

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

**APPLICATION OF THE NEW MEXICO OIL
CONSERVATION DIVISION TO AMEND
RULES OF THE COMMISSION
CONCERNING THE DRILLING, SPACING,
AND OPERATION OF HORIZONTAL WELLS
AND RELATED MATTERS BY AMENDING
VARIOUS SECTIONS OF RULES 19.15.2,
19.15.4, 19.15.14, 19.15.15, AND 19.15.16 NMAC;
STATEWIDE.**

CASE NO. 15957

NMOGA's PRE-HEARING STATEMENT

This Pre-Hearing Statement is submitted on behalf of the New Mexico Oil and Gas Association ("NMOGA"), through undersigned counsel, as required by NMAC 19.15.3.11.B.

NMOGA's PROPOSED MODIFICATIONS

NMOGA's members participated in the technical work group created by the Division for developing proposed amendments to the horizontal well rules. Most of the recommendations of this technical group have been incorporated into the rule amendments proposed by the New Mexico Oil Conservation Division ("Division"). Having now reviewed in detail the rule amendments contained in Exhibits A, B, C, D, E and F to the Division's filed Application, NMOGA submits the following modifications, which are highlighted in yellow on the pages corresponding to the Division's filed Exhibits and collected under Attachment 1 hereto (entitled "NMOGA's Proposed Modifications"):

19.15.2.7 Definitions (Division's filed Exhibit A):

1. In Subpart 2.7.A(8)(a), add "or federal" after "division-approved" to clarify this definition applies to federally-approved units in addition to division-approved units.

19.15.4.12 Adjudicatory Proceedings (Division's filed Exhibit B):

2. In Subpart 4.12.A(1)(a):

- Replace “an” with “each” in the first sentence to clarify that notice must go to each owner.
- At the end of this subsection add the following sentence: “An applicant seeking compulsory pooling of a standard horizontal spacing unit need not give notice to affected persons in adjoining spacing units or tracts unless the division specifically so directs.” This confirms notice to offsetting tracts is not required when pooling what will now be a standard horizontal spacing unit under the proposed rules.

3. In Subpart 4.12.A(1)(b) delete “, the proposed unit is not larger in size than provided in 19.15.15 NMAC or applicable special pool orders,” to avoid any conflicts with the proposed horizontal rules and ensure the affidavit process can be used for force pooling horizontal spacing units.

4. In Subpart 4.12.A(2)(a):

- Add “in the same pool or formation” after the phrase “each adjoining spacing unit” in line 5 and after “affected persons” in line 9 to clarify the notice obligation extends to interests in the same correlative zone as the unorthodox well.
- In line 7, delete “pools” and add “formation” after the phrase “in the same pool or” to clarify the applicability of this provision when a defined pool does not exist and to conform with similar situations throughout the rules.

5. In Subpart 4.12.A(2)(b):

- Add “19.15.15.10.B or” before “special pool orders provide” to reference a statewide rule that requires a permitted infill well in a standard 320-acre gas unit to be in the undrilled quarter section.
- Add “in the same pool or formation” after the phrase “in all spacing units or tracts” for the same reasons noted in the above changes to A(2)(a).

6. In Subpart 4.12.A(3), add the following ending sentence: “This requirement shall not apply to applications for non-standard horizontal spacing units pursuant to Paragraph (6) of Subsection A of 19.15.16.15 NMAC.” This modification confirms that the notice requirements for non-standard horizontal spacing units are governed by the referenced provision in the proposed horizontal well rules.

19.15.15.11 Acreage Assignment (Division's filed Exhibit D).

7. In Subpart 15.11.A change "10 days" to "45 days" to conform this language to the recently-adopted changes to the rule governing filing deadlines for completion reports.

19.15.16.7 Definitions (Division's filed Exhibit E)

8. In Subpart 16.7(I) (definition of Kick-off Point) delete the proposed new language "or, in the case of a multi-lateral well, a separate lateral is intentionally diverted from the vertical portion of the well bore." A kick-off point is a point in the well bore, which is clearly described by the first part of this definition, not the lateral section of the well bore as suggested by the proposed language. It is well understood that a multi-lateral well will have a different kick-off point associated with each lateral. Schlumberger Oilfield Glossary further defines "kickoff" as "the point at which a vertical well is intentionally deviated," which is almost identical to the revised language.

9. In Subpart 16.7(K) (definition of Lateral):

- Replacing "deviated" with "diverted" as proposed creates confusion since wells are diverted for operational reasons (for example, junk in the hole). Retaining the term "deviated" better describes horizontal wells that are intentionally angled from the vertical in a certain direction.
- The added language "or, in the case of a multi-lateral well, the point at which a particular lateral has been intentionally diverted from the vertical portion of the well bore" should be deleted. A horizontal well's lateral section is a section of the well bore, not a point in the well bore. Deletion of this language still allows the term to be applied to multi-lateral wells.

10. In Subpart 16.14(B)(3) (Directional Wellbores), the phrase "of well's" in the line 7 should be changed to "of a well's".

19.15.16.15 Horizontal Wells (Starting at p. 10 of Division's filed Exhibit E)

A. Well Spacing

11. In Subparts 16.15.A(1)(c) and (3)(c) (Standard horizontal spacing units) the term "horizonal" should be replaced with "horizontal." Also in (3)(c) the phrase "the of" should be deleted. These are clerical errors.

12. In Subpart 16.15.A(5)(a) (applications for permits to drill) replace "owner of" with "an unleased mineral interest in". The term "owner" is broadly defined in the Division rules and that definitional use here creates an ambiguity that could lead to an overly broad application of this requirement.

13. In Subpart 16.15.A(8) after the phrase "and multi-lateral horizontal wells" add the clause "described in Subparagraph (a) of Paragraph (9) of Subsection A of 19.15.16.15

NMAC” to reflect that only certain multi-lateral wells may be dedicated to the same horizontal spacing unit per the referenced provision.

