

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

**IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION FOR THE PURPOSE OF
CONSIDERING:**

*CASE NO. 13564
ORDER NO. R-12452*

**APPLICATION OF THE OIL CONSERVATION CONSERVATION DIVISION
TO AMEND RULE 7 OF 19.15.1 NMAC; RULES 101 AND 102 OF 19.15.3 NMAC;
RULES 201 AND 203 OF 19.15.4 NMAC; RULE 701 OF 19.15.9 NMAC; RULES
1101, 1103, 1104 AND 1115 OF 19.15.13 NMAC; AND THE ADOPTION OF
RULES 40 AND 41 OF 19.15.1 NMAC; RULE 100 OF 19.15.3 NMAC; AND RULE
1227 OF 19.15.14 NMAC.**

ORDER OF THE OIL CONSERVATION COMMISSION

BY THE COMMISSION:

THIS MATTER came before the Oil Conservation Commission ("the Commission") for consideration at the Commission's regular meeting starting on October 13 and continuing on October 14 and 17, 2005; and the Commission, having carefully considered the evidence, the pleadings, comments and other materials submitted in support of and in opposition to the proposal, now, on this 10th day of November, 2005,

FINDS THAT:

1. Sections 70-2-11 and 70-2-12(B) NMSA 1978 grant the Oil Conservation Division (Division) authority to implement regulations to carry out the purposes of the Oil and Gas Act, Chapter 70, Article 2 NMSA 1978 (the Act). Section 70-2-6(B) NMSA 1978 provides that the Oil Conservation Commission (Commission) shall have concurrent jurisdiction or authority with the Division to the extent necessary for the Commission to perform its duties. Generally, the Commission adopts rules, the Division implements those rules and the Commission hears any final administrative adjudicatory proceedings.

2. This is a rulemaking proceeding the Division initiated on its own motion for the purpose of establishing enforcement and compliance rules.

3. Proper notices have been given of this proceeding and of the public hearing hereof, and the Commission has jurisdiction of the subject matter.

4. Notice requirements were met and sworn testimony and exhibits were presented to the Commission on October 13 and 14, 2005. At the conclusion of the hearing the Commission deliberated in open session by reviewing the proposed rules and on October 17, 2005 voted to accept the rules with certain changes by the Commission. The following Statement of Reasons indicates the Commission's analysis of certain key provisions and of the entire proposal. Additional reasons are included in the hearing transcript.

Statement of Reasons

5. The rule changes are designed to improve the Division's ability, given its limited resources, to enforce and ensure compliance with the Act, and the rules and orders issued pursuant to the Act, including those requiring operators to place inactive wells in approved temporary abandonment status or plug them.

6. The Act grants the Division "jurisdiction, authority and control of and over all persons, matters or things necessary or proper to enforce effectively the provisions of this act or any other law of this state relating to the conservation of oil or gas ...". Section 70-2-6(A) NMSA 1978.

7. "Apart from any authority, express or implied, elsewhere given to or existing in the oil conservation division by virtue of the Oil and Gas Act or the statutes of this state, the division is authorized to make rules, regulations and orders for the purpose and with respect to" its enumerated powers. Section 70-2-12(B) NMSA 1978.

8. These enumerated powers include the Division's environmental duties, which include regulating the disposition of produced water, regulating the disposition of non-domestic wastes to protect public health and the environment and requiring operators to provide financial assurance for the plugging of wells. Section 70-2-12(B)(1), (21) and (22) and Section 70-2-14 NMSA 1978.

9. Compliance is the cornerstone of the enforcement program established in 19.15.1.40 NMAC (which the Division proposed as 19.15.1.37 NMAC and the Commission has renumbered as 19.15.1.40 NMAC in order to reserve sections for new pooling rules). That program allows the Division to deny privileges to well operators who are not in compliance with Division rules. Other states have adopted similar provisions. Texas and Arizona require operators to have a "certificate of compliance" in

order to produce or connect with a pipeline or carrier. See Tex. Res. Code Ann. Tit, 3 Sections 85-151, 85.162 and 85.164 and Ariz. Rev. Stat. Section 27-509.

10. This enforcement ability is necessary given that currently the Division must rely on bringing administrative enforcement actions for compliance, such as orders requiring plugging and abandonment, or to assess penalties and must bring court cases to collect any penalties. These types of enforcement actions are time consuming and, given the limited nature of the Division's resources, not effective as the Division lacks the staff required to bring the hundreds of enforcement cases that would be needed to reduce the thousands of wells that are currently out of compliance with 19.15.4.201 NMAC.

11. Despite the Division's efforts to obtain voluntary compliance by notifying operators in 2000 that they had wells out of compliance and directing that they bring the wells into compliance with 19.15.4.201 NMAC, as of October 2005 there were still over 2800 wells out of compliance with 19.15.4.201 NMAC.

12. Subsection A of 19.15.1.40 NMAC, which defines compliance for purposes of obtaining (a) permits to drill, deepen or plug back; (b) a permit for injection, (c) assignment of an allowable or (d) change of operator, as an operator who is in compliance with the financial assurance requirements of 19,15.3.101 NMAC; is not subject to an order issued after notice and hearing, finding the operator to be in violation of an order requiring corrective action; does not have a penalty assessment unpaid more than 70 days after issuance of the order assessing the penalty; and has no more than a certain number of wells out of compliance (depending on the total number of wells the operator has) with 19.15.4.201 NMAC should be adopted.

13. By allowing the Division to deny operators permits to drill, deepen or plug back or a request for change of operator and requiring the Division to deny permits for injection or requests for assignment of allowables or authorization to transport when operators are not in compliance with Subsection A of 19.15.1.40 NMAC, operators are provided an incentive to comply with the Act, Division rules and Division and Commission orders, rather than the Division having to bring enforcement actions to obtain compliance. It also reduces the State of New Mexico's risk of having to plug abandoned wells.

14. Subsection C of 19.15.1.40 NMAC requires the Division to post on its website the status of operators' financial assurance.

15. Subsection D of 19.15.1.40 NMAC requires the Division to 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.

16. Subsection E of 19.15.1.40 NMAC requires the Division to make available on its website penalty assessments and the date the operator paid them.

17. Subsection F of 19.15.1.40 NMAC requires the Division to make available on its website, and update daily, an "inactive well list", listing each well, by operator, that according to Division records does not have its well bore plugged in accordance with 19.15.4.202 NMAC; is not in approved temporary abandonment status in accordance with 19.15.4.203 NMAC; and is not subject to an agreed compliance order. For purposes of 19.15.1.40 NMAC, the listing of a well on the inactive well list for more than one year plus 90 days creates a rebuttable presumption that the well is out of compliance with 19.15.4.201 NMAC.

18. In addition, to the availability of the inactive well list on the Division's website, Subsection B of 19.15.1.40 requires the Division to notify an operator when, according to Division records, a well on the inactive well list shows no production or injection for the past 12 months by sending a letter by first class mail to the operator. The Division shall send such notices on a monthly basis.

19. Therefore, operators have the information needed to determine whether they are in compliance with Subsection A of 19.15.1.40 NMAC readily available to consult and review on a daily basis and to notify the Division of any errors they believe exist in the Division's records. However, the effective date of 19.15.1.40 NMAC should be delayed 60 days from the date of publication in the New Mexico Register to allow operators to submit updated addresses as required by 19.15.3.100 NMAC and to provide operators an opportunity to bring wells into compliance with 19.15.4.201 NMAC or address concerns about information shown on the inactive well list.

20. New rule 19.15.1.41 NMAC (proposed as 19.15.1.38 NMAC), which requires any person who conducts an activity pursuant to a permit, administrative order or other written authorization or approval from the Division to comply with the document's terms, should be adopted. The violation of a permit, administrative order or other written directive from the Division is a violation of this rule and the violator may be subject to penalties. Not all Division directives take the form of an order issued after notice and hearing. Permits, administrative orders, approvals of abatement plans and remediation plans, for example, may be issued administratively, without hearing. Currently, the Division believes it can only enforce these directives by reference to a violation of

another order or a rule. 19.15.1.41 NMAC clarifies that violation of the Division's written directives is itself a violation.

