

**Amoco Production Company**

Denver Region  
1670 Broadway  
P.O. Box 800  
Denver, Colorado 80201  
303-830-4040

J. H. Goble  
Regional Natural Gas Marketing Manager

November 22, 1985

State of New Mexico  
Energy and Minerals Department  
Oil Conservation Division  
P. O. Box 2088  
Santa Fe, NM 87501

Attention: R. L. Stamets

File: JHG-3622-980.240

Proposal to End OCD NGPA Determinations

In response to your letter of November 4, 1985, to New Mexico operators concerning the proposal of ending the Oil Conservation Division's (OCD) making determinations on NGPA well price category applications, the Denver Region of Amoco Production Company (Amoco) is in opposition to this proposal.

The expectation of Amoco in developing the natural gas reserves of the state, and placing those reserves under contract was that the gas in question could receive the incentive prices established by the NGPA, or in some cases the deregulated prices permitted by the NGPA, to the extent that the purchaser had agreed to pay such prices. This expectation is frustrated if New Mexico refuses to make the NGPA eligibility determination which are the prerequisite to those incentive or deregulated prices.

Amoco will support a "fee system" to enable the OCD to offset the cost it incurs in making NGPA eligibility determinations.

Amoco appreciates the opportunity to comment on this issue.

*J. H. Goble*

PDW/cjc

Attachment

LTR445

**ARCO Oil and Gas Company**  
Natural Gas Marketing  
Post Office Box 2819  
Dallas, Texas 75221  
Telephone 214 880 4671



E. J. Cerny  
Manager, Gas Regulations

November 21, 1985

Mr. R. L. Stamets, Director  
State of New Mexico, Energy and Minerals Dept.  
Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87501

Dear Mr. Stamets:

The following comments are in response to your November 4, 1985 memorandum concerning your proposal to discontinue the NGPA well determination work performed by the Oil Conservation Division. ARCO opposes the Division's proposal on this matter for the reasons cited below and questions the Division's ability to implement such a proposal.


Title 18 of the Code of Federal Regulations, Section 274.302 specifies that a jurisdictional agency may file a request with the Federal Energy Regulatory Commission (FERC) to enter into a written agreement waiving its authority to make well price determinations. The FERC then must accept such agreement and may determine the terms and conditions of the agreement as it deems appropriate. Section 274.303 gives the FERC the authority to revoke the agreement pursuant to a term or condition of that agreement. In informal conversation with the FERC Staff, they indicated they would not be willing to accept such an agreement for waiver.

Should the FERC determine it is appropriate to accept a waiver from the State of New Mexico, there would be no authority for interim collection for NGPA Sections 102, 103, 107 or 108 pending final determination for new wells drilled in New Mexico. Sections 273.202 and 273.203 only provide interim collection authority pending a jurisdictional agency determination of eligibility. It currently takes six to twelve months to receive a final determination from the FERC. Not only would producers experience the delay in receipt of revenue and thus loss of present worth, the state's revenue from taxes and royalty would also suffer.

Mr. Stamets, Director  
November 21, 1985  
Page 2

In order to defray some of the costs associated with processing the NGPA well category determination filings, ARCO would not be opposed to submitting a fee along with their NGPA well determinations as long as the fee was reasonable and comparable to fees required by other states.

Very truly yours,

  
Jeanne M. Zaiontz  
Director, Regulations  
(214) 880-5784

JMZ:ld

# APOLLO

Apollo Energy, Inc. / P. O. Box 5315 / Hobbs, New Mexico 88241 / Phone (505) 397-3596

November 15, 1985

State of New Mexico  
Energy and Minerals Department  
P.O. Box 2088  
Santa Fe, New Mexico 87501

RECEIVED  
NOV 15 1985  
OIL CONSERVATION DIVISION

Attention: R. L. Stamets, Director

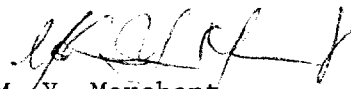
Re: Proposal to end OCD NGPA determination

Dear Mr. Stamets,

This is in reference to your memo no. 5-85 regarding the captioned. APOLLO ENERGY, INC. will be in favor for the Division to charge \$100.00 for each NGPA determination. I feel that the department is very efficient in handling determinations and would prefer to keep it that way.

Thank you.

Sincerely,

  
M. Y. Merchant  
President

MYM/lm

**ROBERT E. BOLING**

EXPLORATION CONSULTANT

305 SOUTH FIFTH STREET

ARTESIA, NEW MEXICO - 88210

November 26, 1985

Mr. R. L. Stamets, Director  
New Mexico Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87501

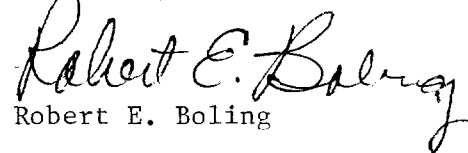
Re: Memo No. 5-85

Dear Dick:

I strongly urge you not to end NGPA Determinations. I believe a fee for processing these determinations would be acceptable to the industry if the fees are set at a figure which approximates the cost.

I note with interest one of your reasons for proposing to end NGPA Determinations is, "...permit more time to work on matters related to our statutory duties." In this connection how about dropping the ill conceived and unworkable requirement to notify the surface owners prior to staking a location. This is clearly not a statutory duty and it sounds a lot like an impractical requirement the BLM would come up with.

Yours very truly,

  
Robert E. Boling

REB:scp



**Chevron U.S.A. Inc.**

P.O. Box 1635, Houston, TX 77251 • Phone (713) 754-7803

Frank Robin  
General Manager  
Production Department  
Southern Region

November 27, 1985

Mr. R. L. Stamets, Director  
Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87501

Re: OCD Memo No. 5-85  
Proposal to End OCD  
NGPA Determinations

Dear Mr. Stamets:

Chevron U.S.A. Inc. would like to take this opportunity to express our desire that the OCD maintain their authority as the jurisdictional agency over NGPA well category determinations. Your Memo No. 5-85 of November 4, 1985 has been reviewed by our operating personnel and our Gas Marketing Department. Your continued involvement in this regulatory process is encouraged on the basis of:

OCD availability of drilling and completion records;

A knowledgeable engineering and geological staff;

Ability to evaluate efficient and effective findings;

Timely handling of applications; and,

Maintenance of OCD jurisdiction over all New Mexico oil and gas operations.

Chevron wishes to thank you for the opportunity to make these comments. We realize the administrative burden that this function places on your department and we are willing to support a reasonable fee system to continue this Division program.

Yours very truly,

for F. Robin

MJC:ja/11275/09

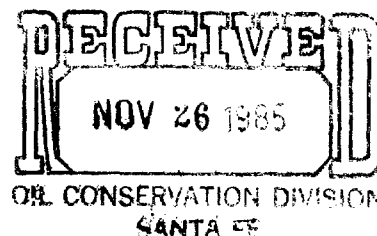


Donald W. Johnson  
Division Manager  
Production Department  
Hobbs Division  
North American Production

Conoco Inc.  
P.O. Box 460  
726 East Michigan  
Hobbs, NM 88240  
(505) 393-4141

November 20, 1985

Mr. R. L. Stamets, Director  
New Mexico Oil Conservation Division  
P. O. Box 2088  
Santa Fe, NM 87501



Dear Mr. Stamets:

Regarding your memorandum dated November 4, 1985, in which you are requesting comments concerning abolishment of the examination of National Gas Policy Act (NGPA) well category determination applications by the NMOCD, Conoco Inc. proposes that the Division continue to process applications.

The establishment of a jurisdictional agency to process NGPA applications is initially made under the NGPA. As stated under Section 503(c)(1) of the Act, a "Federal or State agency having regulatory jurisdiction with respect to the production of natural gas is authorized to make determinations...." Subpart E of Section 274.501(a)(2) of the Federal Energy Regulatory Commission Regulations establishes the NMOCD as the jurisdictional agency for State lands in New Mexico.

Although the NGPA and Order 406 contain provisions pertaining to "deregulation" of natural gas, only the price of certain categories of gas deregulates. All other regulatory functions demanded by the NGPA remain in effect. In processing well category determination filings, the NMOCD is filling on essential role in administering the NGPA.

Conoco believes that useful lines of communication have been established between the State and producers. We feel that continuing these lines is more beneficial to Conoco and to the State than attempts at the generation of new lines with the Federal government. We also feel that the State is more familiar with reservoir and well completion data, and state spacing requirements for New Mexico applications.

In order for the NMOCD to waive its authority to make NGPA determinations, it would be required to make a "written agreement between the Federal or State agency involved and the (Federal Energy Regulatory) Commission" (NGPA Section 503(c)(2)(B)). Rather than waiving its authority to continue to process NGPA applications, Conoco proposes that a fee system be initiated. Furthermore, we request that a fee of \$25 per application be submitted instead of the \$100 fee mentioned in your memorandum. FERC Order 394 establishes a fee of \$25 for each NGPA application submitted to the Federal government.

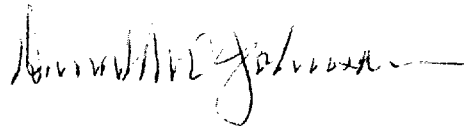
New Mexico Oil Conservation Division

Page 2

November 20, 1985

Conoco appreciates the Division's concerns with monetary and time constraints. However, we wish the NMOCD to continue as the jurisdictional agency for State lands in New Mexico.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Donald W. Johnson", followed by a horizontal line.

MAB:jr





TONEY ANAYA  
GOVERNOR

STATE OF NEW MEXICO  
ENERGY AND MINERALS DEPARTMENT  
OIL CONSERVATION DIVISION

50 YEARS



1935 - 1985

November 4, 1985

POST OFFICE BOX 2088  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87501  
(505) 827-5800

MEMO No. 5-85

MEMORANDUM

TO: NEW MEXICO OPERATORS  
FROM: R. L. STAMETS, DIRECTOR *RLS*  
SUBJECT: PROPOSAL TO END OCD NGPA DETERMINATIONS

I have been considering seeking an end to the NGPA well price category determination work performed by the Division. The basis for this proposed action includes:

- 1) When initiated, we did not expect this work to continue beyond January 1985. Recent discussions with FERC personnel now indicate there is no end in sight for the program.
- 2) Ending this effort would permit more time to work on matters related to our statutory duties.
- 3) Budgeting considerations may demand cutbacks in Division activities.

This proposal was announced at the Independent Petroleum Association and Oil and Gas Association annual meetings. At those times I invited comments. To date only one comment has been received and it was favorable.

By this memo I am making a final appeal for comments both in favor or in opposition. I would further request that any party commenting in opposition indicate if they would support a fee system to continue this Division program. Many states apparently are charging 100 dollars or so for each NGPA determination sought.

Responses to this memo should be submitted on or before November 30, 1985.

dp



CITIES SERVICE OIL AND GAS CORPORATION  
P. O. BOX 1919 MIDLAND, TEXAS 79702

(915) 685-5600

November 22, 1985

State of New Mexico  
Energy & Minerals Dept.  
Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87501

Attn: Mr. R. L. Stamets, Director

RE: Oil Conservation Division  
NGPA Determinations

Gentlemen:

In reference to your letter of November 4, 1985, indicating the OCD may discontinue NGPA price category determinations, this is to advise that Cities Service Oil & Gas Corporation prefers that the OCD continue the program and would support a nominal fee system. If you elect to continue with a fee system, we believe that fees collected should be used totally within the division to pay for additional personnel for prompt handling of NGPA determinations. We strongly oppose fees collected going into the general fund without providing improved service to the industry.

