19.15.2 ___ Pits and Below-Grade Tanks.

A. Permit Required. Discharge into, or construction of, any pit or below-grade tank is prohibited absent possession of a permit issued by the division, unless otherwise herein provided or unless the division grants an exemption pursuant to Subsection G of 19.15.2.53 NMAC. Facilities permitted by the division pursuant to Section 711 of 19.15.9 NMAC or Water Quality Control Commission regulations are exempt from Section 53 of 19.15.2 NMAC.

B. Application.

1. Where Filed; Application Form.

(a) Downstream Facilities. An operator shall apply to the division's environmental bureau for a permit to construct or use a pit or below-grade tank at a downstream facility such as a refinery, gas plant, compressor station, brine facility, service company, or surface waste management facility that is not permitted pursuant to Section 711 of 19.15.9 NMAC or Water Quality Control Commission regulations. The operator shall use a Form C-144, Application to Discharge Into A Pit or Below-Grade Tank. The operator may submit the form separately or as an attachment to an application for a discharge permit, best management practices permit, surface waste management facility permit, or other permit.

(b) Drilling or Production. An operator shall apply to the appropriate district office for a permit for use of a pit or below-grade tank in drilling, production, or operations not otherwise identified in Subparagraph (a) of 19.15.2.53.B.1 NMAC. The operator shall apply for the permit on the Application for Permit to Drill (form C-101) or on the Sundry Notices and Reports on Wells (form C-103), or electronically as otherwise provided in this Chapter. Approval of such form constitutes a permit for all pits and below-grade tanks annotated on the form. A separate form C-144 is not required.

2. General Permit; Individual Permit. An operator may apply for a permit to use an individual pit or below-grade tank, or may apply for a general permit applicable to a class of like facilities.

3. When Filed.

(a) New Pits or New Below-Grade Tanks. After ~~(effective date of rule)~~April 15, 2004, operators shall obtain a permit before constructing a pit or below-grade tank.

(b) Existing Pits or Below-Grade Tanks. For each pits or below-grade tanks in existence ~~prior to (effective date of rule)~~ on April 15, 2004 that has~~ve~~ not received an exemption after hearing as allowed by OCC Order R-3221 through R-3221D inclusive, the operator shall submit a notice ~~by January~~ not later than April 15, 2004 indicating ~~whether~~ either that use of th~~ose~~ pits or below-grade tanks will continue or that such pit or below grade tank will be closed. If use of a pit or below-grade tank is to be discontinued, discharge into the pit or use of the below-grade tank shall cease ~~by~~ not later than June 30, 2005. If use of a pit or below-grade tank will continue, the operator shall file a permit application ~~by~~ not later than September ~~June~~ 30, 2004. If an operator files a timely, administratively complete application for continued use, use of the pit or below-grade tank may continue until the division acts upon the permit application.

C. Design, Construction, and Operational Standards.

1. In General. Pits, sumps and below-grade tanks shall be designed, constructed and operated so as to contain liquids and solids to prevent contamination of fresh water and protect public health and the environment.

2. Special Requirements for Pits.

(a) Location. No pit shall be located in any watercourse, lakebed, sinkhole, or playa lake ~~except where the pit is to be temporarily used in a transient operation such as drilling or a workover~~. Pits adjacent to any such watercourse or depression shall be located safely above the ordinary high-water mark of such watercourse or depression. No pit shall be located in any wetland. The division may require additional protective measures for pits located in groundwater sensitive areas or wellhead protection areas.

Drilling Pits not allowed in water.

(b) Liners.

(i) Drilling Pits, Workover Pits. Each drilling pit or workover pit shall contain, at a minimum, a single liner appropriate for conditions at the site. The liner shall be designed, constructed, and maintained so as to prevent the contamination of fresh waters, and protect public health and the environment. Pits used to vent or flare gas during drilling or workover operations that are designed to allow liquids to drain to a separate pit do not require a liner.

(ii) Disposal or Storage Pits. Each disposal pit (including, but not limited to, any separator pit, tank drain pit, evaporation pit, blowdown pit used in production activities, pipeline drip pit, or production pit) and each storage pit (including any brine pit, salt water pit, fluid storage pit for an LPG system, or production pit) shall contain, at a minimum, a primary and a secondary liner appropriate to the conditions at the site. Liners shall be designed, constructed, and maintained so as to prevent the contamination of fresh waters, and protect public health and the environment.

(iii) Alternative Liner Media. The division may approve liners that are not constructed in accordance with division guidelines only if the operator demonstrates to the division's satisfaction that the alternative liner protects fresh water, public health, and the environment as effectively as those prescribed in division guidelines.

(c) Leak Detection. A leak detection system shall be installed between the primary and secondary liner in each disposal or storage pit. The leak detection system shall be designed, installed, and operated so as to prevent the contamination of fresh waters, and protect public health and the environment. The operator shall notify the division at least twenty-four hours prior to installation of the primary liner so a division representative may inspect the leak detection system before it is covered.

(d) Drilling and Workover Pits. Each drilling or workover pit shall be of an adequate size to assure that a supply of ~~mud-laden~~ fluid is available and sufficient to confine oil, natural gas, or water within its native strata. Hydrocarbon-based drilling fluids shall be contained in tanks made of steel or other division-approved material.

