application for permit to drill, re-enter or deepen a well that requires an exploration and development plan pursuant to 19.15.39.9 NMAC must include the following in addition to meeting the requirements set out in 19.15.14.10 NMAC:

- (1) ~~a permit application pursuant to 19.15.17 NMAC a form C-144 for the closed-loop system, or for the pit if the operator's approved exploration and development plan allows pits;~~
- (2) global positioning system coordinates to the sixth decimal point to identify the location of a well to be drilled in an un-surveyed area; and
- (3) any additional information required by the operator's approved exploration and development plan.

B. Unless otherwise specified in an approved exploration and development plan, an application for permit to drill, re-enter or deepen a well that requires an exploration and development plan shall be subject to the following conditions:

- (1) the operator shall drill the well using a closed loop system that uses above ground steel tanks for the management of drilling or workover fluids without using below-grade tanks or pits;
- (2) the operator shall not use the on-site closure methods identified in Subsection F of 19.15.17.13 NMAC dispose of waste on site;
- (3) the operator shall run logs from total depth to surface that will determine porosity and water saturation;
- (4) a mud-logger shall be on site during drilling from surface to total depth and shall submit the logs and a written report daily to the supervisor of the appropriate district office;
- (5) the operator shall isolate all fresh water zones and aquifers throughout their vertical extent with at least two cemented casing strings;
- (6) the operator shall circulate cement to surface on all casing strings, except that the smallest diameter casing shall have cement to at least 100 feet above the casing shoe of the next larger diameter casing;
- (7) the operator shall run cement bond logs acceptable to the division after each casing string is cemented and file the logs with the appropriate district office; and
- (8) the operator shall place a well that requires gas pipeline connection on approved temporary abandonment status while awaiting pipeline connection.