Yours very truly,

E. F. Motter  
Engineering Manager  
Southwest Region  
E & P Division

EFM:wc

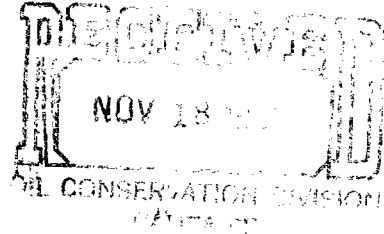
CC: Mr. C. L. Coffman  
Mr. K. D. Van Horn  
Mr. C. R. Mitchell

(915) 682-6482 - OFFICE  
694-5472 - RESIDENCE

JAMES A. DAVIDSON  
Oil & Gas Properties  
P. O. BOX 494  
MIDLAND, TEXAS 79702  
November 15, 1985

New Mexico Oil Conservation Division  
P.O. Box 2088  
Santa Fe, New Mexico 87501

Attention: Mr. R.L. Stamets  
Director



RE: Memo #5-85  
Proposal to end  
OCD NGPA Determinations

Dear Mr. Stamets:

Reference is made to your above noted memo dated November 4, 1985.

I do not actually operate any New Mexico wells but I have a substantial non-operating interest in over 100 wells located in Lea County.

It is my opinion that ending NGPA well price category determination work performed by the Division would be a hardship on New Mexico operators. I believe that transferring this work to FERC personnel would result in almost unbelievable delays in receiving approval of price determinations resulting in loss of revenue to the State of New Mexico, the New Mexico royalty owners, and the New Mexico operators.

Therefore, I respectfully request that you reconsider your position as set out in the above noted memo and continue doing NGPA well price category determination work. I think that all operators and non-operators in New Mexico appreciate the work you have done in the past in this regard and hope that you will continue to do this work.

Thank you for allowing me to present my views and with kindest wishes to you and your personnel.

Very truly yours,

JAMES A. DAVIDSON

JAD/gh

cc: Mr. William Carr - Campbell & Black - Santa Fe

# H & S OIL COMPANY

ARTESIA, NEW MEXICO 88210



November 12, 1985

Mr. R. L. Stamets  
Director  
Energy and Minerals Department  
Oil Conservation Division  
P.O. Box 2088  
Santa Fe, NM 87501

Dear Dick:

Answering your question as to whether you should quit the NGPA determination. I feel the Commission was initiated to promote conservation and promulgate rules and regulations and to aid the Oil and Gas Producer.

Taxes placed on production of oil and gas go toward paying for your job, as well as the existence of the Commission. Should the Commission start delineating such things as determination and supervision of the industry, I suggest that something is definitely wrong with the direction the Commission is taking, and perhaps steps should be taken to guide it in the right direction!

Sincerely,

R. L. Heinsch  
Partner

RLH/tk

DOYLE HARTMAN

*Oil Operator*

500 N. MAIN

P.O. BOX 10426

MIDLAND, TEXAS 79702

(915) 684-4011

November 12, 1985

State of New Mexico  
Energy and Minerals Dept.  
Oil Conservation Division  
Post Office Box 2088  
Santa Fe, New Mexico 87501

Attention: Mr. R. L. Stamets  
Director

Re: Proposal to End OCD  
NGPA Determinations

Gentlemen:

Reference is made to memo No. 5-85 dated November 4, 1985 regarding the cessation of NGPA well price category determination work performed by the Oil Conservation Division. We are very much opposed to this proposal. We believe it is inadvisable for the New Mexico Oil Conservation Division to lose control of a task that directly affects oil and gas income to the State of New Mexico. The Federal Energy Regulatory Commission cannot possibly be as intimately concerned with NGPA determinations for the State of New Mexico, and in complicated determinations such as infill findings, could deny an application rather than take the effort to study the application. It is also much more difficult for the producers to deal with the Washington bureaucracy than with the Oil Conservation Division.

The NGPA well price category determinations directly affect income to the State of New Mexico in the form of State royalties, severance taxes, and income taxes. If NGPA determinations are discouraged, either by rejection of determinations or by delay in determinations, not only will the State of New Mexico lose revenues due to loss of royalty and taxes, but many of the citizens of New Mexico who are employed in the oil and gas industry could also experience job slow down or even loss of jobs.

We are more than willing to support a fee system to enable the Division to continue its NGPA well price category determination work. As another means of monetary support for the Oil Conservation Division and the vital work it does for the oil and gas industry in the State of New Mexico, we would also be willing to support a slight oil and gas conservation tax to be used exclusively to support funding the operations of the New Mexico Oil Conservation Division.

New Mexico Oil Conservation Division  
November 12, 1985  
Page 2

We feel the oil and gas industry is vital to the economic health of the State of New Mexico and that the State should retain responsibility for all phases of the industry.

Very truly yours,

A handwritten signature in black ink, appearing to read "Doyle Hartman", with a long horizontal flourish extending to the right.

Doyle Hartman

DH/dr

cc: State of New Mexico  
Commissioner of Public Lands  
Mr. Jim Baca  
Post Office Box 1148  
Santa Fe, New Mexico 87501

Representative Max Coll  
Post Office Box EE  
Santa Fe, New Mexico 87501

Senator Jack M. Morgan  
Post Office Box 2151  
Farmington, New Mexico 87401

Representative C. Gene Samberson  
Post Office Drawer 1599  
Lovington, New Mexico 88231

Representative Jerry W. Sandel  
716 Rosa Street  
Farmington, New Mexico 87401

State of New Mexico  
Deputy Commissioner of Public Lands  
Mr. Gary Carlson  
Post Office Box 1148  
Santa Fe, New Mexico 87501

State of New Mexico  
Deputy Commissioner of Public Lands  
Mr. Roy Soto  
Post Office Box 1148  
Santa Fe, New Mexico 87501

State of New Mexico  
Land Office  
Mr. Bill Jiron  
Post Office Box 1148  
Santa Fe, New Mexico 87501

New Mexico Oil Conservation Division  
November 12, 1985  
Page 3

Mr. William F. Carr  
Campbell & Black  
Post Office Box 2208  
Santa Fe, New Mexico 87501

Please make NGPA File

CAMPBELL & BLACK, P.A.  
LAWYERS

JACK M. CAMPBELL  
BRUCE D. BLACK  
MICHAEL B. CAMPBELL  
WILLIAM F. CARR  
BRADFORD C. BERGE  
J. SCOTT HALL  
PETER N. IVES  
JOHN H. BEMIS

GUADALUPE PLACE  
SUITE 1 - 110 NORTH GUADALUPE  
POST OFFICE BOX 2208  
SANTA FE, NEW MEXICO 87501  
TELEPHONE: (505) 988-4421  
TELECOPIER: (505) 983-6043

November 12, 1985

R. L. Stamets, Director  
Oil Conservation Division  
New Mexico Department of  
Energy and Minerals  
Post Office Box 2088  
Santa Fe, New Mexico 87504-2088

RECEIVED

NOV 13 1985

OIL CONSERVATION DIVISION

Re: OCD Memo #5-85 Re: Proposal to End OCD NGPA Determinations

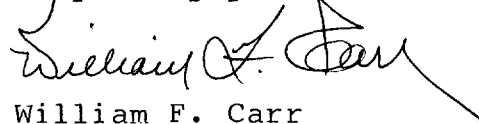
Dear Mr. Stamets:

I am writing this letter on behalf of Doyle Hartman concerning your proposal for the New Mexico Oil Conservation Division to no longer act as this State's jurisdictional agency under the NGPA. We are opposed to any action that would result in turning this matter over to FERC. We believe the State would be giving up its opportunity to assure that New Mexico, as well as its producers, are treated fairly in the implementation of the Natural Gas Policy Act of 1978. There is no assurance that FERC would act in a timely fashion to process applications and as a result of these delays, producers in New Mexico as well as the State, could suffer a reduction in revenue from natural gas production.

Mr. Hartman has no objection to paying the State a reasonable fee to offset the costs incurred in processing these applications and, furthermore, would recommend that the real solution to this and other financial related problems confronting the Division would be a return to the situation which existed prior to the creation of the Department of Energy and Minerals whereby the activities of the Oil Conservation Division are financed by a tax on the industry. This has the benefit of assuring that there is adequate revenue to handle matters which are of critical concern to the industry without burdening other taxpayers in New Mexico who are not directly affected by this activity.

Your consideration of these comments is appreciated.

Very truly yours,

  
William F. Carr

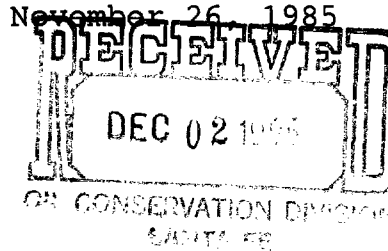
WFC/cv

cc: Doyle Hartman



# LEAR PETROLEUM EXPLORATION, INC.

950 ONE ENERGY SQUARE / PHONE 214/363-6085  
4925 GREENVILLE AVENUE / DALLAS, TEXAS 75206



State of New Mexico  
Energy and Mineral Department  
Oil Conservation Division  
Post Office Box 2088  
State Land Office Building  
Santa Fe, New Mexico 87501

Attention: Mr. R. L. Stamets,  
Director

Re: Memo No. 5-85

Dear Sir:

Thank you once again for taking the time to visit with me over the telephone earlier this date regarding, in essence, the future of NGPA determinations in the State of New Mexico.

At this time Lear Petroleum Exploration, Inc. (LPX) would prefer to keep the system status quo if at all practical or feasible. In the event, however, that legislative action necessitates a change in the present format, LPX would support a reasonable fee system to insure the continued involvement qua management of the determination process by the State of New Mexico.

Your keeping LPX advised as to future developments in this regard would be most appreciated.

Sincerely,

LEAR PETROLEUM EXPLORATION, INC.

Raymond B. Roush  
Manager of Engineering

RBR/jcb



TONEY ANAYA  
GOVERNOR

STATE OF NEW MEXICO  
ENERGY AND MINERALS DEPARTMENT  
OIL CONSERVATION DIVISION

50 YEARS



1935 - 1985

November 4, 1985

POST OFFICE BOX 2088  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87501  
(505) 827-5800

MEMO No. 5-85

MEMORANDUM

TO: NEW MEXICO OPERATORS  
FROM: R. L. STAMETS, DIRECTOR *RLS*  
SUBJECT: PROPOSAL TO END OCD NGPA DETERMINATIONS

I have been considering seeking an end to the NGPA well price category determination work performed by the Division. The basis for this proposed action includes:

- 1) When initiated, we did not expect this work to continue beyond January 1985. Recent discussions with FERC personnel now indicate there is no end in sight for the program.
- 2) Ending this effort would permit more time to work on matters related to our statutory duties.
- 3) Budgeting considerations may demand cutbacks in Division activities.

This proposal was announced at the Independent Petroleum Association and Oil and Gas Association annual meetings. At those times I invited comments. To date only one comment has been received and it was favorable.

By this memo I am making a final appeal for comments both in favor or in opposition. I would further request that any party commenting in opposition indicate if they would support a fee system to continue this Division program. Many states apparently are charging 100 dollars or so for each NGPA determination sought.

Responses to this memo should be submitted on or before November 30, 1985.

dp

RECEIVED  
NOV 14 1985  
PROD. DEPT.

# **Curtis J. Little**

OIL AND GAS

PETROLEUM PLAZA • SUITE 175  
P. O. BOX 1258 • FARMINGTON, NEW MEXICO 87499  
TELEPHONE: (505) 327-6176

November 12, 1985

Mr. R. L. Stamets, Director  
Oil Conservation Division  
State of New Mexico  
P. O. Box 2088  
Santa Fe N.M. 87501

Re: Termination of NGPA Determinations by OCD

Dear Mr. Stamets:

I am in favor of terminating OCD NGPA determinations. The NGPA is the result of Congressional misinformation and mismanagement. The applications for price category determinations today are nothing more than unnecessary paper work with no beneficial results to anyone. I urge that the New Mexico OCD demand that BLM take over the NGPA determinations.

