

Case No. 12935: Application of the New Mexico Oil Conservation Division to Amend Rules 303.B (Surface Commingling), Rule 309-B (Administrative Approval, Lease Commingling) and Rule 309-C (Administrative Approval, Off-Lease Storage), and to Make Conforming Amendments to Rule 303.A (Segregation Required) and to Rule 309-A (Central Tank Batteries - Automatic Custody Transfer Equipment)

The New Mexico Oil Conservation Division applies to the Oil Conservation Commission to adopt new rules regarding surface commingling, amending present Rule 303.B, repealing present Rules 309-B and 309-C, and adopting new Rule 315. The proposed rules will make clear that commingling of both gas and oil production from different pools or different leases requires Division approval, and will clarify and consolidate the rules regarding procedures for securing Division approval. The proposed rules also provide specific standards for the measurement of production. The text of the proposed amendments is available for public review in the Division's Santa Fe office during regular business hours. The application of the proposed rule amendments is STATEWIDE.

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**STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION COMMISSION**

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION,
THROUGH THE ENGINEERING BUREAU CHIEF, FOR THE ADOPTION OF
AMENDMENTS TO DIVISION RULES 303.B (SURFACE COMMINGLING),
309-B (ADMINISTRATIVE APPROVAL, LEASE COMMINGLING) AND 309-C
(ADMINISTRATIVE APPROVAL, OFF-LEASE STORAGE) AND TO MAKE
CONFORMING AMENDMENTS TO RULES 303.A (SEGREGATION
REQUIRED) AND 309-A (CENTRAL TANK BATTERIES - AUTOMATIC
CUSTODY TRANSFER EQUIPMENT)**

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CASE NO. 12935

APPLICATION FOR ADOPTION OF AMENDED RULES

1. Division Rule 303.B [19 NMAC 15.E.303] is the rule presently in effect regulating surface commingling of production from different pools. Division Rule 309-B [19 NMAC 15.E.309-B] is the rule presently in effect regulating surface commingling of production from different leases. Division Rule 309-C [19 NMAC 15.E.309-C] is the rule presently in effect regulating off-lease storage and measurement of production.
2. The Division believes that existing Rules 303.B, 309-B and 309-C are inadequate for effective regulation of surface commingling because the existing regulations are unclear regarding their application to natural gas production. In addition there is a need for greater specificity regarding methods of measuring and allocating production and regarding procedures for approval of applications for surface commingling.
3. After consultation with industry representatives and other interested parties, the Division's Engineering Bureau has developed proposed amendments to Rule 303, and a proposed new rule Rule 315 to supersede existing Rules 309-B and 309-C. The proposed

amendments and new rule address the subjects of surface commingling of production from different pools and from different leases, and the subject of off-lease storage and measurement. The Division's proposed rule amendments are set forth in Exhibit A, attached hereto and by this reference incorporated herein for all purposes. The Division's proposed form described in the proposed rule amendments is attached hereto as Exhibit B, and by this reference incorporated herein for all purposes.

WHEREFORE, the Engineering Bureau Chief of the Division hereby applies to the Commission to enter an order:

- A. Amending Rules 303 and 309-A as set forth in Exhibit A.
- B. Repealing existing Rules 309-B and 309-C in their entirety.
- C. Adopting the proposed new rule set forth in Exhibit A hereto as Rule 315 [19 NMAC 15.E.315] in substitution repealed Rules 309-B and 309-C.
- D. Granting such other and further relief as the Commission deems appropriate.

RESPECTFULLY SUBMITTED,



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EXHIBIT A
to Application to Amend Rules 303.B (Surface Commingling),
Rule 309-B (Administrative Approval, Lease Commingling) and
Rule 309-C (Administrative Approval, Off-Lease Storage), and
to Make Conforming Amendments to Rule 303.A (Segregation Required) and
to Rule 309-A (Central Tank Batteries - Automatic Custody Transfer Equipment)

NEW MEXICO OIL CONSERVATION DIVISION
SURFACE COMMINGLING
PROPOSED RULE AMENDMENTS AND NEW RULE

AMEND RULE 303 [19 NMAC 15.E.303] AS FOLLOWS:

Rule 303 SEGREGATION OF PRODUCTION FROM POOLS

303.A. SEGREGATION REQUIRED

(1) Each pool shall be produced as a single common source of supply, and wells therein shall be completed, cased, maintained, and operated so as to prevent communication, within the wellbore, with any other specific pool or horizon, and the production therefrom. Oil, gas or oil and gas produced from each pool shall at all times be actually segregated, and the combination or commingling or confusion of such production, before marketing, with the production from any other pool or pools without Division approval is strictly prohibited.