21. New rule 19.15.3.100 NMAC should be adopted to place the requirements for registration, change of operator and change of name in one rule. Most of the provisions in the rule reflect current Division practice, but do not appear in existing rules. The current rules do not address operator registration. Without operator registration, it is often difficult for the Division staff to determine if they have the operator's most current address. The proposed rule allows the Division to deny registration or change of operator if the operator is not in compliance with Subsection A of 19.15.1.40 NMAC. Subsection A of 19.15.3.100 NMAC requires every well operator in New Mexico to register with the Division. Subsection C requires operators to keep the Division informed of their current address. This will allow Division staff to use the most current address that the operator has provided when giving the operator notice of compliance actions.

22. Subsection E of 19.15.3.100 NMAC, which contains the provision allowing the Division to deny a change of operator if the new operator is not in compliance with Subsection A of 19.15.1.40 NMAC, should be adopted to prevent operators who have not complied with the Act, Division rules or Division and Commission orders in the past from acquiring new wells. The prior operator's lack of compliance with Subsection A of 19.15.1.40 NMAC will not affect the transfer because the Commission and Division wish to encourage responsible operators to take over operations. In addition, if a new operator is acquiring wells, facilities or sites subject to a compliance order, the Division may require the new operator to enter into an agreed compliance order before the Division approves the changes. The purpose of this rule is to ensure that the Division has the ability to prevent operators that are not in compliance with Division rules and Division and commission orders from drilling or obtaining new wells.

23. 19.15.3.101 NMAC, which requires wells in temporary abandonment status for more than two years to be covered by a single-well financial assurance and increases the amount of one-well financial assurances to match the actual costs of well plugging by the state, should be adopted. Financial assurance requirements should reflect actual costs, so that the state does not have to bear the cost of plugging the wells. Section 70-2-14 NMSA 1978 requires any operator to furnish financial assurance for plugging and abandonment. This includes the option for a \$50,000 blanket financial assurance and one-well plugging financial assurance in an amount sufficient to reasonably pay the cost of plugging the wells that the financial assurance covers. In establishing these amounts the Division is required to consider the depth of the wells, the length of time since the

well has produced, the cost of plugging similar wells and other relevant factors. See Section 70-2-14 NMSA 1978.

24. 19.15.3.102 NMAC should be amended to provide that the Division may deny a permit to drill, deepen or plug back if the applicant is not in compliance with Subsection A of 19.15.1.40 NMAC. The Division shall consider which of the factors in Subsection A of 19.15.1.40 NMAC cause the operator to be out of compliance with Subsection A of 19.15.1.40 NMAC. If the non-compliance is caused by the operator being subject to a division or commission order finding the operator to be in violation of an order requiring corrective action, the Division shall consider the nature of the underlying violation and the operator's efforts to achieve compliance. If the non-compliance is caused by the operator having more than the allowed number of wells not in compliance with 19.15.4.201 NMAC, the Division Director 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 well into compliance.

25. 19.15.4.203 NMAC should be amended to reflect the new definition, approved temporary abandonment. In addition, the proposed amendments to 19.15.4.203 NMAC, which clarify that mechanical and physical integrity testing includes a well's casing and cementing and that pressure tests shall test surface pressure over a 30 minute period, and describe the methods and procedures for internal and external casing and cementing tests should be adopted. This will ensure that tests are conducted in accordance with approved methods and that the operators have sufficient information to know which methods and procedures they may use to conduct the tests. Ensuring that wells are mechanically and physically sound before they are placed in approved temporary abandonment status is necessary because unsound casing and cementing can allow fluids in other strata to contaminate fresh water. Unlike producing wells, temporarily abandoned wells do not have activity that operators monitor regularly. Therefore, a casing failure in a temporarily abandoned well might not be detected until contamination occurs.

26. 19.15.9.701 NMAC should be amended to prohibit the Division from granting a permit for injection to an operator who is not in compliance with 19.15.1.40 NMAC. The operator may challenge a denial through the hearing process. The rule will also allow the Division to revoke an existing permit after notice and hearing if the operator is not in compliance with 19.15.1.40 NMAC. The purpose of this rule is to prevent operators that are out of compliance with Division rules and Division or Commission orders from obtaining a permit to inject produced water and to allow the Division to revoke an existing permit. This ability is important because injection wells if not properly maintained can contaminate fresh water.

27. 19.15.13.1101 NMAC should be amended to require operators to provide notice to municipal governments when they will drill a well within municipal boundaries and to notify the other operators when they plan to drill a well in a quarter-quarter section where a well already exists.

28. 19.15.13.1103 NMAC should be amended to clarify that restoration and remediation is part of plugging operations.

29. 19.15.13.1104 NMAC should be amended to clarify that the Division may assign an allowable or issue an authorization to transport only if the operator is in compliance with Subsection A of 19.15.1.40 NMAC. The current rule states that the Division shall not assign an allowable or issue an authorization to transport if a well is not in full compliance with the rules. This current language is broad but vague. The purpose of this rule is to prevent operators who are not in compliance with Division rules or Division or Commission orders with regard to their current operations from obtaining new allowables or authorization to transport. This provides an incentive for operators to comply and prevents additional non-compliance that could result from new operations. The amended language clearly advises operators what the compliance standards are.

30. 19.15.13.1115 NMAC, which instructs operators to file their monthly reports using the Division's web-based online application, unless they obtain an exemption from the requirement, should be adopted. The majority of operators already submit their reports electronically, either on-line or on a computer disk. With online reporting, operators are instantly notified if there is an error in their reports. It also keeps Division staff from having to spend time downloading reports operators have submitted on computer disks or manually entering information from paper reports. In addition, the amendments change the procedure for enforcing the monthly report requirements. The Division must notify the operator within 60 days if the operator has not filed an acceptable report. If the operator does not file an acceptable report or request a hearing within 120 days of the original due date, the Division may cancel the operator's authority to transport or inject. This replaces the cumbersome current rule that requires the Division to notify the operator of a reporting problem four times before the Division can take enforcement action.

31. The Division does not currently have procedural rules specific to compliance proceedings. The Division's current procedural rules, 19.15.14.1200 through 19.15.14.1226 NMAC, set out requirements for rulemaking and adjudicatory proceedings, but do not specifically address compliance cases.

32. New rule 19.15.14.1227 NMAC should be adopted as it sets out procedures unique to compliance proceedings, including how a case is initiated, the application's contents and the notice requirements. Subsection A of 19.15.14.1227 provides that the rules contained in 19.15.14.1201 to 19.15.14.1226 NMAC, which are applicable to adjudicatory proceedings, will apply to compliance proceedings unless otherwise specified in 19.15.14.1227 NMAC. This prevents unnecessary duplication. Subsection B of 19.15.14.1227 NMAC defines a compliance proceeding as an adjudicatory proceeding the Division brings seeking an order imposing sanctions for violation of the Act or a rule or order issued pursuant to the Act. These sanctions include compliance; civil penalties; corrective action; well plugging; denial, cancellation or suspension of a permit or an authorization to transport; and shutting in wells.

33. NMSA 1978, Section 70-2-31(A) gives the Division and the Commission authority to assess penalties administratively, and recover penalties through a civil lawsuit. The recovery provision is necessary because the Division and Commission do not have the power to collect a penalty assessment from an operator who refuses to pay the penalty except by obtaining a district court order. New rule 19.15.14.1227 NMAC recognizes that the Division may seek administrative penalties in a compliance proceeding.

34. The Division grants certain privileges to operators through permit approvals. Therefore, in a compliance proceeding, the Division may seek an order suspending or revoking privileges previously granted. See *Cerrillos Gravel Products, Inc. v. Board of County Commissioners*, 2005-NMAC-023 ¶ 16 ("We agree that the power to revoke a permit is necessarily implied from the power to approve a permit.")

35. New rule 19.15.14.1227 NMAC also recognizes the validity of agreed compliance orders entered into by the Division and the entity whose compliance the Division seeks. Such orders may be entered into whether or not the Division has filed an application for a compliance proceeding. If the Division Director and the entity against whom the Division seeks a compliance order enter into an agreed compliance order after the Division files an application for a compliance proceeding, the order may resolve all or some of the allegations in the Division's application.

36. The proposed definition of the term "knowingly and willfully" should be adopted. Under the Oil and Gas Act, any person who "knowingly and willfully" violates any provision of the Act, or any rule or order issued pursuant to the Act is subject to a civil penalty. See NMSA 1978, Section 70-2-31(A). Current Division rules do not define "knowingly and willfully". According to law dictionaries and case law, the definition of the terms "knowingly" and "willfully" often depends on the context and

they can carry different meaning, depending on whether they appear in a civil or criminal statute. The proposed definition is based on the definition the United States Department of the Interior, Bureau of Land Management applies in matters that involve the use, occupancy and development of oil and gas on public lands through leases, permits and easements. See 43 C.F.R. Section 2920.0-5(m). It is important when enforcing penalty rules that it is clear what "knowingly and willfully" means.

