

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 9 WELL OPERATOR PROVISIONS

19.15.9.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.9.1 NMAC - N, 12/1/08]

19.15.9.2 SCOPE: 19.15.9 NMAC applies to persons or entities operating oil or gas wells within New Mexico.
[19.15.9.2 NMAC - N, 12/1/08]

19.15.9.3 STATUTORY AUTHORITY: 19.15.9 NMAC is adopted pursuant to the Oil and Gas Act, NMSA 1978, Section 70-2-6, Section 70-2-11 and Section 70-2-12.
[19.15.9.3 NMAC - N, 12/1/08]

19.15.9.4 DURATION: Permanent.
[19.15.9.4 NMAC - N, 12/1/08]

19.15.9.5 EFFECTIVE DATE: December 1, 2008, unless a later date is cited at the end of a section.
[19.15.9.5 NMAC - N, 12/1/08]

19.15.9.6 OBJECTIVE: To require an operator of a well or wells to register with the division prior to commencing operations and to require the reporting of a change of operator or a change of name to the division.
[19.15.9.6 NMAC - N, 12/1/08]

19.15.9.7 DEFINITIONS: [RESERVED]
[See 19.15.2 NMAC for definitions.]
[19.15.9.7 NMAC - N, 12/1/08]

19.15.9.8 OPERATOR REGISTRATION:

A. Prior to commencing operations, an operator of a well or wells in New Mexico shall register with the division as an operator. Applicants shall provide the following to the financial assurance administrator in the division's Santa Fe office:

- (1) an oil and gas registration identification (OGRID) number obtained from the division, the state land office or the taxation and revenue department;
- (2) a current address of record to be used for notice and a current emergency contact name and telephone number for each district in which the operator operates wells; and
- (3) the financial assurance 19.15.8 NMAC requires.

B. The division may deny registration as an operator if:

- (1) the applicant is not in compliance with Subsection A of 19.15.5.9 NMAC;
- (2) an officer, director, partner in the applicant or person with an interest in the applicant exceeding 25 percent, is or was within the past five years an officer, director, partner or person with an interest exceeding 25 percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC;
- (3) the applicant is or was within the past five years an officer, director, partner or person with an interest exceeding 25 percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC;

(4) the applicant is a corporation or limited liability company and is not registered with the public regulation commission to do business in New Mexico; or

(5) the applicant is a limited partnership and is not registered with the New Mexico secretary of state to do business in New Mexico.

C. An operator shall inform the division of its current address of record and emergency contact names and telephone numbers by submitting changes in writing to the division's financial assurance administrator in the division's Santa Fe office within 30 days of the change.

D. The division may require an operator or applicant to identify its current and past officers, directors and partners and its current and past ownership interest in other operators.

19.15.36 NMAC

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 36 SURFACE WASTE MANAGEMENT FACILITIES

19.15.36.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.36.1 NMAC - N, 2/14/2007; A, 12/1/08]

19.15.36.2 SCOPE: 19.15.36 NMAC applies to persons or entities that own or operate surface waste management facilities as defined in Subsection S of 19.15.1.7 NMAC.
[19.15.36.2 NMAC - N, 2/14/2007; A, 12/1/08]

19.15.36.3 STATUTORY AUTHORITY: 19.15.36 NMAC is adopted pursuant to the Oil and Gas Act, NMSA 1978, Section 70-2-6, Section 70-2-11 and Section 70-2-12, which grants the division jurisdiction and authority over the disposition of wastes resulting from oil and gas operations.
[19.15.36.3 NMAC - N, 2/14/2007; A, 12/1/08]

19.15.36.4 DURATION: Permanent.
[19.15.36.4 NMAC - N, 2/14/2007]

19.15.36.5 EFFECTIVE DATE: February 14, 2007, unless a later date is cited at the end of a section.
[19.15.36.5 NMAC - N, 2/14/2007; A, 12/1/08]

19.15.36.6 OBJECTIVE: To regulate the disposal of oil field waste and the construction, operation and closure of surface waste management facilities.
[19.15.36.6 NMAC - N, 2/14/2007]

