

# **NMOGA**

## **Exhibit B**

## Committee Goals

- Create consistency in reporting, delineation and remediation.
- Codify rules and move away from 1993 guidelines.
- Create clear timelines/deadlines for action and accountability for both operators and Division.
- Protect public health and environment.
- Create consistency with other OCD rules (pit rule, produced water rule, etc.)
- Provide enforcement ability for the Division.



## Section 29.7 (Definitions)

- Definitions, notification and reporting procedures generally remain the same.
  - Minor = spill equal to 5 bbls up to 25 bbls
  - Major = spill equal to 25 bbls or more
- Changed “will reach a watercourse” to “may with reasonable probability reach a watercourse.”
- Revised language to include all releases that could impact fresh water.
  - Removed confusing reference to 19.15.30.9.
- “Wellstream” added to clarify when standards other than Table I may apply.



## **Section 29.7 (Definitions) cont.**

*NMOGA Change:* Added “or is the result of a fire” to clarify Rule addresses releases that cause a fire or results from a fire.

*NMOGA Change:* “Responsible Party” to “Responsible Person” to conform with existing definition.

“Responsible person” means the owner or operator who shall complete a division-approved corrective action for pollution from releases.

19.15.2.7 (R)(6)



## **Section 29.8 (Notification)**

- Merged existing subparts A and B to clearly place reporting obligation on the Responsible Person and to confirm applies to major or minor releases.
- Added language that form C-141 to be used for reporting releases.
- Requires copy of notice to BLM, SLO or tribal authorities, as applicable.



## Section 29.9 (Reporting)

- Merged existing 29.9 and 29.10 to clarify reporting requirements for major and minor releases.
  - Type: Verbal and written
  - Who: district office or Santa Fe
  - When: 24 hours and 15 days
  - How: C-141, verbal and e-mail



## **Section 29.10 (Initial Response)**

- Applies to ALL RELEASES no matter the substance or volume
- Requires:
  - Immediate elimination of release source and measures to limit access to release site
  - Containment of materials released and monitoring of site
  - Recovery of released substances and delivery to approved facility.





## **Section 29.11 (Site Assessment/ Characterization)**

- Additional requirements to those in 29.10
- Details characterization and documentation required for review/approval by Division:
  - Must create site map
  - Must determine depth to groundwater
  - Must determine distance to wellhead protection area
  - Must determine distance to nearest significant watercourse
  - Must demonstrate liner integrity or delineate release horizontally and vertically
  - Must develop remediation plan.

*NMOGA Change:* Applies to “major or minor” releases “of liquids.”

- Absent unusual circumstance, extensive requirements of this subsection should not apply to “gas” releases or volumes below the level of “minor” release.

Note additional NMOGA changes in 29.11.



“Wellhead protection area” means the area within 200 horizontal feet of a private, domestic fresh water well or spring used by less than five households for domestic or stock watering purposes or within 1000 horizontal feet of any other fresh water well or spring. Wellhead protection areas does not include areas around water wells drilled after an existing oil or gas waste storage, treatment or disposal site was established.

19.15.2.7(W)(8)



**An operator shall not locate a temporary pit containing fluids that are not low chloride fluids:**

- (a) where ground water is less than 50 feet below the bottom of the pit; a variance may be granted for a pit used solely to cavitate a coal bed methane well and where the operator demonstrated that the proposed operation will protect groundwater during the temporary pit's use;
- (b) within (i) 300 feet of any continuously flowing watercourse or any other significant watercourse or (ii) 200 feet of any lakebed, sinkhole or playa lake (measured from the ordinary high-water mark);
- (c) within 300 feet from an occupied permanent residence, school, hospital, institution or church in existence at the time of initial application;
- (d) within (i) 500 feet of a spring or a private, domestic fresh water well used by less than five households for domestic or stock watering purposes, or (ii) 1,000 feet of any other fresh water well or spring, in existence at the time of the initial application;
- (e) within incorporated municipal boundaries or within a defined municipal fresh water well field covered under a municipal ordinance adopted pursuant to NMSA 1978, Section 3-27-3, as amended, unless the municipality specifically approves;
- (f) within 300 feet of a wetland;
- (g) within the area overlying a subsurface mine, unless a variance is granted that approves the proposed location based upon the operator's demonstration that the temporary pit's construction and use will not compromise the subsurface integrity;
- (h) within an unstable area, unless a variance is granted upon a demonstration that the operator has incorporated engineering measures into the design to ensure that the temporary pit's integrity is not compromised; or
- (i) within a 100-year floodplain.

19.15.17.10(A)(3)



## **Section 29.12 (Remediation and Closure)**

- Affirms requirement to undertake remediation measures regardless of volume
- Requires a division-approved remediation plan to be completed within 90-days.
- Requirements for a Division-approved remediation plan:
  - Documentation and submission requirements.
  - Remediation and reclamation requirements
  - Division action within 60-days or deemed denied.



## **Section 29.12 (Remediation and Closure) con't**

- Closure and Reporting requirements.
  - Testing obligations, standards and protocols
  - Documentation and timelines
  - Division action within 60-days or deemed denied.

*NMOGA Change:* Extensive remediation plan, closure and reporting requirements apply only to “major or minor” releases “of liquids.”

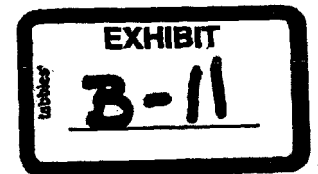
- Absent unusual circumstances, extensive requirements should not apply to “gas” releases or volumes below level of “minor” release.

Note additional NMOGA changes.

## **Section 29.13 (Restoration, Reclamation and Re-Vegetation)**

- Requires surface returned to condition that existed prior to release of any volume of liquids.
- Follows standards adopted by the Commission for Rule 19.15.17
- Obligations imposed by federal, state or tribal agencies still control.

*NMOGA Change (29.13.D(4):* Only file a report with Division if there is a “major or minor” releases “of liquids.”



## **Section 29.14 (Variances)**

- Follows provisions adopted by Commission for Rule 19.15.17
- Provides streamlined and detailed process for requesting variance.
- Outlines information to be submitted and imposes timelines for administrative decision.
- Operators can request a hearing if necessary.



## **Sections 29.15 and 29.16 (Enforcement and Transitional Provisions)**

- Section 29.15 provides Division with clear enforcement authority.
- Section 29.16 allows operators with approved remediation plans and timelines to continue, but requires operators without approved plans or timelines to submit remediation plan within 90 days of the effective date of the rule.