Very truly yours,



CURTIS J. LITTLE

CJL/sfl

November 25, 1985

Mr. R.L. Staments, Director  
Oil Conservation Division  
Energy and Mineral Department  
State of New Mexico  
Post Office Box 2088  
State Land Office Building  
Santa Fe, New Mexico 87501



RE: Proposal To End OCD NGPA Determinations

Dear Mr. Staments:

This letter is in response to your November 6, 1985, memorandum to New Mexico operators in which you requested comments on your proposal to have the Oil Conservation Division cease reviewing NGPA applications for determination. Mitchell Energy Corporation appreciates the opportunity to comment on your proposal.

Mitchell strongly urges the Oil Conservation Division (OCD) to continue to review NGPA applications. If the OCD should cease to review these applications, operators would be forced to file the applications directly with the Federal Energy Regulatory Commission which, in Mitchell's opinion, will place an undue administrative burden on producers. In addition to delays that are inherent in any federal process, additional delays will occur in the application review process because the FERC is unfamiliar with New Mexico regulations.

These factors tend to create an environment of regulatory uncertainty. In Mitchell's opinion, this uncertainty will tend to inhibit oil and gas activities in the State. Contrary to New Mexico's desire to encourage oil and gas production, the failure to review NGPA applications could inhibit economic activity within the State. Additionally, the uncertainty created by the OCD's failure to provide this service could cause reductions in the creation of new jobs within the State as well as tax revenues to the State. It is Mitchell's contention that the benefits to New Mexico more than cost-justify the program OCD currently maintains with regard to NGPA applications. Consequently, Mitchell believes that it is in the best interest of the State of New Mexico as well as oil and gas producers to continue to provide this service.

Mr. R. L. Staments  
November 25, 1985  
Page 2

Notwithstanding the above, if the OCD still contemplates elimination of its NGPA review program and/or considers the imposition of filing fees, Mitchell recommends that such proposals be issued as formal rulemakings with an expanded opportunity for comment and hearing on the public record. If there are any questions regarding these comments, please feel free to contact me at (713) 363-6639.

Respectfully submitted,

MITCHELL ENERGY CORPORATION

A handwritten signature in cursive script, appearing to read "Michael G. Dimond".

Michael G. Dimond  
Regulatory Affairs Specialist

MGD:gnb



November 14, 1985

R. L. Stamets  
Director  
Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87501

RE: Proposal to End OCD  
NGPA Determinations

Dear Mr. Stamets:

Marbob Energy Corporation would request that OCD continue to make NGPA determinations. As a small producer, we have a great appreciation of the help we received from OCD on NGPA. The OCD provided a concise format of requirements for the filings and has been helpful to guide us in meeting the proper requirements. Certainly, at this point, we feel we could file with Washington but for small producer filing their first well it would probably be much easier for them to deal with your office.

In regards to paying a fee for each filing, we would have no objection to paying a fee to cover your expense.

If we can be of further assistance in this matter, please contact us.

Sincerely,

*Raye Miller*

Raye Miller  
Secretary-Treasurer

RM/rr

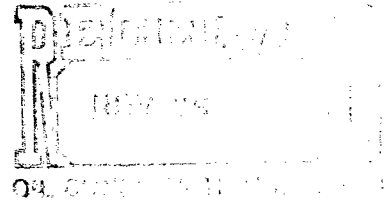
# RALPH NIX OIL, INC.

101 SOUTH SEVENTH — PHONE 746-2341

P. O. BOX 617

ARTESIA, NEW MEXICO 88210

November 25, 1985



State of New Mexico  
Energy and Minerals Department  
Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87501

Attention: Dick Stamets

Re: NGPA Determinations  
Memo #5-85  
November 4, 1985

Gentlemen:

In response to your memorandum of November 4, 1985, to end Oil Conservation Division NGPA Determinations, we would prefer for the OCD to continue to approve the applications, even if a filing fee is required.

Thank you.

Very truly yours,

  
William J. McCaw

WJM/dw



P. O. Box 2055 • Telephone (505) 623-3131 • Roswell, New Mexico 88201

November 18, 1985

State of New Mexico  
Energy & Minerals Department  
P.O. Box 2088  
Santa Fe, New Mexico 87501  
ATTN: R.L. Stamets, Director

Dear Mr. Stamets:

In regard to your letter of November 4, 1985 concerning Proposal to end OCD NGPA Determinations we wish to inform you that we are in favor of this proposal and are sorry we have not taken the time to notify you previously.

Sincerely,

WESTERN OIL PRODUCERS, INC.

Arnold Newkirk

AN:bn





Texaco USA  
Producing Department

P O Box 3109  
Midland TX 79702

November 18, 1985

Mr. R. L. Stamets, Director  
Oil Conservation Division  
New Mexico Energy and Minerals Department  
P. O. Box 2088  
Santa Fe, New Mexico 87501

Dear Mr. Stamets:

Texaco Inc. recommends that the Oil Conservation Division continue to perform the NGPA well price category determination work for New Mexico wells. The Division's expertise, with regard to the geology and reservoir behavior of formations in the state, makes it important for New Mexico to retain this responsibility and control. Both industry and the consumer benefit from timely handling of these determinations by knowledgeable personnel.

Texaco cannot recommend establishment of a fee system for this program. A number of other states have found such fees unnecessary to justify maintaining their control over these important determinations. Nevertheless, should it become essential for the state to fund continuance of the program through a fee system, fees should be limited to actual program costs. Two of New Mexico's neighbors - Texas and Colorado - charge \$50 for an NGPA well price category determination; the other two - Oklahoma and Arizona - charge only \$25. Even though a few states do charge a \$100 fee for such work, Texaco considers this amount clearly excessive, and would strongly oppose a fee of this magnitude.

Yours very truly,

Allan W. Dees  
Regulatory Compliance Manager

AWD:cjc

**JOHN YURONKA**  
CONSULTING PETROLEUM ENGINEER  
807 PETROLEUM BUILDING  
MIDLAND, TEXAS 79701

OFFICE 684-6223  
RESIDENCE 683-4579  
AREA CODE 915

November 13, 1985

Mr. R. L. Stamets, Director  
Energy and Minerals Department  
Oil Conservation Division  
P. O. Box 2088  
State Land Office Building  
Santa Fe, NM 87501

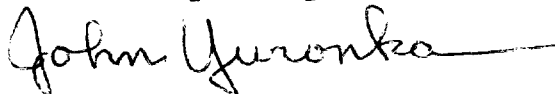
Re: Memo No. 5-85  
Proposal to End OCD  
NGPA Determinations

Dear Mr. Stamets:

The proposal to end OCD NGPA determinations would be acceptable to me unless it would deny me the right to obtain the highest price possible for my gas . I would prefer to pay a filing fee of \$50.00 per filing to cover the costs and to compensate for the possible cutbacks in Division activities because of budget considerations.

If I can be of any assistance, please advise.

Yours very truly,



John Yuronka

JYks  
enc.



207 SOUTH FOURTH STREET  
ARTESIA, NEW MEXICO 88210

TELEPHONE (505) 748-1331

S. P. YATES  
PRESIDENT  
MARTIN YATES, III  
VICE PRESIDENT  
JOHN A. YATES  
VICE PRESIDENT  
B. W. HARPER  
SEC. TREAS.

November 19, 1985

Richard L. Stamets  
New Mexico Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87501

ATTN: Richard L. Stamets

Dear Sir:

Re: NGPA Applications

Yates Petroleum urges you to find a way to continue processing NGPA category determinations for gas wells. I believe your agency has a better understanding of our mutual problems and concerns here in New Mexico than does the FERC in Washington. We have faced these issues together over the past six years. You and your staff have developed an excellent working relationship with the New Mexico gas producers. Yates would like to maintain that relationship.

A small filing fee, in the range of \$25 to \$50 per application, could help offset your costs. Bookkeeper costs on both ends would be reduced if the fee were billed quarterly.

I feel that the NMOCD has done a great job in this area. In passing the NGPA, Congress visualized having the gas producers file with a regulatory agency in each state. Your agency is the only logical candidate. The NMOCD itself is surely spending far fewer hours on NGPA work because of the decline in drilling and the practical elimination of new reservoir filings. We are as disappointed over the continuing need to file as you are. It would be unfair for you to pick up your bat and ball and go home now.

Sincerely,

DAVID F. BONEAU  
Engineering Manager

DFB/cvg

**ZIA ENERGY, INC.**

HOBBS, NEW MEXICO 88240

November 26, 1985

Energy and Minerals Department  
Oil Conservation Division  
P.O. Box 2088  
Santa Fe, New Mexico 87501

Attention: Mr. Richard L. Stamets  
Director - Oil Conservation Division

Dear Mr. Stamets:

Following your address to the Hobbs Section of API, Zia Energy, Inc. would like to be on record as opposing transferring the duties that the Oil Conservation Division has been performing for the Federal Energy Regulatory Commission concerning Jurisdictional Agency determinations on State and Fee lands for NGPA of 1978 gas category determinations.

We would prefer that the Oil Conservation Division continue this service and charge the operator an appropriate fee. We feel that this will expedite paperwork and will allow New Mexico operators to work with a governmental agency that is more sensitive to New Mexico operations and problems.

We sincerely appreciate the helpful cooperation that we always get when dealing with the Oil Conservation Division.

Yours truly,

*Farris Nelson*

Farris Nelson



**PHILLIPS PETROLEUM COMPANY**

BARTLESVILLE, OKLAHOMA 74004

918 661-6600

November 26, 1985

GAS AND GAS LIQUIDS GROUP

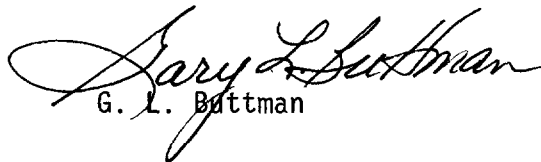
R. L. Stamets, Director  
Oil Conservation Division  
P.O. Box 2088  
State Land Office Building  
Santa Fe, NM 87501

Re: Comments on OCD's  
Memo No. 5-85

Dear Sir:

Enclosed for filing are the comments of Phillips Petroleum Company on the captioned matter. There is enclosed a duplicate copy of this letter which Phillips would appreciate having date stamped and returned in the self-addressed stamped envelope provided.

Very truly yours,

  
G. L. Battman

GLB:sjb:5  
Attachment

12.5.

BEFORE THE  
OIL CONSERVATION DIVISION  
ENERGY AND MINERALS DEPARTMENT  
STATE OF NEW MEXICO

---

COMMENTS OF  
PHILLIPS PETROLEUM COMPANY  
ON MEMO NO. 5-85

---

Phillips Petroleum Company, respectfully submits the following comments on the NGPA well determination issues discussed in Memo No. 5-85 from the Director, Oil Conservation Division.

I. Communications or Correspondence

Communications or correspondence regarding these comments may be directed to:

Ms. Barbara J. Price, Manager  
Laws & Regulations Division  
Gas & Gas Liquids Group  
336 Home Savings & Loan Bldg.  
Bartlesville, Oklahoma 74004  
Phone: (918)661-4355

or

Mr. Larry Pain, Attorney  
Phillips Petroleum Company  
1258 Adams Building  
Bartlesville, Oklahoma 74004  
Phone (918) 661-6355

II. Summary

Phillips Petroleum Company (Phillips) believes that

it would be in the best interest of New Mexico producers, the State and royalty owners for the Oil Conservation Division (OCD) to continue processing Natural Gas Policy Act (NGPA) well determination applications. Phillips would encourage the OCD to continue the well determination process since producers can expect a more expeditious handling of these determinations by the OCD than if the responsibility is shifted back to the FERC. Phillips would not encourage the imposition of a filing fee, which is in reality a tax on the conduct of prudent business.

Although Phillips dislikes the fee proposal, it remains mindful of the depressed economic conditions of the producing states and the costs involved in the NGPA well determination process. Phillips is also aware of the benefits to the State and its political subdivisions derived from the well determination process through increased severance and similar taxes collected on production from wells that have received final determinations and are eligible for higher prices. However, Phillips would not oppose such a fee if the fee appears reasonable and in line with other states for equivalent services under the well determination process.