303.B SURFACE COMMINGLING

(1) Exceptions to Rule 303.A and/or Rule 315.A for surface commingling may be permitted pursuant to Rule 315.C.

~~The Division Director shall have the authority to grant an exception to Rule 303-A to permit the commingling in common facilities of the commonly owned production from two or more common sources of supply, without notice and hearing, provided that the liquid hydrocarbon production from each common source of supply is to be accurately measured or determined prior to such commingling in accordance with the applicable provisions of the Division's "Manual for the Installation and Operation of Commingling Facilities," then current.~~

~~(2) Application for administrative approval to commingle the production from two or more common sources of supply shall be filed in TRIPLICATE with the Santa Fe Office of the Division. The application must contain detailed data as to the gravities of the liquid hydrocarbons, the values thereof, and the volumes of the~~

~~liquid hydrocarbons production from each pool, as well as the expected gravity and value of the commingled liquid hydrocarbons production; a schematic diagram of the proposed installation; a plat showing the location of all wells on the applicant's lease and the pool from which each well is producing. The application shall also state specifically whether the actual commercial value of such commingled production will be less than the sum of the values of the production from each common source of supply and, if so, how much less.~~

~~(3) Where State and Federal lands are involved, the applicant shall furnish evidence that the Commissioner of Public Lands for the State of New Mexico or the Regional Supervisor of the United States Bureau of Land Management has consented to the proposed commingling.~~

AMEND RULE 309-A.A [19 NMAC 15.E.309-A.A] AS FOLLOWS:

**Rule 309-A CENTRAL TANK BATTERIES - AUTOMATIC CUSTODY
TRANSFER EQUIPMENT**

309-A.A Oil shall not be transported from a lease until it has been received and measured in a facility of an approved design located on the lease. Such facilities shall permit the testing of each well at reasonable intervals and may be comprised of manually gauged closed stock tanks for which proper strapping tables have been prepared, with a maximum of sixteen proration units producing into said tanks, or of automatic custody transfer (ACT) equipment. The use of such automatic custody transfer equipment shall be permitted only after compliance with the following:

(1) through (12) unchanged
A.

*REPEAL RULES 309-B [15 NMAC 15.E.309-B] AND 309-C [15 NMAC 15.E.309-C] IN
THEIR ENTIRETY.*

ADOPT NEW RULE 315 TO READ AS FOLLOWS:

**Rule 315 SEGREGATION OF PRODUCTION FROM LEASES; SURFACE
COMMINGLING**

- A. (1) Segregation required – Oil, gas, or oil and gas, produced from a lease shall not be transported from the lease until the production volumes have been accurately measured or determined by other methods acceptable to the Division. The production from each lease shall at all times be segregated, and the combination or commingling of production of either oil or gas, before marketing, with production from any other lease or leases without Division approval is prohibited.

(2) Lease defined - For purposes of this section 315 only, "lease" means the larger of the geographical area covered by:

(a) a single oil and gas lease covering 100% of the oil and gas interest, or two or more oil and gas leases, each covering an identical undivided interests in the entire area, and collectively covering 100% of the oil and gas interest; or

(b) a spacing unit, communitized unit or unitized area pooled, communitized or unitized by agreement or by order of the Division as to one or more pools underlying such area.

If a portion of the land covered by an oil and gas lease or leases as described in subparagraph (a) of this paragraph (2) is pooled, communitized or unitized with land not so covered, then the lands included in any such unit shall constitute a "lease," and the remaining lands covered by such oil and gas lease or leases shall constitute a separate and distinct lease.