37. The Division's proposed definition of "knowingly and willfully" should be adopted as it is based upon a regulation that a federal agency with responsibilities similar to the Division's uses to regulate oil and gas activities. In addition, the alternative definition proposed by some participants would require a person subject to an enforcement action to actually know, rather than be presumed to know the rules, and to be affirmatively aware of the actions creating the violation. This would allow an operator to simply profess and maintain ignorance of the rule and to avoid inspecting sites.

38. Subsection T of 19.15.1.7 NMAC should be amended to change the definition of "temporary abandonment" to be the status of a well that is inactive. This is necessary because the Act provides that the Division may require a one-well financial assurance on any well "that has been held in temporary abandoned status" for more than two years. See NMSA 1978, Section 70-2-14(A). The Division's current definition of temporary abandonment refers to a well that has been approved for temporary abandonment status in accordance with Division rules. This definition causes an anomaly that the New Mexico Legislature could not have intended. The Division may require a one-well financial assurance on a well that is in compliance with Division rules, but may not require one on an inactive well that is not in compliance with Division rules.

39. Subsection A of 19.15.1.7 NMAC should be amended to include the definition of "approved temporary abandonment", which refers to a well that is inactive and in compliance with Division rules.

40. The main areas of controversy concerned the inactive well list the Division proposed in 19.15.1.37 NMAC (which the Commission has renumbered as 19.15.1.40 NMAC in order to reserve sections for new pooling rules) and the lack of notice provided in 19.15.1.40 NMAC; the definition of "knowingly and willfully" and the proposed requirement, which the Commission decided not to adopt, for requiring operators to have financial assurance on all wells in the state, not just those on privately owned or state-owned lands.

41. Some participants at the hearing expressed concern that Subsection A of 19.15.1.40 NMAC limited the number of wells that could be out of compliance with 19.15.4.201 NMAC to a maximum of five wells for any operator that operates more than 100 wells, which could be difficult for an operator with thousands of wells to meet, and that the Division did not mail notice to an operator when a well had been on the inactive well list, although a list of inactive wells, which is updated daily, is always available on the Division's website. These participants proposed that the number of wells that could be out of compliance be stated as a percentage rather than an absolute number. The participants suggested a limit of 5% of the total wells an operator owns.

42. The proposed maximum limit of five wells may present some difficulty for operators with a large number of wells. However, any well on the inactive well list for more than one year plus 90 days is out of compliance with 19.15.4.201 NMAC and represents a failure of enforcement and a potential threat to ground water. The proposed 5% total would allow a large number of wells to be out of compliance with 19.15.4.201 NMAC. For example, if an operator had 2000 wells, it could have 100 wells out of compliance.

43. Inactive wells present a risk to ground water. Therefore, the number of wells allowed to be out of compliance with 19.15.4.201 NMAC for purposes of Subsection A of 19.15.1.40 NMAC should be limited in order to minimize those risks, regardless of the number of wells an operator has. In addition, using a percentage would create a situation where the Division and the operator disagree about the total number of wells an operator has at any given time because the number of wells and operator is operating may change daily.

44. Therefore, in order to allow larger operators some consideration, but not allow large number of inactive wells to remain out of compliance with 19.15.4.201 NMAC, the limits on the number of wells should be revised to allow operators of 100 or wells or less to have two wells or 50% of the wells, whichever is less, the operator has out of compliance; operators of 101 to 500 wells, five wells out of compliance; operators of 501 to 1000 wells, seven wells out of compliance; and operators of more than 1000 wells, 10 wells out of compliance. By limiting the number of wells an operator that has 100 wells or less may have out of compliance with 19.15.4.201 NMAC to two wells or 50% of the wells an operator has, whichever is less, it prevents a situation where an operator has two or three wells and the majority of them are out of compliance with 19.15.4.201 NMAC.

45. The Division generates the inactive well list by the entering information from the reports operators provide to the Division. While the inactive well list is available on the Division website for operators to check the status of their wells on a daily basis, it would be helpful for the Division to provide notice, by regular mail, to operators that have wells on the inactive well list that have not reported production or injection for more than 12 months. This will provide operators written notice that a well will be out of compliance with 19.15.4.201 NMAC in 90 days if the operator fails to take action to bring the well into compliance or demonstrate to the Division that the well is actually in compliance.

46. 19.15.3.101 NMAC should not be amended at this time to require financial assurance for wells on federally and tribally owned lands within New Mexico. The Bureau of Land Management currently requires bonds and the Division would need federal or tribal approval to use a bond on federal or tribal lands even if the Division required it. Therefore, the proposed change should not be adopted and the Division should work with the Bureau of Land Management to see if an agreement can be reached for the Bureau of Land Management to reimburse the Division for plugging it does on federal or tribal lands pursuant to a request from the Bureau of Land Management.

47. For the reasons stated above and in the transcript, the Commission concludes that it should adopt the proposed amendments to Rules 7 [Sections A, K and T of 19.15.1.7 NMAC], 101 [19.15.3.101 NMAC], 102 [19.15.3.102 NMAC], 201 [19.15.4.201 NMAC], 203 [19.15.4.203 NMAC], 701 [19.15.9.701 NMAC], 1101 [19.15.13.1101 NMAC], 1103 [19.15.13.1103], 1104 [19.15.13.1104 NMAC], and 1115 [19.15.13.1115 NMAC] and new Rules 40 [19.15.1.40 NMAC], 41 [19.15.1.41 NMAC], 100 [19.15.3.100 NMAC], and 1227 [19.15.14.1227 NMAC] in the form attached to this Order as Exhibit A.

IT IS THEREFORE ORDERED:

1. The Commission hereby adopts the amendments to Rules 7 [Sections A, K and T of 19.15.1.7 NMAC], 101 [19.15.3.101 NMAC], 102 [19.15.3.102 NMAC], 201 [19.15.4.201 NMAC], 203 [19.15.4.203 NMAC], 701 [19.15.9.701 NMAC], 1101 [19.15.13.1101 NMAC], 1103 [19.15.13.1103], 1104 [19.15.13.1104 NMAC], and 1115 [19.15.13.1115 NMAC] and new Rules 40 [19.15.1.40 NMAC], 41 [19.15.1.41 NMAC], 100 [19.15.3.100 NMAC], and 1227 [19.15.14.1227 NMAC] of the Oil Conservation Division rules shown in Exhibit A to this Order, which shall be effective as of the date of publication thereof in the New Mexico Register except Rule 40 [19.15.1.40 NMAC] which shall be effective 60 days after such publication.

2. Oil Conservation Division staff is instructed to secure prompt publication of the referenced rule amendments in the New Mexico Register.

3. The Commission retains jurisdiction of this matter for entry of such further orders as may be necessary.

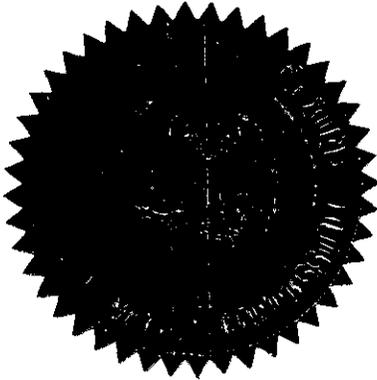
DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**


MARK E. FESMIRE, P.E., CHAIR


JAMI BAILEY, CPG, MEMBER


WILLIAM OLSON, MEMBER



SEAL

EXHIBIT A
CASE NO. 13564
ORDER NO. R-12452

19.15.1.7 **DEFINITIONS:**

A. Definitions beginning with the letter "A".

- (1) Abate or abatement shall mean the investigation, containment, removal or other mitigation of water pollution.
- (2) Abatement plan shall mean a description of any operational, monitoring, contingency and closure requirements and conditions for the prevention, investigation and abatement of water pollution.
- (3) Adjoining spacing units are those existing or prospective spacing units in the same pool~~[(s)]~~ that are touching at a point or line on the spacing unit that is the subject of the application.
- (4) Adjusted allowable shall mean the allowable production a well or proration unit receives after all adjustments are made.
- (5) Allocated pool is one in which the total oil or natural gas production is restricted and allocated to various wells therein in accordance with proration schedules.
- (6) Allowable production shall mean that number of barrels of oil or standard cubic feet of natural gas authorized by the division to be produced from an allocated pool.