14. In Subpart 16.15.A(9)(a) (Multi-lateral horizontal wells) replace “an existing horizontal spacing unit” with “a horizontal spacing unit for the longer lateral” to confirm that the spacing unit for both laterals will be based on the longer lateral, which can be either standard or non-standard. This addresses a concern that “an existing horizontal spacing unit” does not arise until a lateral is drilled and completed in the spacing unit.

15. In Subpart 16.15.A(10)(a) (Unitized areas):

- Replace “a single lease or tract” with “an area” to broaden the circumstances of uniform ownership that qualify for this provision. As written, the language is too limiting and doesn’t recognize other circumstances that have the same characteristics as a single lease or unitized area.
- Replace “all oil and gas mineral interests” with “the mineral estate” before “in the objective formation” since “mineral estate” is a defined term that includes royalty and overriding royalty interests.
- The reference to “Paragraph (2)” should be corrected to “Paragraph (3)”.

16. In Subpart 16.15.A(10)(b) (Unitized areas) should be deleted in its entirety. This is a purely federal matter that is subject to change by the BLM and therefore should not be addressed by state rules.

17. In Subpart 16.15.A(11)(b) (subsequent wells in spacing units):

- In (b)(i), the first phrase “any subsequent well, horizontal or otherwise” should be replaced with “a horizontal well” to confirm these provisions only apply to horizontal wells.
- In (b)(ii), the first phrase “a horizontal well” should be replaced with “any subsequent well, horizontal or otherwise” to reflect that this provision applies to any subsequent well drilled in an existing horizontal spacing unit. This is consistent with the current rules governing this situation.
- In (b)(i) and (ii), the phrase “pursuant to a division order” should be deleted as unnecessary. The notice process referenced at the end of Subpart 16.15.A(11) requires an operator to provide waivers or a statement that notice has been provided. Confirmation of this process can be accomplished by noting compliance on the application to drill (thereby providing a record in the file) and does not require the additional administrative steps required for issuance of a Division order.
- In (b)(i) and (ii), the phrase “of record or known to the applicant” should be added after “all operators and working interest owners”. This clarifies that an

operator is only required to ascertain the identity of parties entitled to notice from public records or company documents. Operators cannot be expected to have knowledge of private transactions that are not in the public record.

- In (b)(ii), the phrase “and in the same pool or formation,” should be inserted after “an existing well’s horizontal spacing unit” to clarify when this provision applies. This language exists in (b)(i) and should likewise exist in (b)(ii).
- In (b)(ii), there is a typo at the end: “; and” should be replaced with a period.

18. Subpart 16.15.A(11)(e):

- This subsection should be changed to “(d)” instead of “(e)” based on the designations of the preceding subsections.
- The phrase “to non-consenting owners” should be removed. It is redundant and confusing since non-consenting interest owners are “working interest owners” in the group entitled to notice under the provisions in (b)(i) and (ii). Removing this phrase also conforms with the notice requirements and process described in the referenced Subsection B of 19.15.15.12 NMAC.

B. Setbacks

19. In Subpart 16.15.B(3) (Surface locations) the proposed language does not clearly relate that a horizontal well’s surface location may be anywhere in relation to the setback distance, not just “farther from.” NMOGA proposes to replace the phrase “farther from the horizontal spacing unit boundaries than the applicable minimum setback” with “located anywhere inside” before the phrase “or outside” to clarify this point.

20. In Subpart 16.15.B(6) the first sentence should be deleted because it creates an ambiguity as to the ability of the district office to approve as-drilled completed intervals located more than 50’ from the projected location but not encroaching on the outer boundary of the spacing unit. This circumstance is not unorthodox, yet the first sentence of this paragraph could be construed as preventing district office approval of the as-drilled location. Deletion of this first sentence will avoid any confusion and confirm district offices can approve as-drilled locations that are not unorthodox as defined in preceding subparagraph (5).

21. In Subpart 16.15.B(7) (Unitized areas) the following changes should be made to be consistent with the proposed modifications to Subpart 16.15.A(10)(a):

- Replace “a single lease or tract” with “an area” to broaden the circumstances of uniform ownership that qualify for this provision. As written, the language is too limiting and doesn’t recognize other circumstances that have the same characteristics as a single lease or unitized area.

- Replace “all oil and gas mineral interests” with “the mineral estate” before “in the objective formation” since “mineral estate” is a defined term that includes royalty and overriding royalty interests.

C. Allowables

22. In Subpart 16.15.C(1) remove the term “its productive capacity” and insert “the amount of oil that each well can produce” after “an allowable equal to”. Productive capacity is not a defined term and this change makes the wording in the second sentence consistent with the first sentence.

D. Other Matters

23. In Subpart 16.15.D(3), insert the following opening sentence: “Provisions of statewide rules or special pool orders in effect on February 15, 2012, that limit the number of wells that may simultaneously produce from the portion of a pool or area underlying a spacing unit, or a particular portion of a spacing unit do not apply to horizontal wells.” This language exists in the current rules and is necessary to confirm that existing density restrictions do not apply to horizontal wells.

NMOGA will demonstrate that the rule amendments proposed by the Division, with the above modifications, will streamline and improve the existing rules, allow operators in New Mexico to more efficiently and effectively drill horizontal wells for the production of oil and gas, prevent waste and protect correlative rights.

