



United States Department of the Interior



NAME	ACT	DATE
FM	BUREAU OF LAND MANAGEMENT	
FM-L&RR	Farmington District Office	
RSR	4235-La Plata Highway, Suite A	
EP	Farmington, New Mexico 87401	
Arch	www.blm.gov	

In Reply Refer To:

Memorandum of Understanding (MOU)

Between the

New Mexico Oil Conservation Division (NMOCD) and the Bureau of Land Management's

Farmington Field Office (FFO)

A. Introduction

The NMOCD District 3 and the BLM FFO jointly regulate oil and gas operations on federal lands within the northwest portion of the State of New Mexico. Recent changes in NMOCD regulations that were not contemplated in BLM's 2003 FFO Resource Management Plan (RMP) have made it necessary to develop a means by which the agencies may reconcile apparent differences in the regulations and plans covering these areas.

B. Purpose and Objectives

The NMOCD recently promulgated 19.15.17 NMAC more commonly referred to as the "Pit Rule". This part regulates permitting, construction, operation and subsequent closure activities of temporary pits within NMOCD District 3, including those operations located on Federal and Indian surface and mineral estates

This MOU will help (1) minimize duplication of effort between the agencies, (2) streamline the permit and compliance review process, (3) provide the oil and gas industry with efficient permitting, effective compliance process and regulatory certainty, and (4) fulfill BLM's trust responsibilities to the public and Indian land owners.

C. Authorities

The authorities for this MOU are the Property Clause of the U.S. Constitution, Mineral Leasing Act of 1920; Department of Interior Secretarial Order 3087; 43CFR 3160; Indian Mineral Development Act of 1982; Allotted Indian Land Act of 1909; the Unallotted Indian Land Act of 1938; 25 CFR 211; and the New Mexico Revised Statutes, including the New Mexico Oil and Gas Act, NMSA Chapter 70. This MOU is not intended to

EXHIBIT

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supersede existing state or federal law, rule or regulation, nor require a commitment of manpower or funds beyond the authority or appropriation of either party.

D. Definitions

- a. The term "temporary pit" used in this document means a pit, including a drilling or workover pit, which is constructed with the intent that the pit will hold liquids for less than six months and will be closed in less than one year.
- b. The BLM's Resource Management Plan (RMP) is a land use planning document and Environmental Impact Statement covering public lands within the Farmington Field Office of Northwest New Mexico.
- c. The Bureau's Best Management Practices (BMP) are standards and guidelines for improved environmental protection practices applied to oil and natural gas drilling and production to help ensure that energy development is conducted in an environmentally responsible manner.
- d. For the purposes of this agreement, the term "Indian Lands" refer to the Jicarilla Tribal lands and Navajo Indian Allotted Lands.
- e. For the purposes of this agreement, the term "Federal lands" refers to BLM, U.S. Forest Service and Bureau of Reclamation lands.
- f. Surface Managing Agency (SMA) shall mean any federal agency having jurisdiction over the surface estate overlying federal or Indian mineral estate. The BLM oversees mineral related development on federal and Indian lands on behalf of the SMA and acts as a clearing house for oil and gas related actions.

E. Contacts

BLM FFO contact: Field Office Manager
Farmington Field Office
1235 La Plata Highway
Farmington, NM 87401

For all BLM, Forest Service, Bureau of Reclamation, Indian Trust Lands

NMOCD Contact: Mark E. Fesmire, PE
Division Director
New Mexico Oil and Gas Conservation Division
1220 South St. Francis Drive
Santa Fe, NM 87505

F. Procedural Format

1) Temporary Pit Design and Siting:

In order to meet the goals and objectives of FFO's RMP and fulfill the requirements of Part 17, the SMA shall require the operator to use the temporary pit siting criteria of NMAC 19.15.17.10 for locating and constructing temporary pits on federal and Indian surface lands. However, where the two to one sloping requirements of 19.15.17.11(F)(2) NMAC would cause the footprint of the well pad to exceed that required in the RMP, operators may request an exception to that sloping requirement for up to two sides of a pit. Upon a case-by-case showing by the operator that the proposed exception will insure adequate safety, liner integrity and performance, NMOCD may grant the exception based on compliance with the RMP.

Operators will be required to request administrative approval from the Aztec NMOCD District Office for an alternative pit design on a case-by-case basis using NMOCD Form C-144.

2) Pit Fencing:

Where SMA pit fencing requirements meet or exceed those required by Part 17, the SMA fencing requirements shall be approved upon a showing that the SMA requirements will provide equal or greater fencing performance to those required by Part 17.

Operators will be required to request administrative approval from the Aztec NMOCD District Office for an alternative fencing design on a case-by-case basis using NMOCD Form C-144.

3) Re-vegetation of Pit Sites:

Upon a demonstration by the operator that alternative site re-vegetation proposed in accordance with the FFO RMP effectively prevents erosion and protects fresh water, human health and the environment as effectively as that required under NMAC 19.15.17.13(G) and that said re-vegetation has been agreed to, completed and accepted by the SMA, such re-vegetation shall be deemed by the OCD as compliance with the re-vegetation requirements of NMAC 9.15.17.13(G) and (I).

Operators will be required to request administrative approval for alternative re-vegetation on a case by case basis from the Aztec NMOCD District Office using NMOCD Form C-144.

4) Pit Marker

In order to comply with pad size constraints placed on operators by the FFO RMP, the NMOCD may defer the requirement on operators to install a permanent above-ground marker identifying the location of a previously closed pit until abandonment of the associated well bore. The

operator will identify the pit location using GPS measurements, place a ground level marker at the required site and notify NMOCD of the location at the time of pit closure.

Operators will be required to request a deferral from the marker requirement on a case-by-case basis from the Aztec NMOCD District Office using NMOCD Form C-144.

5) Surface Owner Notification

In order to minimize the burden on the SMA and the NMOCD, the surface owner notification requirements of Part 17 on federal surface lands shall be deemed satisfied upon a showing by the operator that the SMA has received and approved the Application for Permit to Drill (APD) or the Sundry Notice of Intent describing the actions requiring surface owner notification.

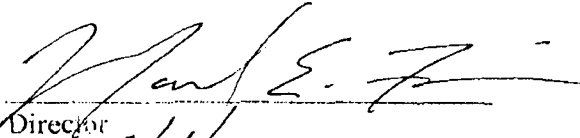
G. Confidentiality

Each agency will abide by the proprietary and confidential data requirements of its own laws and regulations, in accordance with 43 CFR 3100 and appropriate New Mexico State Statutes.

H. Administration

This MOU shall become effective immediately upon execution by the NMOCD and the BLM on behalf of the SMAs and may be amended thereafter by mutual consent. Termination of the MOU may be effected by either party upon 60 days written notice to the other party. Termination of this MOU may be effected at any time by mutual written consent of the parties. This agreement shall terminate when no longer authorized by the U.S. Department of Interior, by federal or state law, or if determined to be unenforceable by any court having jurisdiction over the parties.

State of New Mexico
Oil Conservation Division



Director

Date

5/4/09

United States Department of Interior
Bureau of Land Management
Farmington Field Office



Field Office Manager

Date

4/30/09