If the ownership of two or more pools, as to the same geographical area, is identical, then all such pools (as to such area) shall comprise one lease, but if there is any diversity of ownership (whether of working interest, royalty or overriding royalty), between different pools, or between different zones or strata, then each such pool, zone or stratum having different ownership shall be considered a separate lease.

B. Off-lease storage and/or off-lease measurement – The Division may grant an exception to Rule 315.A, administratively, without hearing, to permit production from one lease to be transported prior to measurement to another lease for storage thereon when:

- (1) an application for off-lease storage and/or off-lease measurement has been filed on Division Form C-107-B with the Santa Fe office of the Division with one copy to the appropriate District Office of the Division,
- (2) all production is from the same common source of supply,
- (3) commingling of production from different leases will not result,
- (4) there will be no intercommunication of the handling, separating, treating or storage facilities designated to each lease,
- (5) all parties owning working interests in any of the affected leases have been notified of the application in accordance with the

provisions of Rule 1207 A and have consented in writing to the off-lease storage and/or measurement,

- (6) in lieu of paragraph (5) of this subsection B, the applicant furnishes proof that said parties were notified by registered or certified mail of its intent to transport prior to measurement the production from one lease to another lease for storage, and after a period of twenty (20) days following receipt of the application, no party has filed objection to the application, and
- (7) if State, Federal or Indian lands are involved, the Commissioner of Public Lands for the State of New Mexico or the United States Bureau of Land Management (as applicable) has consented to the proposed off-lease storage and/or measurement.

The Division may set for hearing any application for approval of off-lease storage or off-lease measurement, in which event notice of hearing shall be given, pursuant to Rule 1207 A, to all owners of working interests in any affected lease, and to such other owners as the Division may direct.

C. Surface Commingling – Oil, Gas, or Oil and Gas.

(1) Introduction –

To prevent waste, to promote conservation and to protect correlative rights, the Division shall have the authority to grant exceptions to Rule 303 A and Rule 315.A to permit the surface commingling of oil, gas, or oil and gas, in common facilities from two or more pools, and/or two or more leases, provided that:

- (a) an application has been filed on Division Form C-107-B with the Santa Fe Office of the Division and a copy filed with the appropriate District Office of the Division, and
- (b) if Federal, Indian and/or State lands are involved, the applicant shall furnish evidence that the United States Bureau of Land Management or the Commissioner of Public Lands for the State of New Mexico (as applicable) has consented to the proposed commingling

If ownership of all production sought to be commingled is identical (including working interests, royalty interests and overriding royalties), the application may be granted by the Division administratively, without notice or hearing. If there is any

diversity of ownership, the procedures set forth in Subsection D of this Rule 315 shall apply.

(2) Measurement Methods –

(a) Commingling Between Pools – Where ownership of all zones is identical, including working interests, royalties and overriding royalties:

(i) Marginal wells or units/ unprorated pools -

aa. ___ If all wells or units in each pool to be commingled on a given lease are marginal and are physically incapable of producing top unit allowable for their respective pools, or if all such pools are unprorated, commingling may be permitted without separately measuring the production from each pool. Instead, the production from each well and from each pool may be determined from well tests conducted periodically as the Division may prescribe in the order authorizing the commingling. This shall not include those cases where wells can produce an amount of oil equal to top allowable for the pool but are restricted because of high gas oil ratios. Applications to commingle production from a marginal unit in a prorated pool, either with production from another unit or units or with production from another pool or pools, without separate measurement, shall be accompanied by a tabulation of production showing that the average daily production over a 60-day period has been below top allowable for the subject pool (or for any newly drilled well without a 60-day production history, a tabulation of the available production) or other evidence acceptable to the Division to establish that such well or wells are not capable of producing top unit allowable.

bb. ___ The operator of any such marginal commingling installation shall notify the Division at any time any well or unit so commingled without separate measurement

becomes capable of producing top allowable for its pool, at which time the Division shall require separate measurement.

(ii) Non-marginal wells or units:

aa. Metering Method – If any well or unit in a prorated pool to be commingled can physically be produced at top allowable rates (even if restricted because of high gas-oil ratio) commingling will be permitted only if the production from such pool is metered prior to commingling, or determined by the Subtraction method.

bb. Subtraction method – If production from all except one of the zones to be commingled is separately measured, production from the remaining zone may be determined by the subtraction method if authorized by the Division.