NMOGA’S PROPOSED EVIDENCE

WITNESS:

ESTIMATED TIME

Rick Foppiano, P.E.
Petroleum Engineering and
Oil & Gas Regulatory Matters

3.0 Hours

Mr. Foppiano is a registered petroleum engineer who has previously testified before the New Mexico Oil Conservation Commission/Division, and other regulatory agencies, as an expert witness on petroleum engineering and oil & gas regulatory matters. Mr. Foppiano participated in the technical committee created by the Division to develop the proposed rule amendments. His technical background and work experience are reflected in NMOGA Exhibit A filed herewith. Mr. Foppiano will demonstrate the importance of horizontal drilling to the development of oil

and gas in New Mexico, will discuss the participants and expertise of the workgroup that developed the proposed rule amendments, will provide the Commission with a detailed review of the proposed rule amendments, offer facts and expert opinions supporting the proposed rule amendments and NMOGA's modifications, and will be available to address any additional issues that arise during the hearing.

WITNESS:

ESTIMATED TIME

Brian Taylor
Petroleum Engineer
Oxy USA, Inc.

30 minutes

Mr. Taylor is a petroleum engineer with experience drilling and completing horizontal wells in New Mexico. His educational background and work experience are reflected in NMOGA Exhibit B filed herewith. Mr. Taylor will discuss the completion process for horizontal wells, including the general proppant concentrations expected from completion techniques; the factors taken into account in designing horizontal well completions; the factors that impact fracture height, length, and conductivity; and the ranges of effective drainage that can be expected from horizontal well completion techniques. Mr. Taylor will offer facts and opinions supporting the inclusion of un-penetrated "proximity tracts" in a standard horizontal well spacing unit under certain conditions as reflected in proposed rule NMAC 19.15.16.15.A(1)(b), (c) and (3)(b), (c) on pages 10-11 of the Division's filed Exhibit E. Mr. Taylor will also be available to address any additional issues that arise during the hearing.

WITNESS:

ESTIMATED TIME

Joseph J. Beer
Petroleum Geoscience and Geology
Encana Oil & Gas (USA) Inc.

30 minutes

Mr. Beer is the senior manager of geoscience and base asset development for Encana with extensive development experience with Encana's New Mexico and Wyoming oil and gas assets.

Mr. Beer's educational background and work experiences are reflected in NMOGA Exhibit C filed herewith. Mr. Beer will offer facts and opinions supporting the need for transverse horizontal wells in certain producing areas of New Mexico, the existing and unnecessary regulatory constraints on development using transverse horizontal wells, the elimination of mandatory rectangular requirements and the inclusion of "proximity tracts" under certain conditions for horizontal well spacing units as reflected in proposed rule NMAC 19.15.16.15.A(1) and (3) on pages 10-11 of the Division's filed Exhibit E, and will be available to address any additional issues that arise during the hearing.

WITNESS:

ESTIMATED TIME

Roderick Milligan
Petroleum Engineer
Chevron North America Exploration and
Production Co.

30 minutes

Mr. Milligan is a petroleum drilling and completions engineer with experience drilling and completing horizontal wells in New Mexico. His educational background and work experience are reflected in NMOGA Exhibit D filed herewith. Mr. Milligan will discuss the calculations and tools utilized to drill horizontal wells in New Mexico and the difficulties encountered during drilling projects. He will offer facts and opinions supporting the proposed definitions, the need to retain a 50 foot drilling tolerance for the projected horizontal plane of a horizontal well as reflected in proposed rule NMAC 19.15.16.15.B(5)(c) on page 16 of the Division's filed Exhibit E, the proposed drilling tolerance for previously approved unorthodox well locations reflected in NMAC 19.15.16.15.B(6) on pages 16-17 of the Division's filed Exhibit E, and will be available to address any additional issues raised during the hearing.

WITNESS:**ESTIMATED TIME**

T. J. Midkiff
Petroleum Reservoir Engineer
Concho Resources

1.5 hours

Mr. Midkiff is a petroleum engineer with experience drilling and completing horizontal wells in New Mexico. Mr. Midkiff received a Bachelor Degree in Petroleum Engineering from Texas A&M in 2007. Since graduation Mr. Midkiff has worked as a reservoir engineer in the Permian Basin of New Mexico initially with XTO Energy for three years and subsequently with Concho Resources. Mr. Midkiff will discuss the nature of the formations targeted by horizontal wells, the economic effect of unnecessary production curtailment from these formations, the results of un-curtailed production from horizontal wells, the increased well density necessary both horizontally and vertically in spacing units for these formations, the production impact of enhanced completion techniques, and the production flexibility needed to accommodate increased well density and improved completion techniques. Mr. Midkiff will offer facts and opinions supporting the production allowables and the absence of limiting gas-oil ratios for horizontal wells reflected in proposed rule NMAC 19.15.16.15.C on page 17 of the Division's filed Exhibit E and will address any additional issues that arise during the hearing.

WITNESS:**ESTIMATED TIME**

George E. King, PE
Petroleum Reservoir Engineer
Apache Corporation

1 hour

Mr. King is a Registered Professional Engineer (Oklahoma PE 10831 and Texas PE 110993) with 47 years of oilfield experience since starting with Amoco Production Research in 1971. His technical background includes basic research on energized fracturing, production and fracturing chemicals, acidizing, asphaltenes, perforating, well integrity, completions, unconventional resources and sand control. Mr. King's educational background and work experience are

reflected in NMOGA Exhibit F filed herewith. Mr. King will discuss hydraulic fractures in the formations targeted by horizontal wells, how hydrocarbons move through the targeted formations and the drainage patterns around the hydraulic fractures. He will offer facts and opinions supporting the definitions in the proposed rules, the reduced setbacks for the first take point and the last take point for horizontal wells reflected in proposed rule NMAC 19.15.16.15.B(1)(b) on page 15 of the Division's filed Exhibit E, and will address any additional issues that arise during the hearing.

NMOGA'S HEARING EXHIBITS

NMOGA anticipates entering into evidence NMOGA Exhibits A through F, which contain multiple pages submitted in a designated notebook provided with this prehearing statement.

PROCEDURAL MATTERS

None at this time.