(e) Disposal or Storage Pits. ~~Liquids with greater than two-tenths of one percent free hydrocarbon shall not be discharged to a pit.~~ No measurable or visible layer of oil may be allowed to accumulate or remain anywhere on the surface of any pit. Spray evaporation systems shall be operated such that all spray-borne suspended or dissolved solids remain within the perimeter of the pond's lined portion.

(f) Fencing and Netting. All pits shall be fenced or enclosed to prevent access by livestock ~~or wildlife~~, and fences shall be maintained in good repair. Active drilling or workover pits may have a portion of the pit unfenced to facilitate operations. In issuing a permit, the division may impose additional fencing requirements for protection of wildlife in particular areas. All tanks exceeding 16 feet in diameter, exposed pits, and ponds shall be screened, netted, covered, or otherwise rendered non-hazardous to migratory birds. Drilling and workover pits are exempt from the netting requirement during drilling or workover operations ~~if the pits are kept reasonably free of oil.~~, provided that immediately after cessation of these operations such pits shall have any visible or measurable layer of oil removed from the surface. Upon written application, the division may grant an exception to screening, netting, or covering requirements upon a showing that an alternative method will adequately protect migratory birds or that the tank or pit is not hazardous to migratory birds.

(g) Unlined Pits.

(i) General Prohibition. After June 30, 2005 use of, or discharge into, any unlined pit that has not been previously permitted pursuant to Section 711 of 19.15.9 NMAC or Water Quality Control Commission regulations is prohibited, except as otherwise provided in Section 53 of 19.15.2 NMAC. After ~~(effective date of rule)~~April 15, 2004, construction of unlined pits is prohibited unless otherwise provided in Section 53 of 19.15.2 NMAC.

~~(ii) Exemptions for Good Cause. The division may grant an exemption to the prohibition set out in Subsubparagraph (i) of 19.15.2.53(C)(2)(g) only if the operator demonstrates to the division's satisfaction that the unlined pit will not contaminate fresh water and that public health and the environment are protected.~~

(iii) Unlined Pits Exempted By Previous Order. An operator of an unlined pit existing on ~~(effective date of rule)~~April 15, 2004 for which a previous exemption was received after hearing as allowed pursuant to Commission Orders No. R-3221 through R-3221D inclusive, shall not be required to reapply for an exemption pursuant to Subparagraph (g) of 19.15.2.53(C)2 NMAC provided the operator notifies the division, no later than ~~January~~ April 15, 2004, of the existence of each unlined pit it believes is exempted by ~~O~~order, the location of the pit, and the nature and amount of any discharge into the pit. Such order shall constitute a permit for the purpose of Subparagraph (g) of 19.15.2.53(C)2 NMAC.~~,~~. The division may terminate any such permit in accordance with paragraph (2) of 19.15.2.53(G) NMAC. Any pit constructed after ~~(effective date of this rule)~~April 15,2004 shall comply with the permitting, ~~l~~lining and other ~~standards~~ requirements of Section 53 of 19.15.2 NMAC, notwithstanding any previous ~~O~~order to the contrary.

(iii~~v~~) Unlined pits shall be allowed in the following areas provided that the operator has submitted, and the division has approved, an application for permit as provided in Subsection 53 of 19.15.2 NMAC:

TOWNSHIP 19 SOUTH, RANGE 30 EAST, NMPM Sections 8 through 36;
TOWNSHIP 20 SOUTH, RANGE 30 EAST, NMPM Sections 1 through 36;
TOWNSHIP 20 SOUTH, RANGE 31 EAST, NMPM Sections 1 through 36;
TOWNSHIP 20 SOUTH, RANGE 32 EAST, NMPM Sections 4 through 9,
Sections 16 through 21; and Sections 28 through 33;
TOWNSHIP 21 SOUTH, RANGE 29 EAST, NMPM Sections 1 through 36;
TOWNSHIP 21 SOUTH, RANGE 30 EAST, NMPM Sections 1 through 36;
TOWNSHIP 21 SOUTH, RANGE 31 EAST, NMPM Sections 1 through 36;
TOWNSHIP 22 SOUTH, RANGE 29 EAST, NMPM Sections 1 through 36;
TOWNSHIP 22 SOUTH, RANGE 30 EAST, NMPM Sections 1 through 36;

TOWNSHIP 23 SOUTH, RANGE 29 EAST, NMPM Sections 1 through 3,
Sections 10 through 15, Sections 22 through 27, and Sections 34 through 36;
TOWNSHIP 23 SOUTH, RANGE 30 EAST, NMPM Sections 1 through 19;

that area within San Juan, Rio Arriba, Sandoval, and McKinley Counties that is ~~defined as being~~ outside the valleys of the San Juan, Animas, Rio Grande, and La Plata Rivers, which are~~is~~ bounded by the topographic lines on either side of the rivers that are~~is~~ 100 vertical feet above the river channels, measured perpendicularly to the river channels, and ~~which~~ is outside those areas ~~that~~ lie within 50 vertical feet, measured perpendicularly to the drainage channel, of all perennial and ephemeral creeks, canyons, washes, arroyos, and draws, ~~located within the oil and gas producing areas of the San Juan Basin in northwestern New Mexico, provided that~~ and is outside the areas ~~do not lie~~ between the above-named rivers and the Highland Park Ditch, Hillside Thomas Ditch, Cunningham Ditch, Farmers Ditch, Halford Independent Ditch, Citizens Ditch, or Hammond Ditch, ~~and~~ provided that ~~the~~ pit site is not located in water bearing alluvium or within a wellhead protection area and, no protectable ground water is present or if present, will not be adversely affected ~~by the discharge, and the discharge is not located within a Wellhead Protection Area~~; or

any area where the discharge ~~quality~~ into the pit meets New Mexico Water Quality Control Commission ground water standards.