### III. Comments

Phillips recognizes that NGPA Section 503(c)(2) grants the OCD the right to waive its authority to act on well category determination applications. The Conference

Report on the NGPA succinctly states, "The State or Federal agency having regulatory jurisdiction with respect to the production of natural gas may waive its authority to make determinations under this section, if the Commission agrees." H.R. Report No. 95-1752 at 119 (95th Cong. 2d Sess. 1978).

An acceptance agreement might be reached with the Commission regarding well category determination applications; however, will such an agreement preclude the Commission's Staff from making various data requests of the OCD? Is the State of New Mexico willing to abdicate to the FERC a responsibility that so heavily impacts the economy of the State and its political subdivisions through the collection of taxes?

The OCD must be mindful that the grant of a well determination brings about the potential for a higher price for gas. The direct result can be the receipt of higher tax revenues for the State of New Mexico and its political subdivisions. In today's gas market, however, producers can rarely collect the full maximum lawful price established for the NGPA category sought, much less recover the added costs of the fees being contemplated by the OCD.

Phillips believes that the establishment of a fee would be a disservice to the producing industry and potentially to the State's economy. With gas prices depressed and



no immediate benefit to filing well category determination applications, producers may decline to file the applications until such time as the market rebounds. If we assume that well filings are postponed for an indefinite time and then that this accumulation of filings were later made over a relatively short period of time, one can imagine a true deluge of paperwork which would then need prompt handling. To the extent well filings are not made at all, a loss of tax revenue and other economic benefits to the state would result. At this time, when there is no real economic incentive for producers to file, implementation of a fee structure seems ill conceived.

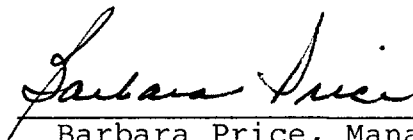
Phillips feels that the OCD's review of well determination applications results in more expeditious review and approval of well filings than would be possible through direct filings with the FERC. If this responsibility is shifted back to the FERC, it is reasonable to expect longer processing of applications which results in longer periods of rate and tax uncertainty for producers and the state.

Phillips would not encourage the establishment of a fee; however, if fees must be adopted. Phillips would suggest a fee of \$25.00 per application. Although some jurisdictional agencies charge the above amount or more, the OCD must allocate some of the benefits of its well determination efforts to state tax revenues and to general improvements in the state's economic well being. The

producers are not the sole beneficiaries of the OCD's services in issuing well determinations.

Respectfully submitted,

PHILLIPS PETROLEUM COMPANY

A handwritten signature in cursive script, appearing to read "Barbara Price", is written over a horizontal line.

Barbara Price, Manager  
Laws and Regulations

## MERRION OIL &amp; GAS CORPORATION

P. O. Box 840  
FARMINGTON, NEW MEXICO 87499

November 25, 1985

Mr. R. L. Stamets, Director  
State of New Mexico  
Energy & Minerals Department  
Oil Conservation Division  
Post Office Box 2088  
Santa Fe, New Mexico 87501

Reference: Proposal to End OCD NGPA Determinations

Dear Mr. Stamets:

We have received your memo #5-85 of November 4, 1985 regarding your proposal to end OCD NGPA determinations. Following are a few questions which when answered will help us in responding to your memo.

- 1) If the OCD did not handle State & Fee lease filings for NGPA determinations, who would? Would requests for determinations be sent directly to FERC?
- 2) If NGPA determinations are handled directly by FERC, what might the time frame for final determinations be?
- 3) You have asked in your memo if operators would support a fee system. It is my understanding that the OCD in New Mexico and the BLM currently do not charge anything for NGPA determinations. What amount are you now considering for a fee per well?

We will be more than happy to respond with our support or opposition of your proposal as soon as we receive the answers to these questions. Thank you for providing us the opportunity of inputting our comments.

Yours very truly,

MERRION OIL & GAS CORPORATION



Carol L. McFarland-McKee  
Gas Regulatory Analyst



A subsidiary of  
Champlin Pacific Corporation

December 6, 1985

D. G. Raver  
Regional Manager  
Natural Gas Sales

NEW MEXICO OIL CONSERVATION DIVISION  
P.O. Box 2088  
Santa Fe, New Mexico 87501

Attention: Mr. R. L. Staments, Director

Re: NGPA Well Price Category Determination  
Work Performed by the Division

Dear Mr. Staments:

Champlin appreciates the opportunity to comment on your memo No. 5-85 dated November 4, 1985, concerning the NGPA well price category determination work performed by the Division. No doubt the manpower hours required to comply with the FERC requirements in this matter are considerable. However, it has been Champlin's observation that the Oil Conservation Division has handled this task timely with a great deal of knowledge and expertise, and we fully support a continuation of this procedure. It is Champlin's opinion the program would suffer a severe setback and it would be highly detrimental to natural gas sales in New Mexico if the NMOCD elected to discontinue the price determination efforts.

Champlin would prefer that a fee system not be imposed on this mandatory filing since taxation on the petroleum industry is quite heavy as it is. However, if implementation of a filing fee system is necessary in order to continue the program, Champlin would support a nominal fee in the order of \$25 to \$50. Such an amount would be in line with the charge by many of the other states for this service.

Yours very truly,

D. G. Raver  
Regional Manager  
Natural Gas Sales

DG/drb



# United States Department of the Interior

IN REPLY REFER TO:

3160 (922)

## BUREAU OF LAND MANAGEMENT NEW MEXICO STATE OFFICE

Post Office and Federal Building

P.O. Box 1449

Santa Fe, New Mexico 87504-1449

DEC 17 1985

New Mexico Energy and Minerals Department  
Oil Conservation Division  
Attention: Richard L. Stamets, Director  
P.O. Box 2088  
Santa Fe, NM 87501

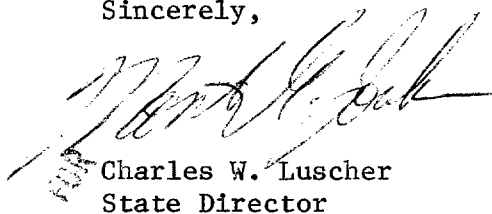
Gentlemen:

The Bureau of Land Management (BLM) offers the following comments and concerns which you requested in your memorandum No. 5-85 of November 4, 1985, on the proposal to end New Mexico Oil Conservation Division (NMOCD) Natural Gas Policy Act (NGPA) determinations. BLM does not support your proposal to end NGPA determinations by NMOCD on State and fee lands. Your withdrawal from the program would create a workload vacuum which no other agency is prepared to fill.

The BLM believes, however, that your alternate proposal to charge a fee to process NGPA applications is valid.

Thank you for the opportunity to comment.

Sincerely,



Charles W. Luscher  
State Director



A Subsidiary of  
Union Pacific Corporation

December 9, 1985

B. L. Kurtz, Jr.  
Regional Manager  
Natural Gas Sales

New Mexico Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87501

Attention: Mr. R. L. Staments, Director

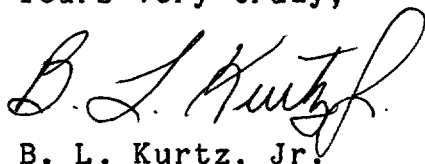
Re: NGPA Well Price Category Determination  
Work Performed by the Division

Dear Mr. Staments:

Champlin appreciates the opportunity to comment on your memo No. 5-85 dated November 4, 1985, concerning the NGPA well price category determination work performed by the Division. No doubt the manpower hours required to comply with the FERC requirements in this matter are considerable. However, it has been Champlin's observation that the Oil Conservation Division has handled this task timely with a great deal of knowledge and expertise, and we fully support a continuation of this procedure. It is Champlin's opinion the program would suffer a severe setback and it would be highly detrimental to natural gas sales in New Mexico if the NMOCD elected to discontinue the price determination efforts.

Champlin would prefer that a fee system not be imposed on this mandatory filing since taxation on the petroleum industry is quite heavy as it is. However, if implementation of a filing fee system is necessary in order to continue the program, Champlin would support a nominal fee in the order of \$25 to \$50. Such an amount would be in line with the charge by many of the other states for this service.

Yours very truly,



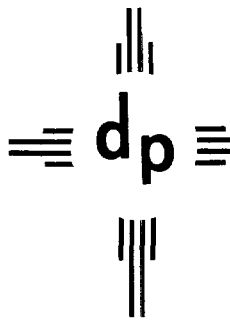
B. L. Kurtz, Jr.

BLK:lt

RECEIVED

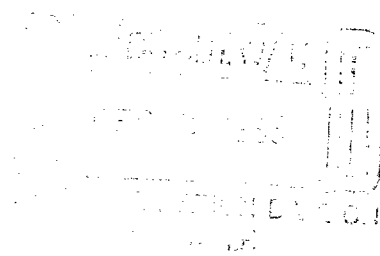
DEC 16 1985

OIL CONSERVATION DIVISION



# dugan production corp.

November 26, 1985



R. L. Stamets, Director  
New Mexico Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87501

RE: Proposal to End OCD NGPA Determinations

Dear Dick:

In response to your request for comments regarding your proposal to end NGPA Determination work as performed by the Division, Dugan Production Corp. is not opposed to your proposal. We recognize that your Division has plenty of work to do to perform its statutory duties without this additional burden and that the current fiscal situation in the State of New Mexico could adversely impact your Division's activities.

We would not object vehemently to a fee being charged for each determination, but we do feel that \$100 is too much. That is equivalent to 40 or 50 MCF of gas at current prices, just to file the paperwork. I believe the BLM is currently charging \$25 per determination.

We have a basic philosophical objection to the Government saying 'you will file such and such report or application and you will pay a fee for the privilege of doing so'. We recognize, of course, that it is not the State that is imposing the requirement and we would feel better about paying the State a fee for administering the program than we feel about paying the Federal Government. Assuming that the FERC or BLM would be the responsible office for making the determinations should the State decide to drop this task, it is probably appropriate that the Federal Government bear the administrative responsibility created by their requirements. We would, therefore, not oppose the OCD's proposal to end making the NGPA determinations.

Sincerely,

Robert G. Stovall  
General Counsel  
RGS:jfr



**Amoco Production Company**

Houston Region  
501 WestLake Park Boulevard  
Post Office Box 3092  
Houston, Texas 77253

R. E. Ogden  
Regional Engineering  
Manager

November 26, 1985

File: JCA-986.51NM-6166

Re: Proposal by NMOCD to End  
OCD NGPA Determinations

RECEIVED

DEC - 1985

OIL CONSERVATION DIVISION

State of New Mexico  
Energy and Minerals Department  
Oil Conservation Division  
P.O. Box 2088  
Santa Fe, New Mexico 87501

Attention: Mr. R. L. Stamets

Gentlemen:

Reference is made to the proposal by the NMOCD to end OCD NGPA determinations as discussed in Mr. R. L. Stamets' memo of November 4, 1985. Amoco supports the continuation of NGPA category determinations by the NMOCD. Our thoughts are that if the NMOCD elected to end the responsibility of category approval, such responsibility would revert to the FERC and delay approval of determinations and consequently delay collection of gas prices as set out in the NGPA.

Considering the lengthy delay that would be anticipated with the FERC handling category determinations, we would accept a fee system to enable continuance of the Division program.

Yours very truly,

*R. E. Ogden*  
SPS/rr



RAILROAD COMMISSION OF TEXAS

Oil and Gas Division

NOTICE TO OPERATORS

New Fees Required by Law

As a result of action taken by the 69th Legislature, the Railroad Commission will be required to impose fees for certain Oil and Gas Division applications and services beginning September 1, 1985. These will be in addition to the existing drilling permit application fee.

