

19.15.1.7 Definitions:

A. Definitions beginning with the letter “A”

Delete definition for “approved temporary abandonment”

I. Definitions beginning with the letter “I”.

(1) Inactive shall be the status of a well that according to division records:

- a) Has not produced or been used for injection for a continuous period of more than one year plus 90 days;
- b) Does not have its wellbore plugged in accordance with 19.15.4.202 NMAC;
- c) Is not on temporary abandonment status in accordance with 19.15.4.203 NMAC;

(2) A well is not “inactive” if it is:

- a) A dewatering coal gas well;
- b) An approved injection well; or
- c) Not producing because of delays in obtaining surface access to the well.

T. Definitions beginning with the letter “T”

(2) Temporary abandonment shall be the status of a well that is in compliance with 19.15.4.203 NMAC

New Rule 19.15.4.201.A should be amended as follows:

- A. A well operator is in good standing with the division if the operator
 -
 - (4) has no more than five wells or 5% of the wells it operates in New Mexico, which ever is larger, 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.

Rule 19.15.1.37.E NMAC should be amended by the addition of the following language:

- F. Prior to revoking the good standing of any operator the Division shall give notice to the operator that, according to division records, it fails to meet the good standing standards of Section 19.15.1.37 and that it has 30 days from the date of this notice to bring its wells into compliance, or negotiate an agreement to bring its wells into compliance, with Division Rule 19.15.4.201 NMAC.
- G. If an operator fails to either bring its wells into compliance with rule 19.15.4.202 NMAC or enter an agreed compliance order with the division, its good standing may then be cancelled.

KNOWING AND WILLFUL
(Adapted from OSHA Willful Violation Criteria)

Knowing and willful means either that the violation was intentional of an applicable law, rule, order or permit or in plain indifference to their requirements. The following criteria further defines what will be considered a knowing and willful violation:

- 1) The operator committed an intentional and knowing violation if:
 - a. An authorized representative of the operator was aware of the applicable law, rule, order, or permit condition and was also aware of a condition or practice in violation of those requirements and did not abate the situation.
 - b. An authorized representative of the operator was not aware of the applicable law, rule, order, or permit condition but was aware of a comparable legal requirement (e.g., federal) and was also aware of a condition or practice in violation of that requirement and did not abate the situation.
- 2) The operator committed a violation with plain indifference if:
 - a. Higher management officials were aware of the applicable law, rule, order, or permit condition to the company's business but made little or no effort to communicate the requirement to lower level employees and supervisors.
 - b. Company officials were aware of a continuing compliance problem but made little or no effort to avoid violations.
 - c. An authorized representative of the company was not aware of any legal requirement, but was aware that a condition or practice was a hazard to public safety or the environment and made little or no effort to determine the extent of the problem or take corrective action.