3. Special Requirements for Below-grade Tanks. All below-grade tanks constructed after April 15, 2004 shall be constructed with secondary containment and leak detection. The operator of any below-grade tank constructed prior to ~~(effective date of this rule)~~April 15, 2004 shall ~~demonstrate~~ test its integrity annually and shall promptly repair or replace any below-grade tank that does not demonstrate integrity. Any such below-grade tank shall be ~~remove it or~~ equipped ~~it~~ with leak detection at the time of any major repairs.

4. Sumps. Operators shall test the ~~I~~integrity of all sumps ~~shall be demonstrated~~ annually, and shall promptly repair or replace any sump that does not demonstrate integrity. Sumps that can be removed from their emplacements may be tested by visual inspection. Other sumps shall be tested by appropriate mechanical means.

D. Emergency Actions.

1. Permit Not Required. In an emergency an operator may construct a pit without a permit to contain fluids, solids, or wastes if an immediate danger to fresh water, public health, or the environment exists.

2. Construction Standards. A pit constructed in an emergency shall be constructed, to the extent possible given the emergency, in a manner that is consistent with the requirements of Section 53 of 19.15.2 NMAC and that prevents the contamination of fresh waters, and protects public health and the environment.

3. Notice. The operator shall notify the appropriate district office as soon as possible (if possible before construction begins) of the need for construction of such a pit.

4. Use and Duration. The pit may be used only for the duration of the emergency. If the emergency lasts more than forty-eight (48) hours, the operator must seek approval from the division for continued use of the pit. All fluids, ~~and~~ solids or wastes must be removed within 24 hours after cessation of use unless the division extends that time period.

5. "Emergency Pits." Subsection (D) of 19.15.2.53 NMAC shall not be construed to allow construction or use of so-called "emergency pits," which are pits constructed as a precautionary matter to contain a spill in the event of a release. Construction or use of any such pit shall require a permit issued pursuant to Subsection 53 of 19.15.2 NMAC unless the pit is described in a Spill Prevention, Control and Countermeasure (SPCC) plan required by the United States Environmental Protection Agency, all fluids are removed from the pit within 24 hours, and the operator has filed a notice of the location of the pit with the division.

E. Drilling Fluids and Drill Cuttings. Drilling fluids and drill cuttings ~~contained in any pit or below-grade tank~~ shall either be recycled or ~~dried and~~ be disposed of ~~in a manner~~ as approved by the division and in ~~such a~~a manner ~~as~~ to prevent the contamination of fresh water~~, or danger~~ and protect ~~to~~ public health ~~or~~ and the environment. The operator shall describe the proposed disposal method in the Application for Permit to Drill (form C-101) or the Sundry Notices and Reports on Wells (form C-103).

F. Closure and Restoration.

1. Closure. Except as otherwise specified in Subsection 53 of 19.15.2 NMAC, a pit or below-grade tank shall be properly closed within six months after cessation of use. ~~In appropriate cases~~ As a condition of a permit, the division may require the operator to file a detailed closure plan before closure may commence. The division for good cause shown may grant a six-month extension of time to accomplish closure. Upon completion of closure a Closure Report~~,~~ (~~F~~form C- 144), or Sundry Notices and Reports on Wells (form C-103) shall be submitted to the division. Where the pit's contents will likely migrate and cause ground water or surface water to exceed Water Quality Control Commission standards, the pit's contents and the liner shall be removed and disposed of in a manner approved by the division.

2. Surface Restoration. Within one year of the completion of closure of a pit, the operator shall contour the surface where the pit was located ~~–~~to prevent erosion and ponding of rainwater.

G. Exemptions; Additional Conditions.

1. The division may attach additional conditions to any permit upon a finding that such conditions are necessary to prevent the contamination of ~~protect~~ fresh water~~s~~, or to protect public health~~,~~ or the environment.

2. The division may grant an exemption~~s~~ from any requirement ~~upon a finding~~ if the operator demonstrates that the granting of such exemption will not endanger fresh water~~s~~, public health~~,~~ or the environment. The division may revoke any such exemption after notice to the ~~owner or~~ operator of the pit and opportunity for a hearing if the Division determines that such action is necessary to prevent the contamination of fresh water, or to protect public health or the environment.

3. Exemptions may be granted administratively without hearing provided that the operator gives notice to the surface owner of record where the pit is to be located and to such other persons as the division may direct and (a) written waivers are obtained from all persons to whom notice is required, or (b) no objection is received by the division within 30 days of the time notice is given. If any objection is received and the director determines that the objection has technical merit or that there is significant public interest the director shall set the application for hearing. The director, however, may set any application for hearing.

19.15.1.7 DEFINITIONS

A. Definitions Beginning with the Letter "A":

(1) Abate or Abatement shall mean the investigation, containment, removal or other mitigation of water pollution.