Documentation received by the Oil and Gas Division in Austin on or after September 1, 1985 for the following must be accompanied by the specified fee amount:

APPLICATION OR SERVICE	FEE	BASIS
1. Application for an oil and gas waste disposal well permit (Form W-14)	\$100	per well
2. Application for a fluid injection well permit (Forms H-1 and H-1A)	100	per well
3. Application for an exception to Commission Statewide Rule (see below)	50	per application
4. Natural Gas Policy Act application (Form F-1)	50	per application
5. Request for expedited processing of an application to drill, deepen, plug back, or re-enter a well (Form W-1). NOTE: This is in addition to the \$100 drilling permit application fee.	50	per application

The following questions and answers should assist you in complying with the new fee requirement.

**Will there be any change in the way I apply for these permits and exceptions?** Basically, no. Continue to fill out the appropriate form: H-1 and H-1A for an injection well permit application, a P-17 for commingling, a letter for certain exceptions, etc. Then, attach payment according to the above fee schedule. Please note, however, the following instructions relating to "walk throughs" and hand-filing an application.

**Can I still walk through a drilling permit application?** Yes, you can continue to walk through your W-1 for consideration of administrative approval. If a Rule 37 exception permit is walked through, consideration can only be given if all waivers are attached and any additional required documentation is presented at the same time. Take your application to the Drilling Permit section where it will be audited and the proper fee amount noted on a fee verification/receipt form. You will then carry the W-1 with the form to the Oil and Gas Division's Fee Receipt office where the fee payment will be made and the form completed. **NOTE:** requests to expedite drilling permit applications will be accepted **ONLY** on walk throughs.

**What is the procedure for hand-filing an application with the Commission's Austin Office instead of mailing it?** First, take the application form or letter requesting an exception to the appropriate section such as Underground Injection Control (UIC), Natural Gas Policy Act (NGPA), or Technical Permits where the appropriate fee will be determined and a fee verification/receipt form attached to your application or request. Carry these documents to the Oil and Gas Division's Fee Receipt office where the fee payment will be made and the fee form completed. Then, return to the appropriate section with the documents and your application or request will be processed routinely.

Which are the statewide rule exceptions requiring a fee?

Statewide Rule	Exception	Statewide Rule	Exception
5	delay in filing Form W-1 (stratigraphic test)	32	flaring
9	tubing and packer	37	spacing
10	downhole commingling	38	density
21	tank location	39	non-contiguous acreage
22(a)&(b)	artificial lift	43 & 45	field rules and/or MER
26 & 27	metering, turbine meters, surface commingling, Lease Automatic Custody Transfer (LACT)	46	tubing and packer
31	special allowables	49(a)	net gas-oil ratio
		69	out-of-state sales of gas produced from publicly owned/leased properties

**If I have a drilling permit application that involves a Rule 37, Rule 38, and Rule 39 Exception, what fee will I be charged?** There will always be the basic \$100 drilling permit application fee. However, you will only be required to pay one additional \$50 fee. This is because all the exceptions are associated with the same permit application.

**Can I pay the required fee with a personal check?** Yes. Company or certified checks and money orders are also acceptable. They should be made payable to "The State Treasurer of Texas." Please don't send cash through the mails though you may pay in cash for "walk throughs" or hand-filing.

**Can I get a refund if my application is denied or withdrawn?** No. According to the provisions of the statute, these fees are for applications and are non-refundable.

**What if I forget to attach payment or I make a check out in the wrong amount?** The application and any payment will be returned to you. So, to ensure prompt processing of your application, please be sure to attach payment in the correct amount.

**Can I write one check to cover several applications?** Yes, as long as they are the same type of application. For example,

- If you bring in three drilling permit applications for regular spacing and request expedited processing on them, you can make out one check for \$450: \$100 for each drilling permit application plus \$50 special processing fee for each
- If you file one Form H-1 applying for Injection permits for five wells, you can make out one check for \$500: \$100 for each well on the permit application
- however, if you mail or bring in a drilling permit application for a Statewide Rule 37, an NGPA application, and a disposal well permit application, you will need to write three checks: \$150 for the first application, \$50 for the second, and \$100 for the third.

**Who can I call if I have further questions:** For procedural questions, call the Oil and Gas Division's Fee Receipts office at 463-6746 For more substantive questions, call the appropriate section:

Drilling Permits	463-6751	Docket Services	463-6716
NGPA	463-6755	Field Operations	463-6830
UIC	463-6790	Technical Permits	463-6872
Proration	463-6838	Technical Administrative Exceptions	463-6923

**NOTE:** the above numbers will be in service AFTER the Railroad Commission has moved to its new Austin offices in the William B. Travis Building, 1701 North Congress. This move is scheduled to start around August 16 and should last approximately one week. Until that time, please use the current numbers for these sections; for Fee Receipts, contact the Drilling Permits supervisor at 445-1106.

August 1, 1985

Austin, Texas



1935 - 1985



TONEY ANAYA  
GOVERNOR

STATE OF NEW MEXICO  
ENERGY AND MINERALS DEPARTMENT  
OIL CONSERVATION DIVISION

June 11, 1986

POST OFFICE BOX 2088  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87501  
(505) 827-5800

MEMORANDUM NO. 6-86

TO: ALL INTERESTED PARTIES

FROM: MICHAEL E. STOGNER, PETROLEUM ENGINEER *M.S.*

SUBJECT: PROPOSED NGPA RULE CHANGES AND AMENDMENTS TO DIVISION  
ORDER NO. R-5878-B, AS AMENDED, PURSUANT TO CASE  
NO. 8903

The following amendments are being proposed for Division Order No. R-5878-B, as amended, Special Rules for Applications for Wellhead Price Ceiling Category Determinations, in Case No. 8903.

Definitions:

"[USGS]: [United-State-Geological-Survey]

USBLM: United States Bureau of Land Management"

RULE 1.

" An application for Wellhead Price Ceiling Category Determination shall include affidavits of mailing or delivery of the Form C-132 or C-132-A and FERC Form No. 121 to all working interest owners and to all parties to the gas purchase contract, if any. The application shall be signed by the applicant or his authorized representative or agent."

RULE 2.

" ~~[The-application-shall-be-signed-by-the-applicant-or-his authorized-representative-or-agent]~~. A non-refundable filing fee in the amount of \$25.00 for each category sought per application must accompany each application when submitted to the New Mexico Oil Conservation Division. Payment must be by check or money order payable to the Oil Conservation Division. Cash will not be acceptable."

RULE 3.

" If a well is located on a State or fee lease, the application shall be filed with the Division. If a well is located on a federal or Indian lease, the application shall be filed with the ~~[USGS]~~ USBLM. If the well is located on a communitized lease, the application shall be filed with the agency having jurisdiction over the lands on which the well is situated."

RULE 4.

" Two complete copies of the application shall be filed with the Division's Santa Fe office. ~~[and a copy of the C-132 or C-132-A with the appropriate district office].~~"

RULE 13.

(Existing Rule 13 to be replaced in its entirety with the following.)

" For the purposes of NGPA only a proration unit for a given formation or pool shall automatically expire when the last well on the proration unit dedicated to said unit in that formation or pool has either been:

1. plugged and abandoned;
2. recompleted in another pool or formation;
3. converted to water injection within the producing horizon of said pool.

A copy of the Division Form C-103 for such well evidencing such plugging and abandonment, recompletion, or conversion shall be submitted, along with a copy of the Division Order approving water injection if applicable."

RULE 14.1.c.

" A location plat which locates and identifies the well for which the determination is sought and ~~[any other well which produced natural gas after January 1, 1970, and before April 20, 1977, and is within the 2.5 mile radius drawn from the well for which a determination is sought,]~~ all other wells within a 2.5 mile radius of the subject well with sufficient information on those wells to determine whether or not they are considered to be marker wells."

RULE 14.2.c.

" A location plat which locates and identifies the well for which the determination is sought and all wells ~~[which produced natural gas after January 1, 1970, and before April 20, 1977,~~] within the 2.5 mile radius drawn from the well for which a determination is sought, ~~[including specific identification of all marker wells within the 2.5 mile radius drawn from the well for which a determination is sought,~~] with sufficient information on those wells to determine whether or not they are considered to be marker wells."

RULE 16A.4.

" The C-102 attached to Form C-132 shall locate and identify the well for which a determination is sought and all other wells within the proration unit in which the well for which a determination is sought is located, giving for each well which has or is producing and/or injecting from the same pool or reservoir as the subject well the spud date, recompletion date, cumulative production, and date of plug and abandonment, if any."

RULE 17.5 (New Addition)

"5. Occluded Natural Gas Produced from Coal Seams

- a. FERC Form No. 121;
- b. Division Form C-132 and the required attachments;
- c. Geological information sufficient to support a determination that the gas being produced is naturally occurring gas released from entrapment from the fractures, pores, and bedding planes of coal seams. Such information shall include to the extent reasonably available to the applicant at the time the application is filed:
  - (1) well logs;
  - (2) a subsurface cross-section chart;
  - (3) gas analysis;
  - (4) all well completion reports for the well for which a determination is sought; and,
  - (5) a copy of the Division Order resulting from a hearing to establish a "Coal Seam Pool" if such a hearing was held by the Division;

- d. A detailed description of the production process if the gas is not produced through a well bore;
- e. A statement by the applicant, under oath, that the gas was produced from a coal seam and that the applicant has no knowledge of any information not described in the application which is inconsistent with his conclusion."



STATE OF NEW MEXICO  
ENERGY AND MINERALS DEPARTMENT  
OIL CONSERVATION DIVISION

TONEY ANAYA  
GOVERNOR

POST OFFICE BOX 2088  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87501-2088  
(505) 827-5800

May 21, 1986

Mr. D. Van De Graaff  
N.M. Oil & Gas Association  
1227 Paseo de Peralta  
P. O. Box 1864  
Santa Fe, N.M. 87504-1864

*Please include  
in Case 8903  
file*

Dear Van:

Referring to your letter of May 16, 1986, extra time for submitting comments on Case No. 8903 will be allowed. Further, should anyone, including NMOGA, ask, we would be happy to continue the case for a couple of weeks to allow for review of the information and additional testimony.

On an unrelated subject, I have reconvened our Gas Advisory Committee. They will be meeting on June 12, at 10:00 o'clock a.m., in Morgan Hall in the Land Office Building. This is a group of volunteers who came together to try to help us respond to the crisis in natural gas beginning last October. In light of the major deterioration of the situation occurring since our last meeting, a number of members felt we should meet again. In any event, I would be pleased to have you participate.

Sincerely,

*RLS*  
R. L. STAMETS  
Director

RLS:dp

cc: Vic Lyon  
Mike Stogner ✓

*June 25, 1986*

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

FEB 07 1986

In Reply Refer To:  
OPPR/N830-A

Re: NGPA Notices of Determination,  
Continuing Qualification Under  
Section 108 Due to Temporary  
Pressure Buildup

To All Jurisdictional Agencies:

On January 28, 1986, the Commission issued Order No. 445, a final rule in FERC Docket No. RM85-7-000 amending its stripper well gas regulations to eliminate certain filings. The new rule eliminates the requirement of Section 271.804(e) of the Commission's regulations that new applications for temporary pressure buildup determination be filed each time a well overproduces as a result of pressure buildup occurring when the well was temporarily shut-in. Instead, a pressure buildup determination now permits continued qualification under Section 108 when temporary shut-ins cause average production during a subsequent 90-day production period to exceed 60 Mcf per production day, provided that total production during the period does not exceed 5400 Mcf. Producers are no longer required to file notices of disqualification for production periods in which a stripper well continues to qualify as a result of the new rule.

I would like to clarify several aspects of the rule. First, the order was published in the Federal Register on February 4, 1986, at 51 F.R. 4306, and is effective 75 days after that date, or April 20, 1986. However, the rule applies to any production period for which the deadline for filing a notice of disqualification falls on or after the effective date of the rule. Thus, the new rule covers 90-day production periods ending on or after January 20, 1986. <sup>1/</sup> Continued qualification may also be based on a previous application for pressure buildup determination even though the jurisdictional agency has not acted on that application. Of course, if the initial application is denied, that application cannot serve as the basis for continued qualification.