~~(7)~~ Approved temporary abandonment shall be the status of a well that is inactive, has been approved in accordance with 19.15.4.203 NMAC and is in compliance with 19.15.4.203 NMAC.

~~(7)~~(8) Aquifer shall mean 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.

K. ~~[Reserved.]~~Definition beginning with the letter "K". Knowingly and willfully, for the purpose of assessing civil penalties, shall mean 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 the law, rules, orders or permits. A consistent pattern of 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.

T. Definitions beginning with the letter "T".

(1) Tank bottoms shall mean that accumulation of hydrocarbon material and other substances ~~[which] that~~ settles naturally below crude oil in tanks and receptacles that are used in handling and storing of crude oil, and which accumulation contains in excess of ~~two~~~~[(2%)]~~ percent of basic sediment and water; 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 thereto.

(2) Temporary abandonment shall be the status of a well ~~[which] that~~ is inactive ~~[and has been approved for temporary abandonment in accordance with the provisions of these rules].~~

(3) Top unit allowable for gas shall mean the maximum number of cubic feet of natural gas, for the proration period, allocated to a gas producing unit in an allocated gas pool,

(4) Top unit allowable for oil shall mean the maximum number of barrels for oil daily for each calendar month allocated on a proration unit basis in a pool to non-marginal units. The top unit allowable for a pool shall be determined by multiplying the applicable depth bracket allowable by the market demand percentage factor in effect.

(5) Treating plant shall mean any 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 any other waste oil marketable.

(6) Tubingless completion shall mean a well completion in which the production string of casing has an outside diameter of 2.875 inches or less.

19.15.1.40 COMPLIANCE:

 A. A well operator is in compliance with Subsection A of 19.15.1.40 NMAC if the operator:

 (1) currently meets the financial assurance requirements of 19.15.3.101 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 19.15.4.201 NMAC that are not subject to an agreed compliance order setting a schedule for bringing the wells into compliance with 19.15.4.201 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 from 101 to 500 wells;

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

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

 B. The division shall notify an operator when, according to records on file with the division, a well on the inactive well list described in Subsection F of 19.15.1.40 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 19.15.3.100 NMAC. The division shall send out these notices on a monthly basis.

 C. Compliance with financial assurance requirements. The division shall make available on its website and update weekly the status of operators' financial assurance required by 19.15.3.101 NMAC, 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 19.15.1.40 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 19.15.1.40 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 wellbore plugged in accordance with 19.15.4.202 NMAC;

 (b) is not in approved temporary abandonment in accordance with 19.15.4.203

NMAC; and

(c) is not subject to an agreed compliance order setting a schedule for bringing the well into compliance with 19.15.4.201 NMAC and imposing sanctions if the operator does not meet the schedule.

(2) For purposes of 19.15.1.40 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 19.15.4.201 NMAC.

19.15.1.41 **ENFORCEABILITY OF PERMITS AND ADMINISTRATIVE ORDERS:** Any person who conducts any 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 such permit, administrative order, authorization or approval.

19.15.3.100 OPERATOR REGISTRATION: CHANGE OF OPERATOR: CHANGE OF NAME:

A. Prior to commencing operations, every 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 required by 19.15.3.101 NMAC.

B. The division may deny registration as a well operator if:

(1) the applicant is not in compliance with Subsection A of 19.15.1.40 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 19.15.1.40 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 19.15.1.40 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. Operators shall keep the division informed of their 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.

E. Change of operator.

(1) 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.

(2) 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 may not commence operations until the division approves the application for change of operator.

(3) The division director or his designee may deny a change of operator if:

(a) the new operator is not in compliance with Subsection A of 19.15.1.40 NMAC; or

(b) the new operator is acquiring wells, facilities or sites subject to a compliance order requiring remediation or abatement of contamination, or compliance with 19.15.3.201 NMAC, and the new operator has not entered into an agreed compliance order setting a schedule for compliance with the existing order.

(4) In determining whether to grant or deny a change of operator when the new operator is not in compliance with Subsection A of 19.15.1.40 NMAC, the division director or his designee shall consider which of the factors in Subsection A of 19.15.1.40 NMAC cause the operator to be out of compliance with Subsection A of 19.15.1.40 NMAC. If the non-compliance is caused by the operator being subject to a division or commission order finding the operator to be in violation of an order requiring corrective action, the division director or his designee shall consider the nature of the underlying violation and the operator's efforts to achieve compliance. If the non-compliance is caused by the operator having more than the allowed number of wells not in compliance with 19.15.4.201 NMAC, the division director or his 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.

F. Change of name.

(1) 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.

(2) 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.

G. Examples of change of operator and change of name.

(1) 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.

(2) 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.

(3) 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.

(4) 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.

19.15.3.101 [PLUGGING BOND] FINANCIAL ASSURANCE FOR WELL PLUGGING:

A. Any person, firm, corporation[,] or association who has drilled or acquired, is drilling[,] or proposes to drill or acquire any oil, gas[,] or injection or other service well on privately owned or state owned lands within this state shall furnish ~~[to the division, and obtain approval thereof, a surety bond]~~ 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[, in a form prescribed by the ~~division, and]~~ conditioned that the well be plugged and abandoned and the location restored and remediated in compliance with ~~[the rules and regulations of the]~~ division rules. ~~[Such bond may be a one-well plugging bond or a blanket plugging bond. All bonds shall be executed by a responsible surety company authorized to do business in the State of New Mexico.]~~

B. ~~_____~~ 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. Any well that has been in temporary abandonment for more than two years must be covered 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.

~~[B]~~ C. Amounts.

(1) ~~[Blanket plugging bonds]~~ A blanket financial assurance shall be in the amount of ~~[fifty thousand dollars (\$50,000)]~~ conditioned as above provided, covering all oil, gas[,] or service wells drilled, acquired or operated in this state by the principal on the bond.

~~[_____ C. _____ One-well plugging bonds]~~ (2) A one-well financial assurance shall be in the amounts stated below in accordance with the well's depth and location [of the well].

~~[(1)]~~ (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.

<u>Projected Depth of Proposed Well or Actual Depth of Existing Well</u>	<u>Amount of Bond</u>
<u>Less than 5,000 feet</u>	<u>\$ 5,000</u>
<u>5,000 feet to 10,000 feet</u>	<u>\$ 7,500</u>
<u>More than 10,000 feet</u>	<u>\$ 10,000</u>

~~[(2)]~~ (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.

<u>Projected Depth of Proposed Well or Actual Depth of Existing Well</u>	<u>Amount of Bond</u>
<u>Less than 5,000 feet</u>	<u>\$ 7,500</u>
<u>5,000 feet to 10,000 feet</u>	<u>\$ 10,000</u>
<u>More than 10,000 feet</u>	<u>\$ 12,500</u>

~~[_____ D.]~~ (3) The appropriate division district office may approve revised plans for an actively drilling well ~~[may be approved by the appropriate District Office of the division]~~ for drilling as much as 500 feet deeper than the [normal maximum] depth ~~[allowed]~~ stated on the well's [bond] financial assurance. Any well to be drilled more than 500 feet deeper than the [normal] depth bracket must depth stated on the well's financial assurance shall be covered by a new [bond] financial assurance in the amount prescribed for the ~~[deeper depth bracket]~~ new projected depth.

~~[_____ E.]~~ (4) The [bond requirement] amount of the one-well financial assurance required for any intentionally deviated well shall be determined by the well's measured depth, and not its true vertical depth.

~~[_____ F.]~~ A cash bond may be accepted by the division pursuant to the conditions set forth hereinafter. Cash representing the full amount of the bond shall be deposited by the operator in an account in a federally insured financial institution located within the State of New Mexico, such account to be held

in trust for the division. Both one well and blanket cash bonds shall be in the amount specified for surety bonds. A document, approved by the division, evidencing the terms and conditions of the cash bond shall be executed by an authorized representative of the operator and the depository institution and filed with the division prior to the effective date of the bond. No cash bond will be authorized by the Director and no wells may be drilled or acquired under a blanket cash bond unless the operator/applicant is in good standing with the division. If the financial status or reliability of the applicant is unknown to the Director he may require the filing of a financial statement or such other information as may be necessary to evaluate the ability of the applicant/operator to fulfill the conditions of the bond.