(2) Abatement Plan shall mean a description of any operational, monitoring, contingency and closure requirements and conditions for the prevention, investigation and abatement of water pollution.

(3) Adjoining Spacing Units are those existing or prospective spacing units in the same pool(s) that are touching at a point or line the spacing unit that is the subject of the application.

(4) Adjusted Allowable shall mean the allowable production a well or proration unit receives after all adjustments are made.

(5) Allocated Pool is one in which the total oil or natural gas production is restricted and allocated to various wells therein in accordance with proration schedules.

(6) Allowable Production shall mean that number of barrels of oil or standard cubic feet of natural gas authorized by the Division to be produced from an allocated pool.

(7) Alluvium shall mean detrital material that has been transported by water or other erosional forces and deposited at points along the flood plain of a watercourse. It ~~is~~ typically is composed of sands, silts, and gravels, exhibits high porosity and permeability and generally carries fresh water.

Source: Order R-7940-B

~~(7)~~(8) Aquifer shall mean a geological formation, group of formations, or a part of a formation that is capable of yielding a significant amount of water to a well or spring.

B. Definitions Beginning with the Letter "B":

(1) Back Allowable shall mean the authorization for production of any shortage or underproduction resulting from pipeline proration.

(2) Background shall mean, for purposes of ground-water abatement plans only, the amount of ground-water contaminants naturally occurring from undisturbed geologic sources or water contaminants occurring from a source other than the responsible person's facility. This definition shall not prevent the Director from requiring abatement of commingled plumes of pollution, shall not prevent responsible persons from seeking contribution or other legal or equitable relief from other persons, and shall not preclude the Director from exercising enforcement authority under any applicable statute, regulation or common law.

(3) Barrel shall mean 42 United States Gallons measured at 60 degrees Fahrenheit and atmospheric pressure at the sea level.

(4) Barrel Of Oil shall mean 42 United States Gallons of oil, after deductions for the full amount of basic sediment, water and other impurities present, ascertained by centrifugal or other recognized and customary test.

(5) Below-grade Tank shall mean a vessel, excluding sumps and pressurized pipeline drip traps, where any portion of the sidewalls of the tank is below the surface of the ground and not visible.

(6) Berm shall mean an embankment or ridge constructed for the purpose of preventing the movement of liquids, sludge, solids, or other materials.

~~(5)~~(7) Bottom Hole Or Subsurface Pressure shall mean the gauge pressure in pounds per square inch under conditions existing at or near the producing horizon.

~~(6)~~(8) Bradenhead Gas Well shall mean any well producing gas through wellhead connections from a gas reservoir which has been successfully cased off from an underlying oil or gas reservoir.

C. Definitions Beginning with the Letter "C":

(1) Carbon Dioxide Gas shall mean noncombustible gas composed chiefly of carbon dioxide occurring naturally in underground rocks.

(2) Casinghead Gas shall mean any gas or vapor or both gas and vapor indigenous to and produced from a pool classified as an oil pool by the Division. This also includes gas-cap gas produced from such an oil pool.

(3) Commission shall mean the Oil Conservation Commission.

(4) Common Purchaser For Natural Gas shall mean any person now or hereafter engaged in purchasing from one or more producers gas produced from gas wells within each common source of supply from which it purchases.

(5) Common Purchaser For Oil shall mean every person now engaged or hereafter engaging in the business of purchasing oil to be transported through pipelines.

(6) Common Source Of Supply. See Pool.

(7) Condensate shall mean the liquid recovered at the surface that results from condensation due to reduced pressure or temperature of petroleum hydrocarbons existing in a gaseous phase in the reservoir.

(8) Contiguous shall mean acreage joined by more than one common point, that is, the common boundary must be at least one side of a governmental quarter-quarter section.

(9) Conventional Completion shall mean a well completion in which the production string of casing has an outside diameter in excess of 2.875 inches.

(10) Correlative Rights shall mean the opportunity afforded, as far as it is practicable to do so, to the owner of each property in a pool to produce without waste his just and equitable share of the oil or gas, or both, in the pool, being an amount, so far as can be practically determined, and so far as can be practicably obtained without waste, substantially in the proportion that the quantity of recoverable oil or gas, or both, under such property bears to the total recoverable oil or gas, or both, in the pool, and for such purpose to use his just and equitable share of the reservoir energy.

(11) Cubic Feet Of Gas Or Standard Cubic Foot Of Gas, for the purpose of these rules, shall mean that volume of gas contained in one cubic foot of space and computed at a base pressure of 10 ounces per square inch above the average barometric pressure of 14.4 pounds per square inch (15.025 psia), at a standard base temperature of 60 degrees Fahrenheit.

D. Definitions Beginning with the Letter "D":

(1) Deep Pool shall mean a common source of supply which is situated 5000 feet or more below the surface.

(2) Depth Bracket Allowable shall mean the basic oil allowable assigned to a pool and based on its depth, unit size, or special pool rules, which, when multiplied by the market demand percentage factor in effect, will determine the top unit allowable for the pool.

(3) Director shall mean the Director of the Oil Conservation Division of the New Mexico Energy, Minerals and Natural Resources Department.

(4) Division shall mean the Oil Conservation Division of the New Mexico Energy, Minerals and Natural Resources Department.

