

1) Definition of Underground Waste.

"Underground Waste is those wastes and generally understood in the oil and gas business, and in any event to include the inefficient, excessive, or improper use or dissipation of the reservoir energy, including gas energy and water drive, of any pool, and the locating, spacing, drilling, equipping, operating, or producing, of any well or wells in a manner to reduce or tend to reduce the total quantity of crude petroleum oil or natural gas ultimately recovered from any pool, and the use of inefficient underground storage of natural gas."

- 2) The only acceptable basis for obtaining a "hardship" classification is prevention of waste with the burden of proof solely on the applicant. The applicant must not only prove waste will occur without the "hardship" classification, but also that he has acted in a responsible and prudent manner to minimize or eliminate the problem prior to requesting this special consideration. If a subject well is classified as a "hardship" well, it will be permitted to produce at a specified minimum sustainable rate without being subject to shut-in by the purchaser due to low demand. The Division can rescind approval at any time without notice and require the operator to show cause why the classification should not be permanently rescinded if abuse of this special classification becomes apparent.
  - 3) The minimum rate will be the minimum sustainable rate at which the well will flow. If data from historical production is insufficient to support this rate in the opinion of the Director, or if an oilfield operator or purchaser objects to the requested rate, a minimum flow ("log off") test may be required. The operator may, if he desires, conduct the minimum flow test, and submit this information with his application.
  - 4) If a minimum flow test is to be run, whether at the operator's option or at the request of the Division, the oilfield operator, any interested party, the purchaser and OGD will be notified of the date of the test and given the opportunity to witness, if they so desire.
  - 5) Any interested party may review the data submitted at either the Santa Fe office or the appropriate OGD District Office.
  - 6) The Director can approve uncontested applications administratively if, in his opinion, sufficient justification is furnished. Notice shall be given of intent to approve by attaching such notice to the regular examiner's hearing docket. Within 20 days following the date of such notice, the affected parties will be permitted to file an objection. If no objection has been filed, the application may be approved.
  - 7) Should a protest be filed in writing, the applicant will be permitted to either withdraw the application, or request it to be set for hearing.
  - 8) An emergency approval, on a temporary basis for a period not to exceed 90 days, may be granted by the District Supervisor, pending filing of formal application and final review of the OGD Director. This temporary approval may be granted only if the District Supervisor is convinced waste will occur without immediate relief. If granted, the District Supervisor will notify the purchaser.
- After a well receives a "hardship" classification, it will be retained for a period of one year and is rescinded sooner by the Division. The applicant will be required to certify annually that conditions have not changed substantially in order to continue to retain this classification.
- 10) Notwithstanding the above, the Division may, on its own motion, require any and all operators to show cause why approval should not be rescinded if abuse is suspected or if other conditions substantially change in the State of New Mexico.
  - 11) A well classified as a "hardship well" will continue to accumulate over and under production (surge and seep). Should accumulations exceed the hardship allowable assigned, the well will be permitted to produce at the higher rate, if capable of doing so, and would be treated as any other non-hardship well. Any cumulative overproduction accrued either before or after being classified "hardship" must, however, be balanced before the well can be allowed to produce at the higher rate.