G. From time to time any accrued interest over and above the face amount of the bond may be paid to the operator. Upon satisfactory plugging by the operator of any well(s) covered by a cash bond, the Director shall issue an order authorizing the release of said bond.

H. Any bond required by Section 101 of 19.15.3 NMAC is a plugging bond, not a drilling bond, and shall endure until any well drilled or acquired under such bond has been plugged and abandoned and such plugging and abandonment has been approved by the division, or has been covered by another bond approved by the division.

I. Transfer of a property does not of itself release a bond. In the event of transfer of ownership of a well, the appropriate form, C-103 or C-104, properly executed, shall be filed with the District Office of the division in accordance with Rule 1103 or Rule 1104 by the new owner of the well. The District Office may approve the transfer providing that a new one well bond covering the well or a blanket bond in the name of the new owner has been approved by the Santa Fe office of the division.

J. Upon approval of the bond and the Form C-103 or C-104, the transferor is released of plugging responsibility for the well, and upon request, the original bond will be released. No blanket bond will be released, however, until all wells covered by the bond have been plugged and abandoned or transferred in accordance with the provisions of Section 101 of 19.15.3 NMAC.

K. All bonds shall be filed with the Santa Fe office of the division, and approval of such bonds, as well as releases thereof, obtained from said office.

L. All bonds required by these rules shall be conditioned for well plugging and location cleanup only, and not to secure payment for damages to livestock, range, water, crops, tangible improvements, nor any other purpose.

M. Upon failure of the operator to properly plug and abandon the well(s) covered by a bond, the division shall give notice to the operator and surety, if applicable, and hold a hearing as to whether the well(s) should be plugged in accordance with a division approved plugging program. If, at the hearing, it is determined that the operator has failed to plug the well as provided for in the bond conditions and division rules, the Division director shall issue an order directing the well(s) to be plugged in a time certain. Such an order may also direct the forfeiture of the bond upon the failure or refusal of the operator, surety, or other responsible party to properly plug the well(s). If the proceeds of the bond(s) are not sufficient to cover all of the costs incurred by the division in plugging the well(s) covered by the bond, the division shall take such legal action as is necessary to recover such additional costs. Any monies recovered through bond forfeiture or legal actions shall be placed in the Oil & Gas Reclamation Fund.]

D. General requirements for financial assurance.

(1) 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.

(2) All financial assurance documents shall be on forms prescribed by or otherwise acceptable to the division.

(3) 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.

(4) 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.

E. Additional requirements for cash and surety bonds.

(1) Surety bonds shall be issued by a reputable corporate surety authorized to do business in the state of New Mexico.

(2) 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 of New Mexico, 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 division director he or she 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.

F. Additional requirements for cash and surety bonds.

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

(2) 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.

(3) 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.

(4) 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.

G. Release of financial assurance.

(1) 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 19.15.4.202 NMAC, or have been covered by another financial assurance the division has approved.

(2) 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.

H. Forfeiture of financial assurance.

(1) Upon the operator's failure to properly plug and abandon and restore and remediate the location of any 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 division 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.

(2) 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.

(3) 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).

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

I. Effective dates.

(1) 19.15.3.101 NMAC is effective immediately as to all wells drilled or acquired after its

effective date.

(2) As to all other wells, 19.15.3.101 NMAC is effective January 1, 2008.

19.15.3.102 **NOTICE OF INTENTION TO DRILL/PERMIT TO DRILL, DEEPEN OR PLUG BACK:**

~~_____ A. _____ Prior to the commencement of operations, notice shall be delivered to the division of intention to drill any well for oil or gas or fo~~ A
copy of the approved Form C-101 must be kept at the well site during drilling operations.

~~_____ B. _____ No permit shall be approved for the drilling of any well within the corporate limits of any city, town, or village of this state unless notice of intention to drill such well has been given to the duly constituted governing body of such city, town or village or its duly authorized agent. Evidence of such notification shall accompany the application for a permit to drill (Form C-101).~~

~~_____ C. _____ When filing a permit to drill in any quarter-quarter section containing an existing well or wells, the applicant shall concurrently file a plat or other acceptable document locating and identifying such well(s) and a statement that the operator(s) of such well(s) have been furnished a copy of the permit.]~~

~~_____ A. _____ The operator shall 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.~~

~~_____ B. _____ Applicants shall file a complete form C-101, application for permit to drill, deepen or plug back, and complete form C-102, well location and acreage dedication plat, and meet the following requirements, if applicable:~~

~~_____ (1) an applicant for a permit to drill any well within the corporate limits of any city, town or village of this state shall give notice to the duly constituted governing body of such city, town or village or its duly authorized agent and certify on form C-101 that it gave such notice;~~

~~_____ (2) an applicant for a permit to drill in any 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 such 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 such copies;~~

~~_____ (3) 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 Paragraph (2) of Subsection E of 19.15.3.104 NMAC.~~

~~_____ C. _____ The division director or his designee may deny a permit to drill, deepen or plug back if the applicant is not in compliance with Subsection A of 19.15.1.40 NMAC. In determining whether to grant or deny the permit, the division director or his designee shall consider which of the factors in Subsection A of 19.15.1.40 NMAC cause the operator to be out of compliance with Subsection A of 19.15.1.40 NMAC. If the non-compliance is caused by the operator being subject to a division or commission order finding the operator to be in violation of an order requiring corrective action, the division director or his designee shall consider the nature of the underlying violation and the operator's efforts to achieve compliance. If the non-compliance is caused by the operator having more than the allowed number of wells not in compliance with 19.15.4.201 NMAC, the division director or his 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.~~

~~_____ D. _____ The division may impose conditions on an approved permit to drill, deepen or plug back.~~

~~_____ E. _____ The operator shall keep a copy of the approved form C-101 at the well site during drilling operations.~~

19.15.4.201 WELLS TO BE PROPERLY ABANDONED:

A. The operator of any ~~[well drilled for oil, gas or injection; for seismic, core or other exploration, or for a service well;]~~ of the following wells, whether cased or uncased, shall be responsible for the plugging thereof[-]; wells drilled for oil or gas; or service wells including but not limited to seismic, core, exploration or injection wells.

B. A well shall be either properly plugged and abandoned or ~~[temporarily abandoned]~~ placed in approved temporary abandonment in accordance with these rules within [ninety (90)]90 days after:

- (1) a ~~[sixty (60)]60~~ day period following suspension of drilling operations~~[-or];~~;
- (2) a determination that a well is no longer usable for beneficial purposes~~[-];~~ or
- (3) a period of one ~~[(1)]~~ year in which a well has been continuously inactive.

19.15.4.203 APPROVED TEMPORARY ABANDONMENT:

A. ~~[Wells Which May Be Temporarily Abandoned]~~ Approved temporary abandonment. [(1)] The division may ~~[permit any well which is required to be properly abandoned under these rules but which has potential for future beneficial use for enhanced recovery or injection, and any other well for which an operator requests temporary abandonment, to be temporarily abandoned]~~ place any well in approved temporary abandonment for a period of up to five ~~[(5)]~~ years. Prior to the expiration of any approved temporary abandonment the operator shall return the well to beneficial use under a plan ~~[approved by]~~ the division approves, permanently plug and abandon said well and restore and remediate the location or apply for a new approval to temporarily abandon the well.

B. Request for approval and permit.

(1) Any operator seeking approval for approved temporary abandonment shall submit on form C-103, sundry notices and reports on wells, and a notice of intent to ~~[temporarily abandon]~~ seek approved temporary abandonment for the well describing the proposed temporary abandonment procedure to be used. ~~[No]~~ The operator shall not commence any work [shall be commenced] until approved by the division. [and the] The operator shall give 24 hours notice to the appropriate district office of the division before [work actually begins] beginning work.

(2) ~~[No temporary abandonment shall be approved]~~ The division shall not approve temporary abandonment until the operator furnishes evidence demonstrating [unless evidence is furnished to show] that [the casing of such well is] such well's casing and cementing are mechanically and physically sound and in such condition as to prevent:

- (a) damage to the producing zone;
- (b) migration of hydrocarbons or water;
- (c) the contamination of fresh water or other natural resources; and
- (d) the leakage of any substance at the surface.