Respectfully submitted:

HOLLAND & HART, LLP



Michael H. Feldewert

Adam G. Rankin

Post Office Box 2208

Santa Fe, New Mexico 87504

(505) 988-4421

(505) 983-6043 Facsimile

ATTORNEY FOR

THE NEW MEXICO OIL AND GAS ASSOCIATION

CERTIFICATE OF SERVICE

I hereby certify that on April 3, 2018, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

Cheryl L. Bada
Deputy General Counsel
New Mexico Energy Minerals and Natural Resources Department
1220 S. St. Francis Drive
Santa Fe, New Mexico 87505
(505) 476-3214
Email: Cheryl.bada@state.nm.us

***Attorney for New Mexico Energy Minerals
and Natural Resources Department***

Michael Condon
460 St Michael's Drive, Bldg 300
Santa Fe, New Mexico 87505
(505) 983-6686
jeg@gallegoslawfirm.net
Attorney for Jalapeno Corporation

Jennifer L. Bradfute
Earl. E. Debrine, Jr
Modrall Sperling
500 Forth St. NW, Ste 100
Albuquerque, NM 87103
earl.debrine@modral.com
jlb@modral.com
Attorneys for Marathon



Michael H. Feldewert

NMOGA Proposed Modifications

Attachment - 1

19.15.2 Definitions

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

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

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

19.15.2.3 STATUTORY AUTHORITY: 19.15.2 NMAC is adopted pursuant to the Oil and Gas Act, ~~[NMSA 1978,]~~ Sections 70-2-1 through 70-2-38 NMSA 1978, which grants the oil conservation division jurisdiction and authority over all matters relating to the conservation of oil and gas, the prevention of waste of oil and gas and of potash ~~[as a result]~~ because of oil and gas operations, the protection of correlative rights and the disposition of wastes resulting from oil and gas operations.

[19.15.2.3 NMAC - Rp, 19.15.1.3 NMAC, 12/1/2008; A, XX/XX/201X]

19.15.2.6 OBJECTIVE: To set forth general provisions and definitions pertaining to the authority of the oil conservation division and the oil conservation commission pursuant to the Oil and Gas Act, ~~[NMSA 1978,]~~ Sections 70-2-1 through 70-2-38 NMSA 1978.

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

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

A. Definitions beginning with the letter "A".

(1) "Abate" means to investigate, contain, remove or mitigate water pollution.

(2) "Abatement" means the investigation, containment, removal or other mitigation of water pollution.

(3) "Abatement plan" means a description of operational, monitoring, contingency and closure requirements and conditions for water pollution's prevention, investigation and abatement.

(4) "ACT" means automatic custody transfer.

(5) "Adjoining spacing units" mean those existing or prospective spacing units in the same pool that are touching at a point or line on the subject spacing unit.

(6) "Adjusted allowable" means the allowable production a well or proration unit receives after all adjustments are made.

(7) "AFE" means authorization for expenditure.

(8) "Affected persons" means the following persons owning interests in a spacing unit or other identified tract:

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

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

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

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

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

19.15.4 Adjudicatory Proceedings

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

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

[19.15.4.1 NMAC - Rp, 19.15.14.1 NMAC, 12/1/2008; A, XX/XX/201X]

19.15.4.3 STATUTORY AUTHORITY: 19.15.4 NMAC is adopted pursuant to the Oil and Gas Act, ~~[NMSA 1978,]~~ Section 70-2-6 NMSA 1978, which grants the oil conservation division and the oil conservation commission jurisdiction and authority over all matters relating to the conservation of oil and gas, the prevention of waste of oil and gas and of potash as a result of oil and gas operations, the protection of correlative rights and the disposition of wastes resulting from oil and gas operations, and ~~[NMSA 1978,]~~ Section 70-2-7 NMSA 1978, which provides that the division shall prescribe by rule its hearing procedures.

[19.15.4.3 NMAC - Rp, 19.15.14.3 NMAC, 12/1/2008; A, XX/XX/201X]

19.15.4.12 NOTICE REQUIREMENTS FOR SPECIFIC ADJUDICATIONS:

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

(1) Compulsory pooling and statutory unitization.

(a) The applicant shall give notice to an each owner of an interest in the mineral estate of any portion of the lands the applicant proposes to be pooled or unitized whose interest is evidenced by a written conveyance document either of record or known to the applicant at the time the applicant filed the application and whose interest has not been voluntarily committed to the area proposed to be pooled or unitized (other than a royalty interest subject to a pooling or unitization clause). An applicant seeking compulsory pooling of a standard horizontal spacing unit need not give notice to affected persons in adjoining spacing units or tracts unless the division specifically so directs.

(b) When the applicant has given notice as required in Subsection A of 19.15.4.9 NMAC, of a compulsory pooling application, the proposed unit is not larger in size than provided in 19.15.15 NMAC or applicable special pool orders, and those owners the applicant has located do not oppose the application, the applicant may file under the following alternative procedure. The application shall include the following:

- (i) a statement that the applicant expects no opposition including the reasons why;
- (ii) a map outlining the spacing unit to be pooled, showing the ownership of each separate tract in the proposed unit and the proposed well's location;
- (iii) the names and last known addresses of the interest owners to be pooled and the nature and percent of their interests and an attestation that the applicant has conducted a diligent search of all public records in the county where the well is located and of phone directories, including computer searches;
- (iv) the names of the formations and pools to be pooled;
- (v) a statement as to whether the pooled unit is for gas or oil production or both;
- (vi) written evidence of attempts the applicant made to gain voluntary agreement including but not limited to copies of relevant correspondence;
- (vii) proposed overhead charges (combined fixed rates) to be applied during drilling and production operations along with the basis for such charges;
- (viii) the location and proposed depth of the well to be drilled on the pooled units; and
- (ix) a copy of the AFE the applicant, if appointed operator, will submit to the well's interest owners.

(c) Applicants shall provide with all submittals sworn and notarized statements by those persons who prepared submittals, attesting that the information is correct and complete to the best of their knowledge and belief.