E. Definitions Beginning with the Letter "E":

(1) Exempted Aquifer shall mean an aquifer that does not currently serve as a source of drinking water, and which cannot now and will not in the foreseeable future serve as a source of drinking water because: is hydrocarbon producing;

(a) it is hydrocarbon producing;

(b) it is situated at a depth or location which makes the recovery of water for drinking water purposes economically or technologically impractical; or,

(c) it is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption.

(2) Existing Spacing Unit is a spacing unit containing a producing well.

F. Definitions Beginning with the Letter "F":

(1) Facility shall mean any structure, installation, operation, storage tank, transmission line, access road, motor vehicle, rolling stock, or activity of any kind, whether stationary or mobile.

(2) Field means the general area which is underlaid or appears to be underlaid by at least one pool; and field also includes the underground reservoir or reservoirs containing such crude petroleum oil or natural gas, or both. The words field and pool mean the same thing when only one underground reservoir is involved; however, field unlike pool may relate to two or more pools.

(3) Fresh Water (to be protected) includes the water in lakes and playas, the surface waters of all streams regardless of the quality of the water within any given reach, and all underground waters containing 10,000 milligrams per liter (mg/1) or less of total dissolved solids (TDS) except for which, after notice and hearing, it is found there is no present or reasonably foreseeable beneficial use which would be impaired by contamination of such waters. The water in lakes and playas shall be protected from contamination even though it may contain more than 10,000 mg/1 of TDS unless it can be shown that hydrologically connected fresh ground water will not be adversely affected.

G. Definitions Beginning with the Letter "G":

(1) Gas Lift shall mean any method of lifting liquid to the surface by injecting gas into a

well from which oil production is obtained.

(2) Gas-Oil Ratio shall mean the ratio of the casinghead gas produced in standard cubic feet to the number of barrels of oil concurrently produced during any stated period.

(3) Gas-Oil Ratio Adjustment shall mean the reduction in allowable of a high gas oil ratio unit to conform with the production permitted by the limiting gas-oil ratio for the particular pool during a particular proration period.

(4) Gas Transportation Facility shall mean a pipeline in operation serving gas wells for the transportation of natural gas, or some other device or equipment in like operation whereby natural gas produced from gas wells connected therewith can be transported or used for consumption.

(5) Gas Well shall mean a well producing gas or natural gas from a gas pool, or a well with a gas-oil ratio in excess of 100,000 cubic feet of gas per barrel of oil producing from an oil pool.

(6) Ground Water shall mean interstitial water which occurs in saturated earth material and which is capable of entering a well in sufficient amounts to be utilized as a water supply.

(7) Groundwater Sensitive Area shall mean an area specifically so designated by the division after evaluation of technical evidence, where groundwater exists that would likely exceed Water Quality Control Commission standards if contaminants were introduced into the environment.

H. Definitions Beginning with the Letter "H":

(1) Hazard To Public Health exists when water which is used or is reasonably expected to be used in the future as a human drinking water supply exceeds at the time and place of such use, one or more of the numerical standards of 20 NMAC 6.2.3103.A, or the naturally occurring concentrations, whichever is higher, or if any toxic pollutant as defined at 20 NMAC 6.2.1101 affecting human health is present in the water. In determining whether a release would cause a hazard to public health to exist, the Director shall investigate and consider the purification and dilution reasonably expected to occur from the time and place of release to the time and place of withdrawal for use as human drinking water.

(2) High Gas-Oil Ratio Proration Unit shall mean a unit with at least one producing oil well with a gas-oil ratio in excess of the limiting gas-oil ratio for the pool in which the unit is located.

I. Definitions Beginning with the Letter "I":

(1) Illegal Gas shall mean natural gas produced from a gas well in excess of the allowable determined by the Division.

(2) Illegal Oil shall mean crude petroleum oil produced in excess of the allowable as fixed by the Division.

(3) Illegal Product shall mean any product of illegal gas or illegal oil.

(4) Inactive Well shall be a well which is not being utilized for beneficial purposes such as production, injection or monitoring and which is not being drilled, completed, repaired or worked over.

(5) Injection Or Input Well shall mean any well used for the injection of air, gas, water, or other fluids into any underground stratum.

J. Reserved.

K. Reserved.

L. Definitions Beginning with the Letter "L":

(1) Limiting Gas-Oil Ratio shall mean the gas-oil ratio assigned by the Division to a particular oil pool to limit the volumes of casinghead gas which may be produced from the various oil producing units within that particular pool.

(2) Load Oil is any oil or liquid hydrocarbon which has been used in remedial operation in any oil or gas well.

(3) Log Or Well Log shall mean a systematic detailed and correct record of formations encountered in the drilling of a well.

M. Definitions Beginning with the Letter "M":

(1) Marginal Unit shall mean a proration unit which is incapable of producing top unit allowable for the pool in which it is located.

(2) Market Demand Percentage Factor shall mean that percentage factor of 100 percent or less as determined by the Division at an oil allowable hearing, which, when multiplied by the depth bracket allowable applicable to each pool, will determine the top unit allowable for that pool.

(3) Mineral Estate is the most complete ownership of oil and gas recognized in law and includes all the mineral interests and all the royalty interests.

(4) Mineral Interest Owners are owners of an interest in the executive rights, which are the rights to explore and develop, including oil and gas lessees (i.e., "working interest owners") and mineral

interest owners who have not signed an oil and gas lease.