19.15.36.7 DEFINITIONS:

A. Definitions relating to types of surface waste management facilities.

(1) "Centralized facility" means a surface waste management facility:

(a) that is used exclusively by one generator subject to New Mexico's Oil and Gas Conservation Tax Act, NMSA 1978, Section 7-30-1, as amended;
(b) where the generator or operator does not receive compensation for oil field waste management at that facility; and
(c) receives exclusively oil field wastes that are generated from production units or leases the generator, or an affiliate of the generator, operates (for this provision's purposes, an affiliate of a generator is a person who controls, is controlled by or is under common control with the generator).

(2) "Commercial facility" means a surface waste management facility that is not a centralized facility.

(3) "Landfarm" means a discrete area of land designated and used for the remediation of petroleum hydrocarbon-contaminated soils and drill cuttings.

(4) "Landfill" means a discrete area of land or an excavation designed for permanent disposal of exempt or non-hazardous waste.

(5) "Small landfarm" means a centralized landfarm of two acres or less that has a total capacity of 2000 cubic yards or less in a single lift of eight inches or less, remains active for a maximum of three years from the date of its registration and that receives only petroleum hydrocarbon-contaminated soils (excluding drill cuttings) that are exempt or non-hazardous waste.

B. Other definitions.

(1) "Active portion" means that part of a surface waste management facility that has received or is receiving oil field waste and has not been closed.

(2) "Cell" means a confined area engineered for the disposal or treatment of oil field waste.

(3) "Composite liner" means a liner that may consist of multiple layers of geosynthetics and low-permeability soils. The different layers of a composite liner may have different material properties and may be applied at different stages of landfill liner installation.

(4) "Geosynthetic" means the general classification of synthetic materials used in geotechnical applications, including the following classifications:

(a) "geocomposite" means a manufactured material using geotextiles, geogrids or geomembranes, or combinations thereof, in a laminated or composite form;

(b) "geogrid" means a deformed or non-deformed, netlike polymeric material used to provide reinforcement to soil slopes;

(c) "geomembrane" means an impermeable polymeric sheet material that is impervious to liquid and gas as long as it maintains its integrity, and is used as an integral part of an engineered structure designed to limit the movement of liquid or gas in a system;

(d) "geonet" means a type of geogrid that allows planar flow of liquids and serves as a drainage system;

(e) "geosynthetic clay liner (GCL)" means a relatively thin layer of processed clay (typically bentonite) that is either bonded to geomembrane or fixed between two sheets of geotextile; and

(f) "geotextile" means a sheet material that is less impervious to liquid than a geomembrane but more resistant to penetration damage, and is used as part of an engineered structure or system to serve as a filter to prevent the movement of soil fines into a drainage system, to

19.15.36 NMAC

event of forfeiture pursuant to Subsection C of 19.15.36.18 NMAC, the division may, at any time and from time to time, direct payment of all or part of the balance of such account (excluding interest accrued on the account) to itself or its designee for the surface waste management facility's closure.

F. Replacement of financial assurance.

(1) The division may allow an operator to replace existing forms of financial assurance with other forms of financial assurance that provide equivalent coverage.

(2) The division shall not release existing financial assurance until the operator has submitted, and the division has approved, an acceptable replacement.

G. Review of adequacy of financial assurance. The division may at any time not less than five years after initial acceptance of financial assurance for a commercial facility, or whenever the operator applies for a major modification of the commercial facility's permit, initiate a review of such financial assurance's adequacy. Additionally, whenever the division determines that a landfarm operator has not achieved the closure standards specified in Paragraph (3) of Subsection G of 19.15.36.15 NMAC, the division may review the adequacy of the landfarm operator's financial assurance, without regard to the date of its last review. Upon determination, after notice to the operator and an opportunity for a hearing, that the financial assurance is not adequate to cover the reasonable and probable cost of a commercial facility's closure and post closure monitoring, the division may require the operator to furnish additional financial assurance sufficient to cover such reasonable and probable cost, provided that the financial assurance required of a commercial facility permitted prior to the effective date of 19.15.36 NMAC shall not exceed \$250,000 except in the event of a major modification of the commercial facility. If such a commercial facility applies for a major modification, the division shall determine the applicable financial assurance requirement based on the total estimated closure and post closure cost of the commercial facility as modified, without regard to the \$250,000 limit.