(d) The division shall set unopposed pooling applications for hearing. If the division finds the application complete, the information submitted with the application shall constitute the record in the case, and the division shall issue an order based on the record.

(e) At an interested person's request or upon the division's own initiative, the division shall set a pooling application for full hearing with oral testimony by the applicant.

(2) Unorthodox well locations.

[~~_____ (a) Affected persons are the following persons owning interests in the adjoining spacing units:~~

~~_____ (i) the division designated operator;~~

~~_____ (ii) in the absence of an operator, a lessee whose interest is evidenced by a written conveyance document either of record or known to the applicant as of the date he files the application; and~~

~~_____ (iii) in the absence of an operator or lessee, a mineral interest owner whose interest is evidenced by a written conveyance document either of record or known to the applicant as of the date the applicant filed the application.~~

~~_____ (b)] In the event the proposed unorthodox well's operator is also the operator of an existing, adjoining spacing unit, and ownership is not common between the adjoining spacing unit and the spacing unit containing the proposed unorthodox well, then affected persons include working interest owners in that spacing unit.]~~

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

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

(3) **Non-standard proration unit.** The applicant shall notify all owners of interests in the mineral estate, including mineral interest owners and royalty owners, to be excluded from the proration unit in the quarter-quarter section for 40-acre pools or formations, the one-half quarter section for 80-acre pools or formations, the quarter section for 160-acre pools for formations, the half section for 320-acre pools or formations or section for 640-acre pools or formations in which the non-standard unit is located and to such other persons as the division requires. This requirement shall not apply to applications for non-standard horizontal spacing units pursuant to Paragraph (6) of Subsection A of 19.15.16.15 NMAC.

(4) **Special pool orders regulating or affecting a specific pool.**

(a) Except for non-standard proration unit applications, if the application involves changing the amount of acreage to be dedicated to a well, the applicant shall notify:

- (i) division-designated operators in the pool; and
- (ii) owners of interests in the mineral estate in existing spacing units with producing wells.

(b) If the application involves other matters, the applicant shall notify:

- (i) division-designated operators in the pool; and
- (ii) division-designated operators of wells within the same formation as the pool and within one mile of the pool's outer boundary that have not been assigned to another pool.

(5) Special orders regarding any division-designated potash area. The applicant shall notify potash lessees, oil and gas operators, oil and gas lessees and unleased mineral interest owners within the designated potash area.

(6) **Downhole commingling.** The applicant shall notify owners of interests in the mineral estate in the spacing unit if ownership is not common for commingled zones within the spacing unit.

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

(8) **Surface commingling.** The applicant shall give notice as Subsection C of 19.15.12.10 NMAC prescribes.

(9) **Adjudications not listed above.** The applicant shall give notice as the division requires.

B. Type and content of notice. The applicant shall send a notice 19.15.4.9 NMAC requires by certified mail, return receipt requested, to the last known address of the person to whom notice is to be given at least 20 days prior to the application's scheduled hearing date and shall include a copy of the application; the hearing's date, time and place; and ~~[the means by which]~~ how protests may be made. When an applicant has been unable to locate persons entitled to notice after exercising reasonable diligence, the applicant shall provide notice by publication, and submit proof of publication at the hearing. Such proof shall consist of a copy of a legal advertisement that was published at least 10 business days before the hearing in a newspaper of general circulation in the county or counties in which the property is located, or if the application's effect is statewide, in a newspaper of general circulation in this state, together with the newspaper's affidavit of publication.

19.15.15 Well Spacing, Location and Density

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

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

19.15.15.3 STATUTORY AUTHORITY: 19.15.15 NMAC is adopted pursuant to the Oil and Gas Act, ~~[NMSA 1978,]~~ Section 70-2-6, Section 70-2-11 and Section 70-2-12 NMSA 1978, which authorizes the division to establish well spacing.
[19.15.15.3 NMAC - N, 12/1/2008; A, XX/XX/201X]

19.15.15.11 ACREAGE ASSIGNMENT:

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

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

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

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

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

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

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

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

(b) the non-standard spacing unit lies wholly within a single quarter section if the well is completed in a pool or formation for which 40, 80 or 160 acres is the standard spacing unit size; a single half section if the well is completed in a pool or formation for which 320 acres is the standard spacing unit size; or a single section if the well is completed in a pool or formation for which 640 acres is the standard spacing unit size.

(3) An operator shall file an application for administrative approval of a non-standard spacing ~~[units]~~ unit pursuant to Paragraph (2) of Subsection B of 19.15.15.11 NMAC or Paragraph (6) of Subsection A 19.15.16.15 NMAC, with the division's Santa Fe office that is accompanied by:

(a) a plat showing the spacing unit and an applicable standard spacing unit for that pool or formation, the proposed well dedications and all adjoining spacing units;

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

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

(4) The applicant shall submit a statement attesting that the applicant, on or before the date the applicant submitted the application to the division, notified the affected persons identified on the list described in Paragraph (3) of Subsection B of 19.15.15.11 NMAC by sending a copy of the application, including a copy of the plat described in Paragraph (3) of Subsection B of 19.15.15.11 NMAC, by certified mail, return receipt requested, advising them that if they have an objection they must file the objection in writing with the division within 20 days

19.15.16 Drilling and Production

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

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

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

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

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

B. “Completed interval” means that portion of a well bore or lateral that is:

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

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

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

E. “First take point” means the shallowest measured depth of the well bore, where the completed interval starts.

F. “Horizontal spacing unit” means the spacing unit dedicated to a horizontal well.

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

H. “Infill horizontal well” means a horizontal well the completed interval or intervals of which are located wholly within the horizontal spacing unit dedicated to a previously drilled horizontal well completed in the same pool and that the operator designates as an infill horizontal well on form C-102.