(5) Minimum Allowable shall mean the minimum amount of production from an oil or gas well which may be advisable from time to time to the end that production will repay reasonable lifting cost and thus prevent premature abandonment and resulting waste.

(6) Multiple Completion (Combination) shall mean a multiple completion in which two or more common sources of supply are produced through a combination of two or more conventional diameter casing strings cemented in a common well-bore, or a combination of small diameter and conventional diameter casing strings cemented in a common well-bore, the conventional diameter strings of which might or might not be a Multiple Completion (Conventional).

(7) Multiple Completion (Conventional) shall mean a completion in which two or more common sources of supply are produced through one or more strings of tubing installed within a single casing string, with the production from each common source of supply completely segregated by means of packers.

(8) Multiple Completion (Tubingless) shall mean completion in which two or more common sources of supply are produced through an equal number of casing strings cemented in a common well-bore, each such string of casing having an outside diameter of 2.875 inches or less, with the production from each common source of supply completely segregated by use of cement.

N. Definitions Beginning with the Letter "N":

(1) Natural Gas Or Gas shall mean any combustible vapor composed chiefly of hydrocarbons occurring naturally in a pool classified by the Division as a gas pool.

(2) Non-Aqueous Phase Liquid shall mean an interstitial body of liquid oil, petroleum product, petrochemical, or organic solvent, including an emulsion containing such material.

(3) Non-Marginal Unit shall mean a proration unit which is capable of producing top unit allowable for the pool in which it is located, and to which has been assigned a top unit allowable.

O. Definitions Beginning with the Letter "O":

~~(4)~~(1) Official Gas-Oil Ratio Test shall mean the periodic gas-oil ratio test made by order of the Division by such method and means and in such manner as prescribed by the Division.

~~(5)~~(2) Oil, Crude Oil, Or Crude Petroleum Oil shall mean any petroleum hydrocarbon produced from a well in the liquid phase and which existed in a liquid phase in the reservoir.

~~(6)~~(3) Oil Field Wastes shall mean those wastes produced in conjunction with the exploration, production, refining, processing and transportation of crude oil and/or natural gas and commonly collected at field storage, processing, disposal, or service facilities, and waste collected at gas processing plants, refineries and other processing or transportation facilities.

~~(7)~~(4) Oil Well shall mean any well capable of producing oil and which is not a gas well as defined herein.

~~(8)~~(5) Operator shall mean any person ~~or persons~~ who, duly authorized, is in charge of the development of a lease or the operation of a producing property, or who is in charge of the operation or management of a facility.

~~(9)~~(6) Overage Or Overproduction shall mean the amount of oil or the amount of natural gas produced during a proration period in excess of the amount authorized on the proration schedule.

~~(10)~~(7) Owner means the person who has the right to drill into and to produce from any pool, and to appropriate the production either for himself or for himself and another.

P. Definitions Beginning with the Letter "P":

(1) Penalized Unit shall mean a proration unit to which, because of an excessive gas-oil ratio, an allowable has been assigned which is less than top unit allowable for the pool in which it is located and also less than the ability of the well(s) on the unit to produce.

(2) Person shall mean an individual or any other entity including partnerships, corporation, associations, responsible business or association agents or officers, the state or a political subdivision of the state or any agency, department or instrumentality of the United States and any of its officers, agents or employees.

(3) Pit shall mean any surface or sub-surface impoundment, man-made or natural depression, or diked area on the surface. Excluded~~epted~~ from this definition are berms constructed around tanks or other facilities solely for the purpose of safety and secondary containment.

(4) Playa Lake shall mean a level or nearly level area that occupies the lowest part of a completely closed basin and that is covered with water at irregular intervals, forming a temporary lake.

~~(3)~~(5) Pool means any underground reservoir containing a common accumulation of crude

petroleum oil or natural gas or both. Each zone of a general structure, which zone is completely separated from any other zone in the structure, is covered by the word "pool" as used herein. "Pool" is synonymous with "common source of supply" and with "common reservoir."

~~(4)~~(6) Potential shall mean the properly determined capacity of a well to produce oil, or gas, or both, under conditions prescribed by the Division.

~~(5)~~(7) Pressure Maintenance shall mean the injection of gas or other fluid into a reservoir, either to maintain the existing pressure in such reservoir or to retard the natural decline in the reservoir pressure.

~~(6)~~(8) Produced Water shall mean those waters produced in conjunction with the production of crude oil and/or natural gas and commonly collected at field storage, processing, or disposal facilities including but not limited to: lease tanks, commingled tank batteries, burn pits, LACT units, and community or lease salt water disposal systems and which may be collected at gas processing plants, pipeline drips and other processing or transportation facilities.

~~(7)~~(9) Producer shall mean the owner of a well or wells capable of producing oil or natural gas or both in paying quantities.

~~(8)~~(10) Product means any commodity or thing made or manufactured from crude petroleum oil or natural gas, and all derivatives of crude petroleum oil or natural gas, including refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, treated crude oil, fuel oil, residuum, gas oil, naphtha, distillate, gasoline, kerosene, benzene, wash oil, lubricating oil, and blends or mixtures of crude petroleum oil or natural gas or any derivative thereof.