Second, a well may retain its stripper status based on a pressure buildup determination made any time during the life of the well, regardless of whether a period of disqualification has intervened between that filing and the current overproduction due to temporary pressure buildup. However, once a well loses its stripper well status (e.g., production for a 90-day production period exceeds 5400 Mcf), it must first requalify as a stripper well (either as a result of a new application or under the Order No. 336 procedures) before it can requalify under the new rule.

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<sup>1/</sup> This date is 90 days prior to the effective date since Section 271.805(d) of the regulations requires that notices of disqualification shall be filed within 90 days of the last day of the production period in which increased production occurred.



Finally, the protest procedures have been amended to include notices contesting the continued qualification or disqualification of a well under the temporary pressure buildup rule. While operators and purchasers may agree to provide notices to each other when a well continues to qualify as a result of pressure buildup, the Commission does not require such notices, except in the case where the 5400 Mcf production limit is exceeded.

A complete copy of Order No. 445 is enclosed for your review. If you have questions regarding the new rule or specific situations affected by the rule, I encourage you to call, or refer inquiries, to Brooks Carter, Chief of the Well Determination Branch, at 202-357-9190 (FTS 8-357-9190).

Very truly yours,

*Howard Kilchrist*  
Howard Kilchrist, Director

Division of Producer Audits and Pricing

Enclosure: Order No. 445

shall apply in lieu of the provisions of § 274.201 through 274.206 of this subpart.

(2) With respect to determinations made by a jurisdictional agency after the effective date of approved alternative notice requirements, the alternative notice requirements as are specified and approved shall apply in lieu of the provisions of § 274.104 of this subpart.

(e) *Termination of alternative filing and notice requirements.* (1) A jurisdictional agency may, upon notice to the Commission, discontinue the use of any alternative filing or notice requirements approved under this subpart.

(2) The Commission may, after a public comment period of no less than 30 days give notice to jurisdictional agency that the Commission has terminated its approval of alternative filing or notice requirements, if it finds that the alternative filing or notice requirements:

(i) are not sufficient to carry out the purpose of the NGPA; or

(ii) after notice and opportunity for hearing, the jurisdictional agency has not complied, or required compliance, with the alternative provisions.

(3) Applications for determinations received by jurisdictional agencies after notice of termination of the applicability of alternative filing requirements pursuant to this section shall be subject to the filing requirements set forth in § 274.201 through 274.206 of this subpart.

(4) Notice of determinations made by jurisdictional agencies after notice of termination of the applicability of alternative notice requirements pursuant to this section shall be subject to the notice requirements set forth in § 274.104 of this subpart.

### [¶ 24,428]

#### § 274.208 Alternative filing and notice requirements accepted by the Commission.

(a) Certain Infill Wells in the Blanco-Mesaverde and Basin-Dakota Pools in New Mexico

(1) A person seeking a determination for purposes of Subpart C of Part 271 that an infill well in New Mexico, drilled in accordance with New Mexico Oil Conservation Division Order No. R-1670-T in the Blanco-Mesaverde pool or Order No. R-1670-V in the Basin-Dakota pool, is a new, onshore production well, shall file with the New Mexico jurisdictional agency or the Area Oil and Gas Supervisor of the United States Geological Survey, as appropriate, an application which contains, in lieu of the information specified in § 274.204, the following items:

(i) FERC Form No. 121;

(ii) The well completion report;

(iii) A location plat which locates and identifies the State law proration unit (as defined in § 271.305(a)(2)) and the well for which a determination is sought and all other wells within the State law proration unit in which the well for which a determination is sought is located;

(iv) A statement by the applicant, under oath:

(A) That the surface drilling of the well for which he seeks a determination was begun on or after February 19, 1977;

(B) That the well satisfies any applicable Federal or State well spacing requirements;

(C) That the applicant has concluded that to the best of his information, knowledge and belief, the natural gas for which he seeks a determination is produced from a new, onshore production well; and

(D) That the applicant has no knowledge of any other information not described in the application which is inconsistent with his conclusion;

(v) A statement referencing New Mexico Oil Conservation Division Order No. R-1670-T if the well is located in the Blanco-Mesaverde pool or New Mexico Oil Conservation Division Order No. R-1670-V if the well is located in the Basin-Dakota pool.

(2) With respect to wells to which this section applies, receipt by the Commission of a notice of determination pursuant to § 274.104 shall be deemed to satisfy:

(i) The requirement of notice to the Commission under § 271.305(c); and

(ii) The requirement of § 271.305(b)(1) that appropriate geological and engineering data be included in the notice of determination.

(b) Certain Infill Wells in the Ignacio Blanco Field in La Plata and Archuleta Counties, Colorado and the Wattenberg Field in Adams and Weld Counties, Colorado.

(1) A person seeking a determination for purposes of Subpart C of Part 271 that an infill well in Colorado, drilled in accordance with the Colorado Department of Natural Resources, Oil and Gas Conservation Commission's Order No. 112-46, as ratified by the United States Geological Survey's Oil and Gas Supervisor for the Southern Rocky Mountain Area, in the Fruitland-Pictured Cliffs, Mesaverde or Dakota-Morrison Formations, Ignacio Blanco Field is a new, onshore production well, shall file with the Colorado jurisdictional agency or the Area Oil and Gas Supervisor of the United States Geological Survey, as appropriate, an application which contains, in lieu of the information specified in § 274.204, the following items:

(i) FERC Form No. 121;

(ii) The well completion report;

(iii) A location plat which locates and identifies the State law proration unit (as defined in § 271.305(a)(2)) and the well for which a determination is sought and all other wells within the State Law proration unit in which the well for [which a] determination is sought is located;

(iv) A statement by the applicant, under oath:

(A) That the surface drilling of the well for which he seeks a determination was begun on or after February 19, 1977;

(B) that the well satisfies any applicable Federal or State well spacing requirements;

(C) that the applicant has concluded that to the best of his information, knowledge and belief, the natural gas for which he seeks a determination is produced from a new, onshore production well; and

(D) that the applicant has no knowledge of any other information not described in the application which is inconsistent with his conclusion;

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

[18 C.F.R. Part 271]

Revised Procedures for Stripper Gas Well  
Category Determinations under the NGPA

(Docket No. RM85-7-000)

ORDER NO. 445

FINAL RULE

(January 28, 1986)

AGENCY : Federal Energy Regulatory Commission.

ACTION : Final Rule.

SUMMARY : The Federal Energy Regulatory Commission is amending its stripper gas well regulations to eliminate certain burdensome filing requirements. The final rule eliminates the requirement in 18 C.F.R. § 271.804(c) (1985) that new applications for temporary pressure build-up determinations be filed each time a well overproduces as a result of temporary pressure build-up. Instead, the rule permits a stripper gas well for which one application for a pressure build-up determination has been filed to retain its stripper status during all future periods of temporary overproduction due to shut-in without the filing of new applications, provided that the first application is granted and total production during any 90-day production period subsequent to the shut-in does not exceed 5400 Mcf. The Commission is also eliminating the requirement that producers file subsequent notices of disqualification for stripper gas wells for which applications

Docket No. RM85-7-000

- 2 -

for pressure build-up determinations have been filed, unless total production for a 90-day period exceeds 5400 Mcf.  
EFFECTIVE DATE: [Insert date that is 75 days after the date of publication in the Federal Register.]

FOR FURTHER INFORMATION CONTACT:

Richard Howe, Jr.  
Office of the General Counsel  
Federal Energy Regulatory Commission  
825 North Capitol Street, N.E.  
Washington, D. C. 20426  
(202) 357-8308

SUPPLEMENTARY INFORMATION:

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

[18 C.F.R. Part 271]

Before Commissioners: A. G. Sousa, Acting Chairman;  
Charles G. Stalton, Charles A. Trabandt  
and C. M. Naeve.

Revised Procedures for Stripper Gas ) Docket No. RM85-7-000  
Well Category Determinations )  
Under the NGPA )

ORDER NO. 445

FINAL RULE

(January 28, 1986)

I. INTRODUCTION

The Federal Energy Regulatory Commission (Commission) is amending its stripper gas well regulations 1/ to permit producers to obtain a one-time determination that a stripper gas well is subject to temporary over-production caused by pressure build-up during shut-in (a pressure build-up determination). 2/ Such a determination will permit the well to continue to qualify for stripper gas well prices after all future shut-ins, as long as production does not exceed 5400 Mcf during a 90-day production period, without requiring the producer to file new applications for temporary pressure build-up determinations. The Commission is also eliminating the requirement that producers file subsequent notices of disqualification for stripper gas wells for which applications for pressure build-up determinations have been filed, unless total production for a 90-day period exceeds 5400 Mcf.

1/ 18 C.F.R. Part 271, Subpart H (1985).

2/ A well is considered to be "shut-in" when a producer stops production from it.

Docket No. RM85-7-000

- 2 -

II. BACKGROUND

Section 108 of the Natural Gas Policy Act of 1978 (NGPA) 3/ defines a stripper gas well generally as a well producing non-associated natural gas at a rate not exceeding an average of 60 Mcf per production day for a 90-day production period. A production day includes days during which gas is produced or production is prohibited by state law or state-approved conservation practices. 4/ A 90-day production period is any period of 90 consecutive days, including days in which gas is not produced as a result of voluntary action by the operator but excluding other days of non-production. 5/ A producer must file an application with the appropriate jurisdictional agency for a determination that a well qualifies as a stripper well. 6/

When a producer temporarily shuts in a well, for example to permit maintenance or repair work, pressure builds up in the well

3/ 15 U.S.C. § 3318 (1982).

4/ 18 C.F.R. § 271.803(d) (1985).

5/ 18 C.F.R. § 271.803(c)(2) (1985). In order to avoid the necessity of bringing additional days into a 90-day production period when some are excluded pursuant to the above definition, the Commission has provided that, where records for a 90-consecutive-calendar-day period indicate that the well produced 60 Mcf or less per production day during that period, a rebuttable presumption is created that the well produced 60 Mcf or less during the statutory 90-day production period.  
18 C.F.R. § 271.803(c)(2) (1985).

6/ 15 U.S.C. § 3413 (1982) (Section 503 of the NGPA).

bore. This causes greater than normal production for a period after the well is reopened. Such shut-in days are included in a 90-day production period. However, unless required by state law or state-approved conservation practice, the shut-in days are not production days for purposes of determining the well's average rate of production during the 90-day period. Therefore, if a temporary pressure build-up causes average production from a previously-qualified well to exceed an average of 60 Mcf per day for the actual production days in any 90-day period during part of which the well had been shut in, the well would be disqualified as a stripper gas well. 7/

The Commission has determined that short-term overproduction resulting from temporary pressure build-up should not disqualify a stripper well. It issued an interim rule, 8/ later finalized, 9/

7/ For example, if a producer shut in a well for the first 45 days of a 90-day period and then reopened it and that well then produced 3150 Mcf during the remaining 45 days of the period, average daily production for the 90-day period would be 70 Mcf (total production of 3150 divided by 45 production days equals 70). Therefore, even though total production for the 90-day period was well below 5400 Mcf, the well would be disqualified because average production per production day exceeded 60 Mcf.

8/ Interim Rule under Section 108 of the NCPA Concerning Temporary Pressure Buildup in Qualifying Stripper Wells, 46 Fed. Reg. 6901 (Jan. 22, 1981).