~~[F.]~~ I. “Kick-off point” means the point at which a directional or horizontal well is intentionally deviated from the vertical, ~~or, in the case of a multi-lateral well, a separate lateral is intentionally diverted from the vertical portion of the well bore.~~

J. “Last take point” means the deepest measured depth of the well bore, where the completed interval ends.

~~[G.]~~ K. “Lateral” means [a] the portion of a directional or horizontal well past the point where the well bore has been intentionally ~~deviated [deviated] diverted~~ from the vertical, ~~or, in the case of a multi-lateral well, the point at which a particular lateral has been intentionally diverted from the vertical portion of the well bore.~~

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

~~[—H.— “Non-standard project area” means a project area that is not a standard project area.]~~

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

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

setback requirements to the applicable unit's outer boundary, then the well is considered unorthodox. To obtain authority to produce the well, the operator shall file an application with the division's Santa Fe office, and shall follow the process outlined in Subsection C of 19.15.15.13 NMAC to obtain approval of the unorthodox well location.

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

B. Directional well bores.

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

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

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

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

A. Well spacing.

(1) Standard horizontal spacing units for horizontal oil wells.

In lieu of an oil spacing unit described in Subsection A of 19.15.15.9 NMAC, the operator shall dedicate to each horizontal oil well a standard horizontal spacing unit that meets the following criteria.

(a) The horizontal spacing unit shall comprise one or more contiguous tracts that the horizontal oil well's completed interval penetrates, each of which consists of a governmental quarter-quarter section or equivalent.

(b) In addition to tracts the horizontal oil well penetrates, the operator may include quarter-quarter sections or equivalent tracts in the standard horizontal spacing unit that are located within 330 feet of the proposed horizontal oil well's completed interval (measured along a line perpendicular to the proposed completed interval or its tangent).

(c) If, however, the perimeter of the area that includes all the tracts that the **horizontal horizontal** oil well penetrates encloses an area that is substantially rectangular, then the operator may not bring in additional tracts that would result in a non-rectangular horizontal spacing unit.

(d) A standard horizontal spacing unit that is rectangular and includes three quarter-quarter sections, or equivalent tracts, in the same section shall not exclude the fourth such tract in the same section unless that tract is already dedicated to a horizontal spacing unit for an existing or permitted horizontal oil well completed or to be completed in the same pool or formation.

(e) The horizontal spacing unit shall contain at least the minimum acreage required by existing or subsequently adopted special pool orders for a spacing unit in any pool where all or part of the horizontal oil well's completed interval is located.

(2) Exception for pools with larger spacing. If the horizontal oil well is located entirely or partially in a pool for which existing or subsequently adopted special pool orders prescribe oil spacing units larger than 40 acres, then the horizontal spacing unit may, as an alternative to quarter-quarter sections, comprise one or more tracts of the size and configuration so prescribed, provided that the standard horizontal spacing unit shall include only such tracts that are oriented in the same direction. If a horizontal oil well's completed interval is located within two or more pools for the same formation, and the operator elects to construct a standard horizontal spacing unit utilizing tracts of the size and configuration prescribed by special pool orders, the operator shall use tracts of the maximum tract size prescribed for any of the included pools.

(3) Standard horizontal spacing units for horizontal gas wells. In lieu of a gas spacing unit described in 19.15.15.10 NMAC, the operator shall dedicate to each horizontal gas well a standard horizontal spacing unit that meets all the following criteria:

(a) The horizontal spacing unit shall comprise one or more contiguous tracts that the horizontal gas well's completed interval penetrates, each of which consists of a governmental quarter section or equivalent.

(b) In addition to tracts the well penetrates, the operator may include quarter sections or equivalent tracts in the standard horizontal spacing unit that are located within 330 feet of the proposed horizontal gas well's completed interval (measured along a line perpendicular to the proposed completed interval or its tangent).

(c) If, however, the ~~of the~~ perimeter of the area that includes all the tracts that the ~~horizontal horizontal~~ gas well penetrates encloses an area that is substantially rectangular, then the operator may not bring in additional tracts that would result in a non-rectangular horizontal spacing unit.

(d) The horizontal spacing unit shall contain at least the minimum acreage required by 19.15.15.10 NMAC or by existing or subsequently adopted special pool orders for a spacing unit in any pool where all or part of the horizontal gas well's completed interval is located.

(4) Exception for pools with larger spacing. If the horizontal gas well is located entirely or partially in an area or pool for which 19.15.15.10 NMAC or existing or subsequently adopted special pool orders prescribe gas spacing units

larger than 160 acres, then the horizontal spacing unit may, as an alternative to quarter sections, comprise one or more tracts of the size and configuration so prescribed, provided that the standard horizontal spacing unit shall include only such tracts that are oriented in the same direction. If a horizontal gas well's completed interval is located within two or more pools for the same formation, and the operator elects to construct a standard horizontal spacing unit utilizing tracts of the size and configurations prescribed by 19.15.15.10 NMAC or special pool orders, the operator shall use the maximum tract size prescribed for any of the included pools or.

(5) An operator shall not file an application for permit to drill nor commence the drilling of a horizontal oil or gas well until the operator has either:

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

(b) obtained a compulsory pooling order from the division for an appropriate horizontal spacing unit.

(6) **Non-standard horizontal spacing units.**

(a) **Administrative approval.** The division may approve non-standard horizontal spacing units for horizontal oil or gas wells after notice and opportunity for hearing, if necessary to prevent waste or protect correlative rights, in accordance with the procedures provided for director approval of non-standard spacing units in Paragraphs (2) through (5) of Subsection B of 19.15.15.11 NMAC.

(b) **Notice.** The operator shall give notice of any application for approval of a non-standard horizontal spacing unit, by certified mail, return receipt requested, to affected persons in all tracts that:

(i) are excluded from the horizontal spacing unit, if the horizontal spacing unit would be a standard horizontal spacing unit except for the exclusion of such tracts; or

(ii) adjoin the non-standard horizontal spacing unit, in all other cases.