~~(9)~~(11) Proration Day shall consist of 24 consecutive hours which shall begin at 7 a.m. and end at 7 a.m. on the following day. The language in this paragraph is different than that which was filed 02-28-97 (effective

~~(10)~~(12) Proration Month shall mean the calendar month which shall begin at 7 a.m. on the first day of such month and end at 7 a.m. on the first day of the next succeeding month.

~~(11)~~(13) Proration Period shall mean for oil the proration month and for gas the twelve-month period which shall begin at 7 a.m. on January 1 of each year and end at 7 a.m. on January 1 of the succeeding year or other period designated by general or special order of the Division.

~~(12)~~(14) Proration Schedule shall mean the order of the Division authorizing the production, purchase, and transportation of oil, casinghead gas, and natural gas from the various units of oil or of natural gas in allocated pools.

~~(13)~~(15) Proration Unit is the area in a pool that can be effectively and efficiently drained by one well as determined by the Division or Commission (See NMSA 1978 Section 70-2-17.B) as well as the area assigned to an individual well for the purposes of allocating allowable production pursuant to a prorationing order for the pool. A proration unit will be the same size and shape as a spacing unit. All proration units are spacing units but not all spacing units are proration units.

~~(14)~~(16) Prospective Spacing Unit is a hypothetical spacing unit that does not yet have a producing well.

Q. Reserved.

R. Definitions Beginning with the Letter "R":

(1) Recomplete shall mean the subsequent completion of a well in a different pool from the pool in which it was originally completed.

(2) Regulated Naturally Occurring Radioactive Material (Regulated NORM) shall mean naturally occurring radioactive material (NORM) contained in any oil-field soils, equipment, sludges or any other materials related to oil-field operations or processes exceeding the radiation levels specified in 20 NMAC 3.1., Section 1403.

(3) Release shall mean all breaks, leaks, spills, releases, fires or blowouts involving crude oil, produced water, condensate, drilling fluids, completion fluids or other chemical or contaminant or mixture thereof, including oil field wastes and natural gases to the environment.

(4) Remediation Plan shall mean a written description of a program to address unauthorized releases. The plan may include appropriate information, including assessment data, health risk demonstrations, and corrective action(s). The plan may also include an alternative proposing no action beyond the submittal of a spill report.

(5) Responsible Person shall mean the owner or operator who must complete Division approved corrective action for pollution from releases.

(6) Royalty Interest Owners are owners of an interest in the non-executive rights including lessors, royalty interest owners and overriding royalty interest owners. Royalty interests are non-cost bearing.

S. Definitions Beginning with the Letter "S":

(1) Secondary Recovery shall mean a method of recovering quantities of oil or gas from a reservoir which quantities would not be recoverable by ordinary primary depletion methods.

(2) Shallow Pool shall mean a pool which has a depth range from 0 to 5000 feet.

(3) Shortage Or Underproduction shall mean the amount of oil or the amount of natural gas during a proration period by which a given proration unit failed to produce an amount equal to that authorized in the proration schedule.

(4) Shut-In shall be the status of a production well or an injection well which is temporarily closed down, whether by closing a valve or disconnection or other physical means.

(5) Shut-In Pressure shall mean the gauge pressure noted at the wellhead when the well is completely shut in, not to be confused with bottom hole pressure.

(6) Significant Modification Of An Abatement Plan shall mean a change in the abatement technology used excluding design and operational parameters, or relocation of 25% or more of the compliance sampling stations, for any single medium, as designated pursuant to Subsection E, Paragraph (4), Subparagraph (b), Subsubparagraph (iv) of Section 19.15.5.19 NMAC.

(7) Spacing Unit is the area allocated to a well under a well spacing order or rule. Under the Oil & Gas Act, NMSA 1978, Section 70-2-12.B(10), the Commission has the power to fix spacing units without first creating proration units. See *Rutter & Wilbanks Corp. v. Oil Conservation Comm'n*, 87 NM 286 (1975). This is the area designated on Division form C-102.

(8) Subsurface Water shall mean ground water and water in the vadose zone that may become ground water or surface water in the reasonably foreseeable future or may be utilized by vegetation.

(9) Sump shall mean any impermeable single wall ~~reservoir~~ *vessel* with a capacity less than ~~110~~ 500 gallons, where any portion of the sidewalls of the reservoir is below the surface of the ground and not visible; ~~that~~ which vessel remains predominantly empty,; serves as a drain or receptacle for spilled or leaked liquids on an intermittent basis,; and is not used to store, treat, dispose of, or evaporate products or wastes.

T. Definitions Beginning with the Letter "T":

(1) Tank Bottoms shall mean that accumulation of hydrocarbon material and other substances which settles naturally below crude oil in tanks and receptacles that are used in handling and storing of crude oil, and which accumulation contains in excess of two (2%) percent of basic sediment and water; provided, however, that with respect to lease production and for lease storage tanks, a tank bottom shall be limited to that volume of the tank in which it is contained that lies below the bottom of the pipeline outlet thereto.

(2) Temporary Abandonment shall be the status of a well which is inactive and has been approved for temporary abandonment in accordance with the provisions of these rules.

(3) Top Unit Allowable For Gas shall mean the maximum number of cubic feet of natural gas, for the proration period, allocated to a gas producing unit in an allocated gas pool.

(4) Top Unit Allowable For Oil shall mean the maximum number of barrels for oil daily for each calendar month allocated on a proration unit basis in a pool to non-marginal units. The top unit allowable for a pool shall be determined by multiplying the applicable depth bracket allowable by the market demand percentage factor in effect.