9/ Reduction in Filing Requirements for Well Category Applications under Sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978; Regulations for Temporary Pressure Buildup Determinations Under Section 108 of the Natural Gas Policy Act, 48 Fed. Reg. 44,508 (Sept. 29, 1983) (Order No. 336), reh'g denied 49 Fed. Reg. 566 (Jan. 5, 1984) (Order No. 336-A).

permitting a previously-qualifying stripper well which produces an average of more than 60 Mcf per production day during a 90-day period to continue to qualify, if the producer obtains a determination from the jurisdictional agency that: (1) average production exceeded 60 Mcf because of a pressure build-up resulting from a temporary shut-in, (2) total production for the relevant 90-day period did not exceed 5400 Mcf, and (3) the well would likely have produced at no more than an average of 60 Mcf per production day during the 90-day period but for the shut-in. 10/ Under the rule, the producer must obtain a new temporary pressure build-up determination for each 90-day period the well overproduces after a shut-in in order to avoid disqualification during the period of temporary overproduction. Also, the operator of the well and any purchaser must give notice to one another and the Commission that production has averaged more than 60 Mcf per day for a 90-day period even though the well eventually receives a temporary pressure build-up determination. 11/

On July 25, 1985, the Commission issued a notice of proposed rulemaking (NPR) proposing that producers be permitted to obtain a one-time pressure build-up determination which would allow a well to continue to qualify for stripper gas well prices after all future shut-ins so long as its production does not exceed

10/ 18 C.F.R. § 271.804(e) (1985).

11/ 18 C.F.R. § 271.805(d) (1985).

5400 Mcf during a 90-day production period. 12/ The NOPR also proposed to remove the requirement that producers file notices of disqualification for wells which retain their stripper status by virtue of an earlier pressure build-up determination. Twelve companies 13/ and one state jurisdictional agency 14/ filed comments on the NOPR. All generally supported the proposed rule change, although some proposed minor modifications. After reviewing the comments, the Commission has determined to issue a final rule adopting the proposed amendments with three changes.

### III. DISCUSSION

The Commission has determined that the present regulations permitting continued qualification of wells which overproduce due to temporary pressure build-up impose unduly burdensome filing requirements on producers and purchasers. A reduction in demand

12/ Revised Procedures for Stripper Gas Well Category Determinations Under the NGPA, 50 Fed. Reg. 30,859 (July 30, 1985) (Notice of Proposed Rulemaking).

13/ Union Oil Company of California, Mitchell Energy Corporation, Champlin Petroleum Company, Conoco, Inc., Columbia Gas Transmission Corporation, Tenneco Oil Company, Panhandle Eastern Pipe Line Company, Trunkline Gas Company, Amoco Production Company, El Paso Natural Gas Company, Northwest Pipeline Corporation, and Mesa Petroleum Co.

14/ The Texas Railroad Commission.

would force producers to shut in their wells periodically. This has caused many stripper gas wells to regularly overproduce when reopened, as a result of temporary pressure build-up. Since the Commission's regulations currently require new applications for pressure build-up determinations each time a well overproduces, many producers must file such applications for the same well as often as once a month. The Commission believes, and the commenters all agree, that this requirement is unduly burdensome since the producer must repeatedly compile the necessary supporting data, pay state filing fees, if applicable, and a \$25 fee for Commission review. The financial burden is particularly significant, since most stripper gas wells are of marginal profitability.

Additionally, the increase in applications for pressure build-up determinations has significantly increased the workload of the Commission and the jurisdictional agencies. Requests for the Commission to review pressure build-up determinations have increased dramatically, from 266 in fiscal year 1982 to 3,463 in fiscal year 1984 and 3,208 in fiscal year 1985. The Commission believes that this burden is not justified.

In order to reduce this burden on producers, jurisdictional agencies, and the Commission, the Commission is amending its regulations to remove the requirement that new applications for pressure build-up determinations be filed each time a well

overproduces after a shut-in. Instead, the new rule permits a stripper gas well for which one application for a pressure build-up determination has been filed to retain its stripper status during all future periods of temporary overproduction due to shut-in without the filing of new applications, provided that the first application is granted and total production during the relevant 90-day period does not exceed 5400 Mcf.

As discussed more fully in the NOBR, 15/ eliminating the requirement for new applications should not adversely affect compliance with the NGPA. Applications for pressure build-up are usually routine, with no dispute as to whether a well qualifies for a pressure build-up determination. To obtain a determination, a producer generally need only show that a qualifying well was shut in and thereafter temporarily overproduced, 16/ facts which can easily be verified by reviewing a producer's or a pipeline's records. The Commission has never reversed any of the approximately 7,000 pressure build-up determinations it has reviewed. 17/

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15/ Revised Procedures for Stripper Gas Well Category Determinations under the NGPA, 50 Fed. Reg. 30,859, 30,860-30,861 (July 30, 1985).

16/ See 18 C.F.R. § 274.206(c)(6) (1984),

17/ The applicant or the jurisdictional agency has withdrawn eight of those determinations in response to Commission letters requesting further information.

Furthermore, the producer will still have to obtain an original determination that the well is a stripper gas well and obtain an initial pressure build-up determination. Also, the 5400 Mcf limit on production during a 90-day production period will remain in effect.

This rule also removes the requirement that the operator and any purchaser of gas give written notice when a stripper gas well produces an average of more than 60 Mcf per production day due to pressure build-up during any 90-day period 18/ but retains its stripper status by virtue of an earlier pressure build-up filing. Since no action by jurisdictional agencies or the Commission is necessary for such wells to retain stripper status, notices that overproduction has occurred are unnecessary. Elimination of the notice requirement will reduce filing burdens on the industry and lessen the Commission's workload by eliminating notices of disqualification when the well does not actually disqualify.

While the commenters all agree with the elimination of the requirement that new applications for pressure build-up determinations be filed each time a well overproduces, the commenters do raise a number of issues concerning the mechanics of the one-time pressure build-up determination.

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18/ 18 C.F.R. § 271.805(d) (1985).



1. Continued Qualification Based on Prior Application

The NOPR proposed removal of the requirement of subsequent applications for pressure build-up determinations only in those cases where the jurisdictional agency has already made an affirmative determination for the well. One commenter 19/ suggests that the Commission permit continued qualification based on a previous application for a pressure build-up determination even though the jurisdictional agency has not acted on that application. The Commission adopts this suggestion.

As the commenter observes, since many wells overproduce due to pressure build-up as often as once a month, wells may overproduce a number of times after the filing of an initial application for a pressure build-up determination before the jurisdictional agency acts on that application. Adoption of the commenter's suggestion avoids requiring the filing of separate applications (and notices of disqualification) every time a well overproduces while the first application is pending. This further reduces the burdens on producers of making such applications and on jurisdictional agencies and the Commission of processing them.

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19/ Mitchell Energy Corporation.

If the jurisdictional agency or the Commission ultimately

denies the first application for a pressure build-up determination, however, the producer must file a notice of disqualification and make refunds pursuant to § 271.805(f) for all periods subsequent to the 90-day period in which the well first overproduced which are not covered by a subsequent application for a pressure build-up determination. This is necessary in order to avoid having a producer collect stripper prices based solely on the pendency of an application for a pressure build-up determination for a period for which no such determination was justified. Thus, if there is any doubt whether the initial application will be granted, the producer may be well advised to file applications for subsequent periods of overproduction. However, since it is generally obvious whether a well qualifies for a pressure build-up determination, 20/ this situation should generally not arise.

2. Effect of Intervening Periods of Disqualification

One commenter 21/ requests that the Commission clarify that a well may retain its stripper status based on a pressure build-up filing made any time during the life of a well, regardless of

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20/ Usually, a producer need only show that a qualifying well was shut in and thereafter temporarily overproduced. See 18 C.F.R. § 274.206(e)(6) (1985). These facts are generally clear from the producer's or pipeline's records.

21/ Tenneco Oil Company.

whether a period of disqualification of the well has intervened between that filing and the current overproduction due to temporary pressure build-up. If, after the filing of one application for a pressure build-up determination, a well disqualifies but then requalifies as a stripper gas well, and if the well subsequently overproduces as a result of temporary pressure build-up, it may continue to qualify for stripper prices based on the original pressure build-up filing 22/ so long as it otherwise meets the requirements of the temporary pressure build-up rule. This is true whether the requalification was the result of a new jurisdictional determination pursuant to the procedures in effect before Order No. 336 23/ or is pursuant to the automatic re-qualification procedures set forth in § 271.805(c) as added by Order No. 336. However, the stripper well must have requalified as a stripper well by one of these procedures before it can retain stripper status based on the prior application for a pressure build-up determination.

22/ Of course, if the original application is denied, that application cannot serve as the basis for continued qualification. See page 8 supra.

23/ Reduction in Filing Requirements for Well Category Applications under Sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978; Regulations for Temporary Pressure Buildup Determinations under Section 108 of the Natural Gas Policy Act, 48 Fed. Reg. 44,508 (Sept. 29, 1983), (Order No. 336) reh'g denied, 49 Fed. Reg. 566 (Jan. 5, 1984) (Order No. 336-A).

3. Application of this Rule to Production Periods before its Effective Date

A related issue raised by another commenter 24/ is whether this rule should apply to any 90-day periods ending before the rule's effective date. The commenter proposes that the rule apply to 90-day periods ending on or after 90 days before the effective date of the final rule. Since notices of disqualification must be filed within 90 days of the last day of the 90-day period in which the well overproduced, making the rule apply to 90-day periods ending on or after 90 days before the rule's effective date is necessary to eliminate any requirement that notices of disqualification be filed after the effective date of this rule. It would also mean that, after this rule becomes effective, operators need only file new applications for pressure build-up determinations for wells with previous determinations where the deadline for filing notices of disqualification for the wells expired before the rule became effective.

The Commission has determined to adopt this suggestion. If this rule applied only to 90-day periods ending on or after its effective date, operators and purchasers might have to file, after this rule becomes effective, as many as three additional notices of disqualification for wells with prior pressure build-up

24/ Mitchell Energy Corporation.

determinations, since many wells disqualify monthly due to pressure build-up. Corresponding applications for new pressure build-up determinations would also be required. It makes no sense to impose on operators and purchasers the burden of making such filings, and impose on jurisdictional agencies and the Commission the burden of making the necessary determinations after the effective date of a rule determining that such filings and determinations are unnecessary. 25/

While applying this rule to 90-day periods ending up to ninety days before its effective date may give the rule some retroactive effect, such retroactivity will harm no one. This rule does not alter the substantive requirements for continued qualification of a well after overproduction due to temporary pressure build-up. It affects only the procedures to be followed in obtaining such continued qualification. And the alteration in procedures does not affect the right of any

25/ Of course, operators would still have to obtain pressure build-up determinations for wells for which the deadline for filing notices of disqualification occurs before the effective date of the rule even though the application for the pressure build-up determination might not be filed until after the rule becomes effective. Eliminating the need for pressure build-up determinations in that situation would not significantly reduce burdens on operators, jurisdictional agencies or the Commission since some form of filing (for example a withdrawal of the notice of disqualification) would still be required to determine which wells for which notices of disqualification had been filed nevertheless continued to qualify under this rule.

person to contest a well's continued qualification under the temporary pressure build-up rule since, as stated in the next section, the Commission is amending its protest procedures to expressly permit purchasers to contest such continued qualification. Since there is a strong public interest in giving this rule the limited retroactive effect described above and no harm to any individuals, this limited retroactive effect is lawful. 26/

#### 4. Protest Procedures

One commenter 27/ requests that the Commission provide a mechanism for resolving disputes between operators and purchasers concerning whether a well is entitled to retain its stripper status under this rule. The commenter states that the current regulations provide such a mechanism because the producer must obtain a pressure build-up determination each time a well overproduces due to pressure build-up. However, this rule's elimination of the requirement of more than one pressure build-up determination means that that mechanism will exist only until the producer obtains the one-time pressure build-up determination.

26/ Adams Nursing Home v. Mathews, 548 F.2d 1077, 1080-1082 (1st Cir. 1977), and Pasadena Hospital Assoc. v. U.S., 618 F.2d 728, 735 (C. of Cl. 1980). See Colyer v. Harris, 519 F. Supp. 692, 696-700 (D.C. Cir. 1981).