(3) ~~[If the well fails the mechanical integrity test required herein, the well shall be plugged and abandoned in accordance with these rules or the casing problem corrected and the casing retested within ninety (90) days.]~~ The operator shall demonstrate both internal and external mechanical integrity pursuant to Paragraphs (1), (2) and (3) of Subsection C of 19.15.4.203 NMAC.

(4) Upon successful completion of the work on the temporarily abandoned well, the operator ~~[will]~~ shall submit a request for ~~[Temporary Abandonment]~~ approved temporary abandonment to the appropriate district office on form C-103 together with such other information as is required by ~~[Rule 1103 E.(1)]~~ Subsection E of 19.15.13.1103 NMAC.

(5) ~~[The division may require the operator to post with the division a one well plugging bond for the well in an amount to be determined by the division to be satisfactory to meet the particular requirements of the well.~~

~~----- (6) -----~~ The division shall specify the permit's expiration date [of the permit], which shall be not more than five[-(5)] years from the date of approval.

C. ~~[Tests Required]~~ Demonstrating mechanical integrity.

(1) The division may approve the following methods of demonstrating internal casing integrity [may be approved for ~~temporarily abandoning a well~~] for wells to be placed in approved temporary abandonment:

(a) the operator may set a cast iron bridge plug [~~will be set within one hundred (100)]~~ within 100 feet of uppermost perforations or production casing shoe, load ~~[and]~~ the casing ~~[loaded]~~ with inert fluid and pressure ~~[tested]~~ test to 500 pounds per square inch surface pressure with a pressure drop of not more than 10[%] percent ~~[for thirty (30) minutes]~~ over a 30 minute period; [ef]

(b) the operator may run a retrievable bridge plug or packer [~~will be run]~~ to within ~~[one hundred (100)]~~ 100 feet of uppermost perforations or production casing shoe, and test the well ~~[tested]~~ to 500 pounds per square inch surface pressure for ~~[thirty (30) minutes]~~ 30 minutes with a pressure drop of not greater than 10[%] percent ~~[for thirty (30) minutes]~~ over a 30 minute period; or

~~[-----]~~ (c) ~~for a gas well in southeast New Mexico completed above the San Andres formation, if the operator can demonstrate that the fluid level is below the base of the salt and that a Bradenhead test shows no casing leaks, the division may exempt the well from the requirement for a bridge plug or packer; or~~

~~[-----]~~ (d) ~~a casing inspection log confirming the mechanical integrity of the production casing may be submitted.~~

(c) the operator may demonstrate that the well has been completed for less than five years and has not been connected to a pipeline.

(2) [Any such test which is submitted ~~must have been conducted within the previous twelve (12) months.~~] During the testing described in Subparagraphs (a) and (b) of Paragraph (1) of Subsection C of 19.15.4.203 NMAC the operator shall:

~~[-----]~~ (a) open all casing valves during the internal pressure tests and report any flow or pressure change occurring immediately before, during or immediately after the 30 minute pressure test;

~~[-----]~~ (b) top off the casing with inert fluid prior to leaving the location;

~~[-----]~~ (c) report any flow during the test in Subparagraphs (a) and (b) of Paragraph (1) of Subsection C of 19.15.4.203 NMAC to the division district office prior to completion of the temporary abandonment operations; the division may require remediation of the flow prior to approving temporary abandonment of the well.

~~[-----]~~ (3) An operator may use any method approved by the United States environmental protection agency in 40 C.F.R. 146.8(c) to demonstrate external casing and cement integrity for wells to be placed in approved temporary abandonment.

~~[-----]~~ (2) ~~Any such test which is submitted must have been conducted within the previous twelve (12) months.~~

~~[-----]~~ (4) The division shall not accept mechanical integrity tests or logs conducted more than 12 months prior to submittal.

~~[-----]~~ (5) 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. All witnesses to the test shall sign the chart. The operator shall submit the chart with form C-103 requesting approved temporary abandonment.

~~[-----]~~ (6) The division may approve other [casing tests submitted on Form C-103 on an individual basis] testing methods the operator proposes if the operator demonstrates that the test will satisfy the requirements of Paragraph (2) of Subsection B of 19.15.14.203 NMAC.

19.15.9.701 **INJECTION OF FLUIDS INTO RESERVOIRS:**

A. Permit for injection required. The injection of gas, liquefied petroleum gas, air, water[;] or any other medium into any reservoir for the purpose of maintaining reservoir pressure or for the purpose of secondary or other enhanced recovery or for storage or the injection of water into any formation for the purpose of water disposal shall be permitted only by order of the division after notice and hearing, unless otherwise provided herein. The division shall grant a permit for injection under 19.15.9.701 NMAC only to an operator who is in compliance with Subsection A of 19.15.1.40 NMAC. The division may revoke a permit for injection issued under 19.15.9.701 NMAC after notice and hearing if the operator is not in compliance with Subsection A of 19.15.1.40 NMAC.

B. Method of making application.

(1) ~~[Application]~~ The operator shall apply for authority ~~[for the injection of]~~ to inject gas, liquefied petroleum gas, air, water or any other medium into any formation for any reason, including but not necessarily limited to the establishment of or the expansion of water flood projects, enhanced recovery projects, pressure maintenance projects[;] and salt water disposal, ~~[shall be by submittal of division Form]~~ by submitting form C-108 complete with all attachments.

(2) The applicant shall furnish, by certified or registered mail, a copy of the application to ~~[the] each~~ owner of the surface of the land 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. Affected person shall mean the (a) division designated operator; (b) in the absence of an operator, any 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 (c) in the absence of an operator or lessee, any mineral interest owner whose interest is evidenced by a written conveyance document either of record or known to the applicant as of the date he filed the application.

C. Administrative approval.

(1) If the application is for administrative approval rather than for a hearing, it ~~[must]~~ shall also be accompanied by a copy of a legal publication the applicant published ~~[by the applicant]~~ in a newspaper of general circulation in the county in which the proposed injection well is located. ~~[(The details required in such legal notice are listed on Side 2 of Form C-108)]~~ The legal publication's contents shall include the (a) name, address, phone number and contact party for the applicant; (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 must file objections or requests for hearing with the division within 15 days.

(2) ~~[No]~~ The division shall not approve an application for administrative approval ~~[may be approved]~~ until 15 days following the division's receipt ~~[by the division]~~ of form C-108 complete with all attachments including evidence of mailing as required under ~~[Subsection B, Paragraph (2) above]~~ Paragraph (2) of Subsection B of 19.15.9.701 NMAC and proof of publication as required by [Subsection C, Paragraph (1) above] Paragraph (1) of Subsection C of 19.15.9.701 NMAC.

(3) If ~~[no]~~ the division does not receive an objection ~~[is received]~~ within said 15-day period, and a hearing is not otherwise required, the division may approve the application ~~[may be approved]~~ administratively.

D. Hearings[-]. If a written objection to any application for administrative approval of an injection well is filed within 15 days after receipt of a complete application, or if a hearing is required ~~[by these rules]~~ pursuant to 19.15.9.701 NMAC or deemed advisable by the division director, the division shall set the application ~~[shall be set]~~ for hearing and give notice ~~[thereof given by the division]~~ of the hearing.

E. Salt water disposal wells.

(1) The division director shall have authority to grant an exception to the hearing requirements of Subsection A of 19.15.9.701 NMAC for water disposal wells only ~~[; without hearing,]~~ 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 said waters are to be disposed of into a formation older than Triassic (Lea

county only) and provided the division receives no objections [~~are received~~] pursuant to Subsection C of 19.15.9.701 NMAC.

(2) [~~Disposal will not be permitted~~] The division shall not permit disposal into zones containing waters having total dissolved solids concentrations of 10,000 mg/l or less except after notice and hearing, provided however, that the division may establish exempted aquifers for such zones wherein the division may administratively approve such injection [~~may be approved administratively~~].

(3) Notwithstanding the provisions of [~~Subsection E, Paragraph (2) above~~] paragraph (2) of Subsection E of 19.15.9.701 NMAC, the division director may authorize disposal into such zones if the waters to be disposed of are of higher quality than the native water in the disposal zone.

F. Pressure maintenance projects.

(1) Pressure maintenance projects are defined as those projects in which fluids are injected into the producing horizon in an effort to build up [~~and/or~~] or maintain the reservoir pressure in an area [~~which~~] that has not reached the advanced or "stripper" state of depletion.