(c) **Form of notice.** The notice shall comply with Paragraph (4) of Subsection B of 19.15.15.11 NMAC.

(d) Unless otherwise authorized by the division, the operator shall not commence drilling in the proposed non-standard spacing unit until the division issues a final order granting the application.

(7) **State, federal or tribal lands.** If the horizontal spacing unit includes state, federal or tribal minerals, the operator shall send a copy of form C-102 to the state land office or the BLM, as applicable. No horizontal spacing unit may be designated that lies partly within, and partly outside of, a state exploratory unit, or a federal exploratory unit or participating area if the horizontal spacing unit includes state trust lands, without the written consent of the commissioner of public lands.

(8) Except for infill horizontal wells, and multi-lateral horizontal wells described in Subparagraph (a) of Paragraph (9) of Subsection A of 19.15.16.15 NMAC, each horizontal well shall be dedicated to a standard horizontal spacing unit or an approved non-standard horizontal spacing unit.

(9) **Multi-lateral horizontal wells.**

(a) Multiple laterals in the same pool or formation and oriented such that the completed interval of each lateral is located entirely within the boundaries of an existing horizontal spacing unit a horizontal spacing unit for the longer lateral may be dedicated to the same horizontal spacing unit.

(b) Except as provided in Subparagraph (a) of Paragraph (9) of Subsection A of 19.15.16.15 NMAC, the operator of a multi-lateral horizontal well shall dedicate a separate horizontal spacing unit to each lateral.

(c) The division may grant exceptions to the requirements of Subparagraphs (a) and (b) of Paragraph (9) of Subsection A of 19.15.16.15 NMAC pursuant to Paragraph (6) of Subsection A of 19.15.16.15 NMAC.

(10) **Unitized areas.**

(a) For a horizontal well the completed interval of which is located wholly within in a unitized area or an area a single lease or tract with

uniform ownership as to the mineral estate all oil and gas mineral interests in the objective formation, the horizontal spacing unit configuration requirements of Subparagraphs (c) and (d) of Paragraph (1), and Subparagraph (c) Paragraph (23), of Subsection A of 19.15.16.15 NMAC do not apply.

(b) For purposes of Paragraph (10) of Subsection A of 19.16.15 NMAC, a tract including all or part of two or more federal leases but not included in a federal unit or communitized unit shall not constitute a tract with uniform ownership.

(11) Existing and subsequent wells in horizontal spacing units.

(a) Existing wells. Existing wells in spacing units, horizontal or otherwise, that are wholly or partially included in a new horizontal spacing unit remain dedicated to their existing spacing units and are not part of the new horizontal spacing unit unless otherwise agreed by all working interest owners in the existing and new spacing units. If all owners (and BLM or state land office, if federal or state minerals are included, and the appropriate governmental authority if tribal minerals are included, in the old or new spacing unit) agree to re-dedicate the existing well to the new horizontal spacing unit, the operator shall file an amended form C-102 reflecting the re-dedication, and shall attach a certificate to the effect that all owners have agreed in writing thereto.

(b) Subsequent wells in existing spacing units. Subject to the terms of any applicable operating agreement, or to 19.15.13 NMAC or any applicable compulsory pooling order as to any compulsory pooled interests:

(i) a horizontal well any subsequent well, horizontal or otherwise, that will have a completed interval partially in an existing well's spacing unit, and in the same pool or formation, may be drilled only with the approval of, or, in the absence of approval, pursuant to a division order after notice to, all operators and working interest owners of record or known to the applicant in the existing and new well's spacing units;

(ii) a horizontal well any subsequent well, horizontal or otherwise, with a completed interval located wholly within an existing well's horizontal spacing unit and in the same pool or formation, if not designated as an infill horizontal well, may be drilled only with the approval of, or, in the absence of approval, pursuant to a division order after notice to, all operators and working

interest owners of record or known to the applicant in the existing and new well's spacing units. and

(c) The provisions of 19.15.13.10 NMAC and 19.15.13.11 NMAC shall apply to any proposal to drill an infill horizontal well in a horizontal spacing unit subject to a compulsory pooling order unless the order includes specific provision for such additional well.

(d e) The provisions of Subsection B of 19.15.15.12 NMAC shall apply to notices required ~~to non-consenting owners~~ pursuant to Items (i) or (ii) of Subparagraph (b) of Paragraph (11) of Subsection A of 19.15.16.15 NMAC.

(12) Pooling of horizontal spacing units. Whenever the operator of any horizontal well shall dedicate thereto lands comprising a standard or approved non-standard horizontal spacing unit in which there are two or more separately owned parcels of land, or royalty interests or undivided interests in oil or gas minerals which are separately owned, or any combination thereof, that have not been previously pooled for oil and gas production from the horizontal spacing unit, the operator shall obtain voluntary agreements pooling said lands or interests or an order of the division pooling said lands before producing the horizontal well.

(13) Protests. Without limitation of any other right or remedy, an owner of a tract that adjoins a proposed or existing horizontal spacing unit but is not included therein who contends that a horizontal well in the adjoining horizontal spacing unit is impairing, or will impair, the owner's correlative rights may file a protest with the division. The division, after notice and hearing, may grant such relief as it determines to be necessary and appropriate, including, but not limited to, imposing a limitation on the rate or amount of production from the adjoining horizontal spacing unit.

B. Setbacks.

(1) Generally. The following setback distances shall apply to each horizontal well:

(a) The distance in the horizontal plane from any point in the completed interval to any outer boundary of the horizontal spacing unit, measured along a line perpendicular to the completed interval or to the tangent thereof, shall be a minimum of 330 feet for an oil well or 660 feet for a gas well.