27/ Northwest Pipeline Corporation.

The Commission agrees that there should be a mechanism for resolving any disputes between operators and purchasers concerning continued qualification of a well under this rule. Accordingly, the Commission is amending its protest procedures set forth at § 271.805(c) to expressly allow purchasers or producers to file with the jurisdictional agency motions contesting the continued qualification or disqualification of a well under the temporary pressure build-up rule.

5. Deadline for Jurisdictional Agency Determination

Northwest Pipeline Corporation also requests that the Commission establish a time limit within which jurisdictional agencies must act on applications for pressure build-up determinations. The commenter states that some agencies take as long as six months to make those determinations and during this period the well may again overproduce due to pressure build-up, thus requiring additional notices of disqualification and applications for pressure build-up determinations.

The Commission does not believe that a deadline for jurisdictional agency action should be established. The varying budget and staffing levels of the jurisdictional agencies render such a deadline infeasible. In any event, the Commission's determination in this final rule not to require subsequent applications for jurisdictional determinations and notices of disqualification while the first application is pending

before the jurisdictional agency means that delays by the jurisdictional agencies in processing the first application should not unduly burden operators and purchasers.

6. Notification between Purchasers and Operators

While all the commenters agree with the NOPR's proposal to eliminate the requirement that the operator and purchaser give notice to the Commission that a well retaining its stripper status by virtue of an earlier pressure build-up filing has overproduced, four commenters 28/ disagree with the NOPR's proposal to eliminate the similar requirement for notice to the purchaser and operator. The commenters contend, in particular, that notice by operators to purchasers containing sufficient information to show whether the well is eligible for continued qualification under this rule 29/ is necessary in order to enable purchasers to monitor compliance with the regulations.

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28/ Northwest Pipeline Corporation, Panhandle Eastern Pipeline Company, Trunkline Gas Company, and Tenneco Oil Company.

29/ Commenters contend that this information includes identification of the 90-day production period in question, total production for the period, dates on which the well produced and was shut in, and the reasons the well was shut in. Commenters suggest that the Commission expressly require that this information be included in the notice.

The Commission does not believe that it should require notice between operators and purchasers by regulation. Rather, individual operators and purchasers should have the flexibility to determine among themselves whether notice should be given and, if so, what information such notice should contain. The parties are in a better position than the Commission to make this determination, since the record keeping systems for each company are so varied. In Order No. 336, the Commission also refused to set forth specific requirements concerning the notice to be given when disqualified stripper wells requalify pursuant to the automatic procedures set forth in that order, 30/ leaving the notice issue to be determined by the parties. 31/ The Commission is not aware that that action has caused significant problems for purchasers in monitoring compliance with the stripper well regulations. There is no reason to believe that the absence of notice requirements in the temporary pressure build-up rule (other than

30/ See 18 C.F.R. § 271.805(c) (1985).

31/ One commenter requests that we also require that operators give purchasers notice when a stripper well requalifies pursuant to the procedures established by Order No. 336. The Commission continues to believe for the reasons set forth in Order No. 336 that there should be no regulatory requirement of such notice. However, as stated in Order No. 336, operators and purchasers may agree that such notice should be given.

after the first 90-day period in which the well overproduces due to temporary pressure build-up) should cause significant problems.

7. Exemption from Filing Notices of Disqualification

One commenter 32/ contends that the proposed § 271.804(e)(4), providing that subsequent notices of disqualification need not be filed for wells with pressure build-up determinations or applications therefor, should specify that operators and purchasers are exempted from the filing requirements of "§ 271.805(d)" rather than simply referring to "§ 271.805." Otherwise, the commenter claims, resourceful operators may misconstrue § 271.804(e)(4) to relieve them of the filing requirements of § 271.805(e) relating to motions contesting disqualification and petitions for enhanced recovery, seasonal fluctuation or pressure build-up determinations and to relieve them of the filing requirements of § 271.805(f) relating to collections subject to refund when petitions or motions under paragraph (e) have been filed.

Since the Commission's intent is only to exempt operators and purchasers from the filing requirements of § 271.805(d), the Commission has adopted the commenter's suggestion. The Commission also amends the parallel provision in § 271.804(d)(3), exempting operators and purchasers of seasonally affected wells from filing

32/ Northwest Pipeline Corporation.

notices of disqualification, in order to clarify the Commission's intent that that section also exempts operators and purchasers only from the filing requirements of § 271.805(d). 33/

#### IV. REGULATORY FLEXIBILITY ACT

The Regulatory Flexibility Act (RFA) 34/ requires certain statements, descriptions, and analyses of rules that will have "a significant economic impact on a substantial number of small entities." 35/ The Commission is not required to make an RFA analysis if it certifies that a rule will not have a "significant economic impact on a substantial number of small entities." 36/

There are approximately 10,000 natural gas producers in the United States, many of which would probably be classified as small entities under the appropriate RFA definition. 37/ This

33/ Only one other issue requires comment. Mesa Petroleum Company suggests that the definition of the term 90-day production period be revised to clarify what is meant by the phrase "any person with the right to control production of natural gas from such well." This issue is beyond the scope of this rulemaking. In any event, the phrase in question simply tracks the language of section 108(b)(3)(B) of the NGPA, and the Commission believes that clarification of the meaning of that phrase is best accomplished by adjudication in individual cases rather than rulemaking.

34/ 5 U.S.C. §§ 601-612 (1982).

35/ Id. at § 603(a).

36/ Id. at § 605(b).

37/ Id. at § 601(3) citing section 3 of the Small Business Act, 15 U.S.C. § 632 (1982). Section 3 of the Small Business Act defines "small business concern" as a business which is independently owned and operated and which is not dominant in its field of operation.

proposed rule could affect most of these entities by eliminating filing requirements that are unnecessary. In addition, this proposal does not impose any additional regulatory burdens.

Thus, while this proposal has a beneficial impact on small entities, the Commission believes that this impact will not be "significant," within the meaning of the RFA. Accordingly, the Commission certifies that this proposal will not have a "significant economic impact on a substantial number of small entities."

#### V. PAPERWORK REDUCTION ACT

The information collection provisions in this final rule are being submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520 (1982), and OMB's regulations, 5 C.F.R. § 1320.13 (1985). Inquiries relating to the information

collection provisions in this rule can be made to Richard Howe, Jr., Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357-8308. Comments on these information collection provisions should be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for the Federal Energy Regulatory Commission).

#### VI. EFFECTIVE DATE

This rule will become effective [insert date 75 days from date of publication in the Federal Register]. If OMB's

approval has not been received by that date, the Commission will issue a notice temporarily suspending the effective date.

List of Subjects

18 C.F.R. Part 271:

Ceiling prices.

In consideration of the foregoing, the Commission amends Part 271, Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

( S E A L )

*Kenneth F. Plumb*  
Kenneth F. Plumb,  
Secretary.

1. The authority citation for Part 271 is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. §§ 7101-7352 (1982); Executive Order No. 12,009, 3 C.F.R. 142 (1978); Natural Gas Act, 15 U.S.C. §§ 717-717w (1982); Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301-3432 (1982), unless otherwise noted.

2. Section 271.804(d)(3) is amended by removing the words "requirements of § 271.805" and replacing them with the words "requirements of § 271.805(d)".

3. Section 271.804(e) is amended by adding new paragraphs (3) and (4) to read as follows:

§ 271.804 Special rules.

\* \* \* \* \*

(e) Temporary pressure buildup in previously qualifying stripper wells.

\* \* \* \* \*

(3) If a previously qualifying stripper well, which qualified pursuant to paragraph (e)(1) subsequently produces in excess of an average of 60 Mcf per production day for a 90-day period because of pressure buildup occurring during a temporary shut-in, a new petition pursuant to paragraph (e)(1) need not be filed to avoid disqualification of the well so long as production does not exceed 5400 Mcf for a 90-day

production period. If a well is disqualified as a stripper well after qualifying for a pressure buildup determination pursuant to paragraph (e)(1) but requalifies before a subsequent 90-day production period in which a temporary pressure buildup occurs, it will continue to qualify pursuant to this paragraph based on the prior petition filed pursuant to paragraph (e)(1).

(4) If a well which produces in excess of 60 Mcf per production day continues to qualify for stripper well prices under paragraph (3), the operator of such well and the purchaser of production from such well are exempt from the filing requirements of § 271.805(d) for subsequent periods.

\* \* \* \* \*

4. Section 271.805(d)(1) is amended by removing the words "Unless exempt under § 271.804(d)(3)" and replacing them with the words "Unless exempt under §§ 271.804(d)(3) or 271.804(e)(4)".

4. Section 271.805(e)(1)(i) is revised to read as follows:

§ 271.805 Continuing qualification.

\* \* \* \* \*

(e) Petition under § 271.806. (1) \* \* \*

(i) A motion contesting the disqualification or requalification under paragraph (b) or (c) of this section, (or continuing qualification under paragraph (e)(3) of § 271.804), and include a copy if applicable, of the notice filed under paragraph (d) in the motion;

\* \* \* \* \*





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STATE OF NEW MEXICO  
ENERGY AND MINERALS DEPARTMENT  
OIL CONSERVATION DIVISION



TONEY ANAYA  
GOVERNOR

POST OFFICE BOX 2088  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87501  
(505) 827-5800

## M E M O R A N D U M

TO: R. L. STAMETS, DIRECTOR  
VIC LYON, CHIEF ENGINEER

FROM: MICHAEL E. STOGNER, CHIEF HEARING EXAMINER

SUBJECT: PROPOSED NGPA RULE CHANGES AND AMENDMENT TO  
DIVISION ORDER NO. R-5878-B, AS AMENDED

Per Mr. Stamets' request, below are summaries of the proposed changes and amendments:

- (1) All references to the USGS be changed to USBLM (definitions and Rule 3).
- (2) All references to Division Order Nos. R-1670-T and R-1670-V be changed to Division Order No. R-8170 (Rule 16 B. and Rule 16 B.5).
- (3) Rule 2 be amended to include a provision requiring a filing fee of \$25.00 per category sought for each application submitted and a provision ~~whereas~~ <sup>that</sup> such filing fee would be non-refundable due to withdrawal of the application either by the Division, FERC, or applicant.
- (4) Rule 4 be amended to omit that portion requiring the applicant to submit a copy of the C-132 or C-132-A to the appropriate district office of the Division.
- (5) Rule 13 be amended to include a provision ~~whereupon~~ <sup>that</sup> the proration unit would also expire at such time as the last well on the unit is converted to a water injection well.
- (6) The filing requirements for NGPA Section 102 applications, pursuant to Rule 14.2 c. and Rule 14.2.d, be amended to require all applications to include a location plat showing all wells within

a 2.5 mile radius and to provide sufficient information on each well to show whether it is a marker well or not.

- (7) The filing requirements for NGPA Section 107 applications, pursuant to Rule 17, be amended to include provisions for administrative determinations for Occluded Natural Gas Produced from Coal Seams (FERC Rule 274.205(c)).
- (8) Revisions to Form C-132 to reflect filing fees and the Coal Seam provisions.
- (9) The rules be rewritten to standardize punctuation, standardizing the outline, and style (such change would not ~~a~~ffect the present numbering system as to order).

The above amendments have been docketed as Case No. 8903 to be presented at the May 28, 1986 hearing.

May 7, 1986

RULE 101. PLUGGING BOND

(a) Any person, firm, corporation, or association who has drilled or acquired, is drilling, or proposes to drill or acquire any oil, gas, or service well on privately owned or state owned lands within this state shall furnish to the Division, and obtain approval thereof, a 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 in compliance with the rules and regulations of the Division. 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.

Additional language proposed for Division Rule 101.(c).

Upon the filing by an operator of an affidavit stating that it cannot acquire a surety bond, 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 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.

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 permitting the release of said bond.

(g) 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.