(5) Treating Plant shall mean any plant constructed for the purpose of wholly or partially or being used wholly or partially for reclaiming, treating, processing, or in any manner making tank bottoms or any other waste oil marketable.

(6) Tubingless Completion shall mean a well completion in which the production string of casing has an outside diameter of 2.875 inches or less.

U. Definitions Beginning with the Letter "U":

(1) Underground Source Of Drinking Water shall mean an aquifer which supplies water for human consumption or which contains ground water having a total dissolved solids concentration of 10,000 mg/l or less and which is not an exempted aquifer.

(2) Unit Of Proration For Gas shall consist of such multiples of 40 acres as may be prescribed by special pool rules issued by the Division.

(3) Unit Of Proration For Oil shall consist of one 40-acre tract or such multiples of 40-acre tracts as may be prescribed by special pool rules issued by the Division.

(4) Unorthodox Well Location shall mean a location which does not conform to the spacing requirements established by the rules and regulations of the Division.

V. Definitions Beginning with the Letter "V":

(1) Vadose Zone shall mean unsaturated earth material below the land surface and above ground water, or in between bodies of ground water.

W. Definitions Beginning with the Letter "W":

(1) Waste, in addition to its ordinary meaning, shall include:

(a) Underground Waste as those words are generally understood in the oil and gas business, and in any event to embrace 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.

(b) Surface Waste as those words are generally understood in the oil and gas business, and in any event to embrace the unnecessary or excessive surface loss or destruction without beneficial use, however caused, of natural gas of any type or in any form, or crude petroleum oil, or any product thereof, but including the loss or destruction, without beneficial use, resulting from evaporation, seepage, leakage, or fire, especially such loss or destruction incident to or resulting from the manner of spacing, equipping, operating or producing a well or wells, or incident to or resulting from the use of inefficient storage or from the production of crude petroleum oil or natural gas, in excess of the reasonable market demand.

(c) The production of crude petroleum oil in this state in excess of the reasonable market demand for such crude petroleum oil. Such excess production causes or results in waste which is prohibited by the Oil and Gas Act. The words "reasonable market demand" as used herein with respect to crude petroleum oil, shall be construed to mean the demand for such crude petroleum oil, for reasonable current requirements for current consumption and use within or outside of the state, together with the demand of such amounts as are reasonably necessary for building up or maintaining reasonable storage reserves of crude petroleum oil or the products thereof, or both such crude petroleum oil and products.

(d) The non-ratable purchase or taking of crude petroleum oil in this state. Such non-ratable taking and purchasing causes or results in waste, as defined in paragraphs (a), (b), and (c) of this definition and causes waste by violating Section 70-2-16 of the Oil and Gas Act.

(e) The production in this state of natural gas from any gas well or wells, or from any gas pool, in excess of the reasonable market demand from such source for natural gas of the type produced or in excess of the capacity of gas transportation facilities for such type of natural gas. The words "reasonable market demand," as used herein with respect to natural gas, shall be construed to mean the demand for natural gas for reasonable current requirements, for current consumption and for use within or outside the state, together with the demand for such amounts as are necessary for building up or maintaining reasonable storage reserves of natural gas or products thereof, or both such natural gas and products.

~~(1)~~(2) Water shall mean all water including water situated wholly or partly within or bordering upon the state, whether surface or subsurface, public or private, except private waters that do not combine with other surface or subsurface water.

~~(2)~~(3) Water Contaminant shall mean any substance that could alter if released or spilled the physical, chemical, biological or radiological qualities of water. "Water contaminant" does not mean source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954.

~~(3)~~(4) Watercourse shall mean any lake bed, or gully, draw, stream bed, wash, arroyo, or natural or human-made channel through which water flows or has flowed.

~~(4)~~(5) Water Pollution shall mean introducing or permitting the introduction into water, either directly or indirectly, of one or more water contaminants in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or to unreasonably interfere with the public welfare or the use of property.

~~(5)~~(6) Well Blowout shall mean a loss of control over and subsequent eruption of any drilling or workover well or the rupture of the casing, casinghead, or wellhead or any oil or gas well or injection or disposal well, whether active or inactive, accompanied by the sudden emission of fluids, gaseous or liquids, from the well.

(7) Wellhead Protection Area shall mean the area within 200 horizontal feet of any private, domestic fresh water well or spring used by less than five households for domestic or stock watering purposes or within1000 horizontal feet of any other fresh water well or spring.

~~Wellhead Protection Area shall mean a radius of 1000 horizontal feet from springs and fresh water wells. Wellhead protection areas shall not include areas around water wells drilled after an existing oil or natural gas waste storage, treatment, or disposal site was established.~~

(8) Wetlands shall mean those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions in New Mexico. Constructed wetlands used for wastewater treatment purposes are not included in this definition.

~~(6)~~(9) Working Interest Owners are the owners of the operating interest under an oil and gas lease who have the exclusive right to exploit the oil & gas minerals. Working interests are cost bearing. [1-5-50...2-1-96; A, 7-15-96; Rn, 19 NMAC 15.A.7.1 through 7.84, 3-15-97; A, 7-15-99; 19.15.1.7 NMAC - Rn, 19 NMAC 15.A.7, 5-15-01]