(2) [~~All~~] The division shall set all applications for establishment of pressure maintenance projects [~~shall be set~~] for hearing. The division shall fix the project area and the allowable formula for any pressure maintenance project [~~shall be fixed by the division~~] on an individual basis after notice and hearing.

(3) [~~Pressure~~] The division may authorize an operator to expand a pressure maintenance projects [~~may be expanded~~] and place additional wells [~~placed~~] on injection only [~~upon authority from the division~~] after notice and hearing or by administrative approval.

(4) The division director shall have authority to grant an exception to the hearing requirements of Subsection A of 19.15.9.701 NMAC for the conversion to injection of additional wells within a project area provided that any such well is necessary to develop or maintain efficient pressure maintenance within such project and provided that the division receives no objections [~~are received~~] pursuant to Subsection C of 19.15.9.701 NMAC.

(5) An established pressure maintenance project shall have only one designated operator. Any application for exception must be set for hearing.

G. Water flood projects.

(1) Water flood projects are defined as those projects in which water is injected into a producing horizon in sufficient quantities and under sufficient pressure to stimulate the production of oil from other wells in the area, and shall be 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.

(2) [~~All~~] The division shall set all applications for establishment of water flood projects [~~shall be set~~] for hearing.

(3) The project area of a water flood project shall comprise the proration units [~~owned or operated by~~] a given operator owns or operates upon which injection wells are located plus all proration units [~~owned or operated by~~] the same operator [~~which~~] 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 [~~nor~~] or diagonally offsetting an injection tract [~~may be included in the project area~~] if, after notice and hearing, [~~it~~] the operator has [~~been~~] established that such additional units have wells completed thereon [~~which~~] that have experienced a substantial response to water injection.

(4) The allowable [~~assigned~~] the division assigns to wells in a water flood project area shall be equal to the wells' ability [~~of the wells~~] to produce and shall not be subject to the depth bracket allowable for the pool nor to the market demand percentage factor.

(5) Nothing herein contained shall be construed as prohibiting the assignment of special allowables to wells in buffer zones after notice and hearing. [~~Special~~] The division may assign special allowables [~~may also be assigned~~] in the limited instances where it is established at a hearing that it is imperative for the protection of correlative rights to do so.

(6) ~~[Water]~~The division shall authorize the expansion of water flood projects ~~[may be expanded]~~and the placement of additional wells ~~[placed]~~on injection only ~~[upon authority from the division]~~after notice and hearing or by administrative approval.

(7) The division director shall have authority to grant an exception to the hearing requirements of Subsection A of 19.15.9.701 NMAC for conversion to injection of additional wells provided that any such well is necessary to develop or maintain thorough and efficient water flood injection for any authorized project and provided that the division receives no objections ~~[are received]~~pursuant to Subsection C of 19.15.9.701 NMAC.

(8) An established water flood project shall have only one designated operator. ~~[Any]~~The division shall set for hearing any application for exception ~~[must be set for hearing]~~.

H. Storage wells.

(1) The division director shall have authority to grant an exception to the hearing requirements of Subsection A of 19.15.9.701 NMAC for the underground storage of liquefied petroleum gas or liquid hydrocarbons in secure caverns within massive salt beds, and provided the division receives no objections ~~[are received]~~pursuant to Subsection C of 19.15.9.701 NMAC.

(2) In addition to the filing requirements of Subsection B of 19.15.9.701 NMAC, the applicant for approval of a storage well under ~~[this rule]~~19.15.9.701 NMAC shall file the following:

(a) with the division director, a ~~[plugging bond]~~financial assurance in accordance with the provisions of ~~[Rule 101]~~19.5.3.101 NMAC:

(b) with the appropriate district office of the division ~~[in triplicate]~~:

(i) form C-101, application for permit to drill, deepen or plug back;

(ii) form C-102, well location and acreage dedication plat; and

(iii) form C-105, well completion or recompletion report and log.

19.15.13.1101 APPLICATION FOR PERMIT TO DRILL, DEEPEN OR PLUG BACK (Form C-101):

~~[A. Before commencing drilling or deepening operations, or before plugging a well back to another zone, the operator of the well must obtain a permit to do so. To obtain such permit, the operator shall submit to the division five copies of form C-101, application for permit to drill, deepen or plug back, completely filled out. If the operator has an approved bond in accordance with 19.15.3.101 NMAC, one copy of the drilling permit will be returned to him on which will be noted the division's approval, with any modification deemed advisable. If the proposal is rejected, the forms C-101 will be returned with the cause for rejection stated thereon.]~~

~~[B. Form C-101 must be accompanied by three copies of form C-102, well location and acreage dedication plat. (See 19.15.13.1102 NMAC.)~~

~~[C. If the well is to be drilled on state land, submit six copies of form C-101 and four copies of form C-102, the extra copy of each form being for the state land office.]~~

A. An operator applying 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 shall file a complete form C-101 and a complete form C-102, well location and acreage dedication plat.

(1) An applicant for a permit to drill any well within the corporate limits of any city, town or village of this state shall give notice to the duly constituted governing body of such city, town or village or its duly authorized agent and certify on form C-101 that it gave such notice.

(2) An applicant for a permit to drill in any 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 such well or wells, furnish a copy of the application, to any other operator in the quarter-quarter section and certify on form C-101 that it furnished such copies.

(3) 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 Paragraph (2) of Subsection E of 19.15.3.104 NMAC.

B. If the division approves the permit, it may impose conditions of approval

C. If the division denies the permit, it shall return the form C-101 to the applicant with the cause for rejection stated thereon.

19.15.13.1103 **SUNDRY NOTICES AND REPORTS ON WELLS (Form C-103):** Form C-103 is a dual purpose form ~~[to be filed]~~ the operator shall file with the appropriate district office of the division to obtain division approval prior to commencing certain operations and also to report various completed operations.

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

(1) The operator shall file form C-103 ~~[shall be filed in triplicate by the operator]~~ and obtain the division's approval ~~[obtain from the division]~~ prior to:

(a) effecting a change of plans from those 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) ~~[Temporarily abandoning a well]~~ placing a well in approved temporary abandonment;

(d) plugging and abandoning a well[-]; or

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

(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 [of mud]; 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. ~~[If not previously filed,]~~ 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]see 19.15.13.1105 NMAC[-]) ~~[shall accompany the notice of intention to plug the well]~~; the division shall not release the financial assurance until the operator complies with this requirement ~~[bond will not be released until this is complied with].~~

B. Form C-103 as a subsequent report

(1) ~~[Form]~~ The operator shall file form C-103 as a subsequent report of operations [shall be filed] in accordance with the ~~[section of this rule]~~ 19.15.13.1103 NMAC applicable to the particular operation being reported.

(2) Form C-103 is to be used 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) ~~[plug and abandon]~~ plugging and abandonment;

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

(g) remedial work;

(h) installation of artificial lifting equipment; or
(i) ~~[change of operator of a drilling well;~~
~~(j) such other operations [which] that affect the well's original status [of the well] but~~
~~[which] that~~ are not specifically covered herein.

C. Information to be entered on form C-103, subsequent report, for a particular operation is as follows: ~~[Report]~~report of commencement of drilling operations. Within ~~[ten]~~10 days following the commencement of drilling operations, the well's operator ~~[of the well]~~shall file a report thereof on form C-103 ~~[in triplicate]~~. Such report shall indicate the hour and the date the well was spudded.

D. Report of results of test of casing and cement job; report of casing alteration~~[-]~~. ~~[A]~~The well's operator shall file a report of casing and cement test ~~[shall be filed by the operator of the well]~~ ~~[within [ten] 10 days following the setting of each string of casing or liner. Said report shall be filed [in triplicate] on form C-103 and shall present a detailed description of the test method employed and the results obtained by such test and any other pertinent information required by 19.15.1.107 NMAC. The report shall also indicate the top of the cement and the means by which such top was determined. It shall also indicate any changes from the casing program previously authorized for the well.~~

E. Report of temporary abandonment~~[-]~~. ~~[A report of temporary abandonment of a well shall be filed by the operator of the well]~~The operator shall file a notice of work to secure approved temporary abandonment within ~~[thirty]~~30 days following the work's completion ~~[of the work]~~. The report shall ~~[be filed in triplicate and 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 ~~[of the well]~~.

F. Report on plugging of well.

(1) The operator shall file a report of plugging operations ~~[shall be filed by the operator of the well]~~within 30 days following completion of plugging operations on any well. Said report shall be filed ~~[in triplicate]~~on form C-103 and shall include the date the plugging operations were begun and the date the work was completed, a detailed account of the manner in which the work was performed 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 19.15.4.201 NMAC - 19.15.4.204 NMAC regarding plugging operations.)