____ For Oil: The net zone production from the unmetered zone shall be the difference between the net pipeline runs with the beginning and ending stock adjustments, and the sum of the net zone production of all metered zones.

____ For Gas: The net zone production from the unmetered zone shall be the difference between the volume recorded at the sales meter and the sum of the volumes recorded at the individual well meters.

cc. ____ All oil measurement meters shall be equipped with a non-reset counter and the meter registering mechanism shall be readily sealable.

dd. ____ All gas production shall be measured in accordance with the standards and specifications published by the American Gas Association (AGA) and officially designated as ANSI/API 2530 and AGA Committee Report Number 3 - latest edition.

(b) Commingling Between Leases – Diverse ownership– Where there is a diversity of ownership (whether in working

interest, royalty interest, or overriding royalty interest ownership) between two or more leases, or where there is any such diversity of ownership between the various zones, strata, or pools underlying a lease, the surface commingling of production therefrom shall be permitted only if production from each such pool or lease as to which diversity of ownership exists is accurately measured, or determined by other methods acceptable to the Division in accordance with the measurement methods of this rule, prior to such commingling.

(c) Meter Proving Frequencies – Oil Each meter used in zone production accounting shall be proved for accuracy monthly until adequate history of performance has been established; thereafter, meter calibration frequencies shall be:

- (1) monthly, if more than 100,000 barrels of oil per month are measured through the meter,
- (2) quarterly, if between 10,000 and 100,000 barrels of oil per month are measured through the meter, and
- (3) semi-annually, if less than 10,000 barrels of oil per month are measured through the meter.

(d) Meter Proving Frequencies - Gas For each gas sales and allocation meter, the accuracy of the metering equipment at the point of delivery or allocation shall be tested following the initial installation or following repair and, if proven adequate, retested:

- (1) quarterly for wells producing 100 mcfcpd or more,
- (2) semi-annually for wells producing less than 100 mcfcpd.

For wells producing less than 15 mcfcpd, allocation of production is an acceptable alternative to individual well measurement provided that commingling of production from different pools or leases does not take place unless otherwise authorized pursuant to this Section.

If the inaccuracy in the measuring equipment results in a volume calculation more than 2 percent in error, the volume measured since the last calibration shall be corrected in addition to adjusting the meter to zero error. The operator shall submit a corrected report

adjusting the volume of gas measured, and showing all calculations made in correcting the volumes. The volumes shall be corrected back to the time the inaccuracy occurred, if known. If the time is unknown, volumes shall be corrected for the last half of the period elapsed since the date of the last calibration.

(D) Procedures

- (1) Where there is diversity of ownership, the Division may grant exceptions to Rules 303.A and 315.A to permit surface commingling of production from different leases or pools only after notice and an opportunity for hearing as provided in this subsection D.
- (2) Applications for administrative approval shall be submitted to the Division's Santa Fe Office on Form C-107-B and shall contain a list of all parties owning any interest in any of the production to be commingled and a method of allocating production to ensure the protection of correlative rights. Notice shall be given to all such persons in accordance with Rule 1207.A.
- (3) The applicant shall submit a statement attesting that applicant, on or before the date the application was submitted to the Division, sent notification to each of the affected persons by submitting a copy of the application, by registered or certified mail, return receipt requested, advising them that any objection must be filed in writing with the Santa Fe office of the Division within 20 days from the date the Division receives the application. The Division may approve the application administratively, without hearing, upon receipt of written waivers from all parties owning an interest in the production to be commingled, or if no such owner has filed an objection within the 20-day period. If any objection is received, the application shall be set for hearing. Notice of the hearing shall be given to the applicant, to any party who has filed an objection, and to such other parties as the Division shall direct.
- (4) The Division may set for hearing any application for administrative approval of surface commingling, and, in such case, notice of such hearing shall be given in such manner as the Division shall direct.
- (5) When an applicant has been unable to locate all owners of interests in production to be commingled, notice shall be provided by publication, and proof of publication shall be submitted with the application. Such proof shall consist of a copy of the legal advertisement which was published in a newspaper of general

circulation in the county or counties in which the commingled production is located. The contents of such advertisement shall include:

- (a) the name, address, telephone number, and contact party for the applicant,
 - (b) the location by section, township and range of the leases from which production will be commingled and the location of the commingling facility;
 - (c) the source of all commingled production by formation and pool name, and
 - (d) a notation that interested parties must file objections or requests for hearing with the Oil Conservation Division's Santa Fe Office, within 20 days, or the application may be approved.
- (6) All protests and requests for hearing received by the Division will be included in the case file,; provided however, the protest will not be considered as evidence by the Division if the protesting party does not appear at the hearing and present evidence in support of its objection to the application.

**Exhibit B to Application to Amend
Rule 303.B (Surface Commingling) Etc.**

District I
1625 N. French Drive, Hobbs, NM 88240

District II
1301 W. Grand Ave, Artesia, NM 88210

District III
1000 Rio Brazos Road, Aztec, NM 87410

District IV
1220 S. St Francis Dr, Santa Fe, NM
87505

State of New Mexico
Energy, Minerals and Natural Resources Department

Form C- 107-B _____

_____, 200-

OIL CONSERVATION DIVISION
1220 S. St Francis Drive
Santa Fe, New Mexico 87505

Submit the original
application to the Santa Fe
office with one copy to the
appropriate District Office.

APPLICATION FOR SURFACE COMMINGLING

OPERATOR NAME: _____

OPERATOR ADDRESS: _____

APPLICATION TYPE:

☐ Pool Commingling ☐ Lease Commingling ☐ Pool and Lease Commingling ☐ Off-Lease Storage and Measurement (Only if not Surface Commingled)

LEASE TYPE: ☐ Fee ☐ State ☐ Federal

Is this an Amendment to existing Order? ☐ Yes ☐ No If "Yes", please include the appropriate Order No. _____

Has the Comm. of Public Lands (BLM) and State Land office (SLO) consented in writing to the proposed commingling Yes No

(A) POOL COMMINGLING

Please attach sheets with the following information

| (1) Pool Names and Codes | Gravities / BTU of Non-Commingled Production | Calculated Gravities / BTU of Commingled Production | Value of Non- Commingled Production | Calculated Value of Commingled Production | Volumes |
|--------------------------|--|---|---|---|---------|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

(2) Are any wells producing at top allowables? ☐ Yes ☐ No

(3) Are all working, royalty and overriding royalty interests common between pools? ☐ Yes ☐ No

(4) Include proof of notice to all interests if the answer to No. 3 is "No".

(5) Measurement type: ☐ Metering ☐ Well Test ☐ Subtraction Method

(6) Will commingling decrease the value of production? ☐ Yes ☐ No If "yes", describe why commingling should be approved

(B) LEASE COMMINGLING

Please attach sheets with the following information

(1) Pool Name and Code.

(2) Is all production from same source of supply? ☐ Yes ☐ No

(3) Are all working, royalty and overriding royalty interests common between leases? ☐ Yes ☐ No

(4) Include proof of notice to all interests if the answer to No. 3 is "No".

(5) Measurement type: ☐ Metering ☐ Well Test ☐ Subtraction Method (only when No. 3 is "Yes")

(C) POOL and LEASE COMMINGLING

Please attach sheets with the following information

(1) Complete Sections A and E.

(D) OFF-LEASE STORAGE and MEASUREMENT

Please attached sheets with the following information

(1) Is all production from same source of supply? ☐ Yes ☐ No

(2) Include proof of notice to all interest owners.

(E) ADDITIONAL INFORMATION (for all application types)

Please attach sheets with the following information

(1) A schematic diagram of facility, including legal location.

(2) A plat with lease boundaries showing all well and facility locations. Include lease numbers if Federal or State lands are involved.

(3) Lease Names, Lease and Well Numbers, and API Numbers.

(4) If production is to be measured by well test, include testing frequency.

I hereby certify that the information above is true and complete to the best of my knowledge and belief.

SIGNATURE: _____ TITLE: _____ DATE: _____

TYPE OR PRINT NAME _____ TELEPHONE NO.: _____