[19.15.36.11 NMAC - Rp, 19.15.9.711 NMAC, 2/14/2007]

19.15.36.12 PERMIT APPROVAL, DENIAL, REVOCATION, SUSPENSION, MODIFICATION OR TRANSFER:

A. Granting of permit.

(1) The division may issue a permit for a new surface waste management facility or major modification upon finding that an acceptable application has been filed, that the conditions of 19.15.36.9 NMAC and 19.15.36.11 NMAC have been met and that the surface waste management facility or modification can be constructed and operated in compliance with applicable statutes and rules and without endangering fresh water, public health, safety or the environment.

(2) Each permit the division issues for a new surface waste management facility shall remain in effect for 10 years from the date of its issuance. If the division grants a permit for a major modification of a surface waste management facility, the permit for that surface waste management facility shall remain in effect for 10 years from the date the division approves the major modification.

(a) A surface waste management facility permit may be renewed for successive 10-year terms. If the holder of a surface waste management facility permit submits an application for permit renewal at least 120 days before the surface waste management facility permit expires, and the operator is not in violation of the surface waste management facility permit on the date of its expiration, then the existing surface waste management facility permit for the same activity shall not expire until the division has approved or denied an application for renewal. If the division has not notified the operator of a violation, if the operator is diligently pursuing procedures to contest a violation or if the operator and the division have signed an agreed compliance order providing for remedying the violation, then the surface waste management facility permit shall continue in effect as above provided notwithstanding the surface waste management facility permit violation's existence. A surface waste management facility permit continued under this provision remains fully effective and enforceable.

(b) An application for permit renewal shall include and adequately address the information necessary for evaluation of a new surface waste management facility permit as provided in Subsection C of 19.15.36.8 NMAC. Previously submitted materials may be included by reference provided they are current, readily available to the division and sufficiently identified so that the division may retrieve them.

(c) The operator shall give public notice of the renewal application in the manner prescribed by 19.15.36.9 NMAC. The division shall grant an application for renewal if the division finds that an acceptable application has been filed, that the conditions of 19.15.36.9 NMAC and 19.15.36.11 NMAC have been met and that the surface waste management facility can be operated in compliance with applicable statutes and rules and without endangering fresh water, public health, safety or the environment.

(3) The division shall review each surface waste management facility permit at least once during the 10-year term, and shall review surface waste management facility permits to which Paragraph (2) of Subsection A of 19.15.36.12 NMAC does not apply at least every five years. The review shall address the operation, compliance history, financial assurance and technical requirements for the surface waste management facility. The division, after notice to the operator and an opportunity for a hearing, may require appropriate modifications of the surface waste management facility permit, including modifications necessary to make the surface waste management facility permit terms and conditions consistent with statutes, rules or judicial decisions.

B. Denial of permit. The division may deny an application for a surface waste management facility permit or modification of a surface waste management facility permit if it finds that the proposed surface waste management facility or modification may be detrimental to fresh water, public health, safety or the environment. The division may also deny an application for a surface waste management facility permit if the applicant, an owner of 25 percent or greater interest in the applicant or an affiliate of the applicant has a history of failure to comply with division rules and orders or state or federal environmental laws; is subject to a division or commission order, issued after notice and hearing, finding such entity to be in violation of an order requiring corrective action; or has a penalty assessment for violation of division or commission rules or orders that is unpaid more than 70 days after issuance of the order assessing the penalty. An affiliate of an applicant, for purposes of Subsection B of 19.15.36.12 NMAC, shall be a person who controls, is controlled by or under is common control with the applicant or a 25 percent or greater owner of the applicant.