(2) ~~[No]~~The division shall not approve a plugging report ~~[will be approved by the division]~~until the pits have been ~~[filled]~~closed and the location ~~[leveled and cleared of junk]~~restored and remediated. It shall be the operator's responsibility ~~[of the operator]~~to contact the appropriate district office of the division when the location has been so restored in order to arrange for an inspection of the plugged well and the location by a division representative.

G. Report of remedial work~~[-]~~. The operator shall file a report of remedial work performed on a well ~~[shall be filed by the operator of the well]~~within 30 days following completion of such work. Said report shall be filed ~~[in quadruplicate]~~on form C-103 and shall present a detailed account of the work done and the manner in which such work was performed; the daily production of oil, gas and water both prior to and after the remedial operation; the size and depth of shots; the quantity ~~[of and [;] type of]~~crude, chemical or other materials employed in the operation, and any other pertinent information. Among the remedial work to be reported 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 ~~[which] that~~are not specifically covered herein.

H. Report on deepening or plugging back within the same pool[-]. [A]The operator shall file a report of deepening or plugging back [shall be filed by the operator of the well]within 30 days following completion of such operations on any well. [Said report shall be filed in quadruplicate]The operator shall file said report on form C-103 and shall present a detailed account of work done and the manner in which such work was performed. If the well is recompleted in the same pool, [it]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 [must be filed]in accordance with [Sections 1101, 1102, 1104 and 1105 of 19.15.13]19.15.13.1101, 19.15.13.1102, 19.15.13.1104 and 19.15.13.1105 NMAC.

~~[I. Report of change of operator of a drilling well-- A report of change of ownership shall be filed by the new operator of any drilling well within ten days following actual transfer of ownership or responsibility. Said report shall be filed in triplicate on form C-103 and shall include the name and address of both the new operator and the previous operator, the effective date of the change of ownership or responsibility and any other pertinent information. No change in the operator of a drilling well will be approved by the division unless the new operator has an approved bond in accordance with 19.15.3.101 NMAC. (Form C-104 shall be used to report transfer of operator of a completed well; see 19A 5.13.1104 NMAC.)]~~

[J]. Other reports on wells[-]. The operator shall submit reports on any other operations [which] that affect the well's original status [of the well]but [which]that are not specifically covered herein [shall be submitted]to the division on form C-103[-, in triplicate, by the operator of the well ten] 10 days following [the]such operation's completion [of such operation].

19.15.13.1104 REQUEST FOR ALLOWABLE AND AUTHORIZATION TO TRANSPORT OIL AND NATURAL GAS (Form C-104):

A. [Form C-104 completely filled out by the operator of the well must be filed in quintuplicate before an allowable will be assigned to any newly completed or recompleted well. (A recompleted well shall be considered one which has been deepened or plugged back to produce from a different pool than previously.) Form C-104 must be accompanied by a tabulation of all deviation tests taken on the well as provided by 19.15.3.111 NMAC.]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 natural gas from such a well if the operator:

(1) has filed a complete form C-104;

(2) has provided a sworn and notarized tabulation of all deviation tests run on the well, and directional surveys, with calculated bottom hole location, in accordance with the requirements of 19.15.3.111 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 19.15.1.40 NMAC

B. The allowable [assigned]the division assigns to an oil well shall be effective at 7:00 [o'clock]a.m. on the date of completion, provided the division receives form C-104 [is received by the division]during the month of completion. Date of completion shall be that date when new oil is delivered into the stock tanks. Unless otherwise specified by special pool rules, the allowable [assigned]the division assigns to a gas well shall be effective at 7:00 [o'clock]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.

~~[C. No allowable will be assigned to any well until a standard unit for the pool in which the well is completed has been dedicated by the operator, or a non-standard unit has been approved by the division, or a standard unit has been communitized or pooled and dedicated to the well.]~~

~~D. No allowable will be assigned to any well until all forms and reports due have been received by the division and the well is otherwise in full compliance with these rules.~~

~~E. Form C-104 with sections I, II, III and VI, completely filled out shall be filed in quintuplicate by the operator of the well in the event there is a change of operator of any producing well, injection well or disposal well, a change in pool designation, lease name or well number, or any other pertinent change in condition of any such well. When filing form C-104 for change of operator, the now operator shall file the form in the above manner, and shall give the name and address of the previous as well as the present operator. The form C-104 will not be approved by the division unless the now operator has an approved bond in compliance with 19.15.3.101 NMAC.~~

19.15.13.1115 OPERATOR'S MONTHLY REPORT (Form C-115):

A. ~~Operator's]~~The operator shall file a monthly report, form C-115, [or form C-115-EDP, shall be filed] for each non-plugged well completion for which the division has approved a C-104 authorization to transport, and for [on each producing lease and] each secondary or other enhanced recovery project or pressure maintenance project injection well or other injection well within the state of New Mexico [for each calendar month], setting forth complete information and data indicated on said forms in the order, format and style [prescribed by the division director] the division director prescribes. The operator shall estimate oil production from wells [which are] producing into common storage [shall be estimated] as accurately as possible on the basis of periodic tests.

B. The operator shall file the reports required to be filed by 19.15.13.1115 NMAC [shall be filed by the operator as follows] using the division's web-based online application[:

~~(1) Any operator which operates fewer than one hundred (100) wells in the state of New Mexico shall file a C-115 either electronically or by delivery of a printed copy of the report to the oil conservation division at its Santa Fe office] on or before the [fifteenth (15th)] 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 [fifteenth] 15th.~~

~~(2) Any operator which operates one hundred (100) or more wells in the state of New Mexico shall file a C-115 electronically, either by physical delivery of electronically readable media or by electronic transfer of data, to the oil conservation division at its S the fifteenth 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 fifteenth.] Any operator [otherwise required to file electronically] may apply to the division for exemption from [this] the electronic filing requirement based upon a demonstration that such [electronic filing] requirement would operate as an economic or other hardship.~~

~~(3) C. If an operator fails to file a form C-115 that the division accepts, [or if the division finds errors in any C-115,] the division shall, within [thirty (30)] 60 days of the appropriate filing date, [prepare and send to the operator an error/omission message which identifies the specific well as to which the report has not been filed or is in error and a statement of the error. The operator to whom the error/omission message is addressed shall respond to the division within thirty (30) days acknowledging receipt of the error/omission message and informing the division of the operator's schedule to file the report or correct the error. If the division does not receive the operator's response within thirty (30) days, the division shall send notice to the operator that operator has failed to comply with the provisions of 19.15.13.1115 NMAC and may be subjected to loss of authority to produce from the affected well if the operator does not respond to the division. Willful failure of the operator to respond to the notice and to correct the error or omission may result in the division informing the operator by certified return receipt letter that thirty (30) days from the date of such letter the division will cancel the C-104 authority of operator to produce or inject into the well. Any operator which receives such notice may contact the division and request that the matter of the cancellation of authority to produce or inject be set for hearing before a hearing officer duly appointed by the division. If the division sends certified return receipt correspondence informing the operator of cancellation of authority to produce and the operator does not~~

request a hearing, the division may cancel the authority of the operator to produce the well on the date set forth in the letter.

~~(4) — The electronic filing requirements set forth in Paragraph (2), Subsection B, of 19.15.13.115 NMAC shall be phased in with all operators of three hundred (300) or more wells being required to file electronically for January 1997 production, all operators of two hundred (200) or more wells being required to file electronically for July 1997 production and all operators of one hundred (100) or more wells being required to file electronically for January 1998 production.] 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 submit an acceptable and complete form CM 15. If the operator does not file an acceptable and complete form C-115 or request a hearing on the proposed cancellation with 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.~~

19.15.14.1227 COMPLIANCE PROCEEDINGS:

A. The provisions in 19.15.14 NMAC applicable to adjudicatory proceedings shall apply to compliance proceedings unless altered or amended by 19.15.14.1227 NMAC.

B. A compliance proceeding is an adjudicatory proceeding in which the division seeks an order imposing sanctions for violation 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. Such sanctions may include but are not limited to:

(1) requiring compliance with 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;

(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 19.15.14.1207 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 19.15.14.1210 NMAC.

E. The division 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 division 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 19.15.14.1227NMAC 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).