(b) The first and last take point of a horizontal well shall be no closer than 100 feet for an oil well or 330 feet for a gas well, in the horizontal plane, to any outer boundary of the horizontal spacing unit.

(2) District office to approve. The appropriate division district office may grant a permit for a horizontal well provided every point in the well's completed interval complies with the setback requirements described above, or is located at an unorthodox well location the division has approved.

(3) Surface location. A horizontal well's surface location may be located anywhere inside farther from the horizontal spacing unit boundaries than the applicable minimum setback or outside the boundaries of the horizontal spacing unit, provided the completed interval is located at an orthodox, or division-approved unorthodox, well location within the horizontal spacing unit.

(4) Internal setbacks. No internal setbacks are applicable within the horizontal spacing unit.

(5) Unorthodox well locations. The horizontal well's location is considered unorthodox if:

(a) any part of the horizontal well's completed interval is projected to be closer to an outer boundary of the horizontal spacing unit than allowed by Paragraph (1) of Subsection B of 19.15.16.15 NMAC, or other applicable rule or special pool order;

(b) a directional survey shows that the horizontal well's first or last take point, as drilled, is located closer to the outer boundary of the horizontal spacing unit than allowed by Subparagraph (b) of Paragraph (1) of Subsection B of 19.15.16.15 NMAC; or

(c) a directional survey shows that any part of the horizontal well's completed interval, as drilled, is more than 50 feet from its projected location and closer to the outer boundary of the horizontal spacing unit than allowed by Subparagraph (a) of Paragraph (1) of Subsection B of 19.15.16.15 NMAC or other applicable rule or special pool order.

(6) Approval of variances. If any variance of the horizontal well's as-drilled location from the horizontal well's projected location is 50 feet or less, the division's district office may approve the as-drilled location by approving

the operator's amended form C-102, without necessity for notice or hearing. If the horizontal well's projected location was orthodox, the variance is more than 50 feet, and the as-drilled location is unorthodox, the operator shall obtain approval from the division's Santa Fe office of the unorthodox well location before producing the well. For previously approved unorthodox well locations, if a directional survey shows that any part of the completed interval is located more than 50 feet (or, if less, twenty-five percent of the previously authorized distance) closer to the outer boundary of the horizontal spacing unit than the approved location, the operator shall obtain approval from the division's Santa Fe office of the as-drilled location before producing the horizontal well.

(7) Unitized areas. For a horizontal well the completed interval of which is located wholly within in a unitized area or an area a single lease or tract with uniform ownership as to the mineral estate all oil and gas mineral interests in the objective formation, the setbacks prescribed in Subsection B of 19.15.16.15 NMAC apply only to the outer boundaries of the unitized area, area of uniform ownership or of any uncommitted tract or partially committed tract, instead of the outer boundaries of the horizontal spacing unit.

C. Allowables.

(1) Oil allowables and gas-oil ratios. The division shall assign to a horizontal oil well in an oil pool an oil allowable equal to the amount of oil that the horizontal oil well can produce. If any non-marginal proration unit exists in the same pool as a horizontal oil well, the division shall assign to each oil well located in the unit an allowable equal to its productive capacity the amount of oil that each well can produce unless the division determines, after notice and hearing, that a reduced allowable must be assigned to the non-marginal unit to prevent waste. Production of gas or oil from any horizontal oil well shall not be limited by a limiting gas-oil ratio as provided in Subsection A of 19.15.20.13 NMAC.

(2) Gas allowables. The division shall assign to a horizontal gas well completed in a prorated gas pool an allowable equal to the amount of gas the horizontal gas well can produce. If any non-marginal gas proration unit exists in the same pool as a horizontal gas well, the division shall assign a top proration unit allowable for gas to such unit that is equal to the amount of gas than the unit can produce.

(3) Effective dates. Paragraphs (1) and (2) of Subsection C of 19.15.16.15 NMAC shall apply to all pools and areas of the state commencing on

the first day of the first month after [date of adoption], but shall cease to apply to any particular pool on the date of any order, hereafter issued following notice and hearing, whereby the division or commission determines that reduced allowables for such pool are necessary to prevent waste.

D. Other matters.

(1) Directional survey requirements. The operator of each horizontal well shall run a directional survey and file the directional survey, in a division-approved format, upon the well's completion. Directional surveys shall have shot points no more than 200 feet apart and shall be run by competent surveying companies. The division shall allow exceptions to the minimum shot point spacing provided the survey's accuracy is still within acceptable limits.

(2) Downhole commingling.

(a) Pools or laterals in the same formation. Provisions of 19.15.12.11 NMAC requiring approval for downhole commingling do not apply to commingling of oil or gas within a single lateral of a horizontal well bore that is produced from adjacent pools within the same formation, or from multiple laterals of a single well bore that are completed in the same pool or formation and dedicated to the same horizontal spacing unit.

(b) Other multi-lateral wells. Except as provided in Subparagraph (a) of Paragraph (2) of Subsection D of 19.15.16.15 NMAC, horizontal wells with multiple laterals shall only be produced pursuant to division-approved downhole commingling authority obtained pursuant to 19.15.12.11 NMAC, unless pool segregation is maintained until the fluids reach the wellhead.

(3) Conflicts with existing rules or special pool orders. Provisions of statewide rules or special pool orders in effect on February 15, 2012 that limit the number of wells that may simultaneously produce from the portion of a pool or area underlying a spacing unit, or a particular portion of a spacing unit do not apply to horizontal wells. Provisions of statewide rules or special pool rules in effect on February 1, 2017, save and except the special provisions for the Purple Sage; Wolfcamp (Gas) Pool in ordering paragraphs (1) through (7) of division order R-14262, that conflict with any of any provisions in 19.15.16.15 NMAC do not apply to horizontal wells. Special pool orders or amendments thereto adopted after [date of adoption] shall prevail over rules as provided in 19.15.2.9 NMAC.